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BOARD OF ADJUSTMENT MEETING
Tuesday, February 2, 2016

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MINUTES OF THE
CITY OF SANTA FE
BOARD OF ADJUSTMENT
City Councilor Chambers
200 Lincoln Avenue
February 2, 2016

A. CALL TO ORDER

A regular meeting of the City of Santa Fe Board of Adjustment was called to order by Gary Friedman, Chair, at approximately 6:00 p.m., on Tuesday, February 2, 2016, in the City Council Chambers, 200 Lincoln Avenue, Santa Fe, New Mexico.

B. ROLL CALL

Members Present
Gary Friedman, Chair
Rachel L. Winston, Vice-Chair
Coleen Dearing
Patricia Hawkins
Douglas Maahs
Donna Reynolds
Daniel H. Werwath

Others Present
Lisa Martinez, Director, Land Use Department
Greg Smith, Director, Current Planning Division
Dan Esquibel, Land Use Planner Senior, Current Planning Division
Zachary Shandler, Assistant City Attorney
Melessia Helberg, Stenographer

B. PLEDGE OF ALLEGIANCE

C. APPROVAL OF AGENDA

MOTION: Rachel Winston moved, seconded by Patricia Hawkins, to approve the Agenda, as presented.

VOTE: The motion was approved unanimously on a voice vote.

D. APPROVAL OF MINUTES – DECEMBER 17, 2015

MOTION: Douglas Maahs moved, seconded by Daniel Werwath, to approve the minutes of the meeting of December 17, 2016, as presented.

VOTE: The motion was approved unanimously on a voice vote.

E. FINDINGS/CONCLUSIONS: CASE #2015-114. 233 CANYON ROAD SPECIAL USE PERMIT.

A copy of the Findings of Fact and Conclusions of Law in case #2015-114, 233 Canyon Road Special Use Permit is incorporated herewith to these minutes as Exhibit "1."

MOTION: Daniel Werwath moved, seconded by Patricia Hawkins, to approve the Findings of Fact and Conclusions of Law in Case #2015-114, 233 Canyon Road Special Use Permit, as presented.

VOTE: The motion was approved on a voice vote, with Rachel Winston, Patricia Hawkins, Douglas Maahs, Donna Reynolds and Daniel Werwath voting in favor of the motion, no one voting against, and Coleen Dearing abstaining because she wasn't here when the case was heard.

F. NEW BUSINESS

1. CASE #2015-121. 500 MONTEZUMA ST. SPECIAL USE PERMIT. SANTA FE PLANNING GROUP, INC., AGENT FOR SANBUSCO 2015, LLC, AND THE NEW MEXICO SCHOOL FOR THE ARTS INSTITUTE, REQUEST A SPECIAL USE PERMIT FOR A SCHOOL USE ON 5.11± ACRES. THE PROPERTY IS ZONED BCDRED (BUSINESS CAPITAL DISTRICT REDEVELOPMENT SUBDISTRICT DISTRICT – COMMUNITY COMMERCIAL) AND LOCATED WITHIN THE WESTSIDE-GUADALUPE HISTORIC REVIEW DISTRICT AND HISTORIC DOWNTOWN ARCHAEOLOGICAL REVIEW DISTRICT. (DAN ESQUIBEL, CASE MANAGER)

A Memorandum dated January 21, 2016 for the February 2, 2016 Meeting, to the Board of Adjustment, from Daniel A. Esquibel, Land Use Planner Senior, Current Planning Division, in this matter, is incorporated herewith to these minutes as Exhibit "2."

A copy of a power point presentation in this matter, entered for the record by Daniel Esquibel, is incorporated herewith to these minutes as Exhibit "3."

An email from Susan Munroe dated January 28, 2016, to Councilor Bushee, Mayor Gonzales, Councilor Lindell and Daniel Esquibel, in opposition to the project, entered for the record by staff, is incorporated herewith to these minutes as Exhibit "4."

A letter dated January 16, 2016, from Nicoletta Munroe, to the Board of Adjustment and Daniel Esquibel, in opposition to the project, entered for the record by staff, is incorporated herewith to these minutes as Exhibit "5."

A power point presentation *Understanding New Mexico School for the Arts*, entered for the record by Riis Gonzales, Director, New Mexico School for the Arts, is incorporated herewith to these minutes as Exhibit "6."

A Memorandum dated January 26, 2016, to the Board of Adjustment, from Fabian Trujillo, Director, Economic Development Division, regarding Economic Development Impact Analysis – New Mexico School for the Arts, entered for the record by Riis Gonzales, is incorporated herewith to these minutes as Exhibit "7."

Presentation by Staff

Daniel Esquibel presented information regarding this case via power point. Please see Exhibits "2," and "3,"for specifics of this presentation.

Mr. Esquibel noted for the record that staff recommends approval of Case #2015-121, 500 Montezuma St., Special Use Permit, subject to conditions identified in Exhibit A to the Staff Memorandum (Exhibit "2"). He said everything in the graphic presentation [Exhibit "3"] is included in the Staff Memorandum and attachments (Exhibit "2.").

Questions from Board prior to Public Hearing

Patricia Hawkins asked Mr. Esquibel how old and how historic is the Sanbusco Market, noting it is being referred to as an historic structure, and Mr. Esquibel referred the question to David Rasch.

David Rasch said there are 3 structures on the property. The Sanbusco Center is a building from the late 19th early 20th century. It has a very large addition that is non-historic, formerly known as Border's. He said that addition may cause the building to lose its status, which currently is listed as a contributing historic building. A status review will be performed and it may lost its status because of Border's. Both the World Market Building and the lumbershed to the rear, that isn't publicly visible from the street, have no historic status on them right now. There is a Federal Plaque on the World Market Building identifying the site and the story of the site is a lumberyard at the north end of the railyard. He said they will have to do historic status reviews of those two buildings.

Mr. Rasch continued, "The lumbershed may be a reconstructed replica of the historic lumbershed and it may be a non-contributing building. And the World Market Building has had some alterations, and I am unsure if the Historic Districts Review Board will consider it a non-contributing or a contributing building. But currently, we have one contributing building and two non status buildings."

Chair Friedman said part of this application doesn't require structural changes to any of the buildings at this point in time.

Mr. Esquibel said, "I understand the Applicant hasn't hired an architect and are still vetting through that. However, if they are going to do any modifications to the building, since it is in the Historic District, it will have to go through historic design review. They will be doing extensive remodeling for tenant improvement to the building, but as far as exterior renovations, we won't know until they come in for building permit."

Chair Friedman then this is the first step as to how the final project looks, and Mr. Esquibel said, "Right."

Donna Reynolds said Mr. Esquibel noted there are 274 parking spaces, and asked if that is what the school is entitled to, or does it include all the retail parking spaces.

Mr. Esquibel said there currently are 274 parking spaces. However, they lost some parking spaces, as the result of the 20 foot drive that wraps around the building to accommodate fire apparatus, bringing it to 247 spaces. He said a school has specific category requirements to meet parking requirements, and they felt perfectly within that with the balance of the parking spaces. He said in the BCD commercial businesses are allowed 1 space for every 300 sq. ft. of net leasable space, so between Raga, Radish & Rye and the other businesses, we came up with 17. He said, "They are right at Code at 247 spaces."

Ms. Reynolds said it was noted that the parking spaces themselves were non-conforming.

Mr. Esquibel said that is true. He said they tried to find any kind of documentation regarding Sanbusco's itself, and the only file he found was in Historic Preservation which didn't provide anything regarding zoning. He said, "I don't know how those stalls got to be substandard. We looked at the Code back in the day, and they actually were more rigorous than they are today. But we consider those at this point in time legal, non-conforming as far as the design. And they've been operating like that for many many years."

Ms. Reynolds asked if staff analysis was done to show what the spacing would be if you had to meet legal standards today.

Mr. Esquibel said it would fall below standards and require a variance to the parking requirements.

Douglas Maahs asked if the parking lot across Montezuma is part of the allotted 247 spaces.

Mr. Esquibel said yes.

Mr. Maahs said then this lot is included in that number.

Mr. Esquibel said yes.

Public Hearing

Presentation by the Applicant

Scott Hoeft, Santa Fe Planning Group, Inc., Agent for the Applicant, 109 St. Francis Drive, was sworn. Mr. Hoeft introduced the team in attendance, saying they will be as brief as possible in the presentation and just present the most poignant elements. He said everyone introduced won't be presenting, and have been brought along to answer questions. He introduced Riis Gonzales, Director, NM School for the Arts and Dr. Kelley O'Donnell, Economic Analysis who will be making presentations. Additionally available for questions are Ann Cummings, Leasing Agent, Sanbusco; Henry Baca, Sanbusco; and Mike Gomez, Traffic Engineer.

Mr. Hoeft said, "Before we get to Mr. Gonzales' presentation, I want to clarify a couple of points. One is about the historic issue and the buildings. I just want to emphasize again, the application this evening is for a Special Use Permit. This is the first step. And why we're doing it in this manner, is that we need to prove the concept that this use actually can be permitted on the site. Those are educational uses and a dormitory use. From there, the next step would be if there are building alterations we would work with Mr. Rasch and we would submit plans to understand the status review, and that would be to determine the non-conforming or conforming issue. That would go to the H-Board, so tonight, it's just use only."

Mr. Hoeft continued, "In terms of the parking question, what is provided on the site are 247 spaces, and the school requires 200 spaces pursuant to the Code. We have provided spaces for the retailers that are staying such as "On Your Feet, On Your Little Feet, Pranzo's, all those have been provided on the site and have been designated as such. The restaurants to the north side of the site have also been provided with parking. And so the site has a few extra spaces actually. Going to your comment about some of the spaces. Yes, over the years, parking spaces have shifted a little bit. Some are longer than others, some are wider that other, and essentially what we're referring to there. All of the spaces are exactly conforming. There are some adjustments here and there, absolutely, because of the time, and then the striping was done in the parking lot. But we do have a little bit of buffer in the parking calculations. So with that cleanup, with the presentation, I'm going to highlight a few more points that I think are necessary, but I'm going to turn it over to Riis Gonzales, Executive Director, of the School, who is going to give you a brief overview of the School. Thank you."

Riis Gonzales, Director, New Mexico School for the Arts, Art Institute [previously sworn], a non-profit associated with the School, located at 202 E. Marcy. He said creating the school began about 10 years ago, and it took about 4 years to get the legislation passed by the Legislature. He said there are

approximately 100 charter schools in New Mexico, but the School for the Arts is the only one created by the Legislature. He said they had to seek an AG's Opinion, and the process took a long time, commenting they are existing and thriving. He said the School has to follow all N.M. Education Department regulations, and all Public Education Commission Regulations and Oversights, since they are a Charter School. He said the Schools leases facilities in 19 spaces all over Santa Fe, and they are excited to hopefully move into a permanent home. He said that 46% of the student population are economically disadvantaged.

Mr. Gonzales continued his presentation of information regarding the School and its curriculum via power point. Please see Exhibit "6," for specifics of this presentation.

Mr. Gonzales said, "We just want to say thank you. Thank you for your support, and hopefully this passes and we can build our school. Thanks so much."

Mr. Gonzales provided a copy of a Memorandum from Fabian Trujillo, Director, Economic Development Division, to the members of the Board [Exhibit "7"].

Dr. Kelly O'Donnell, 1473 West Ella Drive, Corrales, NM, Professor of Economics and a private consultant [previously sworn]. Dr. O'Donnell said she does economic analysis, economic development analysis, primarily of health care and education projects. She was brought on board to update a study that was done in 2013 by UNM Bureau of Business & Economic Research, that had looked at the economic impact of the school at that time, and obviously found a positive economic impact. In light of the fact the school was expanding, increasing its enrollment, it was decided that study should be updated. She said he study focuses on the relatively short term tenure horizon of the immediate economic impacts – jobs created, income created, revenue to the City and to a lesser extent, the revenue to the State.

Dr. O'Donnell continued, saying it is important when we talk about the economic impact of education, particularly Arts education that, particularly here in New Mexico, the single best economic development investment we can make is in education. One of the City's most important, valuable and inherent economic assets are its arts and culture, and fostering that is a very good long term investment in economic development. In the short term, this will be an engine of job creation, and bringing additional funds into the community. She said when you have a school that is attracting students from outside the County, attracting visitors from outside the County to productions, and drawing significant federal and grant funding, all contribute to net economic development. So it is as much a driver of economic development as a manufacturing plant or tourism, although obviously not on that scale.

Dr. O'Donnell continued, saying we need to reaffirm how we think about education, and in this instance we will be supporting 120-140 jobs on an on-going basis, doubling that number during the construction period, and produce, in the short term, GRTs and City and State fees of roughly $1 million, and ongoing revenue to City government of about $150,000 annually after the expansion and construction is complete.

Mr. Hoeft said he would like to "back clean-up," and come back through issues he thinks are important that he heard in the presentations that need to be reemphasized. He said Mr. Gonzales indicated there will be 215 students, but the intent of their charter is to go up to 300 students. He said currently the population is 215, and they are bursting at the seams at the current location which is approximately 30,000 sq. ft. at Alameda and Paseo. He said if you walk through the school you will see kids in the hallway.

Mr. Hoeft continued, saying the reason for this location is that it will triple the space for the School at 97,000 sq. ft. He said it also is close to a Rail Runner stop, noting that 25% of the students will commute to the school via the Rail Runner. He said the third reason is that it is an arts district. He said it is a wonderful arts & cultural district that's been developed over the last 15 years. He said there are many components making up this district including galleries, Site Santa Fe, Warehouse 21, and 12 galleries, 2 museums, restaurants. He asked, "What would be a better component to anchor the north end of the cultural arts district than a performing arts school. Then what you can begin to envision is the synergy between these uses, galleries, existing tenants and how the students can interact with the entire Railyard economic engine. He said they feel this will be a valuable contribution to that. He said there already is a school near the Railyard, at the edge near Warehouse 21 and Site Santa Fe, and it's the Tierra Encantada Charter School, on Paseo and about 900 feet away from the subject site.

Mr. Hoeft said another thing to consider is, for the local merchants and hotels in the area, the school generates a lot of activity, noting more than 70 colleges and universities visit each year, 60 professional artists and guest lectures. He said during audition week, there are up to 500 parents and students arriving at the school. There are 100 teachers coming in from around the State. And all these people need places to lodge which is an economic engine for the Railyard area and surrounding hotels.

Mr. Hoeft said, "I'm going to read this conclusion, which I think is important, which is what the Board of the New Mexico Schools for the Arts supports: *By nurturing New Mexico's artistic talent, NMSA via this new location at Sanbusco Center will help preserve the arts and cultural economy of the State by training youth to practice their art here in galleries, or join local art companies, many within a short distance of the proposed educational home. And this adaptive reuse project in this location at Sanbusco is absolutely critical to making this vision become a reality.*"

Mr. Hoeft continued, "One final point I'll make, is that we did meet with Richard Czoski of the Railyard Corporation, because there's a letter in the packet. And Richard's concerns were how we were going to work the parking situation and if we are going to continue to keep the parking available for uses other than the School. We met with Richard and we'd like to commit that, yes we will. But during School hours we need to have security and a campus that's somewhat locked down. It does leave a lot of availability for evening, weekend, and summer hours. And those are the times when the Railyard needs the most help with its parking situation. So with that, our team stands for questions, including traffic as well as building management right now. Thank you very much."

Ms. Winston said she read the economic impact study and sees the positive economic impact, and asked how it would be offset by, for example, the loss of use of the commercial space on tax rolls.

Dr. O'Donnell said, "I looked at that, obviously. And I was really encouraged. If the retail establishments that are currently located at Sanbusco were going away there would be a net negative impact, I think. But as I understand it, the ones that are leaving are relocating to DeVargas and other sites throughout the City with vacancies. As such, the value of those properties should go up somewhat and there will be an offset there. You have to acknowledge the fact that this is a non-profit use and non-profits are exempt from property tax. So that will be property tax that is no longer collected on this property. However, again to some extent, that will be offset by increased property values elsewhere in the City."

Ms. Winston asked the current occupancy rates of businesses at the mall at the property was purchased.

Dr. O'Donnell said, "60%."

Ms. Reynolds asked the amount of the property taxes that were collected.

Dr. O'Donnell said it was $154,000 annually, currently.

Ms. Reynolds said most of the data talks about 25 dormitories [rooms?], but your data talks about 65 students being on board. She asked, "Is that including it and then there are other students that will be living in the area, are you keeping the 20 dorms [rooms?] at the other location. I'm just trying to get a sense of what the dormitory situation will be because there is confusion."

Dr. O'Donnell said at full enrollment of 300 students, 150 are expected to be from outside Santa Fe County, 25 of whom will be borders, and the remainder will be commuting on the Rail Runner. They will be commuting from outside the County, one way or another, whether it is Park and Ride, in a car or on the Rail Runner. So it is 25 boarders.

Ms. Reynolds asked if the construction financing has been secured.

Mr. Gonzales said rough estimates are that it will cost $25-$30 million to renovate and build what they want. He said they are in the midst of starting a private capital campaign, noting they have secured approximately $10 million pledges and gifts. He said they will continue to fundraise and to seek funding from the State, as a State public school, as well as City, County and federal funding.

Mr. Hoeft said, to follow-up, the approval of the Special Use Permit is absolutely critical for the continued funding, to be able to fundraise for the project, saying, "I can't emphasize enough how important this step is for the project's success."

Chair Friedman asked what is the time frame to open the school.

Mr. Hoeft said report indicates the 2017 school session, and they are still sticking with that date.

Chair Friedman asked if they will be doing things in phases.

Mr. Hoeft said yes, commenting the first thing is to be able to have the student population move over and then it's going to be a bit of a work in progress.

Ms. Dearing said one of the Railyard's concerns was about the exit from the underground parking potentially being blocked, and asked if that has been addressed.

Mr. Hoeft said yes. He said they met with Mr. Czoski at the Railyard, and the concern is that at certain times when you come out of the parking garage when there is congestion, they can come out of the parking garage and still head through the Sanbusco parking lot and exit. He said they think this is a find idea.

Mr. Werwath asked said it is his understand that public educational facilities need to have perimeter fencing around there, and asked if there is anything in current planning dealing with how the site will be secured and the impact it might have on pedestrian permeability.

Mr. Hoeft said the site is bounded on the north by a wall, on the west by a wall, on the south by a wall for half the site, and the only area of permeability is toward Montezuma, and there is a wall beyond the parking lot. He said they have been working through how to manage that, because Montezuma is a public street, and we have addressed the question at this stage so far is not walling-in the property, but handling it via security with security teams and to be able to have people walking the property.

Mr. Hoeft continued, saying Mr. Czoski said he didn't mind if we wanted to wall the rest of the property on the south side, because right now *Outside Magazine* forms one of our barriers. He said, "But again, we haven't got there to the design essentially."

Ms. Reynolds asked in the area of the Radish and Rye if there is any kind of gating and fencing. She said she knows the people in the community use that area to cut through that area, particularly bicyclists and pedestrians. She is curious how that will be managed with these young people in the area.

Mr. Hoeft said they have to keep that open for two reasons. One is the restaurants need the access and we can't totally enclose the property and not have access for vehicles and loading vehicles. He said they see it as gating in key areas, combined with security watching what is happening around the property. He said we can't shut down the property from access, because the 5 points of access in the area need the accessibility.

Ms. Winston asked what will be the procedure for liquor license applications within 300 feet of the school, or will that be required.

Mr. Hoeft asked Charlotte Hetherington to answer this question.

Charlotte Hetherington, Partner, Cuddy & McCarthy Law Firm [previously sworn]. Ms. Hetherington said she represents the New Mexico School for the Arts, Art Institute. She said, "There is an existing liquor license which Cost Plus World Market holds. It is a lessee of that license, and when it moves, which it intends to do at the end of April, that license will not be reused in the same location. The license has applicability within the boundaries of the City of Santa Fe, and so we will look for another willing lessee in another location."

Ms. Wilson asked if Pranzo's license will be affected by its proximity to the School.

Ms. Hetherington said, "Pranzo's has an existing liquor license, so it's an existing license. Its license would be grandfathered because it's appropriate for its location."

Ms. Reynolds asked if the expansion of the school to 300, includes expanding into the creative writing and media arts, or is that beyond the 300.

Mr. Gonzales said "The numbers do include creative writing and cinema arts in the 300. We already have a minor in creative writing right now, and we have to find funding for those programs, but we have enough applicants right now to go to 300 today if we wanted to. So it's more of a strategic mission by the School to dive into creative writing and cinema arts."

Mr. Werwath said he has one concern with proximity to an arts and cultural district that already has a number of liquor licenses and potential venues where this could be an issue – particularly in thinking that the 300 foot rule impacts new licenses as well as special events. He said this is the only major issue of incompatibility he can see with future use. He asked if it is possible, as a condition of approval of the Special Use Permit, for the School organization to agree not to oppose the issuance of a liquor service permit, special dispenser's permit, or the establishment of a new Restaurant License. He said, "Specifically, what I'm concerned with is whether or not the School would have to provide a letter either in support or not in support of the Special Event Permit. If it's A, a condition we could attach to a Special Use Permit; and B, if that's something the school would be amenable to."

Zachary Shandler, Assistant City Attorney, "I'm looking at the Special User Permit conditions, and I don't see one that jumps out at me that you're contemplating there. The way I understand your condition would be that they would not oppose a special event dispenser permit."

Mr. Werwath said, "Sure, or the provision of a new liquor license in that area, which is heavily populated with bars and restaurants, many of which have turned over in the last 10 years or so. So I'm thinking from an economic development perspective, that it might not be good to place a school in an area right now where there are a significant number of folks that would have to then be subject to a special hearing. And I don't think that the hearing could be avoided, but I would really like to ensure that the School in the future does not become an entity that shows up to oppose the issuance of special dispenser permits or other things, as they grant a special use permit in this neighborhood that already has a pattern of existing use."

Mr. Shandler said, "I think I would have to give you a strained reading for that condition to be among the list that the City Council is allowed to look at. I do know the counsel for the school non-profit, and I believe she's done a fair amount of work in this area, and she might want to comment on the process."

Ms. Hetherington said, "I will give you my unresearched opinion. First of all, there is another school in the area, there's another high school in the area, and it would seem strange to me that this Board would want to impose conditions on one school which have not been imposed on another, similar school in the same area. Secondly, liquor licenses are issued by the State, and we can't control the State's processes for public hearings and notifications. I will say that every license that is issued in Santa Fe, as well as every other location in New Mexico, carries with it, whether an event or any other kind of license, the obligation that the dispenser make sure, or take reasonable steps to make sure that it is not dispensing to minors. I think if the concern is minors drinking alcohol, there's already a built-in-concern."

Mr. Werwath said, "The presence of minors impeding normal economic development and existing patterns of use, which includes the consumption of alcohol. That's my concern."

Ms. Hetherington said, "I am not aware of any data that shows that the presence of minors in an area of commercial activity lessens the profitability of the commercial enterprise just because they are minors."

Mr. Werwath said it's a more nuanced question. He said, "I guess I would parse it out in saying that Tierra Encantada is on the site of the Alvord Community School which is a long established school use. This is a new school use that impedes other, potential new liquor service permits and special dispenser permits, within a 300 foot radius, right. So what we're doing is starting to create a patchwork of overlays where there is an extra burden on a business or a special event person to be able to serve alcohol in what is ostensibly an arts and culture district. So what I'm trying to get at is whether or not.... what I guess I'm trying to get at is that I don't want to see a situation where we grant a special use permit to this use that then becomes an active element in disrupting the current and established uses in the neighborhood. Because basically, and maybe it's something you're not familiar with, I'm intimately familiar with this from other work I do. A special dispenser permit for alcohol when it's within 300 feet of a school, requires the okay of the school in the special hearing before the City Council, and I don't think we can get out of a special hearing, that's State law. But, to me the issue is more about what I really don't want to see is a Special Use Permit granted to the School and then the school become an entity that is saying no, we don't want you to have a special event, dispenser permit or a new restaurant or bar in this neighborhood because there's a school here. If that makes sense. It's a compatibility issue."

Mr. Shandler said, "It is a hotly contested issue about the alcohol in the downtown area, but based on my personal knowledge of these hearings, schools rarely even participate. So I think you may be anticipating an issue..... and maybe the public had a different personal knowledge than I've observed, but I think you're anticipating a problem that has not occurred, and likely will not occur."

Mr. Werwath said then his experience with Special Dispenser Permits, it's not required that you get communication from the institution that triggers the 300 foot rule. He said in his experience he has had to get letters from them to include in his submissions for Special Event Permits.

Mr. Shandler said, "And I'll bet the School organization, since they're in the downtown area and just in place might have some personal knowledge. It is a requirement, but I cannot think of an instance where a school has objected. And it seems it's also common practice where they don't send a letter, and that's seen as a sign of no objection."

Ms. Hetherington asked to present Dr. O'Donnell to address the issue from the economic standpoint."

Dr. O'Donnell said, "I have some personal experience with this. I ran the agency that issues liquor licenses for the State of New Mexico for a number of years. And the process is a Multi-step process, but the big decisions are generally made at the State level. And in my experience there were times when the issuance of a liquor license was opposed by community members, but I never recall those community members being schools. We granted waivers of the 300 foot rule on an almost daily basis, because just about everything is within 300 feet of a church or school in this State. So, what I'm saying, from an economic development perspective, because I've also done economic development, I've not had that be an issue. And as a liquor regular, that was never an issue either. So, is it possible. Perhaps. But in my personal experience working with these things I never saw it be a problem, and given there are already liquor licenses right there, I would see very little justification for opposition. And these guys certainly aren't going to do it."

Mr. Werwath said he is asking because of his practical experience over the past few years with the City Council and its attitude toward these things and the experience of entrepreneurs. He saw this recently with a business that was starting to sell hard cider. They couldn't find a manufacturing facility because there were so many small church groups in industrial areas. He thinks this is a legitimate, long-term concern for him.

Lisa Martinez, Director, Land Use Department, said, "Clearly we have a unique circumstance here that I think the School pretty well understands what they're getting into with all the surrounding businesses that do have liquor licenses, including an adjacent movie theater that has one as well. And certainly we are going to have students attending movies there, I would assume, and they're going to be right next to it. So I'm hopeful that there will be no significant issues that arise in the future. The business are there, the restaurants, the bars, the movie theater, so hopefully we won't have any problems in the future. I think the School knows good and well exactly where they're moving into."

Mr. Gonzales said they know what they're moving into, hopefully, noting they have been located in the St. Francis School, and we've given waivers to the brewery and every hotel in the area and "we plan to continue that for sure."

Ms. Winston asked if students will be exempt from having to seek a busking permit. She said if we approve this, she wants to have busking all over the Railyard – street performances by students.

Mr. Gonzales said, "Our students will love to be busking and not have to pay a fee for that, and they would be out there."

Ms. Winston asked if the students will be exempt from having to obtain a permit.

Mr. Shandler said, "The Railyard Corporation has its own busking policy, so I think that's what would govern that area. Richard."

Speaking to the Request

All those speaking were sworn en masse and asked to limit remarks to 3 minutes

Richard Czoski, 332 Read Street, Executive Director, Santa Fe Railyard Community Corporation [previously sworn]. Mr. Czoski said Railyard Board has considered the presence of the School in the area and are in favor of it, think it will be a great use. They do have concerns, some of which are in the letter he drafted and some which still remained to be defined, such as how the lock-down will work. He said they still have those concerns, but by and large are very much in favor of it and think it will be a, great addition to the neighborhood and look forward to being good neighbors to them and them being good neighbors to us because we have to coexist. He said he was mentioned a few times in Mr. Hoeft's presentation, and would be happy to answer any questions.

Ms. Winston said she is curious about busking and if it will be encouraged.

Mr. Czoski said students will have to comply with the same busking requirements as everyone else. We have underlying City requirements for that, noting the Railyard is a City-owned property, but the streets are public. He said, "If the students busk on their own land, so be it, but on the Railyard they would have to comply. And we've already worked out... actually the School has had events on the Railyard, so we've already worked through a protocol with the School."

Jerry Richardson, 703 Don Felix Street, Historic Guadalupe Neighborhood, and President, Historic Guadalupe Neighborhood Association, [previously sworn]. Mr. Richardson said he wants to make it clear he is speaking on his own behalf and not the Association. He said he called a meeting of the Neighborhood Association last Wednesday, with 37 people in attendance, and there wasn't a consensus for or against this project. He said the group agreed not to take a vote on the project, and everyone was urged to come here and make their own opinions clear to this Board, which he is doing today. He said he recognizes there have been vacancies throughout Sanbusco and other shops in the area, right now there are 3-4 vacancies on Guadalupe Street, empty storefronts, which isn't healthy for the community. He said he thinks the New Mexico School for the Arts is a great school, great program and a real asset to our community. He said, in his opinion, it will add to the vitality of the area to have the school there, and personally he is in support.

Mr. Richardson continued, saying he said he has one concern which is a neighborhood concern which was brought to the attention of the Association last Wednesday. He said Noah Berke, City Land Use and Councilor Signe Lindell were in attendance. He said the problem is that Sanbusco was allowed to be constructed and send all of its drainage onto Agua Fria Street. He said he doesn't know exactly what is being drained, because there is no visible drainage from rooftops onto parking lots. He said he can tell that the whole back parking lot behind Borders and everything in that area drains into a big 12 inch pipe that comes out through the back wall of Sanbusco's and along a concrete ditch along the street that accesses the Guadalupe Inn right off Agua Fria, and it all flows onto Agua Fria Street. He said it is a problem in the summer with downpours, but more of a problem in the winter. He said anyone who has driven along Agua Fria between St. Francis and Guadalupe in the winter is an ice floe because the water stays in the shade.

Mr. Richardson continued saying, "There are tons of water coming from the Sanbusco property that goes onto Agua Fria, and there is no storm drain where the water comes out, and it has to flow along that whole side of Agua Fria, and crosses Agua Fria at Irvine Street before it gets to a City drain. He said this is a public safety issue, noting he brought it to the attention of the School who said they would look into it. He said the City Engineer came out and reviewed it with him this morning, and they may be able to clarify things a little for you. Anyway, that's a concern I would love to see addressed in this whole permitting process."

Joey Chavez, 2318 Botulph Road, Dean of Students, and Chair Theater Department, NM School for the Arts, [previously sworn], said to allow the School at this site is incredible. First, the historic relevance of the downtown and the arts there. He said he attended Guadalupe School, which was turned into a shopping center. He said one of his old family homes is one of the restaurants off Guadalupe. He said to bring the liveliness of the School to the end of the rail where students can get off the train and right to school. The train schedule will determine when "we have to start school and end school." He said the current location is cramped. He said they love being downtown and people like to come by and see students performing. He said a world class education will be available at this world class facility at this wonderful site where they can access neighbors galleries, museums, Warehouse 21, and such. He said, "We've always been a good neighbor where we are now and looking forward to the students being able to be there. Thank you."

Gabriel Kessler, 401 Sunset Street, [previously sworn], said he is a Senior at the New Mexico School for the Arts, in the Theater Department with a Creative Writing minor, noting he is the President of the Student Council. He said he getting ready to fly to Chicago for college auditions, noting he is hoping to get a BFA in Theater Arts, and he is having to practice his monologue in the basement where they keep the costumes and props for the Theater Department, because someone else was using the rehearsal hall. He said it would be amazing to have sufficient space to create in a really fine place. He said the Railyard has become one of his favorite places to hang-out with his friends, commenting there is the Violet Crown and Jean Cocteau, and so much culture in the area. There is an amazing fusion of youth – go to an NMSA production, a movie at the Violet Crown, and to a late night dance at Warehouse 21. He said, "There will be this amazing hub of culture, which he won't experience, but hopes to visit and be a part of it later down the road."

Eric Kreitz, 59 Encantado Road, Assistant Principal, NM School for the Arts [previously sworn], said he has been with the school for 4 years. He said a big part of his job is to see the potential of the students, and they are achieving great things in the arts and in their academics. He also sees untapped potential because of the restrictions of the building where they are located currently. Mr. Kreitz said we need a new building because, for examples, students lose an hour each day commuting back and forth to NDI, and feel disconnected from the other students because they do their art elsewhere. He said theater and music students are rehearsing in halls, stairwells and bathroom foyers, in every nook and cranny. He said visual arts students lack facilities to work in every available medium, for example, there is no darkroom. He said academic classes are bursting into the halls, and we are limited by our space. He said dormitory students lose time commuting back and forth daily to the current dormitory space. He said they have to turn away qualified New Mexico students from the School.

Mr. Kreitz said the reason for Sanbusco. He said they are an access school, and the mission is to provide access for qualified students for an arts mastery and academic program that serves a diverse student population. He said 46% of the students meet the federal definition of economically disadvantaged. He said Sanbusco would offer space for 100 more talented youth to attend the school, access to the cultural heart of Santa Fe, access to on-site dormitories, access to transportation by Rail Runner, and our students coming from Los Alamos, Las Vegas and Espanola on Park & Ride, and it would provide access to dance, theater, musical and visual arts facilities so our students can reach their full potential.

Melodi Wyss-Feliciano, [previously sworn], said she is better known as Suca's mom, noting her daughter attends the School, and the first time she has had a school home that filled her heart. She said they are starting to make plans for the move and her daughter is excited to graduate from NMSA. She has a unique perspective as the only business owner at the site. She and her husband have had Rock, Paper, Scissors for 14 ½ years at Sanbusco, and her daughter at 15 has grown up inside their business. She said the busiest business she's seen is On Your Feet and On Your Little Feet, where she bought her daughter's shoes growing up. They have been inside Sanbusco for 4 years which was a big move and expansion of their business. She said they are grateful to NMSA for the joy it has brought her daughter's heard. She said when her daughter was 5, she said was going to Broadway and they want to support her, and are happy that she has a school that is setting a role model, and believes the School is good for the City and its citizens. She said they are a destination business, and easily 40 people walk through their doors every day. She said other businesses are making plans to move. She said they are expanding their staff, and this will be a blessing in disguise. She said as long as tenants like Raga, Ristra, Pranzo's, On Your Feet and Get it Together are cared for, they can continue to provide services. She thinks the School is the absolute best use for the land.

Aaron Feliciano, 500 Montezuma Avenue, Suite 110[previously sworn], said he is Melodi's husband. He said having a child at NMSA, and being moved out of Sanbusco, in your shoes, he would see malls with low occupancy being combined in this way. He said they will have a full mall and the synergy from one busy mall on that side, rather than two that are slow. They anticipate great sales and great growth. He said on the other side at NMSA, they are bursting from the seams. He said the bigger

point is they've earned the draw from the kids that come from all across the State to audition and they all don't get in. He said the expansion will mean more kids get to attend the School, commenting NMSA is that good.

Mr. Feliciano continued saying, the kids that attend the School are kids that often were bullied because didn't fit at their school. He said his son had to go out of state to find a school where he would fit. He said they are fortunate to be in a City where there is a School for kids who typically would be bullied at their school. They now are in a place where they fit in, thrive in academics. They're all committed, know everybody had to audition to get in and they automatically have respect for one another. They work really hard at academics and the arts. He thanked the School for changing lives in this way. He said, "I couldn't imagine any other decisions for you guys to make than to make this go through."

David Sandoval, 4178 Cheyenne Circle, [previously sworn], said he is a parent, and was the President of the Parents Association last year, and this year, he is the Treasurer. He said he had reservations when his daughter said she wanted to attend the School as a Freshman, because he was unsure how this blend would work. He did his research and learned that this School is the only model of its kind in the Nation. He said we're breaking new ground in Santa Fe in a very good way. He said it is true that the School is bursting at the seams, and related his experience. The student body is unique, cohesive, get along with one another and support one another. He said his daughter has thrived at NMSA, and graduates this year. He said, "I can't think of her being any happier or doing any better." One of his big concerns was how she would thrive academically and she's done remarkably. He said, as a member of the Parents Association, he has been at the School during registration, auditions, and it is heartbreaking when the kids don't make it into the school. He said the new facility is huge and the kids need their own personality and space. He said there is no parking at the current location. He said to have the School in this location is a huge thing for the community.

Manuel Monasterio, 1089 Governor Dempsey, [previously sworn], said he will try not to be repetitive. He is the parent of a freshman, Sophia, who is thriving at the NMSA, and a son, Alex 21, who is an art student, but there was no school for him like NMSA, and he attended another school out of State. He said the school clearly is succeed, and is on track to continue to succeed. He said the reason he is on the Board is because he believes strongly in what they are and will accomplish. He said he is convinced that in 5-10 years, they will be writing documentaries about this school. He is the husband of a woman who attended the North Carolina School for the Arts, which is similar to this one, and these kinds of schools often are in areas that improved dramatically after the School arrives. He said he was a tenant in Sanbusco 1998-2001, and still is a patron of those businesses. He thinks this is a win/win for the entire community. He is in support of this application. He said the School does life changing work and wants to support that effort, and "hope that you do also."

Shelby Bradley, 532 Agua Fria Street, was sworn, said he and his family moved to the neighborhood about a year ago, and their house abuts the property the Board is reviewing. They are on the wall, just the other side of the lumbershed the presenter spoke about. He said they were very excited

about the area in general and with the Sanbusco Center businesses in the area. They are patrons of the Felicianos' business, go to Teca-Tu to buy for their dogs. He said part of him will be sad to see the change happen, but they are very excited about the prospect of the School to be their immediate neighbor. He said their concern was earlier this year when the business was auctioned they didn't know what was going to happen, and their chief concern was to get a good neighbor. He said they are excited about the School as the new neighbor. He said as an immediate neighbor he would voice their support for the project.

Nicolette Monroe, 701 Dunlap, [previously sworn], said she resides in this historic district. Her house is over 50 years old, and eligible to be on the State register, and may be eligible for the National Historic Register. She said the Sanbusco Center was built before 1880 and it is a landmark building, and is designated under the National Historic Register and the State Register, as is the building next door. She feels this project adversely affects the community. She said City Code Section 14-2.4 specifies how this Board makes its determination. She 14-3.6(D) provides, '*Approval Criteria and Conditions. 1. Necessary Findings.*' She said under (b) the Board has to determine that '*granting the special use permits does not adversely affect the public interests,*' and under 14-3.6(D)(r) *'Conditions may not be imposed that restrict the use to a specific person or group.*

Ms. Monroe continued saying no one disputes the merits of the School, the School is admired and the School can get property elsewhere, build a new campus full of options. She said the project, as proposed, completely shuts out the community. She said inside Sanbusco Center there are photographs and text that describe the history of the place. It is built in the industrial style, and attracts people from across New Mexico and the United States, noting originally this was a lumberyard on the rail line and it was a commerce center and it still is a retail center. It was renovated in the 1980's and that's when it got its national status on the Historic Register. If we close this building and allow it to be a school, we really disenfranchise our community. There are major issues such as the licenses for beverages. She said Pranzo's has been serving beverages for 25 years and that license will stay there, which means beverages are served on campus.

Ms. Monroe continued, saying she believes this is a dangerous proposal in terms of safety. She said they can't fence the building because of the way it is designed. And she questions the 5 ingresses and egresses, and whether it is a safe environment for kids to go to school.

Ms. Monroe continued, saying she is concerned about the economic impact report that was prepared by the City because it does not provide a comparison of what Sanbusco earns with the School. She said was a GRT generator, it paid property tax and it also is an anchor building, which means the building attracts patrons to the area in the historic district for shopping. She said the City has nothing in its report from the business community, the residents. She is concerned about property values, commenting she thinks the School will lower the property tax values in the district. She said it is incredibly selfish for us to serve a few hundred students and teacher. Also, it is the only parking in the area and people use it to go to restaurants or on Guadalupe. She doesn't know if the businesses will survive. She wants this Board to consider the community, whether or not you issue the permit, and not just the School. The school has other options. They can buy land from the County and build a brand new performing arts center and have a state of the art facility.

Stefanie Beninato, P.O. *[inaudible]*, [previously sworn], said she agrees with the previous speakers that nobody is contesting that the school is a model for Arts Education and has done well. She is concerned about the safety aspects of the School. There are many exits that need to be secured. She said generally, schools are pretty locked down at this point *[inaudible]*. She said they will go down to the Railyard space that is a park, which is outside. She is concerned about what will happen if there is a bomb threat and the whole area is locked down, and how the businesses will appreciate that. She is also concerned about the parking. She said we heard that 215 students will be attending and there are going to 130 jobs at that school. That means 130 parking space minimum and parking for the students, and when it goes to 300 students, there won't be sufficient parking at Sanbusco. She is concerned about the compatibility. She is concerned about the loss of GRTs and property taxes. She said the construction jobs are short term. She isn't so concerned about liquor licenses. She said Walmart was close to our schools, and it was selling package liquors and there was concern about that. She said there are package liquor stores on the Railyard, a package liquor store across St. Francis and Agua Fria, so there is a wide exposure to alcohol. And the way the School describes it, these kids are going to be wandering around to galleries, and being buskers, which is a situation where it is that, or a locked-down or students will be wandering around, and she wonders about their safety. She noted there is a homeless shelter in the area and related problems in the area. She doesn't think this Board should be deciding based on the merits of the School that it will meet the criteria under the Ordinance.

Monica Prerodsky, 1004 Don Cubero, physical therapist, [previously sworn], said the previous speakers brought up a lot of her concerns. She is an educator, a physical therapist and has worked with the SF Public Schools, Los Alamos and has been at NMSD for 10 years, so your school sounds amazing. She said at NMSD they went through a huge transformation, but they are very locked-out. She said it is a residential school, they have 24 hour security with gates and IDs to get in and out, and everything is very secure there. She thinks it will be very problematic in this location, especially in terms of people walking through different areas, as well as that part of the day you have security and part of the day you don't so people can move through. She said it is quite involved, and a bigger picture than she thought before she worked there. She said she doesn't like paying for parking and she can walk there, but a lot of people don't want to go there because they want a free place to park and believes that will be an issue. People might not shop there as much because they have to pay for parking.

Ms. Prerodsky continued, saying with all these people coming off the train will need to go to the bathroom, noting there are some at the Farmers Market, but the hours are limited, and businesses don't like people coming in just to use their bathrooms. She asked if there are plans to add bathrooms for the public for when they come off the train. She said a lot of people use that toilet during the weekend.

Ms. Prerodsky continued, saying her final thought is she knows there is an idea that we will figure it out, but she wants a plan before approval to make sure there is good access and security. She said it doesn't always work out when you wait, so she wants the Board to figure that out, and hopefully that would be part of the plan before moving forward. She said it is an amazing school and she sees the passion in everyone and hopes that will continue, she just questions whether or not this is the best location.

Arthur Firstenberg, 247 Barela Street, [previously sworn]. Mr. Firstenberg said he is not opposed to this project, although he will be a neighbor and thinks an art school would be most welcome. He said it is a residential neighborhood which has concerns he would like to bring to the Board's attention. One has to do with the access by the residential neighbors to the Railyard. He walks next to Radish and Rye and around the west side of Sanbusco Center to the Railyard. He said last year that was gated in a couple of places last year, and there was no bicycle access. He has used that access to the Railyard every day for the last 8 years, and there have been statements asking you to let other people use it for walking and bicycling. The Applicant also said there was some gating, and we haven't heard where. It would be good if there was a Condition of Approval that the access from the residential neighbors to the Railyard will not be barred for foot or bicycle traffic.

Mr. Firstenberg continued, saying he heard there would be a fair amount of construction, noting it is a large site. We told that there would be 120 jobs and later a resident auditorium. He said there are immediate neighbors who are going to be negatively impacted during construction by the delays, noise and dust. He asked the length of construction. He said there should be some sort of mitigation as a condition of approval.

Mr. Firstenberg continued, saying he wants to point out there are neighbors immediately next to the site, and when anything live is happening at the Railyard, he hears it at his house. He said it is an effect he doesn't mind, he doesn't mind the busking, but the impacts on the immediate residential neighbors should be considered, and some conditions should be on the project approval.

The Public Testimony Portion of the Public Hearing was Closed

Ms. Hawkins asked if the issue of the drainpipe at Agua Fria will be addressed in the building permit process.

R. B. Zaxus, Acting Director, Technical Review Division, said she visited the site today with Mr. Richardson. She said all the drainage from the whole site goes out that pipe to Agua Fria. In addition, there are upper portions of Agua Fria and east of there from the Church, a lot of those houses drain toward Agua Fria in the street itself, so that adds to the flow where the pipe comes out on Agua Fria."

Ms. Zaxus continued, "To answer your question directly, we do not have an Ordinance that would cause them to fix the situation because it's not new development, and it's basically all impervious. If it was a brand new development, we would require them to store some of the stormwater on-site before it could be released at a slower rate. But it just doesn't apply in this particular situation. She did speak with Streets today about its perspective. She said Streets has no money to put pipes in the road to fix it, so that's not going to happen. She said there are speed bumps along Agua Fria. She spoke to the Streets Division Director today and he indicated that some of the water is back up against the speed bumps and he's not able to get through. So he has to fix those speed bumps, but she doesn't know how much that will help the current situation, because all that water is still going to be coming in that direction.

Ms. Hawkins asked if having the school there will aggravate the situation.

Ms. Zaxus said no, there would be the same amount of drainage.

Ms. Reynolds said the DeFouri Bridge will be under construction in the near future, and asked the schedule, commenting she is thinking about the overall construction in the area and how it might impact or impede the whole community.

John Romero, Director, Traffic Engineering Division, said they will be bidding that project within the next 2 weeks, so there probably will be construction in March or April, and the construction time is 60-90 days. He said DeFouri will be closed during that time while the bridge is removed and replaced.

Ms. Reynolds said in the past conditions have been added relating to concerns of the neighborhood during construction, and keeping some of the noise and dust mitigated.

Mr. Esquibel said it is not within the purview of this Board to attach conditions to be monitored by staff. He said typically we do monitor those during construction period. The Inspection Division always looks at that and a SWEP that is reviewed by Ms. Zaxus, so a lot of that is handled automatically.

Mr. Maahs said then the security issues of the student body would not in be in the purview of this Board, or would that be in our purview.

Mr. Esquibel said that would be a private matter with the School and its insurance company, and the City wouldn't get involved in trying to police something as a condition of approval.

Chair Friedman asked about the pedestrian access to the Railyard by its neighbors.

Mr. Esquibel said that arose at a public meeting, and the applicant would be more in tune to answer that question, since that wasn't anything that was provided in the review process. It came up after the fact.

Greg Smith, Director, Current Planning Division, said, "The Board or the Planning Commission would have the authority to require dedication of a trail if the trail is shown on a publicly adopted trails plan. Staff is not aware of any plan that shows this as the location for a public trail."

Chair Friedman said then it's private property.

Mr. Hoeft said, "It is part of our conditions of approval. I would like to point to the ones from the Traffic Division, which indicates, as a condition of approval, we are required to do a pedestrian safety plan.

Chair Friedman asked if that would address whether pedestrians will still have access to the Railyard.

Mr. Hoeft said, "In listening to the comments, what became apparent are contradictory goals. One, we hear that to keep the campus open is an important thing, for example, for Richard at the Railyard. At the other hand there is a need to keep the facility itself locked down. May I interject that if you consider the School as being locked down, the doors, around the school during hours. Just like it is now at the current school. You have to go through a process to be able to get into the school. However, we are leaning toward trying to keep the campus itself, the property more fluid, because there is a public street that goes through at Montezuma. Combined with that, there currently is access that the residents currently use, and so that would be our goal. To keep the school secure, while at the same time, doing whatever we can to keep the property open."

Chair Friedman said so your goal is to balance security with pedestrian access use, and Mr. Hoeft said that is correct.

Mr. Maahs said the only thing under discussion in terms of access, is the driveway that goes through to the restaurant, Radish and Rye, as one of the access points. All of the access points are actually public access at all times.

Mr. Hoeft said, "In the back corner by the parking garage that essentially leads to the Railyard, the southwest corner and the one to the restaurants, the main access in front down Montezuma and the access to Border's from Market Street. So these are the four main points into the site."

Ms. Reynolds asked if it is possible to add a condition of approval that once the building is constructed, if they are going to gate, or eliminate or reduce public access, that we would require them to have a community public meeting and engage the public to get its feedback before moving forward with such a plan.

Mr. Smith said, "I think the Board has the authority to require conditions of approval to them at the time of development. The Board has some authority to establish and review during the amendment process. It's not clear to me that the Board has the authority to delegate the responsibility to consider those issues through any other process or group."

Ms. Hawkins said she is confused and asked if we are talking about pedestrian access at private access points.

Chair Friedman said we're not talking about public.... and that was the first point addressed by Mr. Smith. We're not talking about public pedestrian trails.

Ms. Hawkins said she is talking about pathways people have become accustomed to using. She asked if anybody is cutting off the access to the Railyard with this development, and Mr. Esquibel said no.

Mr. Esquibel said, "If there are any walls or fences, again, all the cosmetic attributes that would be developed on this property, need to go through the Historic Design Review Board, so they will be vetted through another committee with another public hearing that will allow public input at that point.

MOTION: Rachel Winston moved, seconded by Daniel Werwath, regarding Case #2015-121, Special Use Permit Approval Request for a school use on 5.11± acres, on property zoned BCDRED and located within the Westside Guadalupe Historic Review District, and Historic Downtown Archaeological Review District, to approve the Applicant's request, incorporating Staff's Finding of Fact and Conclusions of Law and subject to the conditions of approval as shown on Exhibit A.

FRIENDLY AMENDMENT: Ms. Reynolds proposed a condition of approval to ensure that construction is mitigated using the best practices to control dust, noise and traffic at the time of construction. **THE AMENDMENT WAS FRIENDLY TO THE MAKER.**

1. **DISCUSSION ON FRIENDLY AMENDMENT PRIOR TO AGREEMENT BY SECOND: Mr. Shandler** said he tried to put down a list of the conditions, but imagines that's pretty hard to read. He said, "I think Mr. Esquibel said that language is pretty consistent with your existing practice. **Mr. Esquibel said**, "Lisa as head of our department can speak to it better than I can, but I believe we definitely have a rigorous process of inspections, and a lot of that is already taken care of to best of our ability, which I'm assuming is top of the line. We have many staff members who train for this and this is their only review process for what they do. That condition is something we already do for every building permit falling under that particular issue."

WITHDRAWAL OF FRIENDLY AMENDMENT: Ms. Reynolds withdrew her friendly amendment.

VOTE: The motion was approved unanimously on a voice vote.

G. STAFF COMMUNICATIONS

There were no staff communications.

H. MATTERS FROM THE BOARD

Chair Friedman thanked all the staff that were here this evening to answer questions. He complimented Mr. Esquibel on his great presentation.

Mr. Werwath said he wants to recognize the immense amount of work that went into putting this presentation together, commenting it is a complex case, and he appreciates all Mr. Esquibel's efforts to put together this presentation and get all of the right information for the Board.

Lisa Martinez, Director, Land use Department, extended a special commendation to Mr. Esquibel for the work that went into the presentation.

Mr. Esquibel said he used Windows to do it.

Ms. Reynolds said she lives in the area and asked who to contact if there are construction problems.

Mr. Smith said the staff is well aware of the community's concern with proactive enforcement of Chapter 7 and Chapter 10 regulations about dust control and such and will be on top of it.

Chair Friedman thanked the Board members for their participation tonight, saying the questions were right on point, very perceptive and really raised some good issues that we had the opportunity to discuss and hear about. He said, "I thought it was a really good hearing.

Ms. Reynolds asked if the construction timeline goes beyond two years, how do you handle it.

Mr. Esquibel said the School wants and plans, if at all possible, to start next year. He said, "So they will start construction in the Fall, and they want to be operational by the first part of next year, so you won't see a large construction time for this. And for the most part, all of it is internal, and with the abundance of parking in the area, once all the tenants have left, you will not see any kind of construction sprawl all over the neighborhoods. It will be maintained and contained within the property."

[Ms. Reynolds remarks here are inaudible because her microphone was turned off]

Mr. Maahs said, "If they do it in phases, as a general contractor, I can tell you, the longer the construction goes on, the more expensive it becomes in terms of losses."

Mr. Werwath said, "They did mention that they have $10 million committed which is a huge amount of money. This has been on the table for a year"

Chair Friedman said now that they have the Special Use approval, assuming there are no contests, they can get more money coming in.

[Ms. Hawkins remarks here were inaudible because her microphone was turned off]

Mr. Smith said, "I would remind the Board that the *pro forma* or the financial liability of a particular applicant is not necessarily within the scope, and make it clear for the record, that this is informal discussion not related to the action previously taken."

Chair Friedman said, "Just for the record that had no basis on the decision, correct."

Ms. Dearing said, "If I could just add, my office is actually located in the Railyard, and I'm really excited about this. I think it's great. We need more kids downtown. I think it's great."

I. ADJOURNMENT

There was no further business to come before the Board, and the meeting was adjourned at approximately 8:15 p.m.

Gary Friedman, Chair

Melessia Helberg, Stenographer