

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

JUNE 17, 2014

+ + + + +

The Regular Public Hearing convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 10:15 a.m., Lloyd Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson
S. KATHRYN ALLEN, Vice-Chairperson
MARNIQUE HEATH, Member

ZONING COMMISSION MEMBER PRESENT:

ROBERT MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:

TRACY ROSE, Secretary
JOHN NYARKU, Zoning Specialist
STEPHEN VARGA, Zoning Specialist

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN
MAXINE BROWN-ROBERTS

The transcript constitutes the
minutes from the Public Hearing held on June 17,
2014.

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

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P-R-O-C-E-E-D-I-N-G-S

9:37 a.m.

CHAIRPERSON JORDAN: We're being joined by Mr. Robert Miller, a Member of the Zoning Commission. Welcome.

ZONING COMMISSIONER MILLER: Thank you.

CHAIRPERSON JORDAN: He's in the back there just kind of hanging out. Thank you so much.

I just take my hat off to Members of the Zoning Commission. Mr. Miller's here after staying up hearing Zoning cases last night until 11:00 o'clock. He's back with us this morning. So, thanks.

MS. ROSE: Are we ready?

CHAIRPERSON JORDAN: Yes, we're ready.

MS. ROSE: The first application is 18777 of Tiernan Sittenfeld and Darren Speece, pursuant to 11 DCMR 3104.1, for a special exception to allow a rear addition to an

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existing one-family detached dwelling under section 223, not meeting the rear yard, section 404, requirements in the R-1-B District at premises 3120 Patterson Place, N.W., Square 2330, Lot 23.

CHAIRPERSON JORDAN: Okay. Are the Applicant or the parties to this matter before us? Okay.

Yes, please identify yourself.

MR. FOWLKES: V.W. Fowlkes.

CHAIRPERSON JORDAN: Reach your microphone.

MR. FOWLKES: V.W. Fowlkes, Fowlkes Studio, the agent for the owner.

MS. SITTENFELD: And I'm Tiernan Sittenfeld, the owner.

CHAIRPERSON JORDAN: Okay. I think the only issue that I have with this matter is that we need to be sure to add the additional relief under 2001.3 for the nonconforming aspect of this. And outside of that, which I'm sure you accept that as an

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amendment to your application, I don't see any other real problem or issue with the relief being requested. I think we have enough in the file to support it provided we add that level of relief.

Anything we need to hear from this Applicant -- got a concern about this project?

(No audible response.)

CHAIRPERSON JORDAN: Okay. Well, typically, it's for the Applicant to present their case. But sometimes you get cases such as this that the record already supports the relief that can be granted. And it's up to the Applicant if they want to say something more. But we're telling you that you don't really need to say anything more.

But it's up to you. If you want to talk yourself into trouble, then you have the opportunity to do so.

MR. FOWLKES: We'll take the recommendation to stay quiet.

CHAIRPERSON JORDAN: And then we

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will turn to the Office of Planning and see if there's anything in addition that we need to add.

MR. MORDFIN: Good morning. I'm Stephen Mordfin with the Office of Planning.

The Office of Planning supports this application and also supports the amendment to add 2001.3.

Thank you.

CHAIRPERSON JORDAN: Anyone here from the Department of Transportation?

(No audible response.)

CHAIRPERSON JORDAN: We do have a letter of no objection from the Department of Transportation.

Is anyone here from ANC 3G?

(No audible response.)

CHAIRPERSON JORDAN: We do have a letter of support from ANC 3G to which we will give great weight.

We have numerous letters. And we really appreciate you getting letters from your

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neighbors because it's very important that neighbors know what's going on next door to them. A lot of times people will come in here and not even talk to their neighbors, and then we have a room full of people.

But I really appreciate it. It really helps with the Board making decisions.

And so, is there anyone else here wishing to speak in support of this application? Anyone wishing to speak in support?

(No audible response.)

CHAIRPERSON JORDAN: Those who wish to speak in opposition? Those in opposition?

(No audible response.)

CHAIRPERSON JORDAN: Then we will close the record based upon what's already been submitted in the file and the record. And I would move that we grant the relief requested by the Applicant with the addition of the relief from 2001.3.

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VICE CHAIR ALLEN: Second.

CHAIRPERSON JORDAN: Motion made
and seconded.

Any discussion?

(No audible response.)

CHAIRPERSON JORDAN: All those in
favor signify by saying aye.

(A CHORUS OF AYES.)

CHAIRPERSON JORDAN: Those opposed
nay.

(No audible response.)

CHAIRPERSON JORDAN: The motion
carries.

Ms. Rose?

MS. ROSE: Staff would record the
vote as four to zero with Mr. Jordan making the
motion, Ms. Allen seconding; Ms. Heath and Mr.
Miller in support; Mr. Hinkle not present.

CHAIRPERSON JORDAN: Okay. And
summary order, please?

MS. ROSE: Thank you.

CHAIRPERSON JORDAN: There you go.

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You're done. Sorry to make you sweat.

MS. SITTENFELD: Thank you.

CHAIRPERSON JORDAN: The next case is 18778.

MS. ROSE: Yes. Application 18778 of KJ Florida Avenue Property, LLC, pursuant to 11 DCMR 3104.1 and 3103.2, for a variance from the loading requirements, Section 2201.1, and special exception relief from the height requirements, Section 1402.1, and the roof structure requirements, Sections 411 and 770.6, to allow the construction of a new multi-unit residential building in the RC/C-2-B District at 1711 Florida Avenue, N.W., Square 2562, Lot 95.

CHAIRPERSON JORDAN: Okay. One second.

All right. Please identify yourselves.

MS. BROWN: Thank you. Good morning, Mr. Chairman and Members of the Board. I'm Carolyn Brown with the law firm of Holland

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& Knight here on behalf of the Applicant. To my right is Graham Tyrrell -- T-Y-R-E -- you better do it for me.

MR. TYRRELL: T -- T-Y-R-R-E-L-L.

CHAIRPERSON JORDAN: Okay.

MS. BROWN: And he is with Kettler on behalf of the Applicant.

To his right is Sacha Rosen from R2L Architects and Mr. Erwin Andres from Grove/Slade.

Mr. Rosen and Mr. Andres have been previously qualified as experts. We submitted their r sum s to qualify them again in this case.

CHAIRPERSON JORDAN: And you also offered up a Lenar?

MS. BROWN: Mr. Lenar is with R2L Architects but it will be Mr. Rosen who will be making the presentation.

CHAIRPERSON JORDAN: Okay. Okay. Then they're already in the books. We're good. Thank you.

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Okay. Where are we on this?

Okay. I'm generally good with the documents presented. However, as you know, I don't know if you had a conversation with OP on this regarding the issue about the additional -- OP had some concerns and issues.

MS. BROWN: Yes.

CHAIRPERSON JORDAN: So if you would address that with the Board.

MS. BROWN: Sure. There are two things that I wanted to clarify with the Board, and then we can answer questions or do an abbreviated presentation. But it sounds like we don't need to.

With regard to the roof structure setback at the southeast corner of the roof, that is at 12 feet, nine inches. The roof structure is 12 feet high so we exceed the minimum requirement for that.

And the second item I wanted to mention was that obviously we're very pleased with the ANC support that we have for this as

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well as Office of Planning and DDOT. The ANC submitted a list of conditions that they wanted included in our draft order and we fully support those conditions.

CHAIRPERSON JORDAN: In a draft order?

MS. BROWN: I'm sorry. They --

CHAIRPERSON JORDAN: I didn't get that request. I didn't see that.

MS. BROWN: They have an attachment to their resolution as an Appendix A attachment.

CHAIRPERSON JORDAN: But I didn't see a request to the Board to adopt that. Did I miss that?

MR. VARGA: We have the ANC letter.

CHAIRPERSON JORDAN: Where's the ANC letter? I know. I want to see if it -- because I didn't think they asked for it.

MR. VARGA: The ANC letter was submitted under Exhibit 32.

CHAIRPERSON JORDAN: Is that

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something you've negotiated with the ANC?

MS. BROWN: We did. They are expecting it. So we --

CHAIRPERSON JORDAN: Provided by agreement with the ANC?

MS. BROWN: We did not have an independent agreement. It was their resolution that they included as an attachment.

We're fine to abide by those conditions without it being in the order. But I think that the ANC is expecting to see it in the order.

CHAIRPERSON JORDAN: The conditions that are placed by the ANC here are not in a form that generally this Board would make as a condition. So that gives me concern.

Secondly, there's no request to the Board to include it in the order. So let me take a second and see if we can re-work it mentally so that it comes out reflective of -- okay. Thank you. Staff thinking ahead of time, but appreciate that. Thank you so very

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much.

Thank you, Mr. Varga. He's already jumped ahead and took care of that.

But it's important that the Board knows. Yes?

Counsel is just providing that they have concerns. She has a concern about some of these conditions.

Well, they'll be required to comply with the IZ. But we can say that the Applicant shall comply with the inclusion of re-zoning requirements under 14, but they're required to do that. There's a lot of 1402.1. So that was a give-me by the Applicant because you know that's what you have to do.

Two, "The Applicant shall include 25 percent of the proposed seller residential square footage in inclusionary zoning." This is kind of the re-write -- "zoning floor area ratio calculation which is expected to result in one additional inclusionary zoning beyond what would otherwise be" -- yes, we can throw

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it in. But I'm telling you we're going to have some enforcement issues.

And then the third one, "The Applicant" -- "they have endeavored to have bikeshare stations installed adjacent or in proximity to your property."

Endeavored to have? What we try to do as you know, Ms. Brown, is have conditions that are enforceable. You should endeavor. How do we know that you endeavored?

And then we say the Applicant shall have. The problem is you don't control that.

Have you had discussions already with --

MS. BROWN: We did discuss this with the ANC.

CHAIRPERSON JORDAN: No, the bikeshare.

MS. BROWN: And with DDOT about the possibility because we need to go back to DDOT for a curb cut and made its best to try to tie this through the public space permit driveway

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issues.

CHAIRPERSON JORDAN: Well, it's taking more time dealing with this than the real issue. So let's go ahead and grab the Applicant. Shall endeavor? Shall have. But see, if we put in shall have and you can't --

ZONING COMMISSIONER MILLER: But it says in proximity to which gives a lot of wiggle.

CHAIRPERSON JORDAN: Okay. Got you. Thank you.

ZONING COMMISSIONER MILLER: Proximity -- it says proximity as DDOT will allow.

CHAIRPERSON JORDAN: Yes, that's it. There you go.

MS. BROWN: And if I may, the ANC was not strong on this point. And that's why they said endeavor because they know that it's not necessarily possible and it needs a lot of coordination with DDOT.

CHAIRPERSON JORDAN: Okay. Now

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you see the problems I'm having with taking these kind of conditions?

So anyway, the third one will be the Applicant shall have a bikeshare station installed adjacent or in proximity to the property as allowed by DDOT.

MS. BROWN: I don't know that we would agree to that. I think it is we promised to work with DDOT to see if we can help them find a location for --

CHAIRPERSON JORDAN: I started this perspective by saying I had a concern about including these things. And then you wanted them included. I'm not going back and forth. Either we're going to put it the way we want to have it or then you don't have to agree. You really don't have to agree. It'll be the condition of our relief or we don't do it.

So my point is we've had conversations with the ANC. We discussed the issues already that the Board has about enforceability. So we'll just leave it out.

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Is that what you're requesting? Okay. All right. Then we'll let you deal with the ANC on that. Okay?

Any other questions on this -- anybody? Any questions?

ZONING COMMISSIONER MILLER: No, I just wanted to compliment the Applicant on working with the ANC and the community to reduce the height from the original proposals from 65 I think to 54.

And it looks like it's a very good project that replaces a structured garage which isn't very attractive in the neighborhood.

CHAIRPERSON JORDAN: And certainly, fighting to maintain those parking spaces and it's de minimus in regards to where the compact parking is. And we really appreciate that.

MS. BROWN: Agreed.

CHAIRPERSON JORDAN: Yes. I knew you would.

Is there anything else you want to

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say to the Board before we go to OP?

MS. BROWN: No, sir. Thank you.

CHAIRPERSON JORDAN: Okay. Ms. Brown-Roberts?

MS. BROWN-ROBERTS: Good morning, Mr. Chairman and Members of the Board.

The Office of Planning will stand on the recommendation that is outlined in our report. And we would also support the special exception for the additional roof structure setback that the Applicant just clarified.

Thank you.

CHAIRPERSON JORDAN: Okay. Where are we? Do we have anyone from the Department of Transportation here?

(No audible response.)

CHAIRPERSON JORDAN: And we have a letter of no objection from the Department of Transportation.

Anyone here from ANC 1C? That would be helpful. ANC 1C?

(No audible response.)

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CHAIRPERSON JORDAN: Okay. We do have a letter as just went through of approval with ANC 1C which made their approval conditional upon those three items. But we've got pushback on the last one as the Board would want to have changed it to make it enforceable.

So does that give us ANC support or not? We've had that discussion before that when they make their conditions contingent. But they don't have an agreement either. But do they make it contingent upon us putting these things in place? I didn't think it was but Counsel offers that it was.

All right. We will accept the letter from ANC 1C that they are approving. And I just don't know how we jump into the great weight because of the bottom part of it.

Additionally I was informed by Counsel that you need to amend your claim for relief to include 2115.2. It's missing actually in the application and the self-cert. So we would need you to verbally amend it and

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then we need you to formally amend it.

MS. BROWN: Yes, sir. Then we request amendment for 2115.2, I think you said.

CHAIRPERSON JORDAN: Yes. And I had it in my notes here and I skipped past it.

Thank you. I appreciate it.

Is there anyone here wishing to speak in support of this application? Anyone wishing to speak in support?

(No audible response.)

CHAIRPERSON JORDAN: Anyone wishing to speak in opposition? Anyone in opposition?

(No audible response.)

CHAIRPERSON JORDAN: Okay. Turning back to the Applicant, is there anything you want to say in closing, rebuttal or anything?

MS. BROWN: No, sir. Just that we believe we've met the test under the special exception relief and variance relief. And we would appreciate your approval of the project.

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Thank you.

CHAIRPERSON JORDAN: Okay.

Okay. Then we can move to deliberation.

Anyone want to handle this or does anybody on the Board want to say anything?

(No audible response.)

CHAIRPERSON JORDAN: Okay. All right. Thank you, sir. I guess I'll do that.

I would move that the Board grant the relief -- the amended relief -- as discussed here today, and that we include condition number one and two as modified by the Board in the order.

ZONING COMMISSIONER MILLER:
Second.

MS. GLAZER: Pardon me, Mr. Chairman. I misspoke. It's 2115.4., not .2.

CHAIRPERSON JORDAN: Right. For the record, it'd be .4. Okay. Thank you.

All right. So the motion still stands with that adjustment.

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Discussion? Mr. Miller?

ZONING COMMISSIONER MILLER: Yes, I just wanted again to say that this seems like a very good project that went under 29 units of housing and I think supports the policies in the comprehensive plan and the Reed-Cooke Overlay in terms of supporting housing in this neighborhood.

CHAIRPERSON JORDAN: Thank you.

All those in favor of the motion signify by saying aye.

(A CHORUS OF AYES.)

CHAIRPERSON JORDAN: Those opposed nay.

(No audible response.)

CHAIRPERSON JORDAN: The motion carries.

MS. ROSE: Staff will record the vote as four to zero with Mr. Jordan giving the motion, Mr. Miller seconding; Ms. Heath and Ms. Allen in support with Mr. Hinkle not present, not voting.

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CHAIRPERSON JORDAN: Okay. Thank you.

MS. BROWN: Thank you very much.

CHAIRPERSON JORDAN: Summary order, please?

MS. ROSE: Yes. Thank you, Mr. Chairman.

CHAIRPERSON JORDAN: Thank you.

We want to take just a brief five minutes -- just five minutes and we're back in. It's like the clock is ticking. In fact, we can set five minutes on the clock and whoever's not in here in five minutes, we're starting without you.

(Whereupon, at 10:34 a.m., off the record until 10:39 a.m.)

CHAIRPERSON JORDAN: Okay. Very good.

Would you call 18781, please?

MS. ROSE: Yes. Application 18781 of Mana Bilingual Child Development, LLC, pursuant to 11 DCMR 3104.1, for a special

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exception for a child development center, 36 children and nine staff, under Section 205, in the R-1-B District at premises 6524 8th Street, N.W., Square 2973, Lot 81.

CHAIRPERSON JORDAN: Yes. Let me have them -- go ahead, go ahead.

VICE CHAIR ALLEN: For the record, I just want to indicate that this location is in my neighborhood and that I have no interest one way or the other and I won't be biased about it.

CHAIRPERSON JORDAN: No pecuniary interest?

VICE CHAIR ALLEN: No pecuniary interest. Right. And I won't be biased.

CHAIRPERSON JORDAN: Okay. Also, this is just some housekeeping. There's an application submitted by -- we don't have an authorization of representation in this file and we have documents submitted by others. Is that true?

Please identify yourselves. Make

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sure your microphone is turned on.

And let me before we begin submit the witness cards to the court reporter.

MS. BENNETT: Witness cards have been submitted to the court reporter for the supporting witnesses that I know.

CHAIRPERSON JORDAN: For anyone that's not an attorney, these --

MS. BENNETT: I'm an attorney. I'm sorry, sir.

CHAIRPERSON JORDAN: Are you representing the Applicant?

MS. BENNETT: That's correct.

CHAIRPERSON JORDAN: Then I'm talking to you on behalf of the Applicant overall, not you directly. Okay?

MS. BENNETT: Okay.

CHAIRPERSON JORDAN: So I want to make sure that the witness cards have been submitted for everybody that you know that you didn't think of or the Applicant has submitted the witness card.

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Who's your client?

MS. BENNETT: This is Ms. Cleotilde de Kimmell who is the principal for Mana Development Center.

CHAIRPERSON JORDAN: And she has submitted witness cards?

MS. BENNETT: I don't believe she submitted a witness card but she certainly can.

CHAIRPERSON JORDAN: That's kind of what I'm trying to get to.

And has she --

MS. BENNETT: I thought that -- yes, sir?

CHAIRPERSON JORDAN: I'm sorry?

MS. BENNETT: I apologize. Please go on.

CHAIRPERSON JORDAN: This is kind of new stuff being at this Board because I haven't seen you before.

Also, did the witness or the Applicant take the oath that was given by the Board Secretary, do you know?

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MS. BENNETT: We need an interpreter.

CHAIRPERSON JORDAN: Let's do this. Wait a minute. Let's do this. Back off for one second. I'm remiss.

Would you please -- the interpreter -- identify himself so we have on the record that there is an interpreter?

Make sure the mic is on, please.

MR. SEJAS-MOSCOSO: Okay. Thank you. Yes, Mr. Jordan. Thank you.

And my name is Erik Sejas-Moscoso. I was hired -- my agency hired me by order of the Board to be here today.

CHAIRPERSON JORDAN: Very good. Okay. I just wanted to make sure it's on the record.

And you are interpreting for?

MR. SEJAS-MOSCOSO: The witnesses or anybody that is involved in this case.

CHAIRPERSON JORDAN: Let me have her identify herself for the record, please.

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MS. de KIMMELL: My name is Cleotilde de Kimmell.

CHAIRPERSON JORDAN: Okay. Thank you.

Now let's go back to some housekeeping.

So Counsel, your name is?

MS. BENNETT: Thank you, sir. My name is Susan Bennett.

CHAIRPERSON JORDAN: Bennett?

MS. BENNETT: Yes.
B-E-N-N-E-T-T.

CHAIRPERSON JORDAN: Okay. Thank you.

So I need to know did the Applicant -- representative Applicant get sworn in.

MS. de KIMMELL: Yes, sir.

CHAIRPERSON JORDAN: All right. That's great. Thank you. All right.

And did you complete witness cards?

MS. de KIMMELL: Not yet.

CHAIRPERSON JORDAN: Okay. All

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right.

Since we're already up and running,
let's continue and then we will do that.

Ms. Bennett, did we have a letter of
authorization from you? Is she the owner?

MS. BENNETT: She is the owner.

CHAIRPERSON JORDAN: Okay. Then
we just simply need her to acknowledge that this
is her representative.

MS. de KIMMELL: The lawyer, Ms.
Susan Bennett, is the person --

CHAIRPERSON JORDAN: Okay. Is
your representative?

MS. de KIMMELL: Yes. My
representative. Yes.

CHAIRPERSON JORDAN: And so Ms.
Bennett, we're going to need you to submit after
this hearing your letter of authorization for
our file. Okay?

MS. BENNETT: Yes, sir.

CHAIRPERSON JORDAN: Good.
Thanks. Got to do this kind of housekeeping

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stuff.

All right. Now where are we since I've been talking for a while and haven't moved anywhere, right? Okay. Okay, okay.

All right. I think everybody has identified themselves sitting at the table, so we've already taken care of this.

The affidavit of posting, has that been submitted?

MS. BENNETT: Yes, Mr. Jordan. I believe that Ms. de Kimmell submitted that to the Board of Zoning Adjustment.

CHAIRPERSON JORDAN: Okay. We do have that. Thank you.

MS. BENNETT: Yes, yes.

CHAIRPERSON JORDAN: All right. So this is a request to amend the Child Development Center to allow for 36 children and nine staff under 205, Properties in the R-1-B District at 6524 8th Street, N.W.

Counsel, I think we're going to have to go ahead and go through this full hearing

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process because there's a lot of opposition and there are some issues and concern about how the property is presently being operated and whether or not there's going to be sufficient parking, whether or not there's going to be the impact on the neighborhood. So it's on you to do your presentation.

MS. BENNETT: Okay.

CHAIRPERSON JORDAN: How long do you think you're going to need to present?

MS. BENNETT: Well, Mr. Jordan, we do have some exhibits that we'd like to submit to address the issues of --

CHAIRPERSON JORDAN: Have they been previously submitted?

MS. BENNETT: They've not been previously submitted. So they're marked for exhibit today.

CHAIRPERSON JORDAN: Okay. Do you want to --

MS. BENNETT: I have those and I have copies.

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CHAIRPERSON JORDAN: Please give those to the Board secretary, please, and then we'll take a look at this.

Or do you want to do them as -- well, let's get them all in because otherwise you're going to run back and forth.

MS. BENNETT: There are quite a few.

CHAIRPERSON JORDAN: In the future -- and I know you don't frequent the Board -- usually we get those things in advance. But that's okay. It's just what we have to do now.

Yes?

MS. BENNETT: I can certainly submit them all at once, sir. Respectfully, if I'm addressing the issues of disruption, alleviating congestion and safety and security, they are --

CHAIRPERSON JORDAN: First of all, do you have enough copies for the full Board?

MS. BENNETT: Yes, we do.

CHAIRPERSON JORDAN: Okay. Then

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let's have them as a package.

Do you have them --

MS. BENNETT: They're not collated.

CHAIRPERSON JORDAN: Okay.

MS. BENNETT: The reason, Mr. Jordan, is that your website and the folks -- we understand about posting, but I honestly couldn't find anything about the 12 copies from this morning.

CHAIRPERSON JORDAN: It's there.

MS. BENNETT: Okay.

CHAIRPERSON JORDAN: Let's just kind of stumble through it.

MS. BENNETT: It won't be too hard.

CHAIRPERSON JORDAN: There are documents you already have in the file --

MS. BENNETT: Yes, sir. Yes, sir.

CHAIRPERSON JORDAN: -- as exhibits. So we have some of those.

MS. BENNETT: Yes, you do. I have -- we do.

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CHAIRPERSON JORDAN: Okay. Well, go ahead. Do your presentation. We have to sort of stumble through it.

MS. BENNETT: And because we're working with an interpreter and Ms. de Kimmell --

CHAIRPERSON JORDAN: Certainly.

MS. BENNETT: -- let me proceed with a brief summary and introduction of the exhibits. And if there are additional questions that you would like me to ask Ms. de Kimmell or I can ask Ms. de Kimmell, we are certainly prepared to do so.

CHAIRPERSON JORDAN: Yes. But it's certainly your case.

MS. BENNETT: Okay.

Just a brief summary, in March of 2010 --

CHAIRPERSON JORDAN: We're not really formal but there's some things we do. So just relax. We can get through it.

MS. BENNETT: If I may introduce

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myself properly. Thank you. I am Susan Bennett. I am a professor at American University Washington College of Law at the Community Development Clinic. And we are representing the Applicant -- Mana Bilingual Child Development Center. Ms. de Kimmell is their operator and founder. And behind me are students, Savannah Black and Jaime Garcia.

Ms. de Kimmell is currently operating year four of the five-year special exception which this Board awarded in March of 2010, Application 17975. That was an application for expansion to allow a capacity of 12 children -- infants and children -- four staff and in addition, she received from the Board as a result of that application another special exception for two parking spaces offsite under Section 2116.

Ms. de Kimmell has operated her center since March of 2010 to the present time. She continues to serve children from the ages of six months to four years in a bilingual

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educational environment. There have been no complaints about her operation as she's been operating under the special exception to this time.

It is well known that she provides a place for little children to stay in a safe, supervised licensed environment so that their parents can go to work with peace of mind. She's experienced increased demand for her services as a result of that and as a result of the acute need in the neighborhood and surrounding community for affordable daycare.

Her desire to expand her capacity and to extend the special exceptions that currently are in place consists of operating as a center with the same two offsite spaces which she previously had been working under special exception with the addition of a garage space which is in her home which would be provided because she will move out to make room for the increased capacity and the number of students that she asked for is a maximum threshold that

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was supported by an informal inspection by the Office of the State Superintendent of Education -- OSSE -- which said that in fact she had capacity for 40 to 50. That seemed extreme and so 36 is the number at the moment.

We're asking for this now and not when the exceptions that she's currently operating under expire next March for the main reason that she must apply to the Office of State Superintendent of Education for her license in October. Her current license will expire. That must be accompanied by the Certificate of Occupancy for the number of children and staff that she is authorized to operate with, hence applying for the special exceptions now rather than at the point of expiration of the special exception next March.

In addition, I'd like to direct the Members' attention to a request for amendment that we filed in June 3, 2014. That should be up on IZIS. I do have a copy of that and also copies of Certification of Notification to the

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ANC, to the neighbors and the adjustment to the signage.

CHAIRPERSON JORDAN: What amendment are you talking about?

MS. BENNETT: To amend the application to include basically extension of the same special exception for parking under 2116 that she's operating now. That should be in the file although it was not pre-filed.

That was something that the Board in its original order in March of 2010 offered it seems on its own motion because this was not something she had specifically applied for and she's been operating under that exception for the offsite parking since then. And the Office of Planning had supported those two spaces. She will have an additional space in her current garage which is not now being used as a garage but it will be when she vacates the home.

CHAIRPERSON JORDAN: Okay. Go ahead.

MS. BENNETT: I also placed on the

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electronic filing the Certifications of Notification of the ANC, the neighbors and the change in signage.

I do have copies of those certifications. They are on IZIS if the Board would like to see them.

CHAIRPERSON JORDAN: That's fine.

MS. BENNETT: Okay. Thank you.

So we're asking that you allow an amendment of the application to include special exception under Section 2116 since the schedule under Section 2101 requires one space for four employees and she will need in all likelihood eight employees. She'll have three spaces altogether -- the two offsite spaces under the current special exception and an additional one in her own garage.

Briefly, the support for the current application, there are a number of letters of support that were filed with the application. There's one letter of support at least that was filed subsequent to the filing

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of the application.

The Office of Planning --

CHAIRPERSON JORDAN: Are you aware that some of those letters were rescinded of support -- that some people rescinded letters of support? Are you aware of that? I just want to make sure --

MS. BENNETT: I was not aware. I was not notified of that.

CHAIRPERSON JORDAN: Okay. I just wanted to make sure you had copies or that you've seen them.

MS. BENNETT: I did not receive any of that. I certainly was not notified.

CHAIRPERSON JORDAN: Okay.

MS. BENNETT: Because those were letters with our additional application. Most of them are from -- all right -- most of them are from -- many of them are from parents who are also neighbors. And one of them is here today to speak in support.

Just to summarize what you have in

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your file, the Office of the State Superintendent of Education has noted the need for the service in this community, has continually licensed Mana since 2010 with every expectation that the licensing standards under the increased capacity will be met.

ANC 4B also voted unanimously in a meeting on April 17th to approve the application. An ANC 4B03 member also canvassed neighbors in advance to elicit any concerns. At that time in April, he heard none.

The Office of Planning specialist supports the application. He notes that the availability of the Takoma Recreation Center Play Area meets the need for safe outdoor play that will not disrupt the neighborhood, that the two original parking spaces meet the need and that outdoor play in the facility's side yard is allowable if no more than four supervised children play outside at one time. And those conditions will be met and are being

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met now.

The Department of Transportation also noted the anticipation of little impact on traffic and congestion. And those letters, of course, are in your file.

To address the merits, again Ms. de Kimmell is available to speak. But I will do this more quickly and certainly call upon her testimony as needed.

There's concern with avoiding congestion when the parents drop their children off in the morning and pick them up in the evening. Ms. de Kimmell already engages in several strategies to try to avoid congestion. First of all, many of the parents walk their children to the school facility and then leave for work. Second, the parents are not all on the same schedule so that they drop off their children at scattered times and pick up their children at scattered times between the hours of operation from 7:00 a.m. to 6:00 p.m.

I just brought up for distribution

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a copy of the sign-in and drop-off log. This spans several weeks. They're the weeks of May 12th, May 19th, 26th, June 2nd and June 9th. And I ask that this be admitted to be part of the record.

CHAIRPERSON JORDAN: What is this now?

MS. BENNETT: This is the sign-off and drop-off logs for the weeks beginning from May 12th to the week of June 9th.

They show that the parents drop their children off between 7:15 and 9:00. There's a spread. Most of them drop off between 7:30 and 8:30. The children are picked up between 4:00 and 6:00 with most between 5:00 and 6:00. This schedule would be continued and the parents would have a schedule that the owner would devise.

And again, at this point, over half of the parents walk their children to school. And it is the goal of Ms. de Kimmell to give the neighbors priority as to who will receive

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admission to the facility.

CHAIRPERSON JORDAN: I'm trying to understand the log.

MS. BENNETT: The daycare teachers must sign in the children, and then they sign them out. So there are columns. They're also in Spanish and in English. There are columns for sign-in and sign-out on each day.

CHAIRPERSON JORDAN: But what throws me off is on the Y axis you have something 12, 14 and something 16, 14. Then you have 10/8/2010, 3/8/2012. You see there in that first column in the Y axis? And then going across on the X axis, across the top you have 5/12, 5/13 --

MS. BENNETT: I see.

CHAIRPERSON JORDAN: -- 5/14. I'm trying to understand this.

MS. BENNETT: Sure. If you read down, the children's names are on the far left. They've actually been whited out which may be part of the confusion. We had to redact them.

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CHAIRPERSON JORDAN: Okay.
Correct.

MS. BENNETT: So that would be the
far left column.

CHAIRPERSON JORDAN: But what's
the dates that's in that far left column?

MS. BENNETT: The dates across the
next --

CHAIRPERSON JORDAN: No, no, no.
The dates in that far left column coming down.
You see what I'm saying?

MS. BENNETT: I see what you're
saying.

CHAIRPERSON JORDAN: You're
sitting way down there like we bite.

MS. BENNETT: Ms. de Kimmell, what
are the dates?

MS. de KIMMELL: Can I see?

MS. BENNETT: Sure.

MS. de KIMMELL: Please. The
first number says 12/14. That one is May 12,
'14. These are the first days of the week --

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Monday. And the second day is 5/16/14 is the end to the week.

CHAIRPERSON JORDAN: Okay.

MS. BENNETT: So then the dates below that.

MS. de KIMMELL: 12/14 is -- is the date and 14 is the year -- 5/12/14 -- May 12 --

CHAIRPERSON JORDAN: Come down to the bottom. Diez y ocho. See?

MS. BENNETT: The first number is cut off by the photocopy. But the very upper left hand corner is the date --

CHAIRPERSON JORDAN: So we're all on the same page. First column --

MS. BENNETT: First column.

CHAIRPERSON JORDAN: -- come down one, two, three, four, five, six, seven lines. And you see 10/8/2010. What's that?

MS. BENNETT: That's the birth date --

CHAIRPERSON JORDAN: Oh --

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MS. BENNETT: -- I believe, of the child.

CHAIRPERSON JORDAN: Got it. That's all we're trying to get to.

MS. BENNETT: Okay.

CHAIRPERSON JORDAN: Because you can't sign people in 2010 and then have them leaving at May 12th, '14. I don't think they're staying that long.

Okay.

MS. BENNETT: It's a great place, and maybe they will.

(LAUGHTER.)

CHAIRPERSON JORDAN: Yes, right. Okay.

VICE CHAIR ALLEN: May I?

CHAIRPERSON JORDAN: Yes, please.

VICE CHAIR ALLEN: Thank you, Mr. Chairman.

My understanding of what you said, Ms. Bennett, was that you were offering this exhibit as evidence that there were different

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-- yes -- scattered drop-off and pick-up times. But from my review of it, they're pretty much from 7:30 to 8:30 --

MS. BENNETT: There's 7:30. Some of them are multiples --

VICE CHAIR ALLEN: -- 5:00 to 6:00.

MS. BENNETT: -- because they are siblings. So some are the same at one time.

But they're over a range. They are over an hour. Some are much earlier. And no one is picked up later than 6:00 p.m. because that's when the Center closes.

CHAIRPERSON JORDAN: Okay. We'll take it for what it's worth.

MS. BENNETT: Okay. Thank you.

Okay. To try to address any concern about safety in the streets, safety in outdoor play and the avoidance of disruption, the children currently play at the Takoma Rec Center. They have supervised outdoor activities. Older children, if they were expanded, daycare would be walked from 9:00

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o'clock in the morning 12 at a time to the outdoor facilities causing minimal disruption to the neighborhood.

This is primarily an indoor facility. The students most of the time are inside with activities concerning drawing, playing table games, language arts. They're not primarily outside.

We have several exhibits for the record which show the children being walked on the rope line with a required ratio -- one to eight -- OSSE requires of daycare teachers to take care of students playing at the Takoma Park Center which can be accessed without crossing any streets. It's at 3rd and Van Buren. It's noted in the Office of Planning's report.

And the upgrades to the yard of the immediate side yard to the facility which is a small yard facility which the students use basically from 4:00 p.m. on before their parents pick them up. And we also have included the invoice for services that the

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Applicant had done to the yard, and I'll address that later when we talk about rebuttal and we talk about --

CHAIRPERSON JORDAN: Where's the yard work?

MS. BENNETT: There's a side yard -- a smaller yard which the Office of Planning addressed in its report. This is where students play in the late afternoon no more than four at a time. And we have photographs of the summer yard work that has been done and have those specifically first to show the Board what the area looks like and also to respond to concerns that were raised by an opposing letter in order to show that Ms. de Kimmell is in fact responsive to critique.

CHAIRPERSON JORDAN: Right.

Where are we? Okay.

Are you getting these?

You know what? I'm going to ask that you just get this all done -- out of the way. Because this is really breaking our

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pattern.

So you've got other exhibits that you need to give? Or is that it? Is this it?

MS. BENNETT: One more.

The last is to show the schedule of activities.

CHAIRPERSON JORDAN: Okay. You can give them to us, and then as you talk through them, we will reference them. But please, let's get this out of the way.

MS. BENNETT: Two of the exhibits are to show the adjacent play area. The condition that the Office of Planning would place on it;s approval is that no more than four children play in that area at any one time and that play occur in the afternoon. That in fact reflects the current situation. And several of the photos reflect that -- play in the outdoor area adjacent to the home and in the area immediately adjacent to the lower level entrance to the play area that's indoors.

This is quiet play. This is

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supervised play. There are no more than four students at any one time playing with one or two supervisors.

There's also an invoice for the yard work done on the current side yard.

CHAIRPERSON JORDAN: What's the date on the invoice?

MS. BENNETT: The invoice is June 3rd, 2014.

CHAIRPERSON JORDAN: The side yard and the yard is taken care?

MS. BENNETT: There's also -- November and in June at the minimum and then more frequently as needed.

The winter did a number on this yard. And of course the students are not outside in the winter. And they're not outside when it rains.

CHAIRPERSON JORDAN: Is there a regular schedule for yard maintenance? Because what I'm hearing you say -- and maybe I'm carrying it a step too far --

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MS. BENNETT: Okay.

CHAIRPERSON JORDAN: -- that these are ordered maintenance and not on a regular maintenance schedule.

MS. BENNETT: Is there a regular maintenance schedule for the yard?

MS. de KIMMELL: I have the one person -- I have one person coming for -- after -- after station to clean up and fix the playground and the yard. And when this person -- when it's time for this person, he don't -- don't come yet, my family and I coming outside and pick up the leaves or do anything we need to do outside.

CHAIRPERSON JORDAN: How often does the person that you hire come?

MS. de KIMMELL: Every three months.

CHAIRPERSON JORDAN: Every three months?

MS. de KIMMELL: Every three months to fix everything, put the mulch or do

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everything that he need to do. But for the other times, my family and I would clean up the -- the yard.

CHAIRPERSON JORDAN: All right.

MS. BENNETT: The last exhibit is the typical day which would be the typical day that an expanded center would follow. The students would choose a variety of activities. The overwhelming number of them are inside. There are quiet activities. They are supervised activities. They do and should not cause any disruption to the neighborhood. These are not students who are playing loud instruments. These are not students who are jumping up and down. These are young people who are indoors. And a number of them in fact are infants.

Mrs. de Kimmell, could you tell us about the activities you have the children do and the activities you will have them do if you have more children?

MS. de KIMMELL: The activities --

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the activities they do in the morning, we will do the -- we will make the usual activities -- going outside to the playground of the community. If I have my children, I don't -- we don't leave for the same time together. We have like a -- OSSE require coming 45 minutes outside. The first group leaving for 9:00 o'clock, and the second group leave for 45 minutes later. And then old group would come outside in the morning.

During afternoon, four children for each -- every -- every 20 minutes, they will go to outside to play because 4:00 to 6:00 is less children. There are less children everyday. And they will leave outside for 20 minutes to make silent activities. The silent activities is like to fish, play water or play sand.

MS. BENNETT: I believe that we do have some witnesses in support. I believe that they have to leave soon. One of them has to go back to work. And I would save my rebuttal for any opposition because I do have some points to

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make about the letters that were received into the file concerning opposition to the expansion of the daycare beyond the present number of 12.

Let me reiterate that to my knowledge and before -- one week before the hearing -- there have never been any complaints about the current operation. There have never been any citations or any questions from the licensing agency about the current operation. That license has been renewed as a matter of course since the expansion occurred in 2010.

And this is known as a high-quality, well-regulated, thoroughly monitored, affordable daycare facility in the neighborhood that serves the neighborhood's children. And the ANC was quite focal in its support of it when that occurred.

And when I close, I'll reiterate

--

CHAIRPERSON JORDAN: Excuse me a second.

MS. BENNETT: Yes.

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CHAIRPERSON JORDAN: I'm sorry. Please proceed. There was some technical issue that the Counsel was speaking to me about and I wanted to make sure.

You filed a new application and didn't file this as a modification, is that correct?

MS. BENNETT: The application that was filed in April of 2014 was filed as an application. I didn't realize that there was the --

CHAIRPERSON JORDAN: Modification.

MS. BENNETT: I'm sorry?

CHAIRPERSON JORDAN: It was an opportunity to just modify. That was it. And then so that the Board would then look for any changes between the standard where you are presently to where you want to go as opposed to looking at the total complete process all over again.

MS. BENNETT: Okay.

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CHAIRPERSON JORDAN: It's neither here nor there.

MS. BENNETT: All right.

CHAIRPERSON JORDAN: I guess we can accept this as a modification. I can't see any reason why -- well, we're going to look at it. Well, we're already into it.

MS. BENNETT: Right.

CHAIRPERSON JORDAN: So just proceed.

MS. BENNETT: All right. I would ask that we not be asked to start all over again.

CHAIRPERSON JORDAN: No, no. I'm just saying our consideration as you sit here now --

MS. BENNETT: Yes?

CHAIRPERSON JORDAN: -- requires us to look at this as a new application as opposed to --

MS. BENNETT: I see.

CHAIRPERSON JORDAN: -- looking at it as a modification.

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MS. BENNETT: All right.

CHAIRPERSON JORDAN: That's what I'm saying.

MS. BENNETT: All right. If I may, a modification would be appropriate because part of the relief that we are requesting is certainly on the same terms as the existing exception with regard to the two parking spaces, obviously on different terms, but also in terms of the length of time that the exception is granted for.

CHAIRPERSON JORDAN: I think we can take this as a modification. I think we're into it and that's the real standard that it should be reviewed. Unless the Board has problems with it, I don't think we look at it as a new application.

Okay. Go ahead.

MS. BENNETT: Okay. Thank you.

I have nothing further. I'm concerned that at least one of the persons who wishes to speak in support has to leave soon.

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CHAIRPERSON JORDAN: Well, you can have them come up as part of your case.

MS. BENNETT: Okay. All right. Thank you, sir.

Ms. Carrillo? This is Kristyn Carrillo.

MS. CARRILLO: Thank you. I am Kristyn Carrillo. I'm mother of Diego Carrillo who attends Cleo's daycare. And we live close by or about six, seven blocks away. So we're able to walk Diego either in the stroller or himself walking. And that's actually one of the things for us that is really is a -- a real attribute for the daycare being close by.

But in addition that the daycare is bilingual. I speak Spanish to him. We speak both Spanish and English at home. I don't know how many people have kids or know that it's really difficult pursuit of good affordable daycare that's close and reasonable and that you can really -- you know -- trust the people

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there. And that is very important. Diego has been there since I went back to work which was -- you know -- ten weeks -- ten weeks into life.

So he's been there for a couple of years now. And we think it's a really great place. We really enjoy interacting -- you know -- with the other kids that are there with other parents that -- you know -- bring their kids there.

Cleo and her staff are always really helpful and supportive in terms of -- you know -- kind of what's happening with him developmentally and what's appropriate. And we just -- you know -- think it's a real asset in the community and appreciate that we're able to be close by and have just had a really good experience.

So we are in support and -- and really appreciate the -- the Board -- you know -- considering it and -- and people being supportive of it.

CHAIRPERSON JORDAN: Question?

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Yes. Yes, certainly you ask.

VICE CHAIR ALLEN: Thank you first of all for coming to testify. We know how hard it is to leave your work and do all that. And we're always very grateful when folks come out and appreciate that very much.

I don't, however, personally think that decision for me would be about the quality of the existing facility or folks like you that have availed yourself of it. I think that's great. I think the concern for me, at least, is going to from 12 kids to 36. We're tripling. And even as we discuss whether this is a new application or a modification, it's the tripling of the number of kids and the number of families that would be involved.

So your points, while great, didn't necessarily go to that aspect. Do you have any thoughts about that?

MS. CARRILLO: Yes. And from -- from my experience of going through different changes in the daycare, I have a sense that

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because I don't -- I mean, I don't know if they address it here but Cleo's daughter also runs another center. And so they really like within the family have experience with running -- you know -- several centers with even more kids. And so my sense is that in terms of their sophistication and attention to detail around the things that have happened within this site but as well I have attended a couple of like trainings or workshops at the other sites. And -- you know -- it's -- it's always been really well taken care of.

And -- and my sense is that they have the capacity to take on. I mean, I know it's a big project, too. I'm not -- you know -- of course, that's -- you know -- a big -- a big difference as you said. But my sense from -- from those experiences that I have had in terms of communication and in terms of meeting some of the other staff and knowing kind of their capacity to deal with change and new people and new things and different kids coming in and out

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that that really helps to make those other sort of logistical pieces go more smoothly so that the experience of the people that would be -- you know -- paying for these services would be kind of a useful partnership and taking feedback and that sort of piece.

VICE CHAIR ALLEN: Okay.

CHAIRPERSON JORDAN: Let me ask you something. So when you're around, do you hear a lot of kids making noise or anything?

MS. CARRILLO: I mean, I -- I don't. I'm -- I'm sure my sense -- because I have a two-year-old -- is probably a little bit different perhaps than -- than other people's sense depending on -- you know -- what they're sort of doing on their -- on their daily basis.

But my sense -- and even when we -- when we come in the morning or in the evening -- you know -- the kids are greeting each other saying hello or goodbye or -- you know -- or speaking to each other. But my sense hasn't been that it's been really like rowdy or

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different.

The other thing is I don't know if people have -- you know -- seen the space, so it's on a corner and then right next to it is the -- is the alley. So there is actually a little bit of sort of space between people that --

CHAIRPERSON JORDAN: The alley?

MS. CARRILLO: -- that would be -- yes, that would be -- you know -- right up next to it versus like many of our houses in the neighborhood are --

CHAIRPERSON JORDAN: There's a house right behind it. It's a house right behind it also.

MS. CARRILLO: Yes, yes. Right, on the -- on the west side there.

So yes, I don't know if there's something else I can say about that particularly.

CHAIRPERSON JORDAN: Okay. All right.

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Any other questions of this witness? Mr. Miler?

ZONING COMMISSIONER MILLER: Thank you, Mr. Chairman.

Thank you for coming down.

So your son has been there since ten weeks old until two years old?

MS. CARRILLO: A little over two years now. Yes.

ZONING COMMISSIONER MILLER: And you'll probably have him there until the city's pre-K starts at three years old, I assume?

MS. CARRILLO: Yes. Or latter year. Who knows? Yes, right.

ZONING COMMISSIONER MILLER: Okay. Okay. Thank you.

That's it.

CHAIRPERSON JORDAN: Thank you very much. Appreciate you coming in.

MS. CARRILLO: Okay. Thank you.

MS. BENNETT: There's --

CHAIRPERSON JORDAN: Is your mic

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on?

MS. BENNETT: -- one more witness
in support.

CHAIRPERSON JORDAN: Okay.

MS. KEYS: My name is Lucille Keys.

CHAIRPERSON JORDAN: Ms. Keys?

MS. KEYS: And I live straight
across the street from my neighbor.

CHAIRPERSON JORDAN: Okay.

Go ahead, please. Proceed.

MS. KEYS: Pardon?

CHAIRPERSON JORDAN: Proceed. Do
you want to tell us something?

MS. KEYS: Well, she's a very good
neighbor, and she has the kids very organized.
And my bedroom window is straight across from
her where she has the playground, and it doesn't
wake me up --

CHAIRPERSON JORDAN: No noise?

MS. KEYS: -- in the morning.

And the parking --

CHAIRPERSON JORDAN: You live

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across the alley or across the street? What are you?

MS. KEYS: Straight across --

CHAIRPERSON JORDAN: The street.

MS. KEYS: -- the street.

CHAIRPERSON JORDAN: Okay. Got you.

VICE CHAIR ALLEN: Can I just -- it's straight across Van Buren? Which? Is it 8th Street you're across or Van Buren?

CHAIRPERSON JORDAN: Across Van Buren?

MS. KEYS: Straight across. My house is straight across from hers. I can look right --

CHAIRPERSON JORDAN: On 8th? On 8th?

MS. KEYS: -- right into her --

MS. BENNETT: What's your address?

MS. KEYS: Yes. Front door.

CHAIRPERSON JORDAN: You're on the corner? Your house is --

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MS. KEYS: -- from the alley.

MS. BENNETT: What's your address?

MS. KEYS: It's 6525. And she's
6524 -- straight across.

CHAIRPERSON JORDAN: Got you. On
8th Street. Okay. Thank you. We got there.
Okay.

All right. Any other questions?

We appreciate you taking your time
coming down to talk to us.

MS. KEYS: Pardon?

CHAIRPERSON JORDAN: I said we
appreciate you taking your time coming down to
talk to us and telling us what you think about
this.

You don't have a problem with her
having 36 children at this location?

MS. KEYS: No. She have them
organized. I don't hear them. She takes them
out during the day and --

CHAIRPERSON JORDAN: Okay.

MS. KEYS: -- out on the side.

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And -- and as far as the parking, they all respect me. I've been living over 50 years. When I come home, my space is there.

CHAIRPERSON JORDAN: Good. Very good. Thank you.

MS. KEYS: And -- but her whole family's nice. I have to tell you it was sold before my husband died during the blizzard. Twelve o'clock at night, her family was the only one that come out and dug the snow for me to bring my husband in.

CHAIRPERSON JORDAN: Okay.

MS. KEYS: She's one of the best neighbors on the block.

CHAIRPERSON JORDAN: Well, thank you. And we're so glad that you took the time to tell us that. It's very helpful to us.

MS. BENNETT: I have nothing else at this time. I will have rebuttal.

CHAIRPERSON JORDAN: Okay. Any other questions? Yes, Mr. Miller, please?

ZONING COMMISSIONER MILLER: Thank

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you.

I'm sorry I forgot your name?

MS. BENNETT: Ms. Bennett. Ms. Bennett.

ZONING COMMISSIONER MILLER: Yes. So how many children are currently being served at the daycare?

MS. BENNETT: Twelve

ZONING COMMISSIONER MILLER: Twelve? And how many employees? There are three?

MS. BENNETT: There are four, I believe.

ZONING COMMISSIONER MILLER: Four.

And your intention, this would permit up to 36 and up to nine employees. But her current intent if this were approved would be to have how many employees? I think you may have said eight. I think I heard a reference to eight before --

MS. BENNETT: Eight.

ZONING COMMISSIONER MILLER: --

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and I don't know how many children.

MS. BENNETT: Some of it depends on the licensing. The outside would be eight, possibly nine. We needed a number for the Form 135. And therefore, it was nine. In fact, this will depend on the Office of State Superintendent for Education and the ages of the children. Younger children, smaller staff/child ratio. Therefore, more teachers. Older children, the ratio was one to eight for up to age three. I believe it's 12 months to three. So she has several infants. So there will be a mixed.

It probably will not be exactly eight or nine because it will depend on the plan for the number -- and the ages of the students to take on. But eight or nine is the outside based on what the licensing will require.

ZONING COMMISSIONER MILLER: And you currently have access to two off-street parking spaces.

MS. BENNETT: That's correct.

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ZONING COMMISSIONER MILLER: And with the proposal that you presented today, you would have those two off-street as well as the garage that the Applicant has in the home itself because she would be vacating the home?

MS. BENNETT: That's correct.

ZONING COMMISSIONER MILLER: Are the two off-street parking spaces currently used by employees or parents?

MS. BENNETT: They are not because the employees walk to work. In fact, they're available but not used.

ZONING COMMISSIONER MILLER: Okay. All right. Thank you very much.

CHAIRPERSON JORDAN: What is the garage used for now? Your car?

MS. de KIMMELL: Yes, I have a car.

CHAIRPERSON JORDAN: And you keep it in the garage?

MS. de KIMMELL: Not usually because I -- I park my car in front of my house. But I not use the garage.

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CHAIRPERSON JORDAN: Okay. Is the garage used for your child development center?

MS. de KIMMELL: The employees don't have a car and walk in to the facility. And the parents parking in the street for two or three minutes when they drop the children and two or three minutes when they coming to pick them up. They don't need to -- to use the -- the -- the parking in the house -- in the garage.

CHAIRPERSON JORDAN: What's in the garage? What are you using the garage for now?

MS. de KIMMELL: The garage is empty. It's ready for use.

CHAIRPERSON JORDAN: Okay. You don't use it for the child development center?

MS. de KIMMELL: No.

CHAIRPERSON JORDAN: Okay. Okay. All right.

Then let's turn now to Office of Planning, please.

MR. MORDFIN: Good afternoon. I'm Stephen Mordfin with the Office of Planning.

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The Office of Planning continues to support the application finding it in conformance with Section 205 and also supports the addition of the provision of one additional parking space within the dwelling -- the garage parking space.

CHAIRPERSON JORDAN: So I understand that there's going to be four staff, is that correct? Is that your understanding?

MR. MORDFIN: There's currently four staff. They're proposing up to nine.

CHAIRPERSON JORDAN: Up to nine? So that was --

MR. MORDFIN: And the parking requirement is one parking space per four employees.

CHAIRPERSON JORDAN: So there'd be two. Right. Up to nine. Okay. All right.

Did you have the occasion to go out to the property?

MR. MORDFIN: I've been to the property. I did not go out prior to this

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report.

CHAIRPERSON JORDAN: All right.
How long ago have you been to the property?

MR. MORDFIN: I was at the property
for the last application about four years ago.

CHAIRPERSON JORDAN: Okay. Okay.
All right. Can't ask you that question then.
Your visit was just a little bit dated. But I
appreciate it. Okay.

Any questions for Office of
Planning, Board?

(No audible response.)

CHAIRPERSON JORDAN: All right.
Does the Applicant have any questions for the
Office of Planning?

(No audible response.)

CHAIRPERSON JORDAN: Do we have a
representative --

MS. BENNETT: We do not.

CHAIRPERSON JORDAN: -- a
representative of the Department of
Transportation?

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(No audible response.)

CHAIRPERSON JORDAN: I think we do have a letter from the Department of Transportation with no objection to the relief requested.

Anyone here from ANC 4B? Anyone here from ANC 4B?

(No audible response.)

CHAIRPERSON JORDAN: We do have a letter in support from ANC 4B in support of the application which we would certainly give great weight to.

Is there anyone else here wishing to speak in support of this application? Anyone wishing to speak in support?

(No audible response.)

CHAIRPERSON JORDAN: Anyone wishing to speak in opposition?

Please come to the table. Make sure you give your witness cards to the court reporter.

MR. VARGA: Mr. Jordan, what kind

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of time would you like for her?

CHAIRPERSON JORDAN: Well, normally the witness gets three minutes per person, right?

MR. VARGA: Okay.

CHAIRPERSON JORDAN: Okay.

Please come to the table so we can kind of keep flowing here.

We're short a seat. There's another seat down here if someone wants to sit down there. Or you can just -- yes. We might need you. Just shoot down one. There you go. Thank you very much. Okay.

Who's going to be first? Identify yourself. Thank you.

MS. TREDWAY: My name is Lynda Tredway. And I live at 804 Van Buren Street which is adjacent to the property of the daycare center and their residence at this moment.

I share a fenceline with 6425 property -- a long fenceline. The back of their house is right next to the side of my

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house. So --

CHAIRPERSON JORDAN: The back of their house? Okay. You're on Van Buren? Oh, I get you.

MS. TREDWAY: I'm on Van Buren.

CHAIRPERSON JORDAN: Okay. Got it.

MS. TREDWAY: And so, I share the whole fenceline. And my windows -- my east side windows are about 12 feet from their backside windows. So I'm very close.

I've lived at the property since 1985. I was not in residence there for several years because I had a job in California and it was a rental property.

During that time is when they had the original application. And I was supportive of the original application.

When I received the letter from the Zoning Commission, I went next door to see my neighbor, Ms. Cleo, and talked to her -- I thought talked to her about the original -- the

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original application.

So originally I offered a letter of support because I thought it was a continuance of the old application for having the daycare center there. I did not understand that it was to increase the number to 36 children. And therefore over this previous weekend, I retracted that support and I am now opposed to having that large a facility for that many children in -- in a residential neighborhood.

We definitely know that she provides an excellent service to the neighbors in a family daycare center. But I consider this to almost change the status of the -- of the daycare to a commercial enterprise because nobody will be residing there. And -- and of course, we are concerned about the increase in traffic, the increase in parking.

And I don't think there will be substantial increase in noise. I -- I have no idea. I actually don't hear the children enough to tell you the truth considering how

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children play.

So my -- my concern is that I -- when I went to speak to her, I didn't really get full disclosure. Now, maybe she didn't understand I didn't know that it was coming -- it was 36. And none of the communication we received from -- I subsequently got a letter delivered on our porch from Ms. Bennett. And that did not provide the detail about what was actually being considered. So --

CHAIRPERSON JORDAN: Wait, wait. I'm going to have -- your time is up.

MS. TREDWAY: Okay.

CHAIRPERSON JORDAN: Have you got a final sentence you want to say?

MS. TREDWAY: Well, I'm -- I -- I was not canvassed in April by ANC. And I am in opposition to this because of the reasons stated.

CHAIRPERSON JORDAN: Thank you.

Board, questions for this witness?

(No audible response.)

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CHAIRPERSON JORDAN: Next, please.
Make sure your microphone is on.
Push that button.

MS. WOODARD: There we go.

CHAIRPERSON JORDAN: All right.
Your name?

MS. WOODARD: My name is Desiree
Woodard. I've written an extensive letter. I
reside at 6610 8th Street N.W. And I am not in
opposition to her continuing with 12 children,
but the increase does pose a problem.

I already have an increase in the
amount of traffic in front of my home. The cars
that she said are not parking in those two slots
are parking in front of our home.

CHAIRPERSON JORDAN: How close are
you to this property?

MS. WOODARD: I want to say within
200 feet.

CHAIRPERSON JORDAN: Okay.

MS. WOODARD: And --

CHAIRPERSON JORDAN: You're a

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little further own the block?

MS. WOODARD: It's not -- it's adjacent. I'm on the catty-corner.

CHAIRPERSON JORDAN: You're not on the alley?

MS. WOODARD: Catty-corner. No

CHAIRPERSON JORDAN: Okay. Got it.

PARTICIPANT: Diagonal.

CHAIRPERSON JORDAN: Oh, diagonal across the street on the corner?

MS. WOODARD: Yes.

CHAIRPERSON JORDAN: Okay.

MS. WOODARD: And I do hear the children when I'm in my house, especially up in the attic because -- you know -- the noise will rise.

It's not a lot of noise. And I am not in opposition to the 12. I do, however, have a lot of concern for the parking, the foot traffic, the fact that she was not forthcoming about how this was to take place. I didn't know

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she was going to move from the neighborhood and that she had other centers that were available for her to take the overflow that she is considering another --

CHAIRPERSON JORDAN: What do you mean other centers?

MS. WOODARD: She's a -- she has one that's coming up that she's opening on Colorado Avenue, N.W. And I was looking at her initial home occupancy permit which said that she doesn't provide meals -- she does -- which says that she had zero employees but she does, which says she has zero park -- off-street parking.

And I'm concerned because currently she uses her garage as a thoroughfare for the children to enter into and exit the daycare because she keeps them in the basement. At times, I see them travel in and out. The parents go in and out. So to say that she's going to park a car there, sort of impractical using it for entrance and exit. I am concerned about the additional staff

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parking. As I said, I already have an increase in front of my home. I have not spoken with Ms. Cleo about it because I did not know what was going on. When I did find out, I contacted Fred Grant and did not get a response. I since found out that the information that was up on one portion of the website was incorrect and that when I found out about the ANC portion that had the correct information, I contacted him again.

I've also been in contact with the Chairman, Mr. Ronald Austin, to voice my concerns. He came over to my house, and they were willing to bring it up at their next meeting. But because it was coming up for hearing and they had other matters were not able to have a special meeting for it which I have requested. I'm even okay with the fact if we table the matter so that we find out more about how this is to take place.

I don't think that there has been full disclosure. I have serious concerns. And the fact that they offer their -- the -- the

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staff that they propose parking up in Silver Spring at public garages thinking that they will get on the Metro. I know how I am about my children. If I need to get to them in the afternoon, I'm going to park where there's available parking so that I can pick them up on time.

CHAIRPERSON JORDAN: Parking in Silver Spring?

MS. WOODARD: Yes. They have proposed in one of their pieces that there are three public garages -- one on Bonifant, one on Cameron and one on Wayne, all in Silver Spring for their staff.

CHAIRPERSON JORDAN: That's something that the Board has not seen. They're offering --

MS. WOODARD: It's in the -- it's in the document. Trust me. I read them all. So --

CHAIRPERSON JORDAN: In the Board's file?

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MS. WOODARD: It's in the Board's file.

CHAIRPERSON JORDAN: Well, what they've offered to the Board is that their two neighbors are going to offer these off-street parking spaces.

MS. WOODARD: There are footnotes in there in one of Ms. Bennett's letters that propose parking in Silver Spring that the staff would catch the bus down Georgia Avenue and walk to the center. She said that her staff does not park there now. Yes, they do.

I'm not saying I have a --

CHAIRPERSON JORDAN: Do they park on the street?

MS. WOODARD: They park on the street.

And then there's one proposal that -- I don't know what happened to it -- that they said that they have off-street parking for a neighbor -- from a neighbor.

CHAIRPERSON JORDAN: Correct.

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MS. WOODARD: But it's an apron in the back of the garage which would block his access to the garage and also use the public rights of way. So if the trash truck is coming through, it would block it. I -- I have a picture of that that's in the file.

I don't have anything against this -- Ms. de Kimmell. I don't. But I just think that to change the scope facing use definitely impacts our -- our home values and impacts the neighborhood and it causes a lot of confusion.

CHAIRPERSON JORDAN: Okay. Thank you.

Any other questions for this witness, Board?

(No audible response.)

CHAIRPERSON JORDAN: Applicant, any questions of this witness?

MS. BENNETT: I actually have questions for Ms. Tredway -- not questions so much as statements that Ms. Kimmell can make to --

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CHAIRPERSON JORDAN: This is the point where you're going to cross examine. I asked you if there are questions you would like to Ms. Woodard.

MS. BENNETT: I have no questions to ask Ms. Woodard. We will have rebuttal.

CHAIRPERSON JORDAN: Okay.

Next, please?

MS. WOODARD: My next -- my neighbor who is directly across from me on Van Buren, she has a trach. So let me make sure her mic is on.

CHAIRPERSON JORDAN: Please. And as close as you can.

MS. JACKSON: It's hard for me to talk. I have an injury to my focal cord.

CHAIRPERSON JORDAN: Got you.

MS. JACKSON: But I've been a resident of 8:01.

My name is Laura Jackson. I've been a resident at 801 Van Buren Street for 51 years.

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When I bought my house, it was quiet residential neighborhood. And I would like for it to stay a residential area. This is not a school area.

CHAIRPERSON JORDAN: We appreciate you coming down. And I think I understand what you're saying.

MS. JACKSON: Yes.

CHAIRPERSON JORDAN: I understand clearly what you're saying. But I really appreciate all of you and everyone who's a witness coming down because it's important that we hear from people in the neighborhood --

MS. JACKSON: Yes.

CHAIRPERSON JORDAN: -- before hand and not after like we do a lot of times.

MS. WOODARD: We just didn't realize. Yes. Sorry.

CHAIRPERSON JORDAN: We appreciate it.

MS. JACKSON: Yes. I'll appreciate it if it stayed a residential area.

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VICE CHAIR ALLEN: We just wanted you to know that we also received your letter. And thank you for sending that. We have that as a part of our record.

CHAIRPERSON JORDAN: Yes. Thank you.

Board --

MS. WOODARD: You didn't thank me for mine. I knew it was long.

(LAUGHTER.)

MS. WOODARD: Sorry. I just wanted to lighten things up a little bit.

VICE CHAIR ALLEN: Thank you as well.

CHAIRPERSON JORDAN: Board, any questions for Ms. Jackson? Anyone from the Board?

(No audible response.)

CHAIRPERSON JORDAN: Applicant, any questions of Ms. Jackson?

MS. BENNETT: No questions of Ms. Jackson. No. Thank you very much.

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CHAIRPERSON JORDAN: Next? Make sure your microphone is on first, please. Thank you.

MS. SHEPPARD: Good morning. My name is Cynthia Sheppard. I'm a resident at 6514 8th Street. I'm in the middle of the block on the same side.

My concern also is that it would change the zoning for our neighborhood, and I consider it a residential neighborhood and would like for it to stay that way. Thirty-six children to me seems like they need to be in a commercial space.

And so, it would increase the number of staff. It would impact us as far as parking goes. So I don't know what the zone would change to if you have 36 children there.

CHAIRPERSON JORDAN: Well, she's not asking to change the zone. She's asking us to allow her to have this use within the present zone.

MS. SHEPPARD: So it would stay the

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same?

CHAIRPERSON JORDAN: The zone would, yes. But she's asking us to allow her with the present zone, which is a residential zone, to allow to do this in that zone.

MS. SHEPPARD: I thought they said earlier that OSSE said it could up to 50. And I have a concern about that, that many children in one space.

CHAIRPERSON JORDAN: She's asking for up to 36.

MS. SHEPPARD: With a potential to --

CHAIRPERSON JORDAN: She's not asking for that.

MS. SHEPPARD: Okay. Well, even with 36 -- you know -- my concern that the -- the house is really too small to handle that many kids.

There could be a fire. How would they all get out? Would there be enough staff to make sure that they could get all of the

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children out?

CHAIRPERSON JORDAN: Okay. Thank you.

Board, any questions of this witness?

You say you live in the middle of the block on the same side of the street.

MS. SHEPPARD: On the same side.

CHAIRPERSON JORDAN: Do you hear children noise or anything?

MS. SHEPPARD: No, I work during the day.

CHAIRPERSON JORDAN: Yes, please, Mr. Miller.

ZONING COMMISSIONER MILLER: Just for any of the neighbors.

With the current operations for the past several years, have you had any parking problems?

MS. WOODARD: Yes, I've had staff and the folks that drop off their -- even through their own letters, they admit that they

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parked and walked to the Metro. They leave their cars there during the day, that they park anywhere --

ZONING COMMISSIONER MILLER: What parking problems have you experienced as a result of that?

MS. WOODARD: I haven't been able to park my care on occasion. They have blocked my neighbor's driveway walking -- parking on 8th Street over at the intersection and walking over to the Center. I have also --

CHAIRPERSON JORDAN: Let me ask you a question.

MS. WOODARD: Yes, sir.

CHAIRPERSON JORDAN: Who's they?

MS. WOODARD: Folks that attend --

CHAIRPERSON JORDAN: Okay. Got you.

MS. WOODARD: -- patrons --

CHAIRPERSON JORDAN: Not staff but the people who are doing drop off/pick up.

MS. WOODARD: Oh, they have had

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staff park there, too. Not a lot. But the patrons, yes. They park and then they go over to the Center and then they come back and move their cars.

But through some of the admissions of their own letters, they talk about how there is ample spaces available for them to park and some of them even to walk to the Metro and leave their cars for the day.

I work at home every Tuesday. And there's been some concern about the parking.

CHAIRPERSON JORDAN: On that corner?

MS. WOODARD: On that corner -- that intersection.

I'm also concerned because that's a major thoroughfare for our police, our 4D -- I mean, my -- my letter sort of spells as many things out as I could possibly come up with. I think at the increase, we have a lot of new bikers I -- I think because of the -- you know -- people just really getting into biking back

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and forth. And that's a thoroughfare for them. But 4D uses that particular corridor a lot.

CHAIRPERSON JORDAN: Okay.

ZONING COMMISSIONER MILLER: It's my understanding your block is not currently signed for residential permit parking?

MS. WOODARD: No. No. And that would be an impact. If they change it and we have go down to get residential parking, that's a change.

And I think that they're increasing the number of staff would cause substantial impact because there's already impact.

ZONING COMMISSIONER MILLER: Well, you don't have to go down to get the residential permit parking. Your neighborhood would have to petition for it. I think there's a way that you can --

CHAIRPERSON JORDAN: But I think what she's saying is that to have that residential parking requirement is an inconvenience to the neighbors there. And if

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it's a -- that's what I'm understanding.

MS. WOODARD: Currently, yes.

Thank you.

CHAIRPERSON JORDAN: Whether or not they can get it is not her issue. It's that if they have to go to that type of restriction, it changes what they're used to.

ZONING COMMISSIONER MILLER: All right. I understand.

CHAIRPERSON JORDAN: Okay.

ZONING COMMISSIONER MILLER: And there is a cost.

CHAIRPERSON JORDAN: Very minimal.

ZONING COMMISSIONER MILLER: Very minimal. But cost.

CHAIRPERSON JORDAN: Okay. Where are we? We were finished with that. Now we go to --

MS. BENNETT: Actually, since Ms. Howard spoke again, may I take the opportunity to ask her some questions? She has spoken again.

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CHAIRPERSON JORDAN: Yes.

MS. BENNETT: Okay. Thank you

CHAIRPERSON JORDAN: Ms. who? Ms.
Howard?

MS. BENNETT: Ms. Desiree --

CHAIRPERSON JORDAN: Ms. Sheppard
was last. Ms. Woodard -- we've already kind of
crossed that bridge. I asked you did you ask
Ms. Woodard --

MS. BENNETT: She asked --

CHAIRPERSON JORDAN: -- and the
last one who testified is Ms. Sheppard.

MS. BENNETT: I understand. But
Ms. Woodard has just spoken again.

CHAIRPERSON JORDAN: She was
replying to a question from the --

MS. BENNETT: I understand.

CHAIRPERSON JORDAN: -- Board.

MS. BENNETT: I understand. I
have just a couple of questions.

CHAIRPERSON JORDAN: Go ahead. go
ahead.

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MS. BENNETT: Okay. Thank you. I appreciate that.

Ms. Woodard as all your neighbors did, I believe you did receive a notice directed from the BZA about a month ago that the increase to 36 students was up for hearing.

MS. WOODARD: May I repeat -- because I addressed that --

CHAIRPERSON JORDAN: Actually, that was what she said in her initial statement --

MS. WOODARD: That's right.

CHAIRPERSON JORDAN: -- and had a rebuttal to Mr. Miller.

MS. WOODARD: Again, that I contacted Fred Grant.

CHAIRPERSON JORDAN: I understand.

MS. WOODARD: I'm sorry.

CHAIRPERSON JORDAN: Next question, please.

MS. BENNETT: That's correct. As all the neighbors did. But when did you first

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Speak to Ms. Kimmell about your concerns?

MS. WOODARD: That's neither here nor there.

CHAIRPERSON JORDAN: Let's do this. I gave you leeway because I thought you were going to do a follow-up because you accepted that she just responded to Mr. Miller.

MS. BENNETT: Yes.

CHAIRPERSON JORDAN: And the two questions you asked are not anywhere in the ballpark what Mr. Miller asked nor was she responding to. Okay?

So, is there anyone else wishing to speak in opposition?

(No audible response.)

CHAIRPERSON JORDAN: All right. Then let's turn back to the Applicant for any rebuttal.

MS. BENNETT: Okay. I'd like to address some of the points that were just raised by the neighbors.

We understand the concern. We

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understand that Ms. Kimmell has been a good neighbor and that there is concern that an increase from the number of students that has been acceptable to a greater number of students would cause disruption. Ms. Kimmell has consistently been responsive to neighbors who respond to her.

CHAIRPERSON JORDAN: Let me stop you just one second and try to help you.

You have the opportunity to do rebuttal evidence --

MS. BENNETT: Okay.

CHAIRPERSON JORDAN: -- or you can do a closing. It sounds like you're doing a closing.

MS. BENNETT: This is both. This is a rebuttal, Mr. Jordan. This is a rebuttal.

CHAIRPERSON JORDAN: Okay. All right.

MS. BENNETT: Thank you.

I want to address the fears that have been raised that this is a commercial use.

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As the Board has stated -- as the Members have stated -- we are going through this process because we are not asking -- nor can we ask for a change in zoning -- we're asking for a modification in use. We understand your concerns. But that is the issue.

The ANC letter that the residents all received clearly stated -- I mean -- I'm sorry -- the BZA letter -- clearly stated that 36 students was up for review. This is not a surprise. This is something that has been known, that has been a matter of record for at least four weeks. To raise these issues last week with letters and with letters withdrawn which we did not receive -- we do not know about the withdrawals of support -- is an issue, I believe, for the Applicant.

The Applicant has been available for concerns, has been available to listen to concerns, makes adjustments when concerns are addressed to her, and she did not have that opportunity. But I think she shows that in

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fact she has that flexibility and is concerned about congestion disruption and parking.

The issues about the uses of the parking spaces, they are available. The two residents who are willing to give their parking spaces up have submitted once again those letters for the file and the Department of Transportation and the Office of Planning have found those tenders to be acceptable.

An example of Ms. Kimmell's responsiveness is the fact that she did -- when she heard a complaint -- she cleans up the lawn, she is regularly engaged in lawn maintenance, she responds to concerns of neighbors because --

CHAIRPERSON JORDAN: Let me stop you.

You initially said that there have not been any complaints. Now I'm hearing you say --

MS. BENNETT: No, I'm talking about the letter -- the one letter -- the one letter

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that you received last week. That is it.

CHAIRPERSON JORDAN: Okay. So got it.

MS. BENNETT: That's it.

CHAIRPERSON JORDAN: Got it.

MS. BENNETT: That's it. That's it.

We cannot address hypothetical situations about misuse of parking spaces that were in the letters or circumstances that won't happen such as a change in zoning designation or a potential danger such as a move to restricted parking from unrestricted. Maybe that's a fear, but that seems speculative to me. We don't know that that will happen.

We do have the experts from OP and DDOT who do not anticipate a significant increase in traffic and who find the parking situation as currently existing acceptable.

That's my rebuttal.

CHAIRPERSON JORDAN: Okay. Let me ask you. Any of the witnesses -- it's not a

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free-for-all, Ms. Woodard --

MS. WOODARD: I just have --

CHAIRPERSON JORDAN: You've had --

MS. WOODARD: Okay. No, no.

CHAIRPERSON JORDAN: Let me ask this question. Have any of you witnesses made any complaints to the Applicant about some of the concerns or any concerns, Ms. Woodard?

MS. WOODARD: I actually didn't make them to the Applicant. I made them to the ANC person.

CHAIRPERSON JORDAN: And when was that?

MS. WOODARD: It's been sort of ongoing about the condition of the yard.

CHAIRPERSON JORDAN: The condition of the yard. Okay. But you don't know if she ever got it? You made it to the ANC.

MS. WOODARD: I don't.

CHAIRPERSON JORDAN: All right. Got it.

MS. SHEPPARD: I -- I might -- do

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you want --

CHAIRPERSON JORDAN: Yes. Did you make any? Yes.

MS. SHEPPARD: Okay. I -- when I -- I must have missed this in the original zoning letter that this was going up to 36 children and maybe I did not understand. I -- I'm not quite sure. But when that came to my attention, I went over twice this weekend and I left a note for Ms. Kimmell to -- Ms. Cleo to come and see me. And that did not happen. So --

CHAIRPERSON JORDAN: Yes, what I'm asking is prior to the application being filed for this new relief, had you made any complaints to the Applicant about the condition or noise or anything like that?

MS. SHEPPARD: No, there was none.

CHAIRPERSON JORDAN: Okay. Anyone else? No.

Mr. Miller? Now is all right because she already did rebuttal and closing.

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So we're now basically have closed --

ZONING COMMISSIONER MILLER: I'm sorry. I should have asked this earlier. I meant to ask the Applicant, Ms. Kimmell, or Ms. Bennett, her representative.

If this were approved and you got the approval for 36, and your plan to move out of the house, what changes, if any -- or do you have any plans for alterations to the house, inside or out?

MS. de KIMMELL: At the time the -- the -- this application was -- is approved, I would start to looking for a new place for live in the community because we are leaving over there for a different community. And we will move the community and inside the house, we cannot do nothing because the licensing inspector came and he say for the children we are required to care the place is okay. I don't know outside. But inside is okay.

ZONING COMMISSIONER MILLER: Okay.
Thank you very much.

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CHAIRPERSON JORDAN: Okay. Then the Board will close the record based upon what's been received.

Is the Board ready to deliberate on this now? Yes? I take the yes then. Okay.

Then anybody want to lead off with discussion on this?

I do have a concern about this being an R-1-B neighborhood and that I think that it might be a challenge to have 36 children. I'm also concerned about the evidence that's been submitted about the condition of the yard for one. I think if you do anything that that's going to be a condition of having regular maintenance and landscaping and preparation of this yard. Both from the pictures that were submitted by the Applicant and by those in opposition, I think the property actually needs to be landscaped in some way and regular maintenance.

But that's just my initial thoughts.

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Anyone else? Ms. Allen?

VICE CHAIR ALLEN: Thank you, Mr. Chairman.

I have similar concerns. I do know that the Van Buren, 8th Street, 7th Street -- that corridor is incredibly busy. I use it myself everyday.

And I'm very concerned about the testimony that was presented in terms of the parking. The Applicant stated that her families that are now just 12 come, they park, they leave their cars for however many minutes. Several of the parties in opposition -- the neighbors -- indicated that they're using in front of their homes and in their driveways for that parking. And the thought of that going to 36, I just don't see how that can be accommodated.

There was evidence presented regarding the condition of the property which gives me great concern. And that's when the Applicant was actually living in the space.

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And if that Applicant now plans to move out of that space, I think that the testimony that we heard certainly indicates that that would be again of major concern.

This is a residential neighborhood. It's zoned as such. And again, while I applaud the Applicant for running what apparently from the other support that came in that apparently is a good facility and one that's needed and has been used by folks who live in the neighborhood -- at least some parts of the neighborhood. I certainly applaud that. I have three kids. I had to use daycare, and I certainly understand that need. But I would not be able to support this application based on this going from a 12-family daycare situation to a 36-children, nonresidential family daycare.

And so I would move to deny this application.

MEMBER HEATH: Question, before I second.

If we're denying this application,

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can we extend the --

CHAIRPERSON JORDAN: Well, it's already there. But have we considered -- there's some middle ground there, too. I mean, I think -- and I understand your motion -- but because to me this is going from zero to 60 without anything in between.

I was thinking possibly that we could take it to 20 with a three-year window to see how it goes. And then they could come back. And if they within the three years and they went to 20 that there was not any major impact, then they could ask again. That's kind of what I was thinking. But I mean, certainly whatever the Board wants to do. I'm saying whatever we do is going to include landscaping and regular maintenance.

The problem is that we're looking at this as a modification. If we were looking at it as a new application, I think we'd still have some issues. But there would still be in operation for the 12 up until the point of this

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expiration.

Would that be correct, Ms. Glazer?
We deny this request, they still the right to
operate it on the previous relief.

MS. GLAZER: Yes. The order
expires in 2015.

CHAIRPERSON JORDAN: Right.

MEMBER HEATH: So modifying to the
20 still assumes that they would be moving out
of the property and this would operate as
strictly a daycare center?

CHAIRPERSON JORDAN: Well, I
wouldn't put that in the mix.

MEMBER HEATH: Okay.

CHAIRPERSON JORDAN: Because we
don't see them moving out.

But I would also shorten the window
for approval to three years. I would not leave
it out there because I'm concerned about
there's impact in this neighborhood. I also
hear that there's a great need, and also hear
that there has not been a lot of complaints. So

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we're in that land that we've been there how iffy these things get. And you've got need, you've got impact and it's how do you balance those things.

VICE CHAIR ALLEN: I guess I would ask for a second on that.

But just in response to your suggestion -- I don't know if it's the reason or not -- but certainly we have heard that operating the 12 has caused some neighbors some concern. We have heard that. And I don't think anyone -- and I think even the folks in opposition said that the 12 was pushing it but they were trying to be good neighbors. I think going up from that is just problematic. And I really wouldn't be able to support that.

CHAIRPERSON JORDAN: Okay.

MEMBER HEATH: So I'll second your motion.

CHAIRPERSON JORDAN: Motion made and seconded to deny the requested relief.

Further discussion or readiness,

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Mr. Miller?

ZONING COMMISSIONER MILLER: Yes. I share the concern about the tripling of the number of children served and taking over the entire house. I think that that does change the residential character of this neighborhood particular if there are objections from neighbors, although there's support from neighbors as well, and a more than doubling of the staff.

So in denying this application, if there's a way we can approve an extension of the current configuration for a number of years so that they don't have to file a new application, I think we should try to take care of that, if there's a way to do that.

CHAIRPERSON JORDAN: Excuse me, one second.

ZONING COMMISSIONER MILLER: So they don't have the burden of coming back.

CHAIRPERSON JORDAN: Okay. I heard what you're saying, Mr. Miller. And

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that's what I was just talking to Ms. Glazer about how would we do that. And she seems to think there's some complications to that.

ZONING COMMISSIONER MILLER: What if we turned it back on the Applicant and said that it's pretty clear that there's going to be a denial, can they verbally amend their application now before us to ask for a continuance -- if they want to continue it at the 12?

CHAIRPERSON JORDAN: And can we already indicate that we're taking it as a modification. So within the modification, we would ask that the Applicant -- I think that's palatable that we would -- it appears that the Board is going to deny the request. However, we're taking this as a modification. And Mr. Miller is offering that we can amend the motion to make a request to the Board so that you don't have to come back in two years -- one year, right?

MS. BENNETT: In March of 2015.

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CHAIRPERSON JORDAN: Six months to give an extension --

MS. BENNETT: Correct.

CHAIRPERSON JORDAN: -- as you sit here now so you don't have to come back for the 12 you already have.

MS. BENNETT: Yes. That would be acceptable.

May I ask for how long you would grant the --

CHAIRPERSON JORDAN: Yes, Mr. Miller, add another five onto it?

MS. BENNETT: Could you add another --

CHAIRPERSON JORDAN: Another five --

MS. BENNETT: Could we ask for another -- okay.

Five is a hardship. But I --

CHAIRPERSON JORDAN: We have done two and three.

MS. BENNETT: Yes, yes.

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CHAIRPERSON JORDAN: So trust me.
Five is happy time.

MS. BENNETT: Okay.

CHAIRPERSON JORDAN: And so may I
offer an amendment to the motion -- a friendly
amendment? If we don't have to, we can just
pull it back and deal with it this way. I would
move that we deny the request to allow 36
students -- and was it nine staff -- that we keep
the relief that's already provided by the
previous order but extend it for five years from
the ending date? That ends 2000 --

ZONING COMMISSIONER MILLER: March
2015.

MS. BENNETT: March 2015.

CHAIRPERSON JORDAN: -- so we'll go
to March 2020. And that in addition that as a
condition thereof, we also require that the
Applicant must maintain the property well
landscaped and maintained. And that would
be my motion.

ZONING COMMISSIONER MILLER: And

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also continue the existing parking off-street availability and the condition?

CHAIRPERSON JORDAN: Yes. Okay.

ZONING COMMISSIONER MILLER: I would second that. Thank you.

CHAIRPERSON JORDAN: Additional discussion?

(No audible response.)

CHAIRPERSON JORDAN: All those in favor of the motion signify by saying aye.

(A CHORUS OF AYES.)

CHAIRPERSON JORDAN: Those opposed nay?

(No audible response.)

CHAIRPERSON JORDAN: The motion carries.

MS. ROSE: Staff would record the vote as four to zero with Mr. Jordan, Mr. Miller, Ms. Allen and Ms. Heath in support of the motion as modified.

MS. WOODARD: Thank you for your time.

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CHAIRPERSON JORDAN: Okay.

MS. WOODARD: And thank you for allowing us to speak.

CHAIRPERSON JORDAN: No. Thank everybody for coming. We need the input. Thank you. Thank you. Thanks for taking time from your jobs and et cetera.

Is that the summary? Yes, summary order, please. We can do that summary.

All right. Is there any other business coming before us today?

(No audible response.)

CHAIRPERSON JORDAN: I'm taking that as a no.

All right. Then we stand adjourned.

(Whereupon, at 12:03 p.m., the hearing was adjourned.)

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