

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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SPECIAL PUBLIC MEETING

+ + + + +

THURSDAY

SEPTEMBER 20, 2001

+ + + + +

The Board met in the Second Floor Hearing Room, Suite 220, 441 4th Street, N.W., Washington, D.C., at 9:00 a.m., Sheila Cross Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID	Chairperson
DAVID LEVY	Board Member (NCPC)
GEOFFREY H. GRIFFIS	Board Member
PETER MAY	Board Member

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## BOARD OF ZONING ADJUSTMENT STAFF PRESENT:

Sheri Pruitt	Secretary
Paul Hart	Zoning Specialist
Beverly Bailey	Zoning Specialist
Marie Sansone	Office of Corporation Counsel
Maxine Brown Roberts	Office of Planning

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C-O-N-T-E-N-T-S

<u>AGENDA ITEM</u>	<u>PAGE</u>
<u>APPLICATION OF MCKENDREE-SIMMS-BROOKLAND</u> <u>UNITED METHODIST CHURCH: 16723 . . . . .</u>	4
<u>APPEAL OF THE CAPITOL HILL RESTORATION</u> <u>SOCIETY: 16404 . . . . .</u>	43
<u>APPEAL OF DAVID FURCHGOTT AND FENTEH</u> <u>FLEISHMAN: 16260 . . . . .</u>	43

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

(9:04 a.m.)

CHAIRPERSON CROSS REID: Good morning, ladies and gentlemen. This is the September 20th Special Public Meeting of the Board of Zoning Adjustment.

Mr. Hart, will you please call the case?

MR. HART: Good morning, Madam Chair, Members of the Board. The case to be heard this morning is case Application Number 16723 of McKendree-Simms, Brookland United Methodist Church, pursuant to 11 DCMR 3104.1 for special exceptions to allow a private school (40 students - 1st through 7th grades and seven staff) under Section 206, and a child development center with 20 children, nursery through kindergarten and four staff, under Section 205, and a variance from the off-street parking requirements under subsection 2101.1, in an R-1-B District at premises 2420 Rhode Island Avenue, N.E. This is in Square 4290, Lot through 7.)

The case was heard on July 20 and 31st of this year, and the decision dates up to this point was September 11th.

The Board did not make a decision at the September 11th hearing, because there was a state of emergency, as we all experienced. Prior to adjourning the meeting, the Board denied the request of the ANC-5A

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1 to reopen the record.

2 The case is now before you, Madam Chair.

3 CHAIRPERSON CROSS REID: Okay. Board  
4 Members, if you recall, unfortunately, as we were going  
5 through this case on our last meeting date, we were  
6 disrupted. What we had done so far -- If I don't recall  
7 all of the aspects of what occurred that morning, then  
8 somebody can please correct me. But we had gone through  
9 some discussion regarding the ANC motion to reopen the  
10 record to receive additional material predicated upon  
11 their having a subsequent meeting, I think the 28th of  
12 this month or somewhere thereabouts.

13 We did vote at that time that we would not  
14 open the record, and that we would base our decision and  
15 deliberation on what the submissions contained and what  
16 we had before us and, as such, we would now go into  
17 deliberation as to the merits of this case.

18 Just one second. We just received --

19 SECRETARY PRUITT: Madam Chair, it's for a  
20 later case. We just wanted to give it for you.

21 CHAIRPERSON CROSS REID: Thank you. I  
22 thought this was pertaining to this case.

23 What is before us is the request for a special  
24 exception for the opening of a -- to establish the  
25 elementary school and child development center. What

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1 this case entails, in part, was the fact that there was  
2 quite a bit of community concern regarding this  
3 application, some of the items of which were the community  
4 outreach.

5 Many of the people in the community felt that  
6 they had not been contacted or communicated with and it  
7 was the applicant -- the director of this school and the  
8 church -- I think the paster of the church, pastor Reverend  
9 Michael Armstrong, did state that. He was remiss in this  
10 regard, having not ever come before the Board before,  
11 was not really that well versed in our procedures and  
12 did not know or understand -- he was relatively new to  
13 the church as well -- that this was very important, to  
14 reach out to the community.

15 There were other issues that came up. There  
16 was a school there, a previous school, daycare center,  
17 and that daycare center had caused some community concerns  
18 like noise from the children, trash and debris, the way  
19 that the premises were maintained as to the care of the  
20 lawn and ice and snow removal. Those issues were brought  
21 to our attention.

22 Subsequent to that, the applicant took steps  
23 to address the concerns of the community, having had a  
24 community meeting which we have a flier that announced  
25 the meeting and a list of persons who came to the community

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1 meeting that evening to hear and to ask questions about  
2 the daycare center and the school that was being proposed.

3 The applicant hired an attorney, hired  
4 counsel, Ms. Giodano from Arnold & Porter, to help them  
5 through this process and to assure that everything that  
6 they were supposed to have done would be done correctly.

7  
8 As a result of that, they then took steps  
9 to try to mitigate some of the concerns of the community,  
10 to ensure that some of the issues that were raised were  
11 being addressed adequately and appropriately, and then  
12 they submitted to us proposals for lawn maintenance, for  
13 disposal and clean-up of contaminants, contaminants  
14 meaning that there was a letter that we received that  
15 talked about their -- in the rear of the facility that  
16 there was an area that was not well lit and, as a result  
17 of that, elicit behavior apparently was occurring there,  
18 and there had been some evidence of drugs used and  
19 prostitution or whatever back there, and they wanted that  
20 to be addressed, that to be cleaned up and to be taken  
21 care of and to better ensure that that kind of behavior  
22 would not -- to the greatest extent possible, would not  
23 be occurring there.

24 They also gave a proposal for trash removal.

25 We will open up the floor now for discussion

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1 and for further clarification on the various positions  
2 or feelings of Board members in regard to this case, and  
3 to add to anything that I may have missed out on so far.

4 MEMBER GRIFFIS: Madam Chair, I just wanted  
5 to underscore -- I'm not sure if I heard you say it, but  
6 they are also going for a variance from the parking  
7 requirements.

8 CHAIRPERSON CROSS REID: Yes, I'm sorry.  
9 Special exception -- and a use variance. I'm sorry,  
10 special exception and a variance from the parking  
11 requirement. I think there was discussion as to the fact  
12 that there was a parking lot that was being used, but  
13 it was not a parking lot that had been processed.

14 So in order for them to be able to use that  
15 area, they need a variance to park the cars.

16 MEMBER GRIFFIS: Right. And in my mind, as  
17 I recall in one of the hearings, the discussion of that  
18 parking lot came up. It is not, as I read this, actually  
19 part of the official case, because there was some  
20 uncertainty whether that was actually an allowable  
21 parking lot or not.

22 So in my deliberations in looking at this,  
23 I am taking it solely on looking at a variance for that,  
24 the particular site that the school is on, and not  
25 factoring in that they may have other resources for

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1 off-site. I may be incorrect with that in my  
2 recollection, but I don't think we were stepping into  
3 the fact of reviewing the accessory parking, and I don't  
4 see anything to it.

5 CHAIRPERSON CROSS REID: No, there was no  
6 request -- Ms. Sansone, correct me if I'm wrong. There  
7 was no request for an accessory parking lot. It was for  
8 this particular property itself. There's a site specific  
9 as to a variance for whatever their parking requirements  
10 are.

11 MEMBER GRIFFIS: Exactly my point. Let me  
12 just continue on briefly some of the comments, reading  
13 my notes and refreshing here.

14 I think the efforts after our last meeting  
15 from the school and church were very well intentioned  
16 in terms of addressing some of the community concerns  
17 and some of the past concerns from the previous user.  
18 I noted, however, although it was quickly done in terms  
19 of the time that was allowed, that we have some proposals  
20 and plans, and I believe other members concur that we  
21 don't actually have ratified contracts or a strong  
22 implementation plan by which the community might be able  
23 to communicate and assess and address, if problems came  
24 up.

25 I'm wondering if that might be something of

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1 strong urging or a condition that perhaps we discuss  
2 briefly.

3 CHAIRPERSON CROSS REID: Let's see. I think  
4 that, as to the -- There was a service agreement that  
5 was submitted. I did see this later, CWI for the trash  
6 removal. I couldn't really read it, because it's a Xerox  
7 copy, but it looked like it was a submission that  
8 authorized CWI to remove the trash.

9 I think that that's a contract or an  
10 agreement. Some of these things are -- for example, like  
11 this, they are not contracts. It says that the school  
12 will install two motion detectors for the playground  
13 lighting. They will install two motion detectors on the  
14 inside of the playground.

15 Now let me point out, Board members, that  
16 heretofore if, in fact, we condition this order, if we  
17 decide to go forward with the order, that we can condition  
18 it that these things will be done, and it will be an order  
19 and, as such, if in fact they are not, then they would  
20 be in violation.

21 They have also submitted that they will  
22 remove -- They have an outside contract to handle all  
23 snow and ice removal and things of that nature. So what  
24 I'm saying is that what we can do, to ensure that these  
25 are done, is to condition the order that the order would

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1 be conditioned upon certain items that would have to be  
2 taken care of.

3 We don't usually require -- Now let me just  
4 say that it would be good if they had submitted a contract  
5 for, for example, lawn maintenance service. But we don't  
6 usually require a contract per se. But we can condition  
7 that the lawn be maintained in a certain manner within  
8 the conditions, and we can also condition that the  
9 contaminants be disposed of and so forth and so on, as  
10 well as the number of students and, you know, the term  
11 and all the other things that have concerns could be put  
12 into the order if we decide to go forward, to make sure  
13 that these things are taken care of.

14 MEMBER LEVY: Madam Chair, is it possible  
15 to condition an order using language such as, you know,  
16 similar to the plans presented by the applicant, so we  
17 can somehow reference these without requiring them  
18 exactly as they are written?

19 CHAIRPERSON CROSS REID: Well, we can say  
20 "as proposed." There is nothing that would keep us from  
21 saying "as proposed by the applicant in the submission."

22 MEMBER LEVY: In this package?

23 CHAIRPERSON CROSS REID: Yes.

24 MEMBER LEVY: Some of these are actually  
25 presented as plans. One, as you pointed out, actually

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1 appears to be a contract, and there are one or two that  
2 there are proposals received from vendors, but there is  
3 no indication that they are planned or accepted. The  
4 landscaping is one of those.

5 CHAIRPERSON CROSS REID: Well, we can say  
6 something like "in a manner consistent with the proposal  
7 set forth in the submission." Then my thought is, since  
8 they didn't submit a contract, perhaps they are soliciting  
9 bids and have not decided who is going to do it, and I  
10 don't really care. I don't think any of us care who the  
11 contract goes to, as long as it is done and it is taken  
12 care of adequately.

13 MEMBER LEVY: And I think the way that this  
14 proposal is laid out, they have covered most of the items  
15 that I remember that community members were concerned  
16 about.

17 MEMBER MAY: Madam Chair, I think it's worth  
18 mentioning specifically in the order the topics or the  
19 areas that we would have them address or that this is  
20 contingent upon, specifically lawn maintenance, bus  
21 management or whatever. We can come up with the right  
22 words for that, but that we specifically mention those  
23 and then make reference to their proposed plan.

24 That way, we are spelling it out that they  
25 have to address these specific conditions, and that the

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1 manner that they have described is adequate.

2 MEMBER LEVY: I was just going to add that  
3 additionally there is a letter in the front of that package  
4 inviting, I guess, a representative of the ANC to become  
5 a member of the Board of Directors of the Washington  
6 Science and Technology Academy.

7 CHAIRPERSON CROSS REID: Which letter are  
8 you referring to, the September 5th letter?

9 MEMBER LEVY: I'm sorry, September 4th to  
10 Ms. Ramine Jenkins from Marjorie Burke, Vice Chairman,  
11 Board of Directors at the Washington Science and  
12 Technology Academy. It's page Number 8, approximately.  
13 Attachment 4, it's labeled, about the eighth page.

14 CHAIRPERSON CROSS REID: Also, I think that  
15 -- Yes, I do. I think that, given the various opposition  
16 that we heard, that what we have done before, and I think  
17 that would be apropos in this particular instance, is  
18 to condition that they establish a community liaison  
19 committee that would consist of members of the church  
20 and community and ANC to meet particularly quarterly or  
21 semi-annually to be able to address any problems that  
22 might emerge proactively -- I'm sorry. The proactive  
23 part would be the establishment of the liaison committee,  
24 and then to talk about concerns.

25 Then if there are any problems, that they

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1 could be brought up at these meetings so that they could  
2 be remedied earlier on, as well as a number wherein  
3 persons, community members, could be -- community members  
4 could have this number, a hotline number, wherein, if  
5 there is a problem, they would be able to call someone who  
6 would be able to take care of the problem immediately,  
7 rather than for them to have to suffer until the next  
8 meeting. Does that make sense?

9 Two things: One is community liaison, and  
10 two, a hotline number made available for problems that  
11 might emerge if the children are throwing trash on  
12 someone's lawn. Let's face it, kids will be kids, and  
13 they can control these kids to the greatest extent  
14 possible, but if there is a problem, that they can be  
15 able to call someone, and that could be remedied right  
16 away rather than, you know, let the community suffer.

17 MEMBER GRIFFIS: Madam Chair, my concern  
18 with that -- and I think it's an excellent idea, but my  
19 concern with that is twofold. One, what kind of burden  
20 are we putting on the user and, to that, how do you actually  
21 implement that?

22 I mean, does that mean that there is a full  
23 time staff member that has a certain line? I think it  
24 can be done by just having available the school's phone  
25 number perhaps. Certainly, they will answer phones, if

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1 there is any sort of emergency.

2 So I think communication would be easily done  
3 without setting up a specific or dedicated --

4 CHAIRPERSON CROSS REID: You're right. And  
5 I didn't mean that. Mr. Griffis, you are absolutely  
6 right. I didn't mean to impose a burden on the school  
7 at all. I said a hotline number. Strike that. Just  
8 a number and a name, so that if someone emerges, they  
9 could just call the school and have -- you know, rather  
10 than switchboard, you know, have someone who would be  
11 responsible for those types of things to respond to it.

12 MEMBER GRIFFIS; No, I think that's  
13 excellent.

14 Then the second point in terms of the  
15 community liaison: I mean, the user will have a board.

16 It is a church, which is obviously a community  
17 institution. I would suggest that, rather than making  
18 a condition of any order if the order goes forward, but  
19 rather a recommendation that they encourage local  
20 residents to become involved, be it on the board, be it  
21 volunteering at school, to keep that communication open.

22 I can only imagine looking at the endeavor  
23 that they are undertaking trying to open and then  
24 organizing, to have to set up an additional kind of  
25 committee that meets. If it could be rolled in within

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1 its own program, I think that would be very positive and,  
2 frankly, probably more productive than setting up a  
3 separate entity.

4 CHAIRPERSON CROSS REID: Maybe so. The  
5 objective here is to make sure that -- If you recall,  
6 when some of the problems that were raised by the community  
7 was the fact that no one had communicated with them, no  
8 one had called them, nobody had anything.

9 I just wanted to make sure that they are able  
10 to have an avenue by which -- and what we found out was  
11 it wasn't because the church was being just remiss --  
12 Well, they were being remiss, but they were not  
13 deliberately not communication. It was just that they  
14 were not aware of what their responsibility was.

15 Now that that has been made, you think that  
16 just the idea of having an ANC member on the board is  
17 sufficient enough? I'm not sure, because the ANC --  
18 Remember, there are people in the community that do not  
19 affiliate with the ANC, and just to kind of have it more  
20 broad so that it would be a group that would be set up  
21 to meet whenever they decided to meet to address community  
22 problems and to make suggestions. That was the whole  
23 idea.

24 Board members, staff has just brought to my  
25 attention that we are confusing them with this discussion.

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1 Typically, what we do is start it out with a motion,  
2 which we didn't do.

3 I would move that we approve the application  
4 with the conditions that we are going to go through now.

5 I think that the applicant has made its -- has met its  
6 burden of proof, that they are in compliance. They have  
7 set forth their case, and under the special exception  
8 which -- I think it's 206 or 205? What is it?

9 SECRETARY PRUITT: 206.

10 CHAIRPERSON CROSS REID: 206 -- that they  
11 had met the requirements thereof, in regard to the  
12 variance that there has been demonstrated that the  
13 property, the configuration of the property is unique,  
14 that there is an undue hardship for them to be able to  
15 meet the parking requirements, given the space that the  
16 property rests upon; and as to adverse impact, the issues  
17 that have been raised can be mitigated with conditions,  
18 which we will do, as well as those that were set forth  
19 in the Office of Planning report that had recommended  
20 approval of the application and given us their conditions,  
21 as well as the ANC has recommended approval, having had  
22 a quorum and having had a vote taken, and they are being  
23 given the great weight to which they are entitled.

24 So that's the motion on the floor.

25 MS. SANSONE: Madam Chair, the application

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1 also includes a child development center under Section  
2 205.

3 CHAIRPERSON CROSS REID: Oh, that's why I  
4 was -- Okay, on 205 and 206.

5 MS. SANSONE: Private school under 206.

6 MEMBER GRIFFIS: I'll second the motion.  
7 My understanding is that we are now going to discuss and  
8 put conditions to the order. Is that correct?

9 CHAIRPERSON CROSS REID: Right. We have  
10 already done a lot of the discussion part in regard to  
11 the conditions, but to continue on with that, thus by  
12 now what conditions we would like to see set forth in  
13 the order.

14 If I recall, there was --

15 MEMBER GRIFFIS: If I can jump in, Madam  
16 Chair, the planning report has a condition stating time.

17 I would advocate and recommend a five-year time period  
18 for this. The limit of students was to be 20 for the  
19 childcare or the child development, 40 for the school.

20

21 In addition I believe that there should be  
22 the implementation of lighting of the playground, the  
23 maintenance of the playground and area, trash pick-up  
24 as required, and an initial clean-up of the site based  
25 on the community's comments and, further, that proper

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1 snow and ice removal is conducted as required.

2 MEMBER LEVY: I'd like to add landscaping  
3 maintenance to that.

4 MEMBER GRIFFIS: Yes. I'm sorry.  
5 maintenance, I kind of just lumped everything in, but  
6 we can certainly add that in.

7 CHAIRPERSON CROSS REID: All right. Also--

8 SECRETARY PRUITT: Excuse me, Madam Chair.  
9 Before you go on, could I get a little bit more  
10 clarification on landscaping, what you actually mean as  
11 a condition?

12 MEMBER LEVY: I think we had discussed that  
13 in these conditions we would use some language to say  
14 similar to that submitted by the applicant.

15 CHAIRPERSON CROSS REID: That was proposed  
16 by the applicant.

17 MEMBER LEVY: Proposed by the applicant in  
18 the September 5, 2001, letter from Arnold & Porter.

19 MEMBER LEVY: Right. The Walter & Sons  
20 Lawncare had given the proposal in, and I think the issues  
21 stated in that are really what they are talking about.

22 The community had mentioned certain things about taking  
23 down some of the overgrowth on the benches, but what the  
24 proposal is laying out is the initial cleaning, the lawn  
25 care, edging, pruning, weeding and mulching.

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1 CHAIRPERSON CROSS REID: And the wording,  
2 Mr. Levy, is similar to that which is proposed, so that  
3 it will not be limited to that contract, if they find  
4 they can get someone better.

5 MEMBER LEVY: Right.

6 CHAIRPERSON CROSS REID: Go ahead. You have  
7 other ones?

8 MEMBER LEVY: We haven't discussed whether  
9 or not we want to include this information regarding use  
10 of the playground as a condition or --

11 CHAIRPERSON CROSS REID: Which information,  
12 the access and hours?

13 MEMBER LEVY: Well, actually, there's a  
14 discrepancy. There is conflicting information in the  
15 package, but Exhibit F seems to outline the most detailed  
16 schedule for the playground use.

17 CHAIRPERSON CROSS REID: And remember, there  
18 was a discrepancy there as to the hours.

19 MEMBER LEVY: Right. Exhibit F shows hours  
20 in addition to those that were laid out earlier in the  
21 package.

22 CHAIRPERSON CROSS REID: Or in the Office  
23 of Planning?

24 MEMBER LEVY: Or in the summary or something,  
25 let me say.

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1 CHAIRPERSON CROSS REID: what does the  
2 Office of Planning specify as far as hours that are of  
3 concern in the conditions?

4 MEMBER LEVY: Exhibit A conflicts with  
5 Exhibit F regarding use of the playground. Exhibit F  
6 has more hours of use.

7 MEMBER GRIFFIS: Mr. Levy, I have -- Let me  
8 just pull up Exhibit A so that I know what you are talking  
9 about. Actually, I don't need it.

10 Looking at Exhibit F, playground hours, I  
11 frankly feel fairly hesitant in terms of adding playground  
12 access and hours as a condition outside of the fact that  
13 we might state that the playground access hours fall  
14 within the operating hours of the school.

15 You know, to say -- I mean, the schedule  
16 works well on paper here, but on a rainy morning, and  
17 the child development center needs to go out at eleven  
18 o'clock and it's pouring rain, but the afternoon, it  
19 becomes sunny. I would think some of those kids might  
20 want to just adjust their schedule and get out in the  
21 afternoon.

22 Reading from Exhibit F, I don't see it used  
23 -- Well, it does go to 3:45.

24 CHAIRPERSON CROSS REID: Why don't we say  
25 "as appropriate"?

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1 MEMBER LEVY: I'm sorry.

2 CHAIRPERSON CROSS REID: I was saying why  
3 don't we just say "as appropriate," and let them make  
4 that determination; because you talked about a five-year  
5 term, over time that may have to change, you know, based  
6 on any kind of scenario or contingencies that might arise.

7 Like you said, it may be clear in the morning  
8 and then raining in the afternoon, or vice versa, and  
9 they would have to adjust accordingly, and they can't  
10 just say, oh, well, we can't take the kids out today  
11 because we have an order here that says we have to be  
12 at these times.

13 I think that we can leave it to their  
14 discretion to ut up a schedule, an appropriate schedule.

15 MEMBER GRIFFIS: I think it may be  
16 appropriate to be silent on that issue.

17 MEMBER LEVY: I would agree with that.  
18 Perhaps we shouldn't even get into that at all.

19 CHAIRPERSON CROSS REID: Were there any  
20 other conditions?

21 SECRETARY PRUITT: Excuse me, Madam Chair.

22 CHAIRPERSON CROSS REID: Yes?

23 SECRETARY PRUITT: Just for clarification  
24 then, you would like to maybe state in the order hours  
25 or place shall correspond to hours of operation of the

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1 school, or not to say anything at all?

2 CHAIRPERSON CROSS REID: The hours -- You're  
3 talking about the playground or are you talking hours  
4 of operation for the school itself?

5 SECRETARY PRUITT: Both. They would be the  
6 same. That was the feeling where you were going.

7 MEMBER GRIFFIS: I think we are saying that  
8 we are going to be silent on that.

9 SECRETARY PRUITT: Okay. So there will be  
10 no condition about --

11 MEMBER LEVY: And actually, perhaps after  
12 we discuss a few more of these items, we'll just recap  
13 so that we have everything in one place.

14 CHAIRPERSON CROSS REID: Yes. But one thing  
15 we should do is the hours of operation for the school  
16 itself. We should specify that. What were those hours?

17  
18 MEMBER LEVY: I'm not sure that's come up  
19 for discussion at all. I don't recall.

20 CHAIRPERSON CROSS REID: Is it in the  
21 planning report?

22 MEMBER GRIFFIS: Not that I saw, Madam Chair.  
23 I don't recall them discussing the actual operation  
24 hours.

25 CHAIRPERSON CROSS REID: We have what we

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1 refer to as the basic requirements for a childcare and  
2 development center. That is the hours of operation and  
3 the days of operation. That also gives some type of  
4 solace to the community as to what to expect.

5 I'm not sure -- If the applicant is here,  
6 then I would like them to come forward and to give us  
7 those hours, because we --

8 MEMBER MAY: Madam Chair, the hours are in  
9 the OP report on page 3.

10 CHAIRPERSON CROSS REID: All right. What  
11 are they?

12 MEMBER MAY: Nine to three, hours of  
13 instruction, with -- Let's see. I'm sorry. I'll read  
14 the whole paragraph: Child development center and school  
15 will operate weekdays between 6:00 a.m. and 7:00 p.m.  
16 Hours of instruction will be 9:00 a.m. to 3:00 p.m. with  
17 before-school care provided between seven and nine, and  
18 after-school care between three and seven.

19 CHAIRPERSON CROSS REID: All right. Well,  
20 then that will be -- those will be the hours. Correct?

21 MEMBER MAY: Correct.

22 SECRETARY PRUITT: I'm sorry. I don't mean  
23 to -- just a question here. Those would be the hours  
24 for both or do they have separate hours for the childcare  
25 starting at one time and the school starting at another?

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1                   MEMBER MAY: According to the OP report, it's  
2 the same time.

3                   MEMBER GRIFFIS: Is that so? Actually, the  
4 child development starts at 6:00 a.m., and the school  
5 would start at seven.

6                   CHAIRPERSON CROSS REID: Nine.

7                   MEMBER LEVY; Nine.

8                   MEMBER MAY: No.

9                   MEMBER LEVY: Before-care at seven, and the  
10 instruction at nine.

11                  CHAIRPERSON CROSS REID: Why don't we just  
12 say the hours are six o'clock a.m. to seven o'clock p.m.,  
13 because what it is, that part of those hours are for  
14 daycare and after-care, and the other is for the school.

15                  SECRETARY PRUITT: But just noting, child  
16 development centers usually have different hours than  
17 the school, and dropoff and pick-up is more important  
18 for them than for the school, those types of things.

19                  CHAIRPERSON CROSS REID: If you want to break  
20 it out -- Board members, do you want to break it out?

21                  SECRETARY PRUITT: I'm just asking.

22                  CHAIRPERSON CROSS REID: Then it's between  
23 6:00 a.m. and seven o'clock p.m. for the child development  
24 center. I'm not sure. This says the child development  
25 center and the school. So why don't we just leave it

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1 at that and just pick this language up from the Office  
2 of Planning report, as Mr. May has already specified?

3 Then it's Monday through Friday, days of  
4 operation Monday through Friday. Okay.

5 MEMBER MAYS: Weekdays.

6 CHAIRPERSON CROSS REID: Weekdays. We  
7 talked about trash removal, number of children. The ages  
8 of the children were --

9 MEMBER GRIFFIS: I think that's fairly  
10 defined by a child development center and school, is it  
11 not, or do we need to --

12 CHAIRPERSON CROSS REID: Usually, we do.  
13 We put that in.

14 MEMBER GRIFFIS: We have the number of  
15 enrollment for each of those.

16 MEMBER LEVY: And that was covered on the  
17 OP recommendation that you referenced earlier. Right?

18 CHAIRPERSON CROSS REID: The ages?

19 MEMBER LEVY: That Mr. Griffis referenced  
20 earlier, that the intent was for -- Op is recommending  
21 limiting to 40 students in the school and 20 in the child  
22 development center, but the ages are not specified.

23 CHAIRPERSON CROSS REID: Okay.

24 ZONING SPECIALIST BAILEY: Madam Chair, the  
25 ages aren't specified, but the grades are.

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1 CHAIRPERSON CROSS REID: Well, I didn't look  
2 at that.

3 ZONING SPECIALIST BAILEY: Ms. Reid, the  
4 grades are, 40 students, first through seventh grades  
5 for the school; and for the child development center,  
6 the nursery school, nursery through kindergarten.

7 CHAIRPERSON CROSS REID: No. Ms. Bailey,  
8 thank you very much, but we were asking about the ages  
9 of the children.

10 ZONING SPECIALIST BAILEY: But the ages are  
11 usually established by the Department of Health. There  
12 are certain age groups that fit into those categories.

13 CHAIRPERSON CROSS REID: Okay. Well,  
14 typically, they are given to us, and we put the ages in.  
15 But that's not a big issue.

16 All right. So does that take care of  
17 everything? The lighting? Did we talk about the  
18 lighting?

19 MEMBER GRIFFIS: Yes.

20 CHAIRPERSON CROSS REID: All right. Now,  
21 Mr. Griffis, you and your -- You were saying that the  
22 Office of Planning recommended five years, but I'm looking  
23 at it now. It says actually --

24 MEMBER GRIFFIS; No, actually, forgive me  
25 if I was not clear. I indicated that one of the conditions

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1 was a time period for the special exception, as indicated  
2 in OP, and then I stated that I had thought that perhaps,  
3 due to and based on the fact that this has been somewhat  
4 contentious and there is community concern in the adjacent  
5 area, that we not go with the specific time period listed  
6 in OP, which is ten years, but look at and discuss a  
7 five-year period.

8 CHAIRPERSON CROSS REID: Okay. Let's  
9 discuss that, because, remember, this is a school and  
10 a daycare center, and OP has recommended ten years. I  
11 have no problem with ten years. I'd like to hear input  
12 from the other Board members. Mr. Griffis is saying five  
13 years, or else we can compromise between five and ten  
14 or we can go with ten or we can go with five.

15 MEMBER LEVY: Madam Chair, I would be more  
16 inclined also to look at a five-year period. I think  
17 it's more appropriate, given there is a history of  
18 problems on the site, and there are concerns of the  
19 neighbors. I think five years is a significant period  
20 of time for the school to establish itself and provide  
21 a track record.

22 MEMBER MAY: Madam Chairman, I would tend  
23 to support five years as well. There is -- Except for  
24 some of the conditions that we are putting on this with  
25 regard to maintenance and what-not, those things don't

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1 preclude the possibility that there would be increased  
2 concern on the part of the neighborhood, once the school  
3 begins to operate.

4 I think that ten years is a long time when  
5 we're talking about something where there is significant  
6 community concern.

7 CHAIRPERSON CROSS REID: Okay. Then if that  
8 is the position of the Board, then obviously the majority  
9 seem to be in favor of the five years. So we could go  
10 with the five years.

11 Then the community liaison was the last thing  
12 I wanted to suggest, that there be established a community  
13 liaison that would meet as often as they determined among  
14 themselves, one; and two, that there be a contact person  
15 whose number would be given to community people for the  
16 use of directing any kind of problems or issues directly  
17 -- I mean for the purpose of directing any problems to.

18 As a part of that community liaison, they  
19 could determine who that person will be and what phone  
20 number will be utilized. Ms. Giodano, the attorney, is  
21 well versed in setting up community liaison. So I'm sure  
22 she will advise them accordingly as to how that is to  
23 be done.

24 Anything else? All right.

25 MEMBER LEVY: One thing we haven't discussed

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1 is the parking and circulation plan. Is that something  
2 we want to adopt as a condition as well? That's Exhibit  
3 I in the September 5th submittal from the applicant

4 CHAIRPERSON CROSS REID: All right. The  
5 parking and circulation plan as submitted in Exhibit One.

6 MEMBER LEVY: Exhibit I, Madam Chair.

7 CHAIRPERSON CROSS REID: I'm sorry, Exhibit  
8 I. That could be just picked up by staff. They have  
9 laid forth what parking space will be allocated, use of  
10 the crossing guard, and the enforcement of the parking  
11 guidelines as they are set forth in the parent and student  
12 handbook. So we don't have to reiterate all of that.

13 MEMBER LEVY: I guess, Madam Chair, the one  
14 thing there that concerns me is a reference to four  
15 available spaces. I come back to whether --

16 CHAIRPERSON CROSS REID: Where is that?

17 MEMBER LEVY: I'm sorry. Well, it's  
18 referenced in Number 1 as well as Number 3(a). These  
19 may just be on-street public parking spaces that it would  
20 be inappropriate to -- I mean, there wouldn't be any  
21 way to reserve those for the use of the center. I'm  
22 unclear on that.

23 CHAIRPERSON CROSS REID: I'm not sure. This  
24 Bishop Educational Center -- I kind of had the impression  
25 this was a part of the school and that they were going

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1 to reserve these spaces for the use of the school.

2 MEMBER LEVY: I'm unclear on that. I don't  
3 know if those are private spaces in a lot or if those  
4 are on-street. If they are on-street, I don't think it's  
5 appropriate to include those in the order.

6 CHAIRPERSON CROSS REID: So they can't be  
7 reserved? That has been allocated for parents. So we  
8 don't know if, in fact, they have had some type of  
9 discussion with the Bishop Educational Center or what.

10 MEMBER LEVY: I don't recall those being  
11 off-street spaces. Maybe there are other Board members  
12 who do.

13 CHAIRPERSON CROSS REID: I think they are  
14 off in front of the Bishop Educational Center. I'm not  
15 really sure. Does anyone remember?

16 MEMBER MAY: No. I think we can -- I recall  
17 there was a fairly good site plan at some point.

18 MEMBER LEVY: IT appears to say that it's  
19 on Lawrence Street.

20 CHAIRPERSON CROSS REID: Well, the only  
21 thing I can suggest in this instance is that --

22 MS. ROBERTS: Hi. The parking is on the  
23 street --

24 CHAIRPERSON CROSS REID: Identify yourself,  
25 please.

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1 MS. ROBERTS: Maxine Brown Roberts from the  
2 Office of Planning. The parking spaces are on-street,  
3 and they are not private parking. As far as I know, they  
4 are not assigned to the church.

5 CHAIRPERSON CROSS REID: Well, then we can't  
6 -- Mr. Levy does make a good point. We cannot condition  
7 the order that they would have to park their cars there,  
8 because that's not their property.

9 MS. ROBERTS: Right.

10 CHAIRPERSON CROSS REID: I don't know why  
11 they put that in here, that four spaces have been allocated  
12 for parents. I wish that they had further clarified that  
13 for us by showing some kind of agreement that they had  
14 with that center.

15 MS. ROBERTS: I think what happens is that  
16 along that street most of the houses there -- they have  
17 their own private parking, and there's rarely -- I have  
18 been out there twice, and from my observation there are  
19 usually spaces there available for people to come in and  
20 park. So I think maybe that's why they went a little  
21 further to say allocated.

22 CHAIRPERSON CROSS REID: Well, why don't we  
23 say parents will park their cars off-site, according to  
24 availability or something like that.

25 MEMBER LEVY: Maybe we should just be silent

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1 on the parking. If we want, we could include a condition  
2 regarding the crossing guard, if that's of interest to  
3 the Board.

4 CHAIRPERSON CROSS REID: Well, why don't we  
5 say the parking and circulation as appropriate, and let  
6 them work that out; because that's not -- Parking was  
7 not an issue, because there was ample parking, and let's  
8 not condition it at all except to say that adequate and  
9 appropriate parking will be available, or something like  
10 that, or not say anything.

11 MEMBER LEVY: I think I'd rather be silent,  
12 just because I don't what we're saying with that. I think  
13 there was more of an issue raised regarding children  
14 crossing the street, safety of the children and sidewalks  
15 and that kind of thing.

16 There is information in this submittal from  
17 the applicant regarding the use of a crossing guard and  
18 also --

19 CHAIRPERSON CROSS REID: Do you want to  
20 condition -- have that as a condition, that the --

21 MEMBER LEVY; I think I would be more  
22 interested in having a condition that's generally saying  
23 that the children will be supervised at all times while  
24 on school grounds and during school hours or something  
25 to that effect.

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1 CHAIRPERSON CROSS REID: Okay.

2 MS. ROBERTS: Ms. Cross Reid, I think the  
3 Office of Planning had one concern about the parents  
4 blocking the driveway of the houses on that street. So  
5 one of the things we may want to add is that -- you know,  
6 it's in the handbook that parents should not park in front  
7 of the houses and block the driveways.

8 MEMBER MAY: Madam Chair, I think we're  
9 getting very close to writing a parking policy for them,  
10 and I don't think we really want to do that. I think  
11 that we can recommend or require in the order that the  
12 school have a parking plan and that they enforce it amongst  
13 the parents, and that it's appropriately respectful of  
14 both D.C. law and neighborhood concerns, or something  
15 to that effect.

16 CHAIRPERSON CROSS REID: Okay. Ms. Pruitt,  
17 can you kind of summarize that into a condition that would  
18 --

19 SECRETARY PRUITT: One question prior to  
20 getting to the conditions. Are you going to condition,  
21 or is there any conditions for dropoff and pick-up at  
22 the childcare center?

23 CHAIRPERSON CROSS REID: As far as parents  
24 escorting the children?

25 SECRETARY PRUITT: Yes. Do you want to deal

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1 with any of that? I mean, that's sort of one of the  
2 typical things we do with childcare centers, not with  
3 schools.

4 CHAIRPERSON CROSS REID: I think that -- Let  
5 me see.

6 MEMBER MAY: Madam Chair, may I point out  
7 that in their parking plan, they do have a paragraph that  
8 addresses that particular issue.

9 CHAIRPERSON CROSS REID: On Exhibit I?

10 MEMBER MAY: Yes. Unfortunately, it also  
11 makes reference to the four available spaces in front  
12 of the educational center, which we are not sure are  
13 legally available, but again maybe that's -- you know,  
14 in describing the requirements for their own parking plan  
15 that we specify that they establish conditions for dropoff  
16 and escort of children to and from the child development  
17 center.

18 CHAIRPERSON CROSS REID: Well, since we took  
19 out the part about the parking, then we'll just simply  
20 -- Maybe we could just say that parents will escort  
21 children to the building in the morning hours between  
22 7:00 and 9:00 a.m. and in the afternoon from three o'clock  
23 p.m. to pick children up.

24 In other words, I guess the main thing is  
25 that we want to ascertain how the kids are going to get

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1 from their car to the building. Typically, either it's  
2 the parents will escort them in or they have a staff member  
3 who comes out to the car. In this instance, the parents  
4 -- It appears that the parents will escort the children  
5 into the building in the morning and take them from the  
6 building in the afternoon between those hours. And we  
7 are silent on where they park their cars.

8 MEMBER LEVY: I think we have to be.

9 CHAIRPERSON CROSS REID: Okay.

10 SECRETARY PRUITT: Madam Chair, could you  
11 go back over those hours, just for clarification?

12 CHAIRPERSON CROSS REID: They are in Exhibit  
13 I. go ahead, Mr. Levy.

14 MEMBER LEVY: Two things. One, the  
15 intention for the applicant is to use the Lawrence Street  
16 entrance, and that was also the recommendation of the  
17 Office of Planning, to use the Lawrence Street entrance.

18 The other point that I had is we are not  
19 requiring them by the order then for the children to be  
20 escorted by their parents when coming and going. Are  
21 there children who may walk to the school on their own?

22 CHAIRPERSON CROSS REID: No, no. This would  
23 be for the daycare.

24 MEMBER LEVY: Okay.

25 CHAIRPERSON CROSS REID: The daycare

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1 children specifically. Remember, it's a daycare center  
2 and a school, and for the daycare the kids have to be  
3 escorted. Those are the younger kids.

4 MEMBER LEVY: Okay.

5 CHAIRPERSON CROSS REID: Have we confused  
6 you, Ms. Pruitt? The escort -- As far as dropoff and  
7 pick-up, that's for the daycare, and the parents will  
8 escort the children into the school and from the school  
9 in the afternoon, during those hours specified, 7:00 to  
10 9:00 a.m. and 3:00 to 6:00 p.m., between those hours.  
11 Does that take care of it?

12 Then all in favor?

13 MEMBER LEVY: Do we need a recap, Madam  
14 Chair?

15 CHAIRPERSON CROSS REID: Recap the  
16 conditions? Okay.

17 SECRETARY PRUITT: As I have them written  
18 -- so please be a little tolerant: On special exception  
19 for five years, for 25 children for the daycare center  
20 --

21 MEMBER MAY: Twenty.

22 SECRETARY PRUITT: Twenty, okay -- and 40  
23 students for the school. Lighting of the play -- adequate  
24 lighting of the play area; landscape, cleanup and  
25 maintenance as proposed by the applicant in letter dated

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1 September 5, 2000; a 24-hour hotline --

2 MEMBER MAY: I think that was not 24 hours  
3 or a hotline. It was just a name and contact number.

4 CHAIRPERSON CROSS REID: Right. And I  
5 didn't say 24-hour. I said a hotline, but then I  
6 corrected that to say just to be provided within this  
7 community liaison thing, that community folks would be  
8 provided with a number and name of a person to contact.

9 SECRETARY PRUITT: I have that down later.

10 CHAIRPERSON CROSS REID: But not be able to  
11 call 24 hours, because that was a mistake. I didn't want  
12 to put that kind of burden on the school, but as long  
13 as they have a name and number of someone to contact for  
14 any problems that may be happening.

15 SECRETARY PRUITT; Okay.

16 MEMBER LEVY: Madam Chair, maybe it would  
17 be easier, if you wouldn't mind, if I attempted to recap.

18 CHAIRPERSON CROSS REID: Okay.

19 MEMBER LEVY: It might be less confusing.  
20 So the motion was then to approve the application, special  
21 exceptions for a period of five years. Enrollment of  
22 the child development center limited to 20 students, and  
23 the school limited to 40 students. The provision by the  
24 school of a contact person available for the community  
25 to receive community concerns.

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1 CHAIRPERSON CROSS REID: And a number.

2 MEMBER LEVY: Name and number. Then in  
3 accordance with the September 5, 2001, submittal from  
4 the applicant, conditions similar to those outlined  
5 therein regarding snow and ice removal plan, playground  
6 lighting plan, trash collection and general clean-up and  
7 maintenance of the property, including landscaping  
8 maintenance. And the one I'm unclear on is the --

9 MEMBER GRIFFIS: I think we were going to  
10 say the implementation of a parking and circulation plan  
11 based on submitted Exhibit I, but in accordance with all  
12 local rules and regulations. Wasn't that it?

13 MEMBER MAY: That will do.

14 MEMBER LEVY: Sounds good. I think that was  
15 it. Oh, hours of operation, from 6:00 a.m. to 7:00 p.m.  
16 weekdays.

17 CHAIRPERSON CROSS REID: Did you --  
18 Lighting? Did you talk about lighting?

19 MEMBER LEVY; We did lighting. Grades, was  
20 it? Grades for the public notice.

21 SECRETARY PRUITT: The other one I have down  
22 is parents will escort children to building for daycare  
23 from 7:00 a.m. to 9:00 p.m. and three to six.

24 CHAIRPERSON CROSS REID: And also did you  
25 have the community liaison?

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1                   SECRETARY PRUITT:     Well, I had contact  
2 person.   Contact person's name and number to be given  
3 to the community to address concerns.   Then I had another  
4 half-finished sentence which says establish community  
5 liaison, but there is no number if there is any request  
6 -- or any required times for meeting or anything.

7                   CHAIRPERSON CROSS REID:   No, no, no.   Just  
8 the community liaison established, the times of meeting  
9 to be determined by the persons.

10                  SECRETARY PRUITT:     Who is to be on this  
11 community liaison, or do you want to say?

12                  CHAIRPERSON CROSS REID:   They can establish  
13 that between the ANC and the community.   I don't want  
14 to specify.   Again, I think I noted that Ms. Giodano as  
15 the counsel is fully aware of how that should be set up  
16 and will -- I'm sure she will take care of it being done.

17                  Is that it?

18                  SECRETARY PRUITT:     Yes, ma'am.

19                  CHAIRPERSON CROSS REID:   All in favor?  
20 Opposed?   Then do we have a proxy from --

21                  SECRETARY PRUITT:     The vote is five to zero  
22 to approve with a proxy from Ms. Renshaw, motion made  
23 by Ms. Reid and seconded by Mr. Griffis.

24                  CHAIRPERSON CROSS REID:   Okay.   All right,  
25 Mr.   Hart, the second part as to the exceptions.   We'll

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1 take both of them at the same time, if you don't mind.

2 MR. HART: There are two cases before the  
3 Board for exception action. The first one is appeal  
4 Number 16404 the Capitol Hill Restoration Society, and  
5 16260 of David Furchgott and Fenteh Fleishman.

6 Both cases were submitted to the parties  
7 involved and to the Board members and the new Board members  
8 who are to be involved.

9 Both cases are now before you, Madam Chair,  
10 for your vote.

11 CHAIRPERSON CROSS REID: Okay. Board  
12 members, are you aware, these exceptions come before us  
13 as a result of the fact that these cases were heard  
14 sometime ago, specifically -- on what dates, Mr. Hart?

15 MR. HART: The first case was originally in  
16 1998, and the second one was originally in 1997.

17 CHAIRPERSON CROSS REID: Yes. Since so much  
18 time has expired and the board has now changed, the idea  
19 is to -- before the final order is issued, to determine  
20 if there have been any changes or if anyone has any  
21 exceptions to the orders going out.

22 That information -- notice would go out to  
23 the various parties involved in each case, and then come  
24 to the Board members to determine whether or not we feel  
25 that, given the fact that the Board now has a different

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1 make-up, whether we feel that it is necessary to have  
2 any changes before the orders go out.

3 Now two things to look at: Number one, if  
4 any of the parties to the cases have any exceptions to  
5 anything pertaining to the full order, and to date the  
6 staff has contacted all of the parties, and it is my  
7 understanding that no one has had any exceptions.

8 The second part is to supply the new Board  
9 members with the cases and to let them have a chance to  
10 peruse the information and the case files and determine  
11 if they have any exceptions, any questions and issues  
12 regarding to the order, and to give them the opportunity  
13 to say so on record if they do or do not.

14 I would like to throw it out to the Board  
15 members.

16 MEMBER GRIFFIS: Madam Chair, I take no  
17 exceptions to both orders, and I have no further comments  
18 on it.

19 MEMBER LEVY: I also have read both records,  
20 and I have no questions or comments.

21 CHAIRPERSON CROSS REID: Okay. You can also  
22 please answer for the record, Mr. Griffis, that you have  
23 read the record.

24 MEMBER GRIFFIS: Indeed, Madam Chair, I have  
25 read both of the records.

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1 CHAIRPERSON CROSS REID: Okay. As such,  
2 hearing no objections or any issues regarding the Board  
3 then, we would move to have a motion that the full order  
4 be issued as written germane to these two cases. I so  
5 move.

6 MEMBER LEVY: I'll second it.

7 CHAIRPERSON CROSS REID: All in favor?

8 MEMBER GRIFFIS: And I believe we have a  
9 proxy on that. Isn't that correct?

10 MR. HART: Yes. There is a proxy on appeal  
11 Number 16404, the Capitol Hill case in which Mr. Hood  
12 sat on the original case. At that time he was opposed,  
13 and he remains opposed on this case.

14 On both cases Ms. Renshaw, who is not here,  
15 submitted her proxy in favor of the cases.

16 So staff would record the vote as four to  
17 one to zero for the Capitol Hill case, reflecting Mr.  
18 Hood's opposition, and four to zero for the Furchgott  
19 case, reflecting Ms. Renshaw's proxy vote.

20 Thank you, Madam Chair.

21 CHAIRPERSON CROSS REID: Okay. Thank you  
22 very much.

23 All right. Well, that would then conclude  
24 this morning's special meeting of the Board of Zoning  
25 Adjustment for September 20, Year 2001. Thank you.

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(Whereupon, the Public Meeting was adjourned  
at 10:03 a.m.)