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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning
Board of Zoning Adjustment

PUBLIC HEARING AND MEETING
OF THE BOARD OF ZONING ADJUSTMENT

9:43 a.m. to 4:37 p.m.
Tuesday, March 1, 2016

441 4th Street, N.W.
Jerrily R. Kress Memorial Room
Second Floor Hearing Room, Suite 220-South
Washington, D.C. 20001

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3 FRED HILL, Vice Chairperson

4 MARCEL ACOSTA, National Capital Planning Committee

5 PETER MAY, National Park Service

6 MICHAEL TURNBULL, Zoning Commission

7 CLIFFORD MOY, BZA Secretary

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

2 CHAIRPERSON HEATH: The hearing will please
3 come to order. Good morning, ladies and gentlemen.
4 We're located in the Jerrily R. Kress Memorial Hearing
5 Room at 441 4th Street Northwest. This is the March
6 1st, 2016 public hearing of the Board of Zoning
7 Adjustment of the District of Columbia, convening to
8 act on a chancery application pursuant to Foreign
9 Missions Act, 22 USC 4301-4316, and Chapter 10 of the
10 Zoning Regulations.

11 My name is Marnique Heath, Chairperson.
12 Joining me today is Vice Chairperson Fred Hill. The
13 Federal representatives are Marcel Acosta,
14 representing the National Capital Planning Commission,
15 and Peter May representing the U.S. National Park
16 Service.

17 Copies of today's hearing agenda are available
18 to you and are located in the wall bin near the
19 entrance door. Please be advised that this proceeding
20 is being recorded by a court reporter, and is also
21 being webcast live. Accordingly, we must ask you to
22 refrain from any disruptive noises or actions while in
23 the hearing room.

24 When presenting information to the Board,
25 please turn on and speak into the microphone, first

1 stating your name and home address. When you're
2 finished speaking, please turn your microphone off so
3 that the microphone is no longer picking up sound or
4 background noise.

5 All persons wishing to -- planning to testify,
6 either in support or opposition, are to fill out two
7 witness cards. These cards are located on the table
8 near the entrance door. And on the witness tables.

9 Upon coming forward to speak to the Board,
10 please give both cards to the court reporter seated to
11 the right -- to the table to my right.

12 We have one FMBZA case today that we will
13 hear. The order of procedure for this case is as
14 follows. We'll first hear a statement and witnesses
15 of the applicant. We'll then hear government reports.
16 We'll then have reports or recommendations by other
17 public agencies, a report of the ANC, and then any
18 persons wishing to speak in support or opposition will
19 then be heard from.

20 Please note that request for party status in a
21 chancery application are not applicable because this
22 is a rulemaking proceeding.

23 Mr. Moy, do you want to call our case?

24 MR. MOY: Yes, I can. Do you want to take --
25 would you care for me to administer the oath, or do

1 that later?

2 CHAIRPERSON HEATH: We could do it now for
3 everybody.

4 MR. MOY: Yeah, that way we could that --

5 CHAIRPERSON HEATH: Rather than breaking it
6 up.

7 MR. MOY: Those wishing to testify in today's
8 hearing docket of cases, if you could stand for me to
9 administer the oath?

10 Good morning.

11 [Oath administered to the participants.]

12 MR. MOY: Ladies and gentlemen, you may
13 consider yourselves under oath.

14 Thank you, Madam Chair. Good morning. Good
15 morning, members of the Board. Before the applicant
16 is a continued hearing for Application No. 19130 of
17 the Embassy of the Russian Federation, pursuant to
18 Section 1002 of the Foreign Missions Act, to allow the
19 construction of a security fence at an existing
20 embassy in the R-5-D District, 2001 Connecticut Avenue
21 Northwest, Square 2536, Lot 308.

22 As the Board will recall, this application was
23 originally heard on November 10th, 2015, and was
24 continued to January 12th, 2016, and to today's date,
25 March 1st.

1 I believe the Board requested additional
2 information. And, Madam Chair, that was filed by the
3 applicant actually this morning, as well as a
4 supplemental report from the Office of Planning last
5 night.

6 CHAIRPERSON HEATH: Okay.

7 MR. MOY: So, if you can come to the table?
8 Thank you.

9 CHAIRPERSON HEATH: Good morning, please
10 introduce yourselves. Make sure your mics are on. We
11 could start to my right.

12 MR. PARFENOV: Artom Parfenov, 2001
13 Connecticut Avenue, Russian Trade Representation.

14 MR. KRUTIKOV: Mikhail Krutikov, Embassy of
15 Russia, 2650 Wisconsin Avenue Northwest, Washington,
16 D.C.

17 MR. VERETENOV: Andrey Veretenov, Remington
18 Construction, 1207 Saugus Court, Great Falls,
19 Virginia.

20 MS. KOLODIY: Irina Kolodiy, Russian Trade
21 Representation, 2001, Connecticut Avenue Northwest,
22 20008.

23 MR. SEAGROVES: Cliff Seagroves, U.S.
24 Department of State.

25 CHAIRPERSON HEATH: Okay. All right. So,

1 when you all were here previously, I believe it was
2 January 12th, we requested additional information and
3 it looks like we did just receive that as the board
4 secretary has noted. We're going to need you to walk
5 us through what you've presented. Some of it appears
6 to be some design options. And then it looks like
7 you've also presented a drawing. If you could walk us
8 through each of the documents that you've given us,
9 that would be helpful.

10 MR. VERETENOV: I would like to have the
11 Embassy representative present the case first and then
12 we will continue with the design options.

13 CHAIRPERSON HEATH: That is fine.

14 MS. KOLODIY: Thank you. This is our general
15 position how we could approach to construction of the
16 defensive fence around the building of the Russian
17 Trade Representation here in Washington, D.C.

18 My first point connected with as a defensive
19 fence is a required part of the protection structure
20 of the Diplomatic Mission solely with regard in the
21 situation of the terrorist rats now a days, and the
22 protection of foreign diplomatic missions in each
23 country might (indiscernible) in accordance with the
24 terms of the Reanna Convention (phonetic).

25 Trade Representation of the Russian Federation

1 in the United States, is an integral part of the
2 Embassy of the Russian Federation to the United
3 States. The defensive fence around the Trade
4 Representation building can't be lower than the fence
5 around the Embassy of the Russian Federation in the
6 U.S.

7 The height of the defensive fences of the
8 different embassies here in the United States are
9 approximately eight and 10 feet. Moving fence into
10 the property of the Russian Trade Representation is
11 not an option which can approve. It is impossible
12 because in front of the building stands a flagpole and
13 this territory used for the official events and
14 receptions.

15 The historic building has basement levels and
16 to prevent fluid leakage along the perimeter of the
17 Trade Representation there are drainage systems.
18 These systems will be dismantled if fence movement
19 happened, and the building will destroyed. And as we
20 know, there are special requirements from the
21 Department of State connected to the construction of
22 the defensive structures around the world.

23 And in connection with these requirements, the
24 clearance zone should be six meters. New part of the
25 project corresponds to the existent historic part on

1 the fence and the technical documentation was
2 liberated by the specialist from the United States.

3 The new part of the fence might be higher than
4 the existing section, because a steel balustrade could
5 be used as a platform to cross the fence like a step
6 for someone who could grab and to go to the territory
7 of the Trade Representation.

8 The next part connected with our position, if
9 you couldn't approve this project, because in another
10 way, we could have the opportunity to ask the State
11 Department to provide us, the organization, an
12 external guard posts around the perimeter of the
13 Russian Trade Representation 24/7 because we didn't
14 have the real protective fence now.

15 In accordance with the requirements of the U.
16 S. Department of State's Bureau of Overseas Building
17 Operations to the Embassy perimeter improvement
18 concepts and design guidelines, new height of the
19 defensive must be plus, higher, 2.75 meters more than
20 nine feet from any platform which could be help to
21 cross the fence.

22 We have the approval from the State Department
23 dated from September 29, 2015, where the State
24 Department informed us about is agreement to build the
25 fence without any changes, and provide us also their

1 positive comments concerning the application submitted
2 to the Board of Zoning.

3 That's all.

4 CHAIRPERSON HEATH: Okay.

5 MS. KOLODIY: Thank you.

6 CHAIRPERSON HEATH: Thank you. Do you want to
7 walk us through the documents presented?

8 MR. VERETENOV: Okay. And we were -- the
9 documents that presented, that's actually the
10 preliminary design of what can be achieved in regards
11 to -- because the first thing what the Historic
12 Department asked us to, the way to lower the fence.
13 And the only way to lower the fence is to basically
14 bend it so it would -- if you look at the drawing, A-1
15 -- actually, A-2, it will need to protrude from the
16 property, four inches over the balustrade, the
17 existing balustrade, so it will not be considered as a
18 step.

19 So if you looked at the 01, elevation 01 on
20 page 82, that is something that can be considered in
21 order to lower the height of the fence and for the
22 balustrade not to be looked at as a step, because as
23 previously said that the moving of the fence inside of
24 the property is not an option.

25 CHAIRPERSON HEATH: And can you respond to

1 this again because I know we talked about it at the
2 last hearing, and I think you just mentioned something
3 about drainage. But what are the reasons again why
4 the fence can't be moved back?

5 MR. VERETENOV: There is a drainage option,
6 and also there is another position in the embassy
7 design guidelines that it should be 2.75 meters from
8 any obstruction. And if we are talking about the
9 balustrade right now, if we are moving 2.75 meters
10 from the balustrade in order not to be considered as a
11 step-up, then we are basically right in the building
12 perimeter.

13 CHAIRPERSON HEATH: Two point --

14 MR. VERETENOV: We do not have space to move
15 the fence.

16 CHAIRPERSON HEATH: Two point --

17 MR. VERETENOV: Seventy-five meter, which is
18 close to nine feet.

19 MR. SEAGROVES: Can I clarify one point I
20 think might be helpful? Just for everyone's
21 awareness, the document he's referring to are design
22 guidelines for U.S. embassies overseas. So, that is,
23 said that's a strict requirement for projects here in
24 Washington, but it is a reciprocal position that
25 they're taking, which we support.

1 CHAIRPERSON HEATH: And is that what this is
2 set --

3 MR. SEAGROVES: That document --

4 CHAIRPERSON HEATH: This document.

5 MR. SEAGROVES: -- refers to, you know, U.S.
6 Government, U.S. Embassies and consulate posts abroad.
7 Those are design guidelines that we use for
8 construction of those facilities, or in this
9 particular case, the perimeter security of those types
10 of facilities.

11 CHAIRPERSON HEATH: Okay.

12 MR. SEAGROVES: So that just, I don't want to
13 create the misperception that that document directly
14 applies to projects here in Washington. Indirectly,
15 it can apply.

16 MR. HILL: So, I had a question. I mean,
17 you've been here a couple of times now, so the
18 Historic Preservation, they were interested in you
19 starting to -- they wanted you to pull the fence back
20 how far?

21 MR. VERETENOV: Originally, it was around five
22 feet. But again, the entire discussion about the
23 moving the fence started because of the height of the
24 fence, because it was 11 feet. The only way we can
25 lower the fence right now -- I mean, they just changed

1 the structure of the fence.

2 MR. HILL: So, you could have kept it at 11
3 feet and pulled it back five feet, and Historic
4 Preservation would have been okay with it?

5 MR. VERETENOV: I'm not sure about that. I
6 mean, they are against it, the fence, period.

7 MR. HILL: The height. Oh.

8 MR. VERETENOV: That's what they felt. I
9 mean, we gave them multiple options to work with us in
10 order to the fence --

11 MR. HILL: They're against the fence, or
12 they're against the height of the fence.

13 MR. VERETENOV: They're against the fence from
14 the beginning, and the height of the fence is one of
15 the issues that arose from the beginning, because when
16 we proposed it had to be 11-feet 4-inches in the
17 original design, that was the issue with the Historic
18 Preservation Committee.

19 MR. HILL: And what other suggestion did they
20 have?

21 MR. VERETENOV: There is no suggestions from
22 them.

23 MR. MAY: I mean, you've been working with the
24 staff in the Historic Preservation office as opposed
25 to the Board.

1 MR. VERETENOV: Correct.

2 MR. MAY: Did the staff have suggestions?

3 MR. VERETENOV: The staff -- we supplied like
4 four or five different options that we could work out,
5 and there was no suggestions from them. So, the last
6 suggestion that was, okay, try to move the fence five
7 feet. And that was again, you know, like one of the
8 positions that they wanted to move it. And there was
9 no other options in regards to the, you know, lowering
10 the height or changing the design of the fence.

11 CHAIRPERSON HEATH: Was there ever an option
12 that they talked about with modifying the existing
13 balustrade to make the property more secure?

14 MR. VERETENOV: But there was -- they said
15 that there might be an option to modify the
16 balustrade, but there was never proposition from them
17 how to modify it.

18 CHAIRPERSON HEATH: Okay.

19 MR. VERETENOV: So, they're saying, I mean
20 like, they're saying, okay, why don't you change the
21 balustrade. But how you should change them, and there
22 was an option coming out from them that we can see and
23 maybe discuss.

24 CHAIRPERSON HEATH: Okay.

25 MR. VERETENOV: All the options are coming

1 from our side, how to improve the design. I know we
2 still need the Historic Preservation view of the
3 project. But there is no backway road. I mean, there
4 is no -- the only response, okay, it's not approved.
5 It should be discussed by the Board of Zoning.

6 MR. MAY: May I?

7 CHAIRPERSON HEATH: Sure. Go ahead.

8 MR. MAY: So, I'm confused. The requirement
9 that it be 2.75 meters, that goes to the height,
10 right?

11 MR. VERETENOV: To the height and to the
12 distance between any step to the fence.

13 MR. MAY: So, I mean, where is that in the,
14 even in these guidelines, because I see a 2.75 height.
15 I see a 2.75 meter distance between --

16 MR. VERETENOV: Correct. I mean, you --

17 MR. MAY: -- tree limbs.

18 MR. VERETENOV: Tree limbs, it's 2.75 as well.

19 MR. MAY: Right.

20 MR. VERETENOV: So any distance from any
21 obstruction should be 2.75. That's from what I'm
22 reading, this document.

23 MR. MAY: It just doesn't seem quite logical
24 that a fence that's nine feet tall has to be nine feet
25 away from the top of the balustrade.

1 MR. VERETENOV: No, it shouldn't be nine feet
2 away from the top of the balustrade.

3 MR. MAY: So how far away does it have to be
4 from the balustrade in order to be safe?

5 MR. VERETENOV: It can be right next to the
6 balustrade.

7 MR. MAY: If it -- no. Okay, if the
8 balustrade is here.

9 MR. VERETENOV: Uh-huh.

10 MR. MAY: And the fence is here, and there's
11 some separation between them, and this is only nine
12 feet, or 2.75 meters --

13 MR. VERETENOV: Okay.

14 MR. MAY: -- how far does it have to be away
15 from the balustrade to be safe?

16 MR. VERETENOV: As long as we maintain the
17 height of the -- between any step, 2.75, we are okay
18 with that. I mean, the height or --

19 MR. MAY: Okay, but you're missing my point.
20 So, the idea is to -- if we take the fence and we move
21 the fence away from the balustrade, but we keep it at
22 nine feet, how far away from the balustrade does the
23 nine-foot fence have to be in order to be considered
24 adequate protection?

25 MR. VERETENOV: So from -- and again, I'm not

1 the security official, and that's my take on that. It
2 should be 2.75 meter from the top of the balustrade to
3 the top of the fence. I mean, if you are --

4 MR. MAY: Oh, from the top of the -- even at
5 an angle.

6 MR. VERETENOV: That's my understanding of the
7 design. Yes, correct.

8 MR. MAY: Okay. And so how far, if you
9 studied that, how far would that push the fence away
10 from the balustrade?

11 MR. VERETENOV: We did not study that option
12 because I mean, the embassy is just against moving the
13 fence into the property.

14 CHAIRPERSON HEATH: Can you explain the issue
15 with drainage? You mentioned drainage.

16 MS. KOLODIY: Yeah.

17 CHAIRPERSON HEATH: As a reason why the fence
18 can't be moved back.

19 MS. KOLODIY: This is a big part in the
20 ground. Yeah, because --

21 MR. VERETENOV: Basically, the problem over
22 there is, this entire property is enclosed into this
23 stone cap. So all the water that is going on the roof
24 and on the area, has to be drained somehow. So, there
25 is a drainage system throughout that landscape that's

1 draining all the water that's collected on the
2 property. And I believe four or five years ago, we
3 installed the system because there was constant issues
4 with the flooding basement, so we had to install the
5 corrugated pipe all over the area in order to move the
6 water outside of this stone area.

7 MR. MAY: So how does that affect the fence?

8 MR. VERETENOV: Basically the fence
9 installation, you know, might change the drainage
10 system.

11 CHAIRPERSON HEATH: How?

12 MR. ACOSTA: How so?

13 MR. MAY: Yeah.

14 MR. ACOSTA: Do you know at what cost? And do
15 you know what cost would be required to change that --

16 MR. VERETENOV: Cost wise, I mean, we are not
17 aware of the cost.

18 MR. ACOSTA: Okay.

19 MR. MAY: It's a little hard to understand how
20 a drainage system -- we're talking about a large lawn
21 area. If there is water draining into that, I mean,
22 if you're concerned about the drainage system that
23 protects the basement, it's going to be at the
24 perimeter of the building. And that's not even close
25 to where the fence is going to be.

1 MR. VERETENOV: It's not only the perimeter of
2 the building because they have the patio over there as
3 well. It's not only perimeter. It's the patio
4 extends from the building as well.

5 MR. MAY: It doesn't seem -- it still doesn't
6 make sense. I mean, if you can demonstrate in a
7 section drawing or something like that, why it
8 interferes, or it dictates a particular placement of
9 fence, if that drainage system basically allows you
10 only a certain zone for the fence, you'd have to sort
11 of demonstrate that with a drawing.

12 MR. VERETENOV: Yes. That's one of the
13 options. What I'm trying to explain, and that's
14 probably embassy position, correct me if I'm wrong,
15 also on the side of the building we have right now,
16 which is 11 feet, to the building, not including the
17 balconies, is the site. So, if we are moving inside
18 of the -- the fence inside of the property, that does
19 not give a six-meter clearance that we have, that's
20 required.

21 MR. MAY: You don't have six meters anyway.

22 MR. VERETENOV: So, that's another option for
23 the clearance. So we cannot even -- already move it
24 anywhere closer to the building.

25 CHAIRPERSON HEATH: I don't think you're doing

1 a good job of helping us understand why it can't be
2 moved back. We've heard you say it a number of times
3 today and at previous hearings, but it still isn't
4 very clear and it isn't demonstrated by --

5 MR. VERETENOV: I mean, just by the security
6 guidelines, if you look at again, and that's a
7 document for the U.S. Embassy standards, if you looked
8 at page, at 75, there is a six-meter clear zone needs
9 to be maintained on the interior of the fence for the
10 embassy.

11 MR. MAY: So what's the current clearance
12 between the front of the building and the balustrade?

13 MR. VERETENOV: On the side it's 11 -- on the
14 side it's --

15 MR. MAY: We heard about the side.

16 MR. VERETENOV: From the front, from the patio
17 that's currently over there, and that's from the patio
18 I believe it's like 11 feet. I mean, like not 11
19 feet. Eighteen feet over there. So.

20 MR. MAY: And what about the building? How
21 far from the building?

22 MR. VERETENOV: Just give me one second. I
23 should get -- let me get my drawing. It wasn't
24 originally submitted with the preliminary -- you know,
25 in the beginning there was a plot with the submittal.

1 MR. MAY: We still have everything that you
2 submitted. So, if you want to point us to a
3 particular drawing.

4 MR. MAY: So the plat shows the fence, but it
5 doesn't show the building.

6 CHAIRPERSON HEATH: If you look at Exhibit 38.

7 MR. VERETENOV: [Speaking off microphone.]

8 MR. MAY: Thirty-eight. Okay. Got it. I was
9 looking at the first one. Okay, but that doesn't show
10 a dimension either. It shows approximately where the
11 building is.

12 MR. VERETENOV: Yeah, but looking at the
13 dimensions we currently --

14 [Pause.]

15 MR. VERETENOV: So, we get approximately 20;
16 20 feet.

17 MR. MOY: Excuse me, sir. Is your microphone
18 on?

19 MR. VERETENOV: So we have roughly around 20,
20 20 feet from the existing balustrade to the patio.

21 MR. MAY: To the building.

22 MR. VERETENOV: Yes. There is a patio that's
23 a part of the building.

24 MR. MAY: It's an elevated --

25 MR. VERETENOV: It's above ground. It's

1 elevated --

2 MR. MAY: -- platform or whatever?

3 MR. VERETENOV: -- and the basement extends
4 from the building.

5 MR. MAY: Okay. And below that --

6 MR. VERETENOV: There is a basement.

7 MR. MAY: There is a basement.

8 MR. VERETENOV: Yes. Correct.

9 MR. MAY: Okay. Because that's not shown on -
10 - that patio is not shown here on this drawing.

11 MR. VERETENOV: Uh-huh.

12 MR. MAY: And it looks like the building
13 itself is more like 40 feet away, if you just scale
14 from the drawings. If this is to scale. It may not
15 be to scale.

16 So I mean, it would be helpful to have an
17 actual scaled drawing of the site with the building
18 and show what the six-meter dimension would be from
19 the building.

20 MR. VERETENOV: Okay.

21 MR. MAY: And I mean, that might help us
22 understand why you can't move the fence back.

23 MR. VERETENOV: Okay.

24 MR. MAY: Because right now we don't have any
25 really solid information about where the fence can be.

1 MR. VERETENOV: Okay. So, six-meter
2 clearance. And let me clear that. I mean, apparently
3 we are, you know -- also, what I would like to see,
4 the design of the fence. If there is a six-meter
5 clearance right now, I mean, that we cannot maintain,
6 what design of the fence should be.

7 MR. MAY: Well, I mean, I think that's key to
8 the whole discussion. I mean, I think part of the
9 reason why we're concerned, or at least I'm concerned
10 about this is that what you're showing in terms of
11 that large curved fence, isn't really that much better
12 than what you had before in terms of the aesthetic
13 impact of it.

14 MR. VERETENOV: Yeah, but --

15 MR. MAY: It's better in that it doesn't have
16 the finials on it, but it's still quite oppressive
17 looking.

18 MR. VERETENOV: Yeah, because before that it
19 was 11 feet tall, and now we are three feet down in
20 order to -- that's what the Historic Preservation, the
21 Committee, was concerned about, and that's the design
22 that we came up with.

23 MR. MAY: Yeah.

24 CHAIRPERSON HEATH: Yeah, seeing a site plan
25 that shows us where the patio is that you're talking

1 about, what the setbacks of the building are from the
2 existing balustrade and how much space you have to
3 potentially move the fence back or not, would be
4 really helpful if we could see it in that type of
5 drawing format.

6 MR. VERETENOV: Okay. And let me ask you
7 another question, and that's now theoretically talking
8 about it. Okay? We will prepare the plan and you
9 know, we will show you that it's impossible to move
10 the fence back inside.

11 What is the next step? Then we will be going
12 back with the design on the fence?

13 CHAIRPERSON HEATH: I think in the meantime
14 it's going to be very beneficial for you to continue
15 your conversations with HP and OP.

16 MR. VERETENOV: HP position is, they do not
17 want fence out there, period. And whether it's, I
18 mean, high or -- I mean --

19 CHAIRPERSON HEATH: but they've said that
20 they'd prefer a fence that's set back, and you haven't
21 shown us or them why you can't do that. I think it
22 might be beneficial. I can't speak for them, but I
23 think it might be beneficial if you can walk them
24 through the same thing that we're asking you to
25 present to us, so that they understand what is and

1 isn't feasible in terms of setting the fence back.
2 And then have a real conversation with them about the
3 requirements based on security and the heights that
4 you need to maintain so that they can either offer
5 suggestions or get on board with what you have to do
6 and the restrictions that you have to meet.

7 So you know, I don't know what direction the
8 conversations will lead. I don't know if they'll ever
9 get on board if you have a fence. But certainly,
10 having continued conversations isn't going to hurt.

11 MR. VERETENOV: And that's what basically, you
12 know, it was like Trade Line told us, you know, that
13 they do not want the fence there period. So --

14 MR. MAY: We don't have a report from them
15 saying that they don't want the fence period. What we
16 have to go on is the report they give us.

17 MR. VERETENOV: Okay. Okay.

18 [Pause.]

19 [Discussion off the record.]

20 CHAIRPERSON HEATH: Okay. All right. So
21 while they do that, we're -- you can continue your
22 conversation, but we want to -- we do want to hear
23 from OP while you're here this time, just to hear of
24 the recent development and any thoughts that OP has
25 from either you or HP.

1 MS. THOMAS: Madam Chair, as you see from
2 correspondence that we did try to continue this
3 discussion. At this time I would concur with your
4 suggestions to take it back to HP, and I'd be happy to
5 mediate between the Board and HP at this time.

6 CHAIRPERSON HEATH: Okay. Based on the
7 conversations that you've had so far with HP, do you
8 think that if the applicant can show that they can't
9 move the fence back that there's some way that they
10 can come to agreement on having a fence that is next
11 to the balustrade at some designated height, whether
12 it's the height that the fence exists now, or
13 something a bit lower?

14 MS. THOMAS: I do believe that one of the
15 points that Mr. Calcott (phonetic) made was that they
16 needed to provide reasons why, what was the security
17 requirements. And I think this would be helpful, this
18 hand out that he presented today, it might be helpful.

19 CHAIRPERSON HEATH: Okay. All right. Meaning
20 this --

21 MS. THOMAS: Yes.

22 CHAIRPERSON HEATH: The embassy guidelines?

23 MS. THOMAS: Yes, the embassy guidelines.

24 CHAIRPERSON HEATH: All right. Okay. And
25 then in your report you indicated that -- it sounds

1 like HP would like to see something done to modify the
2 existing balustrade. Have they talked about that
3 beyond what they see in the report?

4 MS. THOMAS: I don't want to give the
5 impression that HP would want the balustrade, you
6 know, modified to any visible extent.

7 CHAIRPERSON HEATH: Okay.

8 MS. THOMAS: Because I think this is also part
9 of the historic resource.

10 CHAIRPERSON HEATH: Sure.

11 MS. THOMAS: So, what I think at one time was
12 suggested was placing some type of a prohibitive
13 device behind the balustrade. I don't know. I want
14 to say spikes, I don't know. Where if somebody can
15 jump over, they would be terribly hurt by doing that.
16 You know, and wanted to explore some of those
17 options, I don't know. But --

18 CHAIRPERSON HEATH: Because that would
19 allow --

20 MS. THOMAS: Right.

21 CHAIRPERSON HEATH: -- the spikes to be lower.

22 MS. THOMAS: Yes. The spikes could have been
23 lower, but I think that the issue HP has is that this
24 fence is already about eight feet to nine feet high.
25 The applicant is saying that they need 10 feet, so and

1 they need to prevent this stepping over in the first
2 place. So, I think that there is some room there for
3 some negotiation but within an appropriate design that
4 might be, you know, compatible with HP's vision for
5 this site.

6 CHAIRPERSON HEATH: Okay. Board, any
7 questions of Office of Planning? Okay. Anybody else
8 have any questions? Okay. All right. Thank you, Ms.
9 Thomas.

10 MS. THOMAS: Thank you.

11 CHAIRPERSON HEATH: All right. So one other
12 thing that could be beneficial for the Board is if we
13 were to hear from the Department of State more of an
14 explanation of some of the guidelines as they pertain
15 to this case. Do you want to speak at this time about
16 more detail relevant to the guidelines particular to
17 the issues here?

18 MR. SEAGROVES: I could say a few things. I
19 was not aware that this was going to be submitted
20 today so I can't speak with a lot of authority about
21 these particular guidelines --

22 CHAIRPERSON HEATH: Okay.

23 MR. SEAGROVES: -- because again, they are
24 covered by a different office.

25 We've had many cases about fence heights. You

1 know, I think that we've settled in the past,
2 primarily that, you know, we believe that you know, we
3 have a reciprocal for a fence, the height of a fence,
4 and the Board has always respected that and we've been
5 able to work out issues concerning the height of a
6 fence with compromises, perhaps, made on the design of
7 the fence. And I think that's what we've been trying
8 to achieve in this case.

9 I think that we hopefully will be able to get
10 all the parties to come up with a plan that, with the
11 understanding that HPRB, it may not be their
12 preference, but that's something that would be an
13 acceptable alternative, and that's what we would
14 encourage the embassy to work towards, so that they
15 have something more tangible to present the next time
16 they come here.

17 CHAIRPERSON HEATH: Okay. Have you been a
18 part of the meetings?

19 MR. SEAGROVES: We have been -- we have not
20 been directly involved in the meetings with the
21 parties. We have met with Ms. Thomas a couple of
22 times about this case, and we have met with the
23 embassy several times. But we're certainly, if the
24 embassy wants us to be involved, we will be happy to
25 be involved in the next round of meetings.

1 CHAIRPERSON HEATH: It may be helpful as
2 another resource to help the rest of the group
3 understand what some of the requirements --

4 MR. SEAGROVES: Certainly.

5 CHAIRPERSON HEATH: -- might be. So, just
6 throw that out there.

7 MR. SEAGROVES: Absolutely.

8 CHAIRPERSON HEATH: If the embassy would want
9 the State Department to be a participant. All right.
10 Anything else from the Board? Any other
11 questions?

12 MR. HILL: No, again, and I would encourage --
13 I mean, this is your third time here now again, right?
14 And so again, getting together with HP and Office of
15 Planning and now the State Department, and the last
16 time you were here, one of the discussions was, you
17 know, the ability to take care of the lawn. You know,
18 and so that was one issue.

19 And so, now there's an issue about the
20 drainage. And so for me it's a little bit -- you
21 know, for me to be able to think that kind of the
22 municipal interest is -- should be superseded by your
23 need, you know, I'm not there yet. And so if you
24 can't get -- and you've got the State Department,
25 you've got the Office of Planning. So now it will be

1 your fourth time here, you know, to come to some
2 discussion resolution so that you can move forward on
3 this project. I would just encourage you. That's
4 all.

5 CHAIRPERSON HEATH: Okay. All right. Then,
6 Board, if there are no other questions we will
7 continue this to allow you to submit the requested
8 information plan that clearly shows dimensions of
9 building to balustrade, why the fence can't be moved
10 back, whether there is some drainage issue that
11 impacts it or any -- I think there were lawn issues,
12 security issues, or some of the cameras. Like, you
13 have to make a clear case, both for us and for HP.
14 So, if you can provide that information and have
15 continued discussion, I think that will be helpful and
16 hopefully this will be your last time coming back.

17 MR. ACOSTA: Madam Chair, can you provide a
18 narrative describing all the issues that you've
19 raised, such as drainage, operations, mowing the lawn,
20 you know, utilities that may be underground. I know
21 there are light boxes and flag poles, and how all
22 those relate to this issue of not being able to move
23 the fence, because we're hearing kind of a very
24 scattered shot approach in terms of why you can't do
25 it if you're asking for relief, which I think is what

1 you're asking for in terms of moving this fence back,
2 because the other issue that we have to address is
3 historic preservation; that you need to document that
4 very clearly to us ahead of time so we're not -- so,
5 we get this information several days in advance, and
6 we have the opportunity to read it, absorb it, and you
7 may actually have a better chance of advocating your
8 own interest here. Right now, I don't think you're --
9 you're doing yourself a disservice by presenting it at
10 the very last moment. And I think if you believe in
11 fact that these are very serious issues for your
12 embassy and your operations, I'm happy to hear about
13 it but I think in addition to the graphics that you're
14 going to present, I think having that kind of
15 identified and argued so we have a good chance to
16 absorb it, would be very helpful so we're not -- so
17 you're not wasting your time coming back here a fourth
18 time.

19 MR. VERETENOV: Okay.

20 MR. ACOSTA: And also, a clear documentation
21 of your meetings that you held with the Office of
22 Planning and the Historic Preservation office, and
23 anybody else. Any meeting minutes that you might
24 have, any alternative proposals that you or the other
25 parties may have put on the table would also be good

1 to have as part of the package, so we have an
2 understanding of how this design has evolved over
3 time. Right now you're showing us from A to D and we
4 haven't had the opportunity to see the evolution of
5 the design changes. And I think that would be helpful
6 to us to understand what the issues are that you're
7 facing. So, that would also be helpful in your next
8 submission.

9 MR. VERETENOV: Thank you.

10 CHAIRPERSON HEATH: Very good. So, is that
11 clear, then? So, Mr. Moy, we're going to need a new
12 date.

13 MR. MOY: Basically what I'm hearing, Madam
14 Chair, Mr. May's full participation with the Board is
15 April the 5th, and if Mr. Acosta can accommodate that
16 day, was well as the applicant, then that would be my
17 suggestion, given the time they're going to need.

18 [Discussion off the record.]

19 MR. VERETENOV: Yes, April 5th is good.

20 MR. MOY: Mr. Acosta says he'll be out of town
21 that date.

22 CHAIRPERSON HEATH: Okay.

23 MR. MOY: So we either have a date a week
24 prior to that, or the week after it, then depending on
25 Mr. May being available on which of those two dates.

1 So, we'd be looking at March the 29th or April the
2 12th.

3 CHAIRPERSON HEATH: All right. So, April
4 12th?

5 MR. VERETENOV: Yeah, April 12th is -- yeah,
6 that's fine.

7 CHAIRPERSON HEATH: Okay. All right.

8 MR. MOY: Okay. With that date, then, it
9 sounds like from what I'm hearing from Mr. Acosta and
10 the Board, that maybe if the -- perhaps if the
11 applicant can make their filing a week prior, which
12 would be April the 5th.

13 MR. VERETENOV: Okay.

14 MR. MOY: If that's doable?

15 MR. VERETENOV: Uh-huh.

16 MR. MOY: All right.

17 CHAIRPERSON HEATH: Did you want to say
18 something.

19 MR. HILL: Yeah, I mean, and I guess I just
20 want to again, clearly state because this is again
21 your third time here and I want you to be able to move
22 forward with the project for -- you know, it seems
23 like there's two different lines of thought here
24 again, continuing to argue your place as to why we
25 should go against HP and the Office of Planning, and

1 that's one avenue. And that's kind of a hard --
2 that's a heavy lift, is what I'm saying.

3 And so, you know, it would be best if you
4 could work with them to come with some resolution so
5 that we don't have to do that.

6 MR. VERETENOV: Okay.

7 CHAIRPERSON HEATH: Okay. Thank you. We'll
8 see you on the 12th.

9 [Pause.]

10 CHAIRPERSON HEATH: All right. So, we have
11 two cases for decision today. Mr. Moy, since we have
12 Mr. May here do you want to call our appeal?

13 MR. MOY: Yes. Yes, with pleasure. That
14 would be Appeal No. 19155 of ANC 3C as captioned and
15 advertised. This is an appeal from an August 13th,
16 2015 decision by the Zoning Administrator to issue
17 building permit No. B1511364 to permit a 10-space
18 parking area in the R-2 District at premises 2926
19 Porter Street Northwest, Square 206A, Lot 95. The
20 Board last heard this on January 12th, 2016, and
21 scheduled a decision on March 1st, and requesting
22 findings of fact and conclusions of law from the
23 parties, and that document, Madam Chair, is in your
24 case folders from the appellant and the property
25 owner, under Exhibits 20 and 22.

1 CHAIRPERSON HEATH: Okay. Is the Board ready
2 to deliberate on this case? All right.

3 Okay. So we heard pretty significant
4 testimony from the appellants, from the property
5 owner, and from DCRA at the hearing. The thing that
6 all parties agreed to was that the existing apartment
7 house is a nonconforming apartment house because it
8 existed prior to the zoning regulations.

9 What was in the first part that was in
10 dispute, appeared to be whether or not the existing
11 three parking spaces are also a nonconformity that is
12 being expanded by adding the 10 parking spaces that
13 are proposed and the subject of this appeal.

14 I think the applicant cited a number of
15 sections based on DCRA's findings, and they
16 specifically cited Section 300.3 and referenced
17 Section 201. Also, cited Section 301 of the zoning
18 code, all which are sections of the code that deal
19 with properties within the R-2 District. And what the
20 appellant seemed to be having a hard time with was the
21 fact that there is no mention of apartment houses in
22 R-2 because R-2 is designated as a district for
23 single-family homes and detached single-family homes.

24 And so, there is nothing in the regulations
25 within those sections that references apartment houses

1 or parking at apartment houses, because this is not
2 typically a permitted use where the appellant's point
3 there was that because, as I understood it, and I'm
4 curious to hear the other board member's positions.
5 But as I understood it, because there was -- there's
6 no mention of that, that the accessory parking that
7 would be allowed under R-2 doesn't apply because there
8 is no mention of an apartment house having parking as
9 an accessory use. And so then we heard testimony from
10 the ZA, who cited that parking -- that first, because
11 this is nonconforming apartment house that is -- that
12 was built prior to the regulations, that this is now a
13 permitted use. And so the regulations now apply.
14 This property is not exempt from having accessory
15 parking strictly because it's a nonconforming use.

16 And so, accessory parking, so long as the
17 property owner is meeting the parking requirements
18 under Chapter 21, is allowed. And that is, according
19 to the Zoning Administrator, what the property owner
20 has done. The three parking spaces, as we've said, as
21 I've said, are part of the side yard. The new 10 are
22 at the rear, and they are in conformance with the
23 parking requirements under Chapter 21.

24 And so, I tended to find merit in what the ZA
25 was stating with respect to allowing an accessory use

1 for parking, and that so long as they're meeting
2 Chapter 21, they can have as many parking spaces on
3 this lot as allowed by Chapter 21. That governs the
4 location of parking spaces, not the number of parking
5 spaces, and where the discussion kind of got -- well,
6 I'll say there was also some discussion about whether
7 or not there was a maximum stipulated in the zoning
8 regulations, and this Board has found previously that
9 the regulations don't state a maximum; that what is
10 stated in Section 2103.2 and .3 allows for applicants
11 to exceed the minimums that are listed as a part of
12 2101.1.

13 And so, I am -- I'd like to continue
14 discussion with the Board on this, but I'm tending to
15 find substantial merit to the ZA's findings based on
16 the facts that they presented, and their testimony. I
17 think there is some -- there is a bit of confusion
18 here in the zoning regulations with respect to this
19 because there were a number of times when, in the
20 discussion, there wasn't a specification regulation
21 cited in order to say that yes, a nonconforming
22 apartment house is now permitted and can have
23 accessory parking. There's nothing specific in the
24 regulations that I've found that says that.

25 But the Board has found in the past, and I

1 believe the ZA has ruled in the past on similar cases,
2 not one exactly like this, but where accessory parking
3 was allowed with a nonconforming use. And so, I think
4 for me, that's where I'm having a bit of trouble
5 because I'm sort of basing my decision more on --
6 partially on the regulations, but also partially on
7 past decisions.

8 And so, I'll stop for now and see if other
9 board members have other thoughts. Anybody want to
10 take it?

11 MR. MAY: Yeah. So, I'd tend to agree with
12 your analysis, Madam Chair. I understand how this got
13 very convoluted because there's not a very clear path
14 to say yes or no about whether this use is permitted.
15 But I appreciate how the Zoning Administrator tried
16 to figure it out, and I don't think that what was done
17 was unreasonable. It certainly is -- there's
18 precedent for it in the fact that there are other
19 apartment buildings in R-2 Zones that have accessory
20 parking lots.

21 So, I mean, you know, maybe it reveals a gap
22 in the zoning regulations and how something like this
23 is dealt with when you're dealing with it, and you
24 know, what would in another zone be an ordinarily
25 accepted accessory use, but because of the initial use

1 is not permitted in that zone, well what do you do
2 when you're, you know, when an accessory use comes up.

3 So I mean, I think that it you know, it's a gap,
4 maybe, but it's a small gap. And I think that the
5 Zoning Administrator acted reasonably to try to figure
6 out what to do in this circumstance.

7 I will comment that I don't think that the way
8 the parking lot was done is particularly attractive,
9 and the lighting images, you know, the lighting at
10 night is not very attractive. And I guess that, you
11 know, part of the problem for the neighbors is the
12 fact that it's you know, kind of unsightly.

13 It wasn't great before either, with the scrub
14 trees that were there. So, I mean, everybody could
15 have done a little better on that, the applicant or
16 the owner of the property could have done better in
17 what they did. And you know, attempted to, you know,
18 integrate some attractive trees or other vegetation.
19 But, you know, it is what it is. They're not required
20 to do that currently.

21 So, I don't have any problem with denying the
22 appeal.

23 MR. HILL: Yeah, Madam Chair, I agree with
24 your analysis also, and also Mr. May. I guess again
25 what the appellant was arguing was that again, this

1 was all kind of like a new development project, and it
2 being already a nonconforming use, and then the
3 ability for the accessory use to a nonconforming use,
4 I mean, I thought that the ZA again got it right. And
5 so, I wasn't convinced by the appellant that the ZA
6 erred.

7 And to my colleague's point, again, the before
8 and after photos of maybe the -- and I guess I was a
9 little. And this is beyond even whether I thought the
10 ZA erred, is that you know, I would think taking cars
11 off the streets is helpful for the neighborhood. But
12 I guess the parking lot isn't particularly attractive.
13 And again, however, it was kind of like rough
14 vegetation there beforehand.

15 But regardless of that, I wasn't convinced
16 that the ZA erred, so I would not be -- I would be in
17 denial of the appeal.

18 CHAIRPERSON HEATH: Okay. All right. Any
19 further discussion?

20 All right. Then I will make a motion that we
21 deny the Appeal No. 19155, appeal of ANC 3C.

22 MR. HILL: Second.

23 CHAIRPERSON HEATH: The motion has been made
24 and seconded. Any further discussion?

25 [Vote.]

1 CHAIRPERSON HEATH: And we do have one
2 absentee ballot.

3 MR. MOY: Yes, Madam Chair, we do. We have
4 Mr. Hinkle participating on this appeal, and his
5 absentee ballot vote is to grant the appeal and I
6 think in this case I should read his rationale for the
7 record, Madam Chair, if I may?

8 CHAIRPERSON HEATH: Uh-huh.

9 MR. MOY: "The appellants have satisfied the
10 burden of proof with respect to the claim of the
11 Zoning Administrator that the 10-space parking area is
12 allowed as a matter of right because it is accessory
13 to the apartment building. The apartment building is
14 a nonconforming use in the R-2 District, Section
15 2000.4 allows that nonconforming use to continue, but
16 does not make that use a matter of right use or a use
17 permitted within the R-2 District as listed within
18 Section 300 through 319."

19 "As such, Section 301, which contains
20 provisions for accessory uses within the R-2 District,
21 has listed within Sections 300 through 319, cannot be
22 relied upon to allow the 10 spaces as a matter of
23 right accessory use to the apartment building."

24 So that would give a resulting vote of three,
25 to one, to one. This is on the motion of Chair Heath

1 to deny the appeal. Seconding the motion, Vice Chair
2 Hill. Also in support, Mr. Peter May. We have a
3 board seat vacant. The motion carries, Madam Chair.

4 CHAIRPERSON HEATH: Okay. Thank you, Mr. Moy.

5 MR. MOY: So with that the last decision case
6 in the meetings session is --

7 CHAIRPERSON HEATH: We need to switch
8 commissioners.

9 MR. MOY: Oh, that's right.

10 CHAIRPERSON HEATH: Thank you, Mr. May.

11 MR. MAY: Thank you.

12 MR. MOY: Well, I can read the caption, Madam
13 Chair.

14 CHAIRPERSON HEATH: Sure.

15 MR. MOY: This is a request for a minor
16 modification to Application No. 19026A of 1300 H
17 Street Northeast, LLC, as captioned and advertised to
18 the application itself, is a variance from the off-
19 street parking requirements under 2101.2; special
20 exceptions for the roof structure requirements under
21 411.5, 770.6; the HS-A Overlay requirements under
22 1320.4(f), and the HS Overlay design and special
23 exception requirements under 1324.10, 1325.1, to
24 construct a new four-story mixed use building with
25 ground-floor retail containing 36 residential

1 dwellings in the HS-A/C-2-A District, 1300 H Street
2 Northeast, Square 1026, Lots 97 and 103.

3 CHAIRPERSON HEATH: Okay. Thank you, Mr. Moy.
4 So, the Board has reviewed the request for minor
5 modification, and as a result, I believe we have a few
6 questions. And so, if the representative for the
7 applicant could come forward?

8 MS. SHIKER: Good morning. My name is
9 Christie Shiker with the law firm of Holland and
10 Knight representing the applicant.

11 MS. SNYDER: Good morning. My name is Rebecca
12 Snyder, representing the applicant. Or, I am the
13 applicant.

14 CHAIRPERSON HEATH: Okay, thank you. So, I
15 think this morning we had a few questions about your
16 heights and it looks like we're clear now on those.
17 But I believe Mr. Turnbull still has a few questions
18 for you.

19 MR. TURNBULL: Yeah, at first I was originally
20 concerned that your drawings were so tiny and small I
21 couldn't -- but I was able to put them into our Z-docs
22 and blow them up, so it looks like you do meet all the
23 setback requirements.

24 The only question that I just wanted to point
25 out is that in your -- you're pretty clear on

1 understanding the new regs, so I appreciate all your
2 time put into that. But on page 3 of your -- of
3 Exhibit No. 3, your -- and you talk about the
4 penthouse and the IZ requirement, and I just want to
5 be sure that it's at -- we recognize that it's at the
6 50 percent AMI.

7 MS. SHIKER: Yes. We actually met with the
8 Zoning Administrator last week to clarify exactly how
9 these calculations will be done. The Zoning
10 Administrator is in the process of creating a new CIZ
11 form --

12 MR. TURNBULL: Right.

13 MS. SHIKER: -- that then breaks out the
14 square footage so that the IZ that results from the
15 penthouse is at the 50 percent in accordance with the
16 provisions in Chapter 26, and that the standard IZ is
17 at the 50/50 split for the C-2-A District, and we are
18 working with this office to make sure we're compliant
19 with that.

20 MR. TURNBULL: Okay. I just wanted to make
21 sure that, it should be noted in the order that we
22 referenced the 50 percent. That's all. I just
23 thought it would be good to --

24 MS. SHIKER: And we'll comply with that
25 provision.

1 MR. TURNBULL: Yeah.

2 MS. SHIKER: Yes.

3 MR. TURNBULL: Okay.

4 CHAIRPERSON HEATH: Okay. All right. Thank
5 you. All right. Then, with that I believe the Board
6 is clear on all the information that we needed and are
7 prepared to move forward with a decision on this. I
8 would move that we grant the request for minor
9 modification for Application No. 19026A of 1300 H
10 Street Northwest, LLC.

11 MR. HILL: Second.

12 CHAIRPERSON HEATH: The motion has been made
13 and seconded. Any further discussion?

14 [Vote.]

15 CHAIRPERSON HEATH: The motion carries. Thank
16 you.

17 MS. SHIKER: Thank you.

18 MR. MOY: Staff would record the vote as
19 three, to zero, to two. This is on the motion of
20 Chairperson Heath to approve the request for a minor
21 modification. Seconded the motion, Vice Chair Hill.
22 Also in support, Mr. Michael Turnbull. We have a
23 board member not present today, and a board seat
24 vacant. Motion carries, Madam Chair.

25 CHAIRPERSON HEATH: All right. Thank you.

1 Summary order.

2 MR. MOY: Thank you.

3 CHAIRPERSON HEATH: All right. And we'll take
4 a five-minute break and then come back with our
5 hearing cases.

6 And for the benefit of the people in the
7 audience today, we're going to proceed through the
8 agenda as it's shown on the agenda list, or at the
9 back of the room. So no deviations from that order
10 today.

11 [Off the record at 10:50 a.m. for break.]

12 CHAIRPERSON HEATH: We'll come to order,
13 please.

14 MR. MOY: Okay. Thank you, Madam Chair.
15 We're into the hearing cases for the day.

16 Before we start, Madam Chair, I'd like to read
17 very quickly for the transcript, what do we have, four
18 cases that have been removed and -- I won't say
19 removed, rescheduled to a future date.

20 The first is Application No. 19168 of Afework,
21 A-F-E-W-O-R-K. And that has been -- there was a
22 request to postpone and reschedule to April, April
23 5th, 2016. The second application is 19202 of Alon
24 Echaus, E-C-H-A-U-S, rescheduled to March 8th, 2016.
25 The third application is 19173 of Equity Trust

1 Company, Custodian FBO, rescheduled to March 15th,
2 2016. And finally, although scheduled on a different
3 date, but I'd like to place on our transcript,
4 Application No. 19205 of Magrath and Susan Shen. That
5 has been, although originally rescheduled to April
6 5th, 2016, it is now April 19th, 2016. And that
7 completes that, Madam Chair.

8 So with that, the first case before the Board,
9 this is Application No. 19182 of Rob Carter, as
10 advertised for variances from the side yard
11 requirements under 405.8, nonconforming structure
12 requirements, 2001.3; renovate an existing four-unit
13 apartment house, the R-4 District, 1512 6th Street
14 Northwest, Square 445, Lot 43.

15 CHAIRPERSON HEATH: All right. Would the
16 parties to that application please come forward? And
17 be sure to turn in your witness cards to the court
18 reporter.

19 Not on.

20 MR. PRICE: Is it -- oh, there we go. Thank
21 you.

22 CHAIRPERSON HEATH: There you go.

23 MR. PRICE: Good morning. I'm Travis Price
24 Architects, and I'm Travis Price actually, and here
25 for the applicant.

1 MS. GRACE: Hi. Kelly Grace with Travis Price
2 Architects.

3 MR. CARTER: Rob Carter, I'm the applicant.

4 CHAIRPERSON HEATH: Okay. I think one
5 preliminary issue. We don't have a report from ANC
6 6E, I believe it is. Did you meet with the ANC?

7 MR. PRICE: We had a unanimous approval. We
8 met with their subcommittee on planning, and then we
9 went on to the regular ANC. I'm surprised, but, yeah.

10 CHAIRPERSON HEATH: Okay. All right.

11 MR. PRICE: February 2nd, I think it was.

12 CHAIRPERSON HEATH: Okay. So it was February
13 2nd. And you unanimous approval?

14 MR. PRICE: Yes. Uh-huh.

15 CHAIRPERSON HEATH: Okay. All right. One
16 other issue is you've submitted a self-certification
17 form, but it appears to not be complete. Doesn't have
18 your calculation sheet. Did you -- that's something
19 that we're going to need submitted into the record.

20 MS. GRACE: Yeah, I submitted it, but I'll see
21 why you don't have it. I'm not sure.

22 CHAIRPERSON HEATH: Great. Yeah, the only
23 thing that was uploaded into the system was the first
24 page, the form 135. So, if you could check on your
25 calculations too?

1 MS. GRACE: Do you want it right now or --

2 CHAIRPERSON HEATH: Do you have it?

3 MS. GRACE: Yeah.

4 CHAIRPERSON HEATH: Okay. Do you have
5 additional copies that you could give to the board
6 secretary? Okay, just one?

7 MR. PRICE: I think we assumed everything went
8 through and we just brought our copy. Sorry.

9 CHAIRPERSON HEATH: If you could pass it to
10 the Board secretary, thanks.

11 MR. MOY: I'll make copies and I'll pass it to
12 the Board.

13 CHAIRPERSON HEATH: Okay. Thank you. All
14 right.

15 MS. GRACE: The OP -- oh. OP also has the
16 calculations in their recommendation letter, if you
17 have that.

18 CHAIRPERSON HEATH: Okay.

19 MS. GRACE: Strange, because I confirmed with
20 Steven Varga after I sent it all in and it was in
21 there, so I'm not sure why you don't have it.

22 CHAIRPERSON HEATH: Strange things happen with
23 this system all the time.

24 MS. GRACE: Okay.

25 MR. PRICE: It's definitely the computer.

1 Always.

2 CHAIRPERSON HEATH: Always.

3 MR. PRICE: Yeah.

4 CHAIRPERSON HEATH: All right. Okay. All
5 right. Does the Board have any questions of the
6 applicant beyond these?

7 MR. TURNBULL: I just had a -- is there
8 anything really going to be remaining of the building?
9 I mean, it looks like you're -- talk about a
10 renovation, but it looks like by the time you get done
11 you're not going to recognize it. So I'm just
12 wondering, is there anything really that's still
13 remaining of the building? I mean, some of the
14 foundation, I'm assuming, is still there.

15 MS. GRACE: We're required to keep 40 percent
16 of the existing exterior wall.

17 MR. TURNBULL: Okay.

18 MS. GRACE: By Matt LeGrant. So the entire
19 north face brick wall, it will remain.

20 MR. TURNBULL: Okay.

21 MS. GRACE: And the front, about four feet or
22 so will quasi-remain.

23 MR. TURNBULL: Okay. And how tall is the
24 penthouse, that little doghouse on the top?

25 MS. GRACE: From the existing grade, or just

1 from the ground level?

2 MR. TURNBULL: From the roof.

3 MS. GRACE: From the --

4 MR. TURNBULL: The roof. How tall is your
5 little penthouse up there? There's a circular stair
6 that goes up.

7 MS. GRACE: Uh-huh. It's just enough to get
8 you up there.

9 MR. PRICE: There's an eight-foot ceiling, I
10 believe, and then just the parapet piece.

11 (Inaudible.)

12 MR. TURNBULL: I couldn't tell from the
13 drawings if there was a height dimension.

14 MS. GRACE: Right. I would say to the top of
15 the roof is eight feet.

16 MR. TURNBULL: Eight feet. And the setback
17 from the side.

18 MR. PRICE: Is conforming and in the front,
19 it's extensibly (sic) back from the front, yeah.

20 MS. GRACE: Right. It's five feet from the
21 side.

22 MR. TURNBULL: That's the worst one, five feet
23 from the side on --

24 MS. GRACE: On the north.

25 MR. TURNBULL: Okay. Thank you.

1 MS. GRACE: Uh-huh.

2 CHAIRPERSON HEATH: All right. So, this is an
3 interesting case. Your burden of proof statement
4 doesn't really satisfy the variance test, based on the
5 way it's written. It's just listing pros and cons and
6 doesn't really speak to the variance test. Office of
7 Planning's report does. So, I think if you could just
8 give a quick explanation just so we have it in the
9 record from the applicant how you feel you meet the
10 variance test, I think that would be helpful.

11 MR. PRICE: Yeah. Kelly is far more granular
12 on it.

13 CHAIRPERSON HEATH: Okay.

14 MR. PRICE: Yeah.

15 MS. GRACE: Okay. So, it's hard not to read
16 the Office of Planning's points here, because they are
17 very pointed.

18 CHAIRPERSON HEATH: They did a great job.

19 MS. GRACE: Yeah, we've had several phone
20 calls together, Steven and I. So, but basically we
21 have a side yard width of 2.5 feet currently, and it
22 basically, it results in a difficult future floorplan
23 for the new building tenants. It also does -- it does
24 not -- it's basically a vermin trap for rodents and
25 pests. So, it's unusable side yard for basically the

1 public good. And as they say, it does no substantial
2 harm to the zoning regulations to go back to a non --
3 I mean, to a conforming building. Our floor is either
4 a zero side yard setback, or an eight-foot side yard
5 setback. So we proposed to make the existing building
6 conform to current regulations.

7 And basically for the nonconforming structure,
8 same thing. We're going to bring it back to
9 conforming by reducing our rear yard, by bringing back
10 the existing building 13 feet, and increasing our rear
11 yard. And in-filling in, again, that two-foot side
12 yard setback.

13 MR. PRICE: Those are the negatives. I think
14 the positives are actually providing rear yard
15 parking. We're shrinking it and just making it all
16 more habitable and --

17 CHAIRPERSON HEATH: Right.

18 MR. PRICE: -- we've worked very closely with
19 both neighbors. They're very supportive, especially
20 in terms of sunlight and proximity of height and so
21 on.

22 CHAIRPERSON HEATH: Okay. Board, any other
23 questions? All right.

24 Then I think the Board is satisfied based on
25 the information that we've heard today and what's in

1 the record, and so we don't need a full presentation
2 from you. If you're okay with us proceeding on, we'll
3 allow Office of Planning to speak --

4 MR. PRICE: Sure.

5 CHAIRPERSON HEATH: -- on this application.

6 MR. COCHRAN: Thank you, Madam Chair. OP
7 would be pleased to just rely on its report.

8 CHAIRPERSON HEATH: Okay. Thank you. Any
9 questions?

10 MR. TURNBULL: Mr. Cochran, good morning. I
11 just wondered if you could answer a few questions
12 about the penthouse setbacks.

13 MR. COCHRAN: I'll try to. I didn't analyze
14 the penthouse for -- because that was not an area
15 where relief was asked.

16 MR. TURNBULL: Right. I'm just curious
17 though, is it set back from the side far enough?

18 MR. COCHRAN: I don't have dimensions to
19 determine that.

20 MR. TURNBULL: Well, the applicant just said
21 it was five feet. But it looks like it's eight feet
22 height. I mean, on the one side they're set back far
23 enough, but on the other side it looks like it would
24 not be in compliance with the --

25 MR. COCHRAN: I'd be happy to get back to you

1 because of the changes in the penthouse regulations I
2 want to be absolutely sure that it's not one half to
3 one setback as opposed to one to one on the side.

4 MR. TURNBULL: Yeah, I've been -- I was trying
5 to go through that myself and I did not ask the
6 applicant if they had gone back and checked the regs,
7 but we can -- I can go back and do that.

8 MR. COCHRAN: I did talk with the Zoning
9 Administrator about it. The Zoning Administrator
10 assured me it was in compliance, but I did not do the
11 analysis myself.

12 MR. TURNBULL: Okay. All right. Thank you.

13 CHAIRPERSON HEATH: All right. Does the
14 applicant have any questions of Office of Planning?

15 MR. TURNBULL: I just had -- go back to the
16 applicant. Did you talk with the Zoning Administrator
17 about the penthouse?

18 MS. GRACE: Yes. We had a PDRM with him and
19 he approves the penthouse for only the third-floor
20 apartment use.

21 MR. TURNBULL: For only -- right. And he was
22 satisfied with the setback?

23 MS. GRACE: He did not mention it, but.

24 MR. TURNBULL: Okay. All right. Thank you.

25 MS. GRACE: Uh-huh.

1 MR. PRICE: Matt usually catches those things
2 if you're off.

3 MR. TURNBULL: Well, not always.

4 MR. PRICE: Not always.

5 MR. TURNBULL: He's good but --

6 MR. PRICE: Yeah. Yeah.

7 CHAIRPERSON HEATH: Okay. All right. As I
8 said earlier, we don't have a report from the ANC. If
9 you can reach out to them and see if they can get that
10 into the record, that would be helpful.

11 We also have a letter of no objection from
12 DDOT on this application. I assume there's no one
13 here from DDOT.

14 Is there anyone here from ANC 6E? ANC 6E?
15 All right.

16 We also don't have any letters of support or
17 opposition. Is there anyone here wishing to speak in
18 support of this application? Anyone in support?

19 Anyone in opposition? No opposition. All
20 right.

21 MS. GRACE: We have neighbors, letters of
22 support. Do you need those?

23 CHAIRPERSON HEATH: Sure.

24 MR. PRICE: Yeah.

25 CHAIRPERSON HEATH: They're not in the record,

1 so if you want them to be a part of the record --

2 MS. GRACE: We can upload them?

3 CHAIRPERSON HEATH: Sure.

4 MR. PRICE: Oh, upload, or --

5 CHAIRPERSON HEATH: Yes, you can still upload
6 them.

7 Then that concludes the hearing unless you
8 all have any closing statement you'd like to make.
9 It's up to you. You don't have to.

10 MR. PRICE: No, we're --

11 CHAIRPERSON HEATH: Okay.

12 MR. PRICE: I think we're --

13 CHAIRPERSON HEATH: All right. All right. Is
14 the board ready to deliberate on this? All right.

15 MS. GLAZER: Madam Chair, just a --

16 CHAIRPERSON HEATH: Sure.

17 MS. GLAZER: -- technical point. Is the Board
18 going to close the record or leave it open at this
19 point?

20 CHAIRPERSON HEATH: In order to accept the --

21 MS. GLAZER: You requested an ANC report
22 and --

23 CHAIRPERSON HEATH: -- ANC report?

24 MS. GLAZER: -- some updated documents.

25 CHAIRPERSON HEATH: Right.

1 MS. GLAZER: So either the record should be
2 left open for that. Or if it's closed then --

3 CHAIRPERSON HEATH: We can leave the record
4 open.

5 MS. GLAZER: -- there's no opportunity to do
6 that.

7 CHAIRPERSON HEATH: We can leave the record
8 open. We should leave the record open. All right.

9 MR. PRICE: Question. So if it's left open
10 and we get the ANC's --

11 CHAIRPERSON HEATH: You can submit the ANC --

12 MR. PRICE: And then when that comes, does
13 that automatically close it, or do we have to --

14 CHAIRPERSON HEATH: So we can stipulate that
15 we only are leaving the record open for the ANC report
16 and any other requested information by the Board.
17 Correct? Okay. All right.

18 MS. GRACE: Can I ask what else is requested?
19 That calculation sheet?

20 MR. PRICE: No, they have that now.

21 CHAIRPERSON HEATH: We have the calculation
22 sheet now. Was there something else, Mr. Turnbull,
23 that you wanted? Are you satisfied at this point?

24 MR. TURNBULL: No, I'm good.

25 CHAIRPERSON HEATH: Okay. All right. So then

1 it is just --

2 MS. GRACE: Just the ANC.

3 CHAIRPERSON HEATH: The calculation sheet is
4 now in and, yeah, so it's just the ANC report.

5 MR. PRICE: And then when that records closes
6 in our --

7 CHAIRPERSON HEATH: Once you submit that, the
8 record is closed.

9 MR. PRICE: Yes, and we continue on,
10 hopefully.

11 CHAIRPERSON HEATH: Correct.

12 MS. GRACE: Now is that something typically
13 the ANC submits on their own, or is that something we
14 would normally get from them and submit?

15 CHAIRPERSON HEATH: You can get it from them.
16 It happens either way, but you can get it from them.

17 MS. GRACE: Okay.

18 CHAIRPERSON HEATH: And submit it.

19 MR. PRICE: We did have some delays with them
20 on correspondence, before, on other things. So, we'll
21 get on it. Yeah.

22 MS. GRACE: Okay.

23 MR. PRICE: Yeah.

24 CHAIRPERSON HEATH: All right. So, is the
25 Board ready to deliberate? All right. Then I will

1 make a motion that we approve the request for
2 variances from side yard requirements and
3 nonconforming structure requirements for Application
4 No. 19182.

5 MR. HILL: Second.

6 CHAIRPERSON HEATH: The motion has been made
7 and seconded. Any further discussion?

8 [Vote.]

9 CHAIRPERSON HEATH: The motion carries.

10 MR. PRICE: Thank you very much.

11 MR. MOY: Staff would record the vote as
12 three, to zero, to two. This is on the motion of
13 Chairperson Heath. Seconded the motion, Vice Chair
14 Hill, also in support, Mr. Michael Turnbull. We have
15 a board seat vacant. Member not present today.
16 Three, to zero, to two. The record is open for two
17 documents, a filing of support letters --

18 CHAIRPERSON HEATH: Two support, yes. Just --

19 MR. MOY: -- and the ANC letter? No? Yes?

20 MR. PRICE: I do have a support. We have it
21 with us.

22 CHAIRPERSON HEATH: Yes. That's correct, Mr.
23 Moy. They have the support letter. You can submit
24 that to the record.

25 MR. PRICE: Okay.

1 MR. MOY: And I believe the plans are
2 identified under Exhibit 9 in the record.

3 CHAIRPERSON HEATH: Thank you.

4 MR. PRICE: Thank you.

5 CHAIRPERSON HEATH: That's a summary.

6 MR. MOY: Summary order. Okay, the next
7 application, I believe, Madam Chair, is 19183. This
8 is the application of Singh, S-I-N-G-H, et al.,
9 advertised and captioned for two variances from the
10 minimum lot area requirements under 401.3 to permit
11 the construction of two flats, each on a new
12 nonconforming lot in the R-4 District at 1440 Newton
13 Street Northwest, Square 1440, Lot 844. And I think
14 that's all I have. I would ask that the Board ask for
15 a confirmation from the applicants on the relief that
16 they're seeking.

17 If you would come to the table, please? Thank
18 you.

19 MR. KHANNA: Good morning.

20 CHAIRPERSON HEATH: If we could have you each
21 introduce yourselves?

22 MR. KHANNA: My name is --

23 CHAIRPERSON HEATH: Make sure your microphone
24 is on. Push the button that says push.

25 MR. KHANNA: Sorry.

1 CHAIRPERSON HEATH: There you go.

2 MR. KHANNA: My name is Surinder Khanna. I am
3 one of the three owners of this property.

4 CHAIRPERSON HEATH: Okay.

5 MR. BHAMBRI Inder Bhambri. And we are one of
6 the three owners (garbled speech).

7 MR. SINGH: My name is Gajinder Singh. I'm a
8 registered architect in the Washington area.

9 CHAIRPERSON HEATH: If you'd give us just one
10 moment? It looks like you've just handed out some new
11 information. Was this information that was already in
12 the record or -- the handout that you've --

13 MR. SINGH: I just left it there.

14 CHAIRPERSON HEATH: Is that something new?

15 MR. SINGH: No. No. It's the same, what you
16 have it, already.

17 CHAIRPERSON HEATH: Okay. Okay. As the board
18 secretary noted, we're going to need you first to just
19 clarify the relief that's being requested. In your
20 application there was some information that referred
21 to special exception. You've also referred to
22 variance relief. So we just need you to clarify
23 what's being asked.

24 MR. SINGH: Madam Chairperson, the Dr. Bhambri
25 will explain everything.

1 MR. BHAMBRI: What we're requesting is the
2 various per variances, one for the (indiscernible),
3 and one for the lot area.

4 Let me give you some history of this one. We
5 purchased this property with a vacant lot back in
6 1982, and we were holding on it and over the whole --
7 that sometime we will, you know, build it when we have
8 time. And we presented the plans to the DCRA in 2012,
9 and my architect checked with the (indiscernible)
10 department and they said they were too large, and they
11 had -- because lot 585, 586, and this is something we
12 were -- and when we went to the zoning back in about
13 two and a half years after we submitted the plans,
14 they said no, there -- you have to go through the
15 variances because of the new regulations. That's
16 fine.

17 So during that period the zoning was changed
18 from R-5-B to R-4, and that happened in 2008. So
19 under that new zoning, so we are requesting the
20 variances so we can build two duplexes on two lots.

21 And we check with the other departments, the
22 planning department, I believe they have the report
23 which I think is supporting of our case. The one
24 thing I wanted to mention that we have talked with the
25 neighbors. They are very much supporting of --

1 supporting us on this venture. And secondly, the ANC
2 give us unanimous approval or the support in the way
3 of the variances.

4 They're currently, it is taxed as tax lot 844,
5 and split with 677. And that happened because they
6 were the two large, two record lots were owned by the
7 same owners. The three of us. If it was a different
8 owners, then the question would not arrive in what
9 we're talking about today. It would come under the
10 grandfather class.

11 CHAIRPERSON HEATH: Okay. On your application
12 we're going to need you to revise it so that it
13 reflects that you are seeking a variance under 401 for
14 lot area and lot width, because your application
15 currently notes special exception. So just for
16 consistency, and so that the record is clear, that's
17 Application Form No. 120. That's submitted as Exhibit
18 1.

19 MR. BHAMBRI: I think what I'm understanding
20 if I'm wrong, the very beginning we asked for the
21 variances.

22 CHAIRPERSON HEATH: I know, but your
23 application --

24 MR. BHAMBRI: Not for the special exception.

25 CHAIRPERSON HEATH: -- says special exception.

1 So we need you to just correct that.

2 MR. BHAMBRI: I don't know how that happened.

3 CHAIRPERSON HEATH: Uh-huh. You can fix it.

4 MR. BHAMBRI: Okay. We can.

5 CHAIRPERSON HEATH: All right. Board,
6 anything else?

7 MR. TURNBULL: Yeah, I just want, I mean, if
8 we look at Exhibit 1 it clearly talks about a special
9 exception.

10 MR. BHAMBRI: Special exception.

11 MR. TURNBULL: And then it goes on to talk
12 about you basically want it rezoned, but it is already
13 is rezoned.

14 MR. BHAMBRI: It is.

15 MR. TURNBULL: So you don't have to mention
16 that. So when you redo this, you need to put in
17 basically what was in the OP report. I mean,
18 basically the variance from 401.3. So you need to,
19 and maybe the Office of Planning can help you figure
20 that out.

21 MR. BHAMBRI: Okay.

22 MR. TURNBULL: But it's -- for our files, we
23 need to correct it.

24 MR. BHAMBRI: We can make a change in the
25 application?

1 MR. TURNBULL: Yes.

2 CHAIRPERSON HEATH: All right. Okay.

3 I mean, I think this is another case similar
4 to our last one where if we were just relying on the
5 documentation that you submitted to us, we probably
6 wouldn't be able to go forward today. But Office of
7 Planning has significantly helped you by presenting to
8 us the arguments that support the variance test.

9 And so, we do have documentation in the file
10 that supports why you should receive a variance.
11 Again, if you can take that information and add to
12 your -- or revise your application so that it reflects
13 that you are seeking the relief that's shown in the
14 Office of Planning report. I think the record will be
15 fine.

16 MR. BHAMBRI: Okay. So after we made the
17 revision, do we have to come back to the Board?

18 CHAIRPERSON HEATH: Not necessarily.

19 MR. BHAMBRI: Okay.

20 CHAIRPERSON HEATH: But what we'd like to now
21 is just proceed on with the hearing. And if there's
22 nothing else that the Board needs to hear from the
23 applicant --

24 MR. BHAMBRI: Okay.

25 CHAIRPERSON HEATH: -- then we'll turn to

1 Office of Planning.

2 MR. BHAMBRI: Good.

3 CHAIRPERSON HEATH: Okay.

4 MR. BHAMBRI: Thank you.

5 MS. BROWN-ROBERTS: Good morning, Madam Chair
6 and members of the Board.

7 As outlined in our report, and based on the
8 referral from DCRA, the variances for the lot
9 occupancy on the rear yard, we think that there has
10 been demonstrated that the applicant meets the three-
11 part test, and recommend approval. Thank you.

12 CHAIRPERSON HEATH: All right. Thank you.

13 MR. TURNBULL: I just had one question. We
14 only have sketchy floorplans and a couple of
15 elevations. There's no penthouse on this, then, from
16 what I can tell?

17 MS. BROWN-ROBERTS: We did not review the
18 building plans because that was not a part of the
19 application. It was just for the lot area and the lot
20 width, so we did not look at that.

21 MR. TURNBULL: Okay. All right. Thank you.

22 CHAIRPERSON HEATH: Okay. Any other
23 questions? All right.

24 Does the applicant have any questions of
25 Office of Planning?

1 MR. BHAMBRI: No, madam.

2 CHAIRPERSON HEATH: Okay. All right. We also
3 have a letter of approval from ANC 1A. Is anyone here
4 from ANC 1A on this application? No one here. Okay.

5 Additionally, we have a letter of no objection from
6 DDOT on this application, and we have the petition in
7 support with 11 signatures, so we appreciate that you
8 all have worked with the community in order to make
9 sure that you have their support for this project.

10 And is there anyone here wishing to speak in
11 support? Anyone in support? Anyone wishing to speak
12 in opposition? Anyone in opposition? Okay.

13 Then, do you have a question?

14 [Discussion off the record.]

15 CHAIRPERSON HEATH: Okay. So normally the
16 Board would be ready to deliberate on this at this
17 time, but what we're going to need to do is put this
18 off for next week so that you can -- right. One other
19 question for you. You advertised this as a variance,
20 correct?

21 MR. BHAMBRI: Well, yeah. Yes. Yeah.

22 CHAIRPERSON HEATH: So we'll need you to do
23 two things. One is just to revise the Form 120 that
24 we talked about earlier, and resubmit that to the
25 record. We'll also need you to submit payment for the

1 variance --

2 MR. BHAMBRI: Okay.

3 CHAIRPERSON HEATH: -- rather than a special
4 exception.

5 MR. BHAMBRI: Okay.

6 CHAIRPERSON HEATH: So if you could work with
7 the zoning office to just make sure that if you go
8 into the opposite door, make sure all of that's taken
9 care of. And we can put this on for decision next
10 week.

11 MR. BHAMBRI: Okay, thank you.

12 CHAIRPERSON HEATH: All right? Okay? So, Mr.
13 Moy, next week?

14 MR. MOY: Yes, yes, decision next week to
15 follow up on the two additional tasks.

16 CHAIRPERSON HEATH: Okay.

17 MR. SINGH: Madam Chairperson, do we have to
18 come again?

19 CHAIRPERSON HEATH: You don't have to come
20 again because we're not going to call you back up.
21 When a case is on for decision it's just the Board
22 deliberating. So you can feel free to come, but you
23 don't need to because we won't hear from you at that
24 time.

25 MR. SINGH: Thank you.

1 CHAIRPERSON HEATH: All right.

2 MR. SINGH: Thank you

3 CHAIRPERSON HEATH: Thank you.

4 MR. TURNBULL: I would just say, make sure
5 you've got all your work done, all the -- everything
6 submitted. It makes it a lot easier.

7 MR. SINGH: Yes, we did, sir.

8 MR. TURNBULL: Okay. Thank you.

9 CHAIRPERSON HEATH: All right. Thank you.

10 MR. SINGH: And just like you asked, the
11 architectural LEED will be very, very competitive.

12 CHAIRPERSON HEATH: Okay. Thank you.

13 MR. SINGH: Thank you.

14 CHAIRPERSON HEATH: All right. Mr. Moy, if
15 you could call our next case?

16 MR. MOY: Yes, indeed. Thank you. That would
17 be Application No. 19186 of Anne Marie and Peter
18 Mehlert. This application is captioned and advertised
19 for a special exception relief under Section 223, not
20 meeting the lot occupancy requirements under 403.2.
21 This is to extend a porch of an existing one-family
22 dwelling in the R-1-B District at 4925 41st Street
23 Northwest, Square 1757, Lot 17.

24 And here again, Madam Chair, it would be
25 desirable to have the applicant confirm their relief

1 that's being requested.

2 MS. MEHLERT: Hi. Good morning.

3 CHAIRPERSON HEATH: Please introduce yourself.

4 MS. MEHLERT: Ann Marie Mehlert. I am the
5 owner at 4925 41st Street Northwest.

6 CHAIRPERSON HEATH: Okay. Could you clarify
7 the relief being requested?

8 MS. MEHLERT: We're requesting what I
9 understood from my architect was a special exception.

10 CHAIRPERSON HEATH: Uh-huh.

11 MS. MEHLERT: Because we are extending the
12 porch in the front of our house to have about a .0.3
13 percent lot coverage, increased lot coverage.

14 CHAIRPERSON HEATH: Okay. And your special
15 exception is for 403.2 lot occupancy. Are you aware
16 that Office of Planning is also recommending
17 nonconforming structure, 2001.3?

18 MS. MEHLERT: I have not heard from Office of
19 Planning.

20 CHAIRPERSON HEATH: Okay. All right. Well,
21 they're here so we'll talk to them today.

22 MS. MEHLERT: Great. I meant to do this as an
23 expedited hearing and for some reason it didn't get in
24 that way, but in talking with Mr. Varga we decided it
25 was on the roll, so we would go with this.

1 CHAIRPERSON HEATH: Okay. All right. Okay.
2 So, why don't we, at this point, before we ask too
3 many more questions of you, just ask the question of
4 Office of Planning to help us clarify relief.

5 MS. FOTHERGILL: Sure. For the record, I'm
6 Anne Fothergill with the Office of Planning, and we do
7 recommend approval of this application requesting
8 special exception relief, and we did add in expansion
9 of a nonconforming structure, which we generally do
10 when we find that it applies. But so, we'd rest on
11 the record in support of the application.

12 CHAIRPERSON HEATH: Okay. Thank you. Okay.
13 So what we're going to need you to do is just amend
14 your application to reflect that relief, the 2001.3
15 for nonconforming structure.

16 MS. MEHLERT: And I could upload that?

17 CHAIRPERSON HEATH: You can. So if you could,
18 while you're revising that, just for clarity purposes,
19 on your application you note that you're requesting
20 special exception from 223. If you could just be
21 specific that 403.2 is the special exception?

22 MS. MEHLERT: Okay.

23 MS. GLAZER: Madam Chair, the secretary just
24 mentioned to me, and I agree with his comment that we
25 could ask the applicant in this case to make an oral

1 amendment because it's just --

2 CHAIRPERSON HEATH: Okay.

3 MS. GLAZER: -- clarifying the relief as a
4 technical matter to include certain additional
5 sections.

6 CHAIRPERSON HEATH: Okay.

7 MS. GLAZER: It's not changing the relief
8 requested, or changing the plans.

9 CHAIRPERSON HEATH: Okay. All right. So in
10 that case she doesn't need to submit the -- she can,
11 but she doesn't have to?

12 MS. GLAZER: Well, I would suggest either if
13 she's going to submit additional documents then the
14 case would have to be continued. Whereas if the Board
15 were satisfied with an oral request, and the Board's
16 decision to amend orally, that would suffice.

17 CHAIRPERSON HEATH: Okay. We'll proceed with
18 the oral.

19 MS. MEHLERT: Oral? Thank you.

20 CHAIRPERSON HEATH: Right. Okay.

21 MS. MEHLERT: Thank you.

22 MR. TURNBULL: It's a de minimis --

23 CHAIRPERSON HEATH: It is.

24 MR. TURNBULL: It's very de minimis what we're
25 looking for here.

1 CHAIRPERSON HEATH: Right. Yeah. Okay. All
2 right.

3 Then does the Board have any other questions
4 of the applicant? All right. So, based on what we've
5 already talked about and what's in the record, we feel
6 like your application is complete and so we're
7 prepared to move forward with the rest of the hearing.
8 We don't need a full presentation from you. So, if
9 you're fine for us to do that, we'll --

10 MS. MEHLERT: Go right ahead.

11 CHAIRPERSON HEATH: -- continue.

12 We already heard from Office of Planning and
13 so, is there anyone here from ANC 3E? ANC 3E? And we
14 have a letter recommending approval from them, as well
15 as a letter recommending no objection from DDOT, and
16 we don't have anyone who has submitted anything to the
17 record in support or opposition. But is there anyone
18 here wishing to speak in support? Anyone in support?
19 Anyone in opposition? Opposition? All right.

20 Then normally we'd turn back to you for
21 rebuttal or closing, but there's probably no need for
22 that at this point. So, if you're okay for us to
23 close the -- conclude the hearing, we'll move to
24 deliberation. Is the Board ready to deliberate?

25 MR. TURNBULL: This is probably the easiest

1 case we've got of the day, I think.

2 CHAIRPERSON HEATH: It is. It is. You want
3 to make a motion?

4 MR. TURNBULL: I would love to make a motion.
5 Madam Chair, I would move that we approve BZA Case
6 19186, request for special exception relief as amended
7 that we've orally, under 223 for an extension of a
8 front porch at 4925 41st Street Northwest, and ask for
9 a second.

10 MR. HILL: Second.

11 CHAIRPERSON HEATH: Motion has been made and
12 seconded. Any further discussion?

13 [Vote.]

14 CHAIRPERSON HEATH: The motion carries. Thank
15 you.

16 MS. MEHLERT: Thank you.

17 CHAIRPERSON HEATH: Almost expedited.

18 MR. MOY: Staff would record the vote as
19 three, to zero, to two. This is on the motion of Mr.
20 Michael Turnbull for the relief requested, the amended
21 relief as well. Seconding the motion, Vice Chair
22 Hill. Also in support Chairperson Heath, board member
23 not present, board seat vacant. The motion carries
24 three, to zero, to two, Madam Chair.

25 CHAIRPERSON HEATH: Summary.

1 MR. MOY: Summary? Thank you.

2 The next application, I believe, is 19191 of
3 Colleen Eubanks as advertised for variance relief
4 under lot occupancy requirements under 403 and the
5 nonconforming structure requirements under 2001.3, to
6 permit a 3rd story addition to an existing flat in the
7 R-4 District, 133 U Street Northeast, Square 3533, Lot
8 185. And again, staff would ask that the chair ask
9 for a confirmation from the applicant on the relief
10 being requested. Thank you.

11 CHAIRPERSON HEATH: We have a theme. Hi,
12 could you --

13 MS. EUBANKS: Hello.

14 MS. SHARE: Good morning.

15 CHAIRPERSON HEATH: Could you both introduce
16 yourselves?

17 MS. SHARE: Yes. My name is Tahani Share. I
18 am a designer with Landis Architects Builders, and I
19 am the agent for my client, Colleen Eubanks.

20 MS. EUBANKS: Good morning. And I am --

21 CHAIRPERSON HEATH: Make sure your mic is on.

22 MS. EUBANKS: I am Colleen Eubanks, the owner
23 and occupier of 133 U Street Northeast.

24 CHAIRPERSON HEATH: Okay. Again, this seems
25 to be the theme of the day. We need relief clarity.

1 So if you could let us know exactly what you're asking
2 for?

3 MS. SHARE: We are requesting an area variance
4 from Section 403 to add a third-story pop-up to an
5 existing flat that exceeds the minimum allowable lot
6 occupancy for a District R-4.

7 CHAIRPERSON HEATH: Okay. And is there also
8 nonconforming structure?

9 MS. SHARE: It's actually a nonconforming lot
10 size because we have the minimum lot width for R-4 is
11 18, and we have 16. And the minimum lot area is 18.
12 But in our case the lot area is 1220. So that is
13 exceptionally smaller, that's what results in the high
14 lot occupancy of our structure.

15 CHAIRPERSON HEATH: Okay.

16 MS. SHARE: I just want to add that the
17 subject lot property and the lot was divided in 1912,
18 so before the existence of the new zoning regulations.

19 And the way the lots were divided were smaller in
20 size, and the ends units, which is where we are
21 located, are even smaller than the regular sizes.

22 CHAIRPERSON HEATH: Okay. And can you
23 confirm, the height of your addition keeps the house
24 under 35 feet?

25 MS. SHARE: Correct. So the existing property

1 is improved by a cellar and two stories, and we want
2 to add a third-story that does not exceed the height
3 limit of 35.

4 CHAIRPERSON HEATH: Okay. All right.

5 MS. SHARE: At the same time, although we are
6 not in a historic district, but we are keeping the
7 architecture character of the house. We are keeping
8 the architectural face of the existing mansard roof.
9 We are extending, we are keeping the mansard roof and
10 extending that to accommodate a third story. So we
11 are keeping the architectural character of the
12 existing row houses in our area.

13 CHAIRPERSON HEATH: Okay. I think in one of
14 your documents you describe what you're doing as a
15 pop-up, which is always a bad word these days.

16 MS. SHARE: It's -- yeah, you read a lot of,
17 you know, zoning terms, and it just seems that this is
18 the term that now is being used.

19 CHAIRPERSON HEATH: Yeah.

20 MS. SHARE: But yeah, we are glad to --

21 CHAIRPERSON HEATH: We've never viewed
22 favorably --

23 MS. SHARE: -- modify that to a third-story
24 addition.

25 MR. TURNBULL: I wouldn't use that. The

1 connotation is rather negative. I would use that
2 you're doing a renovation, you're adding -- you're
3 renovating the third floor.

4 MS. SHARE: Yes.

5 MR. TURNBULL: It's more consistent with what
6 you're actually doing than --

7 MS. SHARE: True.

8 MR. TURNBULL: The term pop-up has a negative
9 connotation as something that's --

10 MS. SHARE: Okay.

11 MR. TURNBULL: -- not in character. In your
12 case it looks like you're trying to keep in character
13 of the spirit of the rowhouse, and I think it's an
14 unfortunate term you used, but I wouldn't --

15 MS. SHARE: Okay.

16 MR. TURNBULL: If you're going to be doing
17 this in the future I would --

18 MS. SHARE: All right.

19 MR. TURNBULL: -- be more careful.

20 MS. SHARE: Thank you for that.

21 CHAIRPERSON HEATH: Okay. Does the Board have
22 any other questions of the applicant?

23 MR. TURNBULL: Is there any access to the
24 roof, or there's no access to the roof.

25 MS. SHARE: Currently there is not. They will

1 possibly be an attic space within the third story, but
2 not an access to the roof.

3 MR. TURNBULL: To the roof. I couldn't see
4 anything --

5 MS. SHARE: Right.

6 MR. TURNBULL: -- on the plans and elevations.

7 MS. SHARE: On the plans. Yes.

8 MR. TURNBULL: Okay.

9 CHAIRPERSON HEATH: Okay. You met with ANC
10 5E?

11 MS. SHARE: Yes.

12 CHAIRPERSON HEATH: And they're not in support
13 of this?

14 MS. SHARE: That's what we were told when we
15 were there. Two of our neighbors are not in support
16 of the third-story additions in the area, and --

17 CHAIRPERSON HEATH: Did you make a full
18 presentation?

19 MS. SHARE: We did. We actually had a
20 previous meeting at our neighborhood association,
21 Eckington Civic Association, and we had a very
22 constructive discussion there. And the vote in that
23 meeting was 12, supporting the application, and five
24 opposing the application.

25 But at the ANC meeting, there was two of our

1 neighbors that did not like third-story additions.
2 And the reason for that is that in the area where we
3 are -- two neighbors have added third-story additions.
4 And they were not honestly, you know, successful in
5 their architectural, you know, design. They removed
6 most of the architectural details, they removed the
7 mansard roof, and they were just, you know, and again,
8 I think they got approval when the zoning regulation
9 was up to 40 on that area.

10 So those two unit -- additions, were really
11 higher than the rest of. In our case, we are now
12 complying with the new limit, height limitation, at
13 35. And we think it is a step in the right direction
14 to make those third-story additions more in keeping
15 with the scale of the neighborhood.

16 But you know, in R-4, and even in the new
17 zoning reviews, which R-4 will become RF called,
18 third-story additions will continue to be allowed.
19 And we'll be under 35 feet and not the 40.

20 CHAIRPERSON HEATH: Okay.

21 MS. SHARE: And I also want to say something
22 about, in the letters of support we have a letter of
23 support from the owner of the adjoining property.
24 This is the property where we have a party wall
25 together. And he is in support of our application,

1 and he's here at today's hearing.

2 CHAIRPERSON HEATH: Okay. All right.

3 MR. TURNBULL: So one of your neighbors,
4 adjacent, is in support.

5 MS. SHARE: Yes.

6 MS. EUBANKS: Yes.

7 MR. TURNBULL: And the other neighbor?

8 MS. SHARE: The neighbor across is also in
9 support, but the other neighbors on the same street
10 are not in support.

11 MR. TURNBULL: Okay.

12 MS. EUBANKS: And this is, it's an end unit on
13 the alley, so --

14 MR. TURNBULL: Oh, right. There is nobody.
15 You're right.

16 MS. EUBANKS: There is nobody on the other
17 side.

18 MR. TURNBULL: It's an alley unit. I forgot.
19 Right.

20 CHAIRPERSON HEATH: Okay.

21 MR. HILL: And this is, again, this is just
22 one home. It's not multiunits.

23 MS. SHARE: True. That's -- yes, we are
24 keeping --

25 MR. HILL: It's just one.

1 MS. SHARE: -- the existing use as flat.

2 MR. HILL: The ANC vote, it looks like it was
3 six, eight in denial. Is that right? Or what was the
4 ANC vote? Do you remember?

5 MS. SHARE: No, I don't think they even put it
6 in their report. They just actually decided two
7 reasons, and one of them is that we are not putting
8 windows on the west side of our, you know, of our
9 property. And actually, that is a fire-rated party
10 wall that we can't put windows there. But they just
11 drew the wrong conclusion that if we're not doing
12 windows that the other neighbors are planning on doing
13 third-story additions. But we don't know. And the
14 reason why we don't have windows is because it's a
15 party wall.

16 MR. HILL: When you went before the ANC, there
17 were people who were in support. Why were they in
18 support?

19 MS. EUBANKS: Nobody -- the only person who --
20 the attendee at the ANC brought a petition, which is
21 also in the record. And then our single-member ANC
22 member, although our neighborhood association where we
23 presented had agreed to support it, she -- it's not in
24 her -- it's not in the ANC report. But she said since
25 Eckington is applying for historic district, she was

1 not in support of the project. And so that ANC, I
2 don't recall that they recorded a vote. They just
3 agreed that they weren't going to support it.

4 CHAIRPERSON HEATH: Okay. It looks from the
5 ANC report like they -- one of their reasons for
6 denying the recommendation is -- or for recommending
7 denial is that because you didn't put windows on that
8 side, they believe that you're likely allowing your
9 neighbor --

10 MS. SHARE: Yeah.

11 CHAIRPERSON HEATH: -- to in the future, also
12 add a pop-up.

13 MS. SHARE: Yeah. Well, this is exactly what
14 I was talking about. This is -- I mean, we can't take
15 away our neighbor's right to do a third-story
16 addition. At the same time, that wall is a fire-rated
17 party wall that we can't put windows on. So, we are
18 in complying with building codes and the zoning codes
19 by not doing that. We're not doing the right -- the
20 wrong thing here.

21 CHAIRPERSON HEATH: Uh-huh. Okay. And I
22 assume you've have meetings with Office of Planning as
23 well. They're not -- it doesn't appear, and we'll
24 hear from Office of Planning in just a moment, it
25 doesn't appear that they're in support of this either.

1 MS. SHARE: They are in support, actually.

2 CHAIRPERSON HEATH: I believe it says they
3 don't oppose.

4 MS. SHARE: Right.

5 CHAIRPERSON HEATH: Which is different than
6 being in support. So, we'll talk to them.

7 Does the Board have any other questions of the
8 applicant before we speak to Office of Planning?

9 Okay. So then, at this point, if you're okay
10 with us proceeding we'll ask Office of Planning about
11 their recommendation.

12 MS. VITALE: Good morning, Madam Chair and
13 members of the Board. Elisa Vitale with the Office of
14 Planning.

15 As has been discussed, there was some question
16 about the exact nature of relief required for this
17 case. That was clarified by the Zoning Administrator,
18 and what's before you is a request for relief under
19 2001.3 to expand an existing nonconforming structure
20 that does not meet the lot occupancy requirements.

21 The Office of Planning is not opposed to the
22 Board granting this relief, and we'll rest on the
23 record. I can answer any questions that you have at
24 this time.

25 CHAIRPERSON HEATH: So just to clarify. You

1 don't oppose, but are you in support? Does that mean
2 you're in support of this?

3 MS. VITALE: Yes. The Office of Planning --

4 CHAIRPERSON HEATH: Okay.

5 MS. VITALE: -- recommends the approval of the
6 requested relief.

7 CHAIRPERSON HEATH: Okay. All right. Good.
8 All right.

9 MR. TURNBULL: Yeah, I guess it was just the
10 way it was worded at first was a little confusing.

11 CHAIRPERSON HEATH: Okay. All right. Thank
12 you for clarifying.

13 MS. VITALE: Sure.

14 CHAIRPERSON HEATH: All right. That's
15 helpful. All right.

16 Okay. So, we've already noted that we have
17 the letter recommending denial, and some of the
18 reasons why from ANC 5E. Is there anyone here from
19 ANC 5E? Anyone here? Okay.

20 We also have a letter of no objection from
21 Department of transportation on this.

22 We have a letter of support in the file. I
23 believe it's your adjacent neighbor, and so we've seen
24 that. Is there anyone here wishing to speak in
25 support?

1 MR. HEMING: [Speaking off microphone.]

2 CHAIRPERSON HEATH: Sure. All right. If you
3 could introduce yourself?

4 MR. HEMING: Yes.

5 CHAIRPERSON HEATH: We're going to give you
6 three minutes to make your statement.

7 MR. HEMING: Absolutely. Okay. My name is
8 Jared Heming. I am the adjacent neighbor. I live at
9 131 U Street. I'm writening (sic), and testifying to
10 support my -- to voice my support of this application.

11 I'm an architect, practicing here in the city,
12 and I believe the particular characteristics of this
13 site warrant the exceptions sought by Ms. Eubanks.
14 Excuse me. I think the historic primers are important
15 here. All the homes in the square, 3533 were
16 permitted at the same time when that block was laid
17 out. The end lots were the narrow lot that we're
18 talking about.

19 If you look at A-000, that satellite view,
20 every single end unit of those four rows of houses,
21 either on 1st Street or on Summitt, Todd, or U Street,
22 all of those houses are 16-foot. They're all
23 narrower.

24 They're also made longer to compensate. And
25 as a consequence, their plans are different internally

1 as well. So every other house on that block has
2 almost the exact same layout, except for those end-
3 unit houses.

4 So the disadvantage for the end row-homes is
5 that by the nature of their original design they
6 violate the lot restrictions codified in '58. In
7 other words, if a nearby owner in a nearby in a mid-
8 block unit was proposing the same application before
9 us today, the work would not require an exemption.
10 It's really the lot occupancy and the rear yard, I
11 think, and the other things.

12 So in seeking to improve her family's home,
13 Mrs. Eubanks has taken measure to be sympathetic to
14 the look and character of the surrounding
15 neighborhood, as well as maintaining aspects of the
16 daylight rowhouse typology. The third-floor addition
17 maintains the slope and lines of the false mansard
18 roofs in that typology. The new alley windows also
19 mimic the scale and the detail, I think, of the
20 existing windows. And the parapet step-down echoes
21 the original.

22 I think all of these elements reduce the
23 contrast and scale, height, and character between the
24 proposed work on the adjacent properties. The house
25 will also be constructed of quality materials. I

1 think slate will also be used on the roof as is
2 typical of this house. And I think overall, this is a
3 well-considered addition to a family home that works
4 to respect the neighborhood and the adjoining
5 properties.

6 So the neighborhood has seen some poorly
7 designed pop-ups in recent years. Right across the
8 street off this satellite view, in fact directly in
9 front of our two properties, are two particularly
10 brutish pop-ups that were done under the prior
11 regulations, and I think, you know, those designs
12 wiped out those key features, and hence, that's where
13 you're kind of seeing the politics happen in the
14 neighborhood, the way it's playing out.

15 Many of our friends and neighbors are nervous
16 about the additional work to homes in the area. I
17 share this concern, my finance and I who own 131,
18 share that concern, and the impact of irresponsible
19 design in the neighborhood. However, we feel that
20 this proposal represents a design that adds space to a
21 family home and is sensitive to the neighborhood's
22 charm. And so therefore, we fully support.

23 Right on time.

24 CHAIRPERSON HEATH: Wow, I don't think that's
25 ever happened.

1 [Laughter.]

2 CHAIRPERSON HEATH: All right. Okay. All
3 right. Thank you.

4 MR. HEMING: You're welcome.

5 CHAIRPERSON HEATH: We appreciate your
6 statement.

7 MS. SHARE: And actually, just a
8 (indiscernible), can I -- yes?

9 And we have the evidence of the 1912
10 subdivision of Square 3535 where we're showing exactly
11 how those properties were divided, subdivided as
12 smaller lots than usual, and we are showing two -- a
13 picture of the two existing third-story additions in
14 the neighborhood that are causing some of the, you
15 know, concerns in the neighborhood, for those.

16 CHAIRPERSON HEATH: Uh-huh. Yeah, we've heard
17 quite a bit about those types of developments. Okay.
18 Is there anyone else here wishing to speak in
19 support? Anyone wishing to speak in opposition? Any
20 opposition?

21 Okay. Then, does the Board have any other
22 questions?

23 [No audible response.]

24 CHAIRPERSON HEATH: Okay. Then we'll turn
25 back to the applicant. You can make a closing if

1 you'd like to, or we can conclude the hearing.

2 MR. HEMING: Yes, well we want to say, this is
3 a homeowner. She bought the house four years ago.
4 She knew that she could, in R-4, could add a third-
5 story addition. And then it turned out that because
6 of the lot's occupancy issue that she had to come to
7 the BZA to ask for a variance. Third story additions
8 are allowed in R-4, and again in RF in the future they
9 will be allowed. Anybody in the neighborhood, even
10 the people who actually signed the petition can go
11 right now and, you know, apply for a third-story
12 addition, and they can get it. It's just our case
13 that we are, you know, unfortunate by having existing
14 conditions that don't allow us to do that.

15 So we wanted their support. We engaged in a
16 discussion with our neighbors. We appreciate the
17 process. And we respect their opinions but we are
18 asking you to look at our existing conditions and make
19 the decision on our case.

20 CHAIRPERSON HEATH: Okay. All right. Thank
21 you.

22 MS. SHARE: Thank you.

23 CHAIRPERSON HEATH: Is the board ready to
24 deliberate? All right. Okay. Did you have something
25 you wanted to say? Okay, then I'll start.

1 I appreciate what you've done here with this
2 third-story addition. It's I think architecturally
3 much more appealing than what we tend to see with the
4 typical addition to rowhomes in the city. And I think
5 a lot of the negative sentiment that you've received
6 from the community is because of past projects, as
7 you've noted, and as your neighbor has noted.

8 We've heard a lot of negative comments about
9 those. We feel negatively about a number of them
10 because a number of them are just unsightly. But what
11 you've done with maintaining significant portions of
12 the existing roof and the existing character of the
13 home I think is -- makes for a really nice project,
14 and so I would support the request.

15 MR. HILL: Yeah, Madam Chair, I also agree
16 with your comments. Just for the record, also, it
17 looks like the vote was seven, to one, to zero. I
18 found it with the ANC. But even though I don't
19 particularly going against kind of what the ANC was
20 opposed to, it seems like the ANC again is more
21 concerned with, at least in from what the record
22 states, like setting a precedent in the neighborhood.
23 And, you know, they're staying underneath the 35
24 feet. And also it is a single-family home. It has
25 continued to be a single-family home. As you

1 mentioned, the architecture is staying the same. I
2 think that, you know, it is a good design.

3 But regardless of that I would sit -- I'm kind
4 of, you know, in agreement with what the Office of
5 Planning has and the fact that, the argument that they
6 make in terms of why it meets the variance test. And
7 so, you know, I'm in concurrence with the Office of
8 Planning as to why they meet the variance test. And
9 so, I would also be in support of this.

10 CHAIRPERSON HEATH: Okay. All right.

11 MR. TURNBULL: I just had a couple of
12 comments.

13 CHAIRPERSON HEATH: Sure.

14 MR. TURNBULL: I think as I said earlier, I
15 think unfortunately, and I don't know if you used that
16 term in your presentation to other groups, but the
17 term pop-up has a very negative connotation, and I
18 think that relates to what your neighbor said to some
19 of the other things that were done across the street
20 or whatever, that they -- and that's where this whole
21 controversy came out.

22 And so, you're doing a sensitive addition to
23 your building, your residence. And I think it should
24 have been stated that way. And I think that maybe if
25 it had been stated that way to some of the other

1 community groups, it might have been less offensive
2 when they -- once you use the word pop-up, I mean,
3 that's why we, with the new ZRR, we went through and
4 that's why now we've got the 35-foot height limit.

5 And I think since you're staying below that, I
6 think that's a key element and it's -- everyone can do
7 a third floor, but you've got to make sure that your
8 basement height, that the first-floor level, that the
9 base -- your basement is not as -- there's a
10 difference between a cellar and a basement, whether
11 you go from three floors to four floors. So, I think
12 that's always an area that you've got to be careful of
13 too.

14 But I think this does meet that requirement,
15 and I think the Office of Planning recognizes that.
16 And as Mr. Hill had said, that this is something when
17 we see the ANC not in support we kind of -- our ears
18 perk up and we want to know. But and I think a lot of
19 it is because of the controversy with the term pop-up,
20 and what that connotes. And maybe a lot of these
21 people really didn't either see the drawings or what
22 you're trying to do. So maybe that might have been
23 some of the issue. I'm not sure. I think if maybe
24 they had, they might have been a little bit more
25 sensitive to what you're trying to do, and

1 understanding, and accepted that you are doing
2 something that is respective to the rowhouse area.

3 But I think I would go along with the Office
4 of Planning's review on this and I would vote in favor
5 of this.

6 CHAIRPERSON HEATH: Okay. I'd also like to
7 note for the record that the Eckington Civic
8 Association voted to support this. And I know you
9 mentioned that, but they are an association that we've
10 heard from in the past who has been not in support of
11 this type of development, or those that represent a
12 true pop-up. And so I just want to note for the
13 record that you do have their support, even though you
14 don't have the support of the ANC.

15 So with that, then I will make a motion to
16 approve the request for variance relief from lot
17 occupancy requirements and the nonconforming structure
18 requirements under Application No. 19191.

19 MR. HILL: Second.

20 CHAIRPERSON HEATH: The motion has been made
21 and seconded. Any further discussion?

22 [Vote.]

23 CHAIRPERSON HEATH: The motion carries. Thank
24 you.

25 MS. SHARE: Thank you.

1 MS. EUBANKS: Thank you, very much.

2 MR. MOY: Staff would record the vote as
3 three, to zero, to two. That's on the motion of Chair
4 Heath to approve the application for the area variance
5 relief. Seconding the motion, Vice Chair Hill. Also
6 in support, Mr. Michael Turnbull. Board member not
7 present. Seat vacant. Motion carries three, to zero,
8 to two, and this is a full order because of the
9 opposition from the ANC, Madam Chair.

10 CHAIRPERSON HEATH: Okay. Thank you, Mr. Moy.
11 And we're going to take a quick five-minute break.

12 [Off the record from 12:00 p.m. to 12:07 p.m.]

13 MR. MOY: The hearing is back in session.
14 Application No. 19193. This is of C&S Development,
15 LLC, advertised and captioned for variance relief from
16 the lot area and lot width requirements under 401.2,
17 lot width under 401.3, permitting the construction of
18 three, three-story one-family dwellings on three new
19 nonconforming lots in the R-4 District at premises
20 1620 through 1622 E Street Southeast, Square 1090,
21 Lots 813, 814, and let's see. I think three -- that's
22 correct. Oh, I'm sorry. Could you place those
23 illustration boards over here in front of me?

24 MR. NELSON: Sure. Absolutely.

25 MR. HILL: The reason, because the camera is

1 right here.

2 MR. NELSON: Oh, yes. Absolutely.

3 [Pause.]

4 CHAIRPERSON HEATH: All right. Okay. Good
5 afternoon.

6 MR. NELSON: Good afternoon.

7 CHAIRPERSON HEATH: Could you all introduce
8 yourselves?

9 MR. NELSON: My name is Joel Nelson. I'm co-
10 owner of KW Capital Properties, residential real
11 estate brokerage, proponent for the applicant.

12 MR. SCHMIDT: My name is Jonathan Schmidt.
13 I'm a partner member of C&S Development.

14 MR. CONNELL: My name is Jesse Connell. I'm
15 also a partner and member of C&S Development, owner of
16 the property.

17 CHAIRPERSON HEATH: Okay. All right. So,
18 this is one where you understand the Office of
19 Planning is not in support yet of your application?

20 MR. SCHMIDT: We do.

21 CHAIRPERSON HEATH: Okay. And you understand
22 their issues, primarily that you haven't met the
23 variance test.

24 MR. SCHMIDT: We do.

25 CHAIRPERSON HEATH: The first prong. Okay.

1 Do you feel like you have -- you're prepared to make a
2 statement on your position relative to the first
3 prong?

4 MR. SCHMIDT: Yeah. Yeah.

5 CHAIRPERSON HEATH: Of the variance test?
6 Okay. Because that's one of the main things that
7 we're going to need to hear from you today --

8 MR. SCHMIDT: Yeah.

9 CHAIRPERSON HEATH: -- is how you satisfy that
10 requirement.

11 Also, are your -- yes, you're going to present
12 plans to us today. Or is that -- can you just --

13 MR. SCHMIDT: What's on the board, you should
14 have --

15 CHAIRPERSON HEATH: Okay.

16 MR. SCHMIDT: -- in your exhibits.

17 CHAIRPERSON HEATH: And are your January 29th,
18 2016 plans the most current?

19 MR. SCHMIDT: Yes.

20 CHAIRPERSON HEATH: Okay. So, we do have
21 those in the record.

22 [Pause.]

23 MR. SCHMIDT: Yeah, there were plans uploaded
24 February 19th.

25 CHAIRPERSON HEATH: I'm looking at the date on

1 the drawings themselves. I don't know when they were
2 uploaded.

3 MR. SCHMIDT: Yeah, the 29th.

4 CHAIRPERSON HEATH: Okay. All right.

5 MR. SCHMIDT: Yeah.

6 CHAIRPERSON HEATH: Okay. All right. So,
7 yeah, if you could start by speaking to the first
8 prong of the variance test and how you feel you meet
9 it?

10 MR. SCHMIDT: Sure.

11 CHAIRPERSON HEATH: What's the exceptional
12 situation?

13 MR. SCHMIDT: The exceptional situation is the
14 existing lot is 48 feet in width, and 90 feet in
15 depth. So, the lot has a combined square footage of
16 4,320 square feet, 48 feet in width. It's the largest
17 undeveloped property in its square.

18 The lots have been in existence predating the
19 zoning, the current zoning regulations. The subject
20 property is three times the average lot width of 16
21 feet in the vicinity, as well as three and a half
22 times the average lot area in the vicinity.

23 The property also currently has a structure
24 that was built in, we think, in the 1860s, that has
25 long since run its course of life. And it's vastly

1 undersized, underbuilt, under engineered. And the
2 ANC, the historic board, and all the pertinent
3 regulatory agencies have approved our razing of the
4 structure.

5 CHAIRPERSON HEATH: Okay. Why not two lots
6 rather than three?

7 MR. SCHMIDT: The matter of right project does
8 permit two lots. We could develop two 24-foot wide
9 lots. We have a real practical difficulty, and that
10 is the financial feasibility of that. It's just if
11 you can see Exhibit -- where is the -- Exhibit 39.
12 Submitted pro formas showing the various cost of the
13 matter of right, the two matters of right scenarios
14 versus the proposed.

15 Joe Nelson is also here to testify and to
16 support our position that the market doesn't support
17 the matter of right development of the property.

18 CHAIRPERSON HEATH: Okay.

19 MR. NELSON: Yeah, I can testify really to two
20 pieces of the dialog that I've had with the
21 applicants, and with the immediate neighbors. My
22 sales and consultation practice to homeowners is
23 specifically focused in the area, so I've been able to
24 manage the sales of 10 of the properties that are in
25 the immediate square and in the adjacent square on the

1 opposite side of the street.

2 I also, my personal residence is in the
3 immediate two-block radius as well.

4 Jesse and JD, the applicants, consulted me to
5 discuss highest and best use of the property, and one
6 of those options naturally was creation of two 24-
7 foot-wide lots, either with condominium flats, two-
8 family flats, or very large single-family homes. And
9 they asked me to run the financials on the
10 practicality and feasibility of marketing and
11 delivering that product in that location.

12 I have printed -- and apologies, I have three
13 copies, not 12, but I can deliver them to the
14 secretary for -- they're a bit dense. But the actual
15 comparable sales of those types, specific types and
16 sizes of properties in the area. And because of the
17 overwhelming 50 of 55 properties in that immediate
18 block have lot widths of 16 feet or narrower, and are
19 single-family residences, there effectively is an
20 intensely limited market for condominium flats of the
21 description that by-right would allow, because there
22 are none in the immediate block and square. And
23 there's very limited market for a single-family home
24 of the scale and size that a 24-foot wide lot would
25 effectively require or would be appropriate on a 24-

1 foot-wide lot.

2 So effectively, as they considered the highest
3 and best use of the property to create the widest by
4 far lots on the block, which is the by-right solution
5 would be, A., financially not feasible. But B., and
6 this goes to the second consultation, the neighbors
7 have had extensive discussions with the applicants,
8 the immediate block neighbors, around their
9 preferences. The plans have been modified in response
10 to the neighbor preferences. And they specifically
11 have voiced in their letter, which is in the record,
12 that that design which is most consistent with the
13 architectural history of the block is the 16-foot-wide
14 configuration, rather than a 24-foot-wide lot
15 configuration, and either in single-family house or
16 condominium design, which would stick out like a sore
17 thumb, effectively, from all of the north and south
18 side of the block.

19 MR. HILL: So in your -- just to be clear, in
20 your pro forma, in 39, you're taking four units and
21 then you're showing the four units and you're showing
22 the two units versus the three units, right?

23 MR. SCHMIDT: On the first page I'm showing
24 the two matters of right developments, so the first
25 one is four units --

1 MR. HILL: Like four condos?

2 MR. SCHMIDT: Four condos. Then, to the right
3 is two sort of, you know, very large single families.
4 And then a second page, it shows the proposed three
5 single families.

6 MR. HILL: And the condo square footage is
7 1,800 square feet.

8 MR. SCHMIDT: Correct.

9 MR. HILL: So when you purchased the property
10 did you think that you were going to have to get this
11 in order to make it successful?

12 MR. SCHMIDT: Yes, we did. We knew that this
13 was going to be the only route to success. And we
14 felt that the project is so in character and in
15 keeping with the neighborhood, and the scale of the
16 project that we would be proposing would be so
17 welcomed by the neighborhood that we would -- that our
18 chances would be high, of having support.

19 MR. NELSON: If I can add one other, in
20 response to that question? One of the earlier
21 versions of the plans discussed with the neighbors did
22 involve, effectively, single-family homes with a
23 residential rental flat below. And that was
24 objectionable to a set of the neighbors because of the
25 increased density and parking stresses.

1 So that helped form the current applicant
2 proposal of three solely single-family residential
3 units.

4 MR. HILL: It would have been objectionable
5 because you needed, again, a variance in some capacity
6 for that, or it was by-right then you would have been
7 able to do it by-right.

8 MR. NELSON: It wouldn't have been by-right in
9 the sense that it still would have required the
10 division to three lots, but it would have made it more
11 financial feasible to charge the kind of prices that
12 they were discussing. But it would have required --
13 it would have more intensely placed pressure on the
14 pricing. On the parking.

15 And the same would be true if you tried to do
16 it with, effectively you're going from three families
17 to four families in the by-right condo development and
18 the biggest concern amongst the neighbors was pressure
19 on parking.

20 MR. HILL: Right. But from your pro forma,
21 those are all by-right.

22 MR. NELSON: The first page.

23 MR. SCHMIDT: The first page.

24 MR. HILL: Yeah. Yeah.

25 MR. NELSON: Yeah.

1 MR. HILL: Okay, thank you.

2 MR. TURNBULL: What would happen if you only
3 bought one lot? What would you have done if you'd
4 only bought one lot?

5 MR. SCHMIDT: It wasn't -- they weren't
6 sold --

7 MR. TURNBULL: So you bought -- all right.

8 MR. SCHMIDT: They were sold --

9 MR. TURNBULL: So you bought the two lots
10 knowing that you could get three lots out of it. Or
11 assuming that you could.

12 MR. SCHMIDT: Assuming, yeah.

13 MR. TURNBULL: Assuming you could make the
14 change. That was your whole idea that you can get
15 someone to approve it.

16 MR. SCHMIDT: That was our hope, yeah.

17 CHAIRPERSON HEATH: And what happens if you
18 don't get approval? What's --

19 MR. SCHMIDT: You can look at the pro forma on
20 the first page and see.

21 CHAIRPERSON HEATH: What's your next plan?

22 MR. SCHMIDT: We're going to have a farm.

23 MR. TURNBULL: Well, we could always do with
24 farms. Farms are good.

25 CHAIRPERSON HEATH: Okay.

1 MR. HILL: I mean, the issue that you're
2 having, and again you know, you know this, right, is
3 the Office of Planning thinks that you can do this
4 with the existing two lots, you know? And so you can
5 do it there. And so, the trouble that I'm having with
6 it in terms of like getting your pro forma is that you
7 purchased the property assuming that you could get a
8 variance in order to make it profitable, is what
9 you're telling me.

10 Like, you did the numbers on the project and
11 the only way it worked is if you got the relief.

12 MR. SCHMIDT: Correct.

13 CHAIRPERSON HEATH: And that is also your
14 practical difficulty argument.

15 MR. NELSON: If I -- the only -- one of the
16 things that we, on which after reviewing the OP
17 letter, specifically, I think everyone can agree that
18 the property is highly unique and exceptional in the
19 sense that there's nothing else in the block that even
20 approaches its width, either as a 24-foot-wide by-
21 right lot, let alone as the 48-foot piece of land that
22 stands there now. So it's highly exceptional and
23 irregular compared with anything else. Not just in
24 these two squares, but in any of the six squares
25 within the immediate area.

1 So its uniqueness is questioned in the OP
2 letter, but it's most certainly unique by that
3 definition. If they proceeded with a by-right
4 development of a 24 -- two 24-foot-wide lots,
5 effectively, they'd be delivering something that is,
6 while by-right by the technical qualifications of the
7 zoning regs would be completely out of character with
8 the rest of the block, north and south.

9 So with all due respect there are cases where
10 there are a few isolated lots on a block that don't
11 conform to the 18. In this case, 96 percent of the
12 lots on the block do not conform. So what is
13 consistent with the historic fabric of the block is 16
14 or less.

15 MR. TURNBULL: You have a drawing in your
16 revised architectural plans, a site plan. And you're
17 showing a lot of homes at one end at 15 foot 10 and
18 three-quarters. I see a 23-foot, I see a 27-foot, and
19 so you're saying -- and I see an 18-foot. But I see a
20 lot of around 16 feet or 15-10.

21 So you're saying that the majority of this
22 block is at 16 feet, or a couple of inches less.

23 MR. SCHMIDT: Yeah. And the 23 on the south
24 side of the -- of our square, which is our side of the
25 block, only three meet the lot width. Four of them

1 are 14 and three-quarters feet wide, and 16 are
2 approximately 16 feet wide. On the other side of the
3 street, of the 22 lots, only two meet the lot width.
4 Six are 14 and three-quarters feet wide. Nine are 15
5 feet wide, and five are 17 feet in width.

6 MR. NELSON: There's a sensitivity, I think,
7 to your line of questioning around their rationale
8 when they bought it, because I understand -- and as a
9 neighbor, there's certainly a sensitivity to a
10 developer buying something with an inherent assumption
11 that they're going to get a variance for financial
12 gain.

13 But the reality is that I think that
14 sensitivity is driven by developers then executing
15 things that are completely out of character with the
16 historic build of the neighborhood, and the preference
17 of the neighbors. And in this case, what these
18 applicants, who also happen to be immediate neighbors,
19 are proposing to build is in line with exactly 95
20 percent the shape and form of the historic 100 to 120-
21 year-old single-family residences on the block.

22 MR. HILL: I'm sorry. Did you say you're
23 immediate neighbors?

24 MR. NELSON: Immediate neighborhood.

25 MR. HILL: Oh, okay. I'm sorry. You guys

1 aren't the immediate neighbors of the property.

2 MR. SCHMIDT: They're not connected to the
3 lot.

4 MR. HILL: Okay. And just to be clear, I have
5 no problem making money off of, you know, the
6 development. I think that's great. That's the whole
7 point you do it, so you know --

8 MR. SCHMIDT: I think Joe made a better
9 argument than I did for that.

10 CHAIRPERSON HEATH: Yeah, the problem is,
11 self-imposed hardship. It doesn't qualify as meeting
12 the variance test.

13 MR. NELSON: Yeah, I mean, I think that the
14 challenge is that if they do the by-right condo
15 development, for example, there are ways that they
16 could try to blow up the size of those condominiums to
17 the maximum allowable under the by-right zoning,
18 strictly to try and stretch the resale price that
19 they're going to ask me to achieve, right, which would
20 only drive the end product architecturally more out of
21 synch with what the neighborhood and the block
22 consists of, what the neighbors -- you know.

23 And so you know, it might allow them to close
24 the loss somewhat, but in effect, what they're asking
25 for is relief in order to proceed with a much more

1 harmonious solution and make it economically viable.
2 So the thought is that it's a win-win, while certainly
3 it does rely on the relief.

4 MR. SCHMIDT: And we do have overwhelming -- I
5 don't know if you -- do you guys have the neighbor
6 letters? We don't have any opposition on the block
7 and it's mostly driven by the fear that will be forced
8 into the by-right project of, you know, these
9 oversized 24-foot-wide condos. The neighborhood does
10 not want that.

11 MR. HILL: Sure. No, I understand. And that
12 actually is a line now that I'm more able to kind of
13 go along with just a little bit to understand. So
14 what you would be doing by-right, if you didn't do
15 this, you would make the units larger and they would
16 go up to what height then? What height are you at
17 now? What height could you go up to?

18 MR. SCHMIDT: They would be 24 feet in width,
19 35 feet in height.

20 MR. HILL: And what's the height now?

21 MR. SCHMIDT: Thirty-five.

22 MR. HILL: Oh, 35. Okay. So it's the same
23 height anyway.

24 CHAIRPERSON HEATH: It's just the width would
25 be greater.

1 MR. CONNELL: But we would also be digging
2 out, in this instance. We would create basements. If
3 we're going to do the condo project, we would be
4 digging down. We would increase the square footage
5 that way. So the project would take on a larger scale
6 in that regard, using the full site going down as
7 well.

8 MR. SCHMIDT: And the density would also
9 increase. So you're talking about four units versus
10 three units.

11 Our matter of right allows us four units, and
12 we're proposing three. So we're -- that's our
13 argument for how we're not proposing harm to the
14 intent of the zoning code, because we're actually
15 building beneath the by-right density.

16 MR. TURNBULL: Your drawings actually show
17 you're under 35. Thirty-three and a couple of inches
18 or something. Is that correct?

19 MR. SCHMIDT: Yeah.

20 CHAIRPERSON HEATH: Okay. Any other
21 questions, Board?

22 MR. HILL: No, I just want to thank Mr.
23 Turnbull. Right. Yeah, so they have another couple
24 feet they could have gone up there. Thank you.

25 CHAIRPERSON HEATH: Okay. All right. Then,

1 if the applicant is okay with us proceeding on I'd
2 like to hear from Office of Planning on this and see
3 what their position is now.

4 MR. JESICK: Thank you, Madam Chair and
5 members of the Board. My name is Matt Jesick.

6 We really appreciate the applicant working
7 with the neighborhood and designing a project that is
8 sensitive to its surroundings. Unfortunately, the
9 zoning regulations really anticipate that when new
10 lots are created they of course conform to the 18-foot
11 width and to the 1,8000-square foot lot area. We
12 could not find -- we had a hard time seeing any
13 exceptional or unique conditions that would prevent a
14 subdivision to a conforming lot area. So therefore,
15 we could not recommend approval of the project. Thank
16 you.

17 CHAIRPERSON HEATH: Thank you. So you would
18 recommend that they develop this as two 24-foot wide
19 homes.

20 MR. JESICK: No, we recommend that they
21 subdivide the lots into the conforming lots. We did
22 not go beyond that in terms of what the building form
23 should look like.

24 CHAIRPERSON HEATH: Okay. All right. So it's
25 just the lot size.

1 MR. JESICK: Yes.

2 CHAIRPERSON HEATH: And you've seen from their
3 site plan that they're saying that the lots within
4 this neighborhood are generally around 15, 16 feet.

5 MR. JESICK: Yes.

6 CHAIRPERSON HEATH: Does that seem consistent
7 with what you know of this area?

8 MR. JESICK: Yes, certainly on this square,
9 the existing homes are 16 feet, or even more narrow
10 than that. So, that -- what they're proposing would
11 not be inconsistent with the existing built fabric of
12 the square.

13 CHAIRPERSON HEATH: Okay.

14 MR. TURNBULL: Mr. Jesick, I struggle with
15 this. I appreciate all what OP's, you know, your
16 input and all that, and I know where you're going and
17 I hate to go against the zone plan and everything
18 else, but there's some kind of a -- I look at this,
19 and in one way what they're doing sort of makes sense.
20 I mean, you know.

21 I know what you're trying to say and to
22 achieve, but looking at the overall consistency of the
23 neighborhood and trying to -- 16 feet, there's some
24 that are only 14-foot-10 or something, some lots.
25 There are some under -- a lot of them are under 16.

1 So I'm struggling. I want to be with you, and at the
2 same time I'm like, what they're proposing, you know,
3 in a way looking at the block plan and the R-4
4 neighborhood sort of reads well. I don't know.

5 MR. JESICK: Well, we certainly had the same
6 struggle. As I just said, it would fit in with the
7 context of the neighborhood.

8 MR. TURNBULL: Yeah.

9 MR. JESICK: We were trying to balance that
10 against the variance test and the intent of the regs,
11 and you know, certainly the project would meet all the
12 other zoning regulations --

13 MR. TURNBULL: Yeah.

14 MR. JESICK: -- height, parking, rear yard,
15 lot occupancy, those things.

16 MR. TURNBULL: Yeah.

17 MR. JESICK: And obviously the neighbors are
18 strongly in support of it.

19 MR. TURNBULL: Yeah.

20 MR. JESICK: We've rarely seen a case that has
21 that much community support.

22 MR. TURNBULL: That much support, yeah.

23 I just want to ask. Now, it looks like you
24 have no garages on any of these lots, you simply have
25 a parking pad out there at the back?

1 MR. JESICK: Just secured parking in the back.

2 MR. TURNBULL: Is there a fence? You got a
3 fence back there?

4 MR. JESICK: A fence and yeah, a garage door.

5 MR. HILL: So, actually, I'm sorry.

6 CHAIRPERSON HEATH: Go ahead.

7 MR. HILL: I just had a question of the
8 applicant.

9 So you guys went before the ANC and they were
10 obviously in support. Can you tell me a little bit
11 about why they were in support, why they liked the
12 project, what did they say about it?

13 MR. CONNELL: Yeah, I represented us at the
14 ANC meeting.

15 They were all for it. We met with Kirsten
16 Oldenburg beforehand on site, just to go over
17 everything. She was ecstatic about what we were doing
18 and compared to what we could do.

19 MR. HILL: So, you did show them compared to
20 what you could do.

21 MR. CONNELL: Yeah.

22 MR. HILL: Okay.

23 MR. CONNELL: Yeah, we lead off the whole
24 conversation with, by-right we could build two large
25 structures. We would convert them to condos. They

1 would be four units. That doesn't go with anything on
2 this block. I'm sure you know, most of the
3 neighborhood wouldn't want that. What we want to do
4 is have something that fits in the neighborhood. You
5 know, we met with the neighbors back in October. They
6 had a big party. We showed them the existing plans.
7 Originally, we were going to have a, like Joe said
8 earlier, a flat in the basement. And after hearing
9 feedback we said, okay, well we can tweak that to kind
10 of get more support and get more favor to build a
11 project that fits. So, we did that by eliminating the
12 parking, or eliminating the basement, excuse me.

13 And so when we sent all those things to ANC,
14 there was no fight back whatsoever. They were in
15 agreement wholeheartedly.

16 MR. HILL: Thank you.

17 MR. NELSON: It's hard to tell from the photos
18 in the exhibit, but as ANC Chair Oldenburg saw, anyone
19 who spends time on this block, when you said it kind
20 of makes sense, when you stand and look at this, it
21 looks like a big gapped tooth in the middle of the
22 block and on the left or the west is a continuation of
23 16-foot lots. On the right is a continuation of 15 or
24 16-foot lots, and it's just this wide open gap in
25 between. It looks for many years like this is what is

1 supposed to have continued there, and a landowner held
2 out with a crumbling cottage from 1860.

3 MR. SCHMIDT: I also have another point to
4 make about your concern that we purchased this with
5 the assumption that we would get a variance.

6 We developed two rowhomes five years ago on
7 the block up from this. They were on 16-foot-wide
8 lots, and they fit in very well with the neighborhood.
9 The neighbors loved them. I actually lived in one
10 with my family for five years, and the person that we
11 bought them from had done a subdivision. It was
12 originally a 32-foot-wide lot that was subdivided into
13 a 16-foot lot width, and it didn't require a variance
14 for some reason. And so that was sort of why we
15 assume that we could get the same thing. And given
16 the fact that the entire area is all 16-foot average
17 lots. So that was -- we aren't that big of cowboys.
18 I mean --

19 MR. HILL: Yeah, I appreciate it, but still,
20 that's too bad. I don't know, you know, that the
21 assumptions that you made. But yeah, that is a big
22 bet I assume. I agree, like buying it thinking you're
23 going to get the variance. But thank you for that
24 clarification.

25 CHAIRPERSON HEATH: All right. So we

1 indicated we have a letter of approval from the ANC.
2 Is there anybody here from ANC 6B? ANC 6B? Nobody?
3 Okay.

4 And we also have a letter of no objection from
5 DDOT, and lots of letters of support from the
6 neighbors, which --

7 MR. SCHMIDT: You have the petition?

8 CHAIRPERSON HEATH: We do.

9 MR. SCHMIDT: Okay.

10 CHAIRPERSON HEATH: Thirteen signatures, I
11 believe. Or 13 residences represented. So we do have
12 that in the record.

13 Is there anyone here wishing to speak in
14 support? Anyone in support? Anyone in opposition?
15 No opposition? Okay.

16 Then we'll turn back to you for any closing.
17 I'm not sure the Board is ready to deliberate on this
18 today, but you can feel free to make a closing, and
19 then we'll see what additional information we might
20 need in order to proceed on this.

21 You don't have to make a closing. It's up to
22 you.

23 MR. CONNELL: I'd just like to close with, we,
24 JD and I, we have been in business for 10 years and we
25 live in Capitol Hill. Not that that should sway you

1 or anything, but we do care about what we build here.

2 So, you know, when we originally looked at the
3 property last year, we thought that this was a good
4 applicant for three homes that could fit in the block.

5 And living a block away, and JD lived a block away,
6 and we own the other house next door currently, still,
7 on the 1500 block.

8 We felt that what we could do here would fit.

9 And so that was our assumption going in. Maybe it
10 was too much of an assumption, but we felt that was a
11 better choice for the neighbors than doing condo --
12 you know, big house condos, which don't necessarily
13 fit this area. So, that really was the main reason
14 why we thought we could do the 16-foot-wide houses.

15 The precedent on the block, the fact that we
16 had done it before five years ago, and just that it
17 fits. And I think living in Capitol Hill, owning
18 houses on Capitol Hill, we know that you know,
19 maintaining the integrity of the neighborhood is very
20 important, and we try to do that as builders.

21 CHAIRPERSON HEATH: Okay. Thank you.

22 Do you have questions? Go ahead.

23 MR. HILL: Well, just, I think we're going to
24 come back, you know, and so what I'd like to see in
25 terms of like, you know again, the issues that I'm

1 having is again, the Office of Planning thinks that
2 you can do it the way it is by-right. You know, and
3 so I'd like to see like an architectural rendering of
4 some kind that shows what the by-right would look
5 like, and how that might be out of character, or
6 whatever you think you would do if you didn't get
7 this.

8 And then even some pro forma numbers that go
9 along with that, that show that you know, you could
10 make some money, maybe, or you would break even, or
11 whatever it is. Like what is it that would happen by-
12 right as opposed to what you're proposing. Because
13 really you know, it's great, the neighborhood, the
14 ANC. I think it's a good project. I think it fits in
15 well with the neighborhood. But again, it's kind of
16 the variance that I'm having a difficult point getting
17 to.

18 MR. SCHMIDT: So, will the Board consider the
19 -- because the OP indicated that they don't consider
20 whether it's financial feasible or not. Is that
21 something that you guys consider?

22 CHAIRPERSON HEATH: We have in the past.

23 MR. SCHMIDT: Yeah.

24 CHAIRPERSON HEATH: So --

25 MR. SCHMIDT: Because apart from having, you

1 know, full-scale drawings done, I think we have
2 demonstrated in these documents of what the numbers do
3 look like, and I think they're fair assessments of
4 what the by-right project looks like. So what
5 additional information would you be --

6 CHAIRPERSON HEATH: So what the Vice Chair has
7 asked is that you submit drawings that show what the
8 matter of right project would look like. You've
9 talked about why that doesn't work for you, why it
10 doesn't work for the neighborhood, what the negative
11 impacts might be of that on the neighborhood, but we'd
12 like to see it so we can understand. And with that,
13 it might help to get us there.

14 If you just want to rely on your financials,
15 we could deny this today, because it sounds like the
16 Board is not there yet. We're not ready to approve.
17 But we're asking for that matter of right solution.

18 [Pause.]

19 CHAIRPERSON HEATH: Okay. Sorry for the long
20 recess. So where we are is, we just want -- we want
21 further clarification on how we can evaluate based on
22 the pro forma. And so if you could help us understand
23 what the pro forma, the concepts that you've put
24 forward in the pro forma, what those look like, I
25 think that will help -- that will help make your

1 argument.

2 We're looking at the pro forma. I think we're
3 going to need some more time regardless, but that
4 could help.

5 Also, if you wanted to help strengthen your
6 case, citing precedent of similar projects that have
7 been approved by the Board could also help strengthen
8 your case. So you can add that to the record, but the
9 Board still needs more time to consider this. All
10 right. So, we're going to --

11 MR. SCHMIDT: So demonstrate through drawings.
12 You'd like to see some renderings?

13 CHAIRPERSON HEATH: Right. Something that
14 just depicts what the pro forma solutions look like.

15 MR. HILL: Yeah, just even what you have now.
16 Like the pro forma numbers that you have now, like
17 something that shows the by-right drawings, just to
18 kind of like take a look at.

19 MR. SCHMIDT: Sure.

20 CHAIRPERSON HEATH: All right.

21 MR. TURNBULL: Yeah, you sort of show like a
22 front block elevation --

23 MR. SCHMIDT: Of the proposed, yeah.

24 MR. TURNBULL: Yeah.

25 MR. SCHMIDT: Okay.

1 CHAIRPERSON HEATH: All right. So, Mr. Moy,
2 we're going to continue this?

3 MR. MOY: Yes, this sounds like a continued
4 hearing.

5 CHAIRPERSON HEATH: I think so.

6 MR. MOY: All right.

7 CHAIRPERSON HEATH: Just in case we have
8 questions or want to talk through anything that you
9 might bring back to us.

10 MR. MOY: Absolutely. The next full
11 participation date -- participation date for Mr.
12 Turnbull is April 12th. I don't know if you want to
13 go that long. If not, then we could pick an earlier
14 date, Madam Chair. How long -- did we get an idea
15 from the applicants how long it would take them to
16 pull the materials together?

17 MR. SCHMIDT: We'd need very little time to
18 pull that together. We can get it in a week or so.

19 CHAIRPERSON HEATH: Okay.

20 MR. TURNBULL: I can make myself available, as
21 long as it isn't the 22nd.

22 MR. MOY: Okay. Then staff would suggest --
23 staff would suggest March 29th.

24 CHAIRPERSON HEATH: Okay.

25 MR. MOY: Is that good for you, Mr. Turnbull?

1 MR. SCHMIDT: I'm going to be out of town that
2 day, actually.

3 MR. MOY: Okay. Well, let's do the day
4 before, then. Or rather, the week before. That gives
5 us -- well, it won't be that. Then we're pushing up
6 to March 15th.

7 MR. SCHMIDT: That's enough time for us if
8 that's fine with you.

9 MR. MOY: That's fine for us. Mr. Turnbull?

10 CHAIRPERSON HEATH: Okay. So, March 15th?

11 MR. MOY: March 15th, continued hearing.

12 MR. SCHMIDT: And that will be here?

13 CHAIRPERSON HEATH: Yes.

14 MR. MOY: Same place.

15 MR. SCHMIDT: Got it.

16 MR. MOY: Different time.

17 CHAIRPERSON HEATH: Same time for the start.

18 MR. SCHMIDT: Okay.

19 CHAIRPERSON HEATH: We don't know where you'll
20 fall in the agenda, but -- all right. Thank you.

21 MR. SCHMIDT: Thank you.

22 MR. NELSON: Thank you very much.

23 CHAIRPERSON HEATH: All right. We'll take a
24 two-minute break while the next group sets up.

25 [Off the record from 12:53 p.m. to 1:01 p.m.]

1 CHAIRPERSON HEATH: Call our next case?

2 MR. MOY: With pleasure. Thank you, Madam
3 Chair. The application before the Board is
4 Application No. 19200 of Jamal's Pappas Tomato's, LLC.
5 Subject property is located at 1401 Okie Street
6 Northeast, Square 4093, Lot 832.

7 And I believe, Madam Chair, this application
8 has been amended to withdraw relief from roof
9 structure requirements. And so the requested relief
10 before the Board is a variance from the off-street
11 parking requirements under 2101.1, and I believe the
12 applicant will confirm that.

13 CHAIRPERSON HEATH: Okay. Good afternoon.
14 Would you all please introduce yourselves? Start
15 wherever you'd like.

16 MR. MILLSTEIN: Good morning, Paul Millstein
17 with Douglas Development Corporation.

18 MS. BLOOMFIELD: Good morning, Jessica
19 Bloomfield with Holland and Knight.

20 MR. GLASGOW: Norman M. Glasgow Jr. with
21 Holland and Knight, here to assist Jessie.

22 MS. GOURDINE: Good afternoon, Andrea Gourdine
23 with Douglas Development, here to assist Paul
24 Millstein.

25 MR. SPERRY: Kevin Sperry with Antunovich

1 Associates.

2 MR. ANDRES: Good afternoon. Erwin Andres
3 with Gorove/Slade Associates.

4 MR. LOONEY: Julian Looney with Antunovich
5 Associations.

6 CHAIRPERSON HEATH: Okay. All right. So I
7 think the first question is just to clarify the relief
8 being requested since there has been a change.

9 MS. BLOOMFIELD: Sure. Yeah. We are only
10 requesting a variance from the off-street parking
11 requirements of 2101.1. I can go into the reasons why
12 we don't need roof structure relief if that's helpful.
13 Otherwise, we've confirmed it with the Zoning --

14 MR. TURNBULL: Just briefly. If you could
15 just --

16 MS. BLOOMFIELD: -- Administrator.

17 MR. TURNBULL: Yeah, if you could just give us
18 a quick overview of that?

19 MS. BLOOMFIELD: Sure. So, we have four roof
20 structures on the building, two on each side of the
21 open court. On the west side there is a roof
22 structure that encloses an elevator, and there's a
23 roof structure that encloses a stair tower and
24 mechanical equipment.

25 Under the new penthouse regulations, you are

1 allowed to have separate roof structures when the roof
2 level varies by one floor. And in this case, the roof
3 level does vary by one floor. The level of one roof
4 is at 30-feet six-inches, and the level of the other
5 roof level is at 20 feet. So the Zoning Administrator
6 has confirmed that those two roof structures are
7 permitted on that roof.

8 On the east side of the building we have one
9 roof structure with a stair tower, an elevator, and
10 mechanical equipment, and a second roof structure with
11 just a stair tower. And under the new penthouse
12 regulations you're permitted to have a separate
13 enclosure for rooftop egress stair, not containing any
14 other space. And that's exactly what we have in this
15 case. And again, the Zoning Administrator has
16 confirmed that.

17 MR. TURNBULL: Okay. Thank you.

18 CHAIRPERSON HEATH: Okay. One other thing
19 that you've mentioned in your filing is that there's
20 some sort of light manufacturing. Can you talk about
21 that, exactly what that is?

22 MS. BLOOMFIELD: Sure. I think I would defer
23 to Paul, and he hasn't been sworn in, so --

24 CHAIRPERSON HEATH: Oh, okay.

25 MS. BLOOMFIELD: -- might want to do that

1 first.

2 [Oath administered to the participants.]

3 MR. MILLSTEIN: I do.

4 MR. MOY: Thank you.

5 MR. MILLSTEIN: Sure. So, sure. So as far as
6 what we refer to as light manufacturing, we are super
7 excited. Not just excited that we've already signed a
8 deal with a company, a local company, Washington based
9 and Washington born, Compass Coffee.

10 Compass Coffee manufactures their own coffee
11 here in the District of Columbia and then also has
12 stores where they sell it as well, throughout the
13 neighborhood.

14 Well, they've grown so fast and their product
15 has been such a success, they now have the need for
16 approximately a 20,000 square foot roasting facility.
17 They've outgrown their existing roasting facility.

18 So the Pappas Tomato building, which we refer
19 to it as, will now host Compass Coffee. And they will
20 not only be producing their own coffee there, they'll
21 be distributing it throughout Washington D.C. and
22 other portions of the east coast as they grow.
23 They're also building an on-site bakery and they'll
24 have a place for the neighborhood to come and eat the
25 bakery and -- they have a café as well as the

1 manufacturing.

2 In addition to that, we are in current
3 negotiations with a smoothie manufacturer, a minority
4 based business by two young women in Virginia that are
5 looking to relocate somewhere in the eastern region
6 and we're trying to bring to Washington, D.C. And
7 they will also need about 20 to 30,000 square feet of
8 manufacturing of a smoothie product that they're
9 selling very successfully through some retail outlets.

10 That's just the beginning of our
11 manufacturing. We may see more. We like it. We
12 think it's fun. It's great for the neighborhood. We
13 will always make sure that whatever we manufacture we
14 sell through at a retail basis there because we have a
15 very large vision for this neighborhood, which most of
16 you are familiar with, the Ivy City neighborhood. So
17 we think the fact that you can manufacture it and then
18 actually sample it or purchase it right on site is
19 going to be a lot of fun. So, that's where we are
20 with the light manufacturing.

21 CHAIRPERSON HEATH: Okay. And so light
22 manufacturing is allowed and but you're subject to
23 Section 804. And so, you are in compliance with --

24 MS. BLOOMFIELD: Yes, we're in compliance with
25 804.

1 CHAIRPERSON HEATH: Okay. Just wanted to make
2 sure. All right.

3 All right. So we'll just focus on parking.
4 Unless the Board has any other questions.

5 All right. So, I don't think we need a full
6 presentation, but if you could just speak to your
7 specifically to your request relevant for parking.

8 MS. BLOOMFIELD: Sure.

9 CHAIRPERSON HEATH: Parking relief being
10 requested.

11 MS. BLOOMFIELD: Under the zoning regulations
12 we're required to provide 268 parking spaces for the
13 retail and light manufacturing uses, which is a very
14 large number of parking spaces, admittedly. That
15 said, the client, the developer, has already
16 constructed an above-ground parking garage directly
17 across Okie Street, with over 1,000 parking spaces in
18 it. So, that parking -- that garage was built in
19 anticipation of new retail coming online in the
20 neighborhood, including new retail at this site.

21 So patrons or employees of the new retail at
22 this site will be able to park in the parking garage
23 across the street, walk across the street, and
24 undertake whatever it is that they're doing at the
25 site.

1 So we've discussed that concept with the ANC,
2 who is enthusiastically in support of this project,
3 and the Office of Planning and DDOT have both
4 expressed their support for the parking relief as
5 well, so we would request that you do the same.

6 I don't know if you want us to go through the
7 building, for all the reasons why we can't put parking
8 on the sites. We set it forth pretty clearly in the
9 written statement that's already in the record. We
10 can do that if you need us to.

11 CHAIRPERSON HEATH: Yeah, I don't think so. I
12 think we really were just wondering how you were going
13 to handle some of the parking, and if you were using
14 that adjacent site. We assumed you were. Okay.

15 MR. TURNBULL: Yeah, I think part of the
16 question was, I don't think we actually saw anything.
17 I mean, although Department of Transportation
18 referenced it, I don't know if there's anything in the
19 language that you had that said parking is going to be
20 made available in that garage.

21 I mean, and I guess what we want to do for the
22 record is to say that parking for, as you said, for
23 employees or patrons, will be made available in that
24 garage.

25 MR. SPERRY: Yeah, that's a fact. And in

1 fact, Commissioner Turnbull, we'll sign it so that
2 that garage -- so currently right now you'll see signs
3 on that garage for Mom's Grocery Store, for Nike, and
4 all the -- as we continue to grow, we continue to
5 update the signage. So, you'll see a sign for Compass
6 Coffee parking on that garage, as well as whatever
7 other retailers we bring in to it. We overbuilt it
8 heavily up front, anticipating this.

9 MR. TURNBULL: Okay. That's good.

10 CHAIRPERSON HEATH: Okay. All right. Any
11 other questions from the Board? All right. Anything
12 else you want to hear? All right.

13 MR. TURNBULL: You're basically preserving the
14 existing building. It's --

15 MR. SPERRY: Yeah. Yeah, we -- the attempt is
16 to really preserve it in total. It's a great
17 building.

18 MR. TURNBULL: There was some question about
19 historic aspect to it, it was that --

20 MS. BLOOMFIELD: The building is not historic.

21 MR. TURNBULL: It is not historic.

22 MS. BLOOMFIELD: No.

23 MR. TURNBULL: Okay.

24 CHAIRPERSON HEATH: Okay. All right. Then we
25 don't need a full presentation on this. We think that

1 the record is sufficient, based on what's been
2 submitted to the file. So, if you're okay with us
3 proceeding on?

4 MS. BLOOMFIELD: Yes. Thank you.

5 CHAIRPERSON HEATH: All right. Thanks. So,
6 Office of Planning, we know you have a letter in
7 support, but --

8 MS. THOMAS: Yeah.

9 CHAIRPERSON HEATH: -- if there's anything
10 else you'd like to state?

11 MS. THOMAS: Madam Chair, good afternoon.
12 Karen Thomas for the record. We have nothing further
13 to add and we'll stand on the record of our report.

14 CHAIRPERSON HEATH: Okay.

15 MS. THOMAS: Thank you.

16 CHAIRPERSON HEATH: Thank you. Board, any
17 questions of Office of Planning? All right. So, we
18 also have DDOT here. Welcome.

19 MR. WESTROM: Yes, indeed. Good afternoon,
20 Board. Ryan Westrom from DDOT.

21 And DDOT does not object to the parking
22 variance that is sought here. We have noted one
23 condition in our report that I would highlight. And
24 additionally, I do want to know for the record that
25 there could be some concern for loading here. While

1 that's not part of the variance that's being sought
2 here, obviously the loading would be important to the
3 function of the building, and we anticipate working
4 with the applicant closely as we move forward to the
5 public space permitting. But there are loading
6 concepts that could be put forth that we would not be
7 able to approve. And we just want to note that for
8 the record, and we would be happy to take any
9 additional questions there might be.

10 CHAIRPERSON HEATH: Okay. Thank you. And
11 you're in support of the condition that DDOT has
12 proposed?

13 MS. BLOOMFIELD: We agree with the condition
14 regarding the curb cuts, yeah.

15 CHAIRPERSON HEATH: Okay. All right.

16 MS. BLOOMFIELD: Curb ramps.

17 CHAIRPERSON HEATH: Right. Curb -- right.
18 Okay. All right. Is there anybody here from ANC 5D?
19 ANC 5D? Okay. We have a letter recommending their
20 approval.

21 Anyone here wishing to speak in support of
22 this application? Anyone wishing to speak in
23 opposition? No opposition.

24 Okay. Then we'll turn back to you for any
25 closing you might want to make.

1 MS. BLOOMFIELD: I think we would just say the
2 whole team, on behalf of the whole team, we're very
3 excited about this project and we would request that
4 you support it. Thank you.

5 CHAIRPERSON HEATH: Thank you. Then, is the
6 Board ready to deliberate on this?

7 One point that I'll make before we do is if
8 you could just add to the record some statement of
9 being in compliance with 804. There was nothing in
10 the record on that, we don't believe. And so, it
11 would be helpful just to have that in the record.

12 MS. BLOOMFIELD: Sure.

13 CHAIRPERSON HEATH: You ready?

14 MR. TURNBULL: Sure.

15 CHAIRPERSON HEATH: All right. Then I will
16 move that we approve the application for off-street
17 parking requirements under 2101.1 for Application No.
18 19200, with the condition put forward by DDOT, and
19 with the record left open just for the applicant to
20 submit something stating they're in compliance with
21 Section 804.

22 MR. TURNBULL: Well, and the parking. That
23 parking would be made available in the garage.

24 CHAIRPERSON HEATH: Yes. And the -- yes,
25 correct. And a statement saying that parking would be

1 made available at the other garage. Correct.

2 MR. HILL: Yeah, I would second. And also, I
3 think the project, you know, it sounds great. Like
4 Compass Coffee is a great brand and I wish you guys
5 the best of luck.

6 CHAIRPERSON HEATH: Oh, that was a second.
7 Okay.

8 MR. HILL: I second. Sorry. It was a second
9 and a plug, I guess. So like, you know, right?

10 CHAIRPERSON HEATH: All right. All right. So
11 the motion has been made and seconded. Any further
12 discussion?

13 [Vote.]

14 MR. TURNBULL: Yeah, I think it's going to be
15 another part of this whole development which is going
16 to really work out well.

17 CHAIRPERSON HEATH: Very exciting.

18 MR. SPERRY: Thank you, all.

19 CHAIRPERSON HEATH: Thank you.

20 MR. SPERRY: Thank you.

21 MR. MOY: Staff would record the vote as
22 three, to zero, to two. This is on the motion of
23 Chairperson Heath on the relief requested. Seconded
24 by Vice Chair Hill. Also in support, Mr. Michael
25 Turnbull. Board member not present, board seat

1 vacant. Motion carries, Madam Chair.

2 CHAIRPERSON HEATH: Summary. You can call our
3 next application when you're ready, Mr. Moy.

4 MR. MOY: All right. I believe that would be
5 Application No. 19203. Parties to the table to --
6 this is 19203 of Sheela Tschand. I'm not sure I
7 pronounced that correctly. T-S-C-H-A-N-D.

8 And this is advertised and published for
9 variance relief on the side yard requirements under
10 405, special exception from the conversion to
11 apartment house requirements under 336. This is to
12 allow the conversion of a one-family dwelling to a
13 three-story, three-unit apartment house in the R-4
14 District, 1844 Kendall Street Northeast, Square 4048,
15 Lot 808.

16 CHAIRPERSON HEATH: Good afternoon. Please
17 introduce yourselves. Make sure your mic is on when
18 you do.

19 MR. AGBIM: Good afternoon. My name is Ike
20 Agbim. Licensed architect in D.C.

21 MS. TSCHAND: Good afternoon. I am Rinou
22 Tschand. I'm the owner.

23 CHAIRPERSON HEATH: And it's pronounced
24 Tschand?

25 MS. TSCHAND: Sheela. Sheela is my --

1 CHAIRPERSON HEATH: Tschand?

2 MS. TSCHAND: Sheela Tschand. Yeah.

3 CHAIRPERSON HEATH: Okay. Thank you. All
4 right. We understand there have been some changes
5 made to the drawings.

6 MR. AGBIM: Yes, ma'am.

7 CHAIRPERSON HEATH: And was the reason for
8 this neighborhood input?

9 MR. AGBIM: Yes, it was neighborhood input and
10 also the ANC.

11 CHAIRPERSON HEATH: Okay.

12 MR. AGBIM: Recommendations.

13 CHAIRPERSON HEATH: Okay. Let's see. And did
14 this change just affect the side yard?

15 MR. AGBIM: Yes, primarily the side yard and
16 the roof.

17 CHAIRPERSON HEATH: Okay. Did you have a
18 chance to review those drawings with the Office of
19 Planning after they were completed?

20 MR. AGBIM: Yes, ma'am.

21 CHAIRPERSON HEATH: Okay. All right.

22 MR. HILL: So in the new drawings you added a
23 penthouse. Is that right?

24 MR. AGBIM: Yes. We have the rooftop access
25 to mechanical equipment. Yes. Effectively, we

1 changed the roof from a gable roof, hipped roof, to a
2 flat roof.

3 CHAIRPERSON HEATH: Do you want to ask about
4 the setbacks?

5 MR. TURNBULL: Yeah. I don't know if you --
6 your drawings sort of show that this little rooftop
7 doghouse on top goes from edge to edge of the
8 rowhouse, which would not be allowed.

9 MR. AGBIM: Yes, sir.

10 MR. TURNBULL: So, you would have to have a
11 setback on both sides.

12 MR. AGBIM: Yes, we're going to observe the
13 eight-foot setback.

14 MR. TURNBULL: Because the penthouse is --
15 well, I think it's a one-to-one setback. So if you're
16 10 feet high, it would have to be 10 foot back.

17 MR. AGBIM: Right.

18 MR. TURNBULL: So, unless you're going to make
19 it only eight feet high, that penthouse, you have to
20 make it a one-to-one setback from either side.

21 MR. AGBIM: Yes.

22 MR. TURNBULL: Okay. I didn't know if you
23 were aware of that or not, but we can go through that
24 with the Office of Planning.

25 MR. TURNBULL: Now, you're calling -- it's

1 called a rowhouse, but really it's a detached
2 building. You don't really share a party wall with --

3 MR. AGBIM: Yes, we do share party wall on
4 the --

5 MR. TURNBULL: You do?

6 MR. AGBIM: -- south.

7 MR. TURNBULL: Oh, on the south.

8 MR. AGBIM: Yeah. That's the revision, one of
9 the revisions we had to make. There was a three-foot
10 side yard that was existing from the old structure.
11 But after the first presentation we had with the ANC
12 and the neighbors, they didn't like that narrow space
13 in between the two buildings. So, they did recommend
14 that we'll eliminate that side yard on the south side.

15 MR. TURNBULL: Okay.

16 MR. AGBIM: And that's a result of the --

17 MR. TURNBULL: Okay. Okay. All right. Thank
18 you.

19 MR. AGBIM: All right.

20 [Pause.]

21 CHAIRPERSON HEATH: Okay. So, we will
22 definitely need to get revised drawings from you,
23 showing the revisions that you need to make to the
24 penthouse.

25 MR. AGBIM: Yeah, they are being done and

1 we're going to upload those shortly.

2 CHAIRPERSON HEATH: Okay.

3 MR. AGBIM: Yeah.

4 CHAIRPERSON HEATH: All right. And then I'd
5 also like to hear from Office of Planning on this, so
6 if you're okay for us to proceed.

7 MR. AGBIM: Yes, ma'am.

8 CHAIRPERSON HEATH: Hear from them.

9 MR. GYOR: Good afternoon, Madam Chair and
10 members of the Board. Stephen Gyor with the Office of
11 Planning.

12 I've reviewed the revised drawings and we
13 support the application for relief, but we note our
14 concern with the proposed penthouse structure. And as
15 Commissioner Turnbull noted, it would require a one-
16 to-one setback from each side. From the north side
17 because of the -- it's adjacent to an alley. And then
18 the south side is adjacent to that property line.

19 And we'd also support the submission of a
20 letter from that adjacent neighbor on the south side
21 if possible. Thank you.

22 CHAIRPERSON HEATH: Okay. All right. Thank
23 you. Any questions of Office of Planning?

24 [No audible response.]

25 CHAIRPERSON HEATH: Okay. Does the applicant

1 have any questions of Office of Planning?

2 MR. AGBIM: No.

3 CHAIRPERSON HEATH: Okay. We have a letter of
4 approval from ANC 5D and from DDOT. Is anybody here
5 from ANC 5D? No? Okay. Anyone here wishing to speak
6 in support of this application? No support. Anyone
7 wishing to speak in opposition? No opposition? Okay.

8 Then we're going to --

9 [Discussion off the record.]

10 CHAIRPERSON HEATH: So, we're going to
11 conclude the hearing now, unless you have anything
12 else that you'd like to state. We'll conclude and
13 then we will put this on for a decision at a later
14 date once we have your corrected penthouse drawing.
15 You've indicated that you can get that done fairly
16 quickly and get that --

17 MR. AGBIM: Oh no, it's being done now. We
18 should upload it before the end of the day.

19 MS. GLAZER: Madam Chair, I'm sorry to
20 interrupt, but it occurred to me that the ZA referral
21 is -- reflects a different plan before the penthouse
22 was added.

23 CHAIRPERSON HEATH: Okay.

24 MS. GLAZER: And I think that would address
25 Mr. Turnbull's concern if we were to get a new ZA memo

1 that's updated.

2 CHAIRPERSON HEATH: Okay.

3 MS. GLAZER: So, perhaps the Board should
4 consider that before deliberating or closing the
5 record.

6 CHAIRPERSON HEATH: Okay. All right. So,
7 yes, we do need to leave the record open for the
8 letter from the neighbor for the ZA referral memo to
9 be corrected, and for the revised drawing of the
10 penthouse. All right.

11 MR. AGBIM: Great.

12 CHAIRPERSON HEATH: And I don't have a sense
13 of how long it's going to take us to get the new ZA
14 referral letter.

15 MR. MOY: Unless the applicant can add to
16 that, our experience, it's a couple weeks or so.

17 CHAIRPERSON HEATH: Okay.

18 MR. AGBIM: Can I do a self-certification? Is
19 that okay, to do an architect self-certification for
20 this case in lieu of getting the ZA refer, or revised
21 ZA letter?

22 CHAIRPERSON HEATH: Is there any issue with
23 that?

24 MS. GLAZER: There's no legal reason why he
25 can't do a self-certification. However, it's at his

1 own risk.

2 CHAIRPERSON HEATH: Okay. You understand
3 that?

4 MR. AGBIM: I do understand that.

5 CHAIRPERSON HEATH: Okay.

6 MR. AGBIM: I would prefer it, you know, just
7 for the sake of expediency.

8 CHAIRPERSON HEATH: Okay.

9 MR. AGBIM: Because it make the ZA --

10 CHAIRPERSON HEATH: It could.

11 MR. AGBIM: -- a lot, a lot more time to
12 revise the letter.

13 CHAIRPERSON HEATH: It could. Okay. And you
14 just assume that risk.

15 MR. AGBIM: Yes.

16 CHAIRPERSON HEATH: That's fine. So, if you
17 could get that self-cert in to us so we can put this
18 on for --

19 MR. MOY: Well, it sounds like the Board can
20 make a decision next week, the 8th. But I, out of
21 caution, maybe should set it for March the 15th for a
22 decision.

23 CHAIRPERSON HEATH: That's fine. That's fine.
24 You know what our days look like. Okay.

25 MR. MOY: Yes.

1 CHAIRPERSON HEATH: All right. Okay. So
2 March 15th.

3 MR. MOY: March 15th. I'm not going to set a
4 deadline for the filing. I'm assuming that you're
5 going to move expeditiously.

6 MR. AGBIM: Yes.

7 MR. MOY: Thank you.

8 CHAIRPERSON HEATH: Okay. So we'll see you
9 here again on March 15th.

10 MR. AGBIM: Okay. Thank you.

11 CHAIRPERSON HEATH: You can call our next
12 case, Mr. Moy.

13 MR. MOY: Thank you, Madam Chair. That would
14 be Application No. 19141 of Janis C. Gross to the
15 table.

16 Madam Chair, this application was advertised
17 for a special exception relief from the carport
18 requirements under 2300.8, for a detached carport
19 structure in the R-2 District, 4608 Sargent Road
20 Northeast, Square 3916, Lot 8. And I believe that
21 Office of Planning is recommending additional relief,
22 so perhaps the applicant can address that at her
23 opening. Thank you, Madam Chair.

24 CHAIRPERSON HEATH: Okay.

25 MS. GROSS: Good afternoon. My name is Janis

1 Gross. I'm a little nervous. I'm the applicant
2 and --

3 CHAIRPERSON HEATH: That's okay.

4 MS. GROSS: -- homeowner occupant of 4608
5 Sargent Road Northeast --

6 CHAIRPERSON HEATH: Okay.

7 MS. GROSS: -- Washington, D.C. I --

8 CHAIRPERSON HEATH: If you could, before you
9 start.

10 MS. GROSS: Uh-huh.

11 CHAIRPERSON HEATH: We're going to have
12 specific questions for you.

13 MS. GROSS: Okay.

14 CHAIRPERSON HEATH: Before you go into a full
15 presentation.

16 MS. GROSS: All right.

17 CHAIRPERSON HEATH: And the first is going to
18 be if you could clarify the relief that you're
19 requesting.

20 MS. GROSS: Okay. Today I'm seeking relief
21 for a freestanding carport in the rear of my
22 residence, which encompasses two vehicles. And relief
23 for the lot occupancy.

24 CHAIRPERSON HEATH: Okay. So that is 2300.8,
25 carport requirements.

1 Office of Planning was recommending the lot
2 occupancy, so you had a conversation with them about
3 the lot occupancy requirements?

4 MS. GROSS: Yes. Actually, I've been working
5 diligently on this case since 2014, when this started.

6 CHAIRPERSON HEATH: And is the carport -- the
7 carport exists already, correct?

8 MS. GROSS: The carport was erected in 2007.
9 And almost nine years ago. And in 2014, my next-door
10 neighbor who is the opposing person in this case,
11 practically assaulted me and I rather abruptly put up
12 a panel-like fence to separate myself from her.

13 The houses in the 4600 block of Sargent Road
14 where I live, are rowhouses in sets of threes, and I'm
15 in the middle unit. And so there's no side yard that
16 I have.

17 So when I put up this panel fencing that I
18 purchased from Home Depot, my neighbor contacted DCRA
19 and I was cited for the fence, the fencing, and she
20 added on the carport, which had been up seven years at
21 that time.

22 I was able to obtain the permit for the fence
23 rather expeditiously, and but the carport I've been
24 working on back and forth with Mr. Varlin (phonetic)
25 at DCRA, and running back and forth. Initially, it

1 was filed as a special exception. But here lately, I
2 amended that and submitted it as a use.
3 Unfortunately, a lot of these codes and things, I've
4 been listening --

5 CHAIRPERSON HEATH: I understand.

6 MS. GROSS: -- intently all day to try to see
7 how I can get through this.

8 CHAIRPERSON HEATH: One other question for
9 you.

10 MS. GROSS: Uh-huh.

11 CHAIRPERSON HEATH: Did you meet with the ANC?

12 MS. GROSS: Yes. In 2014, I have a resolution
13 in support. I went through the whole process and sent
14 notices out to 29 of my neighbors, all of whom support
15 me. And the one letter of opposition from the next-
16 door neighbor was submitted on the very day that we
17 were initially to have this appointment, December 8th
18 of 2015. So, she waited until that day. But it had
19 already been rescheduled to March 1st.

20 CHAIRPERSON HEATH: Okay.

21 MS. GROSS: So --

22 CHAIRPERSON HEATH: Was that neighbor present
23 at the ANC meeting?

24 MS. GROSS: I don't know her ever to have
25 attended anything in the community, so I don't

1 remember seeing her.

2 CHAIRPERSON HEATH: Okay. All right. But the
3 ANC voted to support?

4 MS. GROSS: Yes. It should be in the record.
5 Uh-huh. I think there's --

6 CHAIRPERSON HEATH: We haven't gotten it yet.

7 MS. GROSS: There are like 35 exhibits.

8 CHAIRPERSON HEATH: Uh-huh.

9 MR. TURNBULL: Have you tried to work out any
10 of the issues that she has with the carport itself?
11 Or --

12 MS. GROSS: Well, we haven't spoken. This
13 neighbor has been there about 15 years. I've lived
14 there about 33 years. And initially, when they moved
15 in, she and a gentleman, and then her young teenage
16 daughter, we were friends for about three years. And
17 for some reason after that, she stopped speaking to
18 me. And I have yet to this day to figure out why.
19 I've done nothing to her. I'm very well thought of in
20 my community.

21 But anyway, in 2014, I was having some
22 painting done at the house and the painters put a tarp
23 on the -- her air conditioner and fence to protect her
24 property from getting splattered. So, I understand,
25 they called me at the office on Friday to tell me that

1 she had come out of the home and threw the tarp back
2 in the yard and cursed the two gentlemen who were
3 working for me.

4 And so then, the next day, Saturday, we were
5 working in the yard. And she came out, and she cursed
6 me in front of the men, my three-year-old grandson.
7 She called me everything except a child of God. So,
8 and she spat into my yard. So shortly thereafter I
9 rather abruptly, and without thinking about permits, I
10 rushed to put this panel fencing up so that my
11 grandson and I could sit in my yard and enjoy
12 ourselves. Just on that one, from that one side.
13 There's just a regular fence on the other side with my
14 other neighbors.

15 So, she waited about four months after that to
16 take me to court, small claims court, and to charge me
17 \$2,000 for some damage. And she lost the case. So
18 that was like four appearances on my part there, to
19 get that resolved.

20 However, so I'm just saying that to say that
21 there's no conversation between us.

22 MR. TURNBULL: But I'm just -- does the -- the
23 carport looks that it has a couple of drains on it.
24 The drains are on your property.

25 MS. GROSS: Yes, they are.

1 MR. TURNBULL: And it looks like they're going
2 toward the alley.

3 MS. GROSS: Yes, they are.

4 MR. TURNBULL: So no water drains from the
5 roof of your structure on to her property. It goes
6 directly to the alley.

7 MS. GROSS: No, the downspouts are set about
8 two feet back into the driveway, and there is a -- we
9 all have curbs, about maybe --

10 MR. TURNBULL: Right.

11 MS. GROSS: -- five or six inches.

12 MR. TURNBULL: I see that in the photographs.

13 MS. GROSS: Oh, okay. You see that. All
14 right.

15 MR. TURNBULL: So, the water drains onto your
16 property and just goes back toward the alley, I
17 would --

18 MS. GROSS: Yes, and the alley slopes --

19 MR. TURNBULL: Okay.

20 MS. GROSS: -- down toward Allison Street as
21 everyone's driveway slopes down that way.

22 MR. TURNBULL: Okay. So, do you also have a
23 light on this garage or the carport? Is there a
24 light?

25 MS. GROSS: I have a light on my porch that

1 shines into the yard, and the neighbor on my left has
2 motion light. And at her edge of her driveway, she
3 has a streetlight. Street lamp, on a pole. There's
4 ample lighting in the alley.

5 MR. TURNBULL: Okay. Okay. All right. I was
6 just trying to figure out her concerns as related to
7 what this carport has done and I --

8 MS. GROSS: Well, she submitted this all over
9 the place letter of opposition, and I submitted my
10 response to --

11 MR. TURNBULL: Right.

12 MS. GROSS: -- each of her allegations.

13 MR. TURNBULL: Yeah. I guess I didn't
14 understand. The carport made the parking area smaller
15 and difficult to park in. But it's on your property,
16 so why would it be more difficult to get into -- I'm
17 just confused by it.

18 MS. GROSS: Well, a lot of this is, as I was
19 explaining, is personal.

20 MR. TURNBULL: Okay.

21 MS. GROSS: And I don't know why.

22 CHAIRPERSON HEATH: Okay.

23 MR. TURNBULL: All right. Thank you.

24 MS. GROSS: All right, sir.

25 CHAIRPERSON HEATH: You submitted an

1 affordability of posting to the file.

2 MS. GROSS: Yes.

3 CHAIRPERSON HEATH: Did you advertise this on
4 your placard as a special exception? Because you
5 initially applied --

6 MS. GROSS: Initial -- it might be. I'd have
7 to look at it. Initially, when I got that placard --
8 let me see what number that is. What number is that,
9 the posting? I'm sorry.

10 [Pause.]

11 MS. GROSS: Oh, here it is. Number 25. Let's
12 see. Twenty-five.

13 [Pause.]

14 MS. GROSS: I had posted that, looks like
15 November 13th. So that would have been at the time
16 for the special exception, I believe.

17 [Pause.]

18 CHAIRPERSON HEATH: Okay. What were you
19 saying? I'm sorry.

20 MS. GROSS: That was posted on November 13th,
21 and that would have been the special exception. And
22 then after talking with DCRA, they said that this
23 really would be a use. So, I submitted this form, 150
24 motion, asking for it to be rescheduled so that I
25 could make the change from special exception to the

1 use.

2 CHAIRPERSON HEATH: To the variance. Okay.

3 MS. GROSS: For the variance. Use variance.
4 I'm sorry.

5 CHAIRPERSON HEATH: All right.

6 MS. GROSS: Yeah.

7 CHAIRPERSON HEATH: Let's talk to Office of
8 Planning about that.

9 MS. GROSS: Okay.

10 CHAIRPERSON HEATH: Because there is some
11 confusion. The ZA referral memo says special
12 exception and your report says variance. So if you
13 could help us clarify?

14 MR. MORDFIN: Good afternoon. I'm Stephen
15 Mordfin with the Office of Planning.

16 And in this case, from what was initially
17 filed, I had several discussions with the Zoning
18 Administrator's office, trying to determine what kind
19 of relief was actually required. And in the end, I
20 was instructed by them that what was necessary was use
21 variance relief, one for lot occupancy because of the
22 increasing lot occupancy from the carport. And the
23 second from 2300.8, because carports are required to
24 be attached to the main dwelling, and this one is not.

25 And in the end, with the Zoning

1 Administrator's office, I concluded that these were
2 the two pieces of relief that were necessary for this
3 application.

4 CHAIRPERSON HEATH: Okay. But we don't have
5 revised letter?

6 MR. MORDFIN: I never received a revised
7 letter. I received a draft one from them, but I
8 didn't get a formal one out of that office.

9 MR. TURNBULL: Yeah, I was going to say,
10 Exhibit 9 -- I mean, Exhibit 8, the original letter
11 from Matt LeGrant, calls for a special exception.

12 MR. MORDFIN: Correct. And I had some
13 questions about that and then we --

14 MR. TURNBULL: Yeah.

15 MR. MORDFIN: -- delved into it more deeply
16 and they revised what they were recommending.

17 MR. TURNBULL: The affidavit of posting was
18 correct in the sense that as per what there originally
19 was requested, it was posted correctly as to what the
20 applicant thought it was supposed to be from the ZA,
21 originally.

22 MR. MORDFIN: Yeah. The ZA's original letter
23 recommended, or directed the applicant to obtain
24 special exception approval.

25 CHAIRPERSON HEATH: But now we're at a

1 variance.

2 MR. MORDFIN: But now we're -- yeah. I was
3 told by them that it should be a variance.

4 [Discussion off the record.]

5 CHAIRPERSON HEATH: This is messy.

6 MS. GROSS: Okay.

7 CHAIRPERSON HEATH: And our typical procedure
8 is that you have to advertise for the specified
9 period, 14 days, in order to allow your neighbors and
10 others in the area to know what you're doing.

11 If you had advertised for a variance, that's a
12 much more difficult requirement to meet.

13 MS. GROSS: Uh-huh.

14 CHAIRPERSON HEATH: And so, if you were
15 changing from a variance to a special exception,
16 lesser degree of relief, we wouldn't require you to
17 repost.

18 But because you're going from a special
19 exception to a variance --

20 MS. GROSS: Right.

21 CHAIRPERSON HEATH: -- we do need you to
22 repost.

23 MS. GROSS: Okay.

24 CHAIRPERSON HEATH: Showing that you are
25 requesting a variance.

1 MS. GROSS: Okay.

2 CHAIRPERSON HEATH: And not a special
3 exception. We have some other work to do to get this
4 cleaned up.

5 MS. GROSS: Okay.

6 CHAIRPERSON HEATH: And you know, we'd like to
7 see if we can get a new ZA referral memo in the file.

8 MR. MORDFIN: I will request one.

9 CHAIRPERSON HEATH: Okay. So that all of the
10 documentation is consistent with the request that you
11 have made for a variance.

12 MS. GROSS: Okay.

13 CHAIRPERSON HEATH: Okay?

14 MS. GROSS: Okay. So we will just then get a
15 continuation date.

16 CHAIRPERSON HEATH: We will. You've learned a
17 lot sitting here today.

18 MS. GROSS: Plus I've been watching the
19 podcast --

20 CHAIRPERSON HEATH: Okay.

21 MS. GROSS: -- from when I talked to Mercedes
22 in the office, she says watch those and you'll get --

23 CHAIRPERSON HEATH: Okay.

24 MS. GROSS: So I've been kind of doing that.
25 So after I got with Mr. Varlin, this last time with my

1 plans to go ahead with this use, their office has yet
2 to submit --

3 CHAIRPERSON HEATH: From who?

4 MS. GROSS: From the -- Mr. LeGrant's office.

5 CHAIRPERSON HEATH: Okay.

6 MS. GROSS: They have to submit --

7 CHAIRPERSON HEATH: They do need to submit.

8 And Mr. Mordfin is going to help us get that letter --

9 MS. GROSS: Uh-huh.

10 CHAIRPERSON HEATH: -- from his office.

11 MS. GROSS: Yeah. I thought that was
12 automatically done by them, but I guess not. Okay.
13 All right.

14 [Discussion off the record.]

15 CHAIRPERSON HEATH: Okay. So it does look
16 like we have a letter from the ANC.

17 [Pause.]

18 CHAIRPERSON HEATH: Special zoning variance.

19 MR. HILL: Yeah, it was item 9.

20 CHAIRPERSON HEATH: Uh-huh. Okay. All right.
21 So we are going to continue this.

22 MS. GROSS: Uh-huh.

23 CHAIRPERSON HEATH: And Office of Planning
24 will work with you to get the letter --

25 MS. GROSS: Okay.

1 CHAIRPERSON HEATH: -- from the Zoning
2 Administrator.

3 MS. GROSS: Uh-huh.

4 CHAIRPERSON HEATH: And you'll need to
5 readvertise as a variance.

6 MS. GROSS: Okay. All right. So, I need to -
7 - well, actually, the office initially gave me two
8 signs. So then I just need to --

9 CHAIRPERSON HEATH: Get those.

10 MS. GROSS: -- fill in the information?

11 CHAIRPERSON HEATH: Right. Yeah. If you go
12 to the office they can help you --

13 MS. GROSS: Okay.

14 CHAIRPERSON HEATH: -- get exactly what you
15 need.

16 MS. GROSS: All right.

17 CHAIRPERSON HEATH: Mr. Moy?

18 MR. MOY: Yes, Madam Chair. I would suggest
19 that while you're here you may want to go across the
20 hall and --

21 MS. GROSS: I will.

22 MR. MOY: -- give your signs now for the -- so
23 when you advertise it for a variance relief. All
24 right?

25 MR. TURNBULL: Well, yeah, and I -- there will

1 be a question about a filing fee.

2 MS. GROSS: Yes.

3 MR. TURNBULL: But I would ask the Director of
4 Office of Zoning for relief since you've already paid
5 for a special exception. It just seems a little
6 unfair to have to pay. I think you are following -- I
7 mean, they're following the standard procedure from
8 the original letter of the ZA, so I would ask for
9 relief from the Director of the Office of Zoning for
10 whatever fee is involved in this because I think it
11 seems a little bit unfair to me to have to pay twice
12 or --

13 MS. GROSS: Yeah. I think Mr. Vargas, is it?
14 Is he in that office?

15 MR. TURNBULL: Yes.

16 MS. GROSS: He did mention that to me on the
17 telephone.

18 MR. TURNBULL: Right.

19 CHAIRPERSON HEATH: Okay.

20 MR. MOY: He is here today, so if you --

21 MS. GROSS: Oh, he is?

22 MR. MOY: Yeah.

23 MS. GROSS: Okay. I'll hold --

24 MR. MOY: After this, if you stop by I'm sure
25 he'll --

1 MS. GROSS: Okay.

2 MR. MOY: -- he'll guide you through the
3 process.

4 MR. TURNBULL: Right.

5 MS. GROSS: Okay.

6 MR. MOY: All right. Or reguide you through
7 the process.

8 MS. GROSS: Okay. All right. So --

9 MR. MOY: So, Madam Chair, so I'm looking at
10 to give the appropriate amount of --

11 CHAIRPERSON HEATH: Posting time?

12 MR. MOY: Notice date, I'm looking at towards
13 the end of April.

14 CHAIRPERSON HEATH: Okay.

15 MR. MOY: So I think just to be on the safe
16 side, we're looking at, if it's okay with you.

17 MS. GROSS: Yeah.

18 MR. MOY: Because I know you're taking the
19 brunt of this.

20 MS. GROSS: Okay.

21 MR. MOY: I think April 26th.

22 MS. GROSS: Twenty-sixth. That's a Tuesday?

23 MR. MOY: That's a Tuesday.

24 MS. GROSS: Okay.

25 MR. MOY: No name on here.

1 MS. GROSS: All right, that's great.

2 CHAIRPERSON HEATH: Thank you.

3 MS. GROSS: Thank you so much.

4 CHAIRPERSON HEATH: Okay.

5 [Pause.]

6 CHAIRPERSON HEATH: Before you all come
7 forward, if you could give us just a couple minutes.
8 We anticipate that this one is going to take a while,
9 and we have one case after you that's probably going
10 to be shorter. So if you all wouldn't mind, if we
11 could take that case and then come back to you all as
12 our last case?

13 Okay. All right. Slight change in order.

14 CHAIRPERSON HEATH: I think we're ready, Mr.
15 Moy, if you want to call 19164?

16 MR. MOY: Yes. Thank you, Madam Chair. To
17 the table, parties to Application No. 19164,
18 Christopher J. Wright. And I believe, Madam Chair,
19 there were multiple variance relief to this
20 application, including I believe an amendment to add
21 special exception relief to height, under Section 400.

22 But again, as we've been doing all day it seems,
23 confirmation from the applicant on the relief that the
24 Board is reviewing.

25 This is property located at 17 U Street

1 Northwest, Square 3117, Lot 3, to construct a three-
2 story flat in an R-4 District, and the -- let me tee
3 this up. What I have before me is a request for
4 variance relief from the maximum number of permitted
5 stories for structure requirements under 400.1. Okay.
6 The lot occupancy requirements under 403.2, rear yard
7 406.1, nonconforming open court, 406.1, nonconforming
8 structure, 2001.3. And I mentioned the special
9 exception from the height under 400.23. And I'm not
10 sure where we are with the rooftop architectural
11 element requirements under 400.24 Sup A.

12 So, that's a start.

13 CHAIRPERSON HEATH: Okay.

14 MR. WRIGHT: That's a start.

15 CHAIRPERSON HEATH: All right. If you could
16 introduce yourselves?

17 MR. WRIGHT: Yes, ma'am. I'm the owner of 17
18 U Street.

19 MR. FULLER: My name is Benjamin Fuller. I'm
20 the designer on the project.

21 CHAIRPERSON HEATH: Okay.

22 MR. WRIGHT: And just to his point, and as
23 I've seen happen all day, in terms of clarifying the
24 relief, I put together a package that will help talk
25 through some of the BZA memo that came back after I

1 met here with you on January 26th of 27th.

2 CHAIRPERSON HEATH: Uh-huh.

3 MR. WRIGHT: Because there will be some
4 changes to that and that will also address OP's
5 issues. Their most major issue.

6 CHAIRPERSON HEATH: Okay.

7 MR. WRIGHT: So I have five or six handouts.

8 CHAIRPERSON HEATH: Okay. You can give them
9 to the board secretary.

10 So I'll certainly obviously take my cues from
11 you. But if you move to page 2, what happened post my
12 time here, in the end of January, we went back to the
13 Zoning Administrator, had them clarify exactly what
14 type of relief was needed. So page 2 lays out exactly
15 what came from the Zoning Administrator memo. That's
16 Exhibit 40 as well, but I just put it in this to make
17 it clear.

18 If we move to the next page, it carries
19 forward the same six variances that were spoken to on
20 the BZA memo, and it denotes those two in the
21 parenthesis.

22 I want to make clear, the one biggest issue,
23 which again will address OP's major concern, is that
24 there was an issue of height measurements initially,
25 because I was originally measuring based off of

1 building code by zoning code, which I was not aware of
2 actually two different heights. But that my house
3 just happens to fall in what is actually a very few
4 number of homes where those differences actually make
5 a substantial difference.

6 So what happened post the BZA memo was I
7 replaced ground. Or my plan is to replace some ground
8 in the front of my home, which was recently removed
9 for some D.C. Water renovations. And in doing so,
10 that replacement of about five inches of soil means
11 that the basement is no longer considered a story. It
12 will be considered a cellar. So for all intents and
13 purposes, the proposed home that I'm talking about is
14 three stories, and then a cellar.

15 So that means, in terms of tangible relief
16 that I'll be seeking, that the number 2 one will not
17 be requested, which is the relief for the number of
18 stories.

19 There are some details underneath and I'd like
20 to talk it through as I get to the burden of proof.
21 But in terms of the red marks in the chart, which
22 differ from the Office of Planning's report and the
23 BZA report, or excuse me, the Zoning Administrator
24 report, the markings in red are what has changed. So,
25 you'll note that the height due to the replacement of

1 five inches of soil is now 36 inch -- or 36 feet
2 proposed, and three stories proposed, meaning no
3 relief is needed for stories under Section 400.

4 MR. TURNBULL: Just one question.

5 MR. WRIGHT: Yes, sir.

6 MR. TURNBULL: When you say, 36 feet proposed,
7 is that really then existing based upon the change in
8 grade?

9 MR. WRIGHT: No, no, existing --

10 MR. TURNBULL: Or are you raising up the
11 building?

12 MR. WRIGHT: Yeah. So the proposal is in fact
13 to raise the building to one foot above the 30-foot,
14 35-foot maximum. The current gable does go to 36
15 feet, but the parallel to ground roofline sits at 34
16 feet with the five inches back.

17 The revised architectural plans in Exhibit 36
18 do show this replacement of soil for the proposal, and
19 the overall height of the structure. And if you have
20 any questions on individual measurements, I can
21 certainly answer questions to that.

22 So the gable was considered by the Zoning
23 Administrator as an architectural embellishment, and
24 therefore not a part of measuring the overall height
25 in feet. So, that the height is currently measured to

1 that parallel roofline, and the proposed addition
2 moves that parallel roofline up to the height of the
3 gable, and then there's an expansion of that third
4 floor.

5 So, in terms of the actual reason why the
6 variances, or excuse me, yeah, the variances needed is
7 due to the lot occupancy which sits above 88 percent
8 right now, and then the open court, the nonconforming
9 open court that I have is a dogleg at the back of the
10 home. If you moved on to page 4 of the handout that
11 was just given to you, you can see the dogleg on the
12 left side. So the proposed is on the left side, the
13 existing is on the right. There's a back porch with a
14 stairwell. That stairwell is proposed to be replaced
15 with a spiral stairwell.

16 This was an issue that is somewhat ongoing
17 with zoning, although because the replacement, that
18 stairwell is meant to be completely replaced, so I
19 actually don't believe that lot occupancy increases
20 will occur. But they have carried forward that that's
21 a lot occupancy increase by putting in a spiral
22 staircase.

23 That increase is .4 percent of the lot
24 occupancy. So just to be clear, is it clear now what
25 exceptions I'm asking for and what variances I'm

1 asking for? Or should I walk through that?

2 CHAIRPERSON HEATH: Maybe, but one of the
3 problems is you've changed your relief since getting
4 your ZA memo, and the ZA referral memo needs to be
5 consistent with what you're asking for. So you're
6 going to need to -- you've changed what you're doing
7 since the ZA reviewed your drawings.

8 MR. WRIGHT: I've changed five inches at the
9 front. The ground plane at the front is five inches
10 higher. Correct, ma'am.

11 CHAIRPERSON HEATH: Okay. So you're going to
12 need to present that. You're going to need to present
13 that to the ZA as a --

14 MR. WRIGHT: I did, and they said that that
15 would in fact be allowable and would change their
16 position on the fourth story. They just didn't have
17 time to produce a new memo and they said that they'd
18 make sure that this memo was produced in time for this
19 hearing. And so that's what I went back to them for.

20 CHAIRPERSON HEATH: Okay.

21 [Discussion off the record.]

22 CHAIRPERSON HEATH: So let me see where OP
23 stands on this because they haven't been in support up
24 to this point.

25 MR. WRIGHT: Well, just out of curiosity, will

1 I have a chance later to speak about the burden of
2 proof, or are you just wanting --

3 CHAIRPERSON HEATH: If we want you to, we'll
4 ask.

5 MR. WRIGHT: Thank you, ma'am.

6 CHAIRPERSON HEATH: All right.

7 MS. FOTHERGILL: Good afternoon. For the
8 record, I'm Anne Fothergill with the Office of
9 Planning.

10 So we just also received this supplemental
11 information and we were aware that the applicant
12 revised their plans. They're in the record. They
13 went from showing the basement at 4-foot-one to
14 something under four-foot, five inches less. And that
15 is what they -- my understanding is that what they
16 want the BZA to consider and they have had
17 conversations with DCRA that the change in grade is
18 allowable. I don't have anything from the Zoning
19 Administrator to that affect.

20 The Zoning Administrator did review this and
21 determined the relief that's in their memo. But I
22 know there have been further conversations with the
23 applicant, and that office. So you know, the main
24 concern for Office of Planning is this issue of
25 stories, and they are not talking about a significant

1 height increase. They do need a special exception for
2 their height. But the main concern is this issue of
3 stories, because the R-4 doesn't allow four stories.

4 So, we wrote our staff report based on the
5 Zoning Administrator's memo.

6 CHAIRPERSON HEATH: So based on this change,
7 does it change your position?

8 MS. FOTHERGILL: I do think that our main
9 concern is about stories and if in fact, you know,
10 there have been other cases before the Commission, the
11 Board even today, they're similar in some ways. So I
12 think if the story issue, variance issue was removed,
13 you know, we might have a different approach, but we
14 didn't evaluate it that way.

15 CHAIRPERSON HEATH: Okay.

16 MR. TURNBULL: What about the height?

17 MS. FOTHERGILL: So the height is a small
18 increase as you -- as the applicant stated, and as you
19 saw, and it's pushed back from the front. So it's not
20 a traditional pop-up that you were discussing earlier.
21 It's basically an expansion of an existing story or
22 attic. That's a little -- that's another, to be
23 determined. The Zoning Administrator did not call it
24 a story, but the space on the top floor would be
25 expanded.

1 And, you know, because they have -- they can't
2 go back, they can't expand out the rear, and this is
3 not a huge expansion at the top, I think that the
4 special exception review for the height, it was
5 reviewed and was supported.

6 MR. TURNBULL: How about the stair issue?

7 MS. FOTHERGILL: So the stair issue, my
8 understanding again, is that the applicant has talked
9 to DCRA about, and it's a question of whether it even
10 needs relief. So, I would defer to the applicant to
11 explain those conversations. But I'd say, the lot
12 occupancy is within, I think, one percent of the
13 change by changing out the stairs.

14 MR. TURNBULL: Well, I mean I guess it really
15 sounds like we need a letter from the ZA with a new
16 position on this to better explain.

17 MS. FOTHERGILL: The applicant was originally
18 self-certified, so I'm not sure if --

19 MR. TURNBULL: Yeah.

20 MS. FOTHERGILL: How that works when you have
21 both.

22 MR. TURNBULL: Right. Okay.

23 CHAIRPERSON HEATH: Are you still submitting
24 as self-certified?

25 MR. WRIGHT: Well, so there was a conversation

1 with Steve Vargas about this because the Office of
2 Zoning did push forward, and I'm very appreciative of
3 how quickly they produced it, but they didn't have the
4 time to, you know, post discussion and have a revision
5 of it before this hearing. So everything, the one
6 change that is obviously the major factor here in
7 terms of the stories, the replacement of that ground,
8 was verbally confirmed is that would in fact change
9 that position. And so, I do not intend to push for a
10 variance on that and I do not want a variance.

11 With regard to the stairwell, in all honesty,
12 I have to apply for a lot occupancy variance here
13 because I'm nonconforming regardless. So that .4
14 percent change will be maintained.

15 So I'm not really at odds or have any desire
16 to change that from the Office of Zoning memo, excuse
17 me. The only thing I want to change from that memo is
18 number 2, and I do not want to request a fourth story
19 because it's not necessary.

20 MR. TURNBULL: Why do you need the extra foot?
21 You really don't show a section through your --

22 MR. WRIGHT: That would be, that would be in
23 the Exhibit 36, in the architectural plans, sir.
24 You're right, it's not in the hand out.

25 MR. TURNBULL: I don't see a section that sort

1 of shows any kind of framing that shows why you need
2 to go up the extra foot explaining --

3 MR. WRIGHT: Let me make sure that I direct
4 your --

5 MR. TURNBULL: All I see is sort of a section
6 through the building, through the courtyard, looking
7 at the sidewall. It's a profile of the building but
8 it doesn't really explain, other than it says new one-
9 hour fire rated framed roof. Refer to structural
10 drawings for detail. New timber framed exterior.

11 I guess I wouldn't mind seeing the details of
12 what you're trying to do up there, to know why you
13 really need to go up the other foot.

14 MR. WRIGHT: So, the --

15 MR. TURNBULL: Why it can't be done using the
16 existing height. What is so dramatic or makes it so
17 different to go up an extra foot?

18 MR. WRIGHT: So, I would just direct you to
19 the existing, the existing at A-11, A-1-11. Excuse
20 me. I think that's page 5 out of 8 in that exhibit.
21 So that's the original. This is the house as it is
22 right now, the profile of it. That area up there,
23 which, and references, you know, whether it's attic or
24 a story currently, regardless, there's some condition
25 space up there, but it's not particular --

1 MR. TURNBULL: But what drawing am I looking
2 for?

3 MR. WRIGHT: It's on Exhibit 36, page 5, which
4 would be A-1-11.

5 MR. TURNBULL: A-1-11.

6 MR. WRIGHT: So you can see, it's obviously,
7 it's from the exterior rather than interior, but
8 that --

9 MR. TURNBULL: Right.

10 MR. WRIGHT: And I have plans here if you
11 wanted to see the interior.

12 MR. TURNBULL: Well, yeah, I do want to see
13 the interior. I think I want it for the record. I
14 want a record copy that shows the interior cut through
15 this.

16 MR. WRIGHT: Sure. Sure. I can certainly do
17 that. I can provide more. I can certainly provide
18 the structural diagrams as well at a future time.
19 That space up there is actually not particularly
20 notable in terms of, you know, interior breaking, or
21 breaking of any of the space. It's pretty much an
22 open attic-like space, although it does have a
23 finished roof in the front portion. Or, excuse me, a
24 finished ceiling in the front portion.

25 However, the steep decline there of that roof

1 obviously inhibits the ability to use much of that
2 space, which is, you know, probably one of the reasons
3 why the Zoning Administrator didn't consider it a full
4 story.

5 So the intended changes are to make sure that
6 -- or to expand the space, as Anne said, you know, I
7 don't have the ability to expand outwards or behind
8 due to lot occupancy issues.

9 MR. TURNBULL: Well, here, I don't want to
10 make this more complicated than what it is. What I'm
11 trying to determine is to try to figure out why you
12 need the extra foot. Would the ceiling be eight feet?
13 Less than eight feet? Are you going for more than
14 that, nine feet? It's a very simple explanation as to
15 what you're trying to do on the interior of this space
16 that dictates you going up a foot.

17 MR. WRIGHT: Sorry, sir. The original right
18 now stands at like seven-foot-seven at the front
19 interior, and what I'd like to do is make sure that
20 they're obviously lifting the ceiling and that entire
21 back is the proposed, and the roofline will have to
22 have a bit of a decline to allow for rainwater.

23 And so, that is why that lift-up occurs to
24 about, to the 36-foot level, is to make sure that
25 there can be a -- if you look at page -- excuse me,

1 page 8. Page 8 of that same plans, you can see the
2 slope for the roofline. Again, allows for drainage.
3 And then it allows for, you know, an existing, or
4 headroom towards the back of the room.

5 MR. TURNBULL: So, let me go back to my
6 question again.

7 MR. WRIGHT: Yes, sir.

8 MR. TURNBULL: If you keep it at 35 feet, why
9 do you need to do that? Do you not have the headroom
10 at a finished ceiling that would be substantial?

11 MR. WRIGHT: I think that the decline -- I
12 think that the decline in the back, and I'll have my
13 designer answer if he has a better answer. I think
14 the decline at the back would make for a headroom of
15 less than -- or somewhere like seven-and-a-half feet
16 if I kept the slope there.

17 MR. TURNBULL: Well, I mean, that's what --
18 that's what we're looking -- I mean, that's what I'm
19 looking for. I didn't mean -- I'm not opposed to the
20 relief in one sense, but I need to know exactly why.
21 I want to know if there's an architectural reason that
22 you're not going to have sufficient height if you keep
23 the top at 35 feet, rather than going to 36. I mean,
24 we're only talking about a foot. I don't want to make
25 a mountain out of a molehill, but I'd just like to

1 have a reasonable explanation drawing that shows why
2 you need to do it.

3 MR. FULLER: Yeah, it's for sufficient head
4 clearance and for a finished ceiling throughout the
5 entire space.

6 MR. TURNBULL: So what would be the finished
7 ceiling height in this building then?

8 MR. FULLER: Finished ceiling on the third-
9 floor, I believe is, it's eight feet.

10 MR. TURNBULL: Eight feet.

11 MR. FULLER: Yes.

12 MR. TURNBULL: Eight feet. And then on them
13 what do you just have, rafters, up there?

14 MR. FULLER: Correct. Rafters and duct work,
15 yes.

16 MR. TURNBULL: Rafters. So how much -- how
17 big are the rafters? Two-by-12s, 2-by-10s?

18 MR. FULLER: I'd have to refer to the
19 structural drawings. They're 2-by-10s.

20 MR. TURNBULL: Two-by-10s, and then you've got
21 the built-up roof on top of that, then?

22 MR. FULLER: Correct.

23 MR. TURNBULL: So there's no additional
24 height. There's no attic space. There's simply
25 ceiling.

1 MR. FULLER: Correct.

2 MR. TURNBULL: Two-by-10s, and that. But you
3 need that in order to get an eight-foot --

4 MR. FULLER: Towards the back of the home for
5 the slope of the roof.

6 MR. TURNBULL: But you're sloping. There must
7 be some space difference as you're going from --

8 MR. FULLER: There's a slight space. I mean,
9 the slope, I believe, is a -- I'd have to check the
10 structural drawings. It's a foot, maybe two, from the
11 front to the back of the home.

12 MR. TURNBULL: Okay. So at the top you have a
13 -- in order to create the slope for drainage going
14 back, you've got a little bit more headroom at the top
15 so it's not -- its ceiling --

16 MR. FULLER: The ceiling remains flat, but
17 yes, the roof structure does tilt. Yes.

18 MR. TURNBULL: Okay. All right. Thank you.

19 MR. WRIGHT: And just to point you in terms of
20 what it would actually look like from the front, which
21 obviously, you know, making sure that we maintain the
22 architectural character, has been some -- a big part
23 of the design. Page 12 of the handout that I just
24 gave you, and it's been in other exhibits. But it
25 shows the overlay of what the plan is. The gable

1 itself, there's no intention of moving that gable.
2 The gable will stay in place, however there's
3 significant amount of restoration that needs to be
4 done to the gable. There's a lot of rusting.

5 You can see that the roofline does not
6 protrude at all. In fact, it still remains below the
7 turrets of the two homes to the side, and as well
8 within the character of similar homes.

9 MR. TURNBULL: I don't recall. Maybe you can
10 refresh my memory. Do you have support from the
11 neighbors on either side of you, or you have letters?

12 MR. WRIGHT: Yes, sir. Both. Both are
13 extremely supportive and are -- would have hoped that
14 this had been done under the previous owner who sold
15 the house to me about a year and three months ago.
16 And then in addition to that I visited the
17 Bloomingdale Civic Association. They voted 16 to one.
18 And then the ANC voted six to zero in favor, and you
19 should have that as one of the exhibits as well.

20 MR. TURNBULL: Okay.

21 MR. WRIGHT: Additionally, I did walk around
22 to, you know, the houses that were all visible from
23 mine, the standard 200 foot, and then I sent out these
24 same overlays that you're looking at here to a number
25 of neighbors that had some concern when the sign went

1 up to make sure that they knew what was happening, and
2 then got explicit positive feedback about how it was
3 nice that this was being done in line with the
4 architectural character of the neighborhood.

5 MR. TURNBULL: And no concerns about the
6 second-floor deck and the stairs going down, and
7 views, people upset. Anybody concerned about a lack
8 of privacy or --

9 MR. WRIGHT: Nobody ever expressed that and
10 like I said, my two neighbors, the two adjacent
11 neighbors who would be most affected by that are well
12 aware of exactly these plans. I mean, just our
13 closeness already means that we're not -- we have some
14 privacy issues, but this does not expand those privacy
15 issues.

16 MR. TURNBULL: Okay.

17 MR. HILL: Is the building vacant now?

18 MR. WRIGHT: Yeah, I'm not living in it yet so
19 it's sitting vacant.

20 MR. HILL: How long has it been vacant?

21 MR. WRIGHT: I've owned it since November of
22 2014. I rented it back for a month, so it's been
23 about a year.

24 And I think to that point, some of the initial
25 issues that were revealed with regard to the roof --

1 so the roof must change. It has to go. There were
2 some significant -- it's a significantly dilapidated
3 home that had decades, probably, of misuse. So much
4 so that even the sewer line was broken, which is why
5 D.C. Water had to do their repairs. I don't even know
6 how long that existed. But you can see in some of the
7 pictures, the level of damage to the home. So,
8 essentially, that's part of the confluence events
9 that's bringing me here to ask for this variance is
10 that the roof will have to be replaced, and there's a
11 significant amount in here, and I included numbers for
12 what increased for roof replacement and the structural
13 issues due to it, and the steel beam that's created,
14 actually, by that court.

15 So that sort of confluence of events means
16 that I'm going to either replace it, a nonconforming
17 roof in the same way it's nonconforming now. Or I can
18 get minimal relief from the zoning regulations to
19 again reflect on this exceptional condition.

20 Additionally, one of the other things that
21 this change allows with that attic before the
22 stairwell between the second and third floor, second
23 and attic floor, was nonconforming. I really don't
24 have the ability to -- nonconforming -- excuse me. I
25 wouldn't be able to rebuild it according to building

1 code. With this sort of expansion I now have some
2 more space to bring up the home to building code as
3 well, which I just would not have if I replace the
4 roof in the same nonconforming way it is now.

5 And there are some pictures on page 7 that
6 reflect that too.

7 CHAIRPERSON HEATH: Okay.

8 MR. HILL: If you could just refresh my
9 memory? It's a single-family home?

10 MR. WRIGHT: It's a single-family home and the
11 intent is to change it into a flat where the basement
12 will be a separate, a separate unit. Not a condo, but
13 a separate space, yeah, that I could rent out. This
14 additional space on the top as well, in terms of sort
15 of the economic return on investment, because it's for
16 us it's been quite long, and I work for the
17 government, I might end up renting that space. And so
18 that additional, you know, 490 or so square feet is
19 likely to pay me back, not only in terms of initial
20 returns if I was to rent it out, but eventually, you
21 know, the sale of the home years down the road. I do
22 intend on living in the home.

23 CHAIRPERSON HEATH: Okay. All right. All
24 right. Any other questions of Office of Planning? I
25 think that's where we left off. Okay.

1 MR. TURNBULL: So, I've just got a question.
2 The basement or the cellar, will be a flat. Level 1
3 is a flat going up to two? No.

4 MR. WRIGHT: To the third story, sir. That
5 first, first through third stories will all be
6 connected, and the cellar will be separate.

7 MR. TURNBULL: Oh, so first through three are
8 one unit.

9 MR. WRIGHT: Yes, sir.

10 MR. TURNBULL: First through three are one
11 unit, so it's basically a two-flat in that sense that
12 there's two own -- to be two.

13 MR. WRIGHT: My understanding is the term flat
14 differentiates between a single-family home and --

15 MR. TURNBULL: Right.

16 MR. WRIGHT: So yes, it will be a flat with
17 two units or two --

18 MR. TURNBULL: Two units.

19 MR. WRIGHT: -- dwelling spaces.

20 MR. TURNBULL: Two dwelling spaces. So the
21 upper third floor will be part of unit two, the --

22 MR. WRIGHT: Correct.

23 MR. TURNBULL: Okay.

24 MR. WRIGHT: Right. There's no intention to
25 change this into an apartment house or separate condos

1 at all.

2 MR. TURNBULL: You'd have to get further
3 approval to do that.

4 MR. WRIGHT: Correct. I'm aware.

5 MR. TURNBULL: Okay. Thank you.

6 CHAIRPERSON HEATH: All right. So we'll keep
7 moving. Let's see. Where were we?

8 So you've met with the ANC, you have their
9 approval.

10 MR. WRIGHT: Yes, ma'am, November of last
11 year.

12 CHAIRPERSON HEATH: And you have that letter
13 in the file. Is there anybody here from ANC 5E? No.
14 Okay.

15 We didn't call for them the last time but I
16 wanted to just acknowledge that this time for the
17 record, and also that we have a letter of no objection
18 from DDOT.

19 Is there anyone here wishing to speak in
20 support of this application? Anyone in support?

21 Anyone in opposition? No opposition? Okay.
22 All right. So I think where we landed is that you are
23 going to need to get the revised ZA referral memo. I
24 think that's where we are still. Correct me if I'm
25 wrong. There has been some question as to whether or

1 not you were self-certifying, or whether you were
2 getting the ZA referral.

3 MR. WRIGHT: Is it possible for me to just to
4 say, I don't want that second part of the ZA referral,
5 and we can proceed today, or -- because I've had that
6 conversation. I just realized it's going to come back
7 and they're going to say the same thing they said to
8 me verbally.

9 CHAIRPERSON HEATH: Right. And so if you're
10 not going to self-certify, and Sherry, correct me if
11 I'm wrong, if he's not going to self-certify he needs
12 the ZA referral memo.

13 MS. GLAZER: The regulations require one or
14 the other.

15 CHAIRPERSON HEATH: Right. Okay.

16 MS. GLAZER: If there's no ZA referral you
17 need to self-certify, and it must be in writing.

18 CHAIRPERSON HEATH: Okay.

19 MR. WRIGHT: And I cannot -- what we're saying
20 is I cannot differ from the ZA referral at all by
21 saying I don't want to request one of the items that
22 they've listed?

23 CHAIRPERSON HEATH: But aren't you saying that
24 you've met with the ZA and they told you that based on
25 the changes that you've made, you don't need the --

1 MR. WRIGHT: Right.

2 CHAIRPERSON HEATH: -- story relief?

3 MR. WRIGHT: Exactly. So I'm saying, I have
4 the ZA referral memo already. I'm just saying, I
5 don't want the second one that they listed. I'm not
6 requesting that relief.

7 CHAIRPERSON HEATH: So the ZA referral memo
8 still lists stories.

9 MR. WRIGHT: Correct.

10 CHAIRPERSON HEATH: Okay. Then, you need the
11 ZA referral memo to be consistent with what you're
12 requesting as your relief.

13 MR. WRIGHT: Okay. Okay.

14 CHAIRPERSON HEATH: All right. So, you can
15 work with Office of Planning and the ZA to get
16 everybody on the same page, but that's going to help
17 us to be able to move forward.

18 MR. WRIGHT: Okay.

19 CHAIRPERSON HEATH: All right? And I assume
20 we can quickly get to that resolution.

21 MS. FOTHERGILL: I don't know exactly the
22 conversations that have transpired, but I think this
23 was originally self-certified, so I don't know if
24 that's an option that the applicant can go back to
25 that. I don't know that the ZA is going to revise a

1 referral memo. That's the sense I got.

2 CHAIRPERSON HEATH: Even seeing the changes
3 made to --

4 MS. FOTHERGILL: I just don't know. I don't
5 know that I can guarantee that we can get one.

6 CHAIRPERSON HEATH: Okay. All right.

7 MR. WRIGHT: I had -- I requested for, you
8 know, a revised one based off of what I put forward,
9 and they pretty much said sort of the same was that,
10 you know, we've put this together and you can go
11 forward with it as you will.

12 CHAIRPERSON HEATH: And you run the risk of --

13 MR. WRIGHT: And I'm willing, I think I
14 recognize the risk and I'm willing to. I am willing
15 to, yes. Because I had the conversation, and I guess
16 I'm confident enough that I finally know what exactly
17 they were measuring as stories and height.

18 CHAIRPERSON HEATH: Okay. I would recommend
19 that we continue the conversation with the Zoning
20 Administrator and with Office of Planning. It's going
21 to be a much cleaner process.

22 You could self-certify. That's your other
23 route, but --

24 MR. WRIGHT: Okay. Yeah. I think I'll
25 probably have to because it sounds like -- like I

1 said, I have a response from them that said that
2 they're not going to be able to do it. So, that still
3 requires me to self-certify and then reapply that to
4 this Board, right?

5 CHAIRPERSON HEATH: It does.

6 MR. WRIGHT: Okay.

7 MR. TURNBULL: Yeah, I mean, the only risk you
8 have is that once you self-certify, and you put down
9 everything that you believe is what you're really
10 asking for, you only run the risk as if you go through
11 the ZA and he's -- and you get --

12 CHAIRPERSON HEATH: He rejects you.

13 MR. TURNBULL: He rejects you. So, that's the
14 only issue, and then the onus, you'll be back here
15 again no matter what. So, but it's up to you. I
16 mean, that's just the risk of self-certify.

17 MR. WRIGHT: Yeah, it's sort of a rock and a
18 hard place.

19 MR. TURNBULL: Right.

20 MR. WRIGHT: I can't get them to give me a
21 revised one. At least not in a timely way. So, I'll
22 self-certify as you guys have suggested, with the
23 notation that I know the risk.

24 CHAIRPERSON HEATH: Yeah, I'm not suggesting
25 it, I'm just saying, that's your option.

1 MR. WRIGHT: I added that last part. Yes,
2 ma'am. I recognize that.

3 MR. HILL: But if you do self-certify and then
4 go through the process, you could possibly get Office
5 of Planning's approval.

6 MR. WRIGHT: Right. Well, I think that you
7 know, just talking it through, the fact that the
8 removal of that fourth story was the largest --

9 MR. HILL: Right. But I mean to say, we'd get
10 a report stating that.

11 MR. WRIGHT: I recognize that. Okay.

12 CHAIRPERSON HEATH: Okay.

13 MS. GLAZER: Madam Chair, I don't want to beat
14 a dead horse but --

15 CHAIRPERSON HEATH: Sure.

16 MS. GLAZER: -- the Board does need revised
17 plans showing that that fourth story is no longer part
18 of the project.

19 CHAIRPERSON HEATH: Sure.

20 MR. WRIGHT: Those are already existent in the
21 latest exhibit, Exhibit 36.

22 MR. TURNBULL: So Exhibit 36 contains all of
23 the current drawings that's been proposed?

24 MR. WRIGHT: It includes a number of the
25 drawings. Like I said, I could add structural

1 drawings. I could add more of the drawings that had
2 been stamped, including HVAC and things like that,
3 including to Commissioner Turnbull. I can include
4 more side views. However, the current uploaded one in
5 Exhibit 36 does in fact include the change in height,
6 which would mean that it's not a fourth story.

7 CHAIRPERSON HEATH: Where you show --

8 MR. TURNBULL: The current drawing, the
9 revised drawing I'm seeing is that -- the existing
10 first floor is four foot, nine inches above grade?

11 MR. WRIGHT: That's the existing one. Yes,
12 sir.

13 MR. TURNBULL: So that's the -- that's what
14 you're hanging your hat on as far as, so it doesn't
15 get counted as a story.

16 MR. WRIGHT: Well, that's existing so I didn't
17 alter that at all because that's true to the current
18 state. What I altered was the proposed, which is A-
19 210 of those plans. It's on seven of eight, and you
20 can see that the alteration and the yard levels there,
21 and that changes to four foot -- excuse me, three foot
22 eight, within the basement, which means that it's a
23 cellar.

24 CHAIRPERSON HEATH: Oh, because yeah, you're
25 showing four foot four.

1 MR. WRIGHT: Correct.

2 CHAIRPERSON HEATH: From the grade to the top
3 of the first floor.

4 MR. WRIGHT: Yeah. And the measurement is
5 actually from the ceiling to grade. So it's actually
6 three foot eight.

7 CHAIRPERSON HEATH: Okay. What you show is to
8 the level 1.

9 MR. WRIGHT: Yeah, is to the -- yeah, because
10 this is again the sort of difference between building
11 code and zoning code.

12 CHAIRPERSON HEATH: Okay. Okay. And to
13 Office of Planning, if he decides to self-certify,
14 would you -- and remove the relief for stories, would
15 you submit a revised --

16 MS. FOTHERGILL: We would submit a revised
17 staff report based on -- I mean, we sort of have to
18 review all of this now. There's new information.
19 This is a tough one for me in the variance test. So,
20 I want to make sure that's clear to everyone that
21 it's --

22 CHAIRPERSON HEATH: Sure.

23 MS. FOTHERGILL: The stories was our major
24 issue.

25 CHAIRPERSON HEATH: Right.

1 MS. FOTHERGILL: But you know, lot occupancy
2 in and of itself is an exceptional situation.

3 CHAIRPERSON HEATH: Okay.

4 MS. FOTHERGILL: In rowhouses around D.C. You
5 know, have it being over in lot occupancy. So there's
6 an uphill there too, to climb.

7 CHAIRPERSON HEATH: Okay.

8 MR. TURNBULL: There's a threshold he has to
9 meet.

10 CHAIRPERSON HEATH: That's right.

11 MR. TURNBULL: To do it.

12 CHAIRPERSON HEATH: Okay. All right. So you
13 can go down the road of self-certifying, but still
14 work with Office of Planning to try to get their
15 support, and we'll look for a revised letter from
16 Office of Planning.

17 MR. WRIGHT: Okay.

18 CHAIRPERSON HEATH: All right?

19 MR. WRIGHT: Then, just I don't know if it
20 matters, but I will plan on self-certifying, so it's
21 mostly a matter -- I can get that done within days,
22 which is a matter of how much time Office of Planning
23 might need.

24 CHAIRPERSON HEATH: Okay. Mr. Moy, if we put
25 this on for either later in March, first of April.

1 MR. MOY: All right. So, I'm looking at --

2 CHAIRPERSON HEATH: When is Commissioner
3 Turnbull back?

4 MR. MOY: He is back -- see, what did I say
5 last time? It was April something. April 12th.

6 CHAIRPERSON HEATH: Okay. Okay. April 12th?
7 All right.

8 MR. MOY: Continued hearing, correct?

9 CHAIRPERSON HEATH: Yes.

10 MR. MOY: Okay.

11 MR. WRIGHT: Just to be clear, there's no
12 chance that that can be sooner than that?

13 CHAIRPERSON HEATH: Likely not. Yeah, we'll
14 have to stick with April 12th.

15 MR. WRIGHT: Okay.

16 CHAIRPERSON HEATH: All right? Thank you.
17 But that will give you sufficient time to hopefully
18 get Office of Planning's support.

19 MR. WRIGHT: Okay. Thank you.

20 CHAIRPERSON HEATH: Thank you. Okay, Mr. Moy,
21 if you call our last case?

22 MR. MOY: Yes, absolutely. That would be -- I
23 remember the name. It's Sidwell Friends. Let me get
24 the rest of the caption. Here we go.

25 Application No. 17703A, as in Alpha, of

1 Sidwell Friends School, advertised and captioned for
2 variance relief from the height requirements under
3 400.9 and the special exception from the private
4 school requirements under Section 206, to increase the
5 size of an existing campus, rather, existing education
6 campus and number of students and staff in the C-2-
7 A/R-1-B District, 3825 Wisconsin Avenue Northwest,
8 Square 1825, Lot 816 and 818.

9 And I believe, Madam Chair, there are two
10 requests for party status in support, or proponents.
11 And there was a late filing from ANC 3F, I believe,
12 that was filed in the official record, late Friday.
13 Exhibit 32, I believe.

14 CHAIRPERSON HEATH: Okay. Thank you, Mr. Moy.
15 Would you all please introduce yourselves? We can
16 start here.

17 MR. FEOLA: Certainly. Thank you. Thank you,
18 Madam Chair. For the record, my name is Phil Feola
19 with the law firm of Goulston and Storrs. Excuse me.
20 I'm here on behalf of Sidwell Friends, the applicant.

21 MR. GARMAN: And Brian Garman, head of school
22 at Sidwell Friends School.

23 MS. PLANK: Margaret Plank, Clerk of the Board
24 of Trustees at Sidwell Friends School.

25 MS. RODRIGUEZ: Susan Rodriguez, partner,

1 Ennead Architects.

2 MS. MILANOVICH: Jami Milanovich with Wells
3 and Associates, the transportation consultant for the
4 project.

5 MR. KARCHA: Stephen Karcha with APM, project
6 and construction manager.

7 MR. AMORUSO: Tom Amoruso, landscape architect
8 with Andropogan Associates.

9 CHAIRPERSON HEATH: Okay. And who are the
10 parties requesting party status? Can you --

11 MR. FEOLA: Madam Chair, as they come up --

12 CHAIRPERSON HEATH: Yes.

13 MR. FEOLA: -- the applicant has a preliminary
14 matter. We are withdrawing our request for the
15 variance for a height variance. So we are only here
16 for a special exception.

17 CHAIRPERSON HEATH: Okay.

18 MS. VIEHE-NAESS: Brenda Viehe-Naess on behalf
19 of the Van Ness Coalition.

20 CHAIRPERSON HEATH: Tell me your name again,
21 please?

22 MS. VITALE: Brenda Viehe-Naess, as it is
23 (simultaneous speech).

24 CHAIRPERSON HEATH: Brenda Viehe-Naess. Okay.

25 MR. DANZIG: Richard Danzig, Springland Farms

1 Community Association.

2 CHAIRPERSON HEATH: All right. And you all
3 aren't completely in opposition to this, but you have
4 some concerns that you want to raise.

5 MS. VITALE: We are very definitely in support
6 of it. The neighbors welcome it. Sidwell has been a
7 good neighbor in the past. We can understand the
8 concerns of parents who want to have all their kids on
9 the same campus.

10 CHAIRPERSON HEATH: I don't know if your mic
11 is on. I think you might be picking up somebody
12 else's.

13 MS. VITALE: Okay. We are completely in
14 support of it, and the neighbors -- Sidwell has been a
15 good neighbor. We have been pleased with them in the
16 past, and yes, we understand how important it is to
17 parents who have children in the upper and middle
18 school, to have their kids on the same campus.

19 My purpose in being here today is one, to
20 support the school, and two to draw your attention to
21 an item in the DDOT report, which was issued on the
22 23rd. It was not before the ANC, and is very
23 important because it has to do with the safety at the
24 intersection of Wisconsin and 37th. I mean, sorry,
25 Wisconsin and Upton Street.

1 And that is, and we can go into it later, but
2 that's one of the reasons we wanted to be sure you
3 were aware of that recommendation and that you support
4 it. We think it's very important to have the BZA's
5 support for that.

6 There is evidence of severe hazards there and
7 a very high crash rate, and so that's what we'd like
8 to ask.

9 We'd also like the opportunity to question the
10 DDOT represent.

11 CHAIRPERSON HEATH: He's here. Okay. All
12 right.

13 MR. DANZIG: And just to clarify, if I can,
14 Madam Chair, there are two different neighborhood
15 associations. There's actually a formal corporation
16 representing the neighbors most immediately adjacent
17 to Sidwell, and I'm here as a member of the board of
18 that group.

19 CHAIRPERSON HEATH: Okay.

20 MR. DANZIG: Chuck Ludlam, the secretary of
21 the group, is also here.

22 CHAIRPERSON HEATH: Okay.

23 MR. DANZIG: And then Brenda, who has just
24 spoken, is representing the point of view of the Van
25 Ness Street group, slightly further away. And we

1 also, as Brenda states, are very supportive of this
2 application and can give you a little bit of
3 background in regard to that in an appropriate moment.

4 And we have a different view on the island and the
5 traffic issue that Brenda mentioned.

6 CHAIRPERSON HEATH: Okay. So, you all are
7 aware that your party status request makes you a party
8 to the case, obviously, but it allows you to present
9 testimony, to cross-examine the applicant, or any
10 witnesses that they put forward. So are you -- and
11 one of the other questions is whether you -- your
12 interests are the same. In other words, what we often
13 do is we combine party requests so that we have one
14 party.

15 MR. DANZIG: Sure.

16 CHAIRPERSON HEATH: If your interests are
17 different then we often will keep you split, but --

18 MR. DANZIG: Right. So I think I can clarify
19 if it's all right with you, Brenda.

20 MS. VIEHE-NAESS: If it's all right, I'd like
21 to have a word.

22 MR. DANZIG: Sure. Our interests are very
23 much aligned and in fact aligned with Sidwell in the
24 main, therefore, I don't think we want to spend the
25 time of this Board on any cross-examination and the

1 like.

2 The only issue that represents a difference
3 between us is the issue that Brenda referred to, the
4 island, our suggestion will be that that's not really
5 germane to the Sidwell matter, but that's something
6 obviously for you to decide. And to the extent you
7 want to consider it germane, then we enter into the
8 dialog over that point.

9 CHAIRPERSON HEATH: Okay.

10 MS. VIEHE-NAESS: I should say that because
11 they view our neighbor as somehow removed from the
12 area that should be of concern, we think we need
13 separate representation in this. They have said, for
14 example, that we should not be allowed to participate
15 because our streets, our residents are not within 200
16 feet. I point out that people on Van Ness have
17 backyards that --

18 CHAIRPERSON HEATH: Who has said that you
19 shouldn't?

20 MS. VIEHE-NAESS: In Mr. Ludlam's petition.

21 CHAIRPERSON HEATH: Okay.

22 MS. VIEHE-NAESS: He has objected to the fact
23 that we even be granted party status. And so, I think
24 that does point out that to the extent there is
25 concern about the concrete barriers at Wisconsin and

1 Upton, that there are different interests on that one
2 limited point and we definitely need your help.
3 That's why we need separate representation.

4 I doubt -- we may have some questions for
5 Sidwell in the course of their application. They will
6 be limited. And that view would not be represented.
7 We have 240 households in our area, and 80 of those
8 are on Van Ness Street alone. These streets are used
9 by parents of Sidwell, and at Hearst, who drive
10 through the area in order to get to the current middle
11 school drop-off point. And that will become the lower
12 school drop-off point.

13 So we definitely have an interest because the
14 traffic, noise, and pollution are a part of it. We
15 have a large number of Hearst parents there, and they
16 want to be represented because many of them walk their
17 kids to school in the morning and then pick them up in
18 the afternoon. Increased traffic, if it's not
19 properly controlled, would represent a hazard to those
20 kids, and we all have a problem with people who run
21 through those stop signs and really are not as
22 attentive to the concerns of small children in that
23 area as they ought to be. So we need separate
24 representation.

25 CHAIRPERSON HEATH: Okay.

1 MR. DANZIG: And we don't object to the notion
2 of proceeding in the way that Brenda has suggested.
3 The question I think is trying to be expeditious for
4 all of us, given the hour, if we could, on the point
5 we all agree on, proceed with respect in your
6 judgement with respect to the Sidwell application,
7 then if you were to conclude that you want to hear the
8 traffic island point, we're happy to engage in it.

9 If you were to conclude that that should be a
10 DDOT matter for another occasion as the ANC has
11 recommended, that would obviously not make that a
12 necessary part of this procedure.

13 MS. VIEHE-NAESS: Yes. And we would object
14 that it should be included because it is always -- it
15 is the DDOT's recommendation and you should give that
16 proper consideration.

17 CHAIRPERSON HEATH: We will hear from DDOT
18 today.

19 MS. VIEHE-NAESS: Thank you.

20 CHAIRPERSON HEATH: We will hear from DDOT
21 today. So, does the Board have any issues with
22 granting them --

23 MR. HILL: Yes. Excuse me, sir. What was
24 your name again?

25 MR. DANZIG: Richard Danzig.

1 MR. HILL: And who do you represent again,
2 sir?

3 MR. DANZIG: The Springland Farms Community
4 Association. FLC.

5 MR. HILL: And that is the community
6 association that Sidwell is in side of?

7 MR. DANZIG: Yeah, well, it is immediately
8 adjacent to Sidwell. That is, Sidwell fronts on 37th
9 Street, which is the first residential part. And also
10 on Upton Street. And the households facing Sidwell
11 there, as well as some households behind them are
12 members of our community association, which is
13 incorporated several years ago to protect the historic
14 values of the area, et cetera.

15 MR. HILL: Okay. Thank you.

16 CHAIRPERSON HEATH: Okay.

17 MR. DANZIG: I should apologize in advance
18 also. I unfortunately have a Pentagon related meeting
19 that I have to be at, at 4:00, so I'll need to leave.
20 But Mr. Ludlam is here from our group as well and
21 he'll participate. Thank you.

22 CHAIRPERSON HEATH: Do you both want to make a
23 presentation?

24 MR. DANZIG: I think my suggestion would be,
25 if Sidwell goes first --

1 CHAIRPERSON HEATH: They would, but --

2 MR. DANZIG: -- and there's agreement on that,
3 yeah.

4 CHAIRPERSON HEATH: Okay.

5 MR. DANZIG: If you want to hear presentations
6 on the island, we are very prepared to do that. If
7 you do not, we will be delighted to go home.

8 CHAIRPERSON HEATH: Okay. All right. We
9 would too.

10 MS. VIEHE-NAESS: Let me -- could I explain?
11 They keep talking as though we're trying to have the
12 entire island removed. And we've discussed this at
13 length with DDOT in the past, and we rely upon their
14 judgment as professionals, engineers, urban planners,
15 and what have you. So what came out in their report
16 was not to have the entire island removed. And I'll
17 show -- I brought you photos so you know what we're
18 talking about because when I first read the DDOT
19 report I said, wait a minute, this looks to me like
20 it's just contradicted itself within the same
21 paragraph.

22 Now that it's been explained to me, and you
23 may need to have it explained to you, I think you'll
24 understand that what we are discussing is far narrower
25 than the Springland Farms Upton Street residents seem

1 to be so intensely concerned about. We are only
2 talking about the diverter, which is one small part of
3 that island.

4 CHAIRPERSON HEATH: Okay.

5 MR. DANZIG: I think that's a good statement.

6 CHAIRPERSON HEATH: Okay. All right. So, we
7 will grant you both party status. We're going to
8 start with the applicant and we'll have them make a
9 presentation. We'll come back to both of you for
10 questions or cross-examination of the applicant.

11 MS. VIEHE-NAESS: Yeah.

12 CHAIRPERSON HEATH: You can come back once --
13 because we have quite a few people here. So once they
14 complete their presentation we can have you come back
15 up.

16 How much time do you all need?

17 MR. FEOLA: Well, our full presentation, we
18 were looking at about 25 minutes.

19 CHAIRPERSON HEATH: Okay. All right.

20 MR. FEOLA: So, if you'd like us to go through
21 it, we would be happy to.

22 CHAIRPERSON HEATH: Okay. It sounds like the
23 biggest concerns here are parking -- or I'm sorry,
24 traffic and safety. So at least the concerns that
25 we've heard from the other parties. And so, I don't

1 know what your full presentation consists of, but if
2 we could focus on those issues that have been brought
3 up, if that allows us to be more abbreviated and not
4 have to spend time on things that really aren't issues
5 here.

6 MR. FEOLA: Excuse me. I think we can do
7 that. I think I'd like to have the architects at
8 least, give a big overview of the site and what we're
9 -- the intersections we're talking about, what 37th
10 and Upton Street means, for example.

11 CHAIRPERSON HEATH: Sure. That's fine.

12 MR. FEOLA: So, just a -- Brian, you want to
13 just --

14 MR. TURNBULL: Okay. Well, I guess the only
15 other -- just before you get started. You said you're
16 not going to be requesting relief for the height
17 variance?

18 MR. FEOLA: That's correct.

19 MR. TURNBULL: So just maybe touch on quickly
20 why you're not, if it's -- where you're not doing it,
21 and why you're not doing it.

22 MR. FEOLA: I can, because it's a legal --
23 excuse me. It is a legal matter. It actually came
24 out of a decision of the Zoning Commission. And I'll
25 look up the case number. How to measure height for

1 institutions. And it was Zoning Commission Case Order
2 No. 11-07A, which was an American University case.

3 MR. TURNBULL: What year was that?

4 MR. FEOLA: I don't have the year, sir.

5 MR. TURNBULL: Okay.

6 MR. FEOLA: But it was, by the 11, it was
7 filed in 2011. I'm not sure when the Commission heard
8 it. But anyway, by the ruling there --

9 MR. TURNBULL: I might have been on that case.
10 I was just curious. I don't remember.

11 MR. FEOLA: The --

12 MR. TURNBULL: You'll refresh my memory,
13 though, I'm sure.

14 MR. FEOLA: So briefly, the way the Commission
15 decided institutional buildings should be measured
16 back from the street line one to one, would obviate
17 the need for a height variance in this location. And
18 if we get to the plans you'll see exactly what I mean.

19 So I'd just like the head of school just to
20 say a few brief words.

21 MR. GARMAN: Thank you for your time today.
22 Thank you to DDOT and also to the Office of Planning,
23 and a special thank you to our neighbors. This has
24 been a highly collaborative process. We want to thank
25 Springland Farms, the Van Ness Coalition, our friends

1 on Tilton Street and also on 38th Street. We held
2 three or four, perhaps five public meetings, and
3 probably as many as 50 meetings individually, and they
4 were very productive meetings, and we feel that we've
5 arrived at a very collaborative solution for the
6 neighborhood.

7 Why have we gone through this process? Brenda
8 has already alluded to the fact that we want to unify
9 our campus. We first began to use a parcel of land on
10 Wisconsin Avenue in 1923, 50 years after we were
11 founded. By 1937, we had moved our entire campus to
12 Wisconsin Avenue. In 1963, we moved the lower school
13 to Bethesda. And as a school that was founded to be a
14 friend's school in the nation's capital, we're very
15 excited about the possibility of moving our school
16 back into one campus and D.C.

17 So that is our goal, and we are grateful for
18 all the time you've invested in hearing our case.

19 MS. RODRIGUEZ: To provide some brief context
20 for this, I'll be referring to the slides. Just that
21 from the outset, the consideration of the immediate
22 neighborhood has been critical. As the potential for
23 expansion to assess the divisional use with the
24 bringing the pink is showing lower school moving to
25 the site. Then the same allocation of outdoor space.

1 MR. FEOLA: Excuse me, Ms. Rodriguez, just
2 explain the boundaries of the site for the Board,
3 please.

4 MS. RODRIGUEZ: Yes. One moment.

5 So to the north you have Upton here. You have
6 Wisconsin, and then 37th here to the east.

7 One thing that's also significant about the
8 site is the dramatic topography. Almost 70 feet from
9 the high point in front of Zartman, the main public
10 entry down to the lower corner at 37th and Upton.

11 Another aspect that has been significant to
12 Sidwell's history to date, really, is to be very aware
13 of the context of a sustainable campus. And so,
14 looking to the watershed, the sewer shed, and the
15 surrounding ecology.

16 So the condition of bringing these two sites
17 together with the Washington home is here, linking
18 these two sites to create a unified campus. But I
19 think important to notice is at this point it's a very
20 steep ridge, and about a 20-foot change in grade.

21 The extent of the project would require some
22 strategic demolition shown here in red, of two
23 buildings on their existing campus and a small portion
24 of the existing Washington home. But underlying that
25 is the really comprehensive adaptive reuse of the

1 Washington home building for the lower school.

2 With that strategic demolition, then the
3 opportunity, I think this diagram shows it, is to have
4 a shared, unified landscape as well as curriculum on
5 one campus, interconnecting sequences. And then here,
6 utilizing an -- rebuilding an existing bridge that
7 connects the Washington home site to a new shared
8 drop-off.

9 As part of the new construction would be
10 adjacent to the new shared landscape centrally
11 located, would be a new campus center. It would
12 reconcile the grades, as you can see in the lower
13 section of the 20 feet, and exist here. And there
14 would be, also a new gymnasium built at the lower
15 school.

16 Working as Brian has mentioned, with the local
17 community, they've been very much a part of the
18 process. So, being aware that there is a fairly dense
19 landscape buffer along at that same intersection of
20 37th and Upton, so really preserving a landscape
21 buffer and maintaining that will be important. But
22 also the consideration of all the landscape as part of
23 the educational framework for the school. And with
24 this addition, it will only increase the network of
25 shared community spaces throughout campus.

1 So now to completely confuse you for a moment,
2 to turn yourselves 180 degrees, the real focus on now
3 here you see that you have Upton and 37th, which is
4 that intersection we've talked about.

5 So this is the Washington home was showing the
6 new gymnasium, and the addition of a new campus center
7 that connects the old and new and unites the campus.

8 Here, Jami Milanovich will go into great
9 detail. But just as the beginning, to understand what
10 was just mentioned, the current service entrance of
11 Washington home will be the consolidated service
12 entrance for the campus, and also at drop-off and
13 pickup, the entrance for the lower school. Then there
14 will be a new shared drop-off and pick up here from
15 Wisconsin. But you'll hear a lot more about that
16 soon.

17 Then the unified campus landscape being
18 specific here, the landscape buffer that will be
19 maintained, new playfields, a new extension of their
20 wetland that was done about 10 years ago. A new
21 center, and then the new drop-off with educational
22 spaces in and throughout the Washington home building.

23 And just some highlights, but I think
24 importantly that this will comply, we'll be seeking
25 LEED Silver certification, and we'll comply with all

1 the local regulatory requirements, and I think there's
2 a long list of aspirations that will be part of our
3 plan. I won't go over them now, but can answer later.

4 In any case, I think what's really important
5 was the strategy for this is about trying to reduce
6 the impact on the site so that the significant portion
7 of this project is the adaptive reuse and renovation
8 of the Washington home building for the lower school.
9 It's a three-story building.

10 And then just a small demolition here of a
11 one-story structure to put the new gymnasium.

12 And then on the existing site, linking
13 Washington home will be, at the new campus center
14 here.

15 Just important, this is to transform the
16 Washington home for these types of activities,
17 assembly spaces, classrooms, and specialty classrooms.

18 To accomplish that, there are a few discreet
19 and strategic moves that we'll be making where if this
20 is the existing elevation of these particular areas,
21 we'll be adding to transform, so there will be more
22 light in the classrooms. We'll be transforming this
23 by adding more glass in those areas.

24 While also there are two courtyards that we'll
25 be enclosing for programmatic space. You can see here

1 in this section, as you come up, this will become the
2 new cafeteria, and then there will be another area
3 here which will become a new gathering space.

4 Exterior, extensive exterior green roofs. And
5 then here a view that shows in yellow, the new
6 construction in blue, the existing building that will
7 be renovated. I think important to note that the
8 gymnasium will be the same height and in line with the
9 existing Washington home building.

10 Now looking from the --

11 MR. HILL: I'm sorry to interrupt you. Just
12 either on that one or wherever you think is -- you
13 could show me where this concrete island is that the
14 party status people are talking about?

15 MS. RODRIGUEZ: I'm going to let Jami go into
16 that.

17 MR. HILL: Okay. Okay.

18 MS. RODRIGUEZ: Because she's really --

19 MR. HILL: Okay. What have you.

20 MS. RODRIGUEZ: -- focused on that.

21 MR. HILL: Just, if you wanted to point it
22 out. Thank you.

23 MS. RODRIGUEZ: It's up here. It's up. It's
24 off the screen.

25 MR. HILL: That's all right. You don't have

1 to do it right now.

2 MS. RODRIGUEZ: Okay. Again, looking from the
3 north, and then the reverse, looking from the south
4 from the new unified landscape and campus center.

5 And then one, also, important conversation
6 with the community has been that transition between
7 the Sidwell's campus and the surrounding neighborhood.

8 And I think at the root of it is Sidwell's concern
9 for the safety and security of the children. So
10 needing a fence that would define the perimeter of the
11 site, and working with Andrew Pogon (phonetic), we've
12 developed a strategy to have a curvilinear fence, and
13 the detail is shown here, as well as at strategic
14 points to allow entry for the community for after-
15 hours use of the campus.

16 And then finally, just a more rendered view of
17 the expansion and of the campus, and I think just
18 important that the Quaker principles will be part of
19 what the architecture will emerge at with porches, and
20 really trying to soften the building with the green
21 roofs.

22 And here are some elevations that show the
23 buildings described. And then this is an elevation of
24 the gymnasium, with a clear story and articulation,
25 also a porch surrounding it.

1 And then one last point is the phasing of the
2 project. That the first phase of the project would be
3 the Washington home site, and the building of the new
4 gymnasium for the lower school. And the second phase
5 would be the demolition of the two buildings here, on
6 the existing campus, and then the new campus center
7 and landscape.

8 Okay, now I'll turn it over to Jami.

9 MS. MILANOVICH: So, just to start, just a
10 very quick summary of the proposal that's before you.
11 The current Wisconsin Avenue campus has a student cap
12 of 850 students. There are 300 students at the
13 Bethesda campus. The request is to increase the cap
14 for the Wisconsin Avenue to 1250 students, which would
15 obviously accommodate the 300 lower school students,
16 plus an additional 100 students across the three
17 divisions.

18 In terms of faculty and staff, the cap at
19 Wisconsin Avenue campus is currently 190. There are
20 50 faculty and staff at Bethesda. The proposal is to
21 increase the faculty staff cap to 260, which would
22 allow the school to accommodate the faculty and staff
23 for the lower school, as well as 20 additional faculty
24 and staff across the three divisions.

25 In terms of parking, there's 328 parking

1 spaces, currently, on the Wisconsin Avenue campus.
2 There are 58 at the Bethesda campus. Our proposal is
3 to increase the parking on the Wisconsin Avenue campus
4 by only 20 spaces. And the reason for that is that
5 there is excess capacity in the current parking garage
6 that can accommodate the faculty and staff for the
7 lower school. And then those 20 additional spaces
8 would be located near the lower school and would be
9 for visitors to the lower school.

10 In terms of the study process, it's been a
11 very extensive process. We started about a year ago
12 to really do some analysis that informed the design
13 that you see before you today. We included extensive
14 data collection at both the lower school campus, as
15 well as the upper and middle school campus on
16 Wisconsin Avenue. And that really allowed us to get a
17 handle on the vehicular trip generation for both
18 campuses so we could understand what the traffic
19 demand would be. Also, to understand the queuing and
20 the parking needs.

21 We scoped the project with DDOT, initially met
22 with them back in September. We had an approved scope
23 in early December. And from that point we really
24 moved forward aggressively with a very comprehensive
25 study that looked at the impacts of the proposed

1 relocation on the surrounding neighborhood.

2 Throughout the process, there's been a very
3 extensive community engagement process, which you've
4 heard about. We've had 13 meetings with various
5 members and groups in the community to discuss just
6 transportation related matters.

7 And so the combination of all of that work
8 was, as I had mentioned, a very comprehensive and
9 extensive traffic study that was submitted as part of
10 our application. And I'll just hit the highlights of
11 that study as I go through my presentation.

12 The study did include 20 intersections
13 surrounding the site, a very extensive study area.
14 Again, scoped and agreed upon with DDOT in terms of
15 that study area.

16 Access and circulation. Before I get into it,
17 Mr. Hill, to address your question, the islands in
18 question are located at the intersection of Wisconsin
19 Avenue and Upton Street, which is this intersection
20 here. And there's really two islands. There is what
21 we call a diverter island that is on Upton Street
22 itself. It's an oval island that prevents left turns
23 from being made into or out of Upton Street. So, it
24 forces everybody to turn right into Upton, or right
25 out of Upton. So, you cannot make that southbound

1 left from Wisconsin Avenue onto Upton.

2 MR. HILL: Those are existing, or they're
3 proposed?

4 MS. MILANOVICH: No, they're existing. They
5 are there today. And you cannot make the left turn
6 from Upton onto Wisconsin Avenue. The second island
7 is actually a median island that's on Upton itself,
8 right in the middle of the street in the centerline.
9 And so what it does is create a very tight area which
10 precludes people from like I said, being able to turn
11 left into Upton Street, or left out of Upton Street.

12 In terms of the existing circulation and
13 access for the school and for the proposed lower
14 school site, today there are two curb cuts. One on
15 Upton Street that serves the parking lot for the
16 Washington home, as well as one on 37th Street. That
17 curb cut serves as a secondary access to the parking,
18 as well as service for the home.

19 The school itself, currently the middle school
20 students are dropped off and picked up on 37th Street
21 along the curb. There is the main drop-off for the
22 upper school in the existing garage, which is accessed
23 at the traffic signal at Rodman Street, at this
24 location. And then there's the secondary drop-off
25 pick up at Sartman (phonetic) Circle.

1 It's really not extensively used. Primarily
2 just for students and after-school activities.

3 I'm sorry, and I should have pointed out the
4 existing service drive for the school is off of
5 Wisconsin Avenue, just on the north side of the garage
6 there.

7 In terms of the proposed -- pretty significant
8 change. This drop-off/pick-up operation that
9 currently happens on 37th Street happens -- Hearst
10 also has their drop-off/pick-up on 37th Street and so
11 in the morning and in the afternoon when Sidwell and
12 Hearst have drop-off/pick-up, 37th Street becomes
13 quite congested.

14 And so our proposal is to remove the drop-
15 off/pick-up from 37th Street, and to move it to the
16 Wisconsin Avenue side of campus, to a new circle that
17 we're creating so that all of that will be removed
18 from the public street and put on the campus itself.
19 And we'll be making use of that existing service drive
20 in order to accomplish that.

21 In terms of the lower school itself, we're
22 continuing to use the existing curb cut at Upton
23 Street, as well as 37th Street. Although I would
24 note, at DDOT's request, we are shifting that curb cut
25 on 37th Street slightly to align better with Tilden

1 Street, which is on the opposite side of 37th Street.

2 MR. HILL: And I just forget. Is that Fannie
3 Mae across the street?

4 MS. MILANOVICH: That is correct.

5 MR. HILL: Okay, thanks.

6 MS. MILANOVICH: Yes.

7 So, looking at the lower school circulation in
8 a little more detail. So, during drop-off/pick-up
9 time it would operate in a one-way fashion. So
10 parents would enter via the curb cut on 37th Street,
11 into a cue where they would wait their turn to enter
12 the circle where they would drop off or pick up their
13 students. They would then exit on to Upton Street via
14 the existing curb cut.

15 When drop-off/pick-up operation is not
16 occurring, this gate would be closed and this curb cut
17 on 37th Street would remain open only for service
18 vehicle traffic during that time.

19 MR. TURNBULL: You're showing -- just a point
20 of clarity. You're showing a double line of cars. So
21 there's --

22 MS. MILANOVICH: Right.

23 MR. TURNBULL: -- two lines that form.

24 MS. MILANOVICH: That's right. We wanted to
25 maximize the stacking for the drop-off/pick-up

1 operation. So we're showing it stacked. And there
2 would be traffic control officers stationed on campus
3 to help manage that flow so that they would alternate
4 at this point. One lane of traffic would be let into
5 the circle, and then when that clears out, the second
6 lane would be let into the circle.

7 MR. TURNBULL: And from a historic standpoint
8 of stacking or drop-off and delivery, how does this 58
9 compare?

10 MS. MILANOVICH: All right. So I mean, it's
11 actually a very significant amount of stacking. They
12 actually have more at the lower -- the lower school in
13 Bethesda works a little bit differently because
14 they're not in a que lane. The parents actually park,
15 and sometimes they park several blocks away or across
16 the street, and they have to physically get out of
17 their cars, walk to the campus, pick up their student,
18 and then walk their student back to their cars. So
19 that process takes a much longer period of time.

20 And so we spent a great deal of time looking
21 at changing the way that operation works to make it
22 more efficient so we can process more cars. And so in
23 the proposed scheme, parents would never leave their
24 car. They would wait in their car in line until it
25 was their turn to pick up their child. So it's a

1 much, much faster process through -- so through the
2 analysis that we did, we showed that 50 -- the 58
3 stacking spaces is more than adequate to accommodate
4 that peak queuing demand.

5 MR. TURNBULL: And I take it there are
6 monitors there to help pick up the -- or organizing
7 all this?

8 MS. MILANOVICH: Yeah, that's correct. So we
9 have a traffic monitor stationed at this location to
10 help manage the flow of traffic, one back here, and
11 then I think there would likely be another one kind of
12 helping to shepherd the students out the door and into
13 the waiting cars.

14 MR. TURNBULL: I have visions of the movie,
15 Mr. Mom, where there's someone out there, "You're
16 doing it wrong." And Michael Keeton shows up and
17 there's -- so, okay. Thank you.

18 MS. MILANOVICH: I mentioned the new circle
19 that we are creating on the Wisconsin Avenue side of
20 campus. Again, taking advantage of that existing
21 service drive. Again, having traffic monitors to help
22 with the flow of traffic. We would be double-stacking
23 cars in this area and then alternating to fill the
24 circle. And in this circle is where the students
25 would be picked up or dropped off. They would then

1 leave the circle and exit out the shared driveway with
2 the post office and Fannie Mae that has a signal at
3 the Wisconsin Avenue intersection.

4 In terms of the trip generation for the site,
5 you can see currently the Wisconsin Avenue campus
6 generates about 1,000 trips during the morning peak
7 hour, about 477 during the afternoon peak hour. When
8 we add the lower school at the Washington home site,
9 we would be adding 335 morning peak hour trips, 251
10 p.m. peak hour trips. The additional 100 students
11 that I mentioned at the beginning of my presentation
12 would generate 127 trips during the morning peak
13 hours, 63 during the afternoon peak hour.

14 But I think what's very important, and a very
15 important part of this project is the school's
16 commitment to a very robust and a very aggressive TDM
17 plan which I'll get into in a minute, that sets the
18 goal of reducing vehicular traffic, existing vehicular
19 traffic by 30 percent, and then that additional 100
20 students that I mentioned, we would actually reduce
21 the traffic associated with those students 100
22 percent.

23 And so you can see with that commitment to the
24 TDM reduction, we actually, in the morning peak hour,
25 would end up about seven percent fewer a.m. peak hour

1 trips than what is there today. And during the
2 afternoon peak hour, we would end up with just seven
3 percent more trips than what is there today. And that
4 equates to, I believe it's 68 fewer trips in the
5 morning peak hour, and I believe 33 or 35 additional
6 trips in the afternoon peak hour.

7 MR. TURNBULL: Can you tell me again how
8 you're doing that, how you're managing to do that?

9 MS. MILANOVICH: Right. So, and I'll get into
10 the details in a minute, but it's a very aggressive
11 TDM program, and we'll have a monitoring plan. And so
12 the commitment is to reduce existing traffic across
13 all three divisions, the lower school, middle school,
14 and upper school by 30 percent. And then in working
15 with the community we committed to once Sidwell adds
16 that extra 100 students, they would agree to maintain
17 those same threshold. So that additional 100 students
18 would not be able to generate any additional vehicular
19 traffic.

20 MR. TURNBULL: Okay.

21 MS. MILANOVICH: And I'll go through the
22 strategies --

23 MR. TURNBULL: Okay.

24 MS. MILANOVICH: -- on how we're going to
25 accomplish that.

1 MR. TURNBULL: Thank you.

2 MS. MILANOVICH: Uh-huh.

3 MR. TURNBULL: I'm curious.

4 MS. MILANOVICH: It's actually a good segue.
5 So we have as I said, a very robust transportation
6 management plan. I think in the almost 13 years that
7 I've been working in the District, this is by far the
8 most significant plan. It includes four components.
9 The first is the demand management side. Again,
10 reducing vehicular traffic. I mentioned the
11 monitoring plan. We wanted to assure the community,
12 assure DDOT, as well as assure the Board that we
13 weren't just saying we were going to reduce traffic,
14 that we would actually have a plan to monitor and
15 report our findings to ensure that that 30 percent
16 reduction is being met.

17 And then we have an operations management
18 component that really deals with more efficiently
19 moving traffic in and out of campus, and on campus. I
20 alluded to it earlier with Mr. Turnbull's questions in
21 terms of how that queuing operation is going to work,
22 and the changes that we're proposing in the way the
23 pick-up operation works, to make it more efficient, to
24 make sure we're processing cars as efficiently as we
25 can.

1 And then of course a loading management plan
2 to make sure that the service and delivery aspect
3 doesn't have any negative impacts on the neighborhood.

4 So I wanted to spend just a minute talking
5 about the TDM plan. Again, a goal of reducing trips
6 by 30 percent, I think important to note that at the
7 request of the community we have agreed that the trip
8 thresholds established at that 30 percent reduction
9 would not change, even when Sidwell increases its
10 enrollment from the current enrollment of 1,150 to the
11 proposed 1,250.

12 In terms of strategies, how we're going to
13 achieve that, I would note that the items that are
14 highlighted in red are items that have been added
15 either at the request of DDOT, or at the request of
16 the community. And then I've got, I think three
17 slides that cover the strategies, which I think shows
18 the commitment of the school and how seriously they
19 take this. But in the interest of time, I'm just
20 going to hit the highlights for you.

21 The school has agreed to a pretty aggressive
22 bussing program. They'll be running a shuttle to the
23 Metro station, a shuttle to Bethesda, and in working
24 with the community, they've identified two other
25 routes. The locations of those to be determined based

1 on the demographics of the students at the time, and
2 where those -- the highest demand for those routes
3 would be, but they've committed to two additional
4 routes in addition to Bethesda and the Metro station.

5 We're doing some carpool incentives and
6 carpool matching. A number of alternative commute
7 incentives and ways to encourage people to take other
8 modes of transportation. Again, the ones in red are
9 what we have added at the request of either DDOT or
10 the community. You see some subsidies for financial
11 aid students, some subsidies for faculty that take
12 transit, and a number of things to encourage bicycling
13 to campus.

14 And then outreach and education, a very
15 important part of the TDM plan, making sure people are
16 aware of the different programs that are available,
17 the different types of transportation that are
18 available. And so the school will be enhancing its
19 website to include a transportation section with
20 relevant information. We've agreed to meet with the
21 community twice a year to address any issues they have
22 related to transportation. We'll be providing a
23 transit screen, and then there's a number of other
24 things that we've agreed to do as well.

25 In terms of the monitoring plan, that will

1 include a determination of the number of trips that
2 are generated by the school to ensure that they're
3 meeting that 30 percent reduction. It will include a
4 queue analysis to make sure the ques are being handled
5 on site at the locations that we've identified, and
6 that they're not spilling out on to the public street
7 and causing any congestion there.

8 Based on the sequencing of the monitoring
9 studies that we've proposed, and I think that DDOT has
10 accepted, and that the community certainly has
11 supported, the school would be required to do at
12 minimum, seven monitoring reports over a six-year
13 period. And obviously would have to do more if the
14 goals weren't met. And they would also have to do
15 more once they increased their enrollment beyond the
16 1,150 that they currently have across the three
17 divisions.

18 The operations management plan, I've already
19 touched on this. Again, you can see the items there.
20 In the interest of time I'll just point out that at
21 the request of the community the school has agreed to
22 employ an off-duty police officer at the intersection
23 of 37th and Upton Street during the -- during
24 Sidwell's drop-off and pick-up periods to help ensure
25 the orderly flow of traffic and the safety at that

1 intersection.

2 And in the loading management plan, scheduled
3 deliveries so that the capacity of the loading
4 facilities is not exceeded, and also to ensure that
5 those deliveries don't coincide with pick-up and drop-
6 off periods. Those are things the school is currently
7 doing, and obviously will continue to do.

8 So in conclusion, with that sort of complete
9 comprehensive package of recommendations that I just
10 went through, the school would have no adverse impact
11 on the surrounding neighborhood. The robust TDM plan,
12 the aggressive monitoring plan and operations
13 management plan, loading management plan, together as
14 I said, those are the most comprehensive package of
15 recommendations that I have seen in the District since
16 I've been working; working here.

17 And then I noted on this slide that there are
18 a number of items that DDOT requested that the school
19 has agreed to do. And you can see those listed there
20 as well.

21 And I think it's worth noting the investment
22 that the school has in implementing these
23 recommendations, it's a fairly significant cost both
24 in terms of capital cost, and then the recurring
25 annual cost that the school incurred to manage the TDM

1 plan and the monitoring plan, and those types of
2 things.

3 MR. FEOLA: Madam Chair, members of the Board,
4 just so you know, the full transportation management
5 plan is marked Exhibit No. 22-C in the record. So it
6 has a lot more detail in it than Jami mentioned.

7 One thing I would like to mention, though,
8 that in agreement with the community and with the ANC,
9 Sidwell has agreed, although the applicant has
10 requested an increase in enrollment of 100 students,
11 it has agreed not to raise that enrollment but in 50
12 student increments, but only after it has passed the
13 test, if you will, the monitoring plan for two
14 consecutive years. So, we'll start out if this
15 application is approved, with 1,150 students, which is
16 the lower school coming to this campus, and not be
17 able to raise the cap unless we have proved to the
18 community and DDOT that we've met the goals of the
19 transportation management plan for two consecutive
20 years.

21 At that time, if we met those goals and those
22 requirements, then we could go up another 100 students.

23 But we wouldn't be able to go another 50 students
24 until we did two more years of consecutive monitoring
25 to show that we met the goals.

1 So the school sort of put its money where its
2 mouth is in terms of making sure that this is --
3 besides the money that's involved in investing in
4 buying the buses and running the buses, and all the
5 whole bevy of transportation management coordinators
6 and transit screens is incentivized to make sure that
7 this works. And so that is it from where I sit and
8 doing these things for 35 years, that's the first time
9 I've seen that kind of commitment, sort of asking for
10 an enrollment increase, but sort of, we're going to
11 prove it to you before we are allowed to go there.

12 So I think that, in very brief time,
13 summarizes the application.

14 CHAIRPERSON HEATH: Okay. Thank you. Board,
15 any questions?

16 MR. TURNBULL: Just one. I guess had -- when
17 you talk about enrollment, and not requesting any
18 further students based upon certain criteria, what
19 would be the maximum enrollment that could happen on
20 this campus, just curious as to where -- what a
21 maximum enrollment might be.

22 MR. FEOLA: The total that we're asking for is
23 1,250.

24 MR. TURNBULL: No, but I mean, you said until
25 in two years, unless we've done -- we could ask for 50

1 more, then we could ask for --

2 MR. FEOLA: Oh, no, no, no, no. I'm sorry.
3 To get to the 1,250.

4 MR. TURNBULL: Oh, to get to the 1,240.

5 MR. FEOLA: Right. I'm sorry if I didn't make
6 that clear.

7 MR. TURNBULL: Oh, okay. All right. I was
8 just curious. So --

9 MR. FEOLA: We are never going to go over
10 1,250, at least, we're not coming back.

11 MR. TURNBULL: Well, that's my question. Is
12 1,250 sort of the ultimate? I mean, it's kind of a
13 leading question here.

14 MR. GARMAN: Well, it's hard to say. You
15 know, we have a commitment to maintaining the school
16 the size that it has some intimacy to it.

17 MR. TURNBULL: Right.

18 MR. GARMAN: And so, people will disagree on
19 where that number is. But right now we are
20 comfortable at the 1,250 mark, with the amount of
21 property and the facilities that we have.

22 MR. TURNBULL: That you have. I was going to
23 say, at some point you get -- given the grounds and
24 the capacity of what the grounds are, and the
25 neighborhood, that it can only take -- there comes a

1 saturation point as to what a campus can actually
2 maintain.

3 MR. GARMAN: That's right. And also in terms
4 of educational quality and --

5 MR. TURNBULL: Right.

6 MR. GARMAN: -- the intimacy of the community.
7 So those are matters that we would consider down the
8 road. But one of the -- we wanted to look forward,
9 you know, 15, 20 years, what we want to expect on this
10 proposed, and we thought that 100 students would meet
11 our needs into the future.

12 MR. TURNBULL: Okay. Thank you.

13 MR. HILL: And even then, that expansion
14 wouldn't come for another four years, right? It's got
15 two years to pass the test, and then another year for
16 a 50 and then another year for a 50.

17 MR. GARMAN: That's the way it's structured,
18 yes. That's what we've agreed to.

19 MR. HILL: Thank you.

20 CHAIRPERSON HEATH: Okay. All right. So at
21 this time the parties in opposition, or parties in
22 support with concerns, can come forward. If you have
23 questions, you can start with questions. If you have
24 any questions of the applicant based on their
25 presentation.

1 MR. DANZIG: And, Madam Chair, the Chairman of
2 the ANC is back in the room. He had to leave but
3 he --

4 CHAIRPERSON HEATH: Oh, okay.

5 MR. DANZIG: So he is a party obviously.

6 CHAIRPERSON HEATH: Okay.

7 MR. NUGENT: I was just going to make a very
8 brief statement and I don't think it's necessary from
9 our standpoint to have questions. And then Brenda
10 will go, and I apologize again, I'm going to leave
11 after this and my colleague --

12 CHAIRPERSON HEATH: Sure.

13 MR. NUGENT: -- Chuck Ludlam will stand in.

14 CHAIRPERSON HEATH: Okay.

15 MR. NUGENT: Just want to emphasize, there's
16 been a recurrent theme here about the discussions with
17 the community. I'm sure that there are a variety of
18 ways in which applicants come to you with degrees of
19 community opposition.

20 In this case, really all the particulars that
21 have been described have been very elaborately in a
22 series of more than a dozen meetings, discussed and
23 negotiated. There was originally an understanding,
24 and an intense focus on aesthetic issues associated
25 with the grounds, potential placement of additional

1 athletic facilities, et cetera. And while I think
2 very commendably found ways -- you've heard about some
3 of them, like the construction of the gym and the
4 construction of the fence, to accommodate the
5 community's concerns.

6 Similarly, there have been extensive
7 discussions about construction and rules of the road
8 and how that would take place, limits on Saturday,
9 work, and things of that kind.

10 The most intense issues have been about
11 traffic, and we were concerned, right directly where
12 you went, Mr. Turnbull, when you said about the
13 queuing. That was, again, a very elaborately
14 discussed thing. Sidwell doubled the amount of time
15 for parents to pick up, so as to increase the queuing
16 possibilities, provided space and allocation and so
17 forth, and we balanced that against the green space we
18 wanted to preserve.

19 So, the reason I go through this is I just
20 would encourage you both to see this as the
21 presentation, not just of the applicant, but of the
22 applicant and the community. And also insofar as
23 others, DDOT or other constituencies have views about
24 this no doubt legitimate, just to recognize that each
25 part of this really was a part of getting the

1 neighborhood to buy in, and the whole is constructed
2 with a certain degree of balance and synergy. There
3 are some collateral issues associated with the
4 installation of raised sidewalks and the like that can
5 be discussed, but I think this is the very core, what
6 you've just heard.

7 And I'll stop with that, if that's sufficient.
8 I'm happy to answer any question you might have, but
9 I suspect that others are more relevant.

10 MR. LUDLAM: There's one thing.

11 CHAIRPERSON HEATH: Make sure your mic is on.

12 MR. LUDLAM: My name is Chuck Ludlam, and I'm
13 the secretary of the Springland Farm Community, LLC.

14 CHAIRPERSON HEATH: Okay.

15 MR. LUDLAM: Which was the immediate neighbors
16 around the project.

17 We are going to achieve in this, a net
18 reduction in traffic impact in the neighborhood, even
19 though we're bringing in 300 students, plus the
20 community. I mean, we already have the Washington
21 home there, so there's traffic associated with that.

22 I mean, I couldn't imagine that that was
23 actually going to be possible when we started this
24 process. But because of it means something that this
25 is a school associated with the Quakers, and it means

1 something that we have the Springland Farm group that
2 was willing to work with them as we had worked with
3 the Hearts School on their expansion. And we are now
4 going to end up with a net reduction, and the current
5 gridlock in the neighborhood, there's currently a
6 gridlock because Hearst and Sidwell are back to back.

7 And so we can't solve the problems at Hearst.
8 They're not coming to the BZA for an application. We
9 don't have any leverage on Hearst. But we have an
10 amazing result here with Sidwell, and we're very
11 pleased to bring you a unanimous ANC resolution, a
12 DDOT report in support, and the immediate neighbors
13 are unanimously in support as well.

14 CHAIRPERSON HEATH: Okay. Thank you.

15 MR. HILL: So, I'm a little confused. I'm
16 sorry. So you both are here in support.

17 MR. DANZIG: Yes.

18 MR. HILL: Complete support?

19 MR. DANZIG: Yes.

20 MR. HILL: So there's no opposition at all?

21 MR. DANZIG: That's right.

22 MR. LUDLAM: Not to the terms of the petition.
23 There are issues that we believe are completely
24 outside the Sidwell petition, outside of the BZA
25 issue, there are issues about traffic in the

1 neighborhood and whatever, that should be left with
2 DDOT. Your jurisdiction -- we're sticking with your
3 jurisdiction. And we could talk about other things.

4 MR. HILL: No, that's okay. No, I appreciate
5 that. I just want to be clear, because I just, you
6 know, normally people aren't coming all this way and
7 spending all this time just to be in support. So I
8 just had to understand because, you know --

9 MR. LUDLAM: Well, we're here because there
10 are other people who are basically opponents to parts
11 of this.

12 MR. HILL: Okay.

13 MS. VIEHE-NAESS: I think that is a
14 mischaracterization of where we stand and I deeply
15 resent it, and I would like to correct some things
16 that Mr. Ludlam has said, both in the fact that we
17 shouldn't be here at all, and just make it very clear
18 to you, we are in support of the school. We are in
19 support of all those items in the resolution to the
20 extent it covers them. But there is one item which
21 was not covered.

22 We knew when we started these negotiations we
23 were never going to agree, so we just took it off the
24 table and spent out time in all those meetings,
25 working with the school.

1 And that's what we've asked you to focus on
2 today. What we are doing is identifying an item
3 raised by DDOT of concern. It was raised. The DDOT
4 report was filed within less than -- or at least we
5 got copies of it. You may have had it earlier. But
6 it was filed within a half hour of the time that the
7 ANC meeting was held, so there was no opportunity for
8 the ANC to look at that to see what DDOT's
9 professional recommendations are.

10 So to be clear, we are completely in support
11 of the school and the move, and particularly the
12 traffic reductions which are important to everyone in
13 the neighborhood, and which were the majority of the
14 focus. But there is one last remaining item which
15 requires your attention, and we would appreciate your
16 support for DDOT's recommendation.

17 CHAIRPERSON HEATH: Okay. Thank you.

18 MS. VIEHE-NAESS: Do I get to ask any
19 questions?

20 CHAIRPERSON HEATH: You can, yes.

21 MS. VIEHE-NAESS: There are really two issues
22 involving this little diverter.

23 CHAIRPERSON HEATH: Questions for the
24 applicant.

25 MS. VIEHE-NAESS: Yes.

1 CHAIRPERSON HEATH: Yes. Okay.

2 MS. VIEHE-NAESS: And they are. But I think
3 it might help you understand why I ask the question if
4 I explain what the two questions are that are related
5 to the diverter.

6 The first is, who should do it? Is it really
7 something that since DDOT has recommended is customary
8 in a large development case like this, is it something
9 that should be done by the city? Is it something that
10 should be done by Sidwell Friends School.

11 There was nothing in the resolution. It was
12 omitted from the resolution because of Sidwell's
13 reluctance to pay for this small item. And Sidwell
14 has been very clear, if you have time to read all of
15 the CTR, that they take no position on that. If you'd
16 like for me to ask that as a question rather than a
17 statement, I'll be happy to do it. But they take no
18 position on the channels.

19 CHAIRPERSON HEATH: You need to ask a
20 question.

21 MS. VIEHE-NAESS: The various. All right.

22 Mr. Garman, what is Sidwell's position on
23 removal of the concrete barriers at Wisconsin and
24 Upton?

25 MR. GARMAN: We're neutral on that, on that

1 matter. We have no opinion.

2 MS. VIEHE-NAESS: Thank you. And so it was
3 never really involved in the negotiations with the
4 school. That's where they stand.

5 The first question is, are they neutral. You
6 know, is this a proper thing that should be done as
7 part of that? And if it's decided by DDOT in their
8 recommendation that it should be done, who should pay
9 for it?

10 And so those are the two questions we need to
11 address, and in the form of gathering evidence. I
12 have another question for Mr. Garman.

13 How much is the school paying for that site,
14 the Washington home? It's a matter of public record.

15 MR. GARMAN: Thirty-two and a half million
16 dollars.

17 MS. VIEHE-NAESS: Okay. And there are going
18 to be some related fees for architects, landscape
19 architects. Would it be fair to say that you're 35
20 million?

21 MR. GARMAN: Yes, I'm sure that that would --

22 MS. VIEHE-NAESS: That's all we need to ask at
23 this time.

24 CHAIRPERSON HEATH: Okay. And that concludes
25 your statement?

1 MS. VIEHE-NAESS: That's not a statement,
2 those are questions.

3 CHAIRPERSON HEATH: Well, you had a statement
4 prior to that.

5 MS. VIEHE-NAESS: We have a closing statement.

6 CHAIRPERSON HEATH: And you, as a party, you
7 are able to make a statement so I just wanted to make
8 sure that was your --

9 MS. VIEHE-NAESS: I have been making
10 statements to try to explain where we are.

11 CHAIRPERSON HEATH: It's a point of
12 technicality.

13 MS. VIEHE-NAESS: Yes.

14 CHAIRPERSON HEATH: So I just want to make
15 sure that you had your opportunity as a party to this
16 case to make --

17 MS. VIEHE-NAESS: That was not my statement.
18 I have a three-minute statement at the close.

19 CHAIRPERSON HEATH: Okay.

20 MS. VIEHE-NAESS: Which is where I understood
21 we should make them.

22 CHAIRPERSON HEATH: You don't have to wait
23 until close. We typically --

24 MS. VIEHE-NAESS: That's okay.

25 CHAIRPERSON HEATH: -- call parties --

1 MS. VIEHE-NAESS: I think you're getting where
2 we're going.

3 CHAIRPERSON HEATH: So, if you want to wait
4 until close, that's fine.

5 MS. VIEHE-NAESS: Thank you.

6 CHAIRPERSON HEATH: All right.

7 MR. LUDLAM: I just had one thing. I have not
8 begun to debate the whole question of the traffic
9 calming measures that we negotiated with DDOT from
10 2003 to 2008. It was a five-year process. I do not
11 think it is useful to relitigate that process here in
12 any element. The DDOT report does not reach a
13 conclusion regarding the traffic diverter. It says
14 that they're starting a safety review.

15 That's DDOT's process. We're already engaged
16 in that process. It's up to DDOT. It is not relevant
17 to the petition, which is the issue here.

18 CHAIRPERSON HEATH: Okay. Thank you. All
19 right. So then if the Board doesn't have any other
20 questions, we will -- I'd like to hear from Office of
21 Planning, and then from Department of Transportation.

22 MS. THOMAS: Yes, Madam Chair. I'll be brief.
23 The applicant presented its case before the Board.
24 We are in support of this request to expand the campus
25 to its staff and students, and we're highly supportive

1 of the transportation management plan they have
2 initiated, in cooperation with the community and DDOT.
3 So, with that, any of the differences we would
4 support DDOT in their recommendations and leave that
5 discussion to DDOT. Thank you.

6 CHAIRPERSON HEATH: Okay. Thank you.

7 Does the applicant have any questions of
8 Office of Planning?

9 MR. FEOLA: No, ma'am.

10 CHAIRPERSON HEATH: Okay.

11 MR. FEOLA: You have questions of Office of
12 Planning?

13 MS. VIEHE-NAESS: No, thank you.

14 CHAIRPERSON HEATH: All right. So then I
15 think -- okay. All right. So now -- oh. Okay.

16 MR. NUGENT: I don't have any questions for
17 Office of Planning if that was your --

18 CHAIRPERSON HEATH: Okay. All right. We'll
19 come back to you.

20 MR. WESTROM: All right. Good afternoon, Ryan
21 Westrom for DDOT. And as we've heard already,
22 obviously transportation is central to this
23 conversation, and first I just want to laude the
24 applicant. I think that they have worked in a very
25 comprehensive fashion and very closely with us. I

1 think that it has -- there has been a lot of back and
2 forth and I have appreciated their efforts on the part
3 of their entire team. I think that we've made a lot
4 of progress and we've been able to get to a
5 transportation management plan or subset of plans that
6 is very reasonable.

7 That said, we do have some additional elements
8 that we believe are necessary in order to be able to
9 support this particular action. And I think that, and
10 ultimately maybe it does make sense to walk through
11 things one-by-one if you guys would so desire. But I
12 think it kind of boils down to kind of four elements,
13 four areas that we see as necessary in order for this
14 overall transportation management plan to be
15 successful.

16 First, that we need to verify that traffic
17 impacts are mitigated. Any traffic impacts that would
18 be a result of this.

19 Two, we want to ensure that there is an
20 environment conducive to nonauto transportation. And
21 so that we can support that -- those set of modes that
22 would remove people from vehicles.

23 Third, we want to identify an appropriate TDM
24 program, and then fourth, part and parcel with that,
25 there needs to be an effective and comprehensive

1 performance monitoring program.

2 And within our report, in the mitigation
3 section, we have identified specific elements that
4 speak to most of these areas. And we think they speak
5 also to, as was noted by the architect, the goal of
6 the school to be a very sustainable campus, and a
7 campus that goes above and beyond in terms of its
8 sustainability and environmental responsibility.

9 With that, I would close, and I think open it
10 up to questions or you can provide direction if you
11 would like to walk through the specific mitigations
12 that we have.

13 MR. TURNBULL: I just had a -- and thank you
14 for your report. You mentioned four areas. In Ms.
15 Milanovich's presentation, she mentioned that all the
16 items that they're complying with Department of
17 Transportation. What items are not? I guess I --

18 MR. WESTROM: Sure. Yeah, it can certainly
19 help.

20 So in regards to the first, the traffic
21 impacts, they've proposed a reduction in vehicular
22 trips, essentially based on the success of their TDM
23 program. And if the TDM program is successful, that
24 absolutely would serve to mitigate the brunt of the
25 traffic impacts from a vehicular perspective. And

1 obviously that then points to the importance of that
2 TDM program. So the TDM program needs to be
3 completely robust and so there is one specific element
4 that we would like to see added to the TDM program,
5 and that would be, we would like to see that the
6 school pay for transit trips for students who desire
7 to take transit trips.

8 We would note that D.C. public schools provide
9 free transit for all students. And we think that
10 that's a fair expectation for a private school to
11 provide similarly. In this case, we're not asking
12 that the school provide free transit for every student
13 who is in enrollment. We are asking for transit just
14 for those students who would desire to do so.

15 So if a student, for instance, decided to ride
16 the school bus that they are providing, they don't
17 need to pay for that student to take transit. And we
18 believe there are administrative ways in which they
19 can do that.

20 And with that inclusion we think --

21 MR. TURNBULL: If they're being picked up by
22 parents, they're carpooling --

23 MR. WESTROM: None of those students would --

24 MR. TURNBULL: Right.

25 MR. WESTROM: -- necessarily need to have.

1 But we would certainly want to encourage transit
2 trips, and we believe that that would be very
3 effectual money spent in order to ensure that these
4 students were not coming in a vehicle. And so with
5 that, I think the TDM program would be complete.

6 The performance monitoring plan, we are very
7 happy with it. I think that Jami's classification of
8 this as one of the more robust she's seen is
9 appropriate. And I think that with this performance
10 monitoring, and with -- and I would highlight the very
11 last bullet in the performance monitoring plan, where
12 there is a willingness on the part of the applicant to
13 make modifications and to tweak, if there are TDM
14 program elements that are not successful as a result
15 of the performance monitoring, that that willingness,
16 you know, then, allows there to be a feedback cycle
17 through which again, we can provide an effective
18 result.

19 And then that of course leaves the second item
20 identified to provide an environment conducive to
21 nonvehicular transportation. And I can point to
22 essentially the rest of the elements in our
23 mitigations are that. And there's two entrances on
24 Wisconsin, the intersection of Wisconsin and Upton,
25 and the intersection of 37th and Upton, that we do

1 identify specific improvements to that we feel would
2 be appropriate for the school to provide, and are
3 necessary to ensure that we do have that environment
4 with this magnitude of school children present.

5 MR. TURNBULL: Basically a physical change,
6 you're talking about. Physical changes to the drive,
7 the entrance, or --

8 MR. WESTROM: Correct. We would categorize
9 them as relatively minor modifications to these
10 particular locations.

11 MR. TURNBULL: Okay. One thing that came up,
12 and reference was made to your report. You've been
13 here all day too, so --

14 MR. WESTROM: That is correct.

15 MR. TURNBULL: I guess it's on page 15 of your
16 report. I think it's Exhibit 23. The intersection
17 with the most incident, Wisconsin/Upton intersection.
18 Due to this incidence, DDOT will continue to assess
19 operations at this, then you go on.

20 MR. WESTROM: Yeah.

21 MR. TURNBULL: So you're not basically saying
22 anything that the applicant has to do, it's just,
23 you're assessing and monitoring, you're looking at
24 this?

25 MR. WESTROM: Yes, so this is obviously, I

1 think this is the crux of perhaps the interest in the
2 community.

3 MR. TURNBULL: Right.

4 MR. WESTROM: And we recognize that no matter
5 what, part of this community is on one side of the
6 issue, and part of this community is on the other side
7 of the issue.

8 MR. TURNBULL: Right.

9 MR. WESTROM: And our interest in it is in
10 providing the safest and most effective transportation
11 network, and this intersection is obviously part of
12 that.

13 At this intersection there is, it seems, a
14 safety problem. And this particular intersection was
15 identified as part of our HSIP intersections, so
16 Highway Safety Improvement Program, which flags and
17 raises to the top, specific intersections that have
18 the most problematic crash rates.

19 And you can see in the table, figure 6, that
20 this intersection actually, although it doesn't carry
21 nearly as much traffic as a couple of the other
22 intersections, has the most number of crashes. And it
23 points to there being a potential problem there.

24 And as part of that, and because we've
25 identified that issue, we are, and this would be, as

1 with all of our other HSIP intersections, we are in
2 the process of ongoing safety evaluation for this
3 intersection. We anticipate that out of that
4 evaluation there will be specific results. And
5 essentially what we have asked is that the school
6 commit to implementing the results from that study as
7 we complete it.

8 MR. TURNBULL: Okay.

9 MR. WESTROM: And specifically, it is very
10 much worth noting that the removal of the diverter is
11 a possible outcome from that study.

12 MR. TURNBULL: But we're not looking at -- I
13 mean, so right now, it's basically an analysis. You
14 need to look at it, go through it. There's nothing
15 you can point to the applicant and say, we recommend
16 this. This is something you need to study a little
17 bit more and really analyze how the traffic is
18 flowing, how it goes through, and what would make
19 sense in the long run to ensure that the safety of
20 that intersection is better.

21 That being said, we're not looking at major
22 costs involved in this, I don't think. Are we? Or,
23 could be.

24 MR. WESTROM: It's hard to know for sure. And
25 it is too early to speak to the specifics of exactly

1 what we would want to implement.

2 MR. TURNBULL: Right.

3 MR. WESTROM: Again, I think that we are
4 seeking a commitment from the applicant because the
5 safety at this particular intersection is so important
6 to all of the vehicles traversing to and from the
7 school, from the north, and all of the people who are
8 walking to and from, from the north, that they do
9 commit to implementing the recommendations that we
10 have.

11 In terms of the magnitude of them, it could
12 range from relatively minor if it were, for instance,
13 just the removal of the diverter island to something
14 that's more substantial, such as signal modifications
15 or a replacement of signal hardware.

16 MR. TURNBULL: Okay. All right. Thank you.

17 CHAIRPERSON HEATH: You had a question.

18 MR. HILL: And so I was -- just to be clear,
19 it sounds like there's only two places where you guys
20 are in -- not on the same page, I guess. I don't
21 know. Is the adding cards for transportation or some
22 way for you know, Metro bus, subway, what have you,
23 for students that are interested in using that. And
24 then the other is that a commitment from the applicant
25 that after the HSIP study comes back, a commitment to

1 resolve that, or implement the recommendations. Those
2 are the only two things? I missed one --

3 MR. WESTROM: There are a few more, and
4 perhaps it would be helpful if you could flip back to
5 the slide that shows the site circulation. Maybe it
6 would be helpful to just walk through them kind of
7 individually.

8 And so there are two entrances on Wisconsin.
9 The one at Rodman, and then the one north of, or
10 adjacent to the post office, that are currently
11 signalized. So that intersection and then the Rodman
12 one to the south is also signalized. And so,
13 essentially, you have three signalized intersections
14 in a row counting the Upton one.

15 MR. HILL: Right.

16 MR. WESTROM: That we believe there are minor
17 modifications necessary. We've identified, in our
18 first bullet on page 3, the specific things that we
19 would like to see installed at the Rodman, and then
20 the north Sidwell post office entrance. And these are
21 to improve the pedestrian accommodations at these
22 intersections where it is currently substandard.

23 And then at the Wisconsin and Upton
24 intersection we've just discussed, essentially we
25 anticipate in the near term, the results of a safety

1 study that will point us to very specific
2 implementations that will improve the safety at that
3 intersection.

4 And then additionally, as has already been
5 noted, the 37th and Upton intersection at the
6 northeast corner of the campus, if you will, is also a
7 location where we would like to see some safety
8 improvements implemented. Specifically, we would like
9 to see a change in the pavement grade for vehicles.
10 And so that could come in the form of a raised
11 intersection, or a raised crosswalk.

12 MR. HILL: And this would all come out,
13 though, of the same study.

14 MR. WESTROM: Well, so that, the 37th and
15 Upton solution probably happens in conjunction with
16 the Wisconsin and Upton. And so for instance, if you
17 do remove the diverter, there is an interest in
18 calming the traffic on Upton. And so you would
19 implement a raised crosswalk or raised intersection to
20 match that.

21 MR. HILL: Okay.

22 MR. WESTROM: All of those components
23 together, we believe, would serve to improve the
24 physical infrastructure surrounding the school, such
25 that we can provide the safest possible environment,

1 and an environment completely conducive to anybody who
2 wants to approach the school in a nonvehicular
3 fashion.

4 And then the other element, which is not
5 related to all of these physical improvements, is of
6 course the transit subsidy that we discussed.

7 MR. HILL: Okay, thank you.

8 MR. TURNBULL: One of your options is, or one
9 of your other was that pay for transit card for any
10 student that wanted one, which I'm not sure if the
11 applicant would go along with.

12 Would there be a number instead of that, a
13 finite number that you might say would be at least
14 worthwhile to --

15 MR. WESTROM: Yeah, absolutely. Anything is
16 better than nothing. We've discussed this, you know,
17 in-house and I think that we understand the
18 applicant's concern in terms of the overall cost of
19 some of these things, and DDOT would be amenable to
20 some sort of cap in terms of the number of free
21 transit rides that might be provided. That's
22 something we would be open to discussing. I do
23 believe that the number of transit trips that are
24 currently taken is relatively minimal. I think
25 that --

1 MR. TURNBULL: Okay.

2 MR. WESTROM: -- that is, you know, the cap
3 would need to be significantly more than the existing
4 number.

5 And likewise, perhaps, with the physical
6 improvements there could be a similar concept that
7 could be discussed if the applicant is feeling like it
8 is too open-ended at this juncture.

9 CHAIRPERSON HEATH: Yeah. Right. Yeah, where
10 does the applicant stand on --

11 MR. HILL: Yeah, and all the issues that DDOT
12 just -- and really, this is getting down right here so
13 we can move along here, what do you not agree with,
14 with DDOT?

15 MR. FEOLA: Well, we were going to do it in
16 the rebuttal. We can do it now if you'd like.

17 CHAIRPERSON HEATH: Sure. You can do it now.

18 MR. FEOLA: Let me just say, I think what Mr.
19 Westrom said is almost like a mutual admiration
20 society here. The neighbors, the -- but in all
21 honestly, I've been doing this for a long time and
22 this was the most comprehensive Department of
23 Transportation analysis and report done. And if Mr.
24 Zimbabwe is watching on the video, he should know that
25 he's got a very good staffer that's taking care of him

1 and his policies, because it was a great job.

2 However, we do have some -- and we don't
3 disagree, by the way, as Ms. Milanovich said, with
4 many of the things that Mr. Westrom and DDOT has
5 recommended. I think we disagree with who should pay
6 for them and how much.

7 For example, as Mr. Westrom just pointed out,
8 they suspect there is a safety issue on Wisconsin and
9 Upton because of the diverter or not because of the
10 diverter, I don't really know. But if that's the
11 case, that's an existing condition. Has nothing to do
12 with the 300 kids that were before you today asking
13 for. Right?

14 It seems to me, that's a public responsibility
15 to fix, not some applicant who just happens to come
16 along in time so that the city should pay for it.

17 Having said that, I'll let Ms. Milanovich kind
18 of go through our position on these. But I think, by
19 the way, I think they did a great job on trying to put
20 the whole picture together.

21 CHAIRPERSON HEATH: All right.

22 MS. MILANOVICH: So, as I had mentioned in my
23 presentation, we have proposed, and the school is
24 committed to a very comprehensive recommendation
25 package. And based on our analysis, and I mean, you

1 can see our study here, it's one of the biggest that
2 I've ever done, so there were a lot of analysis that
3 went into this.

4 Based on our analysis, we believe that that
5 recommendation package, you can see it on the screen
6 before you now, fully mitigates the impact of the
7 school. And I would note that that set of
8 recommendations includes 14 of DDOT's requests.

9 And so, having said that, we did look at those
10 additional items in the DDOT's report, in conjunction
11 with the school, to examine whether those were
12 feasible or appropriate for the school to implement.
13 And I'll just take just a few minutes to walk through
14 those.

15 The first request was to implement
16 recommendations from their safety study at the
17 intersection of Wisconsin and Upton. Our obvious
18 first concern with that is, we don't know what those
19 recommendations are going to be, and we can't commit
20 to an unknown. They did indicate in their report that
21 one of the potential recommendations from that study
22 might be to remove the diverter island at the
23 intersection of Wisconsin and Upton.

24 As you've heard, it is very controversial
25 within the neighborhood. You know, we had extensive

1 meetings with the neighborhood and it became very
2 clear to us early on in meeting with the neighbors,
3 that we were going to have to look for other ways to
4 accommodate and mitigate Sidwell's traffic because of
5 the controversial nature of that.

6 And so, honestly, at the time we went back to
7 the drawing board and really looked at, what can we do
8 to make sure that we have efficiently accommodated
9 Sidwell's traffic and we have completely mitigated
10 their impact, and what came out of that was the
11 agreement to move the pick-up/drop-off operation from
12 37th Street on to campus on the Wisconsin Avenue side
13 of Campus, which helps alleviate the congestion on
14 37th Street, and that commitment, along with the
15 commitment to reduce vehicular volumes by 30 percent,
16 reduces the volume of traffic, the volume of Sidwell
17 traffic on the neighborhood streets.

18 And so we believe that the recommendations put
19 forth fully mitigate the impact of Sidwell, and we've
20 been able to accommodate our traffic without having to
21 remove the diverter at that location.

22 If DDOT's study determines that it should be
23 removed, we're not opposed to that. We just don't
24 think that it should be the burden of the school to
25 fix what is an existing deficiency.

1 Likewise, they mentioned that one of the
2 recommendations that may come out of the study is to
3 install raised crosswalks, or a raised intersection at
4 37th Street and Upton, and you can see that. It's
5 labeled as intersection 2 on the slide that's up.

6 To the extent that removal of the diverter at
7 Wisconsin Avenue might encourage cut through traffic
8 or speeding traffic on Upton Street, we view that as
9 an impact that's not created by Sidwell. As I
10 mentioned, Sidwell has agreed to employ an off-duty
11 police officer at that intersection during their
12 morning drop-off and afternoon pick-up periods, which
13 we believe again, mitigates their impact and addresses
14 any concerns related to additional school traffic that
15 Sidwell is generating.

16 One of the other requests that they had was
17 for the school to install a piece of missing sidewalk.
18 And this is located, thank you, on the west side of
19 37th Street north of Upton Street. It is not on the
20 site of the lower school, nor is it on Sidwell's
21 property. It's about 125 feet in length that is
22 currently missing from the existing sidewalk system.
23 But again, we believe this is a public improvement
24 that is necessary to address an existing deficiency
25 and not a deficiency that's created as the result of

1 Sidwell or the project that's before you this
2 afternoon.

3 MR. FEOLA: And the school supports that. I
4 mean, I think the homeowner, who one of them is here,
5 should have a sidewalk in front of their house. But I
6 don't think it should be just because Sidwell happened
7 to be an applicant across the street, be responsible
8 for it, installing it.

9 MS. MILANOVICH: The next request was to
10 provide a pedestrian pathway into the school property
11 from Wisconsin Avenue into the site, and you see it on
12 the screen before you. I would note, there is an
13 existing sidewalk. This is the driveway, if you're
14 familiar with the area there's a driveway that's
15 shared between the post office and Fannie Mae and
16 Sidwell, and this is the location we're talking about.

17 There is a sidewalk on the southern edge of
18 the Fannie Mae driveway, however, it's private
19 property and you can see in yellow on the diagram,
20 Sidwell does not own the property in question. And so
21 I'm not sure that there's anything more that the
22 school can do there, simply because they do not own
23 that property.

24 DDOT had also requested some improvements,
25 striping some crosswalks at a couple of intersections,

1 adding detectable warning strips at the post office
2 driveway, and at the driveway opposite Rodman Street,
3 and installing some pedestrian signal heads, again at
4 that post office signal where pedestrian heads are
5 missing.

6 Both of these intersections were included in
7 DDOT's 2009 pedestrian master plan, which recommended
8 reconstructing ADA ramps at both of these
9 intersections to comply with ADA regulations,
10 restriping existing crosswalks, as well as adding new
11 crosswalks, a new crosswalk at the post office, Fannie
12 Mae driveway.

13 The majority of those recommendations from the
14 2009 pedestrian masterplan at those two locations have
15 relatively recently been implemented at those two
16 locations. However, the tactile or detectible warning
17 strips, the cross-walks, and the pedestrian signal
18 heads that DDOT has now requested, were not included
19 as part of that project that like I said, has recently
20 been implemented along Wisconsin Avenue.

21 We believe this is another case of
22 improvements that are required to address existing
23 deficiencies, and we don't believe that those are
24 improvements that are required to address any adverse
25 impacts created by the school.

1 Likewise, they recommended that the school
2 evaluate and implement no right turn on red
3 restrictions at two locations, at the intersection of
4 Upton and Wisconsin, and at the intersection of
5 Wisconsin, and again, the Fannie Mae post office
6 driveway.

7 Again, these two recommendations were made
8 back in 2009 as part of the pedestrian master plan,
9 and we believe that these are DDOT's responsibility to
10 address, again, an existing situation, nothing created
11 by the school.

12 And then finally, the last request was not an
13 infrastructure request, but an additional TDM request
14 to subsidize transit for students, for all students
15 who want to take transit.

16 Sidwell has, you know, as I mentioned, put
17 together a comprehensive list of strategies. One of
18 the significant components of that is a busing program
19 that was developed and will be implemented at the
20 request of the community. You know, a fairly
21 expensive proposition. It's about \$1 million to
22 implement the busing program.

23 It's not to say that the school would never
24 provide the transit subsidy. The point of a TDM plan
25 is to be a living document that has flexibility to

1 change over time. So, the school may decide to change
2 items, strategies that they use, depending on what
3 works, what doesn't work. Depending on changes in
4 technology, depending on changes in transportation
5 services and programs that are available. And really,
6 the school is committed to that 30 percent reduction.

7 How they get to that 30 percent reduction, we believe
8 we have a great package that gets us to that 30
9 percent reduction over time. If for some reason we're
10 not hitting that reduction, then the school is, you
11 know, as Ryan pointed out, willing to go back to DDOT
12 and talk about the strategies and implement other
13 strategies that would work. And at that time, they
14 may decide to implement a transit subsidy as a means
15 to meet the goal.

16 But at the outset, because of the commitment
17 that the school made to the community for the busing
18 program, they just don't believe that they can commit
19 to the transit subsidy at this time.

20 So again, just in summary, for all of these
21 additional requested items, we believe that they are
22 to correct existing deficiencies, and do not represent
23 improvements required to offset any adverse impact
24 created either by the school today or by the project
25 that you're considering this afternoon.

1 MR. HILL: And just to be clear, you think
2 these are deficiencies now that are existing.

3 MS. MILANOVICH: That's correct.

4 MR. HILL: And so the additional -- you know,
5 the request that the applicant is asking for is not
6 going to add to these deficiencies?

7 MS. MILANOVICH: Correct.

8 MR. FEOLA: And if I might add just a caveat
9 to the transit subsidy, because I think it is a good
10 policy. There's no doubt about it. But what Jami,
11 and what the school is committed to, is reducing
12 traffic. Didn't seem to be necessary that DDOT
13 mandates what particular way.

14 And one of the things the school is concerned
15 about is just the cost, right? The cost of this
16 transit subsidy is about \$2,700 a month per student.
17 If 100 kids take it, that's a quarter of a million
18 dollars, right? That's not dependent on the need of
19 that student, and the school would rather take that
20 money and not subsidize an upper middleclass kid in
21 Bethesda with a free Metro card, when they could use
22 it subsidizing financial aid to others who might need
23 it.

24 So it's a big number if you start looking past
25 just one card. And so I think the idea is, give us a

1 chance to prove that we can get to that 30 percent
2 reduction. If we can't, we may have to buy cards for
3 everybody, and not just 100 kids.

4 So that's really our opposition to it,
5 although we support the goals.

6 CHAIRPERSON HEATH: Okay.

7 MR. TURNBULL: Is there something in the
8 transportation management plan, I'm looking through
9 your index, your contents, that talks about going back
10 and revisiting that in two years or whatever? I was
11 just trying to go through and look at the success
12 and --

13 MR. GARMAN: I think the incentive for us to
14 go back and revisit it has to do with the 50 students,
15 right, so that if we don't get those students, you
16 know, if we're not meeting our goal, we don't get the
17 additional enrollment.

18 So I think that the way this agreement is
19 structured has to do with meeting our goal, such that
20 we're able to get the 50 students.

21 MR. LUDLAM: And just to be clear, I think we
22 are satisfied that that is an incentive and that it
23 will work, and that we trust that that will drive them
24 in the direction of the results we want, and we do not
25 want to enact a design standard telling them, here's

1 how you get there.

2 MR. TURNBULL: Yeah.

3 MR. LUDLAM: We want a performance standard
4 saying, here's where you've got to get. And you can
5 get there in any combination of incentives and rules
6 and subsidies that you want, because we will be
7 measuring the outcome at the end as a performance
8 standard. And we think that is the way to give them -
9 - because it's going to take them -- this is a school
10 that is, to be blunt, not doing as much as they might
11 in terms of public transportation now. It's an awful
12 lot of people who drive their kids to school. And
13 they're going to move off that culture in the
14 direction of a culture that is much more balanced
15 environmentally and whatever, but it's going to take
16 them a while to figure that out. They're going to be
17 changing the culture of the school. They're changing
18 the culture of the parents. And they're going to have
19 to try different things to see what works and what
20 motivates the parents, and what leads them to accept
21 carpooling or whatever else the options are, or public
22 transportation. And we want to leave them open to
23 figure that out with a performance standard. We do
24 not want to bind them with the design standard. We
25 think that would -- we don't know, they don't know,

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1 nobody knows what combination is going to get to the
2 right place.

3 MR. GARMAN: And I would just add to Chuck's
4 very well-stated summary there that that was a key
5 moment in the negotiation with the neighbors when we
6 reached that agreement, that it would be a performance
7 based standard.

8 MR. LUDLAM: And I was the one, I've worked in
9 regulatory policy for 40 years, and I know the
10 difference between a design standard and a performance
11 standard, and that, I think when we --

12 MR. GARMAN: Right.

13 MR. LUDLAM: -- focused on that concept to
14 explain ourselves, I think we reached a very quick
15 agreement.

16 CHAIRPERSON HEATH: Okay. All right.

17 MR. WESTROM: Yeah, if I could respond just to
18 a few of the things that have been raised. You know,
19 I appreciate the perspective and the points, just by
20 the way of what we're looking at.

21 So in terms of whether these physical
22 improvements that are surrounding the school are
23 responsibility of the school, I think it's fair to say
24 that to a large extent, these are existing
25 deficiencies. However, as Phil pointed out, this is

1 an action that's coming before the Board seeking to
2 increase the number of people on this campus by almost
3 50 percent. And so, we're having probably over 1,500
4 between students and faculty present on this campus.

5 And so where there are existing deficiencies,
6 the need to correct them becomes much more needed.
7 And because they are the ones who are coming to us and
8 seeking a special exception to allow this cap
9 increase, it therefore becomes certainly, we believe,
10 part of their responsibility to ensure that the
11 environment surrounding their school is safe and
12 appropriate for the level and the magnitude of people
13 that they will then have on campus.

14 And then I would just note in terms of the
15 transit subsidies, I'm not sure I would entirely agree
16 with the cost that was raised, and again, we feel like
17 there is an administrative way to work towards that.
18 If we're dealing with just commuting trips, we're
19 probably looking in the order of magnitude of around
20 \$150 per student.

21 And I would note that in their TDM program,
22 they've already committed to providing \$100 of
23 benefit. And so I don't think that the difference is
24 very significant. And essentially, we believe that
25 there is a real difference in expected behavior for

1 students if they have a free card versus a card that
2 they know they're getting a discount on. And it's
3 just human psychology. People, even very wealthy
4 people, behave differently when something is free,
5 versus when they just have, oh, I'm getting \$100 off
6 per month. And so, again, we think that that's
7 something that would be very effectual.

8 Lastly, I would just say in regard to that,
9 we are very supportive of modifications. If that's an
10 element of the program that doesn't seem to be working
11 in two years, great, then we'll see that. But like
12 was shown, we -- like was said, we would like it to be
13 shown, and we would like that the initial two years
14 include this transit measure to see what level of
15 students we could get on to transit, where as in
16 existing condition it seems about two percent of
17 students are using it. Can we increase that number?

18 And I think that that is an important part of
19 a TDM program that is completely robust. And with
20 that addition, again, we would be very happy with the
21 proposed TDM program for the two-year period that
22 we're talking about here.

23 You said you sort of assume that the cost
24 would be \$150 per student per month?

25 MR. WESTROM: I think that's an order of

1 magnitude. And so, I mean, we can think about if
2 anybody here rides on the Metro, what are your
3 commuting costs per month, right? So the federal
4 government gives you up to \$255 potentially. So if
5 you're riding all the way from, you know, the end of
6 the Silver Line, or all the way from Shady Grove to
7 downtown, you'd start to be pushing up over that \$200
8 mark.

9 If people are riding to this campus, if a lot
10 of them are coming from Bethesda, we have every reason
11 to expect that their costs are going to be lower than
12 what that federal limit for transit reimbursement
13 would be. And so again, I think an order of magnitude
14 would be about \$150 per student.

15 CHAIRPERSON HEATH: And that's tax exempt,
16 right?

17 MR. WESTROM: For the school?

18 CHAIRPERSON HEATH: Yeah. Would it be?

19 MR. WESTROM: That I am not sure of. The cost
20 that they expend on their TDM program, I can't speak
21 to --

22 CHAIRPERSON HEATH: Okay.

23 MR. WESTROM: -- the taxable nature or not of
24 those.

25 MS. VIEHE-NAESS: They're tax exempt.

1 CHAIRPERSON HEATH: That's what I thought.

2 MS. VIEHE-NAESS: They're a nonprofit.

3 CHAIRPERSON HEATH: Oh, okay. Oh, okay,
4 Okay.

5 MR. GARMAN: Yes.

6 MR. LUDLAM: Yes.

7 CHAIRPERSON HEATH: Okay. Okay. That makes
8 sense, then. So but, 150 on average is what you're
9 thinking.

10 MR. WESTROM: That's -- we do believe that
11 that is what it would be.

12 CHAIRPERSON HEATH: Okay. All right.

13 MR. FEOLA: I guess we don't want to debate
14 the numbers. Our numbers are a little different.
15 First of all, the D.C. students get it anyway, so
16 we're really talking about Virginia and Maryland, so
17 you're talking about the furthest riders away. But
18 it's the concept of giving subsidies to those who
19 don't need it and otherwise taking that monies and
20 giving it to those who could benefit from it.

21 As Ryan pointed out, we do give -- the school
22 does give subsidies to financial aid kids now, for
23 Metro. We'd like to do that, maybe increase it. But
24 we don't want to necessarily just give money to a kid
25 in Bethesda who doesn't need the subsidy. We'd rather

1 take that money, put it over here, and still meet our
2 goals of that 30 percent.

3 And if we don't meet it then we may have to
4 buy metro cards for everybody.

5 CHAIRPERSON HEATH: Okay.

6 MR. FEOLA: But we don't want to start there.
7 So --

8 CHAIRPERSON HEATH: All right.

9 MR. FEOLA: -- we're beating this one to
10 death.

11 CHAIRPERSON HEATH: We are. We are. Anything
12 else for DDOT, please before we go to the ANC?

13 MS. VIEHE-NAESS: We are --

14 MR. FEOLA: We still have other parties here,
15 though.

16 MS. VIEHE-NAESS: Now we are careful not to
17 beat things to death, but if there are a couple
18 questions I could ask DDOT and then give you something
19 as a point of clarification?

20 Mr. Westrom, the estimate from Sidwell's
21 traffic planners is \$45,000 for removing that little
22 diverter. Do you agree with that estimate?

23 MR. WESTROM: I can't answer the specific
24 dollar figure of what that removal would be. I do
25 believe it would be less than that. But --

1 MS. VIEHE-NAESS: Dramatically less? Ballpark
2 figure? Okay.

3 MR. WESTROM: I would not care to hazard a
4 guess.

5 MS. VIEHE-NAESS: Okay. And then for the
6 cross-walk, which I should also say we noticed in our
7 file submission, and we also supported that raised
8 crosswalk because there are a lot of kids in our
9 neighborhood who go to Hearst, do you agree with the
10 \$20,000 estimate?

11 MR. WESTROM: For the raised crosswalk?

12 MS. VIEHE-NAESS: Yes. At 37th and -- that
13 intersection at 37th and Upton?

14 MR. WESTROM: Again, I do believe we believe
15 it could be done for less than that. A raised
16 crosswalk can be designed in many different ways, and
17 as to whether you're affecting the gutter, as to
18 whether you're affecting the drainage structures
19 adjacent, the costs can vary. I think that that would
20 be on the upper end if all of those things were
21 affected.

22 MS. VIEHE-NAESS: To make it clear to everyone
23 on the panel of what we're talking about here in terms
24 of the diverter, I did two photographs on Sunday. I
25 apologize for not submitting them, but I was lucky to

1 get them printed last night. And could I just --
2 would you want them authenticated by Mr. Westrom so
3 you can see what a diverter is, as opposed to a full
4 channel that --

5 CHAIRPERSON HEATH: Sure.

6 MS. VIEHE-NAESS: -- Upton Street's talking
7 about?

8 MR. WESTROM: I can confirm that those are the
9 islands in question at Wisconsin and Upton.

10 CHAIRPERSON HEATH: Okay. All right. Can you
11 give them to the board secretary, please?

12 Can you submit them to the record?

13 [Discussion off the record.]

14 CHAIRPERSON HEATH: It goes into the system so
15 if you could submit them.

16 MS. VIEHE-NAESS: [Speaking off microphone.]

17 MR. FEOLA: They can't hear you. You have to
18 talk on a microphone.

19 MR. HILL: Madam Chair.

20 MS. VIEHE-NAESS: The diverter we're talking
21 about is a small piece at the end of that channel, and
22 they've been talking about the channel and the whole
23 thing, and we're talking about the diverter which is
24 what DDOT is concerned about.

25 CHAIRPERSON HEATH: Okay.

1 MR. HILL: Madam Chair.

2 MS. VIEHE-NAESS: And could I have one last
3 question? How long do you think it will take to
4 complete your study so that Sidwell might have some
5 sense of what it might cost?

6 MR. WESTROM: We anticipate that we will be
7 done this year.

8 MR. HILL: So, Madam Chair, where I'm kind of
9 just trying to understand the applicants and people
10 who have concerns, or I should say the community
11 groups that have concerns, it seems as far as DDOT --
12 again, the two points of issue that I hear again are
13 the cards, the transportation cards that you're
14 speaking to. And then also how these recommendations
15 could be implemented from the plan, and who's going to
16 pay for them. And that's kind of what it all kind of
17 comes down to.

18 And I guess I do have -- and this is where
19 when we go into our deliberations, just exactly what
20 is in our purview and what we are you know to be
21 deciding upon again. I mean, there is the variance
22 and the issues with regard to that. I think that to
23 leave it so open-ended in terms of like, you know,
24 whatever it costs is whatever it costs and you're
25 going to have to pay for it, that would be something

1 that I would have a difficulty with.

2 And again, we haven't gotten to any kind of
3 deliberations, but you know, and this is where I'm not
4 even necessarily asking for the applicant's opinion,
5 but like if there was a ceiling to this, if there was
6 something that kind of resolved this issue, I mean,
7 you've gone on for this for forever and I know what
8 all these things cost. And so if we get to this minor
9 issue, if there were a ceiling -- I'm just throwing it
10 out here, I'm not looking for anything right now. But
11 if there were a ceiling involved with in able to move
12 through DDOT's objection, that's kind of just what I'm
13 offering up, I suppose.

14 MR. FEOLA: If I might address? A ceiling
15 would be helpful. Obviously, depending what it is.
16 But there's a timing issue as well. You know, we went
17 back and looked at the Sidwell approval that it
18 received from the board in 2004. DDOT was supposed to
19 do a handful of things based on their report, coming
20 out of the report. Those things haven't been done, so
21 we don't want to be held to hostage, if you will, by a
22 BZA order that requires something to be put in place
23 that, for all good intentions, and it's -- and trust
24 me, it's a different DDOT now than it was 10 years
25 ago, but we have no control over.

1 So if you say, these 10 things have to be done
2 before we can get a certificate of occupancy for the
3 school, that's a big problem.

4 MR. HILL: Yeah, I don't think it will be -- I
5 mean, we don't know what the 10 things are. And it
6 would be more in line of, you know, would you be in
7 agreement to doing whatever it is that were proposed
8 through the report, up to a ceiling. And that would
9 be more along the lines that I was kind of thinking
10 of.

11 And then just to again clarify, this is all
12 again, you know, the report that is going to be put
13 forth is to make things safer for your children, your
14 students. You know, I mean, that's what the report is
15 going to show as to what is safer. So, that's just
16 again where -- and all of you seem to be in agreement
17 as to the project in general. There just seems to be
18 little tweaking points here and there. And, yeah.

19 CHAIRPERSON HEATH: All right. So any other
20 questions for DDOT? I think we're all set.

21 So I'd like to hear from the ANC commissioner
22 who is here.

23 MR. NUGENT: Thank you. I'm Malachy Nugent.
24 I'm the chair of ANC 3F, which is the ANC in which
25 Sidwell lies. I don't know what more I can add to the

1 discussion. We did have our regular monthly meeting
2 on Tuesday of last week. We have met with Sidwell and
3 the community groups numerous times. Sidwell has made
4 the presentation to our ANC a few times over the past
5 six months maybe.

6 We did pass unanimously, a resolution
7 supporting the agreement that had been worked out
8 between the community groups and Sidwell. We didn't,
9 at that time, have the benefit of the DDOT report,
10 unfortunately. So I can't comment -- excuse me. I
11 can't comment substantively on what's in that report,
12 and the sorts of things that you were just commenting
13 on, the little items of disagreement that remain.
14 Those are substantive concerns.

15 You know, our view in passing our resolution
16 was that some of the items in the -- the safety items
17 in the surrounding area would be the responsibility of
18 the city to pay for. You know, our ANC is a strong
19 proponent of sidewalks. There are areas throughout
20 our ANC where there were sidewalks missing and we're
21 constantly pushing to have new sidewalks installed.
22 So that would be something we would definitely
23 support. That would be something we would typically
24 ask DDOT to pay for, obviously, if there is some
25 agreement that DDOT and the applicant can reach in

1 terms of the mitigation measures around the school
2 right now related to the increase of student
3 population. And I think we would be supportive of
4 that.

5 CHAIRPERSON HEATH: Okay. All right. Thank
6 you.

7 MR. NUGENT: And of course, I'm happy to
8 answer any questions to the extent I can.

9 MR. HILL: Just, thanks for coming down.

10 CHAIRPERSON HEATH: You've reviewed all of
11 your conditions, though, with the school and -- okay.

12 MR. NUGENT: Yep.

13 CHAIRPERSON HEATH: Okay.

14 MR. NUGENT: Yes, ma'am.

15 CHAIRPERSON HEATH: I know you said you hadn't
16 had a chance to look at all of DDOT's, but just wanted
17 to make sure that you --

18 MR. NUGENT: But like I say, you know, reading
19 through the DDOT report, the mitigation measures that
20 they suggest, you know, seem reasonable. The question
21 is, who's going to do it.

22 CHAIRPERSON HEATH: Yeah. Okay. Any
23 questions for ANC? Okay. All right. Thank you.

24 All right. Is there anyone here wishing to
25 speak, other than the parties, anyone here wishing to

1 speak in support of this application? You can come
2 forward. Yes.

3 How many do we have in support? Okay. Okay.
4 All right. We're going to give you each three
5 minutes. You don't have to take it all if you don't
6 need to, but under --

7 You can go ahead and get started.

8 MR. LEVINE: Matthew Levine --

9 CHAIRPERSON HEATH: Make sure your mic is on.

10 MR. LEVINE: Sorry. Matthew Levine. I live
11 at the corner of 37th and Upton, so as you can
12 imagine, I'm pretty invested in this.

13 My wife and I have lived there for about four
14 years, almost, now. We have two kids, both under the
15 age of three. So the safety of the children and
16 pedestrians in the area is of our utmost concern.

17 I want to reiterate as just a high level,
18 Sidwell has been absolutely amazing dealing with the
19 community. Really looking forward to having them move
20 in. And I absolutely agree with some of the findings
21 in the Department of Transportation's report in that
22 there are some major existing deficiencies and absent
23 you know, some changes, it's just a matter of time
24 before there is a major accident.

25 I went out this morning, obviously we've all

1 been here all day, but I went out this morning before
2 I came in and looked at the intersection, took some
3 videos. Every 30 second period for a matter of almost
4 three hours this morning, you saw people running a
5 stop sign. And I don't mean just -- kind of going
6 through without a concern. I think a raised crosswalk
7 would do wonders. You just see within seconds of each
8 other, bikers or walkers and people running through a
9 stop sign at that 37th and Upton intersection.

10 I also own the home where the sidewalk is in
11 question. I pleaded, begged, offered to pay a part of
12 it, but the DDOT refused about a year and a half ago.

13 So, I'm very excited that now all of a sudden they're
14 recommending this, because I also see pedestrians go
15 off the crosswalk, or what should be a sidewalk into
16 the street in order to get around a really treacherous
17 root system. I've put in, you know, we spent a lot of
18 time and money putting in steps and regarding to make
19 a little bit better. But certainly a sidewalk I think
20 would go a long way to improve the safety of the
21 pedestrians around there.

22 As far as the other items in question, I
23 certainly think that the existing traffic is a big
24 enough issue that there shouldn't be anything done to
25 promote more traffic, cut through traffic coming

1 through that location, and certainly I think anything
2 that does promote that up at the 37th and Wisconsin
3 intersection, you know, I'd vehemently oppose because
4 it's already an untenable situation with honking and,
5 you know, it's a disaster.

6 And people coming down the hill into this 37th
7 and Upton intersection are coming at a pace that, you
8 know, cut through traffic is going a lot faster than
9 the school traffic, and the school traffic is not
10 great as well.

11 So lastly, I'd say that, you know, the Hearst
12 parents are likely just as large offenders as the
13 Sidwell parents, and the existing conditions, you
14 know, are such that, you know, if something doesn't
15 change it's just a matter of time before there's a
16 major accident at 37th and Upton.

17 CHAIRPERSON HEATH: Thank you.

18 MS. BRAVIN: I'm going to read my statement if
19 you don't mind. My name is Sara Bravin.

20 CHAIRPERSON HEATH: There you go. Sara.

21 MS. BRAVIN: Can you hear me?

22 CHAIRPERSON HEATH: Sara Bravin.

23 MS. BRAVIN: Bravin.

24 CHAIRPERSON HEATH: Okay.

25 MS. BRAVIN: B-R-A-V-I-N. And for the past 25

1 years my husband Mark and I have lived on the corner
2 of 37th and Upton, right across the street from the
3 Washington home, and across all still from Sidwell.

4 I would like to have another perspective that
5 probably you haven't heard about that island. And
6 I'll tell you, for many years now we and our neighbors
7 have suffered first-hand the air and noise pollution
8 caused by unusual amount of traffic on 37th and Upton,
9 which is true is a lot. In my opinion, since we
10 moved.

11 The combined effect of changes at Sidwell
12 Friends and the Hearst school has put a lot more road
13 traffic in front of our home and our neighbors' homes.
14 It has become a serious problem in my opinion.

15 When I come out of my house I sometimes can
16 smell the car exhaust fumes, and the noise pollution
17 from those cars can be really unpleasant. When the
18 Sidwell lower school expansion begins, this problem
19 will be aggravated by the heavy construction vehicles,
20 both the littering and the dust that we will have to
21 endure. It is not a very healthy or pleasant
22 situation for us, but I have to say that the situation
23 will become much worse if the traffic island at the
24 Wisconsin Avenue is removed.

25 We are very pleased that Sidwell has worked

1 with our neighborhood, with our community to come up
2 with some solutions that we hope will be effective in
3 reducing car fumes and traffic noise for those of us
4 who live in the epicenter of the problem. Actually,
5 we are right in the middle of all of this pollution.

6 It is sometimes that it can be tested in the
7 years to come, and if it improves necessary for the
8 change that may need to be made. We believe it would
9 be very unfair if the District of Columbia government
10 undermines those solutions by removing this traffic
11 island. That would make the current bad situation
12 unbearable for the homeowners in our community.

13 In your order on (indiscernible) petition,
14 please include a finding that this traffic island
15 should not be removed. And may I add also, some of
16 the comments that people in Van Ness neighbor who
17 have, because they want that island to be removed. I
18 think it could be a compromise. That island could be
19 modified if it's a problem with safety. It could be
20 narrow. It can become narrower, or also if they are -
21 - they aren't very concerned about traffic. Also,
22 they could put bumps, speed bumps on Van Ness to
23 reduce the speed of traffic, as we did in Upton.

24 So that's all I have to say. Thank you.

25 CHAIRPERSON HEATH: Okay. Thank you.

1 MR. BRAVIN: I'm Mark Brevin, as you've just
2 heard. Another point that you haven't heard anything
3 about or much about. We did hear for the first time
4 that the Van Ness group is thinking about modification
5 and I wasn't aware until this morning, or this
6 afternoon, that that was on the page. But that's
7 something that we think ought to be studied carefully.

8 Right now, we're looking at the Fannie Mae
9 property being repurposed. I think that is a scary
10 prospect for us in terms of yet another increase in
11 cars. And if the island is modified in a way that's
12 going to encourage more cut through traffic, it's a
13 problem for us. And we understand that Hearst school,
14 having just expanded tremendously, is working toward a
15 new recreation center that will attract a lot more
16 people to the neighborhood.

17 And so the message that I would like you to
18 get from my comments is that until you've had a chance
19 to hear from DDOT about the effectiveness of the
20 measures that Sidwell is planning to implement, and
21 that we spend a lot of time working through with them,
22 it does not make sense for the city to be taking a
23 step that would increase the cut through traffic. And
24 for that reason, we hope that whatever you do on this
25 subject, that you find that that would not be in the

1 interest of the city or the community. Thank you.

2 CHAIRPERSON HEATH: Okay. Thank you. Any
3 questions?

4 Is there anybody else wishing to speak in
5 support? Is that it?

6 Okay. Anyone here wishing to speak in
7 opposition?

8 MR. TURNBULL: Well, you know, it almost
9 sounded that you weren't totally in support.

10 CHAIRPERSON HEATH: Right.

11 MR. TURNBULL: Kind of a mixed. You're sort
12 of, you're not opposed to the increase, but you've got
13 issues, concerns, with the Sidwell expansion. Am I
14 hearing that right?

15 MR. BRAVIN: Well, I think --

16 MR. TURNBULL: You're talking about the
17 increase in traffic.

18 MR. BRAVIN: I think what we're saying to you
19 is, the Sidwell plan has gone a long way to reassure
20 us that the problem of traffic is going to get a
21 little better, not worse.

22 MR. TURNBULL: Okay.

23 MR. BRAVIN: So we're not in opposition to the
24 Sidwell petition.

25 MR. TURNBULL: Okay.

1 MR. BRAVIN: Our concern is that now this
2 other idea has come up of changing the traffic island
3 to encourage more cut through traffic. We're against
4 that.

5 MR. TURNBULL: Okay.

6 CHAIRPERSON HEATH: Okay. Anyone else wishing
7 to speak in support or opposition? Opposition? Okay.
8 All right.

9 Then we will have you come back up for
10 closing.

11 [Discussion off the record.]

12 CHAIRPERSON HEATH: Yeah, the parties should
13 go first.

14 MR. LUDLAM: Okay. I guess the only, the last
15 point is we have not engaged in a full dialog about
16 the 2003/2008 traffic calming measures that DDOT
17 proposed, DDOT approved, DDOT built, because that is
18 assumed in the Sidwell plan that they remain. It is
19 assumed in the ANC resolution that they remain. And
20 it is assumed in the DDOT report that they remain in
21 terms of the Sidwell issues.

22 Now there are issues about this. There were
23 issues in 2003/2008. I ran the process from our
24 perspective. We are a residential street. We are not
25 an artery street. Sidwell, traffic calming is

1 designed for us. It is not designed for artery
2 streets. Okay?

3 We haven't begun to debate that and we don't
4 think it's useful to do that. It is not germane to
5 the Sidwell petition. They said it is not necessary
6 to mitigate the impact of Sidwell's proposed project
7 to relitigate the traffic calming measures on Upton.
8 They said, it is removal of the traffic island is not
9 required to make the Sidwell plan work. So it is
10 outside the scope of their plan, it is outside the
11 scope of this petition, and outside the scope of the
12 BZA order.

13 Now in terms of the process going forward as
14 an analysis, which DDOT has started, we have already
15 engaged in that process. We look forward to that
16 process. We have asked to see the traffic data and
17 all the accident reports. We have asked them to
18 review the 12-311 request that I personally have
19 submitted regarding safety problems at this
20 intersection. I have, on multiple occasions,
21 submitted 311 requests that they put a sign on the
22 diverter, a yellow sign with reflectors, which you can
23 see on every other traffic island. And I've asked
24 them to do that and they have -- I've submitted
25 another request. It is pending.

1 Previous request to put on a sign to alert
2 people to the existing traffic, and I've been rejected
3 by DDOT. Okay, there are lots to figure out on the
4 design of it. Everything else, it has nothing to do
5 with this BZA case and this BZA order.

6 If you want to get into a complete discussion,
7 maybe you've got to do it. I don't think it's worth
8 our time.

9 CHAIRPERSON HEATH: Thank you. Closing.

10 MS. VIEHE-NAESS: Thank you. It's very clear
11 from everything that's gone on today that there is a
12 lot of resentment on our side of the street from what
13 they did in 2003 and 2008, when we were not
14 considered. And the difference between that time and
15 this time is that we actually were able to be involved
16 in the process; that we have participated in all the
17 work with Sidwell to come up with an ANC resolution,
18 and we appreciate that.

19 It's very clear to us on Van Ness, and
20 particularly people on Veazey and Warren, that they
21 bear the traffic which is being shunted aside by those
22 concrete barriers on Wisconsin and Upton.

23 And let me be very clear what we're suggesting
24 here today. We are suggesting that for a very minor
25 amount of money Sidwell could provide a benefit to its

1 parents, who will drive in and use that access point
2 at Wisconsin and Upton, and to all the kids, not only
3 who walk if there are many kids who walk from Sidwell,
4 to Sidwell from the neighborhood, but mostly to kids
5 who walk through the neighborhood and cross at the
6 37th and Upton. If you look at the petition we filed
7 earlier, we ask specifically that the raised
8 crosswalks be included.

9 Compared to the \$35 million that Sidwell is
10 estimating it will be investing in buying the property
11 and going through all the necessary professional
12 services related to that, the amount is nominal.

13 I did a back of the envelope calculation and
14 came up with the cost of the two items that we are
15 looking at, using Sidwell's traffic planner's estimate
16 of 45,000 and 20,000. Twenty thousand for the
17 intersection, and 45,000 for the diverter, which is a
18 tiny thing, I should say. For the diverter, that came
19 to 65. So if you wanted to put in a cap, for example,
20 and include that, I can't understand why anyone would
21 really object to a commitment from the school to
22 improve safety that benefits their parents, as well as
23 the neighborhood.

24 This big change of this property to an active
25 school site is a real game changer for the

1 neighborhood. And it is an appropriate time in DDOT's
2 mind to look at these issues that would improve
3 safety. And the crash record, and the safety hazards
4 concerning the intersection at Wisconsin and Upton are
5 critical. They shouldn't be ignored in this. They
6 shouldn't be postponed. We don't even think that the
7 pipeline projects that were mentioned are relevant at
8 this point. We are as concerned as anyone else in the
9 neighborhood, and so those pipeline projects will go
10 through DDOT review and other kinds of review later.
11 But that may be five years from now. It's no reason
12 to postpone a necessary improvement that at least in
13 the minds of the professionals at DDOT, will improve
14 safety at that crucial intersection.

15 And so we ask that you do that, and we ask
16 that you consider the crosswalks. Those two items are
17 what we are here about. We've put a lot of time into
18 it. Let me say that we have benefitted by the
19 collegial and congenial approach taken by Sidwell, and
20 we are glad that we were included in the process.

21 CHAIRPERSON HEATH: Okay. Thank you. The
22 applicant's closing.

23 MR. FEOLA: Thank you. It's been an
24 interesting few months with the community. And as
25 Brian alluded to earlier, people at this table, people

1 that were here before, a lot of people in the
2 community Van Ness, 38th Street, Tilden, Springland,
3 there's been a lot -- many hours and a lot of time
4 with us working through a lot of issues. And we think
5 we came to some really good positions so that we are
6 here before this Board asking for an increase of a
7 private school by 300 kids and five additional acres
8 with no one in opposition. You know, we're picking at
9 the edges, but there's nobody in opposition. Highly
10 unusual in my experience in handling private schools
11 in this city for a long time.

12 We think we have satisfied the burden of the
13 special exception. The test is very clear. We must
14 not become objectionable to adjoining neighbors, or
15 nearby properties because of noise, traffic, number of
16 students, or otherwise. And we must provide ample
17 parking no less than the parking regulations require.

18 We think we have met that. But one thing I
19 think we haven't mentioned today, that I think is
20 important to note, and Ryan has heard me say this
21 before, we're not coming to a wheat field in Kansas.
22 There's a building on this property that employs 460
23 people on a 24 a day basis. There are 200 beds of
24 senior living here that have visitors coming and
25 going. So we're not coming to some place that hasn't

1 ever experienced traffic in this community. We are
2 admittedly changing that impact to a very specific
3 period of time.

4 But the delta, if you will, isn't as great as
5 maybe even we have accepted going forward. So we
6 think with the sustainable building and grounds plans,
7 with the robust transportation management plan, and
8 the agreement with our neighbors, I think we are
9 comfortable that we can occupy this property
10 forthwith, and make it better than what's there now.

11 So with that, we thank you for your time and
12 effort and you guys have been here a long time,
13 listening to a lot of people, and we really appreciate
14 it.

15 I turned in, by the way, a proposed set of
16 conditions which mirror what the ANC resolution says.

17 CHAIRPERSON HEATH: Okay.

18 MR. FEOLA: I entered a couple things like the
19 plans in accordance with Exhibit 22, because that's
20 one thing you guys always do. And I added in, excuse
21 me, the phasing language that we would like to see the
22 Board look at if you are inclined to approve the
23 applicant.

24 So with that, I'd like to thank you for your
25 time.

1 CHAIRPERSON HEATH: Okay. Just a quick
2 question. You're proposing to phase, but what's the
3 timing for at least estimated construction completion
4 for both phases?

5 MR. FEOLA: Well, Steve, we knew we made you
6 put on a tie for some reason. You ever see a
7 construction guy with a tie, you have to be very,
8 very --

9 CHAIRPERSON HEATH: Just estimated.

10 MR. KARCHA: Each phase would be estimated to
11 be about 18 months.

12 CHAIRPERSON HEATH: Okay. All right. And you
13 wouldn't be ready to start construction until --

14 MR. KARCHA: Summer of 2017.

15 CHAIRPERSON HEATH: Okay. All right.

16 MR. LUDLAM: Could I just add one point? The
17 resolution that Phil has introduced to you, I think,
18 is the same as the ANC resolution, except it doesn't
19 deal with the raised crosswalk because there is a
20 question of who would pay for it. Or the sidewalk
21 because that actually came up after the ANC issue.
22 Obviously, we think that those will be done. They
23 have to be done. They are connected to Hearts as much
24 as to Sidwell. They'll be connected to the Hearst
25 Park. There are \$15 million pledged to the Hearst

1 Park redevelopment. So those are the sidewalk, and
2 the raised crosswalk are things that DDOT obviously
3 should get done. They are not in the resolution that
4 he has submitted to you.

5 CHAIRPERSON HEATH: Okay.

6 MR. TURNBULL: I just had one question. On
7 the existing use, the Washington home, what happens
8 with the occupants there? What's the long-range plan
9 or --

10 MR. GARMAN: Maybe a question that's better
11 answered by the home, but I do know that they are
12 placing their residents now. At last count they had
13 placed 33 out of 120 residents. We've also
14 established a committee on the school side to serve as
15 a resource for the Washington home. There is a Quaker
16 community center called Kendall Corporation, or a
17 Quaker retirements center, rather, that's called
18 Kendall Corporation, and their former CEO, who is a
19 member of that committee, has reached out to the
20 Washington home to offer any assistance, as has one of
21 our board members who is the chief operating officer
22 at Leading Age, which is an advocacy organization for
23 the agent.

24 MR. TURNBULL: Okay. Thank you.

25 MR. HILL: So, Madam Chair, again and maybe

1 our colleague who is on the commission can tell me
2 whether or not this is -- I don't even know if this is
3 something that we can do or not. I mean, I come back
4 to, again, the whole discussion that we've been
5 talking about for an hour and a half or however long
6 it is, that who's going to pay for things seems to be
7 like something that keeps on coming back. And
8 definitely you can end now and you know, perhaps
9 you've met the variance. I don't know, we haven't you
10 know, had the discussion about that.

11 But, you know, as I was just kind of adding up
12 some numbers here, the numbers that you provided was
13 like 175K if you did everything. You know. And so,
14 if you had a ceiling of some kind, you know, would
15 that be anything that if the report is done from DDOT,
16 and you know, the recommendations come back, and you
17 know, I'm looking to the attorneys as to how to put
18 that together so that that could help us possibly get
19 there. Maybe we're already there. I don't know. You
20 know, so but to hear your thoughts on that, whether
21 that would be something you would entertain, whether
22 that's you know, something that might push it over the
23 edge, or just want to leave it as it is.

24 MR. FEOLA: Well, I'm not authorized to commit
25 dollars on behalf of --

1 MR. HILL: Oh, come on. Right now. Just,
2 there you go.

3 MR. FEOLA: -- the board of trustees. But I
4 think it's something we would consider with a cap, and
5 a timing issue. I mean, I think timing is as
6 important as the money in a certainty aspect. So --

7 MR. HILL: Because we're going to go from
8 deliberations. Like right after this we're going to
9 end and then we're going to go to a place where we're
10 just going to talk about it, and we're going to make a
11 decision and you're going to be out.

12 MR. GARMAN: I think that what concerns us
13 more in terms of cost are the recurring costs of say
14 the transportation cards. You know, we might be able
15 to get to a number on the capital projects, but I will
16 tell you, I mean, this has been a long and arduous
17 process for us, and it's been an expensive process,
18 one that was even more expensive than the normal
19 amount that you budget over a project like this. And
20 it has been a lot of time in negotiations.

21 So you know, we are being pushed and you know,
22 I think the recurring costs are particularly
23 troublesome to us, worrisome to us. So if we could
24 maybe find some cap that would allow us to forego the
25 cost of providing the cards for students, the

1 transportation cards, that would be something that we
2 would be open to discussion on that.

3 MR. LUDLAM: Could I just suggest that I go
4 back to the question of a design standard versus
5 performance standards. The cards is a design
6 standard. That's telling them how to do it. If we
7 set the goal of where they've got to get in terms of
8 the cars in the neighborhood, then they should be able
9 to figure out how they get there. And I don't think
10 we ought to know best of how to do it, and I don't
11 think you should, or even DDOT. I think we don't
12 know. I don't think they know, I don't think anybody
13 could now how to get there.

14 And if we set a standard that they've got to
15 get there, and they don't get the increase in students
16 until they get there, that is the regulatory approach
17 that makes sense.

18 MR. GARMAN: We'd be comfortable with a cap of
19 \$100,000.

20 MR. HART: For what?

21 MR. GARMAN: For the capital. That's not to
22 say that we would support -- I mean, to projects that
23 we think are appropriate. I mean, we're still not
24 taking a --

25 MS. VIEHE-NAESS: (Simultaneous speech.)

1 MR. HILL: Oh no, no, I'm sorry. Hold on.
2 Hold on. We're not going to have a discussion --

3 MR. GARMAN: -- (simultaneous speech) on that.
4 Sorry, Madam Chair. I just --

5 MS. VIEHE-NAESS: (simultaneous speech) what's
6 appropriate. I mean, we've got the professional --

7 CHAIRPERSON HEATH: Excuse me, ma'am.

8 MR. HILL: Excuse me.

9 MS. VIEHE-NAESS: -- representation here.

10 CHAIRPERSON HEATH: Ma'am. You're out of
11 line.

12 MS. VIEHE-NAESS: Sorry.

13 CHAIRPERSON HEATH: So.

14 MR. GARMAN: That's, I mean, you know, Mr.
15 Hill was asking for a number and that's what we could
16 provide.

17 MR. TURNBULL: Yeah, taking those extra trip
18 cards off the table for now, and looking at physical
19 improvements that DDOT was looking at, and we had the
20 Van Ness neighbors had a number that they were looking
21 at for sums that were critical. And again, these are
22 you know, numbers that are not based -- they're sort
23 of based in reality, but they're not really that
24 tangible yet.

25 If this was a Zoning Commission case and it

1 was a PUD, there's a little bit more flexibility that
2 we have in doing this. I think the applicant reaching
3 out and picking a number to say we would be willing to
4 invest \$100,000, you know, as physical improvements
5 that would be necessary that Department of
6 Transportation says that they could do. I mean, I
7 guess, and I'm looking, I guess it could be an escrow
8 account of some sort set up. I'm not sure out the
9 vehicle yet, on how we do that. That's another whole
10 issue we struggled with over the years.

11 But I think that's an offering that's worthy
12 to look at.

13 MR. FEOLA: DDOT does have agreement. We've
14 done this before in terms of setting aside monies for,
15 in PUD cases.

16 I guess I would ask that if the Board goes in
17 that direction that the school has the opportunity to
18 do either the money or the job, as you know, because
19 we will have people out there on the site and maybe it
20 will be -- it may not be \$45,000 for one thing if the
21 concrete guy is already pouring concrete next door.

22 MR. TURNBULL: Right. If you had -- I mean,
23 you're right. I think that flexibility ought to be
24 there, that the applicant can have its own
25 construction crews or contract to get the work done

1 that is most appropriate.

2 CHAIRPERSON HEATH: Right.

3 MR. HILL: And I think again, just thank you,
4 Commissioner Turnbull, just whatever you proposed.
5 I'd just like to see -- you know, now we're going to
6 end here, and so whatever your proposal is, you've
7 thrown out a number, however you would like to put it
8 together, I would like to take a look at it before we
9 deliberate.

10 CHAIRPERSON HEATH: Okay. All right. So that
11 concludes the hearing and we're going to put this on
12 for decision. We will allow the record to remain open
13 for you to submit your proposal based on what the Vice
14 Chair has just requested.

15 Two weeks?

16 MR. FEOLA: We probably don't need that much
17 time.

18 CHAIRPERSON HEATH: Okay. We're probably
19 going to be --

20 MR. MOY: Well, Madam Chair, just looking at
21 where we are, Mr. Turnbull will be here with us on
22 March 15th. That's the Ides of March, right? Sounds
23 ominous.

24 CHAIRPERSON HEATH: Okay. So, March 15th.

25 MR. FEOLA: Easy. Yeah, easily.

1 CHAIRPERSON HEATH: Okay.

2 MR. FEOLA: We can get it in earlier.

3 CHAIRPERSON HEATH: Okay. All right.

4 MR. FEOLA: And we'll actually serve this.

5 CHAIRPERSON HEATH: You'll need two. So any -
6 - his submission, if they submit something.

7 MR. MOY: If they submit something, would the
8 Board care for any responses from the other two
9 parties or not, or from DDOT or OP?

10 CHAIRPERSON HEATH: I don't think there's
11 anything else from DDOT that we need.

12 MR. MOY: Okay.

13 CHAIRPERSON HEATH: I think we've got --

14 MR. HILL: The only thing with DDOT, I guess,
15 is just -- and I guess if you could just talk to DDOT
16 in terms of you know, when -- at least the way I was
17 looking at this was that when their report is
18 finished, that's how you're kind of working out your
19 timing. And when you write this, what it is that
20 you're waiting from them, their report. The HI --

21 CHAIRPERSON HEATH: The study?

22 MR. HILL: The study. Yes. I'm sorry. The
23 HSIP study. If you just want to chat with them and
24 see how that might tie into what you're going to
25 propose.

1 CHAIRPERSON HEATH: Okay.

2 MR. HILL: But I do think it was a very nice
3 application. Like, everyone was here all day and it's
4 a lovely campus. If I had a child I would petition.
5 But I don't, so.

6 CHAIRPERSON HEATH: All right.

7 MR. FEOLA: Thank you.

8 CHAIRPERSON HEATH: Thank you.

9 MR. FEOLA: Thank you, very much.

10 MS. VIEHE-NAESS: Thank you.

11 MR. TURNBULL: And mine are too old.

12 [Pause.]

13 MR. MOY: We're adjourned, right?

14 CHAIRPERSON HEATH: We are officially
15 adjourned. No other matters coming before the Board
16 today.

17 MR. MOY: Not for me.

18 CHAIRPERSON HEATH: Okay. Adjourned.

19 [Whereupon, at 4:37 p.m., the public hearing
20 was adjourned.]

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CERTIFICATE OF TRANSCRIPTIONIST

I, Kimberly Lawrie, do hereby certify that the foregoing proceeding was transcribed from a digital audio recording provided to me by Olender Reporting and thereafter was reduced to typewriting by me or under my direction.

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