

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC MEETING

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WEDNESDAY

NOVEMBER 18, 2020

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The Regular Public Meeting of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 9:30 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. Hill, Chairperson
LORNA JOHN, Vice Chair
CHRISHAUN SMITH, Board Member

ZONING COMMISSION MEMBERS PRESENT:

PETER G. MAY, Commissioner
MICHAEL TURNBULL, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Zoning Data Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, Esquire
ALEXANDRA CAIN, Esquire

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The transcript constitutes the minutes from the
Regular Public Meeting held on November 18, 2020

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

Case No. 20302 - Application of SQL512TAYLOR, LLC - 6

Case No. 19659-A - Application of The Federation of State
 Medical Boards, Inc. - 14

Case No. 20343 - Application of Cara Cook - 26

Case No. 20186 - Application of Elizabeth Hando - 31

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

(9:36 a.m.)

CHAIRPERSON HILL: All right. Good morning, everybody. The meeting will please come to order. We are convening and broadcasting this decision meeting by video conference. This is the November 18th, 2020 public meeting session of the Board of Zoning Adjustment in the District of Columbia. My name is Fred Hill, Chairperson, and joining me today is Lorna John, Vice Chair, Chrishaun Smith, Board Member; and representing the Zoning Commission will be Peter May and Mike Turnbull.

Today's meeting agenda is available to you on the Office of Zoning's website. Please be advised that this proceeding is being recorded by a court reporter and is also webcast live via Webex at YouTube live. The video of the webcast will be available on the Office of Zoning's website after today's meeting session. Accordingly, everyone who is listening on Webex or by telephone will be muted during the meeting.

We do not take any public testimony at our decision meetings.

If you are experiencing difficulty accessing Webex or with your telephone call-in, then please call our OZ hotline number at 202-727-5471. Once again, that's 202-727-5471, to receive Webex login or call-in instructions. It's also listed on the screen in front of you.

At the conclusion of this meeting session, I shall, in

1 consultation with the Office of Zoning, determine whether a full
2 or summary order may be issued. A full order is required when the
3 decision it contains is adverse to a party, including an affected
4 ANC. A full order may also be needed if the Board's decision
5 differs from the Office of Planning's recommendation.

6 Although the Board favors the use of summary orders
7 whenever possible, an applicant may not request the Board to issue
8 such an order.

9 Preliminary matters are those which relate to whether a
10 case will or should be heard today, such as a request for a
11 postponement, continuance or withdrawal, or whether proper and
12 adequate notice of the meeting has been given.

13 Mr. Secretary, do we have any preliminary matters?

14 MR. MOY: Good morning, Chairman, and members of the
15 Board. I do not have any preliminary matters for any of the
16 decision-making cases in this meeting session, sir.

17 CHAIRPERSON HILL: Okay. I know that there are some
18 preliminary matters with some of the hearing cases and so I guess,
19 Mr. Moy, at that point if you could just point them out when we
20 get there. Okay?

21 MR. MOY: Yes. I'm prepared to do that, sir.

22 CHAIRPERSON HILL: Okay. You guys, we're all a little
23 bit under a time crunch today. I'm going to lose one of our Board
24 members, I think, around 1 o'clock and then you're going to lose
25 me at 4 o'clock. So we have to -- well, 3:45. So we're going to

1 have to finish as judiciously as possibly.

2 So with that, Mr. Moy, if you could call the remand
3 case.

4 Oh, there's Mr. Turnbull. All right. Then in that
5 case, let's see.

6 Mr. May, I guess you just want to sit there for a
7 minute. We'll go ahead and handle Mr. Turnbull first.

8 Okay. All right, Mr. Turnbull. Then if you would call,
9 Mr. Moy, Decision Meeting 20302.

10 MR. MOY: Ah, okay. Okay. Here we go. So the first
11 case for a decision is Case No. 20302 of SQL512TAYLOR, LLC. This
12 is the request for a special exception under Subtitle U, Section
13 320.2. This would construct a third-story rear addition and to
14 convert an existing semi-detached principal dwelling unit into a
15 three-unit apartment house in the RF-1 Zone. This said premise is
16 512 Taylor Street, Northwest, Square 3231, and Lot 98.

17 CHAIRPERSON HILL: Okay. Are we all ready to talk about
18 this? It seems so. If not, just let me know. I don't see
19 anybody moving their head no.

20 Let's see. So we were asking for a little bit more
21 information from the applicant and we did get some of the
22 information. We didn't get a sun study, although we did get a
23 little bit more clarity on the solar panels and the regulation
24 regarding the solar panels.

25 I guess, from what I understand, the regulation really

1 applies to an abutting property in terms of the solar panels. I
2 guess under the general criteria we could see whether or not we
3 think that those solar panels would be affected and I'm currently
4 just speaking to the solar panels -- solar panels affected.

5 And so however, I feel after looking at the plats and
6 where the property is located and also in relationship to the Lot
7 115, I think that due to the separation of the alley and the
8 distance of the property, I didn't think that those solar panels
9 were going to be affected in a way that I was going to have an
10 issue with the conversion.

11 We did have a lot of testimony on the -- this
12 application. I think that, again, the massing of the property is
13 a matter of right. I mean, the height, the massing. I mean,
14 they're doing the setback from the third story as they're supposed
15 to be doing. And basically, what I thought is we were discussing
16 the conversion and the additional one unit and how that may
17 adversely affect the area.

18 The Office of Planning was in approval of this
19 application and -- as was ANC 4C and DDOT had no objections.

20 After, again, continuing to review the application, I
21 didn't see that there was an issue with this application, and I
22 was going to be able to vote in favor of it. There were a lot of
23 conditions that the ANC had put forth and I wasn't sure -- and I'm
24 pulling it up here. It wasn't clear to me and I don't know if OAG
25 can help provide clarity, it wasn't clear to me if that affordable

1 housing contribution could be or was going to make the approval of
2 the ANC now a negative and before I ask OAG, we wouldn't be able
3 to put that anyway in the conditions. So again, it's a little
4 unclear. I don't know. Ms. Cain, do you have any clarification
5 on that?

6 MS. CAIN: So as you noted as even stated in the ANC
7 report, the ANC is not requiring any of these conditions to be
8 incorporated in the Board's order, but the issue is whether the
9 ANC is, at this point, in opposition based on the applicant not
10 agreeing to that affordable housing condition.

11 I believe OZ has reached out to the ANC and has not
12 gotten a response back one way or the other. So at this point,
13 it's honestly sort of up in the air. We don't know what their
14 final position is.

15 CHAIRPERSON HILL: Okay. Well, I would be comfortable
16 with -- I mean, all of the other conditions, it seems as though
17 the applicant had agreed to, and I'm now speaking to my fellow
18 Board members, and I know that we can reference the conditions in
19 the order but not actually put them in the order, so that is
20 something that I would be recommending to do which is to actually
21 include them in the order. Just reference the fact that this is
22 in Exhibit 39 and that the applicant has agreed to everything
23 except for the affordable housing contribution and just see what
24 happens with the ANC. I suppose that could be something we would
25 have to deal with later in terms of whether this a full order or a

1 summary order.

2 However, I again do think that the analysis that I am --
3 you know, from the testimony of the applicant and the analysis of
4 the Office of Planning, I would be in agreement with this
5 application.

6 Mr. Turnbull, may I start with you?

7 MR. TURNBULL: Thanks, Mr. Chair. I would agree with
8 your comments although on the second page of the ANC report they
9 do say, "The Letter of Support is conditional on the following
10 request from the 4C Commission. If the developer does not agree
11 to the following condition, then 4C opposes." The following
12 condition was the affordable housing, so I think we have to assume
13 that there would be an opposition. I don't know. Ms. Cain, is
14 that how you would read that?

15 MS. CAIN: I think at this point that's probably a safe
16 assumption, but Chairman Hill, I would want to get a final copy
17 from the ANC --

18 CHAIRPERSON HILL: Okay.

19 MS. CAIN: -- before coordination of the final order,
20 but I think that's probably where we are.

21 MR. TURNBULL: Mr. Chair, I would agree with your
22 position though. I think that there's enough evidence for me to
23 go forward and vote approval on this. They did have -- the only
24 comment that I can remember that I brought up or we talked about
25 when we were looking at this was on the alley side with the siding

1 on the lower level. They have changed that to brick to match the
2 existing. I think the elevation now on the alley side looks a lot
3 better. I think it'll fit in better. The whole thing, the whole
4 appearance of the building, will look a lot better now. So I --
5 after seeing this, I would vote in favor of this.

6 CHAIRPERSON HILL: Okay. Mr. Smith?

7 MEMBER SMITH: Mr. Chairman, I concur with all of your
8 comments. We did receive a lot of (audio interference) to start
9 this project and they were concerned about the scale and the size
10 of the project. And just to reiterate what you have already said,
11 the bulk ends -- the bulk of this building is behind and the
12 question before us was those extra units and I do believe that
13 those extra units with the -- those extra units will not
14 overburden or severely impact the neighborhood. So I have --

15 CHAIRPERSON HILL: You mean the one extra unit?

16 MEMBER SMITH: The one extra unit, yes. The one extra
17 unit is being proposed by the applicant would not have a
18 detrimental impact to the neighborhood based on what I've seen and
19 testimony (audio interference), so I would (audio interference) to
20 OP's (audio interference) for approval of this project and I would
21 support it.

22 CHAIRPERSON HILL: Thank you. Ms. John?

23 VICE CHAIR JOHN: Mr. Chairman, I agree with everyone's
24 comments so far and note that the location of the solar panels on
25 Lot 115 are fairly removed from the applicant's property and based

1 on that distance and the alley, I doubt that there would be any
2 impact on the solar panels for that reason. So I would say there
3 would be no adverse impact under X, 9, 102 -- 901.2(b) and for
4 that reason, I can support the application.

5 I also note under the draft, the ANC did not raise any
6 issues -- any specific issues and concerns considering the relief
7 request except to request these conditions that are not within the
8 scope of the Board's jurisdiction. So I am not sure if -- well,
9 we cannot give those conditions great weight. So it seems to me
10 that the ANC is asking us to approve something that we really
11 cannot do and so based on all of those considerations, I would
12 approve the application.

13 CHAIRPERSON HILL: Okay. Thank you. All right. I'm
14 going to make a motion to approve Application No. 20302 as
15 captioned and read by the Secretary and ask for a second, Ms.
16 John.

17 VICE CHAIR JOHN: Second.

18 CHAIRPERSON HILL: Mr. Moy, the motion has been made and
19 seconded. Could you please take a roll call vote?

20 MR. MOY: Yes. Thank you, Mr. Chairman. When I call
21 your names, if you would please respond with a yes, or no, or
22 abstain from the motion made by Chairman Hill to approve the
23 application for the relief requested seconded by Vice Chair John.
24 Zoning Commissioner Michael Turnbull?

25 MR. TURNBULL: Yes.

1 MR. MOY: Mr. Smith?

2 MEMBER SMITH: Yes.

3 MR. MOY: Vice Chair John?

4 VICE CHAIR JOHN: Yes.

5 MR. MOY: Chairman Hill?

6 CHAIRPERSON HILL: Yes.

7 MR. MOY: And we have a Board seat vacant. Staff would
8 record the vote as 4 to 0 to 1 and this is of the motion of
9 Chairman Hill to approve the application for the relief requested,
10 seconded by Vice Chair John also in support of the motion and
11 Zoning Commissioner Michael Turnbull and Mr. Smith, and again the
12 motion carries 4 to 0 to 1.

13 CHAIRPERSON HILL: All right. Thank you, Mr. Moy.

14 Commissioner Turnbull, you have a nice day.

15 MR. TURNBULL: You too, guys. Hope you're not here for
16 the whole day, so take care.

17 CHAIRPERSON HILL: And Commissioner May, welcome back.
18 All right. Mr. Moy, when you get a chance, if you could read in
19 the remand.

20 MR. MOY: Yes, sir. This is the remand to case
21 Application No. 19659A of The Federation of State Medical Boards,
22 Inc. and I'm going to read the caption of the relief as amended
23 for special exception from the use provisions under Subtitle U,
24 Section 203.1(n) to use the existing residential building as an
25 office for a non-profit organization in the R-3 zone. That

1 premise is 2118 Leroy Place Northwest, Square 2531, Lot 49, and I
2 believe participating on this decision is Chairman Hill, Vice
3 Chair John, and Zoning Commissioner, Peter May.

4 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Moy.
5 Ms. John, you've read in for this, correct?

6 VICE CHAIR JOHN: Yes, Mr. Chairman.

7 CHAIRPERSON HILL: Okay. Mr. Smith, you are not on this
8 just because it was a voluminous record and I know that Ms. John
9 was there, and it was easier for her to read in. So thank you,
10 Mr. Smith.

11 Let's see. After going back and reviewing the record --
12 I mean, I was there, as was Commissioner May, so that was helpful.
13 I mean, it was a very, very long hearing and we took a lot of
14 information from a lot of different people in terms of their
15 concerns to the project. I'm going to review just a little bit of
16 some of my thoughts and then I'll turn to Commissioner May and
17 then finally Board member John, Vice Chair John.

18 You know, what had happened to us or what the main
19 issues were was whether -- was that the Court of Appeals -- the
20 Court of Appeals had specified that we didn't clarify enough a few
21 issues that were different from the Office of Planning's
22 recommendation. They did not disagree with us on what I -- you
23 know, what was the main issues in terms of whether or not it was a
24 non-profit, whether or not -- excuse me -- it was a residential
25 building and whether or not they had the required square footage

1 for that building.

2 For the people that are listening, I mean also the
3 people from the neighborhood, I understand, you know, or
4 understood their position. And again, what I found difficult
5 and/or easy is that our past is to look at the regulation and
6 whether or not they meet the criteria within the regulation.
7 Like, you know, we have to decide were they a non-profit. We
8 decided yes, they were a non-profit. We had to decide whether or
9 not they had enough square footage. We did decide that and was
10 also -- got some information from the zoning administrator as to
11 they had the correct square footage. Was it a residential
12 building? Yes, it was a residential building. I mean, it could
13 have been a chancery and then the chancery, I think, would have
14 even more people and more traffic for that neighborhood as well as
15 I understand, you know, that one-way street that this property is
16 on.

17 So I don't have any (audio interference) what we had
18 originally discussed with those issues. The conditions that the
19 Court of Appeals had asked us to clarify was that the Office of
20 Planning had recommended 15 people on site. The applicant was
21 trying, or not trying, was speaking to 20 people on site and,
22 again, this is a building that has 10,000 square feet. I mean,
23 it's a very large building.

24 And so, you know, the ability to have -- and Ms. John,
25 your mic's not muted just to let you know -- and the ability to

1 have -- and then we ended up speaking with the applicant and
2 understanding that what the applicant was -- seemed to be talking
3 to was temporary employees or temporary people that were going to
4 come in from -- I think they were based in Texas. The non-profit
5 was based in Texas. You know, people might come in and work for a
6 couple of weeks or upon assignment and then go back, and so that
7 was kind of those extra five people, the 15 to the 20.

8 And after discussing -- deliberating with the Board, we
9 got to 18, you know, which was just, you know, an additional three
10 people from the 5, you know, from the 15 that the Office of
11 Planning had recommended and it was more the additional people
12 were more like, you know, how do you decide whether somebody is a
13 temporary person, whether somebody is not a temporary person and
14 that is how we ended up on the 18 people.

15 I think that to provide further clarity as to why those
16 additional 3 people, in my opinion, did not constitute more
17 adverse impact was that we have these other conditions that are
18 pretty lengthy that the applicant had agreed to. I mean, the
19 first of which is that there is, you know, a five-year period on
20 this certificate of -- you know, five-year period on this order.
21 Meaning, you know, they've already done -- it's already been two
22 years, I think, or something since -- I can't believe it's been
23 that long since we heard this; however, it is five years from the
24 Certificate of Occupancy. So I don't know if they received their
25 Certificate of Occupancy yet, but they will be coming back is what

1 I'm trying to say.

2 And then also there are, you know, all these other
3 conditions about the office hours, you know, parking, the garage,
4 the staff people use. I mean, it's extensive conditions that I
5 won't read through that I think mitigate what are the additional
6 three people that the Office of Planning had recommended, and we
7 were using them as temporary people. Like, that's why we got to
8 18.

9 So again, my basis of differentiation from the Office of
10 Planning for those additional three people is all these additional
11 conditions that have been put forward. The other item -- so that
12 was No. 5 in the conditions and terms of why there's a maximum of
13 18 versus 15. The other, in condition, 8, I do think there were
14 some discrepancies from what I think will end up being in the
15 order or what is in the order and there should have been, "The
16 applicant may hold a maximum of once reception per year to be held
17 the night before a committee meeting."

18 So the applicant was speaking to committee meetings and
19 I think that what we had intended, the Board, was one committee
20 meeting per quarter and that would be for 25 invited people for
21 the committee meeting. And then at the reception, there was going
22 to be -- I think we had a discussion that there was going to be,
23 you know, one guest per person for the reception. So a reception
24 of 50 guests, 50 guests.

25 So I understand now how we were -- how we got to the 25

1 people and those meetings would be per quarter, not three a
2 quarter. They were one meeting per quarter, and then the
3 reception would be the night of one of the meetings with 50
4 guests. And so that is where I would settle in on these
5 conditions and still continue to, you know, support this
6 application.

7 And again, how I believe we got to these numbers is
8 because of all of the different conditions that we put forward and
9 the understanding of how the applicant is trying to mitigate any
10 kind of circumstances by being in that building. And again, this
11 regulation began, I believe, because there were these large
12 properties that could be used as chanceries and also used for non-
13 profits.

14 And so, you know, we had to determine whether or not it
15 was a non-profit, we did, and whether it had the square footage,
16 and whether it was a residential property. And so I feel
17 comfortable with all of those other discussion points and then I
18 think I provided clarity on the two items that came back from the
19 Court of Appeals.

20 Commissioner May, may I turn to you?

21 COMMISSIONER MAY: So yeah, I did -- I have reviewed the
22 information and went back over my notes from the original hearing.
23 I am still a little bit confused. I mean, I understand and agree
24 with your justification for a maximum of 18 and why we are varying
25 from the recommendation from the Office of Planning and I don't

1 have any reason to, you know, revisit that or question that, so
2 I'm -- I agree with that.

3 I am still a little confused on the number of meetings
4 because going back in my notes and the information we received, I
5 thought that they were going to be having meetings, three
6 meetings, per quarter. I know that sounds weird to put it that
7 way, but I thought that that what was the intention was. We're up
8 to 25 people and then one reception per year, so one annual
9 meeting that would actually require a reception.

10 Did I misunderstand that because that's what I got out
11 of it?

12 VICE CHAIR JOHN: Mr. May, I agree with you and that is
13 what I saw, that there would be up to three meetings per year, but
14 per quarter, but only one reception per year. So your --

15 COMMISSIONER MAY: Right.

16 VICE CHAIR JOHN: Your notes are correct.

17 CHAIRPERSON HILL: Well, let's come back to that one for
18 one second. So --

19 COMMISSIONER MAY: Okay.

20 CHAIRPERSON HILL: -- Commissioner May, you don't have
21 anything else?

22 COMMISSIONER MAY: No. I mean, that was the -- it was
23 the number of meetings and the number of receptions were the two
24 issues in addition to the number of employees, right, that were
25 remanded?

1 CHAIRPERSON HILL: Yes.

2 COMMISSIONER MAY: Yeah. I don't have any other.

3 CHAIRPERSON HILL: And then there was the annual meeting
4 that was to be held offsite.

5 VICE CHAIR JOHN: That's correct.

6 COMMISSIONER MAY: Correct. The annual meeting would be
7 offsite, but there would -- there could be, and I thought the
8 reception was associated with that annual meeting or could be.

9 CHAIRPERSON HILL: Okay. Ms. John, do you have anything
10 before we come back to this last thing, I guess, about the three
11 meetings per quarter?

12 VICE CHAIR JOHN: No, I don't have anything else. I
13 agree with the analysis so far. I would just highlight that the
14 Court of Appeals agreed with the BCA's approval of the application
15 and that the application met the requirements. What the Court of
16 Appeals wanted us to do was to articulate more clearly why we did
17 not accept OP's analysis and recommendation and did not appear to
18 give it great weight in our declarations and in the order, and so
19 that is what we are asked to do.

20 Now we're to go back and analyze why we did not give
21 great weight to the OP's recommendations on those two issues which
22 the record supports that the change was because the applicant
23 wanted to add three itinerant workers, employees, and we added
24 that to the 15 and that's how we came up with 18 employees. So we
25 agree on that point.

1 CHAIRPERSON HILL: Okay. All right. Well, I got to
2 say. I mean, I know that this is -- and OAG, Ms. Nagelhout, I
3 will ask you in a second as to -- I don't know if there is a -- if
4 a motion needs to be made and/or you think that we have missed
5 anything. I mean, I think that -- I will follow my colleagues'
6 lead on this one in terms of the three meetings per quarter.

7 Again, it seems a little odd to me that we did end up at
8 three meetings per quarter. I mean, that's where, you know -- and
9 Commissioner May, I mean you were there, you know, you have your
10 notes that you've looked at and then, you know, Board Member John
11 actually was there, she just was new and was, you know, there for
12 the testimony and watching in the anteroom, I think it was around
13 the dais, I can't remember.

14 And so, you know, I mean, I'll follow with the three
15 meetings per quarter and then we can go ahead and they'll be back
16 before us and we can have that discussion, I guess, again as to
17 whether or not those meetings or any of these conditions have
18 caused more problems to the surrounding neighborhood. I mean, I'm
19 sure that, again, the applicant will do everything they can to
20 make sure that, you know, the meetings and the receptions do not
21 inconvenience the applicant anymore -- I'm sorry -- inconvenience
22 the neighbors any more than they possibly can.

23 I'm sure, you know, they'll do valet parking and
24 everything they can do for the reception or even the meetings, I
25 would assume, but that -- and again, I'm just kind of pointing out

1 that if it were a chancery, I'm sure there would be many more
2 receptions and many more meetings that would happen in that 10,000
3 square-foot building. But regardless, I think we don't have to
4 talk about this anymore.

5 Ms. Nagelhout, is there anything in terms of a motion
6 and/or did I miss anything?

7 MS. NAGELHOUT: No, I don't think you've missed
8 anything, but I think a motion to issue an order consistent with
9 the Board's deliberations today providing additional clarity on
10 how you responded to -- how you (audio interference) the OP
11 recommendation -- a motion to issue an order consistent with your
12 deliberations today on remand.

13 CHAIRPERSON HILL: Okay. So I'm going to add, "And make
14 a motion to issue an order based on our deliberations on remand"
15 to BZA Application 19659A and how we spoke to the issues from the
16 remand concerning the Office of Planning and in particular
17 Conditions 5 and 8, and then also having all of the conditions
18 that we had imposed previously and ask for a second. Ms. John?

19 VICE CHAIR JOHN: Second.

20 CHAIRPERSON HILL: Mr. Moy, could you take a roll call
21 vote?

22 MR. MOY: Thank you, Mr. Chairman. So when I call your
23 names if you would please respond with a yes, or a no, or abstain
24 to the motion by Chairman Hill to issue the order that is on
25 remand and the motion seconded by Vice Chair John. Zoning

1 Commissioner, Peter May?

2 COMMISSIONER MAY: Yes.

3 MR. MOY: Vice Chair John?

4 VICE CHAIR JOHN: Yes.

5 MR. MOY: Chairman Hill?

6 CHAIRPERSON HILL: Yes.

7 MR. MOY: And we have one seat that's vacant and one
8 Member not participating. The motion carries by a vote of 3 to 0
9 to 2. This is on the motion of Chairman Hill to issue the order
10 seconded by Vice Chair John, also supporting the order is Zoning
11 Commissioner Peter May and, of course, Vice Chair John and
12 Chairman Hill. The motion is carried, sir.

13 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy.

14 All right. Mr. Moy, you can go ahead and read in our
15 expedited review when you get a moment.

16 MR. MOY: Okay. This would be Case Application No.
17 20343 of Cara, C-A-R-A, Cook. This is a request for special
18 exceptions under Subtitle D, Section 5201 from the rear yard
19 requirements of Subtitle D, Section 306.1. This would construct a
20 second story rear addition to an existing detached principal
21 dwelling unit, R-1-A Zone at premises 2628 Moreland Place,
22 Northwest, Square 2307, Lot 12.

23 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Moy.

24 Is the Board ready to deliberate? I see everybody is.
25 Okay. All right.

1 The first issue is the notice and again, we've been
2 having kind of a technical issue on our side and this was noticed
3 in the Register 26 days rather than the 40. I do know that all of
4 the other notice requirements were fulfilled. I also see the
5 affidavit of posting and the affidavit of maintenance in the
6 record as well as all of the different agencies were notified.

7 I don't have an issue with waiving this part, portion,
8 of the notice and so unless the Board has any problems with that,
9 just raise your hand. Okay. No one is raising their hand, so
10 we'll go ahead and waive that issue.

11 After reviewing the record, I didn't really have any
12 problem with this application. There was -- the Office of
13 Planning has submitted their report. I would agree with their
14 analysis. DDOT has also supported this application. We did have
15 a report from ANC 3G; however, they have been notified and this
16 property was posted properly as I just mentioned. So I think that
17 if there had been any concerns from them, they would have let us
18 know. So I think that, you know, they did have the appropriate
19 amount of time to respond.

20 I did notice there are two letters in support from both
21 abutting neighbors in Exhibit 13 and 14. I didn't have any issues
22 with the light or air, the privacy, the character and scale, and
23 any of the plans or elevation, so I'm going to vote in approval.

24 Commissioner May, can I turn to you?

25 COMMISSIONER MAY: Yeah, I have nothing to add. I don't

1 see any issues with this. It's helpful having the neighbors, the
2 abutting neighbors' support, especially. Thank you.

3 CHAIRPERSON HILL: Thanks. Chair John?

4 VICE CHAIR JOHN: I have nothing to add. I think it's
5 fairly straightforward and I agree with both of these analyses and
6 there is no report on the issue.

7 CHAIRPERSON HILL: Mr. Smith? Sorry, I went out of
8 order, Mr. Smith. I didn't realize you're back with us.

9 MEMBER SMITH: (Audio interference). I would support
10 this recommendation of the special exception (audio interference)
11 disclosed straightforward. I think I do give great weight to the
12 staff report. I think the request is fairly normal.

13 I'll also note that behind the property, to the rear of
14 the property, there's a (audio interference) street, so the
15 property is not directly backing up to the (audio interference)
16 property, so (audio interference) property. So I'll give the
17 support on the special exception.

18 Can you hear me?

19 CHAIRPERSON HILL: Yeah, your kind of -- I mean, I heard
20 everything that you said, but you were kind of (audio
21 interference). I don't know why, and I don't know if you want to
22 log back on. Let's take a vote first. I don't know if you want
23 to log off and log back on, or -- but let's vote first. Okay, Mr.
24 Smith?

25 MEMBER SMITH: Okay. Thank you.

1 CHAIRPERSON HILL: Unless you're some kind of tech guy
2 and you can figure it out on the fly there, because that's the
3 only solution I have. I'm going to make a motion to approve
4 Application No. 20343 as captioned and read by the secretary and
5 ask for a second, Ms. John.

6 VICE CHAIR JOHN: Second.

7 CHAIRPERSON HILL: Motion made and seconded. Mr. Moy,
8 if you could please take a roll call vote?

9 MR. MOY: Yes. Thank you, Mr. Chairman. When I call
10 your name, if you would please respond with a yes, no, or abstain
11 for the motion made by Chairman Hill to approve the application
12 for the relief requested. The motion was seconded by Vice Chair
13 John. Zoning Commissioner, Peter May?

14 COMMISSIONER MAY: Yes.

15 MR. MOY: Mr. Smith?

16 MEMBER SMITH: Yes.

17 MR. MOY: Vice Chair John?

18 VICE CHAIR JOHN: Yes.

19 MR. MOY: Chairman Hill?

20 CHAIRPERSON HILL: Yes.

21 COMMISSIONER MAY: And we have a Board seat vacant.
22 Staff would record the vote as 4 to 0 to 1. And this is on the
23 motion made by Chairman Hill to approve, seconded by Vice Chair
24 John. Also supporting the motion, Zoning Commissioner, Peter May
25 and Mr. Smith. Again, the vote count is 4 to 0 to 1. Motion

1 carried, sir.

2 CHAIRPERSON HILL: All right. Thank you, Mr. Moy.

3 Mr. Smith, what were you -- you want to try something
4 different or?

5 MEMBER SMITH: Can you hear me better now?

6 CHAIRPERSON HILL: Yes.

7 MEMBER SMITH: Okay.

8 CHAIRPERSON HILL: But you didn't say much, I can't
9 tell, so I think so.

10 MEMBER SMITH: Okay. I'll try to log off and --

11 CHAIRPERSON HILL: No, it seems better. I mean, doesn't
12 it sound better? It sounds better. We'll see what happens.

13 MEMBER SMITH: Okay.

14 CHAIRPERSON HILL: I mean, I know we're going to
15 deliberate a lot so that's why I'm trying to figure out -- but,
16 okay.

17 Mr. Moy, you want to read in our next case?

18 MR. MOY: Yes, the next case and it is the last case in
19 the meeting session and this is Case Application No. 20186 of
20 Elizabeth Hando, as amended, for special exceptions under the R-
21 Use group requirements of Subtitle U, Section 203.1(h) and under
22 Subtitle C, Section 703.2 from the minimum parking requirements of
23 Subtitle C, Section 701.5. This would convert an existing
24 expanded child development home to a new child development center
25 with 20 children, R-1-B zone at premises 240 Quakenbos Street,

1 Northeast, Square 3719, Lot 24.

2 As the Board will recall, the decision was initially
3 scheduled for October 26th and the Board decided to continue its
4 deliberation until November 18th.

5 CHAIRPERSON HILL: Okay. Are we all ready to talk about
6 this? Okay.

7 Ms. John, your mic is not muted just to let you know.

8 So I can start. We heard a lot of testimony about this
9 and I guess I'll kind of go over some of the higher points. I
10 mean, the Office of Planning was in approval of this application
11 with some conditions. DDOT was in support and had some comments,
12 and we can go over both the Office of Planning and the DDOT's
13 conditions.

14 For me, this kind of came down to, again, you know, what
15 was kind of -- what was a matter of right situation and what was
16 the applicant trying to achieve, and what were the neighbors'
17 concerns. The ANC (audio interference) a lot of information to us
18 particularly with the SMD, and I would also like to thank the SMD
19 for all of the work that she did in trying to work with the
20 applicant and the neighbors. It sounds as though it really was
21 something that took a lot of time, and also would like to thank
22 the neighbors for their input in terms of their concerns.

23 There was a lot -- I mean, there's 158, or there's even
24 more actually, let me look at the record here. Gosh, there's 207
25 exhibits in the record and there was, you know, letters in

1 opposition, there was letters in support. There was, you know, a
2 tremendous amount of interest in this application and I guess what
3 it came down to for me was, again, the difference from what the
4 applicant could do to what now they're trying to do, and the
5 building is a matter of right building.

6 Meaning, that massing, the building, what they're trying
7 to build, it has nothing -- you know, they could build that. It
8 was the child development center and going from what they could do
9 which is 12 children to what they're trying to do which is 20
10 children. So I was focused on the eight additional children and
11 what that might cause in terms of, again, additional traffic or
12 additional burden to the neighborhood.

13 I think that, you know, we have a lot of conditions that
14 we spoke about. The one that -- we'll see what happens -- and as
15 I kind of rotate around this, I'd like to talk about everything,
16 all of the conditions and the application except for the time
17 limit and then we can discuss that one last, if that's all right.

18 The conditions that have been put forward that the
19 applicant has agreed to that also are the ones that we have
20 written out, I believe are going to handle any kind of adverse
21 impact from the eight additional children. The one thing that we
22 would not be able to enforce is someone living at the property.
23 Like, that's not something that we can enforce. It's not
24 something that's within the regulations. It's not something that
25 we're allowed to force on the applicant, and so that is something

1 that I would not be able to sign on to.

2 There was, and I guess I don't know how to summarize
3 these conditions or if I need to read through them all and maybe
4 Ms. Nagelhout can tell me specifically where they are and/or if
5 you would like me to read through them. I mean, I'll read through
6 some of them that I thought were of note. That the maximum number
7 of children would be 12. The maximum number of staff would be
8 five. The hours of operations are from 7:00 a.m. to 7:00 p.m.
9 Monday through Friday. The applicant shall install -- I guess
10 I'll just read them. The applicant shall install and maintain a
11 solid fence 6 feet high around the perimeter of the property as
12 shown in Exhibit 197.

13 A sign may be installed at the property for the child
14 development center subject to the following conditions: No more
15 than one exterior sign may be displayed on the building. The sign
16 shall not exceed 144 inches in area. The sign shall be flush
17 mounted, the sign shall not be illuminated, and the sign may state
18 only the name of the child development center and that it is a
19 child development center. These are the requirements under
20 signage under U, 251.4.

21 The other conditions are those that also come from DDOT
22 which is No. 7. The applicant shall designate driver roads to the
23 child development center and implement pick-up and drop-off
24 procedures curbside at Quakenbos Street, Northeast, at 3rd Street,
25 Northeast as shown in Exhibits 198A(1) and 198A(2) of the record.

1 The applicant shall designate staff members to
2 facilitate pick-up and drop-off including staff who will meet all
3 patrons driving to the property curbside at Quackenbos Street.
4 The applicant shall designate a staff member to serve as a
5 crossing guard at the intersection of Quackenbos Street, Northeast
6 and 3rd Street, Northeast. The applicant shall inform parents and
7 guardians about the pick-up and drop-off policy at orientation and
8 shall provide a handbook and website with an overview of the
9 policy to parents or guardians.

10 The applicant shall encourage carpooling to the child
11 development center. The applicant shall designate a staff member
12 to serve as a community liaison to address any issues or concern
13 raised at the ANC or neighbors. The applicant shall implement a
14 construction management plan as shown in Exhibit No. 189 of the
15 record subject to compliance with applicable regulations.

16 And I also thought there was a condition that the
17 applicant would attend a meeting, and I have to -- and Mary, Ms.
18 Nagelhout, maybe you can help me find that, that the applicant was
19 going to attend a meeting and so that was another thing that I was
20 interested in the applicant doing so that the applicant could hear
21 of any concerns that they were trying to mitigate from the child
22 development center.

23 MS. NAGELHOUT: But that was in the applicant's latest
24 submission which I think is Exhibit 203. It's not something the
25 Board talked about before, but we can add it.

1 CHAIRPERSON HILL: Okay. Thank you. I'm just pulling
2 this up.

3 So the applicant will attend the Citizens Awareness and
4 LRC meetings on a quarterly basis to respond to questions and/or
5 concerns for five years. That's what is in the applicant's
6 suggestion and I'm comfortable with that.

7 The one that I didn't think we could do was that -- I
8 mean, enforce was that the applicant shall impose sanctions on any
9 parent or guardian who violates the center's pick-up and drop-off
10 policy. I just don't think that's something that the zoning
11 administrator will be able to enforce, so I would not be in favor
12 of that condition. However, I can see that if the applicant wants
13 to somehow have some teeth to this, they could go ahead and figure
14 out some way to make sure that their parents -- I mean, sorry,
15 that the -- yeah, the parents are adhering to these issues
16 concerning the mitigation factors of traffic.

17 I suppose also in terms of the people who are going to
18 be used as crossing guards and also designating somebody for pick-
19 up and drop-off, I mean, those people would be designated during
20 the pick-up and drop-off times. Now, I wouldn't think that
21 somebody has to be there, and you guys can tell me this, you know,
22 somebody isn't there in the middle of the day. Once all the
23 children are there, all the children are there, you know. But
24 they will keep track of, if there's somebody coming, to make sure
25 that they facilitate to get those people in there without causing

1 any undue impact to the traffic.

2 So those are all those conditions. The one that I think
3 -- depending upon if you all agree with my analysis thus far, the
4 one that we still are kind of hung up on, I think, is the time
5 limit. So if we could, just talk about everything but the time
6 limit and just see where we are on that.

7 Commissioner May, can I start with you?

8 COMMISSIONER MAY: Yeah. No, I mean I think you did an
9 excellent job of recapping the situation and I don't disagree with
10 any of the proposed conditions or your rationale for them. So
11 yeah, I don't really have anything more to say about this, but of
12 course we'll talk about the time limit.

13 CHAIRPERSON HILL: Mr. Smith?

14 MEMBER SMITH: I concur with Mr. May. I do believe that
15 you've encapsulated and (audio interference) much discussed with
16 this particular case. I don't have any issues with the
17 conditions, and I don't have any issue with including a potential
18 15th condition that you brought up about the applicant attending
19 the quarterly meetings for the next five years. So the remaining
20 item, I guess, would be the issue of the duration of the special
21 exception which I guess we'll discuss after we go through these
22 terms.

23 CHAIRPERSON HILL: Okay. Let's see. And then just to
24 be clear, it's -- it would be four -- well, let's see how many
25 conditions it is. I mean, the -- we -- it's either going to be 12

1 or 13 depending upon where we get with the time limit. I'm sorry.
2 Anyway, I'm just trying to say it's not 15. Like, the one we're
3 not agreeing to -- well, the one we're not going to put on there
4 is the sanction for the parent or guardian.

5 Ms. John, do you have comments?

6 VICE CHAIR JOHN: I agree with your analysis, Mr.
7 Chairman. I agree that we should not impose a requirement that
8 the property owner -- that the applicant impose sanctions on
9 parents because that goes to the operations of the school or the
10 child development center which we are really not allowed to do
11 under the regulations. Those kinds of conditions are considered
12 too intrusive.

13 I also agree that the application does not require that
14 the applicant reside in the home and so we could not impose that
15 condition, and that fact is also recognized by the ANC resolution
16 which is at Exhibit 158. I also agree that we need to discuss the
17 time limit and whether that's appropriate for, you know, a child
18 development center of this size.

19 CHAIRPERSON HILL: Okay. Thank you.

20 All right. So now that brings us to the five-year, or
21 whatever, period we were discussing. So I think where we were is,
22 we were kind of split. I mean, I -- in Exhibit 203, the applicant
23 has provided more comments and concerns with their sunset period
24 and, you know, I actually agree with all of their comments
25 concerning the five-year period.

1 I mean, again, I'm not in favor of the five-year period
2 and the reason why is that I believe that we're talking about
3 eight additional children and that I believe we have a lot of
4 conditions that would mitigate the effects on the neighborhood for
5 eight additional children and I think that the burden on the
6 applicant as they have stated in Exhibit 203 and No. 8, I think is
7 fair.

8 I think that, you know, they have -- it's a small
9 business. It's not -- this isn't a national chain of, you know,
10 child development centers and so they have to make this investment
11 in this building and so getting a bank to loan them the money on
12 something they don't know whether or not is going to be here after
13 five years, I don't even know if they'd get the loan, right. And
14 then if -- then the other things they say is like, you know, it
15 would be hard for them to recruit parents if there was a five-year
16 lifespan possibly.

17 But really where it rests to me and I know that I'm just
18 trying to speak to my fellow Board members, is that it's the
19 additional eight children and it's a small business and that the
20 city needs childcare and so I think that we, the Board, have spent
21 a lot of time working with the community to get to something that
22 I think is manageable and that there are now enough conditions in
23 place so that I'm comfortable not having a time limit.

24 I will say, and Commissioner May knows this as do other
25 people know this, I am not opposed to time limits. I've voted for

1 time limits before. However, in this particular case, I'm just
2 not in favor of it and for the reasons that I stated.

3 So let's go around and see if we're ready. Commissioner
4 May, I'll start with you.

5 COMMISSIONER MAY: Thanks. So, like you, I am not
6 opposed to time limits. It is something that's been done
7 regularly by the BZA over the years and it has been done with
8 businesses small and large. It's a common thing and, you know, if
9 the applicant does comply with the conditions, then there would be
10 no reason why the, you know, that time limit would not be lifted
11 after five years. That's also a common thing. You know, we
12 impose that initially and then it gets lifted later.

13 I do think it is a good precaution, but I do appreciate
14 your argument that it's -- you know, it is a -- it's really only
15 about eight more children, so that has some meaning and some
16 bearing on the case.

17 You know, when it comes to whether or not they can
18 finance it, saying that, "Oh, we'll have trouble financing it," is
19 not a very compelling argument from my perspective if they've
20 actually talked to a lender about it and have been told that with
21 a five-year limit they wouldn't be able to finance it, that would
22 be more compelling and that was the sort of evidence that would
23 have been, I think, most meaningful.

24 So I am leaning in favor of the five-year time limit,
25 but I am not as hard and fast about it. I will also note that the

1 other development that I think is important, although it doesn't
2 come into play as a condition, is the fact that Ms. Hando has
3 apparently agreed to live on the premises. I saw that in the --
4 you know, in the ANC testimony and also her submissions, or the
5 ANC's submissions and the applicant's submissions.

6 So I mean, I think that's -- that is an important
7 development because it does address one of the community concerns,
8 not -- again, not that it was relevant to us in our decision-
9 making. It wasn't really a condition, but it was a -- you know, a
10 step towards the neighborhood's concern or a step to address the
11 neighborhood's concern that this, you know, not become simply a
12 business location as opposed to a residence. And I would expect
13 that if that's the applicant's commitment, that they would live up
14 to that commitment regardless of the fact that it would be a
15 condition in our order.

16 Let's see. Yeah. No, I think that's probably as much
17 as I would have to say about it at this moment. Oh, I do want to
18 say one other thing which is that, you know, I do -- one of the
19 reasons why I'm still generally in favor of the time limit is that
20 what we received in the final submissions was evidence of both
21 progress in the community discussion but also some regression and
22 so it's -- you know, it seems that as this thing goes on and on
23 there are, you know, there are new concerns that are being brought
24 up or old concerns that we thought had been addressed are coming
25 back. I mean, I just don't feel like this is -- that we see

1 evidence in the record that everybody's on a good footing if this
2 were to be approved or even on a good -- necessarily in a good --
3 heading in a good direction, so that's why I still have
4 reservations about it and again, the best backstop against any
5 kind of problems is that five-year time limit. So that's it.

6 CHAIRPERSON HILL: Okay. And just to -- and,
7 unfortunately, Mr. May, you know, you haven't changed my mind, but
8 it does -- I do want to mention one thing in terms of the living
9 on the property. Like, it's not a condition. It's not something
10 that we can impose and so, again, this goes to more like, you
11 know, we can't tell anybody where they can live.

12 I mean, particularly you just named like Ms. Hando.
13 Like, maybe she can find somebody else to live there. I don't
14 know. That might also then alleviate -- I'm not really sure how
15 that somebody is living there fixes anything. I can't figure that
16 part out of it. You know, I just don't understand that. Like,
17 what does that have to do with whether or not somebody -- whether
18 the traffic would be a problem. You know, how the traffic would
19 improve if someone was living there.

20 All I'm just trying to point, and you can go ahead and
21 respond, is that to use Chairman Hood's "promised land" comment,
22 you know, the -- promised land, yeah. He always says promised
23 land. That like, you know, this -- easily the person cannot live
24 there if they're not -- if this isn't a condition which we can't
25 put on there, so that's all I was stating.

1 Did you have a comment, Mr. May?

2 COMMISSIONER MAY: No, I just want to say it's -- I
3 didn't want to imply that it really is -- that it's exceptionally
4 relevant to our decision-making. I was just saying that it was a
5 step in the right direction in terms of the relationship between
6 the applicant and the neighbors who were concerned about this
7 residential property becoming simply a business property. So that
8 was a concern and the perception that they had and I thought that
9 that was a positive development in the sense of how they relate to
10 the community as opposed to something that's real and enforceable
11 on our part.

12 CHAIRPERSON HILL: Right. And I guess now to just
13 continue my last comment before Ms. John, she's chomping at the
14 bit. I'm going to go to you next, Ms. John, but is that I can see
15 that the person -- nobody ends up living there, right. You know,
16 that's what I'm --

17 COMMISSIONER MAY: I can see that too, yes.

18 CHAIRPERSON HILL: Yeah.

19 COMMISSIONER MAY: I agree.

20 CHAIRPERSON HILL: I --

21 COMMISSIONER MAY: There are all sorts of outcomes that
22 I can see coming out of this. Again, that's why I'm in favor of
23 the time limit because (audio inference).

24 CHAIRPERSON HILL: All right. Since you're on the
25 fence, Mr. May --

1 COMMISSIONER MAY: What?

2 CHAIRPERSON HILL: Mr. Mays, since you're on the fence

3 --

4 COMMISSIONER MAY: What?

5 CHAIRPERSON HILL: You said you were on the fence.

6 COMMISSIONER MAY: I said I was still leaning in favor
7 of a time limit.

8 CHAIRPERSON HILL: Okay. All right.

9 COMMISSIONER MAY: My resistance is less -- or my
10 opposition to your position is reduced somewhat.

11 CHAIRPERSON HILL: Okay. Vice Chair John? You're on
12 mute, Ms. John.

13 VICE CHAIR JOHN: I'm leaning towards your analysis, Mr.
14 Chairman. Can you hear me? So I am leaning towards your
15 analysis. I think we're looking at eight more students and in
16 terms of potential impacts to traffic and parking which is the
17 issue in this application. I think that the additional eight more
18 children would not be so significant to create traffic and parking
19 impacts that cannot be mitigated by the conditions that we're
20 about to establish if we approve the application.

21 I really don't agree with the five-year term limit in
22 this case because I think the issue of financing is very real and
23 although the applicant did not submit rejections from a bank or
24 other evidence in the record, I credit her testimony where she
25 says it would be difficult to have -- to get proper financing for

1 this project and she needs to add space to accommodate the
2 additional eight children so that they will be comfortable in the
3 premises and not be disruptive.

4 I think we cannot require the applicant to live on the
5 premises because that condition is not required by the regulations
6 and I think that this is the -- an operator who has experience
7 operating this type of facility and has been certified by OSSE for
8 some time. So I appreciate everything that the Commissioner has
9 done to try to bring the parties closer. I think that requiring
10 the applicant to attend community meetings will help to mitigate
11 some of the neighborhood concerns and give her an opportunity to
12 resolve any issues that come up.

13 And there has been a lot of discussion that this is a
14 commercial activity in a residential neighborhood, but we have to
15 be mindful that the regulations allow this type of facility in
16 this neighborhood and specify particular conditions about how many
17 of these facilities can be located within a certain distance of
18 each other.

19 I agree with you, Mr. Chairman, that given the dire, and
20 I'm going to use the word "dire," need for childcare facilities in
21 the District of Columbia, I cannot see us not approving an
22 application like this which squarely meets the requirements except
23 for these potential impacts that can be mitigated by the
24 conditions that we have established.

25 We did not discuss the issue of parking which came up

1 and the applicant only has to comply with one condition in the
2 regulation out of several and the applicant has shown that she's
3 -- the DDOT would not allow a (audio interference) and so they're
4 -- and the property does not abut an alley, so there's no
5 opportunity to have parking at the rear of the property. So I
6 believe the applicant meets the requirement for parking (audio
7 interference) as well.

8 CHAIRPERSON HILL: Okay. Thank you, Ms. John.

9 Mr. Smith?

10 MEMBER SMITH: So in our original deliberation on this
11 particular case, I was another Board member that was leaning in
12 favor of term limits. The reason why I was in favor of term
13 limits was -- I mean, not term limits, but a limit on a five-year
14 sunset on the special exception was because of the current
15 relationship between the applicant and the neighborhood through
16 this entire process and also because I do -- I did not, at that
17 particular time, think that the applicant had addressed the main
18 impact of their project which was transportation impacts.

19 And since that time, the applicant has submitted a more
20 robust set of conditions that would address the major neighborhood
21 concern of transportation. The applicant has -- is willing to
22 provide a (audio interference) -- can you hear me or am I still
23 low? Okay. The applicant has --

24 CHAIRPERSON HILL: You're a little muddled, but I'm --

25 MEMBER SMITH: Can you hear me?

1 CHAIRPERSON HILL: -- leaning in just -- I can hear you,
2 you just have to kind of listen.

3 MEMBER SMITH: Okay. After this case, I'll see what I
4 can do on the tech side after we deliberate on this one, but I do
5 believe -- because the applicant has agreed to a certain condition
6 such as providing a crossing guard for public safety for the
7 residents within the neighborhood and also any children that may
8 be disembarking from a car into the child daycare facility and the
9 applicant, again, has agreed to a set of conditions that I do
10 believe would address the transportation impacts.

11 The other reason was this issue of a good neighbor
12 policy that was -- that came up repeatedly in the last few
13 hearings on this particular case. I do believe that the applicant
14 has addressed that concern by just proffering a new condition that
15 says that they would attend the LRC quarterly meeting for the next
16 five years.

17 So I do believe that the neighborhood can continue to
18 hash out any future concerns and the applicant, in the interest of
19 being a good neighbor, would address some of these -- the ongoing
20 neighborhood concerns with the operation of her child development
21 center. So in saying that, I would not be in support of a five-
22 year sunset and I would recommend not to include that.

23 Did you hear my last part?

24 CHAIRPERSON HILL: Yeah, I gotcha.

25 MEMBER SMITH: Okay.

1 CHAIRPERSON HILL: All right. Okay. So I guess then
2 before I forget this one thing, like I -- I think I kind of know
3 now where this is going. I do want to kind of state to the
4 applicant because I'm sure that the applicant is watching, is that
5 that quarterly meeting and trying to figure out how to be a good
6 neighbor is going to be important and I really would emphasize
7 that the applicant go to the quarterly meeting, try to work with
8 the neighborhood.

9 I also would like to point out to the neighborhood,
10 please try to work with the applicant. Like, everybody is just
11 trying to work through the issues so that these -- again, I can't
12 -- I mean, I know that it's 20 children, but the eight additional
13 children that they're allowed to have anyway, right. And so, you
14 know, the impacts and, you know, I think that quarterly meeting is
15 essential, right, and that -- and being open from both sides to
16 try to figure out how to work together and live together with this
17 child development center that we all agree is meeting the criteria
18 within the regulations to approve.

19 So now I'm just going to turn to you, Mr. May, only
20 because it seems as though there's enough votes here to pass it
21 without the five-year term, and the only reason why I'm asking
22 this is I would either have to bifurcate my motion or you can vote
23 no. Do you want me to bifurcate my motion?

24 COMMISSIONER MAY: No, I want you to vote the whole
25 thing. I will -- you know, as I said before, I was leaning in

1 favor. Having heard what everybody had to say, I am comfortable
2 voting in favor without the five-year sunset.

3 CHAIRPERSON HILL: Okay. All right. So then Ms.
4 Nagelhout, do you understand all the conditions? I don't have to
5 read them all. I mean, the only one that was a little bit unclear
6 again is that we can't implement somebody living there, but -- and
7 we can't implement a penalty, but we can implement them attending
8 the quarterly meeting.

9 Do you need anything else from me in terms of the
10 conditions?

11 MS. NAGELHOUT: No, I think I'm fine on the conditions.
12 I will point out though, it's an addition of 11 kids not 8,
13 because they currently have 9. You can have 9 as a matter of
14 right, you can have 12 as a special exception in the child
15 development home, so the proposal is to go from 9 to 20.

16 CHAIRPERSON HILL: Okay. I -- thank you for that
17 clarification. I was thinking of the special exception. You're
18 correct, to go to 12, and that does not change my deliberation.
19 It does not change my analysis. I still think that we're talking
20 about an increase of -- again, they could have gone by special
21 exception to 12, and now we're going to an additional 11, and I
22 still think that the additional number is not something that I am
23 uncomfortable with given all these conditions and given everything
24 we've already gone through.

25 Does that clarification change anyone else's discussion?

1 Commissioner May?

2 COMMISSIONER MAY: No.

3 CHAIRPERSON HILL: Ms. John?

4 VICE CHAIR JOHN: No.

5 CHAIRPERSON HILL: Mr. Smith?

6 MEMBER SMITH: No.

7 CHAIRPERSON HILL: Okay. Then I'm going to go ahead and
8 make the motion to approve Application No. 20186 as captioned and
9 read by the Secretary including all of the conditions that the
10 Board has just discussed and deliberated upon and ask for a
11 second.

12 Ms. John?

13 VICE CHAIR JOHN: Second.

14 CHAIRPERSON HILL: The motion was made and seconded.
15 Mr. Moy, could you take a roll call, please?

16 MR. MOY: Thank you, Mr. Chairman. So when I call your
17 name, if you would please respond with a yes, no, or abstain to
18 the motion made by Chairman Hill to approve the application for
19 the relief being requested along with conditions that have been
20 cited for the record. The motion is seconded by Vice Chair John.
21 Zoning Commissioner, Peter May?

22 COMMISSIONER MAY: Yes.

23 MR. MOY: Mr. Smith?

24 MEMBER SMITH: Yes.

25 MR. MOY: Vice Chair John?

1 VICE CHAIR JOHN: Yes.

2 MR. MOY: Chairman Hill?

3 CHAIRPERSON HILL: Yes.

4 MR. MOY: And we have a Board seat vacant. Staff would
5 record the vote as 4 to 0 to 1 and this is on the motion made by
6 Chairman Hill to approve the application for the relief requested
7 along with the conditions that have been cited with the motion
8 seconded by Vice Chair John. Also in support of the motion,
9 Zoning Commissioner, Peter May, Mr. Smith and, of course, Vice
10 Chair John, Chairman Hill. Motion carries 4 to 0 to 1.

11 CHAIRPERSON HILL: Okay. Great. All right. If it's
12 okay with you guys, I'll go ahead and read us into the hearing and
13 then we'll take a little break.

14 (Whereupon, the above-entitled matter went off the
15 record at 10:47 a.m.)

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: DCBZA

Date: 11-18-20

Place: Teleconference

was duly recorded and accurately transcribed under my
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