

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

WEDNESDAY

NOVEMBER 5, 2008

+ + + + +

The Regular Public Meeting
convened in Room 220 South, 441 4th Street,
N.W., Washington, D.C., 20001, pursuant to
notice at 9:30 a.m., Ruthanne G. Miller,
Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

RUTHANNE G. MILLER, Chairperson

MARY OATES WALKER, Board Member

SHANE L. DETTMAN, Board Member (NCPC)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

BEVERLEY BAILEY, Sr. Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

LORI MONROE, ESQ.

The transcript constitutes the minutes from the Public Meeting held on November 5, 2008.

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

Opening Remarks 4

APPLICATION No. 17650 6

Vote: Three to zero to two for
approval 12

APPLICATION No. 17826 13

Vote: Five to zero to zero for
approval 52

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

9:56 a.m.

CHAIRPERSON MILLER: Good morning, ladies and gentlemen. This Public Meeting will come to order.

This morning we have two cases on the agenda for a special public meeting and then we will have that followed by a public hearing on a case.

My name is Ruthanne Miller. I'm the Chair of the BZA.

To my left are Mary Oates Walker and Shane Dettman, Board members. And our Vice Chair is not with us today, but I believe he's participating in both of the cases up for decision by absentee ballot. And we're not joined this morning on our decision by a Zoning Commissioner.

Also next to Mr. Dettman is Mr. Cifford Moy from the Office of Zoning, Lori Monroe, Office of Attorney General. And Ms. Beverly Bailey from the Office of Zoning.

1 I'n not sure if I said that this
2 is November 5, 2008.

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

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

9 Please, be advised that this
10 proceeding is being recorded by a Court
11 Reporter and is also webcast live.
12 Accordingly, we must ask you to refrain from
13 any disruptive noises or actions in the
14 hearing room. Please, turn off all beepers
15 and cell phones.

16 Does the staff have any
17 preliminary matters?

18 MR. MOY: Yes, Madam Chair, but we
19 can take that up case-by-case.

20 CHAIRPERSON MILLER: Okay. Then
21 why don't we call the first case on the agenda
22 for the Special Public Meeting.

1 CHAIRPERSON MILLER: Yes, good
2 morning, Madam Chair, members of the Board.

3 The first of the two cases for
4 decision, the first case is a request for
5 modification of approved plans and waiver of
6 the six-month requirement to Application No.
7 17650 of Gethsemane Baptist Church, pursuant
8 to Section 3128 of the Zoning Regulations.

9 The Board will recall the original
10 application was to 11 DCMR § 3103.2 for a
11 variance from the parking requirements under
12 subsection 2116.3 to allow an expansion of an
13 existing church, in the R-3 District at
14 premises 5119 4th Street, Northwest and 320
15 Hamilton Street, Northwest which is in Square
16 3301, Lot 809.

17 This application was originally
18 heard on September the 4th, 2007 and was
19 decided on the same day as a bench decision.

20 On September 26, 2008 the
21 applicant filed a request for modification of
22 approved plans and a waiver of the six-month

1 time requirement, pursuant to § 3129. And
2 that filing is identified as Exhibit 34 in
3 your case folders.

4 Also, no parties have submitted
5 any written comments concerning the requested
6 modification as required pursuant to § 3129,4,
7 which is a ten day period which ended on
8 October the 6th.

9 On October the 28th the Office of
10 Planning filed a report on this modification,
11 which is in support of the applicant's
12 modification, in fact. And that filing is
13 identified as Exhibit 35.

14 So in conclusion then, Madam
15 Chair, the Board is to act on the requested
16 relief to waive the six-month time
17 requirement. And second if the Board grants
18 the waiver, then the Board is to act on the
19 merits for the request for modification of
20 approved plans.

21 And that completes the status
22 briefing, Madam Chair.

1 CHAIRPERSON MILLER: Thank you
2 very much, Mr. Moy.

3 I'm going to turn to Mr. Dettman
4 to start the discussion on this as I
5 understand that since he didn't participate in
6 the case originally he has -- and you can tell
7 me, Mr. Dettman, that's true that you have
8 reviewed the whole file and record in this
9 case and are very familiar with it at this
10 point. So I'm going to turn to you.

11 MEMBER DETTMAN: Thank you, Madam
12 Chair. And, yes, I have reviewed the record
13 in its entirety including the filings
14 associated with this request for modification.

15 It's a request for modification to
16 approve plans pursuant to § 3129, and
17 specifically the applicant is requesting a
18 waiver from 3129.3 which reads a request for
19 modification of plans shall be filed with the
20 Board not later than six-months after the date
21 of the final order approving the application.

22 So I think probably the first

1 order of business would be to grant that
2 waiver.

3 CHAIRPERSON MILLER: That's
4 correct. Did you want to address that at all
5 as to good cause or no prejudice to any party
6 at this point?

7 MEMBER DETTMAN: Well, it seems
8 that the applicant is now in construction
9 phase. And the approved plans, which the
10 Board approved the plans included in Exhibit
11 26 of the record it shows 21 parking spaces to
12 the south of the existing church. And the
13 modification is specific to the location of
14 the retaining wall. It appears that as they
15 have entered construction phase the location
16 of the retaining wall that's indicated on
17 Exhibit 26 is not actually accurate, which has
18 changed not the number of parking spaces that
19 they'll be locating on site, but the location
20 of those 21 spaces. Three of them, because
21 the retaining wall is located further into the
22 property, I believe is was 21 feet further

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1 into the property, it caused three of those
2 spaces to be located off of the alley. So it
3 seems that there is good cause to grant the
4 waiver to 3129.3.

5 CHAIRPERSON MILLER: Okay. And
6 they weren't aware that this wall was posing
7 that problem when it was before us, okay?

8 MEMBER DETTMAN: That's right.

9 CHAIRPERSON MILLER: I would agree
10 that we should waive that.

11 MEMBER DETTMAN: Sure.

12 I think it should be noted that in
13 the hearing DCOP as well as the ANC were both
14 in favor of this project. And really the
15 variance was granted from 2116.3, which deals
16 with the off-site location of parking as it
17 pertains to a church. It's allowed that they
18 can locate some parking off-site not to
19 exceed, I believe it's 400 feet. And the
20 variance as granted because the distance
21 between the church parking lot and the parking
22 lot that I believe five spaces were going to

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1 be located at Rudolph Elementary School were
2 slightly over 400 feet, the Board granted that
3 variance. That variance really doesn't
4 change. Five spaces are still being located
5 off-site. And as I said, it's actually the
6 location of the 21 spaces or the arrangement,
7 I should say, of the 21 spaces on-site that's
8 triggering this request for modification.

9 The new plans are included in
10 Exhibit 34. And that's the second attachment
11 showing that three spaces will be located on
12 top of the retaining wall and accessed from
13 the abutting alley. The remaining 18 spaces
14 will continue to be located on site and
15 accessed from a curb cut to the east of the
16 site.

17 And again, Madam Chair, this
18 modification seems to be minor and changed to
19 the approved plan and I thin warants approval.

20 CHAIRPERSON MILLER: I would
21 agree. They're still providing the same amount
22 of spaces, it's just a rearrangement and

1 doesn't affect the relief that was granted in
2 our order. Okay.

3 I don't think then I have anything
4 further to add to that. I would then move
5 approval for the request for modification of
6 the approved plans and waiver of the six-month
7 time requirement to Application No. 17650 of
8 Gethsemane Baptist Church, pursuant to § 3129
9 of the Zoning Regulations.

10 MEMBER DETTMAN: Second.

11 CHAIRPERSON MILLER: Further
12 discussion?

13 Okay. All those in favor say aye.
14 Aye.

15 All those opposed? All those
16 abstaining?

17 And would you call the vote,
18 please?

19 MR. MOY: Yes, Madam Chair.

20 Before calling the vote the staff would like
21 to also add that the Board is in receipt of an
22 absentee ballot from Mr. Loud who also

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1 participated on the original application. And
2 his vote is to approve the request of the
3 modification of approved plans. So that would
4 give a resulting vote of three to zero to two.
5 We have two other members not participating on
6 this case.

7 So, again, three to zero to two.

8 CHAIRMAN MILLER: Thank you.

9 And as there's no party in
10 opposition, this can be a summary order.

11 MR. MOY: Yes. Thank you.

12 The next and final case for
13 decision this morning, Madam Chair, is
14 Application No. 17826 of the Maret School,
15 Inc., pursuant to 11 DCMR § 3104.1 for a
16 special exception to permit an increase in
17 faculty, staff and student enrollment for a
18 private school under section 206, in the R-1-
19 B/R-3 District at premises 3000 Cathedral
20 Avenue, Northwest. This is in Square 2113,
21 Lot 843.

22 As the Board will recall, on the

1 21st of October the Board completed public
2 testimony, closed the record, then scheduled
3 its decision on Wednesday, November the 5th.
4 The Board requested additional information to
5 supplement the record.

6 The first set of filing is from
7 the applicant, requested from the applicant.
8 That filing was submitted and is identified in
9 your records as Exhibit 31. That filing also
10 includes a copy of the school's handbook.

11 Second, the Board allowed
12 responses to the applicant's filing from
13 parties, including the District Department of
14 Transportation and ANC 3C. The office is in
15 receipt of a filing from DDOT. Its timely and
16 its identified in your case folder Exhibit 32.

17 Finally, Madam Chair, the office
18 is also in receipt of a filing from the
19 applicant, which staff believes is in response
20 to DDOT's filing. That was received
21 yesterday, Tuesday, November the 4th. That
22 should be considered as a preliminary matter.

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And that will complete the staff's briefing, Madam Chair.

Thank you, Mr. Moy,

I think that we should start off with the preliminary matter of timeliness with respect to the applicant's filing that was just filed yesterday as Mr. Moy mentioned but also, if I'm not mistaken, the original report of Department of Transportation was also untimely. And I think that's what led to this round of filings.

And we did take in the report and we heard testimony at the hearing, but I don't think we ever waived it in. So I think that we should do that. I think we were saying that while there was -- or I would say it now even good cause to hear from DDOT that traffic and any adverse impacts related to that are important to consider, but as we can see it did create some problems in a flurry of quick responses.

1 And I think we certainly should
2 also waive in the applicant's response to the
3 latest DDOT report because in the latest DDOT
4 report that raised a lot of proposed
5 conditions that were new that hadn't been
6 discussed at the hearing that we certainly I
7 would think wanted to hear the applicant's
8 reaction to.

9 So the circumstances of the Board
10 to waive those documents into the records?
11 Okay. So that's done. Those documents are
12 officially into the record.

13 So I just want to start off with
14 saying what's the relief that's being sought
15 here. It is a special exception relief under
16 section 206 of the Zoning Regulations. 206
17 states that a private school shall be located
18 so that it is not likely to become
19 objectionable to adjoining and nearby property
20 because of noise, traffic, number of students
21 or otherwise objectionable conditions. So we
22 need to keep that in mind when we're

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1 evaluating the application here.

2 And then also we look to 206.3,
3 which talks about ample parking for the school
4 but not less than that required by Chapter 21.
5 So I just wanted to put before us that we're
6 looking at 206 and then we're looking at 2101
7 actually. And we'll get to the analysis. The
8 2101.1 talked about the formula for schools,
9 that being two spaces for every faculty or
10 staff plus one seat for every ten spaces in
11 the largest assembly space.

12 Okay. So this is a fairly simple
13 application. The Maret School is seeking an
14 enrollment increase. As I understand it under
15 their last order they are limited to 600
16 students. They currently have 611, I believe.
17 And they're seeking an increase to 645. And
18 they are seeking an increase in faculty --
19 correc me if I'm wrong. Am I right?

20 MR. MOY: 635.

21 CHAIRPERSON MILLER: 635? Okay.

22 635. And then they're seeking an increase in

1 faculty and staff from 125 to 129. And I
2 believe that we asked them at the hearing that
3 was referring to FTEs, full time equivalents,
4 I believe. Okay.

5 Basically the school has been
6 operating at the site since 1951 without any
7 significant problems that I can see in the
8 neighborhood. There are certain issues that
9 were raised in the record by DDOT and the ANC,
10 and Office of Planning. I wouldn't consider
11 them major, but I think that we need to go
12 through them with respect to proposed
13 conditions that have been put forth. We have
14 them by ANC, Office of Planning, some
15 conditions by DDOT. I think that's it. And
16 the applicant.

17 The application does have the
18 support of the ANC and the neighbors and the
19 Office of Planning with conditions.

20 DDOT said in their last filing
21 they didn't disagree with the school's request
22 for special exception, but they have proposed

1 conditions.

2 When we left off at the hearing I
3 think that we might even have resolved this
4 case at the hearing had we not had the report
5 from DDOT that raised questions about
6 congestion at the hearing, and that's why it
7 was continued. However, we went through a lot
8 of the proposed conditions, particularly uing
9 Office of Planning's proposed conditions who
10 they had also looked at the ANC's. And I was
11 left with the conclusion that they just
12 crafted them in a better way than many of the
13 ANC's codntion stuff, that they were very
14 similar to many of them.

15 We went through a lot of them that
16 last time. And then the applicant then went
17 back and they responded to the Office of
18 Planning's conditions and our comments, and
19 then discussion then ensued at the last
20 hearing.

21 So I think where we're at is, and
22 you can tell me if you're at a different

1 place, but I think we were saying that this
2 was not a large increase in faculty or
3 students, really, that it looked like the
4 school could certainly absorb the number with
5 respect to not having an adverse impact on the
6 neighborhood from noise or things like that.
7 And it seemed like the most important issue is
8 traffic and congestion. And we have
9 conditions that go to that.

10 So I think perhaps unless you all
11 have more to say about the particular merits
12 of the case, I think basically we're at
13 thepoint where we're looking at conditions to
14 see what conditions might be necessary based
15 on their history and based on what we've heard
16 in the hearing and the filings, what
17 conditions might be necessary to mitigate any
18 adverse impacts.

19 Okay. So I think that we need to
20 pull the proposed conditions again and maybe
21 we can go through some of these faster since
22 we've already been through them almost once

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1 before. And then there are some new ones, of
2 course.

3 So I just want to take a minute
4 and pull mine. I'm referring to -- well, we
5 have ANC C3 resolution that's proposed
6 conditions, that's Exhibit 19.

7 We have the applicant's proposed
8 conditions in Exhibit 31 in which they lay out
9 the Office of Planning's conditions and they
10 respond to that.

11 We have the November 3rd memo from
12 DDOT which proposes conditions most recently
13 after the hearing.

14 We have the Office of Planning
15 report, which was Exhibit 26 which we used at
16 the last hearing. And I think that the
17 applicant probably incorporated that in its
18 last document, but we can have that accessible
19 as well. Okay.

20 All right. Are we ready? Okay.

21 The first one deals with placing a
22 cap on the number of students and faculty

1 which has become common in these cases. I
2 mean, first of all, they're asking for a
3 certain amount and the cap puts a control on
4 the school and it affects the parking and the
5 traffic and everything like that.

6 So the first then I would just
7 phrase the maximum number of students shall not
8 exceed 635. The number of faculty and staff
9 shall not exceed 129 employed at any one
10 period.

11 This goes to the question about at
12 any one time. And the regulations talk about
13 you can use FTEs, but regulation goes to at
14 any one time there has to be a certain amount
15 that doesn't exceed the parking requirement.
16 And this one doesn't. We can get to parking as
17 we go through it. But it does not exceed that
18 formula, the numbers they're asking for.

19 Does anybody have a concern for
20 that? I think the ANC support, that Office of
21 Planning support, DDOT doesn't really oppose
22 it either. I don't think there's any

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1 opposition. When we get to the parking we'll
2 get to how it's related to the parking figure.

3 Number two: The applicant should
4 provide enrollment and staffing figures to the
5 ANC annually. Applicant doesn't object.
6 Office of Planning, you know, they're all in
7 support of that. So fine. Okay. I think
8 we're going to get to that other question
9 about other things regarding reporting on
10 traffic, but that's down the road. Okay. So
11 that's separate.

12 Three: The applicant shall
13 provide a total of 139 parking spaces on site
14 of which a minimum of ten shall be dedicated
15 to visitor parking.

16 This school has 139 spaces, and as
17 I recollect the requirement is 90. And that
18 was reached by doing the equations under 2100,
19 which two-thirds of the number of faculty and
20 staff at one time which is two-thirds of 129
21 equals 86. And then they have 53 spaces for
22 the largest gathering area.

1 Actually, so the requirement would
2 be more than 90. I'm not sure why I wrote
3 that. It's under the 39. So they actually
4 they meet the 139 with the faculty and staff
5 members that they have provided that's the
6 maximum number on the campus during one period
7 at that time. Okay.

8 The applicant shall prohibit
9 vehicles from making a left hand turn onto
10 campus from Cathedral Avenue during school
11 drop off and pick up times. I think this is
12 something that they are doing now, and that
13 was in response to the community. And there's
14 no objection.

15 Any concerns on that?

16 The applicant shall instruct
17 parents not to park on Cathedral Avenue to
18 wait for their children at school drop and
19 pick up times. Okay. I think we kind of went
20 through these and everyone's in support of
21 that.

22 The applicant shall encourage

1 carpooling by establishing, and I'm adding
2 this, and maintaining an online system to help
3 parents identify other families along their
4 travel route and distributing information
5 regarding the location of other families in
6 the area to parents at the start of each
7 academic year.

8 I skipped something? No.

9 Okay. Do we have a problem with
10 that? And I just want to say that this
11 carpooling is an issue that was raised,
12 certainly, by DDOT. And it is something that
13 applicant is working on addressing already by
14 this online system. So it certainly goes to
15 alleviating or mitigating an adverse impact of
16 congestion in their school lane for drop off
17 and pick up. Okay. So that's not an issue.
18 So we'll accept that one.

19 The applicant shall provide
20 traffic control personnel at both ends of its
21 driveway during school drop off and pick up
22 times to facilitate on campus traffic flow and

1 enforce drop off and pick up procedures.

2 Okay. Same thing, I think we discussed this

3 at the hearing. The applicant is doing this.

4 And it is to address that situation to

5 facilitate the drop off and pick up. And also

6 other cars going by. Okay.

7 We're now up to eight. The

8 applicant shall distribute a policy manual to

9 all families prior to the start of the

10 academic year that explains all relevant

11 policies and procedures regarding parking,

12 pick up, drop off and penalties for

13 noncompliance. This information shall also be

14 posted on the school's website.

15 Okay. I think everybody is in

16 support of that. I think the applicant does

17 that. Most of the schools do that that come

18 before us, and it is helpful. Okay.

19 And I am following to a certain

20 degree applicant's Exhibit 33 where its

21 responding to Office of Planning proposed

22 conditions.

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1 Number nine: The applicant shall
2 encourage its faculty and staff to use public
3 transportation. There's an issue here about
4 to what extent Maret should be conditioned to
5 require or to facilitate the use of public
6 transportation by its faculty and staff. And
7 I think we also saw by its students. And I
8 think in their latest submission, I think we
9 probably should put that one in front of us,
10 too. Exhibit 33. They make an offer to
11 subsidize public transportation to students,
12 faculty and staff.

13 Okay. On page 6 of Exhibit 33
14 Maret says that it will be offering to
15 subsidize public transportation for up to 429
16 individuals should they choose to take public
17 transportation. For around 300 upper class
18 students and 129 faculty and staff members.

19 So I'm wondering if we ought to
20 add to this condition that they will offer
21 subsidized public transportation to students,
22 faculty and staff?

1 MEMBER WALKER: I agree, Madam
2 Chair. I think the condition that you read
3 initially that just has the applicant to
4 encourage the use of public transportation
5 doesn't have enough teeth. And so I think that
6 if we include a requirement that they offer a
7 subsidy, that it will go much further toward
8 actually facilitating public transportation use.

9 CHAIRPERSON MILLER: I agree.

10 Any other comments on this? Yes.

11 And I have to say, you know when I
12 was looking at some of the submissions where
13 they say they already offer a \$75 Metrochek to
14 faculty and staff, that is in their original
15 Exhibit 31 submission and I was wondering
16 whether we ought to add that into a condition.
17 And then I decided that I didn't really think
18 so. That was perhaps too specific.

19 You know, we have to be cautious
20 about locking a school in too much to
21 something too specific. Because this order is
22 not going to have a term, as far as I can see,

1 and we want them to have the flexibility and
2 it's very hard to predict the economics here.
3 And I think the fact that they're showing that
4 they're doing something like this shows that
5 they're doing it anyway and that there's less
6 of a need for us to impose a more specific
7 condition. I think here we added a little
8 more specificity to it.

9 And also they will be as we get to
10 later providing reports to DDOT and the ANC to
11 show that they are doing this, encouraging use
12 of public transportation. And so there will be
13 a way to measure. People will say well how
14 are you doing it, and they'll be able to show
15 them. So I think this is a good balance.

16 Okay. I think that took us
17 through Maret's response to Office of
18 Planning's proposed conditions in Exhibit 31.

19 I guess we could go to the carbon
20 footprint one. Conditions proposed by the
21 applicant.

22 Number 10: The applicant will

1 commit to reducing its carbon footprint
2 through the Green Schools Alliance or by
3 actively participating in an organization with
4 similar goals.

5 When we went back to reflect on
6 this kind of condition, you know it does
7 raise an issue as to I guess what zoning issue
8 it goes to, what adverse impact under the
9 Zoning Regulations. It would be mitigating.

10 I guess, and again, this looks
11 like a good commitment. And I think what we
12 heard in the hearing is that there already is
13 a commitment to do this. This is what the
14 applicant said in response at the hearing that
15 they are already committed through this Green
16 Schools Alliance to reduce their carbon
17 footprint.

18 So the question is: Do we need
19 this condition? Is it appropriate to put this
20 condition into our zoning order? The standard
21 is a private school should be located so that
22 it is not likely to become objectionable to

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1 adjoining and nearby property because of
2 noise, traffic, number of students or
3 otherwise objectionable conditions.

4 And I think it's being offered to
5 address DDOT's concern I think about the
6 congestion in the driveway. But I also would
7 offer comment whether we think that it should
8 be incorporated as a condition in this order.

9 MEMBER DETTMAN: Madam Chair, I
10 don't really see a need to incorporate that as
11 an order. I think that to the testimony at
12 the hearing, Maret demonstrated their
13 dedication to being more sustainable to
14 reducing their carbon footprint. I believe in
15 their filing they've even recognized
16 significant energy savings just through the
17 efforts that they're making today in the types
18 of materials that they're buying or the types
19 of light bulbs that they're using.

20 I think the economic advantages to
21 being more sustainable are being realized, and
22 I think the school's seeing it. Whether or

1 not they're a charter member or a member of
2 the Green Schools Alliance I don't think that
3 that would actually change their desire to be
4 more sustainable because we're finding out tha
5 that's the smart thing to do. And, again,
6 going back to the economic benefits.

7 So I don't really see a need to
8 include that in the order because I can't see
9 how it's mitigating any sort of adverse
10 impact. And I think that whether or not
11 they're a member or not, it's not going to
12 change their opinions and their desires and
13 their practices into the future.

14 CHAIRPERSON MILLER: I agree. I
15 think the purpose of our conditions are to put
16 in conditions that are necessary to mitigate
17 adverse impacts. And I don't see that it's
18 necessary in any event because they already
19 have this pledge and they have to meet that
20 pledge through another way that's more
21 appropriate, I think, than the zoning order,
22 in any event.

1 Okay. Are we okay on that one?
2 So that won't be included.

3 If I'm not mistaken, then I think
4 we're finished with Office of Planning's and
5 would go to DDOT's other proposed conditions.

6 Applicant now addresses them in
7 Exhibit 33. And I don't have an exhibit
8 number for DDOT's report, but its November 3,
9 2008.

10 MR. MOY: It's Exhibit 32, Madam
11 Chair.

12 CHAIRPERSON MILLER: Thank you.
13 Okay. So we're looking at Exhibit 32 and 33.

14 One of the points that the
15 applicant makes, which I do think is well
16 taken, is that these conditions were suggested
17 to them very last minute after the hearing.
18 And they didn't have time to respond in a
19 hearing and, in fact, just had to do as quick
20 a response as they could on paper. So I think
21 that in the future DDOT should take that into
22 condition that they have the application well

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1 advance of the hearing. And that their
2 proposed conditions and concerns could really
3 be addressed more thoughtfully and thoroughly
4 with more time, and there could be more give
5 and take with working it out with the school
6 and the community. And I think that would
7 have a better effect.

8 But in any event, we have what we
9 have, which is basically DDOT's proposals and
10 then Maret's responses. So one is to
11 establish a carpool program. I have to find
12 it, but I think that there was a benchmark
13 proposed by DDOT.

14 MEMBER WALKER: Two hundred
15 children, Madam Chair.

16 CHAIRPERSON MILLER: Thank you.

17 MEMBER WALKER: Wanted to require
18 Maret to establish a carpool program that
19 would allow for at least 200 children to
20 participate.

21 CHAIRPERSON MILLER: And what I
22 recall from the testimony was that, first of

1 all, and we already have this in some of our
2 conditions they have started to establish
3 carpool program. They have something on line.
4 They're compiling, I think, addresses of
5 everybody and zip codes, whatever, to
6 encourage carpooling. But that it's
7 complicated because they have grades K through
8 12 and they have students and faculty and
9 staff from WASHINGTON, D.C., Virginia and
10 Maryland. And that it would be very difficult
11 to require 200 students to participate in a
12 carpooling program. And I haven't seen
13 anything like this that I recall in any of
14 other schools where we would require a certain
15 number of students to participate. I think
16 it's very difficult anyway.

17 Do you all have other opinions on
18 that? Okay.

19 And I also think it's way too
20 severe for -- I think we have to establish
21 what we're talking about what the adverse
22 impact is. I think there is some congestion in

1 this driveway in the school during drop off
2 times, maybe. I don't even think it was
3 necessarily so much in pick up. And Maret has
4 been working with the community on this and
5 they've done like staggered hours for the
6 different grades and things like that. So I
7 think this is kind of requirement is kind of
8 dire and doesn't really jive with what they're
9 trying to do, youknow, with their student body
10 and faculty and staff.

11 All right. Is that one out?

12 Two: Designated faculty member to
13 act as school transportation coordinator. Any
14 coments on that?

15 If I recall, Maret already has
16 smething in place like that, a team or
17 something to deal with --

18 MEMBER WALKER: Right. On page 3
19 of Exhibit 33 the last submission dated
20 November 4th Maret points out that they
21 already have a team of individuals in place to
22 analyze transportation related issues. And

1 that that team is actually comprised of a
2 faculty member from each of the lower middle
3 and upper schools. So I think because they
4 already -- you know, they figured this
5 function out. They have designated three
6 people versus one. And I think we should sort
7 of leave it to Maret to figure out the best
8 way to staff this particular issue.

9 CHAIRPERSON MILLER: Thank you. I
10 would agree.

11 Next: Participate in the Safe
12 Roues to School Program. DDOT mentioned this
13 in its filing again. And it might have been
14 more effective, perhaps, if DDOT had even
15 mentioned it at the hearing and people could
16 have asked more questions about it or
17 whatever. You know, I think you provided a
18 link and I did go online and look at it. And,
19 you know, it looked like a pretty good
20 program. However, Maret objected to it because
21 they were saying that they didn't have time to
22 really research the program thoroughly. I

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1 think they do a lot of things that are similar
2 and that they shouldn't be required to do this
3 particular program.

4 MEMBER WALKER: In addition, Madam
5 Chair, this program is promote walking to
6 school in part. And I was really persuaded by
7 the statistic that only 84 of Maret's 610
8 students live in the same zip code as the
9 school. And so we have to be very careful not
10 to impose conditions that are really out of
11 reach given the facts.

12 CHAIRPERSON MILLER: Well said.
13 Anything else on that one? Okay.

14 Next: The next one was administer
15 a student travel tally at least once a year.
16 I think this was the one in which Maret is
17 saying they already will be administering an
18 annual tally as part of their membership in
19 the Green Schools Alliance. ButI thnk as we
20 also get further on in the reporting issue
21 they will be reporting to DDOT and ANC about
22 their annual transportation performance. We'll

1 get to that. I think they've agreed to do
2 that. But they ask they do it every other year
3 instead of every year.

4 So it appears that the student
5 travel tally is not necessary. Does anyone
6 think it's necessary? Okay.

7 Five: Participate in the World
8 Carfree Network Program. And, again, Maret is
9 saying they haven't had time to research this
10 program but they do things anyway which
11 encourages the same goals. Therefore, it's
12 really not necessary to impose this particular
13 program on them. I mean, and I would agree.
14 They start going through what they do do and
15 what they have planned, and it's actually
16 pretty impressive with respect to thir Green
17 Schools Alliance. So I don't think that they
18 have such an adverse impact that's different
19 from other schools that would require their
20 being mandated to participate in this
21 particular program.

22 I mean, it may be that some of

1 these programs that DDOT has brought to
2 everyone's attention, maybe that's a good
3 thing and maybe they will participate in it.
4 But it's different from our mandating that in
5 a condition that's going to go with the order
6 for years ahead. Does anybody disagree.
7 Okay.

8 That leads us to monitor and report
9 annually on the school's transportation
10 management plan, TMP efforts, including
11 average vehicle occupancy, daily vehicle trips
12 to and from school and mode split survey.

13 DDOT was proposing that Maret
14 submit a letter on an annual basis to DDOT,
15 Office of Planning, ANC 3C, Woodley Park
16 Community Association and Cleveland Park
17 Citizens Association describing its TMP
18 efforts for the preceding year. First of all,
19 Maret has stated that they're kind of working
20 through these new programs and they would
21 prefer to do this every other year. And
22 there's also an expense in doing this. And

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1 they don't want to use necessarily a
2 transportation consult to compile the report
3 and generate those reports because of the
4 expense as well. So that's one issue of, you
5 know, can they do this every other year
6 without a traffic consultant, per se. They
7 want to do it through their transportation
8 committee. I don't have an issue with that.

9 Do you know where that is? I'm
10 reading from Exhibit 33, their November 4,
11 2008 resposne to DDOT page 6.

12 MEMBER WALKER: I take it this is
13 the same transportation committee comprised of
14 a faculty member from each of the three
15 schools?

16 CHAIRPERSON MILLER: Right. I
17 would think so. Wherever you found that
18 description. That's on page 3. They have a
19 team in place to handle any unanalyzed
20 transportation related issues comprised of a
21 faculty member from each lower, middle and
22 upper schools.

1 MEMBER WALKER: I think it might
2 be onerous us to require them to engage a
3 transportation consultant for this kind of
4 data collection and monitoring. I mean,
5 obviously they have a relationship with a
6 transportation consultant who has helped them
7 outline these approaches. And that consultant
8 is available to them should they need it. But
9 I think to require them to use the consultant
10 may be too burdensome.

11 CHAIRPERSON MILLER: Yes. I would
12 agree also. I was just reviewing quickly the
13 ANC resolution to see whether they asked for
14 anything like that. And they don't. So I
15 think it is a little bit onerous, particularly
16 in this case where we weren't hearing any
17 complaints from the ANC or the neighbors about
18 serious traffic concerns as we do and have in
19 other school cases.

20 Also, though, I have to say that I
21 was surprised to see the reach of this report
22 that it should go to Woodley Park Community

1 Association and Cleveland Park Citizens
2 Association, that they're not parties in the
3 case. I don't know why they would need report.

4 I think that ANC is sufficient.
5 The ANC has asked for reports, and that's
6 common and appropriate. And if DDOT wants
7 reports, that's fine and appropriate, too, if
8 they want to be involved with this.

9 At the Office of Zoning we never
10 ask for these kind of reports because we don't
11 keep track of that. We only evaluate this kind
12 of thing in the context of a hearing.

13 So I would suggest that this
14 condition provide for reporting every other
15 year to DDOT and the ANC describing the
16 school's TMP efforts for the preceding two
17 years.

18 Maret says on page 6 that they're
19 already persuing many of DDOT's proposed
20 objectives. They're just doing it through
21 different means. And I think the record
22 reflects that. And it seems like they've

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1 begun to look at all these kind of issues in
2 the context of this application. And so
3 except for the Green Schools Alliance Program,
4 which is even separate, they've been looking
5 at that anyway. So I think they're on the
6 right road. So I don't think that we need to
7 impose any more conditions tht affect.

8 I just want to quick look at the
9 ANC resolution and see if there's anything
10 that we need to address there.

11 We did address this at the
12 hearing. As I'm looking at that resolution,
13 does everyone have that? I think that there
14 was a proposal that Maret encourage families
15 to drop children and were investigating
16 encouraging families to drop children in
17 grades 8 through 12 off at the intersection of
18 29th Street and Cathedral Avenue allowing
19 them to walk the remaining half block . If I
20 recall, I think Maret investigated it and it
21 didn't prove to be something that would be a
22 good condition, that it had problems with

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1 dropping children off at those intersections
2 and shouldn't be mandated. That that's
3 something that needs flexibility.

4 Do you recall anything different
5 about that? Okay.

6 MEMBER WALKER: Madam Chair, the
7 ANC also requested that Maret report
8 enrollment and staff numbres on an annual
9 basis. So in addition to --

10 CHAIRPERSON MILLER: I think we
11 did that.

12 MEMBER WALKER: We did that?

13 CHAIRPERSON MILLER: Yes.

14 MEMBER WALKER: I thought we did
15 the transportation performance, the studies on
16 transportation monitoring.

17 CHAIRPERSON MILLER: Okay. It was
18 number two. I think when I did it I said well
19 I know there's going to be a reporting on
20 traffice and we'd get to that later. Do you
21 see that?

22 MEMBER WALKER: Oh.

1 CHAIRPERSON MILLER: As far as I
2 can see, I think the ANC's conditions are
3 covered. Do you see otherwise?

4 I think that they weren't included
5 in the exact wording because I think Office of
6 Planning did a really good job in phrasing the
7 conditions, but I think the concepts are all
8 covered except for that number 3 where the
9 kids should be dropped off.

10 Are there any other conditions
11 that Board members see that have been offered
12 that Board members want to add? Okay.

13 MEMBER DETTMAN: Madam Chair,
14 before going forward, it sounds like we're
15 done with conditions. But before going
16 forward with a motion I just want to make a
17 comment.

18 And I'll start off by saying that
19 I'm in support of this project and ready to
20 vote accordingly. Because I think that the
21 applicant meets the technical requirements of
22 the regs, section 206 as well as Chapter 21.

1 I'm verymuch impressed by their
2 dedication to becoming more sustainable. I
3 think that's very, very important and
4 something I've spent some time studying in the
5 past year.

6 And most importantly, we don't
7 have any evidence in the record that speaks to
8 any adverse impact on the neighborhood whether
9 in the past and it's not anticipated they're
10 going to have any in the future. But I will
11 say that I think that the school's practice of
12 prohibiting students from parking on site
13 works a little bit against and is contrary to
14 the purpose and intent of the Zoning
15 Regulations. And I also think that it works
16 against their goal of reducing their carbon
17 footprint. I think my taking 53 spaces are
18 meant to accomodate the students and opening
19 them up to, presumably, the 129 staff people
20 that are allowed on this campus at any one
21 time or visitors, it almost encourages people
22 to take their car to this campus.

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1 So I guess maybe the applicants in
2 the audience, I guess there's a suggestion
3 that maybe if the applicant is successful in
4 reducing the number of trips made by faculty
5 and staff to this site, if you're successful
6 in doing that consider opening up those spaces
7 that are now available to students. Pulling
8 them off of the neighborhood streets, opening
9 up public parking on the streets to members of
10 the public. And also if you're successful and
11 you don't consider this, what we'll end up
12 with is a large impervious area that's taking
13 storm water runoff and throwing it into the
14 sewer, not being used for its intended
15 purpose to accommodate students and faculty
16 and staff.

17 So, again, in support of the
18 project because we have no adverse impact from
19 the neighborhood. But just making that
20 observation. And it is something that I spent
21 some time looking at during the hearing as
22 well.

1 CHAIRPERSON MILLER: Thank you.

2 I mean all I could say is I
3 understand your point, and we discussed this
4 at the hearing. And it's an unusual situation
5 that those streets around the school should
6 have so many spaces. So, you're right. I
7 think there's no adverse impact on neighboring
8 properties because of this, you just don't
9 think that it's within the spirit of the
10 regulations. And I guess but technically it is
11 within the regulations because the school is
12 providing parking to meet its needs without
13 having an adverse impact on the community.

14 So, okay. I also think that the
15 record showed that the school's been here for
16 a long time and appears to be a good neighbor.
17 It's unusual to have an application for a
18 school to come forward without complaints
19 about traffic and parking and noise or
20 anything like that. So I would commend the
21 school on that.

22 And also, I think that some of the

1 positive that came out of this late flurry of
2 filings with respect to DDOT's concerns showed
3 that Maret does have a great concner for the
4 environment and sustainability. And it appears
5 that, youknow, it is on the road and it has
6 measures within a school separate from zoning
7 which hopefully will improve the situation
8 with the cars, et cetera.

9 Okay. That being said, any
10 further comments? All right.

11 I would move then approval of
12 Application No. 17826 of Maret School, Inc.,
13 pursuant t9o 11 DCMR § 3104.1 for a special
14 exception to permit an increase in faculty,
15 staff and student enrollment for a private
16 school under section 206, in the R-1-B/R-3
17 District at premises 3000 Cathedral Avenue,
18 Northwest.

19 Do I have a second?

20 MEMBER DETTMAN: Second.

21 CHAIRPERSON MILLER: Further
22 deliberation?

1 All those in favor say aye?

2 ALL: Aye.

3 CHAIRPERSON MILLER: All those
4 opposed? All those abstaining?

5 And would you call the vote,
6 please.

7 MR. MOY: Yes, Madam Chair. Staff
8 will record the vote as three to zero to zero
9 on a motion of the Chair, Ms. Miller, second
10 by Mr. Dettman as conditioned.

11 The staff will also report that
12 we're also in receipt of two absentee votes
13 from two participating members. The first is
14 from Mr. Loud and his absentee vote is to
15 apporove with such conditions as the Board may
16 impose. I'd like to read his comment, Madam
17 Chair, if I may.

18 CHAIRPERSON MILLER: Sure.

19 MR. MOY: Mr. Loud writes: "I
20 agree with the applicant's November 4, 2008
21 letter criticizing DDOT's pattern of late
22 filings in this matter. While I do not see the

1 value of incorporating DDOT's November 3, 2008
2 conditions in the final BZA order, I will
3 support the conditions agreed to by the Board
4 at the November 5th decision meeting."

5 Secondly, we also have an absentee
6 ballot from Mr. Turnbull, who also
7 participated. And his absentee vote is to
8 approve with such condition as the Board may
9 impose as well. He writes "That the applicant
10 is more than willing to do its part to be a
11 good neighbor and control any impact due to
12 parking."

13 So, again, the final vote then
14 would be five to zero to zero.

15 CHAIRPERSON MILLER: Thank you.

16 And if there's no party in
17 opposition, this can be a summary order.

18 MR. MOY: Very good.

19 CHAIRPERSON MILLER: Okay. That
20 concludes our Public Meeting. And we are going
21 to start our Public Hearing in about three
22 minutes.

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(Whereupon, the Public MEeting was
concluded at 10:59 a.m.)