

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

DECEMBER 18, 2012

+ + + + +

The Regular Public Hearing or Meeting convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 9:30 a.m., Lloyd Jordan, Chairman presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairman
NICOLE SORG, Vice-Chairperson
JEFF HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

PETER MAY, Zoning Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist
STEPHEN VARGA, Zoning Specialist

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

BRANDICE ELLIOTT

ARTHUR

STEPHEN

KAREN

ELISA VITALE

JACKSON

MORDFIN

THOMAS

DISTRICT DEPARTMENT OF TRANSPORTATION STAFF
PRESENT:

ANNA CHAMBERLIN

The transcript constitutes the minutes from the Public Hearing held on December 18, 2012.

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

2 (9:47 a.m.)

3 CHAIRMAN JORDAN: Good morning.

4 Will the hearing please come to order. We're
5 located at the Jerrily R. Kress Memorial Hearing
6 Room at 441 4th Street, N.W. Today's date is
7 December 18th, 2012, and we're here for the
8 Public Hearing of the Board of Zoning
9 Adjustment.

10 My name is Lloyd Jordan,
11 chairperson. To my right is Jeffrey Hinkle,
12 Board member. To my left, Nicole Sorg, vice
13 chair of the Board, and to her left, Peter May,
14 member of the Zoning Commission.

15 Please be advised that this
16 proceeding is being recorded by a court
17 reporter, and is also being webcast live.
18 Accordingly, we must ask that you refrain from
19 any disruptive noises in the hearing room today.

20 The Board's hearing procedures and
21 process are contained in a pamphlet which is
22 sitting at the back door to my left. Feel free

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1 to get that if necessary to be able to understand
2 our procedures here at the Board.

3 So let's begin today's hearing.
4 All those who are going to testify in any of
5 the cases on our docket today, I'm going to ask
6 you first to rise and take the oath or
7 affirmation from the Board secretary, and to
8 also complete two cards each and give them to
9 the court reporter prior to testifying.

10 So I need you to stand and take the
11 oath or affirmation and then complete two
12 witness cards.

13 (Participants sworn in)

14 CHAIRMAN JORDAN: Mr. Moy?
15 Whenever you're ready, Mr. Moy.

16 MR. MOY: Yes, sir. Good morning,
17 Mr. Chairman and members of the Board. The
18 first application before the Board is
19 Application Number 18468.

20 This is the application of Marilyn
21 J. Medrano, pursuant to 11 DCMR 3104.1 and
22 1553.2. This is for a special exception for

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1 a child development center, 12 children and five
2 teachers, under section 205, in the SSH/R-1-B
3 District at premises 1414 Delafield Place, N.W.

4 Property located in Square 2709 Lot 9.

5 (Off the record comments)

6 CHAIRMAN JORDAN: All right, will
7 the parties for the first case, 18468, please
8 come to the witness table.

9 Would you please identify
10 yourselves, please. And make sure that your
11 microphone is turned on, thanks.

12 MS. ZACHARY: Good morning. My
13 name is Jennifer Zachary with Covington &
14 Burling, and I'll have Marilyn introduce
15 herself.

16 MS. MEDRANO: Hi, my name is Marilyn
17 Medrano and I'm applying for extension. I'm
18 applying.

19 (Off the record comments)

20 CHAIRMAN JORDAN: We know there was
21 a late filing into the affidavit of posting which
22 the Board will accept into the record.

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1 MS. ZACHARY: Thank you. My
2 apologies for that.

3 CHAIRMAN JORDAN: There were some
4 conditions that Office of Planning has
5 recommended regarding this extension, and have
6 you reviewed those and are comfortable with
7 those?

8 MS. ZACHARY: Yes, we are.

9 CHAIRMAN JORDAN: I know that the
10 ANC has also offered support for this
11 application for extension and asks for another
12 particular condition to be imposed. However,
13 we've been advised by counsel, and according
14 to the law, that we cannot impose this type of
15 condition in regards to any relief that we grant.
16 So I wanted to put that on the record.

17 I believe the Board, well, the Board
18 has already reviewed the record, or the
19 pre-submissions in this matter and believe that
20 you meet the standard at this point for getting
21 the relief requested. So you can do a
22 presentation if you wish, however, it's not

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1 necessary, and we will go to the other parts
2 of this hearing to move this along.

3 MS. ZACHARY: We'd be happy to stand
4 on the record and also happy to answer any
5 questions that may come up.

6 CHAIRMAN JORDAN: Does the Board
7 have any questions of the applicant? Seeing
8 none, let's move to the Office of Planning to
9 see if there's anything in addition that they
10 would like to add to their previous report.

11 MS. THOMAS: Good morning, Mr.
12 Chairman, members of the Board. The Office of
13 Planning has nothing further to add and we'll
14 stand on the record of our report. Thank you.

15 CHAIRMAN JORDAN: Thank you.
16 Department of Transportation, anyone here? Do
17 we have a Transportation report in this file?
18 I don't think I saw one if there was.

19 MS. ZACHARY: Yes, I believe there
20 is a Department of Transportation report in the
21 file.

22 CHAIRMAN JORDAN: Is there?

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1 MS. GLAZER: Mr. Chair, it's
2 Exhibit 27 in the file, I believe.

3 CHAIRMAN JORDAN: Oh, okay. Here
4 it is. It was attached to the ANC. All right,
5 there's no objection. So we have a
6 recommendation of no objection. I don't know
7 if that's a recommendation but that's how they
8 do it at the Department of Transportation.

9 Is there any other governmental
10 agency here for us today? Seeing none, anyone
11 from ANC-4C? We do have a recommendation for
12 approval by ANC-4C. As I said before, had a
13 condition in it, however, this Board cannot
14 place that as a condition within our authority.

15 Is there any persons in the audience
16 in support of the application wishing to
17 testify? Anyone wishing to testify in support?

18 Anyone in the audience in opposition, wishing
19 to testify in opposition to the application?

20 Let me take one step back. We do
21 have four letters of support in our file, our
22 Exhibit 26, of persons in support of this

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1 application. We have nothing in our record in
2 opposition. So now let's turn back to the
3 applicant to see if there's anything you want
4 to say in closing?

5 MS. ZACHARY: No. We're seeking a
6 special exception for the 12-child,
7 five-teacher daycare center and we've asked for
8 a ten-year special exception.

9 CHAIRMAN JORDAN: All right. Ten
10 years. Well, let me close the hearing based
11 upon the record that's been filed and the
12 testimony given here today and let's turn to
13 deliberation to the Board.

14 Board have any, anyone to say about
15 this particular application? Anything about
16 the period of time or --

17 VICE CHAIR SORG: Thank you, Mr.
18 Chairman. I think given the swiftness of this
19 hearing we can see there's no opposition. I'm
20 in support of the application.

21 I do question, however, the ten-year
22 term. I think, and we've had other discussions

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1 or beginning to, about standardizing the way
2 that these child development centers are
3 conditioned based on the timing.

4 I do think in this case this is a
5 child development home that's been in operation
6 since 2009 without incident, obviously, since
7 there's no opposition, so while, generally
8 speaking, I find that I'm in favor of a
9 three-year term for new CDCs, in this case, since
10 there has been an operation and we are upping
11 the number of children which requires the change
12 in nomenclature from child development home to
13 child development center, I would be more in
14 favor of a five-year term, which to me is a sort
15 of medium range based somewhat on the past
16 performance of the child development home and
17 the change that is being requested today.
18 That's my only comment.

19 CHAIRMAN JORDAN: Any other
20 thoughts on this matter? Mr. Hinkle?

21 MR. HINKLE: Yes, thank you, Mr.
22 Chair. I could agree with Ms. Sorg. This is

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1 essentially a new use and certainly an increase
2 in the number of children being proposed so I
3 would be more comfortable with a five-year term
4 versus a ten-year term.

5 CHAIRMAN JORDAN: Anyone else?
6 Okay, then I can support the five-year term with
7 my colleagues. So I would move that we grant
8 the relief requested by the applicant with the
9 following conditions.

10 That approval shall be for a period
11 of five years. That the number of enrolled
12 children shall not exceed 12. That the number
13 of staff shall not exceed five staff persons.

14 That the hour of operation shall be
15 from 7:00 a.m. to 6:00 p.m. The outdoor
16 activities shall be supervised and conclude by
17 6:00 p.m. That would be my motion.

18 VICE CHAIR SORG: Second.

19 CHAIRMAN JORDAN: Motion made and
20 seconded. Any unreadiness? All those in favor
21 signify by saying aye.

22 (Chorus of ayes)

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1 CHAIRMAN JORDAN: Those opposed
2 nay. The motion carries. Mr. Moy?

3 MR. MOY: Yes, sir. Staff would
4 record the vote as four to zero. This on the
5 motion of Chairman Jordan to approve the
6 application, with five conditions. The first
7 condition being the application on a five-year
8 term period.

9 Second the motion, Vice Chairperson
10 Sorg. Also in support of the motion Mr. Peter
11 May and Mr. Jeffrey Hinkle. I do note that the
12 Board does have one vacancy. The motion carries
13 on the vote of four to zero, Mr. Chairman.

14 CHAIRMAN JORDAN: Thank you very
15 much. Let's have a summary opinion, please.

16 MR. MOY: Yes, sir.

17 MS. ZACHARY: Great. Thank you.

18 MR. MOY: The next application
19 before the Board is Application Number 18472.

20 This is the application of Excel Academy, D.C.
21 Public Charter School, pursuant to 11 DCMR
22 3103.2.

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1 This is for a variance to reduce the
2 off-street parking requirements under
3 subsection 2101.1, for an elementary school in
4 the R-5-A District at premises 2501 through 2553
5 Martin Luther King, Jr., Avenue, S.E. Property
6 located in Square 5862 Lot 960.

7 CHAIRMAN JORDAN: Thank you, Mr.
8 Moy. Will the parties please introduce
9 themselves?

10 MR. KADLECEK: Good morning,
11 members of the Board. My name's Cary Kadlecek,
12 counsel from Goulston & Storrs, on behalf of
13 the applicant.

14 MS. SAVAGE: Good morning. I'm
15 Kaye Savage, the founder and CEO of Excel
16 Academy.

17 MR. ANDRES: Good morning, Chairman
18 Jordan. Erwin Andres with Gorove/Slade
19 Associates.

20 CHAIRMAN JORDAN: I'm going to take
21 one second. Do we have some conditions that
22 were proposed for this?

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1 (Off the record comments)

2 CHAIRMAN JORDAN: There weren't any
3 OP proposed conditions in this?

4 MR. KADLECEK: There weren't any
5 explicit OP conditions, no.

6 CHAIRMAN JORDAN: Okay, good.

7 (Off the record comments)

8 CHAIRMAN JORDAN: All right, does
9 the Board have any particular issues with this
10 application that we need to drill down with the
11 applicant? You do, Mr. May? Okay.

12 Let me -- I think this is one where
13 the record is generally full. However, the
14 Board does have some questions that we would
15 prefer to handle it that way. Of course you
16 can do a presentation if you wish.

17 MR. KADLECEK: I think we would like
18 to do a short presentation on some of the traffic
19 mitigation measures in response to the DDOT
20 report.

21 Mr. Andres has prepared some
22 additional information about mitigation

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1 measures that we'd like to walk through, and
2 then if we have any additional questions we can
3 have that discussion.

4 CHAIRMAN JORDAN: Let me first have
5 Mr. May ask his question and then maybe you can
6 --

7 MR. MAY: No, I'm actually, what
8 you're planning on presenting may address my
9 questions and I was waiting for this based on
10 the OP report.

11 CHAIRMAN JORDAN: Okay, very good.

12 MR. KADLECEK: We'll just begin
13 with Mr. Andres.

14 MR. ANDRES: Good morning, Chairman
15 Jordan and members of the Board of Zoning
16 Adjustment. Erwin Andres, principal for
17 Gorove/Slade Associates.

18 There are basically two issues that
19 we're looking to resolve with my presentation.

20 The first is a comment by the Office of Planning
21 identifying a need to quantify our parking
22 demand and how we're addressing that, and then

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1 the second is to address the DDOT conditions
2 laid out in their December 11th review letter.

3 So moving forward I think we can
4 start off with the Office of Planning comment
5 which basically asked for additional
6 information relative to the parking demand and
7 how we're addressing that demand.

8 If you look at the slide that's up
9 on the screen there are different components
10 of our plan that include marked spaces.
11 Currently there are 48 spaces that are within
12 the property that are zoning compliant spaces.

13 Based on the existing condition there are
14 actually the ability to provide 27
15 attended-assisted spaces.

16 So essentially there are physically
17 the capacity to provide for 75 cars to be parked
18 on site. In addition to that the applicant is
19 committed to provide an additional 15 spaces
20 at Matthews Memorial Church which is less than
21 a block away.

22 So with that the variance, the

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1 practical variance that we've identified, the
2 requirement based on zoning is 100 spaces and
3 given the measures identified above those total
4 90 spaces. So what we see is actually a
5 practical variance of 18 spaces.

6 And that practical variance of 18
7 spaces we've addressed by committing to an
8 extensive Transportation Demand Management
9 program that we've vetted with DDOT and we have
10 agreed with as part of our coordination with
11 DDOT.

12 So hopefully this answers the first
13 question that the Office of Planning had laid
14 out for us. If you have any questions on this
15 I can move forward to the DDOT issues.

16 CHAIRMAN JORDAN: Yes, we have
17 questions, please. Mr. May?

18 MR. MAY: So how many of the 90
19 spaces provided are actually zoning compliant?

20 MR. ANDRES: The 48 are zoning
21 compliant because they're marked and they meet
22 the zoning code. The 15 that are off site are

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1 zoning compliant because they're in an existing
2 parking lot. So the 27 that are not zoning
3 compliant which are the attended-assisted
4 spaces.

5 MR. MAY: Okay, so the
6 attended-assisted spaces, I mean where are they?
7 Are they in the 48-car lot or are they in that
8 other lot?

9 MR. ANDRES: Yes. They are in the
10 48-car lot.

11 MR. MAY: And so there's parking
12 that sort of surrounds the building and is
13 accessed from Sumner Road?

14 MR. ANDRES: Actually from, there
15 are two locations, from Sumner and from MLK.

16 MR. MAY: Right. The ones from MLK
17 is the 48, right?

18 MR. ANDRES: Yes, that's correct.

19 MR. MAY: Right. So the ones from
20 Sumner Road, which have been described as not
21 zoning compliant in any way, shape or form, are
22 they included in here somewhere?

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1 MR. ANDRES: Yes, they are
2 partially off of Sumner, and then there are also
3 that are sort of squeezed in off of the --

4 MR. MAY: Why don't you go to your
5 slide?

6 MR. ANDRES: Sure.

7 MR. MAY: I'm looking at the paper
8 version of this.

9 MR. ANDRES: Yes.

10 MR. MAY: The paper version. Okay,
11 and so I'm on Page 2, the upper image.

12 MR. ANDRES: Yes, that's correct.

13 MR. MAY: There's a parking lot
14 that's off of MLK, so how many spaces are there?

15 MR. ANDRES: In that lot off of MLK
16 is the 48 spaces.

17 MR. MAY: Okay, and then how many
18 are in the other blue area labeled "Parking"
19 that surround the building?

20 MR. ANDRES: The 27
21 attended-assisted are mixed in between the
22 48-space lot and the various spaces within the

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1 other lot that's accessed off of Sumner.

2 CHAIRMAN JORDAN: But I thought
3 that the question that Mr. May asked, how many
4 spaces are in this area right near the building
5 here, that other blue spot? How many spaces
6 are there?

7 MR. ANDRES: Well, the 48 compliant
8 spaces are the ones that are accessed off of
9 MLK.

10 MR. MAY: And so how many vehicles
11 do we expect to park in the other blue area?

12 MR. ANDRES: In the other blue area,
13 in a range of about 13 or 14, and then there
14 are 13 or 14, the other half can be squeezed
15 in, in the existing 48-space lot.

16 MR. MAY: And that's stacking them?

17 MR. ANDRES: Stacking them, yes, in
18 the aisles. There are some spaces where there's
19 access to some of the grassy areas that currently
20 exist.

21 MR. MAY: Access, you don't mean the
22 park land?

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1 MR. ANDRES: No. There's some
2 grassy areas right next to the playground.

3 MR. MAY: Oh, I see. Okay. Is
4 this parking lot going to be affected at all
5 by the renovation of the rec center and all of
6 the improvements to the grounds that are going
7 to go with it?

8 MR. ANDRES: No. No.

9 MR. MAY: Okay. And there is an
10 implication and at least, I think, in your report
11 that there is already an issue with insufficient
12 parking in the existing condition, is that
13 right?

14 MR. ANDRES: Given that currently
15 the building houses two schools, there's Septima
16 Clark, the old boys' school, and Excel, which
17 is the old girls' school, as part of the overall
18 management of not only the parking but the
19 ultimate pick-up and drop-off situation, the
20 school would be able to manage it better because
21 it is under one management. So what
22 happens today is that there are cars parked fully

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1 in those 48 spaces and then the cars that are
2 not parking in marked spaces, those aren't
3 controlled by attended-assisted. There's not
4 an attendant to be able to control that. So
5 they're --

6 MR. MAY: It's not currently
7 attended-assisted at all?

8 MR. ANDRES: No. It is not.

9 MR. MAY: Okay, and so what's the
10 current demand like? I mean how many vehicles
11 are parking there now?

12 MR. ANDRES: We'll there are, and
13 that's how we came up with the 27 number.

14 MR. MAY: Okay, so there are roughly
15 --

16 MR. ANDRES: There's roughly about
17 75 vehicles that are parked in those site, blue
18 areas on the site.

19 MR. MAY: And who's going to be the
20 assistant-attendant? I mean is there going to
21 be, I mean like a parking valet type person there
22 or a staff person who's dedicated to that?

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1 MR. ANDRES: The intent is to have
2 a staff person.

3 MR. MAY: So what's, I mean I'm
4 looking for what the commitment is, not the
5 intent.

6 MS. SAVAGE: Good morning. Thank
7 you for your question. Our safety team will
8 be managing the buddy parking system on site.
9 We will have total control over our staff and
10 our staff will have designated parking buddies,
11 and we will not be in a position where we have
12 to interrupt instruction to move a car or
13 anything like that. But our safety team will
14 manage that buddy system.

15 MR. MAY: So it's essentially
16 self-assisted parking. You're going to have
17 two or three cars stacked and everybody's going
18 to have access to their keys? Is that how it
19 works?

20 MS. SAVAGE: No.

21 MR. MAY: I mean what's the buddy
22 system? Explain. I mean it's not a --

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1 MS. SAVAGE: The safety team member
2 will have access to the keys and be able to move
3 cars with permission of the owners.

4 MR. MAY: And so the safety team,
5 this is all collateral duty for them? It's not
6 their primary job to do this? It's, they're
7 normally --

8 MS. SAVAGE: Next year, since we
9 will have access to the entire parking lot we
10 will have a designated person that manages that
11 responsibility.

12 MR. MAY: Okay, so where does the
13 safety team come in? You're telling me it's
14 one person or you're telling me it's a safety
15 team?

16 MS. SAVAGE: Well, it may be that
17 that person is not at work that day so it would
18 have to be more than one person that would manage
19 that responsibility. Unfortunately we work
20 with a lot of little children who bring a lot
21 of germs, and people go and --

22 MR. MAY: I understand that. I

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1 mean everybody has absences from work, I
2 understand that. I'm just trying to understand
3 how you intend to manage this in the long run
4 because you already don't have enough parking.

5 And it could be managed very
6 smoothly and everything could be fine, but it
7 could also be problematic and you wind up with
8 spillover parking in the neighborhood, which
9 is what we're trying to avoid.

10 So I want to understand a little bit
11 more about how that works and how you can
12 reliably manage it with the buddy system and
13 the safety team and the designated person. So
14 back to my original question. There'll be one
15 person who's really kind of in charge of this,
16 although that person will have back up?

17 MS. SAVAGE: Yes.

18 MR. MAY: And so that one person,
19 is this going to be their sole responsibility
20 or --

21 MS. SAVAGE: Yes.

22 MR. MAY: Okay, so you're going to

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1 have one person whose only job is to manage
2 parking?

3 MS. SAVAGE: Right.

4 MR. MAY: Okay. That's helpful to
5 know.

6 MS. SAVAGE: And I would like to add
7 for your information that in an effort to ensure
8 that we were not intrusive into the neighborhood
9 we initiated a relationship with Matthews
10 Memorial Baptist Church and are currently
11 leasing 15 spaces, and that lease can be expanded
12 to accommodate additional need if required.

13 MR. MAY: Right. Well, I think
14 ultimately the goal is to have fewer people
15 drive. That would be most beneficial, and
16 that's what DDOT's conditions, I think, are
17 driving towards.

18 So it's good to know that that
19 alternative is there rather than parking in the
20 neighborhood, but ultimately it would be wise
21 to try to drive the number of drivers down.
22 So that's it for my questions on this part of

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1 it.

2 CHAIRMAN JORDAN: Yes, Ms. Sorg?

3 VICE CHAIR SORG: Thank you, Mr.
4 Chairman. I want to go back a little bit to
5 understand how long -- and I'm sure this is in
6 the pre-hearing and I've forgotten. How long
7 has this school been operating at the Birney
8 School location?

9 MS. SAVAGE: This is our fourth year
10 of operation at Birney. Previously we were
11 co-located in a church annex and moved into
12 Birney four years ago.

13 VICE CHAIR SORG: And for the entire
14 duration of the four years that you've been there
15 you've been co-located with the other charter
16 school?

17 MS. SAVAGE: The first year that we
18 were in Birney we were there by ourselves.
19 Excel was the single tenant in the building.
20 And subsequent to that first year we have been
21 in a co-located situation for the past three
22 years, and this year is the end of Septima

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1 Clark's lease at the Birney --

2 VICE CHAIR SORG: You're taking it
3 over.

4 MS. SAVAGE: Yes, we are.

5 VICE CHAIR SORG: And do you know
6 how many faculty and staff are on the site,
7 about, among both of the schools that are
8 currently operating?

9 MS. SAVAGE: To my understanding
10 it's approximately 125. Excel has 75 staff on
11 site and Septima Clark has about 50.

12 VICE CHAIR SORG: So you would be
13 increasing the overall number of staff even
14 though the other school is leaving?

15 MS. SAVAGE: Yes, because our
16 enrollment will grow next year. We currently
17 have 515 preschool through fourth grade girls
18 in the building.

19 VICE CHAIR SORG: And are you
20 increasing the grade levels that you're serving
21 or is that enrollment over the grades that you're
22 currently serving?

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1 MS. SAVAGE: No, we will continue
2 to grow a grade each year until we go through
3 high school.

4 CHAIRMAN JORDAN: Until you go up
5 to high school or through high school?

6 MS. SAVAGE: Through high school.
7 We're going through high school. We're
8 putting in a charter amendment. We had 300
9 girls on the waiting list this year that we
10 couldn't take --

11 VICE CHAIR SORG: Wow.

12 MS. SAVAGE: -- because we didn't
13 have the space.

14 VICE CHAIR SORG: Okay. That's all
15 my questions. Thank you.

16 CHAIRMAN JORDAN: Anyone else?
17 Okay, let's go to the DDOT.

18 MR. ANDRES: As part of DDOT's
19 report they've identified six conditions that
20 we wanted to address as part of my testimony.

21 The school actually agrees to all of them, and
22 I've highlighted in bold the third bullet which

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1 says "implement student drop-off and pick-up
2 plan."

3 And with that our student drop-off
4 and pick-up plan is actually consistent with
5 many of the other school drop-off and pick-up
6 plans that our firm and myself have worked on
7 personally. And it's important that there are
8 some of the major benefits of this plan.

9 The first is that the school is
10 committed to providing more staff to help with
11 the pick-up and drop-off, because currently
12 pick-up and drop-off takes place on both MLK
13 as well as on Sumner.

14 In addition to that what we wanted
15 to identify was that the curbside management
16 where the staff members would be posted, what
17 we wanted to do is we wanted to restrict any
18 of the parents dropping off on the opposite side
19 of the street. And the intent of that is to
20 have all passenger-side loading and unloading
21 to basically provide safe and efficient
22 maneuvers for that.

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1 And then the third component of the
2 plan, the school has committed to a staggering
3 of arrivals of at least by 15 minutes. The
4 groupings haven't been identified yet, but
5 obviously the staggering will help disperse the
6 arrivals and the departures that will allow for
7 some of these queues to be minimized as the
8 morning progresses.

9 So those are the three major
10 components. More staff up front, having all
11 of the drop-offs take place on the school side,
12 and the staggering. In addition to that the
13 school is committed to promoting the operations
14 on their website and on their distributions
15 before school starts.

16 And we also wanted to make it clear
17 that no short-term parking will be allowed in
18 front of the school, so a parent can't stop in
19 front of the school, run in with their child
20 and then run out. The car has to be attended.

21 So those are the elements of the plan
22 that as the school takes over the entire building

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1 they would provide more detail especially on
2 the staggering component of the plan.

3 VICE CHAIR SORG: And then again
4 when would they provide more detail?

5 MR. ANDRES: Well, at this point
6 obviously as the school grows by the addition
7 of the additional grades, you know, we can't
8 really identify what that staggering system is
9 yet because there are some grades that aren't
10 accounted for yet.

11 VICE CHAIR SORG: All right.

12 MR. ANDRES: But the intent and the
13 actual policy and measure is approved in a
14 Transportation Demand Management measure that,
15 you know, many of the schools in the District
16 have employed.

17 CHAIRMAN JORDAN: Let me ask a
18 question. What are the specific incentives
19 that you're going to discuss with the faculty
20 and staff and others to encourage carpooling,
21 et cetera?

22 MR. ANDRES: The Transportation

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1 Demand Management measures that we've
2 identified is actually located, is presented
3 on Page 3 of your handout. That's the top slide.

4 It's TDM measures, which is the Transportation
5 Demand Management. It identifies distributing
6 educational materials. The
7 Anacostia Metro station is roughly a block away,
8 a block to the north of us, and it's actually
9 on the same side of the street, so that helps.

10 We're identifying preferential parking spaces
11 for employees that do want to carpool.

12 We're also enrolling in a school
13 pool program which actually is geared more
14 towards the students than it is for the faculty,
15 but that carpooling program can easily be
16 applied to the faculty and staff as well.

17 We're providing additional bike
18 parking that doesn't exist today, and that's
19 consistent with the comments made by DDOT to
20 include both bike parking outside of the
21 building at the main entrance as well as bike
22 parking inside the building in secured areas.

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1 So those are the major elements that
2 are geared to address the employee parking
3 situation. And the school also has a flexible
4 spending account that they can utilize for
5 SmartBenefits.

6 CHAIRMAN JORDAN: Any other
7 questions of the applicant? Is there anything
8 else you wish to present before we --

9 MR. KADLECEK: I just want to make
10 one comment and that is, the school's operating
11 under a temporary C of O right now, so the
12 permanent C of O is contingent on us getting
13 this approval. So I just want to make it clear
14 that the future of the school sort of is
15 dependent on the relief we're asking for.

16 So that's why we've come up with this
17 robust Transportation Demand Management plan
18 as well as the student pick-up and drop-off plan,
19 in order to ensure that we minimize any impacts
20 from the relief that we really do need for the
21 school to continue operating.

22 CHAIRMAN JORDAN: Thank you.

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1 Yes, go ahead.

2 VICE CHAIR SORG: I just have a
3 couple of other questions. So the TDM measures,
4 DDOT conditions and student drop-off and pick-up
5 plans that you're showing in your PowerPoint,
6 are those intended to be conditions that you're
7 proposing that you feel kind of respond to, you
8 know, all of the ones of DDOT?

9 MR. KADLECEK: Everything we're
10 proposing we are comfortable committing to as
11 conditions, yes.

12 VICE CHAIR SORG: Okay. So in that
13 vein, one thing that DDOT asked for in a
14 potential condition and one thing that you seem
15 to be in agreement with is providing employees
16 the SmartBenefits.

17 Is there a dollar amount that the
18 school is willing to associate with that? I
19 think, you know, the conditions need to be as
20 specific as possible in order to mitigate
21 possible negative effects, and so I think some
22 of these are not yet ripe in their language for

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1 conditions but maybe we can get there.

2 MS. SAVAGE: We currently have in
3 place a flexible spending account for our
4 employees that is up to \$1,500 for this year.

5 Our plans are to go forward next year and
6 increase that by \$500, and employees can decide
7 how they would like to use the pre-tax set-aside
8 under that account.

9 CHAIRMAN JORDAN: But that's from
10 the withholding from the employees.

11 MS. SAVAGE: Right.

12 CHAIRMAN JORDAN: So the school is
13 not providing any additional funds outside of
14 the employees' withholding?

15 MS. SAVAGE: Not at this time. It
16 is something that we discussed yesterday and
17 tried to figure out the physical impact
18 long-term on the school, and I would have to
19 review that and get approval from my Board before
20 making a commitment.

21 CHAIRMAN JORDAN: So an employee
22 may elect not to do that or arguably all

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1 employees can elect not to do that. So we would
2 not have --

3 MS. SAVAGE: Could elect not to do
4 that. We have a number of employees that are
5 currently participating in that program at this
6 time and have asked for bike racks.

7 MR. KADLECEK: I think the intent
8 of it is to encourage people to take
9 transportation when they may not otherwise do
10 it because of the fact that the money they can
11 use for it is now pre-tax as opposed to post
12 tax. It's just like any other SmartBenefits
13 program that any other employer would have.

14 This is a public charter school, so I think
15 their resources are probably a little bit more
16 limited than a lot of other employees in an
17 ability to subsidize that program.

18 VICE CHAIR SORG: So what is the
19 amount that it will be? You said it's changing
20 in the flexible spending account for each
21 employee going forward? She's saying that
22 they're increasing the amount that is eligible.

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1 MS. SAVAGE: Next year. Next year,
2 employees are able to reserve up to \$2,000
3 pre-tax earnings in their flexible spending
4 accounts.

5 VICE CHAIR SORG: Okay. And then
6 regarding the bike racks. DDOT is indicating
7 a potential condition of installing five bike
8 racks at the main entrance and ten in a secure
9 location, and that's something that's
10 agreeable?

11 MR. KADLECEK: Yes, we're
12 comfortable with that.

13 VICE CHAIR SORG: Okay, thank you.
14 That's it for now.

15 CHAIRMAN JORDAN: Are there any
16 other questions of the applicant? No. Then
17 let's turn now to the Office of Planning.

18 MR. JACKSON: Good morning, Mr.
19 Chairman and members of the Board. My name's
20 Arthur Jackson with the D.C. Office of Planning.
21 You have our report before you.

22 The Office of Planning supports the

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1 application, but we're encouraging the
2 applicant to provide more specificity about the
3 requirements and they've made some good steps
4 in that direction. We're available to answer
5 questions about our concerns addressed in our
6 report at your pleasure.

7 CHAIRMAN JORDAN: You've heard
8 their presentation this morning, Mr. Jackson.

9 Do you still have questions or additional
10 information that you would need to hear?

11 MR. JACKSON: Well, when we
12 initially discussed and met with the applicant
13 the concern that was transmitted in our report
14 was that it was still a little bit soft about
15 what is the actual number of spaces that you
16 could provide off site, and what is the number
17 of spaces you can provide on site?

18 The answer about the spaces on site
19 seems fairly clarified. There was also some
20 discussion of being able to move, have
21 additional spaces perpendicular to the
22 children's play area closest to the building.

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1 I didn't hear any discussion about that this
2 morning.

3 So there are still some issues that
4 seem not as clear as they could be. But there
5 has been improvement.

6 CHAIRMAN JORDAN: I'm going to ask
7 the applicant to address those concerns raised
8 by Office of Planning.

9 MR. ANDRES: Well, with respect to
10 the play area, you know, given the school's
11 mission and program we tried to stay away from
12 parking in those areas. So the 27 spaces that
13 we've identified as spaces that are
14 attended-assisted are within existing asphalt
15 locations that cars can access outside of the
16 play area.

17 And again the intent was to maximize
18 as many vehicles that we can park on site while
19 providing the space for the school to continue
20 operating its mission.

21 CHAIRMAN JORDAN: Does the Board
22 have any other questions of the Office of

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1 Planning? Anyone? Is there any additional
2 information that you needed, Mr. Jackson, from
3 the applicant other than that response?

4 MR. JACKSON: Well, the only other
5 question I asked was what is the maximum number
6 of spaces that they could secure at the remote
7 location?

8 CHAIRMAN JORDAN: I understand you
9 have 15 now, but potentially I guess you're
10 asking, was a range put on the table with the
11 church, how many more spaces you can get, is
12 that what you're asking?

13 MR. JACKSON: Yes.

14 MS. SAVAGE: We could easily double
15 the number of spaces that we're leasing at this
16 time or increase beyond that depending on what
17 our needs are. And this is our second year in
18 working with the church in that capacity.

19 Further I would like to add, and
20 there is Reverend Kearney here from Campbell
21 AME Church, we use his parking lot in the morning
22 and in the evening for drop-off and pick-up for

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1 parents, and now have a crossing guard at the
2 Martin Luther King-Summer intersection to
3 facilitate parents bringing their children to
4 and across Martin Luther King.

5 MR. JACKSON: Mr. Chairman?

6 CHAIRMAN JORDAN: Yes.

7 MR. JACKSON: I just wanted to
8 clarify. What I'm looking to do is so that the
9 Board has sufficient information to make an
10 informed decision, I was encouraging the
11 applicant to state that this is the number that
12 is potential on the site.

13 So if you made a condition, the
14 condition would indicate that there might be
15 up to that number of spaces available assuming
16 over time after the three years they might need
17 that additional space if they were to do, say
18 if you made a condition of 15 spaces in any of
19 20 then, and that was already stipulated, at
20 least the community would know that there is
21 this flexibility that's available to the
22 applicant should the need arise. So that's what

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1 we were actually encouraging the applicant to
2 do and that information was very useful.

3 Now the other option would be say
4 if there are a lot of things that are still
5 moving, given the fact that you haven't got the
6 students in place, you aren't quite sure what
7 the numbers are going to be, you know, you can
8 try to expand over three years. It may be
9 prudent to put a time frame on this approval
10 such that it can be reviewed again at a later
11 date, but that's again I'm just throwing out
12 that option.

13 We did mention the Office of
14 Planning's report, but again we're just
15 encouraging the applicant to do as much as they
16 can now to make their firmest and give them most
17 of the information the Board would need to make
18 an informed decision.

19 CHAIRMAN JORDAN: Very good, thank
20 you. Any other questions from the Office of
21 Planning, anyone?

22 MR. MAY: Yes. I just wanted to

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1 follow up on my question. I asked the question
2 of the applicant with regard to the Barry Farms
3 Rec Center renovation, and it's still kind of
4 sticking in my memory having seen some plans
5 for that at the National Capital Planning
6 Commission.

7 Did you review the development plans
8 for its potential impact on the parking lot in
9 particular? Because it just seemed to me that
10 there was some potential for that redevelopment
11 to affect the parking lot.

12 MR. JACKSON: No, I did contact the
13 Department of Parks and Recreation about the
14 idea of possibly extending the parking lot into,
15 beyond in a field that looks like it's behind
16 the outfield of the baseball field. But they
17 were indicating that they were very strongly
18 opposed to any changes to this field because
19 they've seen across the city that the open spaces
20 are being cut down for new development.

21 So they wanted to maintain the
22 existing field the way it is, but they did not

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1 express any concerns about the activities at
2 the school at least, but my question to them
3 specifically was about extending the existing
4 parking lot.

5 MR. MAY: Okay. Well, I'm glad
6 they're resistant to expanding the parking lot
7 into the park land, but I am still concerned
8 that in the future there's, because I know that
9 the redevelopment of the Barry Farms Rec Center
10 and all of the fields, it's been a struggle over
11 the last few years to come up with the right
12 allotment of space to the buildings and to the
13 fields and to put the tennis courts in the right
14 place and where do they put their parking and
15 so on.

16 And I just, I have this vague
17 recollection since it's all part of the same
18 parcel of land that was transferred by the Park
19 Service to the city for recreation purposes that
20 the boundary there seemed a bit nebulous, and
21 I was just concerned that there was, you know,
22 that in the future somebody's going to try to

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1 eat up some of that parking.

2 MR. JACKSON: Well, in our email
3 communication with the Department they didn't
4 raise that issue. So there's some we could
5 check on if you want additional information and
6 ask them that question directly, do you think
7 any of the activities of the school would have
8 any impacts on your proposed plans?

9 MR. MAY: Yes. And I think it's in
10 the hands of, I'm not sure the Parks and Rec
11 are the ones with their finger on the pulse
12 there. It was the Department of General
13 Services and Deputy Mayor's office that were
14 driving that redevelopment.

15 MR. JACKSON: One thing I would note
16 is that I believe their lease is with the
17 Department of General Services. But again I
18 can ask both --

19 MR. MAY: I understand. I mean I
20 just have a little bit of a fear of a left
21 hand-right hand, and both even within DGS, an
22 agency where I former worked, I know that there

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1 are many hands.

2 MR. JACKSON: I can forward that
3 question of both agencies.

4 MR. MAY: Okay.

5 CHAIRMAN JORDAN: Additional
6 questions, Board? Does the applicant have any
7 questions of Office of Planning?

8 MR. KADLECEK: Just one question of
9 clarification. When you were talking about the
10 outside spaces, were you asking us to commit
11 to a different number than the 15 we already
12 are committing to? I guess I was just confused
13 what exactly you were looking for.

14 MR. JACKSON: Well, in the Office
15 of Planning's report what we had identified was
16 the issue of how many spaces we're actually
17 allowed to use on the other side. And there's
18 a range. If you wanted 30, and 30 spaces used
19 during the day would not put the church in
20 non-compliance, if there was an understanding
21 that you could go up to that range if you needed
22 to in some term, some time frame, that would

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1 be useful information for the Board. So that's
2 really what I was shooting for.

3 MR. KADLECEK: Okay, but you
4 weren't asking us to make a particular
5 commitment for those off sites, for a certain
6 number of off sites --

7 MR. JACKSON: No, and at this point
8 it looks like you could use them for what you
9 have and then going long-term assuming you were
10 effective in getting up to 45 percent of people
11 taking transit but you still need some more off
12 site spaces then you could use up to a certain
13 number at the church and not put the church in
14 jeopardy because they'd be violating their
15 parking requirement.

16 MR. KADLECEK: Okay, thank you.

17 CHAIRMAN JORDAN: Any other
18 questions of Planning? Then let's turn now to
19 the Department of Transportation.

20 MS. CHAMBERLIN: Good morning.
21 I'm Anna Chamberlin with the DDOT. And I just
22 received this morning, right before the hearing,

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1 the submission from the applicant regarding,
2 I guess, their supplemental transportation
3 submittal.

4 Just as a background, currently in
5 the District we're having lots of traffic
6 impacts occurring from schools that are being
7 reused by charter schools. So the local schools
8 would draw from the local neighborhood and the
9 transportation impacts would be not as big.
10 Most people would be walking or they would be
11 on their way to their commute and drop their
12 kid off.

13 What we're experiencing in a lot of
14 these reused sites with charter schools are that
15 now they're drawing students from outside of
16 the neighborhood and the impacts, the
17 transportation impacts, have been much wider
18 than, I guess, the local neighborhood or given
19 that it's a matter of right, Zoning had
20 anticipated.

21 And we're now having to backtrack
22 when we're getting complaints from the

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1 neighborhood that these charters have come in
2 and, you know, they're having lots of impacts
3 on particular intersections.

4 So this is, I guess, where we were
5 concerned with this school as well. And what
6 we had asked, which I'm glad to see that the
7 applicant's complying to most of them, was to
8 figure out what the exact trip generation rate
9 was existing and that they commit to maintaining
10 that number and not actually increasing it.

11 From what I see in the submission,
12 what they're stating is they didn't do a peak
13 hour estimate but then they're using a linear
14 growth rate as a comparable for when it
15 increases, but that wasn't the intent. What
16 we were asking is, what are the trip numbers
17 that are occurring right now?

18 And with increase in students we
19 hope that the Transportation Demand Management
20 measures that are being implemented will keep
21 and maintain the existing rate and not that it
22 just grow per students in the same fashion that

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1 it is right now.

2 So that's what we were looking was
3 in order to further reduce and minimize
4 transportation impacts, specifically this area
5 as some have already mentioned there's a lot
6 of development coming in, and intense
7 development that's going to be in line in the
8 next, you know, ten years in this area.

9 So that's our main concern. We were
10 just looking to keep the impacts that are
11 existing today to a comparable rate. That's
12 why we were leaving some flexibility for the
13 applicant to tell us what's the existing rate
14 and what would be a comparable, you know, with
15 some leeway with the student increase and not
16 necessarily just see a linear growth rate to
17 what's today and what's going to be with the
18 increase. So thank you.

19 CHAIRMAN JORDAN: Does the Board
20 have any questions for DDOT, please?

21 VICE CHAIR SORG: Well, I'm curious
22 to hear the applicant's response to that, to

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1 DDOT's comments. I think they make sense.

2 MR. ANDRES: Well, with respect to
3 the request that DDOT made, what they had asked
4 for is what is the existing trip generation rate
5 of the existing student and employee population.

6 And what we did is we, as Ms.
7 Chamberlin had mentioned, yes, what we did is
8 for the future, you know, normally we identify
9 a straight line comparison with the number of
10 students to identify what it could potentially
11 be in the future if things were status quo.

12 And the reason why we did that is
13 to identify, okay, if things don't change, if
14 the population arrives like they currently are
15 today without any Transportation Demand
16 Management measures, this is the impact, this
17 is the number of vehicle trips that will continue
18 coming to the school assuming that the school
19 is still drawing from the same demographic
20 whether it's geographic or otherwise.

21 So what we've identified is that,
22 okay, this is the level that we can see take

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1 place if we don't do anything. But we're not
2 saying that. What we are saying is that that
3 is probably the worst case scenario if we don't
4 do anything, but we've committed as part of our
5 application to do a whole host of items in our
6 Transportation Demand Management program that
7 identify significant decreases in that rate.

8 But we won't know what those
9 decreases are until you actually implement these
10 TDM measures. And that's why also as part of
11 the plan and the commitments is a monitoring
12 program to see how you do relative to the
13 incoming grades that are coming.

14 But the worst case is that linear
15 extrapolation that we've done, but the best case
16 will more than likely be lower than that because
17 we are committing to several Transportation
18 Demand Management measures that currently the
19 school is not doing.

20 CHAIRMAN JORDAN: Additional
21 questions? Mr. May?

22 MR. MAY: Yes. Is DDOT comfortable

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1 that the current parking demand compared to what
2 they can supply through these various means is
3 going to be adequate to avoid spillover into
4 the neighborhood?

5 MS. CHAMBERLIN: Yes.

6 MR. MAY: And in the future do you
7 imagine that the TDM measures and such are going
8 to drive the number of vehicles coming to the
9 site down significantly?

10 MS. CHAMBERLIN: Yes, we hope so.

11 MR. MAY: Hope so or think so, okay.

12 MS. CHAMBERLIN: That's the
13 monitoring. I mean TDM, it's not an exact
14 science.

15 MR. MAY: Right. Okay, thanks.

16 CHAIRMAN JORDAN: Does the
17 applicant have any questions of the Department
18 of Transportation?

19 MR. KADLECEK: No questions.

20 CHAIRMAN JORDAN: Any other
21 governmental agency here? Is there a
22 representative from ANC-8C present? Yes.

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1 MS. CUTHBERT: Good morning, Mr.
2 Chair and members of the Board. I'm Mary
3 Cuthbert, the chair for Advisory Neighborhood
4 Commission 8C.

5 CHAIRMAN JORDAN: Welcome. Glad
6 you're here.

7 MS. CUTHBERT: I would like to
8 preface my testimony that we did not have a
9 quorum at our December 5th meeting, for most
10 of our commissioners did that decide to run again
11 as a candidate. So I'm testifying as an
12 individual.

13 CHAIRMAN JORDAN: Okay, well, let's
14 do this. Let's segue into that portion and take
15 those people who wish to speak in support of
16 the application to speak. So you're first up.

17 MS. CUTHBERT: Okay, thank you. At
18 our regular and sufficient notice meeting on
19 December 5th, 2012, representative of Excel
20 Academy presented the plans for a variance from
21 the off-street parking requirements.

22 Although a quorum was not present,

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1 I am writing to express my support of the
2 requested parking variance. Excel Academy
3 requested a variance from the off-street parking
4 requirements so that it can expand its faculty
5 and staff to accommodate additional students.

6 The school explained why they cannot
7 provide sufficient on-site parking and how they
8 would be burdened by having to comply with the
9 parking requirement. They also explained how
10 they plan to manage the expected increase in
11 cars from additional faculty and staff.

12 The variance will not create an
13 adverse parking on traffic impact in the
14 neighborhood. Excel Academy is a welcome and
15 vital institution in the neighborhood. The
16 school does a tremendous job of educating girls
17 in the District of Columbia, and it has a
18 sufficient impact on the young peoples'
19 education.

20 Many girls would like to attend
21 Excel Academy but it does not have the capacity
22 right now. The school ability to expand is

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1 contingent upon the request variance, so to
2 approve the variance will have wide-range,
3 positive an impact on the community. I request
4 that the Board approve the variance from the
5 off-street parking requirement.

6 I do want to add something. I ride
7 the bus every day down Martin Luther King Avenue
8 and I pass Excel school, and not only Excel,
9 we have another charter school further up
10 Congress Heights. And I tried to observe how
11 the traffic, the cars impact the community.

12 Excel has done an exceptional job
13 in making sure that the traffic flow keep going,
14 because it's a block away from the Anacostia
15 Station. So I'm really supportive of the
16 variance that they try to keep the traffic off
17 of Martin Luther King Avenue which is a main
18 thoroughfare.

19 CHAIRMAN JORDAN: Thank you. We
20 appreciate your testimony and taking the time
21 coming down. Is there anyone else in the
22 audience -- well, let me go back. Does the Board

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1 have any questions of Ms. -- yes, go, ahead.

2 MR. MAY: Chairman Cuthbert, I
3 guess what I'm curious about, you've observed
4 the traffic and you say they've done a good job
5 of managing that. Is there a problem right now
6 with staff parking in the neighborhood or
7 anything like that or is it all being handled
8 very well right now?

9 MS. CUTHBERT: The staff parking is
10 on the parking lot.

11 MR. MAY: Right.

12 MS. CUTHBERT: So during the middle
13 of the day I do have a couple of neighbors'
14 children who attend the school and they let me
15 know. During the --

16 MR. MAY: You haven't heard any --

17 MS. CUTHBERT: No problem
18 interfering with the community. And as you
19 know, Mr. May, there is a new community coming.

20 MR. MAY: Yes. Very quickly.

21 MS. CUTHBERT: Yes.

22 MR. MAY: All right, I was just

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1 curious about whether there's a problem now
2 because the traffic report indicated that there
3 wasn't sufficient capacity and it's not as good
4 as it could be right now. So if nobody came
5 to your meeting with concerns about impacts in
6 the neighborhood that's reassuring.

7 MS. CUTHBERT: Not yet. We have
8 other complaints about a charter school further
9 up in Congress Heights.

10 MR. MAY: Right, okay. Thanks.

11 CHAIRMAN JORDAN: Any other
12 questions of Ms. Cuthbert? No? Does the
13 applicant have any questions?

14 MR. KADLECEK: No questions.

15 CHAIRMAN JORDAN: Thank you. Is
16 there any other person wishing to speak in
17 support of this application?

18 Would you please state your name for
19 us?

20 MR. KEARNEY: I'm Daryl Kearney,
21 the pastor of Campbell AME Church. Good
22 morning, Board.

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1 CHAIRMAN JORDAN: Let me ask. Are
2 you here to be sworn in and all that before you
3 testify?

4 MR. KEARNEY: I was here.

5 CHAIRMAN JORDAN: And did you fill
6 out two witness cards for us?

7 MR. KEARNEY: I did.

8 CHAIRMAN JORDAN: Thank you very
9 much, proceed.

10 MR. KEARNEY: I'm just here just to
11 testify in support of Excel. Approximately two
12 years ago when I arrived at Campbell AME Church
13 as the pastor, the president and the CEO of Excel
14 and I met and we dialogued and we developed a
15 partnership with each other, and where they are
16 able to park in the church's parking lot, the
17 parents are, for drop-off and pick-up, and where
18 we approximately have about 50 spaces there for
19 their use during that time.

20 CHAIRMAN JORDAN: Thank you. Any
21 questions from the Board of -- no? Any
22 questions by the applicant?

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1 MR. KADLECEK: No questions.

2 CHAIRMAN JORDAN: We appreciate it,
3 Reverend, you coming down providing testimony.

4 CHAIRMAN JORDAN: Is anyone else in
5 the audience wishing to speak in support of this
6 application? Is anyone in the audience wishing
7 to speak in opposition to the application?
8 Anyone wishing to speak in opposition?

9 Then let's turn back to the
10 applicant for, I don't think there's a need for
11 rebuttal, I think there's just the need for a
12 wrap-up.

13 MR. KADLECEK: Yes, I just want to
14 make a couple points. I want to reiterate the
15 temporary certificate of occupancy point that
16 I made earlier that the school is operating under
17 a temporary certificate of occupancy that is
18 contingent on approval. The permit is
19 contingent on approval of this variance.

20 I also want to make the point that
21 all the conditions that we have submitted we
22 are comfortable committing to. We can clarify

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1 some of those as Board members are pointed out,
2 if necessary, but everything that we've
3 submitted thus far we are comfortable committing
4 to and we believe that those will sufficiently
5 address both the concerns of the Office of
6 Planning and DDOT as well as mitigate any
7 possible impacts from the variance relief that
8 we are requesting.

9 I do want to also remind the Board
10 that this is a public charter school so resources
11 are limited. We don't have the ability to
12 provide some of the Transportation Demand
13 Management measures that some private schools
14 might have the ability to do by just say raising
15 their tuition a little bit and start providing
16 a shuttle or something along those lines, but
17 everything that we are committing we believe
18 will have a positive impact on mitigating any
19 traffic impacts.

20 With that we do request that the
21 Board approve this application. Thank you.

22 CHAIRMAN JORDAN: Thank you. Then

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1 I will close this hearing based upon the record
2 submitted before the Board and move the, and
3 turn to the bodies to see if they're ready to
4 deliberate.

5 I believe that the applicant has
6 made the case and has met all the conditions
7 and requirements to be granted a variance,
8 especially as an institution, the requirements
9 for a variance to be allowed the off-street
10 parking relief.

11 I would want to see a tightening of
12 the conditions, and I would believe that the
13 conditions should be tightened in a more
14 affirmative way. And I do have a motion but
15 I want to get any other feedback before I go
16 forward with anything else.

17 Anybody else have any discussions?

18 (Off microphone discussion)

19 CHAIRMAN JORDAN: Yes, I have the
20 conditions and let me, I want to just get
21 feedback about the application first and then
22 make a motion, which would include conditions

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1 which we will modify as we go along.

2 Yes, Mr. May?

3 MR. MAY: Yes, I guess the one
4 thought that I had was whether this approval
5 should be time limited given that there are a
6 number of uncertainties and, you know, if after
7 the TDM measures are in place and things start
8 to improve there may be greater comfort with
9 making it permanent or giving it a longer term.

10 But I would be interested in a time limit.

11 CHAIRMAN JORDAN: Okay. Mr.
12 Hinkle?

13 MR. HINKLE: Yes, thank you, Mr.
14 Chair. I would echo Mr. May's comments. It
15 seems like there is a question in terms of how
16 effective the TDM measures would be in the future
17 and there's a commitment by the applicant to
18 monitor their effectiveness. So I think a term
19 limit would be appropriate in this case.

20 CHAIRMAN JORDAN: Is that, are you
21 thinking three or five years, either one of you?

22 Mr. May?

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1 MR. MAY: You know, I think that
2 since they're looking to make the transition
3 next year and implement all these changes over
4 the next year they'll be adding more students
5 and so on, I mean I think three years is probably
6 a reasonable time to take a look at it again
7 and hopefully be able to move to a permanent
8 set of conditions and so on.

9 Five years gives them more room to
10 figure things out, but I think that, frankly,
11 I'm optimistic that they will get it figured
12 out in three years and then we can finalize it.

13 CHAIRMAN JORDAN: Okay. Mr.
14 Hinkle?

15 MR. HINKLE: No, I think that's
16 reasonable.

17 CHAIRMAN JORDAN: Any other
18 conversation deliberation? Then I would move
19 that we grant the relief requested by the
20 applicant for a three-year period of time with
21 the following conditions.

22 That the applicant shall designate

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1 a TDM coordinator to oversee and implement the
2 TDM measures. That at the beginning of the
3 school year that the applicant shall distribute
4 information to faculty, staff and students
5 explaining the benefits of sustainable
6 transportation practices.

7 That the applicant shall provide
8 incentives to encourage more employees to
9 carpool and the incentive shall include the
10 provisions as asserted as listed in the TDM.

11 Number four, that the applicant
12 shall work with the MWCOG to help parents to
13 identify other parents to share, to
14 vehicle-share trips to the site. That the
15 applicant shall allow employees to withhold
16 funds from their paycheck for transit under the
17 WMATA SmartBenefits program.

18 The applicant shall monitor the trip
19 generation and mode split for employees and
20 students and report this information to DDOT
21 in order to monitor the progress of the TDM
22 program annually. The applicant shall

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1 re-stripe the existing parking areas to
2 accommodate additional vehicle spaces.

3 The applicant shall finalize the
4 parking agreement between Excel Academy and
5 Matthews Memorial Church to lease the 15 parking
6 spaces and to include an option for additional
7 space, the maximum amount as an option in the
8 agreement as well as execute an option agreement
9 with Campbell AME Church for additional parking.

10 The applicant shall complete a trip
11 generation analysis of existing and future
12 conditions associated with the population
13 increase with distribution to DDOT. The
14 applicant shall maintain a comparable site trip
15 generation rate for future conditions with
16 annual submission to DDOT.

17 The applicant shall develop and
18 implement a student drop-off/pick-up program.

19 The applicant shall install at least five
20 inverted bicycle U-racks at the main entrance
21 of the building. The applicant shall install
22 at least ten inverted bicycle U-racks in an

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1 accessible and secure location within the
2 building.

3 The applicants shall implement the
4 TDM strategies described in the technical
5 memorandum regarding the TDM operation program.

6 That would be my motion.

7 VICE CHAIR SORG: Second.

8 CHAIRMAN JORDAN: Motion made and
9 seconded. Any unreadiness or any other
10 discussion? Seeing none, all those in favor
11 signify by saying aye.

12 (Chorus of ayes)

13 CHAIRMAN JORDAN: Those opposed
14 nay. The motion carries. Mr. Moy?

15 MR. MOY: Staff would record the
16 vote as four to zero. This is the motion of
17 Chairman Jordan to approve the application with
18 the conditions that the chairman just cited.

19 Second the motion, Vice Chairperson
20 Sorg. Also in support of the motion, Mr. Peter
21 May and Mr. Jeffrey Hinkle. And of course we
22 do have a Board seat that's vacant. So the

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1 motion carries, Mr. Chairman.

2 CHAIRMAN JORDAN: And with that may
3 we have a summary order, Mr. Moy?

4 MR. MOY: Yes, sir.

5 CHAIRMAN JORDAN: Thank you. We
6 thank you for coming and thank you all for taking
7 the time. Thank you.

8 MR. KADLECEK: Thank you.

9 MR. MOY: The next application is
10 Application Number 18473. As advertised is the
11 application of Robert F. McCulloch, pursuant
12 to 11 DCMR 3103.2, for a variance to allow a
13 pick-up dry cleaners/laundromat under
14 subsection 330.5.

15 This is in the R-4 district at
16 premises 300 11th Street, S.E. Property
17 located in Square 990S Lot 812.

18 CHAIRMAN JORDAN: Yes, those
19 persons for this application please come
20 forward.

21 (Off microphone discussion)

22 CHAIRMAN JORDAN: Who are you, and

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1 please take a seat and sit by a microphone
2 please.

3 MR. COLEMAN: My name is Papa-Kwesi
4 Coleman and I'm --

5 CHAIRMAN JORDAN: Your last name is
6 what? Coleman?

7 MR. COLEMAN: Coleman, yes.

8 CHAIRMAN JORDAN: And you are here
9 to --

10 MR. COLEMAN: I'm here as agent for
11 Mr. Han Kwak, the owner of the business in
12 question.

13 CHAIRMAN JORDAN: Agent. Are you
14 listed as the authorized representative? Is
15 that what we have in the file?

16 MR. COLEMAN: Yes.

17 CHAIRMAN JORDAN: Then fine. Then
18 let's continue on and introduce persons at the
19 table.

20 MR. KWAK: My name is Han, and the
21 last name is K-W-A-K, Kwak. Okay, I got up to
22 1988 for the first time --

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1 CHAIRMAN JORDAN: No, I just need
2 your name. And give me your name one more time,
3 please.

4 MR. KWAK: H-A-N, last name
5 K-W-A-K, Kwak.

6 CHAIRMAN JORDAN: And you are the
7 --

8 MR. KWAK: The owner of the
9 cleaners.

10 CHAIRMAN JORDAN: All right, thank
11 you. The applicant, all right. Yes?

12 MS. MARGARET MCCULLOCH: I'm
13 Margaret McCulloch, daughter of the owner and
14 one of the two property managers.

15 MS. MARIA MCCULLOCH: I'm Maria
16 McCulloch, owner of the building where Mr. Kwak
17 has his business, and the widow of Robert F.
18 McCulloch. It's on the application.

19 CHAIRMAN JORDAN: Thank you.

20 MR. MCCULLOCH: And I'm Robert F.
21 McCulloch, Jr. I also co-manage the property
22 for --

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1 CHAIRMAN JORDAN: Got it,
2 McCulloch, McCulloch, McCulloch. Okay, very
3 good.

4 Let me turn to Mr. Peter May, please.

5 MR. MAY: Yes, I just wanted to
6 state for the record that I live in very close
7 proximity to the dry cleaners and I use the
8 business regularly, but I don't believe that
9 there's any reason why I couldn't continue with
10 this case.

11 CHAIRMAN JORDAN: Yes, there's no
12 conflict. You have no personal or pecuniary
13 interest in the operation.

14 I believe that we do have a late
15 submittal on the ANC letter, but we do have that
16 which we will accept in our record. I believe
17 that the file is very complete regarding the
18 relief that's necessary here.

19 MR. COLEMAN: I have a
20 late-breaking submission on behalf of --

21 CHAIRMAN JORDAN: What kind of
22 submission?

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1 MR. COLEMAN: -- of DCRA. There's
2 documentation, sort of a refileing that needed
3 to be presented.

4 CHAIRMAN JORDAN: I think the
5 question here is that -- and let me go back,
6 that there's not a, it's been the Zoning
7 Administrator's reconsideration, I guess, OP's
8 in agreement with that, that a variance is not
9 necessary but this can be allowed as a special
10 exception, is that correct?

11 MR. COLEMAN: Yes, and I have the
12 documentation in hand.

13 CHAIRMAN JORDAN: If you can just
14 hold onto that for right now. And so we can
15 accept that as a, this amendment as a special
16 exception, and I don't believe that it will be
17 required to do any re-posting or advertising.

18 I think it's all-inclusive of the
19 relief that's necessary to be granted. I
20 believe there's sufficient information in this
21 file to move forward with this application
22 without any additional testimony, but let me

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1 check with the Board first, if the Board members
2 have any questions that they need to raise.

3 We believe that the file is
4 sufficient as it is to grant the relief that
5 is requested as amended, and especially in light
6 of 515 letters of support, signatures in
7 support, the ANC's support, Office of Planning
8 support with some conditions.

9 And are you familiar with the
10 conditions that Office of Planning has put in
11 place? I think they're some of the same ones
12 that have been there before.

13 MR. COLEMAN: Okay.

14 CHAIRMAN JORDAN: So then if it's
15 okay with the applicant then we will just then
16 turn to Office of Planning and move this hearing
17 forward. Yes?

18 MR. COCHRAN: Thank you, Mr. Chair.

19 This is as close to a lovefest as the Office
20 of Planning has seen in quite some time.

21 There's only one question. The
22 applicant has requested that all of the same

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1 conditions be applied permanently. That it be
2 allowed to operate the dry cleaners there
3 permanently.

4 Office of Planning recommended the
5 same thing. As you'll recall it was for 15 years
6 the last time. They've been there for 24 years
7 total. The only difference of opinion is that
8 the ANC wishes the time limit to be 15 years
9 again.

10 OP thinks after they've been there
11 for 24 years without any letters of complaint
12 and 500 and some letters in support, maybe
13 they've demonstrated that they're good
14 neighbors and can stay there for as long as
15 they're alive and operating under the
16 conditions.

17 CHAIRMAN JORDAN: All right, thank
18 you. Does the Board have any questions for the
19 Office of Planning? Yes?

20 MR. MAY: Yes, the one question I
21 have is that the, I mean so often the compliance
22 with conditions is a reflection of the

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1 management of the building or of the enterprise
2 itself.

3 And, you know, given that that over
4 the years, you know, looking in perpetuity that
5 could certainly change, would certainly change
6 at some point, do you have any concerns that
7 there's a potential for things to go awry if
8 we were to make a decision that went beyond the
9 15 years that ANC recommends?

10 MR. COCHRAN: One way to handle that
11 would be if they do violate conditions, if the
12 next owner perhaps violates conditions, they
13 would have come in for a new C of O as a change
14 in ownership and it would be a zoning enforcement
15 matter.

16 MR. MAY: Very good. Thank you.

17 CHAIRMAN JORDAN: Any other
18 questions of Office of Planning? I'm going to
19 assume that -- does the applicant have any
20 questions of Office of Planning? I would assume
21 that --

22 MR. COLEMAN: Not at the moment.

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1 CHAIRMAN JORDAN: Then we do -- has
2 the Department of Transportation weighed in on
3 this matter? I don't see anything from DDOT
4 in my files but that's okay, nor any other
5 governmental agency.

6 Is anyone here from ANC-6B? We do
7 have a letter of support from ANC-6B where they
8 had a quorum present and voted eight-one-one
9 to support this application, which they did
10 recommend a 15-year limitation on the special
11 exception which the Board will take under
12 consideration and give great weight to.

13 We're at the point where we will turn to
14 get those in the audience who wish to speak in
15 support of this application. We do have as I
16 said before 515 signatures in support of this
17 application. If you really feel like it's
18 necessary that you need to come and take the
19 microphone to speak additionally in support
20 you're welcome to do that.

21 Is there anyone in the audience in
22 opposition to wish to speak? Then we will turn

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1 back to the applicant and really see if there
2 was, normally the time for rebuttal and closing
3 but there's nothing to rebut and there's nothing
4 to close unless there's something you just think
5 that you have to say to us today.

6 MR. COLEMAN: Just a point of
7 information. At the ANC meeting itself the ANC
8 was split on a decision earlier in the meeting
9 to have this application be in perpetuity, five
10 and five. So I just wanted to make it clear
11 that there is even the ANC some support for it
12 to be in perpetuity.

13 CHAIRMAN JORDAN: Okay, thank you.
14 Then I'm going to close the hearing based upon
15 the record already acquired in this case and
16 turn to the Board for deliberations. Any
17 thoughts about this application or any
18 limitation to term, anyone? Mr. May?

19 MR. MAY: Well, I was reassured by
20 the Office of Planning's testimony about what
21 the recourse might be if things, if the
22 conditions were not lived up to in the future,

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1 so I'm comfortable going that direction.

2 But I'm also comfortable in time
3 limiting it, because 15 years is just about as
4 long as we get in anything that's time limited.

5 So that's a good long time.

6 CHAIRMAN JORDAN: Mr. Hinkle?

7 MR. HINKLE: Yes, thank you. My
8 thought is, you know, we do put these terms on
9 in order to allow some opposition to come forward
10 if there are some issues, but what I'm hearing
11 is there hasn't necessarily been some issues
12 with this so I would be comfortable with removing
13 the term limit.

14 CHAIRMAN JORDAN: Okay, what about
15 splitting the baby with the bath and put 25 years
16 on it, which becomes actually at some point
17 ridiculous, I believe, in that thought.

18 MR. MAY: Mr. Chairman, you know,
19 if you're more comfortable with 15 years I'm
20 happy to go forward with that, or 20.

21 CHAIRMAN JORDAN: No, I think
22 sometimes these things get to become so

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1 repetitive that we have people constantly coming
2 back and when they have no history of any
3 problems, and if then if there's a change of
4 ownership or a change of use then they have to
5 get permission anyhow. I guess just the
6 management issue though that we talked about.

7 MR. HINKLE: The other issue, Mr.
8 Chairman, is if there is a change in ownership
9 or a desire to change the conditions they would
10 have to come back to the Board for, you know,
11 additional approval.

12 MR. MAY: If there's a change in
13 ownership they'll need a new C of O --

14 MR. HINKLE: Right.

15 MR. MAY: -- but they wouldn't have
16 to come back here.

17 MR. HINKLE: Correct, correct.
18 But if there's a desire to change any of the
19 conditions.

20 MR. MAY: Yes.

21 CHAIRMAN JORDAN: That gives a
22 pause then toward if there's some issues that

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1 --

2 MR. MAY: Yes, I mean certainly if
3 they're living up to the conditions then it would
4 be, well, at any point if they're not living
5 up to the conditions whether there's a change
6 of ownership or not it becomes a zoning
7 enforcement matter.

8 CHAIRMAN JORDAN: Okay, and in
9 hearing that the ANC also was split on this in
10 their vote, so I would move that we grant the
11 special exception as requested by the applicant
12 with the five conditions which have been set
13 forth in Office of Planning's report.

14 That the hours of operation shall
15 be from 7:00 a.m. to 9:00 p.m. That the coin
16 laundry and dry cleaning drop-off and pick-up
17 facility shall be operated as a one unified
18 facility in a visually unimpeded space.

19 No flammable dry cleaning material
20 or materials with toxic fumes or noxious odors
21 shall be used or stored on site. That the
22 applicant shall maintain the interior and

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1 exterior in a neat and clean condition.

2 That the site shall be monitored
3 inside and outside at all times to prevent
4 loitering or people congregating of
5 non-customers. That would be my motion.

6 MR. MAY: Second.

7 CHAIRMAN JORDAN: Motion made and
8 seconded. Any unreadiness? All those in favor
9 signify by saying aye.

10 (Chorus of ayes)

11 CHAIRMAN JORDAN: All those
12 opposed? Then the motion carries. Mr. Moy?

13 MR. MOY: Yes, sir. Staff would
14 record the vote as three to zero to one. This
15 on the motion of Chairman Jordan to approve the
16 application with the five conditions as you have
17 stated.

18 Second the motion, Mr. Peter May.

19 Also in support of the motion, Mr. Jeffrey
20 Hinkle, Ms. Sorg not participating, and we have
21 a Board vacancy. The motion carries, Mr.
22 Chairman.

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1 CHAIRMAN JORDAN: Thank you. And
2 may we have a summary order in this please?

3 Yes?

4 MS. GLAZER: Mr. Chair, did I hear
5 right that it's no term?

6 CHAIRMAN JORDAN: No term.

7 MS. GLAZER: Well, there's a
8 question then whether a summary order would be
9 permissible, because technically the ANC
10 supported it with a term and the Board --

11 CHAIRMAN JORDAN: The question is
12 for the body, just the Board to decide whether
13 or not they wanted to take that risk, is that
14 what you're saying?

15 MS. GLAZER: No, I'm talking about
16 full order versus summary order.

17 CHAIRMAN JORDAN: I understand.

18 MS. GLAZER: And whether or not the
19 ANC's issues and concerns must be addressed.
20 In other words, explain why a full order at this
21 point. I mean an indefinite term not a, a full
22 order to explain why there's an indefinite term

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1 as opposed to a --

2 CHAIRMAN JORDAN: Then we'll pull
3 back on the summary order and do a full order.

4 Okay, thank you. Thank you very much. Go in
5 clean.

6 (Off microphone discussion)

7 CHAIRMAN JORDAN: All right, Mr.
8 Moy, did you make the announcement about 18474?

9 MR. MOY: I'm about to.

10 (Off microphone discussion)

11 CHAIRMAN JORDAN: So we can just,
12 let me go back and on 18473, and let's do some
13 type of hybrid partial order which addresses
14 the ANC's concerns and then the Board's
15 discussion regarding that, okay?

16 MR. MOY: Yes, that can be done, Mr.
17 Chairman.

18 CHAIRMAN JORDAN: Thank you.

19 MR. MOY: Thank you. The next
20 application, Mr. Chairman, that I did not bring
21 up as a preliminary matter, is Application
22 Number 18474. This is the application of

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1 Wagtime LLC.

2 And I might as well just read the
3 entire caption since I've already started the
4 ball here. Pursuant to 11 DCMR 3014 --

5 CHAIRMAN JORDAN: Well, Mr. Moy,
6 let's not because I understand it's going to
7 be amended anyway. And so let's just say what
8 the action we've taken.

9 MR. MOY: Okay. Well, then this is
10 for the record that the Board has concurred to
11 grant the postponement of this application and
12 the new hearing date is March the 5th, 2013.

13 So with that the next application
14 is Application Number 184 --

15 CHAIRMAN JORDAN: Mr. Moy, I'm
16 going to put a break on it, and as you know we
17 had some additional -- we're going to take a
18 break to 11:30 --

19 MR. MOY: Okay.

20 CHAIRMAN JORDAN: -- to 11:30 for
21 a couple of things. Some Board members have
22 to attend to a couple of different things and

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1 we will be back at 11:30. Thank you.

2 (Whereupon, the foregoing matter
3 went off the record at 11:10 a.m. and went back
4 on the record at 11:30 a.m.)

5 CHAIRMAN JORDAN: Then let's go back
6 in session, please. Mr. Moy?

7 MR. MOY: Yes, sir. Thank you.
8 The next application before the Board is
9 Application Number 18475. This is the
10 application of The Preparatory School of D.C.,
11 pursuant to 11 DCMR 3104.1.

12 This is for a special exception to
13 allow an increase in the number of child
14 development center students from 15 to 29
15 students under section 205, in the R-5-B
16 District at premises 3220 17th Street, N.W.
17 Property located in Square 2607 Lot 2023.

18 CHAIRMAN JORDAN: Okay, could you
19 please identify yourselves, please? Make sure
20 your microphone is turned on. Yes.

21 MR. ARNESS: Good morning. My name
22 is John Arness of Arness & Associates, counsel

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1 on behalf of the applicant.

2 MS. NORTH: Good morning, I'm Betty
3 North the applicant, and owner and operator of
4 the school.

5 MS. MUHAMMAD: My name is Basma
6 Muhammad. I am a assistant teacher at The
7 Preparatory School.

8 MR. GLEASON: And my name is Wayne
9 Gleason. I'm the landlord for The Preparatory
10 School of D.C.

11 CHAIRMAN JORDAN: Thank you.
12 Okay, what do we have here? Procedurally, did
13 we get a letter of authorization from you for
14 this case?

15 (Off microphone comments)

16 CHAIRMAN JORDAN: Okay, you need to
17 speak into the microphone and make sure it's
18 turned on. We did not?

19 MR. ARNESS: We did not.

20 CHAIRMAN JORDAN: I guess for the
21 record, Mr. Arness, correct? For the
22 applicant, who's the applicant in this matter?

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1 MR. ARNESS: The new Preparatory
2 School of D.C.

3 CHAIRMAN JORDAN: And this is, I
4 know it is your representative? All right, we
5 need for you to subsequently submit for the
6 record the representation letter.

7 MR. ARNESS: Absolutely.

8 CHAIRMAN JORDAN: Additionally I
9 think this application was calling for a use
10 variance but that's not the type of variance
11 that's necessary. I think you're seeking a
12 special exception, really.

13 MS. NORTH: Correct.

14 MR. ARNESS: That's correct. We
15 coordinated that with Mr. Nero's office and we
16 were advised that the proper changes in the
17 record had been made so that it was clear that
18 this was a special exception and the notices
19 went out to that effect.

20 CHAIRMAN JORDAN: Okay. So we want
21 to grant a special exception just raising the
22 number of students from 15 to 29?

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1 MS. NORTH: Yes.

2 CHAIRMAN JORDAN: Is that correct?

3 That's the relief that we're seeking today.

4 The Board got any issues with this
5 matter that we need to drill in before we --
6 Mr. May?

7 MR. MAY: I just had one question.
8 It's currently operating with 15 students?

9 MS. NORTH: Yes, for 20 years.

10 MR. MAY: For 20 years it's been 15,
11 okay. I just wanted to make clear on that.
12 Thanks.

13 CHAIRMAN JORDAN: And has the
14 applicant reviewed the conditions recommended
15 by Office of Planning in this matter, and you've
16 got any concerns about these?

17 MR. ARNESS: None at all. They
18 embrace the conditions and welcome them.

19 CHAIRMAN JORDAN: Okay, any other
20 Board members have a question that they need
21 to ask about this application?

22 VICE CHAIR SORG: Thank you, Mr.

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1 Chairman. We did receive a letter of concern
2 regarding use of the doorway into the alley.
3 If you could address that whether that's used
4 as part of your daily practice, because it does
5 seem like it could cause a dangerous situation
6 for the children, potentially.

7 MS. NORTH: The doorway we use is
8 the front door. The back door is used for
9 emergencies whereby children may get ill or
10 something and the parent have to be there for
11 a minute to take care of whatever needs to be
12 taken care of. That's the only time that that
13 doorway is used.

14 CHAIRMAN JORDAN: Why wouldn't the
15 parent use the front door?

16 MS. NORTH: The front door means you
17 have to find a parking space. The back, there
18 is a parking space. They pull up in that parking
19 space in the back and that way they'll be able
20 to come directly in the building and they can
21 take the child directly out of the building.

22 VICE CHAIR SORG: So there's a legal

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1 parking space behind the building that is for
2 the --

3 MS. NORTH: Yes, there are.

4 VICE CHAIR SORG: -- child
5 development center.

6 MS. NORTH: Yes, it is.

7 VICE CHAIR SORG: And how often
8 would you say that this occurrence happens?

9 MS. NORTH: I don't know, maybe once
10 a month if somebody's ill or something like that.

11 CHAIRMAN JORDAN: So normally when
12 people -- how many parking spaces are behind?

13 MS. NORTH: There are four, but we
14 use one and we have access to two additional.

15 CHAIRMAN JORDAN: Okay, then those
16 people who park in the back normally come through
17 the front?

18 MS. NORTH: No, that person will
19 come through the back door. That's either
20 myself or another staff person, whoever use the
21 parking space.

22 CHAIRMAN JORDAN: So that back door

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1 is used every day?

2 MS. NORTH: Yes, it is used every
3 day. I can say it is used every day, because
4 to walk around the front is walk around the
5 entire block.

6 CHAIRMAN JORDAN: Okay, and so it's
7 my understanding that the use of that is blocking
8 the alley in some way?

9 MS. NORTH: No, it's not blocking
10 the alley because it's a parking space. Because
11 you're not blocking the alley, you're pulling
12 into the parking space.

13 CHAIRMAN JORDAN: Anyone else have
14 any other questions of the applicant other than
15 Ms. Sorg? Mr. May?

16 MR. MAY: Yes, I mean we actually,
17 we have the letter in the record indicates that
18 there is a concern about blocking the alley
19 during the morning and the evening rush hour
20 and inconveniencing people and this has to do
21 with drop-off and pick-up.

22 But, you know, this is a letter that

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1 we received, I don't know if this person is here
2 to testify. Maybe we want to wait and see.

3 CHAIRMAN JORDAN: Yes, we can drill
4 down if that's --

5 MR. MAY: Okay.

6 CHAIRMAN JORDAN: Does the
7 applicant feel the need to do a presentation?
8 We believe there's enough in the record to
9 support your request for relief subject to these
10 questions about the back door but --

11 MS. NORTH: No, we do not.

12 CHAIRMAN JORDAN: Then let's turn
13 to Office of Planning and see if there's anything
14 in addition that they would like to add.

15 MS. ELLIOTT: Good morning, Mr.
16 Chairman, members of the Board. For the record,
17 my name is Brandice Elliott and I'm representing
18 the Office of Planning.

19 The Office of Planning is
20 recommending approval of this special exception
21 request. I would like to add that in previous
22 discussions with the applicant it was indicated

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1 only one child was dropped off via automobile,
2 and we don't see any concerns
3 transportation-wise with having one vehicle
4 dropping off the child in the mornings.

5 So if you have any other questions
6 I would be happy to address them.

7 CHAIRMAN JORDAN: Does anyone have
8 a question of Office of Planning? Does the
9 applicant have any questions of Office of
10 Planning?

11 MS. NORTH: No, we do not.

12 CHAIRMAN JORDAN: Then let's -- is
13 anyone here from the Department of
14 Transportation? We do have a letter of no
15 objection from Department of Transportation.

16 Is anyone here from the state office
17 of education? We do have a letter from the state
18 office of education indicating their approval.

19 Is there anyone here from ANC-1D?

20 And we do have a letter from ANC-1D which
21 requires great weight for seeking approval,
22 supporting approval of this application. We

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1 do have Mr. Gleason's letter in support of this
2 application. Is there anybody else in the
3 audience wishing to testify in support of this
4 application?

5 Anyone in the audience wishing to
6 testify in opposition? We do have, I think,
7 two letters. I know they're kind of hard to
8 determine that they're in opposition. They
9 have concerns about the kind of use. One is
10 from Gigi Johnson, is that right? And the other
11 is from, I believe, the church.

12 There's a church, I think, wrote.
13 John Wesley African Methodist Church, Zion
14 Church, which as I said, I don't know if this
15 is opposition but they're talking about
16 concerns.

17 One's about overall development in
18 the area and noises, and the other -- no, is
19 that the right one? Maybe I'm on the wrong file.

20 Just one second. Oh, Mr. Keane, I'm sorry.
21 Mr. Keane has written a letter about the use
22 of the alley. Yes?

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1 MR. GLEASON: Regarding the church
2 we have seen Mr. Keane's letter but --

3 CHAIRMAN JORDAN: No, I think that
4 was the wrong file, thanks.

5 MR. GLEASON: Okay. So there was one
6 letter from Mr. Keane, I believe, that we were
7 aware of.

8 CHAIRMAN JORDAN: So turning back
9 to the applicant then, you do have daily use
10 of the back door that opens into the alley.
11 Does it open to the alley or does it open into
12 a parking lot?

13 MS. NORTH: It opens into an alley
14 which, in turn, is in a parking lot on the
15 opposite side of the alley.

16 CHAIRMAN JORDAN: Oh, the parking
17 lot's on the opposite side of the alley. So
18 you have to come out the back door, you cross
19 the alley and go to the parking lot?

20 MS. NORTH: Yes.

21 CHAIRMAN JORDAN: Okay. And
22 what's the issue about coming out the front door

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1 going to the parking?

2 MS. NORTH: There is really no
3 issue. That's the way the parents enter and
4 exit the building.

5 CHAIRMAN JORDAN: Really it's not
6 a parent issue. It seems like it's a staff issue
7 every day. That's what I'm more concerned --

8 MS. NORTH: Well, it's only one
9 individual, the person who parks out back just
10 have to walk around the front or either come
11 through the back door.

12 CHAIRMAN JORDAN: Okay. All
13 right, Mr. May?

14 MR. MAY: I guess I should just read
15 the paragraph from the letter that we received
16 from Dana Keane.

17 "For years this business has
18 permitted their customers to drop off and pick
19 up their children through a door that opens into
20 the alley off Park Road effectively blocking
21 the alley during the morning and evening rush
22 hours and greatly inconveniencing the people

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1 who live on this and the adjoining block."

2 "Not only do they park their cars
3 and block the alley, it's sometimes they linger
4 to chat, play their music at high volumes and
5 throw trash on the ground."

6 It says here, following a DCRA
7 inspection in the summer, the daycare center
8 stopped letting parents use the alley entrance
9 and the staff and their friends continue to park
10 across the alley, blocking the alley, lingering
11 outside to smoke while playing music loudly and
12 generally disturbing the peace and tranquility
13 of otherwise would be a quiet residential block.

14 So maybe you want to address that
15 directly?

16 MS. NORTH: First, awhile back when
17 we first opened up the center, like over 20-some
18 years ago, yes, we did use the back door. But
19 since then we haven't used the back door in such
20 a long time I can't even go back to tell you.

21 And as far as the noise concerns,
22 there's just people in the neighborhood that's

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1 in the alley a lot of times. I mean we're in
2 the center. We can hear the music from the cars
3 that's parked in the alley. So I mean just
4 because they're parked near our center does not
5 necessarily mean it's us.

6 CHAIRMAN JORDAN: Okay. Any other
7 questions of the applicant?

8 MS. NORTH: And as far as the
9 cleanliness of the alley, it's probably the
10 cleanest alley in the city because we try to
11 keep it clean.

12 CHAIRMAN JORDAN: All right, then
13 let's turn back if there's any closing that you
14 feel is necessary. I think there's nothing for
15 you to rebut other than you've already taken
16 the issue about the use of the door in the alley
17 of that situation.

18 MR. ARNESS: Just briefly, just a
19 little bit of background. When Mr. Gleason
20 purchased this property it was converted in 2003
21 from an apartment building to a condominium and
22 the actual density usage in that building

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1 declined from 77 to the currently existing 39.

2 This property has been mixed use in
3 designation since the early 1900s. Mr. Gleason
4 has found records that there was a drugstore
5 in the main floor of this property. And so we
6 would submit, actually, that the letter in
7 opposition contained a number of allegations
8 which we don't have direct knowledge of.

9 We do know that this individual was
10 a frequent complainer during the construction
11 and renovation of this property, and none of
12 the claims and allegations and the inspections
13 that resulted from that ever turned up any
14 improper activity or any violations.

15 There was an allegation contained
16 in the letter, I believe, making reference to
17 Ms. North's mother who has been deceased for
18 20 years. So we don't know exactly, Ms. North
19 is here and the manager is here to testify, but
20 to the best of my knowledge this individual has
21 never complained directly to the school.

22 It's my understanding that at the

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1 time when the ANC identified the parking issue
2 they immediately addressed the issue and came
3 up with a plan. They instituted their policy
4 to limit and restrict and monitor use of the
5 back door.

6 There are also three parking spaces
7 available in the event of an emergency or for
8 employees. It's my understanding that there's
9 one employee that parks. There's another
10 employee that is driven by, I believe, it's his
11 spouse to the property, and the others arrive
12 either on foot or by public transportation.
13 So there's very limited parking need associated
14 with this use.

15 The target population are infants,
16 three months to 24 months. There's no outdoor
17 play involved in this. They also have
18 permission of adjoining property members, if
19 in the event that somebody did have to come up
20 in the back, there are garage bays available
21 to allow passage of vehicles on a short-term
22 basis, and they've made a pledge to go to the

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1 ANC and to the Board to monitor this situation
2 and to responsibly address any concerns that
3 arise from the community.

4 But I believe as reflected in the
5 ANC and the Office of Planning and the OSSE
6 there's a recognition that this facility
7 provides a need to the, needed services to the
8 community. It has a long track record. It's
9 been operating for 23 years, I believe. I
10 believe it opened in 1990. We're not aware of
11 any formal complaints or problems with its
12 operation.

13 And also given that the base use on
14 the lower density is a use as a matter of right
15 and the R-5-B being a higher density
16 concentration for the allowed use, logic would
17 suggest that perhaps a higher density in the
18 population served by this business is also
19 appropriate and certainly consistent with the
20 design of the plan.

21 So for these reasons they would ask
22 for, and also in light of their longstanding

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1 presence in the community and the lack of,
2 virtual lack, there was the one Mr. Keane's
3 letter, but to our knowledge that is the only
4 expression of reservation on this and it seems
5 that the community and the relevant agencies
6 are all in support.

7 So we would ask that the special
8 exception be granted. If you are inclined to
9 put any sort of limit on it we would ask that
10 you consider the length of time that they have
11 been present.

12 CHAIRMAN JORDAN: Any other
13 questions of -- you're getting dangerously close
14 to when we make the recommendations about people
15 sometimes talking themselves into trouble.

16 So we'll close the hearing based
17 upon those things which are, based upon the
18 evidence that's already been deduced to this
19 point. Is the Board ready to deliberate?

20 I believe I'm going to offer an
21 additional condition, and that being that the
22 applicant should not allow entry or exit to the

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1 building by the back door except in cases of
2 emergency.

3 Ms. Sorg?

4 VICE CHAIR SORG: I would say that
5 if the staff is parking behind the building that
6 is near the back door it would be appropriate
7 to allow staff to use that door. So
8 I might offer language that would say no pick-up
9 or drop-off shall occur through the alley door
10 which shall only be used by staff and in
11 emergencies. I think that's appropriate.
12 They don't have very many staff.

13 CHAIRMAN JORDAN: Except for staff
14 and in cases of emergency. I'll add that.

15 VICE CHAIR SORG: Yes, that's what
16 I think. Sometimes it's cold in the winter or
17 raining, you know, you don't want to walk around
18 the whole block.

19 CHAIRMAN JORDAN: Yes, but -- all
20 right. So then I would move that we grant the
21 special exception request by the applicant with
22 the conditions recommended by Office of Planning

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1 with the addition of the one we just mentioned.

2 The applicant shall not allow entry
3 and exit to the building by the back door except
4 by staff and in cases of emergency.

5 VICE CHAIR SORG: Second.

6 CHAIRMAN JORDAN: Motion made and
7 seconded. Unreadiness? All those in favor
8 signify by saying ayes.

9 (Chorus of ayes)

10 CHAIRMAN JORDAN: Those opposed
11 nay. The motion carries. Mr. Moy?

12 MR. MOY: Staff would record the
13 vote as four to zero. This is on the motion
14 of Chairman Jordan to approve the application
15 with the conditions as cited including the
16 additional condition imposed by the Board, which
17 would give us seven conditions.

18 This seconded, Vice Chairperson
19 Sorg. Also in support of the motion, Mr. Peter
20 May and Mr. Jeffrey Hinkle, and we have one Board
21 seat that's vacant. So the motion carries, Mr.
22 Chairman.

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1 CHAIRMAN JORDAN: Thank you. Then
2 we can have a summary order?

3 MR. MOY: Yes, sir. Thank you.

4 CHAIRMAN JORDAN: Thank you.

5 MS. NORTH: Thank you. Have a
6 lovely holiday.

7 MR. ARNESS: Was there a limitation
8 on the --

9 CHAIRMAN JORDAN: Remember we just
10 kept talking about things about how you can talk
11 yourself into trouble?

12 MR. ARNESS: Yes.

13 CHAIRMAN JORDAN: We didn't put one
14 there. However --

15 MR. ARNESS: If I keep talking?

16 MS. NORTH: How long do we get the
17 results so I'll know how to --

18 CHAIRMAN JORDAN: I think it's not
19 going to be long. Mr. Moy, how long do we
20 normally give for --

21 MR. MOY: Well, the summary order,
22 the staff, I would turn around of issuing it

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1 within a week. But the office will hold it until
2 we receive the authorization letter.

3 MS. NORTH: Okay. All right, thank
4 you very much. Have a blessed holiday.

5 CHAIRMAN JORDAN: We need to
6 receive the authorization letter. Your
7 attorney needs to submit that. All right,
8 thanks.

9 MR. MOY: The next application
10 before the Board is Application Number 18476.

11 This is the application of 1617 14th Street
12 LLC, pursuant to 11 DCMR 3104.1 and 1902.1, for
13 special exception from the roof structure
14 provisions under subsection 411.5, a variance
15 from the off-street parking requirements under
16 subsection 2101.1, and a variance from the
17 parking space size requirements under section
18 2115, to allow a mixed use project with ground
19 floor retail and residential above in the
20 ARTS/C-3-A District. This is at premises 1617
21 14th Street, N.W. Property located in Square
22 240 Lot 160.

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1 CHAIRMAN JORDAN: Thank you.
2 Would the persons introduce themselves, please?

3 MS. BATTIES: Yes, good morning,
4 Chairman Jordan. Leila Batties with the law
5 firm of Holland & Knight on behalf of the
6 applicant, 1617 14th Street LLC.

7 MR. ZEMUI: Samuel Zemui. I'm one
8 of the members of 1617 14th Street LLC.

9 MS. MILANOVICH: Good morning.
10 Jami Milanovich with Wells & Associates. We're
11 the traffic consultants for the project.

12 MR. LOCKWOOD: Good morning. I'm
13 Jeff Lockwood with Hickok Cole Architects.

14 CHAIRMAN JORDAN: Your name again?

15 MR. LOCKWOOD: Jeff Lockwood.

16 CHAIRMAN JORDAN: Okay, thank you.

17 MR. SUER: Steven Suer, director of
18 Zoning and Land Use Services with the law firm
19 of Holland & Knight.

20 CHAIRMAN JORDAN: All right. Do we
21 have any preliminary matters in here that we
22 need to get straight? Yes, we have two expert

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1 requests. I believe both persons are in the
2 book so we'll accept your expert request.

3 All right, let me check with the
4 Board. The Board have any particular questions
5 about this application? I think we can
6 understand clearly what's going on and the need,
7 request for relief.

8 We do have some letters in
9 opposition. One's raised about noise and the
10 other raises the issue about the height of the
11 building. The height of the building and noise,
12 but that goes to the essence of other requested
13 for relief.

14 Does the Board have anything in
15 particular that they want the applicant to
16 address? Any concerns that the Board member
17 may have that needs to be addressed?

18 MR. MAY: Yes. Would the residents
19 of these units be eligible for residential
20 parking permits?

21 MS. BATTIES: That has not been an
22 issue that was raised by the ANC. We have not

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1 --

2 MR. MAY: I'm not asking that. I'm
3 asking if they're eligible or not because it
4 depends on whether it's a commercial street that
5 the entrance is on, I believe.

6 MS. BATTIES: Right. That is not
7 something we've contemplated either way so --

8 MR. MAY: No, you don't know.

9 MS. BATTIES: Right.

10 MR. MAY: Don't know, okay.

11 VICE CHAIR SORG: I think Mr. May
12 is asking whether or not they're eligible, not
13 whether or not you're thinking about a condition
14 that would render them --

15 MR. MAY: I think she was answering
16 they haven't even considered the question. I
17 mean I guess, well, we don't have anybody from
18 DDOT, do we?

19 CHAIRMAN JORDAN: No.

20 MR. MAY: No. Ms. Milanovich, do
21 you know?

22 MS. MILANOVICH: My understanding

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1 of the residential permit parking is that in
2 order, I think they would be eligible if there's
3 already residential permit parking there.

4 MR. MAY: On the block, yes.

5 MS. MILANOVICH: Correct.

6 MR. MAY: And do you know if that's
7 the case?

8 MS. MILANOVICH: There is
9 residential permit parking nearby. Let me just
10 check my notes and I can tell you specifically
11 where it is, I think.

12 MR. MAY: Okay.

13 MS. MILANOVICH: There is
14 residential permit parking on the north side
15 of Corcoran just east of the site. There's
16 residential permit parking on the south side
17 of R Street which is north of the site. And
18 that looks to be the only residential permit
19 parking in the immediate vicinity of this site.

20 Oh, I'm sorry. There is also
21 residential permit parking on the south side
22 of Corcoran Street immediately across from the

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1 site as well as east of the site. So essentially
2 between 14th and 13th Street on the south side
3 of Corcoran Street is also assigned residential
4 permit parking.

5 MR. MAY: Okay. But the Corcoran
6 on the north side which would be where the
7 entrance, the apartment building is, is that
8 section there? You seemed to say that Corcoran
9 east of the site on the north side.

10 MS. MILANOVICH: Right.
11 Immediately in front of the site on the north
12 side of Corcoran there is no parking today
13 because there's a number of curb cuts that are
14 actually chained off today.

15 They're not in use today but because
16 the curb cuts are there, there is technically
17 no parking right now. We would anticipate that
18 that parking supply would be given back to the
19 District with the removal of those curb cuts.

20 MR. MAY: Right. But we don't know
21 whether it's going to be commercial or RPP
22 parking.

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1 MS. MILANOVICH: I'm sorry. I
2 don't know that.

3 MR. MAY: Yes. Okay. I am amazed
4 that these questions don't get asked in the
5 process of a case like this. Because when
6 you're talking about asking for a parking
7 variance inevitably some people are going want
8 to live there and park somewhere, and if they're
9 eligible for RPP they're going to get RPP and
10 that's a concern for most neighbors. So I'm
11 surprised it hasn't come up.

12 MS. BATTIES: It has not.

13 MR. MAY: Okay.

14 CHAIRMAN JORDAN: Does the Board
15 have any other questions for the applicant that
16 they need to have drilled down?

17 Ms. Batties, I think that, you know,
18 your file is pretty full in regards to the relief
19 requested and the need for the relief. However,
20 you have the opportunity to present any evidence
21 which you, any testimony if you wish, or you
22 can just waive and we can move on.

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1 MS. BATTIES: We don't have
2 anything additional to add unless, Mr. May, you
3 want us to address the TDM measures, to mitigate
4 --

5 MR. MAY: I think TDM is fine and
6 it's all good. It seems like DDOT is reasonably
7 satisfied. But, you know, I find this a gap,
8 and this has come up largely in front of the
9 Zoning Commission and usually, I mean it's been
10 awhile since I've sat on BZA and we had a project
11 that was a bigger apartment building like this
12 that I've been involved in, but it's always a
13 question for me at the Zoning Commission and
14 it's always one that I would want to have
15 answered.

16 And again, I'm just surprised that
17 the ANC is not attuned to that. And I would
18 hope that, I mean obviously there's been a lot
19 of thought given to the project already. I'm
20 not going to slow things down for the sake of
21 answering that question or raising an issue that
22 hasn't been raised by the community.

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1 But in the future I would like to
2 see things like this addressed on cases that
3 are like this where there's a parking variance.

4 It's just a natural question to ask. Will the
5 building be, the residents of the building be
6 eligible for residential parking permits? And
7 that may or may not be an issue depending on
8 what, you know, where the neighborhood is on
9 it.

10 I've actually asked the question
11 before, and the neighbors, even though there
12 is a parking issue and the building would be
13 subject to RPP, they actually thought that the
14 parking went the other way.

15 They did not want to limit the
16 building's ability to be an RPP because they
17 were more interested in getting people off the
18 streets and into the parking for the building.

19 I didn't quite understand it but it can go a
20 lot of different ways. It's just a gap for me
21 in the information that we have.

22 CHAIRMAN JORDAN: Then let's turn

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1 now to the Office of Planning to see if there's
2 anything in addition that Office of Planning
3 wishes to discuss.

4 MS. VITALE: Good morning, Mr.
5 Chair and members of the Board. For the record,
6 Elisa Vitale with the Office of Planning. I
7 don't have any additional information to add.

8 I can certainly answer any questions at this
9 time. The Office of Planning is recommending
10 approval of the requested special exception and
11 variance relief. Thank you.

12 CHAIRMAN JORDAN: Does the Board
13 have any questions for the Office of Planning?
14 Does the applicant have any questions for the
15 Office of Planning?

16 MS. BATTIES: No, we don't.

17 CHAIRMAN JORDAN: Is there a
18 representative here from the Department of
19 Transportation? I don't believe so, but we do
20 have a letter recommending no objection. We
21 recommend no objection, anyway I'll deal with
22 it. The letter's saying they have no objection.

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1 Is there anyone here from ANC-2F,
2 2F? We do have a letter in support from ANC-2F
3 to which we give great weight, who supports this
4 application. Is there anyone in the audience
5 wishing to testify in support of this
6 application? Anyone wishing to testify in
7 support?

8 Anyone wishing to testify in
9 opposition? We did make note that there's two
10 letters that the Board has reviewed in regards
11 to some concerns. One by the John Wesley
12 African Methodist Episcopal Zion Church and then
13 one from a Gigi Johnson, which the Board has
14 reviewed.

15 Then we would turn back to the
16 applicant and see if they think there is a need,
17 there's nothing to rebut, but see if there's
18 a need to close or -- we have one question.

19 VICE CHAIR SORG: I do have one
20 question, Mr. Chairman. Thank you. The church
21 is neighboring across the street from the
22 property.

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1 And the concerns that the pastor
2 expresses in his letter seem to be things that
3 could easily be described or understood, you
4 know, through conversation with regard to what's
5 happening to their entrance during
6 construction. Can you describe what sort of
7 interactions you've had with the church as the
8 neighboring property?

9 MS. BATTIES: I'm going to let Mr.
10 Zemui answer that question.

11 MR. ZEMUI: I did approach the
12 church, actually, initially at the onset of this
13 project to let them know what our plans are,
14 what the sketches of the building does look like.

15 The concerns that they laid out to
16 me was, one that they had a huge amassing of
17 the building which would block a little bit of
18 their light, but that addresses more than
19 massing of the building and not really parking
20 measures.

21 The second one that probably that
22 you would be interested in is the parking, where

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1 they felt like their congregation would have
2 less access to parking and therefore it would
3 somewhat maybe reduce their revenues from
4 donations, et cetera. The way that they park
5 right now is there's some parking on the street
6 and there's some on the sidewalk that they park
7 on Sundays.

8 So I guess the concern is that they
9 might not be allowed to park on the sidewalk
10 or double park. So I'm assuming that those are
11 some of the concerns that they had and that that
12 would reduce their congregation.

13 VICE CHAIR SORG: Right. The
14 letter that we received from the church
15 specifically indicates two areas of concern,
16 one being noise, which we would assume would
17 be from the use of the roof that which I think
18 is for general use of the residents?

19 MR. ZEMUI: Yes.

20 VICE CHAIR SORG: And the other
21 being issues related to construction which are
22 outside of the purview of the Board, such as

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1 blocking their access to the church with
2 construction equipment, which of course is not
3 legal. Those are things that if you continue
4 to dialogue with the church they may feel more
5 comfortable about, and I think as a Board we
6 would advise that.

7 Regarding the question of noise,
8 which does have bearing on some of the special
9 exceptions especially for 11 and 1906, which
10 helps to allow you to use the roof, generally
11 speaking, had you considered providing hours
12 of use for the residents?

13 MR. ZEMUI: We have not considered
14 that but we'll definitely take that into
15 consideration, and we'll more than happy to work
16 with the church to see how we can avoid any kind
17 of noise issues or construction access issues
18 if they have any issues like that.

19 VICE CHAIR SORG: Those are issues
20 of information, you know, although not under
21 the purview of the Board.

22 MR. ZEMUI: We'll talk to them.

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1 VICE CHAIR SORG: But the noise is
2 one that I think I wanted to address.

3 MR. ZEMUI: Okay.

4 VICE CHAIR SORG: Thank you.

5 CHAIRMAN JORDAN: And I think what
6 I heard you say that you initially had some
7 conversation with, you know, sometimes it's good
8 to have regular conversation, and I think that's
9 what Ms. Sorg is also saying to you.

10 Okay, then we will close this record
11 based upon the -- Mr. May?

12 MR. MAY: Yes, I just have one last
13 question. This is a minor and finicky sort of
14 question, but maybe Mr. Suer can help me with
15 it.

16 On A13 on the drawings, I'm looking
17 at the portion of the building that abuts the
18 neighboring building on 14th Street and it seems
19 like the building is stepping back there and
20 I'm wondering if that's a court that needs relief
21 in some fashion.

22 MR. SUER: Mr. May, I believe that

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1 the Zoning Administrator will call that a court
2 niche and not, a decorative recess in the facade
3 of the building --

4 MR. MAY: Right.

5 MR. SUER: -- and therefore not
6 require a circle or whatever to go in there.
7 It's an irregularly shaped space or whatever
8 you want to call it, and so I believe that that
9 would comply with the regulations.

10 MR. MAY: Okay, I mean a court niche
11 21 feet deep?

12 MR. SUER: Yes. We have --

13 MR. MAY: We have, okay. I mean I'm
14 used to seeing court niches just being sort of
15 a modulation of the building facade and it's
16 usually not deep.

17 MR. SUER: Right. We've had them
18 in that form where the facade undulates back
19 and forth, and we've had them like this too.

20 MR. MAY: All right, thank you.

21 CHAIRMAN JORDAN: So we will close
22 the record in this matter based upon the

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1 testimony and evidence deduced in the record
2 to date. Is the Board ready to deliberate on
3 this case today or fill for anything? Okay.

4 Then let's deliberate on this
5 matter. I believe that the applicant has shown
6 the need for the, and met the requirements for
7 the special exception and for the variance as
8 requested in the application, and therefore I
9 would move that we grant the relief requested.

10 That would be my motion. Anyone?

11 MR. MAY: Second.

12 CHAIRMAN JORDAN: Motion made and
13 seconded that we grant the relief as requested.

14 Any unreadiness, any discussion? All those
15 in favor signify by saying aye.

16 (Chorus of ayes)

17 CHAIRMAN JORDAN: Those opposed
18 nay. The motion carries. Thank you.

19 MS. BATTIES: Thank you.

20 CHAIRMAN JORDAN: Mr. Moy?

21 MR. MOY: Yes, sir. Staff would
22 record the vote as four to zero. This on the

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1 motion of Chairman Jordan to approve the
2 application for the relief requested, special
3 exception and variance relief. Second the
4 motion is Mr. Peter May. Also in support of
5 the motion Vice Chairperson Sorg and Mr. Hinkle.

6 We do have a vacancy seat on the Board. The
7 motion carries, Mr. Chairman.

8 CHAIRMAN JORDAN: Thank you.
9 There's no opposing party so let's have a summary
10 order, please.

11 MR. MOY: Yes, sir.

12 CHAIRMAN JORDAN: Thank you.
13 Thanks. The Board is going to move -- we will
14 recess from this morning's hearing.

15 (Whereupon, the foregoing matter
16 went off the record at 12:07 p.m.)

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