

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

SPECIAL PUBLIC MEETING

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TUESDAY,
FEBRUARY 17, 2009

The Special Public Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 10:30 a.m., Ruthanne G. Miller, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY Secretary
BEVERLEY BAILEY Sr. Zoning Spec.

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

This transcript constitutes the minutes from the Special Public Meeting held on February 17, 2009.

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

10:46 a.m.

CHAIRPERSON MILLER: This meeting will, please, come to order. Good morning, ladies and gentlemen. This is the February 17th Special Public Meeting of the Board of Zoning Adjustment of the District of Columbia.

My name is Ruthanne Miller. I'm the Chair of the BZA. To my right is Mr. Marc Loud, our Vice Chair. And to my left is Mary Oates Walker and Shane Dettman, Board Members.

Also joining us on the dias is Mr. Cliff Moy, 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.

Please, be advised that this proceeding is being recorded by a Court

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1 Reporter and is also webcast live.
2 Accordingly, we must ask you to refrain from
3 any disruptive noises or actions in the
4 hearing room.

5 Please, turn off all beepers and
6 cell phones.

7 Does the staff have any preliminary
8 matters?

9 MR. MOY: Madam Chair, the staff
10 would recommend that we take this case-
11 specific.

12 CHAIRPERSON MILLER: I would agree.
13 Okay. Then let's proceed with the agenda.

14 MR. MOY: That case would be
15 Application No. 17726 of Wisconsin Avenue
16 Baptist Church, pursuant to section 3124. The
17 Board would recall, the original application
18 was pursuant to 11 DCMR 3104.1, for a special
19 exception to allow a child development center
20 under section 205, and a special exception to
21 allow a private school under section 206, in
22 the R-1-B District at premises 3920 Alton

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1 Place, N.W. This is in Square 1779, Lot 824.

2 Also, if the Board will recall, the
3 last action of the Board was where it made its
4 last decision on September 23, 2008. Since
5 then, the Board requested additional filings
6 from the applicant and the ANC and parties.

7 From the applicant revised parking
8 and landscape plans, which they did do, they
9 did submit their filing and it is identified
10 as Exhibit 83 in your case folders. We also
11 have a response from ANC-3F. That filing is
12 identified as Exhibit 84. The parties filings
13 are two exhibits, Exhibit 85 and 86, and there
14 are subsequent filings after that, which the
15 record was closed for, other than the exhibits
16 I have just identified. And those exhibits
17 are responses from parties and from the
18 applicant. And suffice it to say, those
19 documents are identified as Exhibits 86
20 through 88.

21 So the Board is to act on the
22 merits of the filings and any other issues the

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1 Board would like to discuss.

2 CHAIRPERSON MILLER: Thank you, Mr.
3 Moy. As Mr. Moy indicated, we received many
4 post-hearing documents in this case in
5 addition to what we originally left the record
6 open for, which was a specific parking plan
7 and then responses thereto.

8 And I think this is a most unusual
9 case in that these submissions were prompted
10 by the decision of the Board articulated,
11 which did deny CommuniKids special exception
12 use and that affected apparently the economics
13 for the applicant and building plans.

14 And so I think that the first issue
15 that this Board will decide today is whether
16 or not to accept the documents that were filed
17 in the record after the record was closed for
18 which we did not give permission to file.

19 So I think that the circumstances
20 warrant our doing this. And doing, meaning
21 our accepting the documents into the record
22 and the authority that allows us to do that,

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1 as I understand, is 3124 that talks about
2 post-hearing procedures. And 3124.2, in
3 particular, allows the Board to reopen the
4 record and that is what we would need to be
5 doing in this case. And as does 3126.7 on the
6 Board's motion.

7 And I would suggest that we reopen
8 the record and accept all the documents that
9 have been filed, not that we necessarily will
10 address all the issues that are raised within
11 them, but at least to take into the record all
12 the post-hearing filings as indicated by Mr.
13 Moy.

14 Do others have a comment on that
15 before I make a formal motion? Okay. Then I
16 would move pursuant to 3124.2 and 3126.7 to
17 reopen the record to accept filings on issues
18 beyond that for which the record was left open
19 and to reconsider our decision with respect to
20 the issues raised herein. Do I have a second?

21 VICE CHAIR LOUD: Point of
22 clarification. I do want to second it, but

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1 just you said to reconsider the issues raised
2 therein, i.e., the issues raised in all of the
3 post-hearing pleadings. And I don't know if
4 you wanted to say to reconsider all the issues
5 raised in the pleadings or --

6 CHAIRPERSON MILLER: That's fair.

7 VICE CHAIR LOUD: Okay.

8 CHAIRPERSON MILLER: I don't have
9 to make it that broad. I think to reopen the
10 record to accept the filings and to reconsider
11 our decision. Because what I said before was
12 there were a lot of issues that were raised in
13 some of those documents that I think will go
14 beyond what this Board is going to entertain.

15 So I think you're right, it's cleaner if we
16 just leave it at reopening the record to
17 accept the filings and then it would also be a
18 reconsideration.

19 VICE CHAIR LOUD: I agree, Madam
20 Chair. And I interpret that as meaning to
21 reconsider the issues that you will expound
22 upon in a few moments. So I second the

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1 motion.

2 CHAIRPERSON MILLER: Further
3 deliberation? At this point, it's just to
4 accept the records into the -- accept the
5 filings in to the record and then we will be
6 reconsidering our decision in light of the
7 filings. Okay.

8 All those in favor say aye.

9 ALL: Aye.

10 CHAIRPERSON MILLER: All those
11 opposed? All those abstaining? And would you
12 call the vote, please?

13 MR. MOY: Yes, Madam Chair. Staff
14 would record the vote as 4-0-1. This is on
15 the motion of the Chair, Ms. Miller, to accept
16 the filings into the record as discussed and
17 consider its decision per sections 3124.2 and
18 3124.7. Also in support of the -- and
19 seconding Mr. Loud, also in support of the
20 motion are Ms. Walker and Mr. Dettman. And we
21 have no Zoning Commissioner who is
22 participating on this application. He is not

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1 present today.

2 CHAIRPERSON MILLER: Okay. So then
3 really the question is where do we go from
4 here in wrapping up this case now that we have
5 reopened the record to accept those filings
6 and agree to reconsider?

7 I want to highlight what I think
8 are the issues that we should consider. One
9 is the applicant's request for an extension of
10 time in which to begin construction of the new
11 building for the special exception uses from 2
12 years, which is what the regs allow, to 5 to 7
13 years.

14 Second, applicant's request for
15 authority to operate the co-op in the
16 afternoon hours until 6:00 p.m. And third,
17 considering an interim parking plan and a
18 final parking plan.

19 I think what the Board is not going
20 to be doing is, you know, reconsidering issues
21 that are already decided. These are new
22 issues. We did ask for a parking plan and we

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1 got two parking plans, in light of the
2 applicant's new request to house the uses in
3 the existing buildings for now and build
4 another building in 5 to 7 years.

5 So then the next question is do we
6 need further information from the parties on
7 these issues? We have an extensive number of
8 filings in the record, as Mr. Moy just listed,
9 and also we have an extensive record in this
10 case of what we have already decided on.

11 So I want to go through some of the
12 issues, because I don't think that it's -- I
13 think we may need more information for some
14 issues and not for others.

15 The first is the extension of time
16 in which to begin construction of the new
17 building for the special exception uses from 2
18 years to 5 to 7 years. When I look through
19 the pleadings that were filed post-hearing, it
20 seemed to me that all the parties had
21 addressed this issue fully.

22 So I don't think we need any

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1 further information on that question. The
2 Board is not going to be deciding the question
3 today. It's just a question of what do we
4 need more information on to make our decision.

5 So does anyone feel they need some
6 other information on this question, at this
7 point? Okay. I think the consensus is, at
8 least for this time, that that issue has been
9 briefed in the filings.

10 The second is the applicant's
11 request for authority to operate the co-op in
12 the afternoon hours until 6:00 p.m. And I
13 think that's one area where we may not have
14 complete information in order to assess the
15 impact on the neighboring properties from the
16 turnover and use of the parking lot, which
17 were key issues in this case.

18 We have information about the co-op
19 in the morning, how that was operating. And
20 we have information about other uses of the
21 parking lot in the afternoon from the record
22 in this case. But I think that we might need

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1 more specific information about the
2 applicant's planned use of the existing
3 building with the co-op and use of the parking
4 lot for its needs.

5 So I think that really was the crux
6 of our -- of the hearings and the record in
7 this case. What is the impact of these uses
8 on the neighboring properties? And in
9 particular, the neighboring properties were
10 very concerned about turnover and traffic and
11 the parking lot.

12 So I think some of the information,
13 I think I might list a couple of items that we
14 would like the applicant just to supplement
15 the record on, so that we are clear and have
16 all the information we need for our
17 deliberation.

18 So I am going to start and then if
19 my Board Members think that I have missed
20 something, they definitely, you know, will add
21 in. We want to be exactly clear about the
22 hours of operation for the co-op, the number

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1 of children, the number of faculty, dismissal
2 times.

3 Specifically, we are interested in
4 what the turnover is, you know, will it be at
5 a specific time in the afternoon or will it
6 be, you know, staggered throughout the
7 afternoon? What is the operation going to be?

8 How do each of the parking plans accommodate
9 the co-op in the afternoon, drop-off and pick-
10 up?

11 I don't know if I'm missing
12 something. I think that, you know, we had
13 these charts of what was going on in the
14 afternoon and who else might be using the
15 parking lot, but we hadn't considered it with
16 respect to co-op. We considered it with
17 respect to CommuniKids.

18 So we think we need a more clear
19 picture of what it is going to look like with
20 the co-op. And a general question is also
21 will the numbers of the enrollment stay the
22 same with the existing building and with the

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1 new building?

2 Is there other information that we
3 are interested in on this issue that I didn't
4 mention? I guess the other point I would make
5 is that I think that under the circumstances,
6 we have a wealth of data and information from
7 this case already. And so if there is some
8 data in the record that the applicant believes
9 can be extrapolated to the afternoon or
10 whatever, they should feel free to bring that
11 to our attention.

12 And we're going to allow for
13 responses. I'm just going through right now
14 what we would like from the applicant to
15 complete the record. Anything else on this
16 issue from Board Members right now?

17 Okay. That would be in a written
18 submission and we will go through that at the
19 end of this meeting.

20 We also received into the record an
21 interim parking plan as well as a final
22 parking plan. The Board had asked for a

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1 parking plan in response to its deliberations
2 from the applicant. And because of the
3 applicant's changed circumstances, they
4 submitted two parking plans.

5 In my view, we left this open to
6 the neighboring parties and the ANC to respond
7 to and they all have responded to both plans,
8 so I don't think we need further information
9 on that to make our decision. Anybody feel
10 otherwise?

11 There is an underlying question or
12 concern certainly that the ANC had with
13 respect to this decision, including a new
14 building in which the special exception uses
15 were going to be housed and now the fact that
16 they will be operating for an interim period,
17 at least, if applicant's relief is granted,
18 within the existing building.

19 So further information that we
20 would like with respect to that issue is -- I
21 have already talked about the co-op's numbers.

22 We would like to know if the Levine School of

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1 Music's numbers or programs will change in any
2 respect as a result of that decision. And if
3 so, what would that be?

4 And again, this is just to make
5 sure we have all the factual information in
6 the record. It's not a suggestion that that
7 happen, it's just a question. And again, the
8 crux of this case goes to parking and turnover
9 traffic, to how that impacted the
10 neighborhood. And so I would also just open
11 the record up for if the applicant has any
12 other responses to the difference between
13 having the new building and not having the new
14 building with respect to the impact of those
15 two operations in the building, in the
16 existing building.

17 Do others have any other
18 information they want from the parties, from
19 the applicant? Okay.

20 What I would suggest then is that
21 we set a very short briefing schedule, because
22 we have a full record in this case and

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1 extensive post-hearing submissions. So what I
2 would suggest is that we give applicant until
3 February 27th to file the supplemental
4 information, that we give the ANC and the
5 opposing neighboring parties until March 11th
6 to file a response to applicant's supplemental
7 information.

8 And that we set this for final
9 deliberation on March 17th. All right. I will
10 open this up for a minute. The ANC seems to
11 have a concern with that schedule. This was
12 not knowing the exact meetings of the ANC.

13 MS. PERRY: I was just going to say
14 that.

15 CHAIRPERSON MILLER: Okay.

16 MS. PERRY: First --

17 CHAIRPERSON MILLER: If there is a
18 way that we can accommodate your schedule, see
19 if we can do that.

20 MS. PERRY: Okay. The ANC-3F meets
21 on March the 17th, the third Monday in March,
22 so we would need to take this to the ANC,

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1 that's number one. You know, whatever the
2 applicant submits.

3 CHAIRPERSON MILLER: Would you
4 identify yourself?

5 MS. PERRY: Oh, I'm sorry. I'm
6 Karen Perry from ANC-3F. And with me is
7 Commissioner Cathy Wiss. This is in her
8 District, so I'll let her speak for a minute.

9 MS. WISS: Good morning. I'm
10 Commissioner Cathy Wiss. ANC-3F is meeting
11 tonight. We are deciding two BZA cases this
12 evening for next week, which will,
13 unfortunately, be a little late, because our
14 meeting is not until tonight. We are meeting
15 again on March 16th, it's the third Monday.
16 And that is the time where we could actually
17 take this up.

18 CHAIRPERSON MILLER: Does the
19 applicant want to come to the table and
20 respond at all? Yes, would you identify
21 yourself for the record, please?

22 PASTOR BERGFALK: Lynn Bergfalk,

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1 Pastor at Wisconsin Avenue Baptist Church.
2 This case is -- we filed our initial
3 application in September of '07 and we would
4 like to have a decision as soon as possible.

5 CHAIRPERSON MILLER: Okay. Well,
6 let me ask you this, no, I don't think you
7 could do it that quickly, but some of the
8 matters that I asked for were basic
9 information about the operations of the co-op,
10 the number of hours, etcetera.

11 PASTOR BERGFALK: Right.

12 CHAIRPERSON MILLER: Is that
13 anything you could turn over to the ANC pretty
14 quickly --

15 PASTOR BERGFALK: Yes.

16 CHAIRPERSON MILLER: -- if not
17 today?

18 PASTOR BERGFALK: Well --

19 CHAIRPERSON MILLER: I don't think
20 you could do your whole briefing today,
21 obviously.

22 PASTOR BERGFALK: Right. But the

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1 information that you have asked for could be
2 given to the ANC, you know, in a matter of
3 several days.

4 CHAIRPERSON MILLER: Several days,
5 okay, okay. I just want to confer with my
6 colleagues on this. We set it for the 17th
7 because of our schedule. We actually have an
8 opening in our schedule. And it didn't seem
9 like this is very extensive information. It
10 seems like this is just to make sure that
11 every, you know, T is crossed, I dotted, that
12 we have exact information that we are looking
13 at in evaluating the impact, especially of the
14 co-op in the afternoon session.

15 And before I ask my colleagues to
16 think about this, it's possible you could have
17 a special meeting if need be on this or a
18 Planning and Zoning meeting?

19 MS. WISS: We don't have committees
20 like ANC-3C. So we don't have a Planning and
21 Zoning meeting.

22 CHAIRPERSON MILLER: Okay. That

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1 simplifies it then.

2 MS. WISS: Our next meeting is
3 March 16th.

4 CHAIRPERSON MILLER: Right. But I
5 mean, the rules allow you to have a meeting.

6 MS. WISS: A special ANC meeting.

7 CHAIRPERSON MILLER: Yeah, if need
8 be.

9 MS. PERRY: You know, I don't think
10 that's something we can answer this morning.
11 We would have to go back to the -- you know,
12 we meet tonight and we have a very long
13 agenda, since we do have two BZA cases before
14 you next week. I don't think we can answer
15 that questions as to whether we can hold a
16 special meeting until we consult with the
17 other members of the -- you know, of our
18 Commission to see what their schedules are
19 like and if they are willing to meet.

20 But we have another request. ANC-
21 3F did not respond to the extension of time
22 from the 2 years to the 5 to 7 years, because

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1 the record was closed, so we purposefully did
2 not respond. We would like that opportunity.

3 I know you just said that everybody had
4 responded, but we really -- we didn't.

5 CHAIRPERSON MILLER: Okay.

6 MS. PERRY: So we would like that
7 opportunity.

8 CHAIRPERSON MILLER: You did it
9 through the neighboring parties. I thought
10 that there was comments on that.

11 MS. PERRY: It might have been from
12 the neighbors, but not from the ANC. We, you
13 know, knew the record was closed and we -- so
14 we didn't. We honored the rules and we would
15 like the opportunity to respond.

16 CHAIRPERSON MILLER: Okay. All
17 right. All right. Let us just take a moment
18 then and consider that. I thought you had
19 responded. You want to respond to that.

20 VICE CHAIR LOUD: Madam Chair, I'm
21 sorry, I was writing some notes and didn't
22 hear what the ANC wants to respond to.

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1 CHAIRPERSON MILLER: The extension
2 of time to build the new building. All right.
3 So your meeting is the 17th?

4 MS. PERRY: It's the third Monday.

5 CHAIRPERSON MILLER: 18th?

6 MS. PERRY: The 16th.

7 CHAIRPERSON MILLER: 16th.

8 MS. PERRY: 16th.

9 CHAIRPERSON MILLER: Okay. So you
10 could file something shortly thereafter.

11 MS. PERRY: Um-hum.

12 CHAIRPERSON MILLER: We are looking
13 at the schedule and we could postpone our
14 deliberation to March 24th to allow the ANC to
15 vote and, you know, to take a position on
16 that.

17 PASTOR BERGFALK: Madam Chair?

18 CHAIRPERSON MILLER: It's only a
19 week. Yes?

20 PASTOR BERGFALK: Could I make two
21 comments relevant to the current discussion?
22 First of all, there has been extensive

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1 interaction in the past, obviously, with the
2 ANC and the church has spoken/presented our
3 information a number of times. The agreement
4 that the ANC endorsed in May last year, would
5 the question about the use of the co-op in the
6 afternoon, that level of use falls below what
7 already had been approved in the ANC
8 resolution.

9 I simply note that those issues
10 have already been discussed. And what we are
11 now talking about is less than what the ANC
12 had endorsed at that point.

13 My other comment is about the
14 building, which --

15 CHAIRPERSON MILLER: I don't want
16 to get into substance too much.

17 PASTOR BERGFALK: No, I'm not.

18 CHAIRPERSON MILLER: Okay.

19 PASTOR BERGFALK: No, but it's just
20 I want to make sure, because there have been
21 unanticipated twists and turns for us here.
22 There sometimes have been submissions by other

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1 parties that we have not been able to respond
2 to that, in our view, include information that
3 was inaccurate. And I want to make sure that
4 we don't run into something with this building
5 that further delays.

6 Our understanding is that there is
7 still some lack of clarity in our minds
8 whether this is matter-of-right or not. The
9 existing uses without CommuniKids do fit into
10 the existing building.

11 CHAIRPERSON MILLER: I think you
12 are getting into substance.

13 PASTOR BERGFALK: Oh, okay.

14 CHAIRPERSON MILLER: So --

15 PASTOR BERGFALK: All right. I
16 just want to make sure that we don't end up
17 with something where the whole deliberation is
18 impacted by something related to the building
19 caused by the economy as well as your decision
20 that pushes this on even further.

21 CHAIRPERSON MILLER: We understand
22 that. We understand that.

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1 MS. PERRY: If I may? I think we
2 need to clarify something. The ANC resolution
3 was done prior to any of the hearings here and
4 a lot of information coming out that came out
5 at the hearing. I don't think you can take a
6 2 year-old resolution and impose it, you know,
7 on the situation today and all the facts we
8 learned during the hearing. I mean, things
9 change.

10 CHAIRPERSON MILLER: Okay. I
11 understand that. And I just want to ask Ms.
12 Perry though, in general, is it your ANC's
13 policy that, you know, every time you have a
14 filing in a BZA case that you have to go back
15 to the ANC for approval?

16 MS. PERRY: We normally -- we like
17 to. I'm not going to say there is any policy.
18 It's -- you know, we have been designated to
19 handle the case. We probably could. It's
20 just a comfort level that we have always just
21 tried to do it. If we can't, we can't, but we
22 try.

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1 CHAIRPERSON MILLER: Okay. Let me
2 just ask the applicant before we close this
3 out and set the schedule. Now, Ms. Perry, on
4 behalf of the ANC, said that they didn't have
5 a chance to address some issue that we are
6 considering, that I listed. And I don't think
7 that's the case with respect to the applicant.

8 I just want to make sure that there isn't any
9 -- you don't want us to consider anything else
10 in the deliberations.

11 I'm limiting it to those issues
12 that I stated and specifically the information
13 about the co-op that we asked for and the
14 hours and numbers for the Levine School. I
15 think you all have fully really briefed this,
16 so there are just a couple of items.

17 PASTOR BERGFALK: Right.

18 CHAIRPERSON MILLER: Okay.

19 PASTOR BERGFALK: The only concern
20 that I would have that relates to the fact
21 that submissions by the ANC and the neighbors
22 have included information that, in some cases,

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1 has been demonstrably incorrect or incomplete.

2 And so we just want to make sure that we have
3 an opportunity to address those kinds of
4 errors if they are entered into the record
5 after it is closed to us.

6 CHAIRPERSON MILLER: Okay. I hear
7 you. Okay. Let me look at the schedule again
8 then to accommodate everybody. Okay.
9 February 27th, is that still okay for the
10 applicant? All right. So what we are going
11 to do is give the ANC more time. The meeting
12 is the 16th?

13 MS. PERRY: Yes.

14 CHAIRPERSON MILLER: Okay. We want
15 to then deliberate on this the 24th instead of
16 the 17th. And I think I would like to -- in
17 hearing the applicant's concern about having
18 an opportunity in the event that they feel
19 there has been anything in the record that is
20 contrary to their understanding, an
21 opportunity to rebut.

22 So let's see, between the 18th and

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1 the -- the 16th is your meeting?

2 MS. PERRY: Yes.

3 CHAIRPERSON MILLER: So we need
4 time, okay, between the 16th and the 24th to get
5 two pleadings in, short ones I would
6 anticipate. So, Mr. Moy, maybe you can help
7 me out on this. By what date would the -- the
8 last date that the applicant's rebuttal filing
9 come in? That Friday?

10 MR. MOY: If it's possible, that
11 week Friday, which makes it the 20th, otherwise
12 we are into the decision in the following
13 week.

14 CHAIRPERSON MILLER: And that would
15 mean that the ANC's resolution or however you
16 are going to format your filing would need to
17 -- you meet the Monday?

18 MS. PERRY: Right.

19 CHAIRPERSON MILLER: Could you give
20 your filing to the applicant on Wednesday?
21 What date would that be?

22 MS. WISS: The 18th.

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1 CHAIRPERSON MILLER: And the Board.
2 The 18th.

3 MS. WISS: Okay.

4 CHAIRPERSON MILLER: Okay. That
5 schedule all right with everyone? Okay.

6 MS. WISS: And how about the
7 neighbors? When should they be filing? You
8 said March --

9 CHAIRPERSON MILLER: It's a good
10 point.

11 MS. WISS: -- 11th.

12 CHAIRPERSON MILLER: I guess they
13 could -- nobody is here from the neighbors,
14 are they? Same date.

15 MR. MOY: Same date.

16 CHAIRPERSON MILLER: Okay. Same
17 date would be fine, the 18th.

18 PASTOR BERGFALK: Madam Chair?

19 CHAIRPERSON MILLER: Yes?

20 PASTOR BERGFALK: Might I just ask,
21 is -- I mean, we will read and respond
22 immediately, but is there some reason that the

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1 neighbors can't turn theirs in on the 11th, so
2 we don't have to look at both of these
3 overnight on the 18th?

4 CHAIRPERSON MILLER: Well, Ms.
5 Perry can answer for me, I mean, too, but I
6 would think the ANC and the neighbors might be
7 coordinating or consolidating.

8 PASTOR BERGFALK: Well, that's
9 certainly correct.

10 CHAIRPERSON MILLER: And maybe they
11 will have that time to consult with you
12 informally. I don't know.

13 PASTOR BERGFALK: That hasn't
14 happened.

15 CHAIRPERSON MILLER: Yeah.

16 PASTOR BERGFALK: But it would be
17 nice.

18 MS. WISS: I would think some times
19 things come out at an ANC meeting, because it
20 is a public meeting and all the parties would
21 be coming, that, you know, they might want to
22 respond, too.

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1 CHAIRPERSON MILLER: Yeah, I just
2 think that the information that we are
3 limiting this to, I don't know if that's
4 clear, is very finite, so that the applicant
5 shouldn't be handed some extensive filing.

6 PASTOR BERGFALK: Yeah, Madam
7 Chair, that's what we had actually understood
8 with the parking last submission and --

9 CHAIRPERSON MILLER: But this is
10 even more finite.

11 PASTOR BERGFALK: -- wasn't
12 actually what had transpired. So --

13 CHAIRPERSON MILLER: Okay.

14 PASTOR BERGFALK: -- I appreciate
15 you making that --

16 CHAIRPERSON MILLER: Well, let me
17 say this. The Board will only be considering
18 those issues that we ask for information on.
19 We won't be considering other arguments. So
20 we really are leaving the record open for the
21 specific information on the co-op uses that I
22 identified a little bit about the Levine

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1 School of Music, whether that is changing.
2 And then the briefing on the years extension
3 that is being requested for the construction
4 of the new building.

5 MS. PERRY: As I understand it, we
6 have the extension of time from 2 years to 5
7 to 7 years, the co-op usage until 6:00 p.m. or
8 whatever and then we have the interim plan and
9 the final traffic plan.

10 CHAIRPERSON MILLER: No. The
11 interim plan and the final traffic plan have
12 already been --

13 MS. PERRY: Okay.

14 CHAIRPERSON MILLER: -- fully
15 vetted. So we won't be taking any more
16 evidence or filings on that at all.

17 MS. PERRY: I thought we had talked
18 -- you had talked about the difference between
19 the uses. Okay.

20 CHAIRPERSON MILLER: I know, let me
21 clarify, okay. Not the layout, not the
22 landscaping, just with respect to the use of

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1 the co-op in the afternoon, whether how that
2 has impacted --

3 MS. PERRY: The parking lot.

4 CHAIRPERSON MILLER: -- with the
5 two parking plans.

6 MS. PERRY: Yeah, that's what I
7 meant. Okay.

8 CHAIRPERSON MILLER: Okay. But not
9 --

10 MS. PERRY: No, not the whole
11 parking.

12 CHAIRPERSON MILLER: -- the details
13 of the parking plans.

14 MS. PERRY: No.

15 CHAIRPERSON MILLER: Others have
16 comments? So I'm going to look at -- we will
17 look at the filings again, but if the
18 neighbors have already briefed it, that would
19 not be open to them again. We are making an
20 allowance in this case, because you said you
21 didn't have a chance to respond, because you
22 didn't think it was appropriate or allowed

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1 within what we left the record open for.

2 MS. PERRY: Um-hum.

3 CHAIRPERSON MILLER: I don't want a
4 redundant filing. So if they have already
5 filed, then -- yeah, that's what I thought.
6 That's why I thought the issues were covered.

7 Okay. Mr. Moy, do we need to reiterate
8 anything? Dates?

9 MR. MOY: I can do that if the
10 Board desires. Working backwards, the Board
11 Special Public Meeting now is Tuesday, March
12 24th. The applicant will make it's filing by
13 February 27th. The opposition to the
14 applicant's filing from ANC and parties is
15 March 11th.

16 MS. PERRY: No.

17 MS. WISS: No.

18 MR. MOY: I'm sorry. February
19 18th.

20 MS. WISS: March 18th.

21 MS. PERRY: March 18th.

22 MR. MOY: March 18th. It's good I

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1 did this. And the rebuttal, opportunity for
2 rebuttal, if the applicant desires, would be
3 due by February the 20th -- March 20th. I keep
4 thinking February, March 20th. Okay. And that
5 takes it to March 24th.

6 CHAIRPERSON MILLER: And I just
7 want to clarify, when I started out at this
8 meeting, I went over the issues that the Board
9 would be considering for its deliberation,
10 which would be now, March 20th, but I
11 specifically limited the filings to the
12 questions about the use of the co-op, the
13 numbers, etcetera, the information that we
14 want to get from the applicant, dismissal
15 times, turnover, etcetera, and then a response
16 from ANC and neighboring parties on that. And
17 then whether the numbers are going to stay the
18 same for the Levin School of Music as well.

19 That's it. This was a very, very
20 finite filing. That's why I think that, I
21 know it's a short turn around, if you are
22 still represented by counsel, they will be

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1 very easily able to handle it or even if you
2 are not. I mean, it's just like --

3 PASTOR BERGFALK: We have expended
4 our budget.

5 CHAIRPERSON MILLER: Oh, okay.
6 Okay. This is very, very small though, your
7 numbers and then they are going to respond to
8 that and then we will evaluate. Okay. Any
9 other questions?

10 MS. PERRY: Just to set the record
11 straight, it's the Washington School of Music
12 not the Levine. Washington Conservatory of
13 Music.

14 CHAIRPERSON MILLER: Oh.

15 MS. PERRY: Not the Levine School.

16 CHAIRPERSON MILLER: Sorry.

17 MS. PERRY: That's okay.

18 CHAIRPERSON MILLER: Okay.

19 MS. PERRY: Levine is in my
20 District.

21 CHAIRPERSON MILLER: Thank you very
22 much. Okay. Good. All right. Well, thank

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1 you very much. Thank you.

2 PASTOR BERGFALK: Thank you.

3 CHAIRPERSON MILLER: Okay. I am
4 adjourning the Special Public Meeting.

5 (Whereupon, the Special Public
6 Meeting was concluded at 11:26 a.m.)

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