

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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SPECIAL PUBLIC MEETING

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FRIDAY
AUGUST 1, 2008

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The Special Public Meeting and Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 9:49 a.m., Ruthanne G. Miller, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

RUTHANNE G. MILLER	Chairperson
MARC D. LOUD	Vice Chairman
MARY OATES WALKER	Board Member
SHANE L. DETTMAN	Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

MICHAEL G. TURNBULL FAIA, Commissioner
(OAC)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY	Secretary
BEVERLEY BAILEY	Sr. Zoning Specialist

The transcript constitutes the minutes from the Special Public Meeting held on August 1, 2008.

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

9:49 a.m.

CHAIRPERSON MILLER: We're going to now move into a Special Public Meeting in which we have two decisions on the agenda.

This meeting will come to order. This is the August 1st Special Public Meeting of the Board of Zoning Adjustment of the District of Columbia.

My name is Ruthanne Miller, I'm the Chair. I'm the Chairperson of the BZA. And to my right is Mr. Michael Turnbull from the Zoning Commission. And to my left is Mary Oates Walker and Shane Dettman, Board Members, Mr. Clifford Moy from the Office of Zoning and Ms. Beverley Bailey from the Office of Zoning.

Copies of today's meeting agenda are available to you and are located to my left in the wall bin near the door.

We do not take any public testimony at our meetings unless the Board asks someone to come forward.

1 Please be advised that this
2 proceeding is being recorded by a Court
3 Reporter and is also webcast live.
4 Accordingly, we must ask you to refrain from
5 any disruptive noises or actions in the
6 hearing room. Please turn off all beepers and
7 cell phones.

8 Does the staff have any
9 preliminary matters?

10 MR. MOY: No, Madam Chair.

11 CHAIRPERSON MILLER: Okay. Then
12 let's proceed with the agenda. And I believe
13 the Board is going to be addressing
14 application No. 17780 of Benco Center, LLC
15 first.

16 MR. MOY: Yes, good morning, Madam
17 Chair, Members of the Board.

18 That is application 17780 of Benco
19 Center, LLC, pursuant to 11 DCMR § 3104.1 for
20 a special exception to locate required parking
21 spaces on an adjacent lot under subsection
22 2116.5, serving a group of existing retail

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1 businesses in the C-3-A District at premises
2 4510 through 4528 Benning Road, Southeast. And
3 that's in square 53346, lot 11.

4 As the Board will recall, this
5 application was amended to include zoning
6 relief from sections 2117.12 and 2108. They
7 originally requested relief 2101.1 was
8 withdrawn by the applicant.

9 Also, as the Board will recall,
10 this application was convened in a Public
11 Meeting session on July 29th. The Board
12 rescheduled on its own motion its decision to
13 today, August the 1st.

14 No additional filings were
15 requested and the Board is to act on the
16 merits of the requested special exception
17 relief.

18 That completes the status
19 briefing, Madam Chair.

20 CHAIRPERSON MILLER: Thank you,
21 Mr. Moy.

22 This case, actually it involved

1 two lots, a main lot and an accessory lot, and
2 they both provide accessory parking space to
3 a retail center. And the application did go
4 through various changes with respect to what
5 relief is required.

6 At this point I believe that we're
7 looking at relief under 2108 and 2116. And
8 2108 deals with reduction of parking and 2116
9 deals with location of parking spaces.

10 I think we also look at 2117 which
11 deals with maintenance. And that may come up
12 in our deliberations with respect to
13 conditions, but I think we are looking at 2108
14 and 2116 specifically for relief.

15 The applicant is seeking to reduce
16 parking spaces, required parking spaces, from
17 56 spaces to 2 spaces. And to locate 13 of the
18 52 spaces on an accessory lot adjacent to the
19 lot generating the required parking, otherwise
20 known as the main lot.

21 The main lot is improved with
22 retail shops and surface parking that

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1 accommodates 39 spaces. The other lot is
2 unimproved. And the two lots are separated by
3 a alley. And I believe both surfaces are
4 presently in poor shape.

5 The accessory lot has received
6 relief from parking requirements in the past.
7 I believe that the last order lapsed in 1966.
8 And the applicant has come in to bring the lot
9 into compliance.

10 And then at some point there was
11 an addition that was added to the retail
12 building that increased the parking
13 requirement. And that's another reason that
14 the applicant is before us.

15 So 2108 deals with the reduction
16 in parking. 2108.2 authorizes the Board to
17 reduce up to 25 percent. And I believe in this
18 case that would be 14 spaces. So the requested
19 reduction of four spaces is within that
20 authority.

21 2108.3 lists five factors that can
22 be considered. I don't want to dwell on this

1 too much, but I want to note that proximity to
2 public transportation is one of the factors.
3 And this is less than a quarter of a mile from
4 a Metro.

5 And we look at the nature and the
6 location of the structure, and these are lots
7 that serve a strip mall. And there's frequent
8 turnover to the nature of that business.

9 I'm going to move through this
10 quickly and not go through all the factors.
11 I don't think it's really necessary unless
12 anybody else wants to.

13 So I think that this falls clearly
14 within 2108 for a reduction.

15 Then the next issue is relief
16 under 2116 location of parking spaces. 2116.5
17 says "Open parking spaces accessory to a
18 building may be located anywhere on the lot or
19 elsewhere, if approved by BZA as a special
20 exception." And we need to make a
21 determination under 2116.6 that also I think
22 gives certain reasons that we could do it,

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1 unusual dimensions, more efficient use of
2 land. I think that it was evident in this
3 case that that extra lot was necessary and
4 that it couldn't be anywhere else. And, you
5 know, it's just separated by that alley.

6 I don't know if anyone wants to
7 comment on that at this point or, you know,
8 later.

9 So, I think that they met the
10 relief required. And then we got into 2117
11 when we looked at the plans. And, actually,
12 we actually did send them back to improve
13 landscaping.

14 First they were seeking relief
15 from screening and then they were able to
16 redesign the parking lot so that they actually
17 meet the screening requirements.

18 We looked at the landscaping
19 requirements for the main lot, the accessory
20 lot. And there are factors here, if you
21 recall, that a lot of the landscaping is on
22 public property, but in essence we found that

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1 that complies -- I would find that it complies
2 with the intent and spirit of the regulation.

3 And also, the main parking lot was
4 build prior to the enactment of the
5 regulations governing landscaping.

6 They submitted in their last
7 submission the revised plan, and they showed
8 lighting.

9 DDOT had some recommendations.
10 They recommended a bike rack, and the
11 applicant has now included that on their
12 plans.

13 DDOT recommended a TNP, which I
14 thought was kind of an unusual for a strip
15 mall. But applicant has indicated that
16 they're going to work with DDOT to post signs
17 indicating where the nearest Metro is and
18 encourage their tenants to provide information
19 on Metro routes and Metro rail stations. So I
20 think that's as far as they need to go.

21 The ANC's recommendation was that
22 DDOT do a traffic study. And DDOT do an

1 assessment that there'd be no significant
2 traffic impact on the neighborhood.

3 So, I think to me that covers
4 basically the regulations except for
5 conditions. So does anybody else have anything
6 else to say before we get into conditions on
7 the relief? Okay. I think that the
8 conditions are an important part.

9 Term is one condition. The Office
10 of Planning recommended a one year term. And
11 the applicant has requested ten years. And if
12 I recall correctly, the Office of Planning
13 wanted one year to make sure that all these
14 improvements were really made. And the
15 applicant has requested ten years because they
16 say that they need a term like that for
17 attracting and keeping retail.

18 And then I think they may also
19 have stated that these lots have been
20 existence for over 50 years.

21 I think also the point was made to
22 Office of Planning that enforcement can also

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1 step in without there being a one year term.
2 And it also, I think, Office of Planning's
3 recommendations was made prior to the revision
4 of plans. I just think that the plans have
5 come a really long way.

6 Also, we may get into this as
7 conditions, but also in addition to the plans
8 applicant has submitted maintenance contracts
9 and things of that sort.

10 So I would be in favor of the ten
11 year term, but it can be anywhere in between.

12 Any comments on that? Okay.

13 This may go without saying, but I
14 think it's probably better to say it. The
15 accessory parking lot on Lot 8, which was the
16 one that was primarily before us, the
17 accessory parking lot on Lot 8 shall be laid
18 out and landscaped in accordance with the
19 revised parking plan set forth at Exhibit 38,
20 Attachment A. That's the most recent plan
21 that contains the hedges with the screening.
22 It just seems to me so there's no doubt what

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1 plan we're approving. Okay.

2 Three. Applicant shall provide a
3 bike rack to accommodate ten bicycles and
4 provide three wall mounted lights to provide
5 illumination to the alley and parking lot
6 located on Lot 8 in accordance with Banco
7 Shopping Center lighting and bicycle plan set
8 forth at Exhibit 8, Attachment B. Okay?

9 Four. Applicant shall resurface
10 the main and accessory parking lots in
11 accordance with proposals 010114 and 013797
12 set forth at Attachment E to Exhibit 35. That
13 was a main concern, the condition of the
14 surfaces.

15 COMMISSIONER TURNBULL: Madam
16 Chair?

17 CHAIRPERSON MILLER: Yes.

18 COMMISSIONER TURNBULL: Should you
19 add surface and restrip, or is that implied?

20 CHAIRPERSON MILLER: Is the
21 restripping, is it reflected in that
22 attachment? And is restripping a requirement

1 of the regulations?

2 COMMISSIONER TURNBULL: Well,
3 that's a good question. Okay. Mr. Dettman
4 saying Exhibit 8, he found it, it doesn't
5 reference that. But 2117.3 says all required
6 shall be clearly stripped and lined according
7 to the dimensions specified in 2115.

8 COMMISSIONER TURNBULL: Yes.

9 CHAIRPERSON MILLER: So if it's
10 covered by the regs --

11 COMMISSIONER TURNBULL: All right.

12 CHAIRPERSON MILLER: Okay? Okay.
13 We already done that one? Okay.

14 Five. Applicant shall maintain a
15 building service contract for both lots. The
16 agreement shall provide for the removal of
17 debris on a daily basis from the parking area
18 and for snow and ice removal from this in the
19 winter.

20 Now, that's where my proposed
21 condition ends. I want to say -- or we could
22 put in parenthesis. But they represented that

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1 they will include sidewalks and public alleys
2 in this agreement with a building service
3 contract. But I was leaving out as a specific
4 condition because we don't have jurisdiction
5 over public space. So I think it can be
6 indicated that if we want. The applicant
7 represents that sidewalks and public alleys
8 will also be included, but not that that's our
9 condition.

10 I should reflect that all of these
11 conditions came from the applicant's exhibits.
12 Their attachments. Their specific building
13 service contract that they put in or their
14 specific proposal for resurfacing. We don't
15 also necessarily require daily -- right.

16 MEMBER WALKER: Madam Chair, I
17 think requiring trash removal on a daily basis
18 may be a bit onerous. Perhaps we could make
19 that less stringent.

20 CHAIRPERSON MILLER: If that's the
21 sentiment. I mean, I think normally I would
22 say that except for the fact that that's what

1 their contracts called for.

2 MEMBER WALKER: Yes. It specifies
3 seven days a week?

4 CHAIRPERSON MILLER: Let's pull
5 it.

6 MEMBER WALKER: Madam Chair, in
7 Exhibit G, I mean Attachment G to Exhibit 35
8 the service contract between the applicant and
9 their building service contractor states that
10 there will indeed be daily removal of paper
11 and debris from the parking lot area and on
12 the sidewalks.

13 CHAIRPERSON MILLER: Okay. So
14 you're all right with that? Okay.

15 The last point I have to mention
16 is that there is a request from the applicant
17 for minor flexibility to adjust the parking
18 plan with DDOT. That was made before we got
19 DDOT's comments. So I think it's a really good
20 parking plan. I think it's pretty tight the
21 way it is. So I don't think I'm in favor of
22 adding that, unless somebody else sees that

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1 they think it still would be a good idea. Do
2 you? No. Okay.

3 Anything else? All right.

4 Not hearing anything, then I move
5 approval of application 17780 of Banco Center,
6 LLC. for relief from 2108 and 2116 as
7 conditioned. Second?

8 MEMBER WALKER: Second.

9 CHAIRPERSON MILLER: Further
10 deliberation?

11 All those in favor say aye?

12 ALL: Aye.

13 CHAIRPERSON MILLER: All those
14 opposed?

15 Would you call the vote, please?

16 MR. MOY: The staff would record
17 the vote as four to zero to one is on the
18 motion of the Chair, Ms. Miller, to approve
19 the application as conditions, seconded by Ms.
20 Walker. Also in support of the motion Mr.
21 Dettman and Mr. Turnbull. And we have a Board
22 Member not present, not voting.

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1 So again, the resulting vote is
2 four to zero to one.

3 CHAIRPERSON MILLER: Thank you.

4 And this will be a summary order
5 as well, as there's no party in opposition.

6 MR. MOY: Yes. Very good.

7 The next and last case in the
8 Special Public Meeting session, Madam Chair,
9 is application 17798 of Primal Fitness, Inc,
10 pursuant to 11 DCMR § 3103.2 for a variance
11 from the use provisions to operate a fitness
12 center under subsection 330.5, in the R-4
13 District at premises 219 M Street, Northwest.
14 That's in square 555, lot 805.

15 On July 22, 2008 the Board
16 completed public testimony, closed the record
17 and scheduled its decision on August 1st. The
18 Board requested the applicant to submit
19 additional information to supplement the
20 record. The applicant filed, made its filing,
21 it's timely filed, dated July 28, 2008. The
22 Board is also in receipt,

1 The record was also kept open for
2 a response from the party in opposition, Mr.
3 Brenda Keyes. And that post-hearing document
4 is filed in your case folder. It identified
5 as Exhibit 27.

6 The Board has acted on the merits
7 of the variance relief requested by the
8 applicant.

9 That completes the staff's
10 briefing, Madam Chair.

11 CHAIRPERSON MILLER: Okay. After
12 we completed the hearing on this case we had
13 some unanswered questions and we asked the
14 applicant -- we gave them an opportunity to
15 file some submissions addressing our concerns
16 that mainly went to -- or solely really went
17 to adverse impacts on Ms. Keyes who has a
18 grocery store, I guess on the other side of a
19 little alley. She's one of the neighbors. And
20 she had concerns about vibrations from weights
21 being dropped and noise. And at that point the
22 applicant was going to have an engineer do a

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1 study and come up with an analysis, and
2 perhaps solutions to mitigate any adverse
3 impacts that might be related to the dropping
4 of the weights. In any event, I mean I really
5 have jumped to that if that's the issue.
6 That's really outstanding in this case.

7 I think it's -- there's a strong
8 case here that the first prong of the variance
9 test which deals with an exceptional or
10 unusual situation, a unique situation, it is
11 apparent here. We have a fire house on a
12 block that has a lot of businesses that I
13 don't believe has ever been used for
14 residence. And so it is a unique structure in
15 that context. And they made a good case about
16 practical difficulties in adapting that
17 firehouse to residential use.

18 Without getting too far down the
19 road, I don't believe that this case is quite
20 ready for our deliberation, and I want to hear
21 what others think. I was hoping it would be
22 because the applicant had some concerns about

1 other considerations that effected his
2 business license. And, you know, that it
3 would be helpful to have this decision today
4 if possible. But the submissions that came in
5 just to me didn't really give me enough
6 information to make a clear finding that there
7 wasn't an adverse impact or a substantial
8 adverse impact, or that there were -- or where
9 conditions should really be attached to an
10 order were we to grant an order in this case
11 that would mitigate any adverse impacts.

12 I think perhaps the parties didn't
13 have enough time to really go through this.
14 There is something, Mr. Ford, the construction
15 engineer did submit a report. And it seemed
16 to indicate, you know, that there were still
17 some vibrations or, you know, some noises
18 perhaps from the dropping of the weights. And
19 it was hard to get my arms around the extent
20 of that and whether or not the plan to move
21 certain activity to the back would eliminate
22 those adverse impacts.

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1 But let me hear from others and
2 then I can pick up again if you felt the same
3 way.

4 COMMISSIONER TURNBULL: Madam
5 Chair, I would agree with your sense of where
6 we are in this. I think there's some
7 conflicting comments made in both the letter
8 from the next door neighbor and in the letters
9 that we've received from the applicant.

10 I guess I'm concerned about the
11 threshold of -- my first concern was the
12 threshold of the weight limit. It sounds like
13 at 95 pounds causes a problem. And that
14 anything around that area or heavier than that
15 needs to go to the back.

16 But the letter that was proposed
17 to be signed by the next door neighbor, Brenda
18 Keyes, it says weights up to 95 pounds can be
19 still dropped in the front area. So if 95
20 pounds was the test weight that was causing
21 the problems, that everybody listened to it.

22 Again, I guess was not a very -- I

1 mean although Mr. Ford's a structural
2 engineer, it's still a very empirical method.
3 You are in the room, you put your hand up to
4 the wall, you could hear thud and you could
5 feel something in the wall. So there's no
6 device or anything that tells you what level
7 that it reached on any kind of an instrument.
8 It's just we felt the wall move, and we felt
9 that that was the problem.

10 So I guess putting in saying that
11 you could still go up to 95 pounds to me
12 doesn't solve the problem. If 95 pounds was
13 the weight limit that was causing the issue,
14 there has to be a lower threshold of the
15 weights that can be dropped up front then.
16 What that is, I don't know. So I think that
17 should be studied.

18 They ought to say, you know, maybe
19 it's 65 pounds or 50 pounds that can be
20 dropped. They ought say more not just up to
21 95 pounds. Because up to 95 pounds sounds
22 like it includes 95 or 94 pounds. So that

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1 sounds like if you can still that much, it
2 sounds like it's still going to cause a
3 problem.

4 So that's a fine point, but I
5 think it needs to be clarified.

6 And, again, to what extent. Again,
7 it's a busy street and again these vibrations
8 since there was nothing -- again, it's a
9 situation we don't know what cracks were there
10 before. We don't know the level of vibrations
11 from New York Avenue that are running through
12 through the store that you could actually
13 measure.

14 So there's some conflicting
15 evidence. I mean, I don't know how you measure
16 what's a problem, I mean other than it's the
17 one test that they did with the dropping of
18 the weights. But, obviously, there's still an
19 impact from New York Avenue with buses and
20 garbage trucks and whatever going through. Are
21 you going to measure those?

22 I don't know how to tell the

1 applicant she's not going to feel vibrations.
2 And if she feels vibrations, is she going to
3 be saying that oh it's from next door when it
4 might be necessarily the traffic on the
5 street.

6 So, you're right. I'm a little bit
7 confused as to how they're really trying to
8 get to a point of resolution that they just
9 don't keep -- they're not in a do loop all the
10 time coming back to each other.

11 I think with regard to the impact
12 of the weights there needs to be another
13 little further study that says -- or according
14 to the letter that they've drafted, I think is
15 inadequate. I think it needs to be clearer on
16 how far you can actually go up front.

17 So I mean that's about where I am
18 right now on this. I think it's not clear. I
19 think that the applicant and the next door
20 neighbor still need to talk. I think either
21 Mr. Ford's got to come out again.

22 At one point in Mr. Ford's report

1 he talks about one option is that for
2 monitoring subsequent to patching of the
3 crackled areas of the plaster wall, indicators
4 will be placed on the wall at location of
5 repairs. The indicators will be reviewed every
6 two months for the first six months and every
7 three months for year. Finding no additional
8 cracking caused by the activities at the
9 fitness center will result in ceasing the
10 monitor.

11 But if I read the letter that's
12 supposed to be signed by the tenant, it simply
13 says: "Primal Fitness and Mark Turick agree
14 that beyond the scope of the report." I'm
15 assuming that they're meaning that the report
16 signed by Mr. Ford "they will take all
17 reasonable remedies to reduce vibrations at a
18 reasonable level and agree to undergo
19 inspections of a scientific nature," whatever
20 that means, "at anytime to determine that
21 these standards are being held."

22 So I guess I was first concerned

1 that they weren't -- I guess the report is
2 being referenced that they're going to still
3 put the monitors in. I was worried that the
4 monitors weren't going to be. It sounds like
5 by the fact that they've -- that they're
6 referencing the report, that they will put in
7 monitors. But I'm not sure what scientific
8 nature means.

9 Again, it's a little unclear as to
10 how they're going to go forward with all this.

11 CHAIRPERSON MILLER: Right. And
12 when I read that, you know, I mean that's very
13 nice that they'll take all these efforts.
14 Well, I say take all reasonable remedies to
15 reduce the vibrations to a reasonable level or
16 less, like what level are they at?

17 COMMISSIONER TURNBULL: Yes.

18 CHAIRPERSON MILLER: And so then
19 what does that mean? How do you measure that?

20 I mean, we also say that our
21 conditions need to be directed at I think a
22 clearly definable adverse impact.

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1 COMMISSIONER TURNBULL: Right.

2 CHAIRPERSON MILLER: And then how
3 are the measures going to mitigate it, you
4 know, and what are we left with? How can we
5 measure? Is it maybe some level of vibration
6 is reasonable? Maybe it isn't. And so it's
7 really hard to put our hands around this one
8 the way it is.

9 COMMISSIONER TURNBULL: Yes. I
10 would agree.

11 MEMBER WALKER: Madam Chair, I
12 agree with Mr. Turnbull.

13 The report from the structural
14 engineer contains a lot of information about
15 vibration at the neighbor's property. But
16 there's a really a paucity of information
17 about noise level. And I think that was an
18 equal concern to the neighbor.

19 And so I think we really need to
20 have more quantifiable information about the
21 noise that she's experiencing in addition to
22 the vibration. And I don't know if the

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1 structural engineer is the person to do that.
2 Perhaps he is. You know, perhaps the
3 applicant needs to have a sound study
4 conducted or an acoustical study. I'm not
5 sure. But the record is deficient with
6 respect to that particular point of exactly
7 how much noise that she is experiencing.

8 CHAIRPERSON MILLER: Okay. So I
9 think the direction that we're going in is
10 that we're not going to deliberate this today
11 and we'll leave the record open for the
12 applicant to respond to our concerns. And I
13 think, you know, some things have already been
14 said, and I'm just going to try to say a
15 little bit more to package a little for the
16 applicant.

17 It's obviously the adverse impact
18 prong of the variance test that needs to be
19 addressed more fully and they need to explore
20 more fully what adverse impacts there are or
21 will be remaining. I think they indicate as of
22 August 15th there's going to be a move to

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1 conduct some of the way dropping in the back
2 or something. And the question is will that
3 eliminate all adverse impacts? Like, I really
4 want to know like what's going to be
5 eliminated and what are they left with. And if
6 they're left with some adverse impacts, how do
7 they plan to mitigate them? And if they could
8 tie the mitigation measures directly to the
9 adverse impacts and then let us then see
10 what's left. That that's the way we need to
11 look at it. And then have somebody be able to
12 analyze whether or not what's left is
13 reasonable. And if the information is there,
14 then we can --if it's there enough for us, we
15 can do that.

16 I would be interested in knowing
17 whether he's the only one who feels the
18 vibrations or hears the noises after this, or
19 you know is it validated by other individuals?
20 I don't know that there needs to be a whole
21 study or not.

22 It seems to me it's her quality of

1 life that she's getting at. Do I have to hear
2 these things or feel these things. And it's
3 hard to tell what she' actually hearing or
4 feeling.

5 I think that it was a little bit
6 rushed for the parties and that they are
7 working in the direction of trying to make all
8 sorts of accommodations so that these two can
9 co-exist.

10 Basically, to wrap this up, I
11 think applicant needs to really see in the
12 next few weeks what adverse impacts may be
13 reduced or eliminated by all sorts of things;
14 moving activities to a certain area or
15 schedules or different types of exercises, or
16 whatever it is and giving us specific
17 conditions so we could put in an order that
18 would give us comfort that no substantial
19 adverse impacts will result with these
20 conditions.

21 Anything else?

22 Oh, I want to say, the other thing

1 is, you know, general the conditions have be
2 measurable and enforceable. So if you're going
3 to say it -- it doesn't really work with us to
4 say you'll take all reasonable efforts. It
5 can't be measured, it can't be enforced by
6 DCRA that kind of agreement, even though it's
7 in good faith, we really need specifics.

8 So, anything else? Okay. Why
9 don't we set a date for this decision then. I
10 believe that would be September 9, is that
11 correct, Mr. Moy?

12 MR. MOY: That's correct, Madam
13 Chair.

14 CHAIRPERSON MILLER: Okay. That's
15 our next decision meeting.

16 And then let's set a date for
17 filing of submissions. I would assume that
18 means the applicant filing, you know, one more
19 pleading relating to the adverse impacts and
20 the mitigation of them and proposed
21 conditions. And then parties, that would be
22 Ms. Keyes and I guess if the ANC wanted to

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1 weigh in, could respond. Or, we also before,
2 it could be done jointly. But I think we need
3 two dates in case they don't do it jointly.

4 MR. MOY: Yes, Madam Chair. The
5 staff would suggest then that to allow the
6 applicant sufficient time to respond to the
7 Board's concerns, a filing deadline of Friday,
8 August the 29th. And allow the party in
9 opposition to respond reasonably the following
10 week, which would be September the 5th. And
11 staff will get the information to the Board in
12 time for the decision on the 9th.

13 CHAIRPERSON MILLER: Okay. Thank
14 you.

15 And, you know, I would note that
16 the Board would have liked to reach on a
17 decision on this. But I think that this is
18 just something that takes a little more time
19 and working through. And the Board is
20 somewhat sensitive that there's another
21 proceeding going on. And would just note that
22 the continuing of this case to September is

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1 not a reflection that the Board isn't
2 inclined, you know one way or the other or
3 against the use. It's just that it needs just
4 a little bit more time. And I would hope that
5 the other proceeding would respect and
6 understand that this Board needs to take the
7 time that's necessary to resolve this issue
8 appropriately.

9 Okay.

10 MS. BAILEY: Madam Chair, is the
11 record left open for the ANC's report as well?

12 CHAIRPERSON MILLER: Yes.

13 MS. BAILEY: Thank you.

14 CHAIRPERSON MILLER: Mr. Moy, you
15 gave a date for Ms. Keyes and the ANC, is that
16 correct?

17 MR. MOY: Yes. The reference for
18 all parties --

19 CHAIRPERSON MILLER: All parties.

20 MR. MOY: -- for September the
21 5th.

22 CHAIRPERSON MILLER: Right. Right.

1 Thank you.

2 Mr. Moy, is there anything else on
3 the agenda for the Board's Special Meeting
4 today?

5 MR. MOY: No, Madam Chair. That's
6 completes the session.

7 CHAIRPERSON MILLER: Okay. Then
8 that meeting is adjourned.

9 (Whereupon, at 10:29 a.m. the
10 Special Meeting was adjourned.)

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