

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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SPECIAL PUBLIC MEETING

+ + + + +

TUESDAY

MAY 16, 2006

+ + + + +

The Special Public Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 9:30 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
RUTHANNE G. MILLER	Vice-Chairperson
CURTIS L. ETHERLY, JR.	Board Member
JOHN A. MANN, II	Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

CAROL J. MITTEN	Chairperson
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OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY	Secretary
BEVERLEY BAILEY	Sr. Zoning Specialist
JOHN NYARKU	Zoning Specialist
TRACEY W. ROSE	Sr. Zoning Specialist

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.
JACOB RITTING ESQ.

OFFICE OF PLANNING STAFF PRESENT:

JOHN MOORE
ARTHUR JACKSON
STEPHEN MORDFIN

The transcript constitutes the minutes
from the Special Public Meeting held on May 16, 2006.

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

(10:04 a.m.)

CHAIRPERSON GRIFFIS: Good morning, ladies and gentlemen. Let me call to order our special public meeting of the 16th of May, 2006. This is, of course, the D.C. Board of Zoning Adjustments.

I am Geoff Griffis, Chairperson. Joining me today is the Vice Chair, Ms. Miller; and also Mr. Etherly; representing the National Capital Planning Commission with us, Mr. Mann; and for this morning's deliberation on our first case, Ms. Mitten is joining us as our Zoning Commission member.

I appreciate everyone's patience. I believe our deliberation will go fairly quickly this morning. We'll get right into our hearing and pick up some time as we do. Attendant to that, though, I'm going to dispense with a lot of opening remarks except to ask that everyone just turn off their cell phones, beepers, and I was passed a note last week saying that Blackberries also disrupt the transmissions of our recordings. And, of course, the transmission is very important in order to establish the official record. And that is being done by the court reporter to my right.

With that, I am going to a very good

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1 morning to Ms. Bailey with the Office of Zoning, also
2 Mr. Moy with us from the Office of Zoning, Ms. Rose,
3 and our OAG attorneys are also with us. Let us go
4 right into the first order of business for today's
5 decision-making in our special public meeting.

6 MR. MOY: Yes, sir. Good morning, Mr.
7 Chairman, members of the Board.

8 The first case of two cases for decision-
9 making is application number 17383. This is of the
10 Lab School of Washington, pursuant to 11 DCMR 3104.1
11 for special exceptions to permit an increase in
12 faculty and staff from 94 to 190 and an increase in
13 student enrollment from 310 to 330 at 4759 Reservoir
14 Road, Northwest and to permit the use of 4749
15 Whitehaven Parkway for administrative offices under
16 section 206 and for accessory parking spaces for an
17 existing private school under section 214 in the R-1-B
18 district at premises 4749 Whitehaven Parkway,
19 Northwest and 4759 Reservoir Road, Northwest. That's
20 in square 1372, lot 25 and square 1374, lot 804.

21 On May 2nd, 2006, the Board convened and
22 deliberated on the merits of the application. At the
23 conclusion of the discussion, the Board requested that
24 the applicant identify the number of vehicle trips
25 that would be generated during the morning peak

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1 period.

2 Their filing, the applicant's filing, has
3 been submitted to the Board and is identified in the
4 case folder as exhibit 82. In the response, the ANC-
5 3D was allowed to respond. And they have met filings
6 identified in your case folder as exhibit 83.

7 And so, to be brief, then, the staff
8 concludes its briefing, Mr. Chairman.

9 CHAIRPERSON GRIFFIS: Excellent. Thank
10 you very much, Mr. Moy. We do appreciate that.

11 We had, as indicated, begun our
12 deliberations on this case, having finished the public
13 hearing on it. We had moved it to today in order to
14 have additional information, which really boiled down
15 to, I believe, if I can surmise, the Board's further
16 investigation, deliberation on the transportation
17 management plan and its measurement and its potential
18 for successes.

19 With that, though, I would like to get
20 right into the deliberation. I think it's most
21 appropriate to do so under a motion. And I would move
22 approval of application 17383, the Lab School of
23 Washington, and ask for a second so that we might get
24 into the details of the condition on this order.

25 VICE-CHAIRPERSON MILLER: Second.

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1 CHAIRPERSON GRIFFIS: Thank you very much,
2 Ms. Miller.

3 I think it is fairly clear from our last
4 deliberation. So I will add to that and not repeat
5 all that we went through last week, and that is -- or
6 whenever it was -- the elements of the enrollment
7 increase and also staff increase for looking at a
8 level of 330 for the enrollment I would move directly
9 into the other aspects.

10 And I think it is a critical piece that
11 really formulated the heart of the matter in this
12 case. And that is the provision of parking, of
13 course. We were given two options of how that might
14 be dealt with.

15 One is to have created parking that would
16 have been built on public space that would then be
17 reserved for the sole use of the school. The other
18 school was to leased space in an accessory basis.

19 I believe in my review of this that I can
20 fall between the two in respects. And let me see if
21 I can adequately articulate my thoughts and
22 deliberation on this.

23 As we look at the requirement for the
24 parking, I think it was well-done by the school to
25 actually put together the demand, the realistic

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1 demand, in the number so that we could have factual
2 bases to formulate all of our opinions and decisions,
3 therefor.

4 In looking at this, if the angled parking
5 was, in fact, constructed in accordance with the plans
6 of the engineers that they put into the application,
7 I would find that almost assuming as if that were
8 there, it would mitigate the demand for the parking
9 that the school would put on the surrounding area.

10 And, therefore, I would proceed with
11 looking at this and actually deliberating on it with
12 a finding of fact that this is going to be built. And
13 with that, it would be built in accordance with what
14 we have seen in the application itself.

15 What does that do for me in terms of my
16 deliberation on this? Well, what it does is I look on
17 the environment and the testimony that was provided.

18 First of all, I found that it was a fairly
19 unsafe area in a corner for anyone using that.
20 Secondly, the surrounding area is, as we well know --
21 we heard the fire station's application for zoning
22 relief on the corner there. I think we're very
23 familiar with it.

24 The aspect beginning with the party in
25 opposition that removed that position and became

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1 supportive of the application, we note that the demand
2 on public parking is based on mostly the Lab School
3 uses in that surrounding area similar to that.

4 If this were provided, it would obviously
5 not be competed strongly with for residential or other
6 commercial uses. And I believe that it would, in
7 fact, be able to be used by the Lab School, thus
8 offsetting any increased demand that would be made.

9 I think that the appropriateness of what
10 they provided for in terms of stacking parking and
11 also maximizing parking on site is also well-done and
12 supported in the application and testimony.

13 Finally, with respect to this, I think it
14 is important to understand how this has come to us and
15 the facts of what the school is indicating. They're
16 looking for, one might say, a more permanent solution.

17 However, in the time that they had to get
18 here, if we recall the beginning of this hearing,
19 there was a substantial amount of evidence and
20 testimony regarding why a structured parking could not
21 be built on the site. And then there was also
22 substantial discussion and testimony on alternatives
23 that they are now investigating; however, have not
24 finalized. I think everyone certainly supports a
25 finalization.

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1 However, we're here now and looking at
2 essentially, let's say, a five-year period, of which
3 I believe that this would, in fact, be a very
4 successful implementation of what is being proposed.

5 The second aspect of it, where we left off
6 last, is the trip generations, how many vehicles are
7 actually coming. And that is a very complex number in
8 terms of what it actually means.

9 We have looked at and now offered by the
10 applicant 165 peak trip generations in the morning
11 hours, of which in the morning is where you will have
12 the most peak and focused numbers because the window
13 of arrival is so much shorter than it is in the
14 afternoon in terms of trip generations or immediate
15 trip generations or peak trip generations, I should
16 say.

17 So when we look at that threshold level,
18 I think it is important that we would look at that as
19 the measurement of the success of the transportation
20 management plan.

21 You know, I can go extensively on with
22 this, but let me open it up to others for their
23 reactions to either of those issues and then take this
24 on to the further facts that may need to be discussed.

25 Let me open it. Yes?

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1 COMMISSION CHAIRPERSON MITTEN: I just
2 want to nail down the conditions. You mentioned the
3 enrollment at 330. Are we also talking about faculty,
4 staff, and administrative personnel at 182?

5 CHAIRPERSON GRIFFIS: Correct.

6 COMMISSIONER CHAIRPERSON MITTEN: Okay.
7 And then in the discussion of the angled parking, just
8 to maybe build on what you said and capture what we
9 had talked about at our prior deliberation, we would
10 basically be acknowledging should they be constructed
11 that the order would, in fact, be conditioned on the
12 availability of 43 public parking spaces, 43 new
13 angled parking spaces along Whitehaven Parkway, by a
14 fixed date but not that that would count towards the
15 applicant's parking requirement officially. So that
16 was sort of our hybrid between the plan A and the plan
17 B?

18 CHAIRPERSON GRIFFIS: Right, right,
19 absolutely agree or that is exactly what my point was.
20 And I think that the timing of that, I think, is
21 absolutely important because what we're doing or what
22 I'm doing is hypothesizing that that is there, as we
23 would in any special exception, look at would an
24 objectionable condition possibly be made if this were
25 approved.

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1 So I look at this as a fact that in the
2 future, this will be provided, therefor, in looking at
3 all of these numbers. So yes, I think the timing in
4 which I would think that this would have to be
5 functional would be produced within nine months from
6 the issuance of our order.

7 COMMISSIONER CHAIRPERSON MITTEN: Okay.
8 And then, further, that the transportation management
9 plan, as proffered by the applicant, would be
10 implemented. And then what we had talked about and
11 what we got the additional submissions on would be
12 having basically two -- there would be the kind of
13 reporting, the periodic reporting, 30 days into each
14 semester that the applicant had proffered as part of
15 the plan.

16 But, then, we would have two specific
17 benchmarks that they would have to achieve in order to
18 basically validate the effectiveness of the TMP, one
19 being that the parking demand and supply would be in
20 balance, as measured by the traffic expert and in the
21 same manner as was measured for the purposes of the
22 testimony. And then the other would be that they
23 would not exceed a certain number for peak hour trips.
24 And that's what we ask for the additional submission
25 on.

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1 So I would suggest that what the applicant
2 had proffered in terms of the peak hour of 165 in the
3 morning would be an appropriate benchmark for that.
4 And then those would be the two things that would
5 determine the effectiveness of the transportation
6 management plan each time there is a reporting out.

7 CHAIRPERSON GRIFFIS: Right.

8 COMMISSIONER CHAIRPERSON MITTEN: Is that
9 all?

10 CHAIRPERSON GRIFFIS: Yes, exactly. And
11 that is very well-said. What we have done is really
12 take their enforcement mechanism, the TMP, which is
13 listed on page 11 of the copy that I have, and not
14 taken it that we will set a benchmark, but we have
15 actually expedited and set a benchmark. And that is
16 for the trip generations.

17 And the second is as you were talking
18 about, which is the monitoring of the parking, which
19 is also in there.

20 COMMISSIONER CHAIRPERSON MITTEN: Okay.
21 And then they would establish the benchmark 30 days
22 into the semester. Within 45 days thereafter, they
23 would report to, as was in the applicant's proposed
24 findings of fact and conclusions of law, DDOT and ANC-
25 3D.

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1 I would just like to add to that that they
2 should report to DCRA and the Zoning Administrator
3 because that will be the individual who will enforce
4 compliance with the order and that also at the
5 commencement of the academic year, the applicant would
6 also report to both the ANC and DCRA their enrollment
7 and staff counts.

8 CHAIRPERSON GRIFFIS: Okay. That was
9 listed in the proposed findings by the applicant is
10 what you're looking at. Is that correct?

11 COMMISSIONER CHAIRPERSON MITTEN: Yes.

12 CHAIRPERSON GRIFFIS: Okay.

13 COMMISSIONER CHAIRPERSON MITTEN: And then
14 one of the things that we had discussed at the last
15 deliberation was, well, what if they are not in
16 compliance. I know we have been advised by OAG that
17 trying to establish what would happen if they're not
18 in compliance at this stage is not appropriate, and I
19 can understand that.

20 So here we have the conditions that must
21 be complied with. And in the event that they are out
22 of compliance, we will deal with that at that point in
23 time.

24 CHAIRPERSON GRIFFIS: Good.

25 COMMISSIONER CHAIRPERSON MITTEN: So I can

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1 accept that.

2 CHAIRPERSON GRIFFIS: Others?

3 VICE-CHAIRPERSON MILLER: I just want to
4 address one of Ms. Mitten's suggestions about the
5 reporting. As presented by the applicant, the reports
6 of the traffic management plan results would go to
7 DDOT and ANC-3D.

8 And I believe this came up at the hearing.
9 Ms. Gates asked that it also go to the BZA. And I
10 think at that point, Mr. Chairman, you suggested that
11 it not come to the BZA. I think the same would hold
12 true for DCRA and the Zoning Administrator.

13 I believe the way our system is working is
14 that we have a compliance officer and if there are
15 problems, that it's first brought to the compliance
16 officer to work out. And so I think it would be
17 premature to send these kind of figures to the ZA and
18 DCRA. I don't know what they would do with them.

19 COMMISSION CHAIRPERSON MITTEN: That's
20 fine. They probably have enough stuff to look at.

21 VICE-CHAIRPERSON MILLER: Okay. Because
22 then I think, then, if there is a problem --

23 CHAIRPERSON GRIFFIS: Because of the
24 Federal Paperwork Reduction Act, I think.

25 VICE-CHAIRPERSON MILLER: Right.

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1 COMMISSIONER CHAIRPERSON MITTEN: That's
2 fine.

3 VICE-CHAIRPERSON MILLER: Okay. Because,
4 then, just to finish, I think that the compliance
5 officer could then send it to DCRA if she found there
6 was a problem.

7 CHAIRPERSON GRIFFIS: Right. I think
8 that's what I said. It would actually be an
9 indication of noncompliance once they started going in
10 that direction.

11 Okay. Others? Other comments?

12 VICE-CHAIRPERSON MILLER: I think we've
13 pretty much fully addressed the angled parking issue,
14 but I can't recall if it was all covered. With
15 respect to the Board's determination that the angled
16 parking was a best solution with respect to there
17 being ample parking within the neighborhood, that was
18 the best solution in this case because it was most in
19 harmony, I think, with the general purpose and intent
20 of the zoning regulations and had the least impact,
21 adverse impact, on the community.

22 I can't remember whether we addressed that
23 fully or not, but I just want to add that the fact
24 that it's not being dedicated to the school means that
25 there won't be a deterrent to the school's efforts to

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1 decrease the demand by other means, which I think was
2 very important to DDOT, and that these spaces would be
3 more reliable than leased spaces would be because, as
4 I remember the testimony, leased spaces would have to
5 be renegotiated every so often, I think it was like
6 every 90 days, and that it would be to the benefit of
7 the community to have a greater parking supply. And
8 it will improve the safety near the school.

9 CHAIRPERSON GRIFFIS: I absolutely agree.
10 I think it is a huge improvement of the existing area.
11 And I totally agree with what you had said.

12 This is a new situation that we are
13 actually embarking on here, and that is to have this
14 as it has been factored into our support of this
15 application: the provision of public parking off
16 site. It actually is going into calculate how we look
17 at the parking required for the Lab School.

18 And I think it's important what you
19 brought up. One, it is provided to the overall
20 community and the city. And I think the facts show in
21 this case that there isn't the competitive demand
22 right in that area for a huge amount that would be
23 outside of that, the last four or the other immediate
24 uses.

25 But it's an interesting piece to say that

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1 what would -- the element of the fact of the approval
2 and the support, as I'm understanding this Board, is
3 the fact that that is provided, that that is built,
4 that it is in existence.

5 VICE-CHAIRPERSON MILLER: It seems to be
6 the best of all worlds. There will be ample parking,
7 then, for the school, and there will be parking spaces
8 for the public as well.

9 CHAIRPERSON GRIFFIS: Great. I want to
10 talk a little bit about the TMP because I think we
11 have focused a lot on the negative, which is, of
12 course, where we get to.

13 We did a little bit of the findings last,
14 but I do want to summarize because I think the TMP
15 here, one -- well, I find it impressive, I mean, in
16 the number of elements. And it seems like, as we
17 continue to see these develop, they're getting better
18 and better, which means somebody is doing something
19 correct.

20 I was mostly really encouraged by the fact
21 of the shuttle bus that I think is going to be an
22 incredible asset in continuing operation. But we also
23 have the transferable Metro fares that they have put
24 in. They have a guaranteed ride home. They have the
25 zip card. They had upwards of five or six elements

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1 that went into the basis of this, and I saw them.

2 You know, they're not new ideas, often
3 talked about. I saw in this application how that they
4 were really, I think, substantively thought out on how
5 they were going to work and then the direct
6 correlation of how that reduces the impact. Whether
7 it be number of people in the cars or total trip
8 generation or parking demand. I think that's a very
9 important aspect as we get into this.

10 I think the other piece that we have
11 talked about I know the Board has always been
12 concerned about is the management of the morning's and
13 evening's drop-off and pick-up.

14 I'll open it up for people to speak about
15 that, but I think it was absolutely important in the
16 school's testimony talking about having an actual
17 police officer there and then utilizing staff to be
18 put in strategic points of where there might be
19 problems in order to re-encourage and reeducate those
20 that are showing up to the school because I think if
21 implemented, it will run smoothly, but if it is not
22 implemented as it is proposed, then it will not. So
23 obviously utilization of staff at those points where
24 there might be outside of the program drop-offs is
25 important.

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1 COMMISSION CHAIRPERSON MITTEN: Mr.
2 Chairman?

3 CHAIRPERSON GRIFFIS: Yes?

4 COMMISSIONER CHAIRPERSON MITTEN: There is
5 one additional thing that I wanted to make sure that
6 we were clear about. I believe that you had said and
7 this was understood throughout the hearing that the
8 special exception would be for a five-year period
9 because that was what was being requested, but just to
10 clarify it completely, in the proposed condition from
11 the applicant -- and I'm reading this specifically out
12 of the plan B order -- "The special exception pursuant
13 to section 214 to locate accessory parking spaces
14 elsewhere than on the same lot as the principal use
15 shall be valid for a term of five years. The special
16 exceptions pursuant to section 206 and the variance
17 from the off-street parking requirements, chapter 21,
18 shall have no term."

19 My view would be that all of the requested
20 relief would be for a period of five years because, as
21 we discussed, the enrollment, for instance, is related
22 to parking and traffic. And I think when we revisit
23 this in five years, we need to have all of the issues
24 before us and not have the presumption that we won't
25 be able to make any changes to certain aspects of it

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1 with all of the information, all of the new
2 information, that we would have before us five years
3 from now.

4 CHAIRPERSON GRIFFIS: Comments?

5 VICE-CHAIRPERSON MILLER: I would agree
6 that it should be for a term for five years, also
7 because circumstances are expected to change. I think
8 that they were presenting this as a temporary
9 situation and in five years, they hope to have an
10 underground garage or something like that.

11 But I would like to say that this special
12 exception is no longer pursuant to 214. It's only 206
13 because 214 is a request for accessory parking spaces.
14 And the way we figured it was that they don't need
15 accessory parking spaces because there would be ample
16 parking spaces in the neighborhood. Those spaces
17 would not be dedicated to them. So it wouldn't be
18 their accessory parking spaces.

19 COMMISSIONER CHAIRPERSON MITTEN: I don't
20 know how this might be worded. I take your point, but
21 in the flexibility that might be required to achieve
22 the benchmark for the TMP, in the event that they're
23 not achieving the balance that they're required to
24 have between the parking demand and the parking
25 supply, that we would give them the flexibility if

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1 they couldn't meet their benchmark to meet it by
2 leasing parking spaces someplace.

3 So that unless we give them the special
4 exception, they wouldn't be able to count leased
5 parking spaces in that balancing that they might do,
6 whether at this juncture we think that what we're
7 putting in place will work without leased spaces.

8 But what if it doesn't, during the five-
9 year period if they want to try and accommodate the
10 demand with leased spaces? I would think we could
11 give them the flexibility now to do that?

12 VICE-CHAIRPERSON MILLER: I believe that
13 section 214 deals with parking spaces within 200 feet.
14 And that was going to be the angled spaces if they
15 were dedicated to the school, which they're not.

16 COMMISSIONER CHAIRPERSON MITTEN: Okay.
17 Then --

18 VICE-CHAIRPERSON MILLER: I also believe
19 --

20 COMMISSIONER CHAIRPERSON MITTEN: Just so
21 I don't lose the point, what would the mechanism be,
22 then, for them counting leased spaces?

23 CHAIRPERSON GRIFFIS: They would only need
24 to count leased spaces. And, therefore, it would
25 potentially be a modification of this order if there

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1 were not angled spaces provided.

2 COMMISSION CHAIRPERSON MITTEN: Maybe I'm
3 not understanding what is being proposed. I thought
4 that we would acknowledge the existence in the
5 immediate vicinity of 43 spaces, but we wouldn't count
6 one, 2, 3, 43 spaces towards their number as if they
7 were exclusively available to the Lab School.

8 CHAIRPERSON GRIFFIS: Correct.

9 COMMISSIONER CHAIRPERSON MITTEN: So how,
10 then, relative to the parking requirement are the 43
11 spaces? You know, if the 214 applies to the 43
12 spaces, they're not being counted towards their
13 supply. So if the 214 is exclusive to the 43 spaces,
14 they're not being counted in their supply. So why
15 would we give relief under 214 if it, in fact, only
16 applies to the angled spaces?

17 VICE-CHAIRPERSON MILLER: Okay. Just to
18 review what we said the last time, which seems like a
19 long time ago, the way we got to this was that the
20 angled spaces were no longer needed to count towards
21 their parking requirement, that the regulations
22 required 130 spaces, and then ample amounts of
23 parking, you know, within the vicinity.

24 COMMISSION CHAIRPERSON MITTEN: Right,
25 right.

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1 VICE-CHAIRPERSON MILLER: Okay? And so we
2 said that the applicant had 107 capacity on site and
3 they were short 23 spaces, but the 2108.2 allowed the
4 Board to reduce parking spaces up to 25 percent in
5 accordance with the special exception. And the 25
6 percent of 130 was approximately 32.

7 COMMISSIONER CHAIRPERSON MITTEN: Right.
8 And you do the calculation for us --

9 VICE-CHAIRPERSON MILLER: Right.
10 Therefore, they met their parking requirements.
11 However, we found that there wasn't ample supply in
12 the neighborhood without the angled parking and that
13 the angled parking provided the number of spaces to
14 create that ample supply.

15 COMMISSIONER CHAIRPERSON MITTEN: Okay.
16 So if your --

17 VICE-CHAIRPERSON MILLER: So the way I
18 understand it, if they are doing their TMP and, for
19 some reason, they're not meeting it, the demand, and
20 they lease a space, I think that goes to the ample
21 supply in the neighborhood.

22 COMMISSIONER CHAIRPERSON MITTEN: Got you.
23 Okay. That's fine.

24 VICE-CHAIRPERSON MILLER: So that they
25 don't need the 214.

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1 COMMISSIONER CHAIRPERSON MITTEN: Okay.

2 VICE-CHAIRPERSON MILLER: But I think that
3 DDOT was pretty confident that the 43 spaces would
4 cover it in any event.

5 COMMISSIONER CHAIRPERSON MITTEN: Okay.

6 CHAIRPERSON GRIFFIS: Brilliant. Anything
7 else?

8 (No response.)

9 CHAIRPERSON GRIFFIS: We have one other
10 issue, of course, that was attendant to this
11 applicant: The administrative building on 4749
12 Whitehaven Parkway. Were there any conditions
13 attendant to that? There were some proffered by the
14 applicant and that we were talking about, first of
15 all, that it not be used for classrooms.

16 It would be just administrative, also
17 population in the building that was proffered by the
18 applicant. I don't see any difficulty in accepting
19 those as that was the basis, factual basis, of the
20 application and our review of it. And it went to the
21 faculty and staff, being 15, I believe it is. Those
22 are, of course, included in the overall counts by the
23 school.

24 I don't hold strongly -- I don't think I
25 would have crafted that condition because I wasn't

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1 aware of anything that came up in the hearing or the
2 application that lends to any adverse condition being
3 created if there were 16 or 4 or however that it is
4 being offered.

5 Functionally I don't think it's bad to
6 have a basis of which we all understand how it is
7 going to be used. And, therefore, if it's difficult
8 in the future, obviously we have a measuring point of
9 which to begin in terms of comparative analysis.

10 Okay. Is there any difficulty with that?

11 (No response.)

12 CHAIRPERSON GRIFFIS: Very well. Anything
13 else, then, that anyone would like to address?

14 (No response.)

15 CHAIRPERSON GRIFFIS: If there's nothing
16 else, then, very well. We do have a motion before us.
17 It has been seconded and conditioned. I'm just
18 summarizing. Well, I think it will be very clear when
19 an order is written, but I think it's a very --
20 obviously what I'm hearing before I call a vote is a
21 supportive Board of this application and also of the
22 TMP that has been created.

23 We have found a fact that something will
24 be created in the future that will obviously offset
25 any potential for the creation of an adverse condition

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1 in the surrounding area, that if that was not done,
2 obviously that's the basis of our fact foundation in
3 this.

4 There would have to be another recourse
5 that the Board would have to be aware of in order for
6 this order to continue. And I have full faith that
7 that won't need to be a possibility.

8 All right. Very well, then. We have
9 articulated the other aspects of this and the other
10 conditions attendant to the application. The motion
11 has been before us and seconded and conditioned.
12 Therefore, I would ask for all of those in favor of
13 the motion to signify by saying "Aye."

14 (Whereupon, there was a chorus of
15 "Ayes.")

16 CHAIRPERSON GRIFFIS: And opposed?

17 (No response.)

18 CHAIRPERSON GRIFFIS: Abstaining?

19 (No response.)

20 CHAIRPERSON GRIFFIS: Very well. Why
21 don't we record the vote?

22 MR. MOY: Yes, sir. Staff would record
23 the vote as 5 to 0 to 0, this on the motion of the
24 Chair, Mr. Griffis, to approve the application for a
25 period of five years, student enrollment at 330,

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1 faculty and staff at 182, application with conditions
2 as stated, seconded by Ms. Miller; also in support of
3 the motion Mr. Etherly, Mr. Mann, and Ms. Mitten.

4 CHAIRPERSON GRIFFIS: Excellent. Thank
5 you very much.

6 Any other business for the Board in this
7 special public meeting, Mr. Moy?

8 MR. MOY: Yes, sir. We have a second
9 case, second and final case, for a decision. And that
10 is application number 17489 of Phillip H. Bishop
11 pursuant to 11 DCMR 3104.1 for a special exception to
12 allow the construction of an 8-unit apartment building
13 under section 353 in the R-5-A district at premises
14 320 Sixty-First Street, Northeast. That's in square
15 5266, lot 51.

16 On May 2nd, 2006, the Board completed
17 public testimony on the application and scheduled its
18 decision on May 16, 2006. The record is closed except
19 for the applicant for filing additional information
20 related to the site. That has been filed by the
21 applicant on May 10th, 2006 and is identified in your
22 case folders as exhibit 38.

23 And staff will conclude at this point, Mr.
24 Chairman.

25 CHAIRPERSON GRIFFIS: Excellent. Thank

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1 you very much, Mr. Moy. I do appreciate that. I
2 think the Board is well-aware of all of the facts in
3 this case and the reasonings for our additional
4 filing.

5 There was a lot of information that went
6 into this application. And I found that it wasn't all
7 consolidated graphically in one place that we could
8 really focus on.

9 What we have here presented in the
10 additional filing I think is adequate in terms of
11 showing, one, the placement of the lighting and the
12 different types of lighting. We also have a cut
13 sheet, of course, of what is proposed to be put in
14 there. I thought it's an excellent choice.

15 We also have, one might say, a landscape
16 plan showing the elements of where plantings would be
17 and the types of plantings. Also, I think it's very
18 sufficient for the level of which we were looking at,
19 for the level of this project, the reconfiguration of
20 the parking and the dimension, which I thought was
21 much more important, the dimensional aspect.

22 Just to be clear, -- well, there it is --
23 we do have the enclosed trash area. And noted on the
24 drawings is the reception area for the enclosed trash.
25 I think it's probably the receptacle, which is

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1 perfectly logical and an enclosed piece.

2 The other piece was of the fence, the
3 property line fence, where it was going to be and the
4 notation of its extent, which, again, has been shown,
5 and the retaining wall.

6 We had talked a lot about the position of
7 the building and whether moving it up or back,
8 wherever. I appreciate what is being said here. It
9 was certainly not a requirement, as hopefully I was
10 direct in saying it was not something that I was
11 looking to actually have done but just to be
12 investigated. Obviously they kept it at that setback,
13 which informs me that there is sufficient reasoning to
14 do that.

15 There it is. I will put it up for any
16 other comments from others. Mr. Mann?

17 MEMBER MANN: Just to clarify, --

18 CHAIRPERSON GRIFFIS: Yes?

19 MEMBER MANN: -- are you saying, then,
20 that the newest submission 38 fulfills the
21 requirements of 353.4 and 353.5, where it required
22 items such as landscaping plans and other plans that
23 addressed provisions of light air parking recreation,
24 those sorts of things?

25 CHAIRPERSON GRIFFIS: Yes, exactly. Thank

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1 you. That's important to put back, which I didn't
2 really start off with what Mr. Moy said a little bit.
3 We're here for a special exception for 353. Those
4 elements that are laid out within the regulations, of
5 course, go to that.

6 They have met most. And I think those
7 were the points that were not clear from my
8 perspective and I think the Board's perspective in
9 looking at this. And, actually, we have some
10 additional information that has actually come in on
11 this. So I appreciate you bringing that up.

12 Any comments on any of those aspects that
13 were submitted or in any of the aspects in the
14 hearing? Yes?

15 VICE-CHAIRPERSON MILLER: I just want to
16 say that I had asked them for more information on the
17 landscaping and also a more graphic presentation so
18 that I could appreciate what they were doing as well
19 as the community.

20 I just want to acknowledge that they did
21 that. And I think that that is a good thing,
22 especially for the community to be able to see.

23 CHAIRPERSON GRIFFIS: Good. Good. And,
24 just bringing it in context, of course, 353 sets them
25 into a special exception. So we're supposed to review

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1 this new development in housing so that it would not
2 tend to create an objectionable condition to the
3 surrounding area or adjacent properties.

4 I think it has been sufficiently shown
5 here. And the rest of the aspects of the regulations
6 have also been complied with or are shown to be in
7 compliance; that is, in terms of the referral to the
8 other agencies, et cetera.

9 We do have the report from the Office of
10 Planning, which was also recommending approval and had
11 stated that it was in conformance with the Ward Seven
12 comprehensive plan as well as their own zoning
13 requirements and analysis of those.

14 With that, then, I would move approval of
15 application 17489 pursuant to the special exception,
16 which would allow this 8-unit apartment building to be
17 constructed and then, of course, coming under section
18 353. It's in an R-5-A district. And it is the
19 premises at 320 Sixty-First Street, Northeast.

20 And I would ask for a second.

21 MR. MOY: Second.

22 CHAIRPERSON GRIFFIS: Thank you very much,
23 Mr. Moy. I appreciate it. I don't think that there's
24 any additional deliberation that I need, nor
25 conditions to propose on this except for noting fully

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1 and directly our first condition in our orders is the
2 plans that are submitted.

3 And that plan, the most distinct one,
4 would be the lighting and landscape site plan that was
5 submitted not to scale and the cut sheets, which I
6 don't have -- I believe it's going to be exhibit 38 in
7 our log -- and also with the other additional plans to
8 be put in there.

9 I'll open it up for anyone. Ms. Miller?

10 VICE-CHAIRPERSON MILLER: I just also want
11 to note that it appeared to me that most, if not all,
12 of the ANC concerns were addressed at the hearing and
13 with the subsequent filings.

14 They had some concerns about retaining
15 walls and other areas around the building. And the
16 applicant addressed them at the hearing. And some of
17 their other concerns just dealt with in general not
18 being able to see what was being planned, not being
19 shown graphic-enough pictures. They were shown at the
20 hearing, and more were submitted. And they were all
21 to be shared with the ANC. So I think that their
22 concerns have been addressed.

23 CHAIRPERSON GRIFFIS: Excellent.
24 Excellent. I note that one of the other concerns that
25 was brought up was the windows, the window lines. And

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1 I would just make a note that, of course, I don't
2 think in my mind -- and I will see if there is
3 concurrence -- I don't think that we are prescribing
4 the exact fenestration patterns. In fact, I believe
5 there quite a few comments that they could add
6 fenestration that might help that.

7 But the elements, of course, that would
8 have to be adhered to are those elements that were
9 brought up in this application that went directly to
10 the impacts of the adverse, that not being one of
11 them.

12 Okay. Very well. Anything else, then?

13 (No response.)

14 CHAIRPERSON GRIFFIS: Not knowing any
15 further comments, deliberation, we do have a motion
16 before us that has been seconded. I would ask for all
17 those in favor to signify by saying "Aye."

18 (Whereupon, there was a chorus of
19 "Ayes.")

20 CHAIRPERSON GRIFFIS: And opposed?

21 (No response.)

22 CHAIRPERSON GRIFFIS: Abstaining?

23 (Whereupon, there was a show of hands.)

24 CHAIRPERSON GRIFFIS: Very well. Mr. Moy?

25 MR. MOY: Yes, sir. The staff would

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1 record the vote as 3 to 0 to 2. This is on the motion
2 of the Chair, Mr. Griffis, to approve the application,
3 seconded by Mr. Mann; also in support of the motion,
4 Ms. Miller. We have Mr. Etherly and a Zoning
5 Commission member not participating on this case.

6 CHAIRPERSON GRIFFIS: Very well. Any
7 other business for the Board in the morning's session?

8 MR. MOY: No, That completes the special
9 public meeting, sir.

10 CHAIRPERSON GRIFFIS: Very well. Then
11 let's adjourn our special public meeting.

12 (Whereupon, the foregoing matter was
13 concluded at 10:45 a.m.)

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