

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

APRIL 25, 2018

+ + + + +

The Regular Public Hearing convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 9:30 a.m., Carlton Hart, Vice-Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

CARLTON HART, Vice-Chair(NCPC)  
LESYLLEE M. WHITE, Commissioner  
LORNA JOHN, Commissioner

ZONING COMMISSION MEMBERS PRESENT:

ROBERT MILLER, Vice-Chair  
MICHAEL TURNBULL, Board Member

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.  
HILLARY LOVICK, ESQ.

## OFFICE OF PLANNING STAFF PRESENT:

ELISE VITALE  
BRANDICE ELLIOTT  
STEPHEN COCHRAN  
CRYSTAL MYERS

## DEPARTMENT OF TRANSPORTATION (DDOT) STAFF PRESENT:

PATRICK REED

The transcript constitutes the minutes from the  
Public Hearing held on April 25, 2018.

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

10:02 a.m.

1  
2  
3 SECRETARY MOY: Okay. Then we're in the hearing  
4 session of today's meeting, and I believe the first case  
5 application before the Board -- I'm going to call the case  
6 as well as what's been captioned and advertised.

7 This is Case Application No. 19630 of Elodie  
8 Goirand and Andreas Xenophontos. This is a request for a  
9 special exception under Subtitle D § 5021 from the lot  
10 occupancy requirements of Subtitle D § 804.1, to permit an  
11 existing rear garage in the R-15 Zone at premises 4540 Lowell  
12 Street, Northwest, Square 1608, Lot 68.

13 BZA VICE-CHAIRMAN HART: Thank you, Mr. Moy.

14 For this case I actually -- in looking at -- in  
15 understanding that we actually don't have all five members,  
16 I would like for all of the members to hear this case. I  
17 would like to -- I would make a motion to reschedule this  
18 case to May the 23rd, and that would allow all of the Members  
19 to hear this, all of the BZA Members to hear this case and  
20 be able to give their -- have a discussion on the case.

21 So I want to make sure that the 23rd is an okay  
22 date, Mr. Moy.

23 SECRETARY MOY: Yes, the docket can accommodate  
24 an additional application, Mr. Vice-Chair.

25 BZA VICE-CHAIRMAN HART: Okay. Does the -- do the

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1 Board Members have any questions or -- sorry, I'll -- I think  
2 we just move that to that next date. So the Case No. 19630  
3 would be moved to May the 23rd.

4 SECRETARY MOY: Yes, thank you.

5 Okay. Sir, I believe the next change up is Case  
6 Application No. 19732. This is of FocusWorks, LLC. If we  
7 can have parties to the table on that case application?

8 This is a request for a use variance under the  
9 nonconforming use requirements of Subtitle C §204.1. This  
10 would construct a rear addition and to convert a four-unit  
11 apartment house into a six-unit apartment house, R-3 Zone at  
12 premises 400 Newcomb Street, Southeast, Square 5996, Lot 805.

13 BZA VICE-CHAIRMAN HART: Thank you, Mr. Moy.

14 Good morning. If you could introduce yourselves  
15 from my right to left?

16 MR. JOHNSON: Andre Johnson, 2206 Potomac Ave.,  
17 Unit 101, Alexandria, Virginia, 22301.

18 MR. CRUSE: Good morning. I'm Mark Cruse.

19 BZA VICE-CHAIRMAN HART: Can you just hit the  
20 button?

21 MR. CRUSE: Good morning. I'm Mark Cruse, 12700  
22 Hallwood Place, Fort Washington, Maryland, 20744.

23 MS. SANDERLIN: Valerie Sanderlin, real estate  
24 developer for this project, 12138 Central Avenue, Suite 571,  
25 Bowie, Maryland, 20721.

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1 MR. ROZZI: Andrew Rozzi. I'm the architect for  
2 the project, 3333 K Street, Northwest.

3 BZA VICE-CHAIRMAN HART: Welcome.

4 SECRETARY MOY: Mr. Vice-Chair?

5 BZA VICE-CHAIRMAN HART: Yes?

6 SECRETARY MOY: Sorry to interrupt. Can I ask the  
7 applicant to move the presentation board in front of me? This  
8 is where the camera is. So viewers on the live camera can  
9 watch this on the web site.

10 BZA VICE-CHAIRMAN HART: Mr. Moy, is the image  
11 where it needs to be?

12 SECRETARY MOY: Oh, that's fine. That's perfect.

13 BZA VICE-CHAIRMAN HART: Thank you.

14 Mr. Rozzi, are you going to present?

15 MR. ROZZI: Yes.

16 BZA VICE-CHAIRMAN HART: Okay.

17 MR. ROZZI: Yes. Thank you very much.

18 BZA VICE-CHAIRMAN HART: Sure. You're welcome.

19 MR. ROZZI: So to begin, our property at 400  
20 Newcomb Street, Southeast -- it is a six-unit multifamily  
21 dwelling in --

22 BZA VICE-CHAIRMAN HART: Just before you start,  
23 10 minutes for your presentation? About that?

24 SECRETARY MOY: Less. I mean --

25 BZA VICE-CHAIRMAN HART: Okay. That's fine.

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1 MR. ROZZI: -- but, yes.

2 BZA VICE-CHAIRMAN HART: Thank you. Sorry.

3 MR. ROZZI: No problem.

4 BZA VICE-CHAIRMAN HART: We just need to put it  
5 on the -- on our timer here, so --

6 MR. ROZZI: Ah.

7 BZA VICE-CHAIRMAN HART: -- it helps me know how  
8 much time we've gone through.

9 MR. ROZZI: Perfect. Thank you.

10 BZA VICE-CHAIRMAN HART: Thank you.

11 MR. ROZZI: So 400 Newcomb Street, Southeast. It  
12 is a six-unit multifamily dwelling in Zone R-3. Zone R-3 is  
13 primarily for row homes and single-family dwellings, so our  
14 six-unit multifamily dwelling is a nonconforming use. So we  
15 are seeking a use variance because we are proposing a rear  
16 addition to our property.

17 To our address our burden of proof to support our  
18 request, first there are several physical conditions of this  
19 property that using it in a manner consistent with the uses  
20 specified in Zone R-3 cause an undue hardship. This building  
21 was marketed and sold to the owner as a multifamily apartment  
22 building. To reconfigure this building with fewer dwelling  
23 units would result in financial hardships for the owner with  
24 regards to both the building's value as well as additional  
25 work related to the design and reconfiguration required.

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1           Secondly, there are several reasons as to why  
2 granting this application will not be of substantial  
3 detriment to the public good. Prior to purchase the property  
4 was used as a six-unit apartment building. Through the  
5 proposed work this property becomes a six-unit condominium  
6 property. This change promotes home ownership and investment  
7 into the immediate neighborhood without affecting the  
8 neighborhood's current levels of noise, traffic, lighting and  
9 parking.

10           In addition to this building there appears to be  
11 at least 30 or more buildings located within a quarter mile  
12 of this property that were designed and constructed as four  
13 to six-unit multifamily dwellings. Granting this application  
14 will maintain the character of this neighborhood and be  
15 consistent with the uses of neighboring buildings.

16           This building as it currently sits vacant is in  
17 a state of disrepair. Granting this application will allow  
18 the owner to upgrade the building's exterior improving the  
19 overall appearance to the neighborhood as well as upgrade the  
20 interior dwelling units providing newer, cleaner and safer  
21 residences.

22           Lastly, granting the application will not be  
23 inconsistent with the general intent and purpose of the  
24 Zoning Regulations and Map for several reasons: This  
25 property will remain a six-unit multifamily dwelling unit.

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1 The general purpose of Zone R-3 is to allow for row dwellings  
2 while including areas within which row dwellings are mingled  
3 with detached dwellings, semi-detached dwellings and groups  
4 of three or more row dwellings. The immediate block and  
5 surrounding neighborhood is primarily multifamily housing  
6 with buildings of similar size, shape and scale.

7 The site will remain orderly development of low  
8 to moderate density of the residential area as outlined by  
9 the Zoning Ordinance of 2016 based on the following  
10 parameters: The structure will remain at two stories. The  
11 rear addition will comply with Zoning requirements allowed  
12 by right. The lot occupancy is within the allowable 40  
13 percent. The existing street frontage will remain. And four  
14 off-street parking spaces will be added to the rear of the  
15 property accessed by the public alley where there is  
16 currently no off-street parking offered on this site.

17 Thank you.

18 BZA VICE-CHAIRMAN HART: Thank you. Mr. Rozzi,  
19 or anyone at the table, could you talk about your discussion  
20 that you've had with the ANC on the project? I don't think  
21 we have an ANC letter.

22 And here they are.

23 Commissioner Cuthbert?

24 MS. CUTHBERT: Good morning, Mr. Hart --

25 BZA VICE-CHAIRMAN HART: I didn't see you in the

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1 audience. I'm sorry. I would have called you up later, but  
2 I'm glad that you came to the table.

3 MS. CUTHBERT: -- and Members of the Board.  
4 Unfortunately I have not written a letter because I've been  
5 in and out, but I do want the Board to understand I invited  
6 -- we had four commissioners to go see the development that's  
7 taking place on Newcomb, Lebaum, Oakwood, right in that  
8 general area, so they can understand what a variance and a  
9 special exception is.

10 So I have to say we did go look at the project and  
11 the space that they want to add onto the rear of the building  
12 is perfect. They have enough land there. It would not  
13 interfere with none of the neighbors.

14 BZA VICE-CHAIRMAN HART: And just for our purposes  
15 could you state your name and your address?

16 MS. CUTHBERT: Oh, I'm sorry. I'm Mary Cuthbert,  
17 the Chair for Advisory Neighborhood Commission 8C. My  
18 address is 629 Alabama Avenue, Southeast, Washington, D.C.,  
19 20032.

20 BZA VICE-CHAIRMAN HART: Welcome. Welcome back.  
21 I know that you've been here before and I appreciate your  
22 time in coming down to give us some --

23 MS. CUTHBERT: Thank you.

24 BZA VICE-CHAIRMAN HART: -- your thoughts on the  
25 project.

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1 Do the other Board Members have any questions?

2 COMMISSIONER JOHN: No.

3 BZA VICE-CHAIRMAN HART: Yes, please?

4 ZC CHAIR MILLER: Thank you, Mr. Vice-Chair.

5 I just had one question on -- from the materials.

6 In addition to modernizing the units, you will be converting  
7 them from one bedrooms to two bedrooms, is that correct?

8 MR. ROZZI: Correct.

9 ZC CHAIR MILLER: Okay. Thank you very much.

10 BZA VICE-CHAIRMAN HART: Okay. So let's turn to  
11 the Office of Planning.

12 Good morning.

13 MS. ELLIOTT: Good morning, Mr. Vice-Chair,  
14 Members of the Board. I'm Brandice Elliott with the Office  
15 of Planning.

16 I would like to make one minor clarification. I  
17 think the project description as advertised indicates this  
18 is going from four to six units, and that's not quite  
19 accurate. There are two separate properties that are  
20 included in this request. One of the properties is developed  
21 with a four-unit apartment house and the other with a two-  
22 unit. The applicant intends to combine those properties so  
23 that they're one. So there actually is not an increase in  
24 the number of units.

25 Other than that I think I'll go ahead and stand

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1 on OP's report recommending approval of the requested  
2 variance, but I'm happy to answer any questions you have.

3 BZA VICE-CHAIRMAN HART: Thank you. Any questions  
4 for the Office of Planning from the Board?

5 COMMISSIONER JOHN: No.

6 BZA VICE-CHAIRMAN HART: Okay. Does the applicant  
7 have any questions for the Office of Planning?

8 MR. ROZZI: No.

9 BZA VICE-CHAIRMAN HART: Okay. We've already  
10 heard from Commissioner Cuthbert, so does -- is there anyone  
11 here that is wishing to speak in support of the application?

12 (No audible response.)

13 BZA VICE-CHAIRMAN HART: Anyone here wishing to  
14 speak in opposition to the application?

15 (No audible response.)

16 BZA VICE-CHAIRMAN HART: Okay. Do you, Mr. Rozzi,  
17 have any conclusion -- concluding statements that you'd like  
18 to make?

19 MR. ROZZI: No, thank you.

20 BZA VICE-CHAIRMAN HART: So does the Board have  
21 any final questions for the applicant?

22 (No audible response.)

23 BZA VICE-CHAIRMAN HART: No? Okay. So with that  
24 I'll close the hearing and bring it back to the Board for  
25 discussion.

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1 I've -- in listening to the testimony that we've  
2 heard today, also thanking the -- ANC Commissioner Cuthbert  
3 for coming down to provide us with some more information, I  
4 believe that I could support this case. I do believe that  
5 it meets the variance test as outlined in the Office of  
6 Planning report.

7 And thank you, Ms. Elliott, for providing us with  
8 a little more clarity on the description of the application,  
9 and that's very helpful.

10 I felt that the applicant had met the three  
11 prongs, the proposed -- from the Office of Planning report.  
12 They've stated that the proposed rear addition provides the  
13 space necessary to modernize the units including code-  
14 compliant circulation corridors, electrical upgrades and  
15 inclusion of modern amenities that require additional space  
16 such as washers and dryers and updated kitchens, and it would  
17 be practically difficult to bring the units up to our modern  
18 living standards and comply with the current codes without  
19 granting the variance.

20 With regard to the substantial detriment prong and  
21 the no substantial harm to the Zoning Regulations prong, I  
22 also believe that the applicant has met these two prongs as  
23 well. And didn't know if my fellow Board Members had any  
24 other comments for this particular case.

25 ZC CHAIR MILLER: I concur with your comments, Mr.

1 Chair.

2 COMMISSIONER JOHN: I concur, Mr. Vice-Chair.

3 BZA VICE-CHAIRMAN HART: So I will make a motion  
4 to approve Application No. 19732 of FocusWorks, LLC as read  
5 by the -- read and captioned by the secretary. Do I have a  
6 second?

7 COMMISSIONER JOHN: Second.

8 BZA VICE-CHAIRMAN HART: All those in favor, say  
9 aye?

10 (Chorus of aye.)

11 BZA VICE-CHAIRMAN HART: Any opposed?

12 (No audible response.)

13 BZA VICE-CHAIRMAN HART: Motion carries. Mr. Moy?

14 SECRETARY MOY: Staff would record the vote as 3  
15 to 0 to 2. This is on the motion of Vice-Chair Hart to  
16 approve the application for the relief being requested.  
17 Seconded the motion, Ms. Lorna John. Also in support Mr. Rob  
18 Miller. No other Board Members present nor participating.  
19 Motion carries.

20 BZA VICE-CHAIRMAN HART: A summary order, Mr. Moy?

21 SECRETARY MOY: Thank you, sir.

22 BZA VICE-CHAIRMAN HART: Thank you.

23 Thank you, all.

24 ALL: Thank you.

25 BZA VICE-CHAIRMAN HART: The next case -- and just

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1 for the audience, for you to understand, so currently we've  
2 gone -- we have rescheduled Case No. 19630 and we've heard  
3 Application No. 19732. And now the application, the agenda  
4 as was handed at the back of the room to my left -- we're  
5 going to go through the agenda as it's -- with the remaining  
6 cases. So the order that you see there is the order that  
7 we'll be going through the rest of the agenda.

8 So, Mr. Moy, you may call the next case.

9 SECRETARY MOY: With pleasure. Thank you.

10 So we're back at the top of the order. This is  
11 Case Application No. 19377. This of the Boundary Companies  
12 and the Missionary Society. This application has been  
13 amended, and I believe at least for our record requests for  
14 special exceptions under the theoretical lot subdivision  
15 requirements, Subtitle C § 306.1, roof structure  
16 requirements, Subtitle C § 1500.4, and the new residential  
17 development requirements of Subtitle U §4 21, and pursuant  
18 to 11 DCMR Subtitle X, Chapter 10, variances from the vehicle  
19 -- vehicular access requirements and the RA-1 Zone  
20 development standards, Subtitle C, § 305.3. This would  
21 construct 60 row dwellings and a new clerical residential  
22 building in the RA-1- Zone at premises 3015 4th Street,  
23 Northeast, Square 3648, Lot 915.

24 And for the record I believe on February 9th, 2017  
25 the Board granted party status to -- in opposition --

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1 opposition party status to St. Paul's College Neighbors for  
2 Thoughtful Development.

3 BZA VICE-CHAIRMAN HART: Good morning, everyone.

4 SECRETARY MOY: Mr. Vice-Chair, if I can ask the  
5 applicant to confirm or verify whether or not there was any  
6 additional added relief to the caption.

7 MR. UTZ: There is not at this time, but -- I'm  
8 sorry.

9 BZA VICE-CHAIRMAN HART: We'll begin in one  
10 second.

11 MR. UTZ: Yes, sure.

12 BZA VICE-CHAIRMAN HART: Okay.

13 MR. UTZ: This is Jeff Utz from Goulston & Stores,  
14 counsel for the applicant. Just in following up on Mr. Moy's  
15 point, I believe we did want to mention that the caption  
16 should include the special exception relief for the roof  
17 structures that are -- is detailed in the materials. This  
18 is a special exception under Subsection C § 1500.4 to allow  
19 roof structures, in this case small habitable enclosures on  
20 a limited number of the homes, to exist on row houses.

21 BZA VICE-CHAIRMAN HART: Yes, I think he read  
22 that, or at least that's --

23 MR. UTZ: Okay. Sorry.

24 BZA VICE-CHAIRMAN HART: I think it is included  
25 in there.

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1 MR. UTZ: Great. Thanks. Sorry. I was trying  
2 to set up for the presentation.

3 BZA VICE-CHAIRMAN HART: Oh, I fully understand.

4 And I just want to make sure -- if we could go  
5 from my left to right, just introduce yourselves and provide  
6 your name and your address.

7 MR. HELGASON: Good morning. Loren Helgason,  
8 Studio 9, landscape architect on the project. Home address:  
9 13648 Barren Springs Court, Centreville, Virginia.

10 BZA VICE-CHAIRMAN HART: And can you spell your  
11 last name?

12 MR. HELGASON: Sure. Helgason is H-E-L-G-A-S-O-N.

13 BZA VICE-CHAIRMAN HART: Thank you.

14 MR. RALSTON: Good morning. Name is Warren  
15 Ralston with RC Ralston Architects, residential architect for  
16 the project. Home address is 23206 River Highlands Court;  
17 Highlands is all one word, H, and that's in Leesburg,  
18 Virginia.

19 BZA VICE-CHAIRMAN HART: Thank you.

20 MR. HORNE: Good morning. My name is Stephen  
21 Horne. I'm with Elm Street Development. Address is 1355  
22 Beverly Road, Suite 240, McLean, Virginia, 22101.

23 MR. UTZ: Jeff Utz with Goulston & Stores again.  
24 Address is 1999 K Street, Fifth Floor, in D.C.

25 FATHER ANDREWS: Father Eric Andrews, President

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1 of the Paulist Fathers, Missionary Society of St. Paul the  
2 Apostle. Residence is 415 West 59th Street, New York, 10019.

3 MS. McGUIRE: I am Patricia McGuire, President,  
4 Trinity Washington University, 125 Michigan Avenue,  
5 Northeast, Washington, D.C., 20017.

6 MR. EDWARDS: I'm John Edwards with Bonstra  
7 Haresign Architects. The address is 1728 14th Street,  
8 Northwest, 20009.

9 MR. VANPELT: Good morning. Dan Van Pelt with  
10 Gorove/Slade Associates, 1140 Connecticut Avenue, Northwest,  
11 Suite 600, Washington, D.C.

12 BZA VICE-CHAIRMAN HART: Okay. Big contingent.  
13 So, and we do have the party status folks, the  
14 opposition party. Are you here? If someone could raise  
15 their hand.

16 Okay. You are here.

17 At some point we're going to need them to be at  
18 the table because they're going to have to be able to cross-  
19 examine and they need a mic to do that. I'm just letting you  
20 know that they'll have to come up and -- actually it may be  
21 better for them to sit up here now. I don't know how you  
22 want to do that. And I don't know how many seats you all  
23 need. One or two?

24 MR. ANDERSON: It's just one. Our attorney is  
25 absent.

1 BZA VICE-CHAIRMAN HART: One seat? That's fine.

2 MR. ANDERSON: Our attorney is absent, so --

3 BZA VICE-CHAIRMAN HART: You can speak on the mic.

4 The court reporter has to hear this, so don't want to make  
5 things difficult, but --

6 MR. ANDERSON: No, completely understand. And my  
7 apologies. I'm fighting something nasty, so I'm a little  
8 scattered.

9 BZA VICE-CHAIRMAN HART: You and me both. So it's  
10 okay.

11 MR. ANDERSON: John Anderson. Our attorney Dave  
12 Brown submitted a -- of Knopf & Brown sent a letter  
13 yesterday, April 24th, stating that he would not be able to  
14 attend the hearing and designated me as the representative  
15 for the party, although I will note that there's probably a  
16 dozen other folks that are outside of the party group here  
17 to voice their concerns about the development.

18 BZA VICE-CHAIRMAN HART: And they'll have an  
19 opportunity to be able to do that.

20 MR. UTZ: Okay.

21 BZA VICE-CHAIRMAN HART: We have -- the process  
22 for everyone in the audience will be the applicant will give  
23 -- will be able to present their case. Mr. Anderson, you'd  
24 be able to cross-examine any of the testimony that they  
25 provide. You'd be given a chance to present your case. They

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1 can cross-examine you. Then we'll go to the Office of  
2 Planning, hear from them. We'll hear from the ANC and then  
3 hear from the parties in opposition and parties in support.  
4 And then we'll have some sort of conclusion at that point.  
5 I think there's a rebuttal in the conclusion, but just so  
6 folks kind of understand the process.

7 So, Mr. Utz? And how much time would you need?

8 MR. UTZ: I think we're looking at about an hour  
9 for our presentation.

10 BZA VICE-CHAIRMAN HART: Okay. How about we start  
11 with 45 minutes --

12 MR. UTZ: Okay.

13 BZA VICE-CHAIRMAN HART: And then we'll see where  
14 we are from there.

15 MR. UTZ: Yes, we'll try to get there.

16 BZA VICE-CHAIRMAN HART: Yes, we have other cases  
17 on the docket.

18 MR. UTZ: Yes.

19 BZA VICE-CHAIRMAN HART: And, Mr. Anderson, just  
20 so you're understanding this as well, the amount of time that  
21 they get, you also get the same amount of time. You don't  
22 have to use it all, but you do have that option. So just  
23 wanted to make sure you were aware of that.

24 MR. ANDERSON: Understood. Thank you.

25 BZA VICE-CHAIRMAN HART: No problem.

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1 MR. UTZ: And we do have a few expert witnesses  
2 that need to be verified as experts: Warren Ralston of WC  
3 Ralston Architects has not yet been certified by the Board  
4 as an expert. And Loren Helgason of Studio 39 has not yet  
5 been certified as a landscape -- an expert in landscape  
6 architecture. Everybody else has been on the panel.

7 BZA VICE-CHAIRMAN HART: They're actually in the  
8 -- in our book already.

9 MR. UTZ: They are. Yes.

10 BZA VICE-CHAIRMAN HART: Since my laptop is a  
11 little bit slow right now, Mr. Helgason and Mr. Ralston, if  
12 you could just give us your -- a little brief résumé for us  
13 so that we can hear that and then the Board can decide.

14 MR. RALSTON: Certainly. Members of the Board,  
15 I'm a registered architect in -- for the last 10 years. I've  
16 been in practice in architect for about 15 on projects in  
17 D.C., Virginia, Maryland and up and down the Eastern  
18 Seaboard. Relevant project experience: In 2005 and 2006 I  
19 was a participant for Canal Park, which was 34 town homes  
20 with similar topographic constraints to this project.

21 BZA VICE-CHAIRMAN HART: The Canal Park is in --  
22 is down in Southeast? Is that the --

23 MR. RALSTON: It's -- it was the site of the old  
24 Riverside Hospital on MacArthur Boulevard.

25 BZA VICE-CHAIRMAN HART: Oh, I'm sorry.

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1 MR. RALSTON: Yes.

2 BZA VICE-CHAIRMAN HART: This is Northwest?

3 MR. RALSTON: Yes.

4 BZA VICE-CHAIRMAN HART: Okay.

5 Okay. Does the Board have any concerns?

6 COMMISSIONER JOHN: No, Mr. Vice-Chair.

7 BZA VICE-CHAIRMAN HART: I'm fine with that. You  
8 can be added to our expert book.

9 MR. RALSTON: Thank you.

10 BZA VICE-CHAIRMAN HART: Which is just a wonderful  
11 thing. I'm not even sure -- I guess we do have a physical  
12 book.

13 So, Mr. Helgason?

14 MR. HELGASON: Yes, good morning. Loren Helgason.  
15 I'm a registered landscape architect in the State of  
16 Maryland. Similar to Warren to my side here I've been  
17 practicing as a registered architect for 10 years and  
18 practicing landscape architecture since 2001 primarily in the  
19 Mid-Atlantic here: Maryland, D.C., Virginia primarily, but  
20 up and down the coast, various projects, project types from  
21 single-family and town home to urban spaces, multifamily,  
22 high rises, etcetera.

23 BZA VICE-CHAIRMAN HART: Any questions on Mr.  
24 Helgason?

25 COMMISSIONER JOHN: No, Mr. Vice-Chair.

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1           BZA VICE-CHAIRMAN HART: I think that you have the  
2 requisite expertise and would accept you into the book as  
3 well.

4           MR. HELGASON: Thank you.

5           BZA VICE-CHAIRMAN HART: Thank you.

6           So, Mr. Utz?

7           MR. UTZ: Thank you. Good morning. As I had  
8 mentioned, my name is Jeff Utz and I am an attorney with  
9 Goulston & Stores representing the applicant, the Boundary  
10 Companies, the Missionary -- and the Missionary Society of  
11 St. Paul the Apostle, also known as the Paulist Fathers.

12           I won't list everybody that we just announced or  
13 introduced. I'll move right through that portion.

14           But we are here this morning requesting relief,  
15 both special exception and variance relief to allow for the  
16 construction of a town house and a new institutional building  
17 development on the St. Paul's property in Northeast D.C. The  
18 property is known as 1070 and 1071 A&T lots and it is bounded  
19 by institutional and residential uses.

20           It's owned currently by the Paulists and it's also  
21 undeveloped. It is uniquely shaped with significant  
22 topographical changes and beautiful trees among other  
23 interesting kind of challenges to the site that we'll detail  
24 and have detailed in the record.

25           The property is in the RA-1 Zone District and this

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1 created several constraints that we need to get relief from  
2 in order to effectuate the project. Specifically, those are  
3 a special exception under Subsection U § 421 to allow for new  
4 residential development in the RA-1 Zone District, a  
5 specifically under Subsection C § 305 to allow for  
6 theoretical lots, a special exception under Section C §  
7 1500.4 to allow for the roof structures I was mentioning  
8 previously, and an area variance from § 305.3 of Subtitle C  
9 that includes the width of the ingress and egress elements  
10 on the site, not all being 24 feet in width, and the lot  
11 occupancy and rear yard and side yard requirements of some  
12 of the theoretical lots that we created.

13           The project has been designed to meet the purpose  
14 and intent of the Zoning Regulations and to mirror  
15 surrounding development regarding lot size, architecture and  
16 unit configuration, however, as I mentioned there are  
17 challenges that make complete compliance an impossibility at  
18 this site.

19           We have submitted detailed information relating  
20 to the satisfaction of the relief standards into the record,  
21 so I won't belabor any more of an overview, but I would point  
22 you with particularity to Exhibit 64 in the record, which was  
23 the first prehearing submission that was filed on the 28th  
24 February of this year.

25           We have worked tirelessly with D.C. agencies



1 including OP, HPO and DDOT regarding the project, and these  
2 agencies deserve a deep level of gratitude for the amount of  
3 time and ideas they have contributed to improve the project.

4           Ultimately the process resulted in supportive  
5 agency reports which we'll no doubt be detailed further today  
6 and we anticipate such coordination will continue in the  
7 future. Further, we note that the development team is able  
8 to address all of the conditions of the OP report and the  
9 conditions in the DDOT report with some clarifications that  
10 we'll detail.

11           Specifically, I want to mention as I know there  
12 is a great deal of interest in the record about this, there  
13 is a public easement condition in the DDOT report and then  
14 therefore in the OP report about public easement over the  
15 private streets in the town house community, and that is  
16 something that we will detail and provide to be recorded for  
17 public access over those streets. And that includes the  
18 sidewalks adjacent to the street, six-foot sidewalks adjacent  
19 to the streets to provide that kind of porosity and that  
20 connection through the site.

21           Additionally, the team has spent a great deal of  
22 time with the community to incorporate feedback and the  
23 project has gone through several iterations that we'll detail  
24 to address community concerns. We believe this is evidenced  
25 by the ANC's report in support.

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1           Additionally, the team obtained approval for the  
2 new Paulist building from HPRB under HPA Case 18-101, and  
3 therefore the building has been approved to be located in the  
4 viewshed from 4th Street to the historic building.

5           With that I will turn things over to Father Eric  
6 to talk about the Paulist's history and the future vision at  
7 the site.

8           FATHER ANDREWS:    Good morning, Vice-Chairman,  
9 Members of the Board, all gathered.

10           The Paulist Fathers have been part of Brookland  
11 since 1889 when we came down from New York to Washington,  
12 D.C. at the founding of Catholic University. We were  
13 originally in a building on the campus, which we outgrew, and  
14 then we moved across the street to available farmland and  
15 built our building, St. Paul's College, which still stands  
16 and is now educating students and youth of our district.

17           We had that building, which was over 100,000  
18 square feet, for over 100 years. During the '50s it was at  
19 maximum capacity. Now we find ourselves about one-fifth the  
20 size. We do not -- we didn't -- we also -- in 2014 we got  
21 a report from the Bishop's Conference Religious Retirement  
22 Office stating that we were grossly under-funded for our  
23 retirement needs. All those men who were in those buildings  
24 are now in their 70s and 80s.

25           So we found ourselves in a big financial bind.

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1 And we also knew that we didn't need all that property or  
2 building, and so in all humility we felt we needed to have  
3 a much smaller footprint in D.C., yet staying connected with  
4 Catholic University where we have a long relationship with  
5 our neighbors of which we have shared our property generously  
6 as a private citizen for all of those years and still  
7 continue to do so.

8           So we're a missionary community. We enjoy being  
9 in the heart of the city. We are excited about the growth  
10 in Brookland that's taken place, which we actually probably  
11 started with the creation of Chancellor's Row and the new  
12 neighbors who are around us. We're not farmers. We're not  
13 Benedictines. We're not monks. We don't -- having more  
14 people around us is actually beneficial to our mission.

15           We're pleased now that our seminary is serving the  
16 people of the District of Columbia in education and we hope  
17 if we move back onto the site that we would be partners in  
18 our neighborhood once again. We're now living at St.  
19 Joseph's Seminary near Providence Hospital in the fourth  
20 floor dwelling and we'd love to have our own house again,  
21 though more modest in size.

22           Like I said, this development is necessary. We  
23 have many men who are over the age of 70. We need to provide  
24 for them. We are still a vibrant community, although much  
25 smaller, as I said. So we're looking for a home for about

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1 15 people. We also need to monetize our land as best we can,  
2 like I said, to take care of our mission and our retirement  
3 needs.

4 So our land and our building is a critical  
5 resource and we would -- we are not able to just allow it to  
6 be public park, although it's been enjoyed in that way. We  
7 have responsibilities to our family, which is basically our  
8 priests and seminarians.

9 We started out with an ambitious plan for 90 town  
10 homes. That clearly wasn't going to fly. And after a lot  
11 of conversations with all stakeholders around us, we're down  
12 to 60 town homes, 8 of which are designated for affordable  
13 housing, which we're really -- a sacrifice that we believe  
14 we need to make in terms of the well-being of our  
15 neighborhood and the diversification of peoples in our  
16 neighborhood, which is very important.

17 We realize that there is stringent zoning  
18 standards, and this development plan goes below what the  
19 zoning is in our neighborhood. So we're trying to work in  
20 harmony with nature and our neighbors and so that there may  
21 be adequate space for recreation and for walking of dogs,  
22 which seems to be the primary recreation on our land.

23 We're concerned though that as there's opposition,  
24 as there always will be, that our land is not our own and  
25 that it's -- we worry that efforts to halt the plans amounts

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1 to kind of like a taking of land without adequate  
2 compensation would leave us really in the breach. So we're  
3 advocating for our rights as land owners, as good citizens  
4 and humbly using our land and having it available for new  
5 growth in the neighbor, which we think would continue to be  
6 a boon.

7 So that's kind of where we're coming from. We  
8 thank you for your consideration. This isn't something we  
9 do easily, but we feel that it's most important for our  
10 ongoing mission and for our religious use and for our guys.  
11 Thank you very much.

12 (Pause.)

13 MR. UTZ: Sorry. We're having some issues getting  
14 the laptop to appear on the screens in the room.

15 FATHER ANDREWS: I didn't have any special slides,  
16 so it's okay. You didn't miss anything visually.

17 BZA VICE-CHAIRMAN HART: Have you been able to do  
18 it?

19 MR. UTZ: Somewhat. Yes, it's --

20 BZA VICE-CHAIRMAN HART: You want it larger? Just  
21 Control-L will get it larger. There you go. All right.

22 MR. HORNE: Thank you, Father Eric.

23 As I mentioned, my name is Steve Horne. I'm a  
24 vice-president with Elm Street Development. We along with  
25 John Wilkinson of the Boundary Companies have been working

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1 with the Paulists as the applicant in this case. I'd like  
2 to spend my time discussing the site's unique  
3 characteristics, the project design and our community  
4 outreach.

5           The site itself sites in -- within the Edgewood  
6 neighborhood on 4th Street just north of Franklin Street and  
7 across the street from Trinity University. The immediate  
8 neighborhood largely consists of single-family homes,  
9 particularly row homes, and institutional uses, particularly  
10 religious users.

11           The site is an irregularly shaped lot consisting  
12 of approximately five-and-a-half acres. This unique shape  
13 makes it difficult to create uniformly shaped building lots.  
14 There is also significant topography to deal with on the  
15 site. The property falls approximately 20 feet from east to  
16 west in vertical elevation to the 4th Street property line.

17           There are also a number of significant trees on site as  
18 well. Each of these factors presents their own unique design  
19 and construction challenges.

20           Now I'd like to discuss briefly our design  
21 approach, how we entered into this sort of framework. There  
22 were five overarching design considerations that informed the  
23 land planning for this community.

24           The first was the preservation of trees. One of  
25 the very first exercises we undertook was to perform a

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1 detailed tree inventory for the property and to set aside an  
2 area on the plan for a tree preserve. This tree preserve  
3 would later become one of the two central design features of  
4 the community.

5           The second design consideration was to establish  
6 a defined view corridor from 4th street to the existing St.  
7 Paul's College building. This viewshed was created in  
8 coordination with OP and HPO and would ultimately lay the  
9 groundwork for a successful landmark application for this  
10 portion of the site.

11           The third critical component was to respond to our  
12 neighbors' concerns in Chancellor's Row by providing a  
13 sufficient buffer in the northeastern and southern portions  
14 of the site. Through this process we ultimately established  
15 a 50-foot setback to the northeast neighbors and a 75-foot  
16 setback in the southern portion near the new -- proposed new  
17 Paulist building.

18           Another important design consideration was to  
19 identify an appropriate location for the new Paulist building  
20 that: (A) blended within the viewshed rather than  
21 obstructing; and (B) retained a spatial connection to the  
22 original building, something that was very important to the  
23 Paulist Fathers.

24           And then lastly, our desire was to design a  
25 project that would work with rather than against the natural

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1 features of the landscape.

2           Next I'll briefly talk about the proposed building  
3 program. The building program will consist of 60 total row  
4 homes broken down into a mix of 16-foot wide and 20-foot wide  
5 homes. All of the units are proposed as 42 feet deep, which  
6 creates a relatively large home, which is appropriate and  
7 attractive for families.

8           The FAR calculation contained within our  
9 application is conservative in order to measure the worst  
10 case impacts. At a 0.91 FAR the site is well within the 1.08  
11 FAR allowed under IZ, and this also assumes maximum deck  
12 build-out, which is unlikely, and excludes all private  
13 rights- of-way from the lot area.

14           Regarding the affordable housing or IZ component  
15 we will be providing, we have committed to providing to  
16 exceed the minimum required by approximately 50 percent,  
17 which will result in nine units of IZ versus what would  
18 likely be about 6 units on the site. In addition to that we  
19 are also offering those units at three levels of  
20 affordability. Three would be at 50 percent median family  
21 income, 3 at 60 percent, and the final 3 at 80 percent median  
22 family income. And then lastly the new Paulist building is  
23 proposed to be at the southern portion of the site.

24           The lots on the site plan were configured in a way  
25 that maximizes community open space, buffers to adjacent

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1 properties, the preservation of trees and the size of the  
2 view corridor, or viewshed. The town home lots were  
3 consolidated into 11 sticks to allow for the concentration  
4 of large areas of open space for community recreation and  
5 tree preservation, all of which will be open to the public.

6 The site has been sensitively designed to allow  
7 for maximum space between the new construction and the  
8 existing fabric around the project particularly at the  
9 northeast and southern portions of the property. The lot  
10 configuration shown results in approximately 68 percent open  
11 space after excluding private rights-of-way and including a  
12 maximum assumed build-out of decks.

13 The next series of slides, which I won't go  
14 through detail to detail given the time we have, show an  
15 evolution of the plan. Our first proposal was back in  
16 January of 2016, so we're two-plus years into this. This  
17 will give you a sense of how things evolved over time, the  
18 feedback we received and how we implemented or changed the  
19 plan based on that feedback. So I'll just try to hit the  
20 high points here.

21 The first plan we presented in January of '16  
22 included a tree preserve. And the comment we got back from  
23 that -- this was about 93 units total. The main comments we  
24 received was that we needed to establish that view corridor  
25 that I referenced, the viewshed to the original building and

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1 that no new residential should be located there.

2           It was suggested that we should relocate  
3 stormwater to consider greater flexibility for planning and  
4 to also consider making a direct connection, vehicular  
5 connection from Regent Place to 4th Street to allow  
6 additional site porosity.

7           Based on that feedback we removed all of the  
8 residential units from the viewshed, we relocated stormwater,  
9 we provided an extended vehicular connection to 4th Street,  
10 and that resulted in a unit cal reduction from 93 to 78. We  
11 took this plan out to a series of events in the community to  
12 get feedback on that, and the general feedback we received  
13 there was that we were taking too many trees down, too much  
14 traffic would be routed through Chancellor's Row as a result  
15 of the Regent Place connection, buildings and driveways were  
16 too close the neighbors, and bottom line the Chancellor's Row  
17 community was adamantly opposed to a connection to 4th Street  
18 that would allow traffic to travel through their  
19 neighborhood.

20           So taking that feedback to heart, in October '16  
21 we created a plan that increased the buffer with Chancellor's  
22 Row in the northern portion of the 40, which was later  
23 increased to 50. We created a traffic plan and a commitment  
24 to not impact or remove the gate that exists on the property  
25 today that regulates traffic. And so we committed to putting

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1 into our HOA covenants the prevention or the restriction that  
2 no vehicular traffic from the proposed development could  
3 travel through to Chancellor's Row. So all our traffic is  
4 going out to 4th Street as opposed to through Chancellor's  
5 Row. And we also shifted the existing school driveway  
6 further away from the existing homes in Chancellor's Row to  
7 give them more separation.

8           That plan was received by OP and encouraged us to  
9 save more trees than what we were doing on that plan. They  
10 still thought it was a little bit too dense and there was too  
11 much paving. So based on that feedback we reincorporate the  
12 tree preserve, very similar to the first iteration that we  
13 had. We revised grading, reduced retaining walls, narrowed  
14 our paving widths, overhauled our stormwater management  
15 approach so that it would create more useable open space, and  
16 we gave some real thoughtful design to the open spaces and  
17 how those might look and function. That resulted in a  
18 reduction of units from 78 to 64.

19           The next slide brings us to present day. This is  
20 the plan that is under consideration today. It's a reduction  
21 of units from 64 to 60. I mentioned the increased IZ  
22 component. We designated additional trees for preservation  
23 as part of this plan. We also worked with the ANC and  
24 Commissioner Garnett to reduce the units of 60. That was a  
25 condition for support. And also to increase the IZ

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1 component. So he is to be applauded for pushing for that  
2 increase in IZ, and we're happy to accommodate that.

3 We also established the bigger buffers with our  
4 neighbors, up to 50 feet in the northeast, 75 feet in the  
5 southern portion. And we also forged an agreement with the  
6 neighbor group of Chancellor's Row to set a standard -- some  
7 standards and expectations to govern development, which we  
8 will submitting into the record today as evidence of that.

9 Okay. The next slide is just a chronological  
10 listing of the meetings we've had with city agencies just to  
11 give you a sense of time, who we spoke to and over what  
12 course of time. So as you can see, there was constant  
13 interaction there.

14 The next slide is the same format, but a listing  
15 of community outreach groups that we did: the ANC,  
16 Chancellor's Row, Edgewood Civic Association, Casey Trees,  
17 ANC of course, all the way through from early '16 to present  
18 day.

19 Two final points. I would like to address a  
20 specific letter that was submitted to the record by the  
21 Chancellor's Row Homeowner's Association. The letter offered  
22 conditional support from the project there are three  
23 conditions met by the applicant team.

24 BZA VICE-CHAIRMAN HART: Is this Exhibit 102?

25 MR. HORNE: I do not know.

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1 BZA VICE-CHAIRMAN HART: Where's our letter?

2 (Pause.)

3 BZA VICE-CHAIRMAN HART: Is the letter dated April  
4 -- actually this is fairly recent -- April 20th, 2018?

5 MR. UTZ: That sounds right.

6 BZA VICE-CHAIRMAN HART: Okay. So it's -- let's  
7 just say it's April -- it's Exhibit 102. It's helpful to be  
8 able to kind of reference it because there are so many  
9 exhibits here.

10 MR. HORNE: Right. My apologies.

11 MR. UTZ: Yes, it is 102 and 102(a) and (b),  
12 correct.

13 BZA VICE-CHAIRMAN HART: Yes. Thank you.

14 MR. HORNE: With that letter three conditions were  
15 offered: The first was restricting residential traffic from  
16 using the -- from the new development, the new residential  
17 development from using the roads within Chancellor's Row.  
18 The second was improving the existing gate with a semi-  
19 permanent gate that looked nicer but also was a little bit  
20 more permanent where Regent Place connects with the school  
21 driveway. And the final one was capping the occupancy of the  
22 Paulist Fathers' residence to a maximum of 15 residents. And  
23 I just want to go on the record saying we would be willing  
24 to accept those conditions if the Board sees fit to agree  
25 with them.

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1           Second to last, as I mentioned, there's a letter  
2 of agreement that we've been working on with a group of  
3 neighbor that we will also be submitting into the record.  
4 That letter of agreement has resulted in a set of standards  
5 and expectations that will govern development of the site and  
6 we expect the execution of that -- the counterpart by the  
7 neighbors will be submitted in short order as well.

8           And then lastly, we are aware that there are other  
9 letters of -- in the record raising a series of specific  
10 issues such as construction management, stormwater,  
11 recreation area, vehicular traffic and density. And we will  
12 attempt -- we have structured our presentation to attempt to  
13 address each of those in subsequent sections of the talk  
14 today.

15           So in summary, we have worked very hard with the  
16 community to create a project that we believe benefits the  
17 Paulists, our future residents and the community as a whole.  
18 We are focused on taking this unique and challenging site and  
19 creating an exciting new addition to the neighborhood.

20           With that I'll turn it over to Warren Ralston of  
21 WC Ralston to discuss the town home architecture and design.  
22 Thank you.

23           MR. RALSTON: Members of the Board, my name is  
24 Warren Ralston with WC Ralston Architects. Thank you for the  
25 opportunity to present before you today.

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1           Our proposal includes two distinct town house  
2 types. We have a 16-foot-wide town home that is 42 feet deep  
3 and a 20-foot town home that is 42 feet deep. There are no  
4 14-foot-wide town homes in this application.

5           In the town house buildings directly adjacent to  
6 Chancellor's Row: buildings 1 through 7 and 23 through 28,  
7 you'll see we've carved out part of the third level and  
8 trimmed down the streetscape to two stories. We also  
9 adjusted the slope of the site to reduce the visual impact  
10 to the buildings. This is particularly evident in those same  
11 buildings 1 through 7 and 23 through 28. Here with the  
12 introduction of cellars we have an in essence pressed the  
13 town homes down into the ground, further reducing building  
14 height. I should also note that in buildings 1 through 7 and  
15 23 through 28 there will be no AC condensers on the upper  
16 roof. All of --

17           BZA VICE-CHAIRMAN HART: Can you just point out  
18 where those are? It's just hard to read the --

19           MR. RALSTON: Certainly.

20           MR. UTZ: They are --

21           BZA VICE-CHAIRMAN HART: You need to put your mic  
22 on.

23           MR. UTZ: Okay. Thanks. This is 1 through 7.  
24 This stick is 1 through 7 at the kind of northeast corner of  
25 the subject site. And this is 23 through 28, at still the

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1 northeast but farther south.

2 BZA VICE-CHAIRMAN HART: So these are the ones  
3 that are closest to the Chancellor's Row?

4 MR. UTZ: Correct. Fifty feet or more back.  
5 Right, those are the ones that will not have the roof  
6 structures.

7 BZA VICE-CHAIRMAN HART: Okay. Thank you.

8 MR. RALSTON: So following that conversation,  
9 we're -- the condensers on those same buildings will not be  
10 on the roof. They will be placed either on the terrace level  
11 or on the garage side of those buildings in the private  
12 streets.

13 The brick exteriors of the town homes have been  
14 designed in historical D.C. town home vernacular, a language  
15 that engages the urban fabric of the city and grounds the  
16 homes in context with the surrounding neighborhoods. You'll  
17 see we've incorporated projected brick headers, deep masonry  
18 cornices, a mixture of front door styles, shingle parapets,  
19 metal canopies at front doors. No detail is left untouched  
20 from coach lights to contrasting downspouts.

21 On the exteriors we've used muted browns and  
22 grays, purposely not overly saturated colors so the homes  
23 blend in with the surrounding streetscapes. Note here you'll  
24 see the carve-out of the third level and the introduction of  
25 roof terraces, which we previously mentioned.

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1 Full third levels are proposed as the town homes  
2 descend the topography towards 4th Street. In this case  
3 access is provided to the roof for outdoor living and  
4 entertaining those views to soak up the green space. Access  
5 to the roof is delivered by way of penthouse, and the  
6 penthouses meet a one-to-one setback from the roof to reduce  
7 their visual impact from the ground. Line drawn dimension  
8 elevations showing compliance to these setbacks that was  
9 requested by OP were submitted in the April 4th prehearing  
10 submission.

11 BZA VICE-CHAIRMAN HART: And in looking at this,  
12 what is the -- so what I'm looking at in this image on page  
13 30 you have -- on the left-hand side is the penthouse I guess  
14 roof access, the stairway, and on the right is -- it's just  
15 showing it in --

16 MR. RALSTON: Inside view.

17 BZA VICE-CHAIRMAN HART: Inside view? And so what  
18 are the panels? Is that like -- are those just details that  
19 I'm reading there?

20 MR. RALSTON: Correct. Yes.

21 BZA VICE-CHAIRMAN HART: And so is it -- what do  
22 you call them -- is it brick that it's made of? What is the  
23 material there?

24 MR. RALSTON: Cementitious panel.

25 BZA VICE-CHAIRMAN HART: And so they are -- okay.

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1 And there are no windows in there? It's just --

2 MR. RALSTON: There's a door. It's a stairwell  
3 that leads to the roofs and there will be a door.

4 MR. UTZ: This shows what it is all the way to the  
5 right. This is that element in plan. So it's just a -- it's  
6 basically a small of an atrium or a landing that you can get  
7 and then the rest of it is stairs descending down.

8 BZA VICE-CHAIRMAN HART: Okay.

9 MR. RALSTON: This slide represents the 20-foot-  
10 wide town homes to round out the mixture of buildings.  
11 Similar styling and detail were used on a larger scale with  
12 more width in the façade to employ new rhythm and patterns  
13 to add to variety in the streetscape. Here the same  
14 penthouses provide access to that outdoor living on the roof  
15 following the same one-to-one setback. You can see the stair  
16 tower there again.

17 In summary, these town homes have a deep  
18 connection with the traditional architecture of the District  
19 and provide open space to be stimulated by and enjoyed by the  
20 homeowners and the aesthetics will both complement and  
21 enhance the surrounding neighborhoods.

22 MR. EDWARDS: So and for the Paulists' new  
23 residence that will be on the south side of the site, as  
24 Father Eric said, maintaining the physical and the visual  
25 relationship to the historic property was very much a

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1 priority to them, and accordingly their new residence and  
2 mission house will sit on land within the landmark boundary  
3 between the historic St. Paul's College campus and 4th  
4 Street. And this was approved in both concept for the siting  
5 and the architecture by HPRB this past winter.

6           The siting in the facility have been designed to  
7 comply with all of the Zoning provisions, so the theoretical  
8 lot will be drawn so that all yard setbacks are conforming.  
9 We are compliant with parking and bike parking. Actually  
10 we'll be providing more structured parking and bike parking  
11 than required by the Zoning. And we have also maintained a  
12 residence for only 15 clerics, so there will only be 15  
13 priests that will actually be in residence in here.

14           The design and siting of the new facility responds  
15 to a number of things: the historical context of the landmark  
16 campus, the urban context of the existing town homes and the  
17 street grid to the south of the site, as well as the proposed  
18 new town home development to the north. And this placement  
19 is the result of an extensive study over a couple of years  
20 now. Primarily the site topography and the grading, as was  
21 mentioned, there is a 20-foot grade change over the course  
22 of the site from east to west, the preservation of existing  
23 trees that line the current entry drive that goes to the  
24 historic campus, circulation patterns across the site, the  
25 viewsheds from the site, particularly in response to the

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1 original landmark building, and of course the functional  
2 program of the Paulists that need to be accommodated here.

3           And the consultation on this final site location  
4 took place throughout that entire period where we were  
5 working closely with the Office of Planning, with the  
6 Historic Preservation Office. We had several meetings with  
7 the Chancellor's Row town home neighbors and their input was  
8 also instrumental in pushing the building up to the north to  
9 provide a greater buffer zone between those buildings. We've  
10 spoken to Building Hope, who owned the charter school  
11 building and the historic property, the new town home  
12 developers and also through the local community via the ANC,  
13 which we also presented as part of the HPRB process.

14           Next slide. The effect of all of this proposed  
15 siting is most noticeably it opens up a previously partially  
16 obscured view of St. Paul's College from 4th Street, which  
17 was an important aspect of the historic preservation review,  
18 and that's mainly due to the regrading and the realignment  
19 of the entry drive to the other side of the building. The  
20 building was designed to frame a view of St. Paul's College  
21 with a distinctive contemporary form while remaining  
22 deferential in scale. And that's mainly through the  
23 exploitation of that grade change to diminish the height of  
24 the new building as it moves up the hill and built into the  
25 hill rather than plopping a structure on top of the

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1 landscape.

2           By moving the building north we were also able to  
3 preserve several existing mature trees along what is now the  
4 existing driveway to the south that will be removed, and that  
5 helped create the 75-foot landscape buffer that will be  
6 between Chancellor's Row. And that width is about comparable  
7 to what you see on the side streets south of the site, the  
8 existing side streets in the Edgewood neighborhood to the  
9 south. And it also allows many functions to be tucked below-  
10 grade, as I noted, such as the structured parking and several  
11 aspects of the program that we were able to dig into the hill  
12 rather than raising the building.

13           And these sections that are up here illustrate  
14 that relationship between the new Paulist facility and  
15 Chancellor's Row town homes to the south. Again, there's  
16 that 75-foot green sward that parallels both the residential  
17 wing of the building and the town homes, the buffer of trees  
18 that are being retained as well as new trees that we're  
19 proposing to be planted within that buffer. And at the  
20 eastern end where the building entry opens up to the historic  
21 campus to the east, the separation actually open ups to about  
22 93 to 97 feet between the Chancellor's Row neighbors and the  
23 building itself.

24           The building's aesthetic and the materiality is  
25 taking its cue from St. Paul's College, but we're not

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1 attempting to replicate either the style or detail of that.  
2 So we are using stone cladding in certain key areas as well  
3 as the base, but we're not trying to slavishly create a  
4 Disney Land version of replicating that.

5           The roof lines have been simplified and reduced  
6 somewhat since the HPRB concept review in response to  
7 comments received, but we're still responding to the nature  
8 of the functions they contain. So there's a more distinct  
9 trussed roof on the public spaces and the public volumes and  
10 a more subdued gabled roof reminiscent of St. Paul's College,  
11 the original buildings on the residential wings. And those  
12 volumes and roofs all diminish in scale as they move up the  
13 hill towards the St. Paul's campus.

14           The public and private functions are both given  
15 their individual expression, and these are linked by glazed  
16 interstitial spaced circulation between them. And that  
17 connecting circulation also diminishes in scale as it moves  
18 up the hill with a sloping roof that gets lower before it  
19 opens up to outdoor space that communicates with again the  
20 historic St. Paul's College campus that the entry will face.

21           And the site and the configuration allows a  
22 reorientation of the entry drive away from Chancellor's Row.  
23 So we are flipping that to the north side of that building,  
24 which again opens up the view of the building from 4th  
25 Street, the view of the historic college building from 4th

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1 Street. It creates that 75-foot-wide buffer in place of the  
2 current vehicular traffic. So we're taking the vehicular  
3 traffic away from those buildings and putting them to the  
4 north of the new building. And that also allows us to put  
5 a new sidewalk in along that, so we'll have a new six-foot  
6 sidewalk that will connect directly from 4th Street up to the  
7 circle of the historic St. Paul's College campus where the  
8 new charter schools are now operating.

9           And lastly, the public functions. The way the  
10 building is laid out the public functions such as the chapel,  
11 meeting rooms, the refectory, the ministry spaces, they are  
12 occupying a series of more distinctive volumes that are  
13 aligned with the geometry of St. Paul's College so that those  
14 public spaces are speaking more or less to the historic home  
15 of St. Paul's College. And that orientation is also taken  
16 up by the new town home development and is the same  
17 orientation that was also used with the Conference of  
18 Catholic Bishops' buildings to the north of this entire site.

19           And the public functions were designed to address  
20 the viewshed rather than opening up to the residential town  
21 houses to the house, so the residential wing on the south has  
22 a much more subdued expression, again taking its cue from the  
23 plainer existing residential wings of the old college. So  
24 it's more residential in character, it's lower and it's  
25 geometrically aligned with the Chancellor's Row buildings.

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1           And by utilizing the site grading again we were  
2 able to keep all of these buildings lower than the three-and-  
3 a-half-story town houses that are to the south. So it was  
4 important in the course of all of the discussions we had with  
5 OP and HPO to make sure that this building was both  
6 deferential to the old college, but also deferential to the  
7 size of the town home development to the south so that we  
8 were not overpowering that or looming over that. We're  
9 actually going to be shorter.

10           And with that I will turn it over for the  
11 landscape discussion, to Loren.

12           MR. HELGASON: All right. I will quickly move  
13 through some of these slides here so we can have enough time  
14 for everyone else.

15           This first slide here, this is a kind of  
16 orientation slide to the various open spaces and tree  
17 preservation.

18           Next slide. Zooming into the applicant's site,  
19 this is trying to orient you to the following slides that are  
20 enlargements of each of these spaces, giving in a little more  
21 detail about the various site elements, tree preservation and  
22 details of the spaces.

23           Next slide. There's a key plan in the bottom left  
24 to kind of walk you through this. This would be the  
25 northeast corner of the site, and we'll have some more slides

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1 here showing the specifics of these individual open spaces.  
2 But in this case just point to the special trees that are  
3 being saved. We have both special trees and heritage trees  
4 on the site. I believe the numbers were 18 special trees,  
5 which are 44 to 100 inches in circumference, and 8 heritage  
6 trees, which are 100 inches and greater. And these graphics  
7 kind of roughly display the existing canopy of them.

8 BZA VICE-CHAIRMAN HART: Do you have any drawings  
9 that show the -- like a site section or just sections? I  
10 mean, in the previous -- when Mr. Edwards was presenting  
11 there was a section that showed kind of -- on page 36? Yes.  
12 You at least had an idea of where the new development was  
13 with respect to the existing development. Do you have any  
14 sections that you produced that show that?

15 MR. EDWARDS: We don't have --

16 BZA VICE-CHAIRMAN HART: It would be helpful to  
17 kind of see because --

18 MR. EDWARDS: Sure.

19 BZA VICE-CHAIRMAN HART: -- several of you have  
20 talked about the grade, regrading that's necessary for this,  
21 and I'm just kind of curious as to what that does to the  
22 site. I know that regrading also impacts trees and I'm just  
23 not exactly sure where --

24 MR. EDWARDS: Sure.

25 BZA VICE-CHAIRMAN HART: -- that is happening.

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1 So it would be helpful to see some of that.

2 MR. EDWARDS: I don't believe we have any full  
3 site sections for the site. We have some perspective views  
4 that kind of give an idea of that. Maybe Kyle can elaborate  
5 on some of the site grading at least.

6 BZA VICE-CHAIRMAN HART: That's fine.

7 MR. EDWARDS: So continuing through the slides,  
8 again these will be kind of just enlargements. There's  
9 similar features on each slide of all the existing trees,  
10 some details about where the retaining walls will be located.  
11 There's also some, at the entrances, relocated stone  
12 monuments that we're introducing.

13 Next slide. And I will kind of just continue  
14 through these. We have some enlargements of these open  
15 spaces specific to their site elements.

16 Next slide. What you can also see as we thumb  
17 through these is the kind of typical town house landscaping  
18 and as well as where steps and stairs would be throughout the  
19 site.

20 Next slide. Also the last thing that I'd point  
21 out which will be discussed a little bit more is where  
22 crosswalks are. You can kind of see how the spaces relate  
23 to each other.

24 Next slide. So this will be the first of a  
25 handful of open spaces that I wanted to talk about, this one

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1 being the corner park. You can see that we have the existing  
2 trees saved to the right, the south. There's bio-retention  
3 that's introduced in the site which will be discussed a  
4 little more later. Also a bike share station up on 4th  
5 Street and as well as monument piers.

6 And we have kind of a perspective down below. I  
7 don't know, this doesn't maybe perfectly answer your thoughts  
8 on the site section, but it might give you some idea about  
9 the stepping of the site.

10 Next slide. This was the -- kind of the primarily  
11 or largest tree-save, homogenous tree-save area. You can see  
12 that it's flanked by the town homes that would front it. So  
13 it's going to be a activated space. This would be kind of  
14 a recreation area for young children. And we have a  
15 perspective above that kind of details that area, as well as  
16 some plans down below.

17 Next slide. This is the verge open space at the  
18 very southern corner of the site, southeastern corner. I'm  
19 sorry, southwestern corner. This is the -- a dog run that  
20 would be used for the community here.

21 BZA VICE-CHAIRMAN HART: And was that --

22 MR. EDWARDS: I'm sorry. Un-programmed.

23 BZA VICE-CHAIRMAN HART: Is that -- was that a  
24 request?

25 MR. HORNE: I'm sorry. No, in fact it will not

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1 be a dog park. It was requested not to be one by neighbors.

2 BZA VICE-CHAIRMAN HART: I can understand why  
3 because it's right next to the neighborhood.

4 MR. HORNE: Yes, so that space was envisioned as  
5 sort of a collaboration with Chancellor's Row since it's so  
6 close to those units that we would -- we offered to join in  
7 a planning discussion of how that space would be activated.  
8 Right now we've got benches and landscaping to leave it open  
9 to interpretation.

10 BZA VICE-CHAIRMAN HART: Okay. Thank you.

11 MR. EDWARDS: Next slide. So this is the prospect  
12 open space, this prospect being the kind of east-west open  
13 space. You see a lot of open green lawn that terminates with  
14 an existing tree-save. With the -- the site grading, you  
15 know, is very detailed work through to accommodate the  
16 existing tree roots and not damage them.

17 Next slide. This is the town home transition that  
18 we have spoken about. Clearly the big gesture that we made  
19 here was an arched sidewalk to pull the new sidewalk shared  
20 between the two, the Chancellor's Row and the new town homes.  
21 And you can see there's a number of steps there to  
22 accommodate stepping down the hill with the massing of the  
23 town homes and some perspective views of that space.

24 Next slide. Lastly, the Paulist building, just  
25 a quick view of that. Again, with the tree-save around the

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1 Paulist building itself east, west and south with more  
2 opportunities for planting further trees in there.

3 BZA VICE-CHAIRMAN HART: And the saving of the  
4 trees is -- all the trees that have the yellow ring around  
5 them are the ones that are existing that you're looking to  
6 save?

7 MR. EDWARDS: Yes, that is correct.

8 BZA VICE-CHAIRMAN HART: And all of those are  
9 special and heritage trees?

10 MR. EDWARDS: No, no. I'm sorry, I didn't want  
11 to say that. Of those that you see identified with the  
12 yellow ring there's those special and heritage trees. We  
13 didn't call those out with different colors or anything.

14 BZA VICE-CHAIRMAN HART: So these are existing  
15 trees that you just -- they're -- they look good? I mean,  
16 I don't --

17 MR. EDWARDS: Yes.

18 BZA VICE-CHAIRMAN HART: What's the --

19 MR. EDWARDS: Yes, they have all been part of the  
20 tree survey that established their health and well-being for  
21 continuing to thrive after construction and during  
22 construction provided that we have proper grading and  
23 construction measures around their root zones.

24 BZA VICE-CHAIRMAN HART: And so all the other  
25 trees on here are new?

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1 MR. EDWARDS: Yes. Yes. Everything that does not  
2 have a yellow ring around it would be new trees, ornamental  
3 and shade trees. Evergreen trees as well.

4 BZA VICE-CHAIRMAN HART: And are you getting rid  
5 of any heritage trees?

6 MR. EDWARDS: I --

7 BZA VICE-CHAIRMAN HART: Are you having to, for  
8 a variety of reasons -- I'm just trying to figure out  
9 what --

10 MR. EDWARDS: Right, I don't recall. We are, yes.  
11 Yes, some special trees.

12 BZA VICE-CHAIRMAN HART: And do you have a number  
13 on those?

14 MR. EDWARDS: We could provide that. I don't have  
15 that off the top of my head.

16 BZA VICE-CHAIRMAN HART: Thank you.

17 MR. UTZ: We do have a tree plan later in the  
18 presentation that we can detail, and we can provide  
19 information post-hearing.

20 MR. VANPELT: Good morning. Again, Dan VanPelt  
21 with Gorove/Slade Associates. We did the transportation  
22 review for this project and have been coordinating with the  
23 design team and DDOT. I'm just going to quickly go through  
24 and touch on the transportation aspects of the project. I  
25 think we'll just go ahead and skip the first slide because

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1 I think we all generally know where the site is located.

2           The project will include 60 town homes and a new  
3 building for the Paulists. Access to the site will be  
4 provided for the town homes via a new northern curb cut on  
5 4th Street. The existing southern curb cut serving the  
6 schools will be relocated further to the north away from the  
7 Lincoln Road intersection. The school access will be widened  
8 along with the length of the relocated school drive and it  
9 will include a sidewalk. Both of these curb cuts have been  
10 reviewed by DDOT and have received conceptual approval from  
11 DDOT's Public Space Committee.

12           The main access road into the town home portion  
13 of the site is 26 feet wide and as requested by D.C. Fire.  
14 The alleys between the town homes are 20 feet and all of the  
15 roadways on the site are at least 20 feet in width. This  
16 accommodates all anticipated vehicle types and maneuvering  
17 and responds to the comments from D.C. Fire.

18           As for vehicular circulation, all vehicular  
19 access, as said earlier, will be from 4th Street. The gate  
20 that presently exists to Chancellor's Row will remain at the  
21 request. The new town home residents of this project will  
22 not have access to use it.

23           BZA VICE-CHAIRMAN HART: Can you show me where the  
24 gate is?

25           MR. VANPELT: Yes, right in that location where

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1 the hand is.

2 BZA VICE-CHAIRMAN HART: And so that gate will be  
3 in place?

4 MR. VANPELT: The gate actually exists today and  
5 it will remain and sounds -- it will actually be enhanced.

6 BZA VICE-CHAIRMAN HART: Okay.

7 MR. VANPELT: Let's see. So the gate that is --  
8 exists and they won't have access to use. New residents and  
9 -- of this project and vehicles must enter and exit the site  
10 from 4th Street. It's important to note that while the  
11 streets and sidewalks in this project are privately  
12 maintained, they will be open to all public traffic via an  
13 access easement.

14 Each town home will have one or two garage parking  
15 spaces depending on the size of the unit. There will be 15  
16 to 18 spaces set aside for the Paulists. Parking for the  
17 schools has been replaced on site at one to one. There will  
18 be no loss in the number of school spaces. I should also  
19 note that the number of spaces provided for the schools  
20 exceeds the Zoning requirement of 55 spaces and there will  
21 be at least 69 provided for the schools.

22 Additionally, there is space to accommodate 30  
23 vehicles parallel parked on 40th Street just along the site's  
24 frontage. DDOT is -- has a project to implement a cycle  
25 track. They actually do a road diet to 4th Street and it

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1 will include a cycle track and it will mark the parking on  
2 the 4th Street permanent. This not only helps with parking  
3 supply in the neighborhood but helps calm traffic on 4th  
4 where the speed has been an issue as evident by the speed  
5 cameras.

6           So this figure shows the overall pedestrian  
7 circulation plan through the site. One thing that DDOT made  
8 very clear in our interactions with them was a desire for  
9 porosity through the project. Connectivity will not -- will  
10 serve not on the future residents, but also the surrounding  
11 community and the children that walk to and from the schools.  
12 At DDOT's request an additional pedestrian connection to 4th  
13 Street was added between the driveways. We also increased  
14 the width of all the predominant pedestrian paths to six-foot  
15 sidewalks. And as mentioned previously, although privately  
16 maintained these sidewalks will be open to public traffic via  
17 a public access easement.

18           I think I'll just -- I'll probably just briefly  
19 on this slide say that the CTR was performed, a Comprehensive  
20 Transportation Review was performed for the project even  
21 though the trips are so low. It didn't meet DDOT's  
22 thresholds and it had determined that there was no  
23 detrimental impact.

24           So next slide, please. DDOT's report listed  
25 multiple conditions. We believe we coordinated with DDOT to

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1 address their concerns and we are agreeable to their  
2 conditions. The new northern driveway was narrowed to 24  
3 feet per DDOT's *Design Engineering Manual* standards, and  
4 again both driveways have Public Space Committee conceptual  
5 approval.

6 Sidewalk widths and additional links have been  
7 provided as DDOT requested. There's one link around the town  
8 home units 50 and 60 that we're still studying due to the  
9 large number of trees that want to be preserved, but we'll  
10 see what we can do there.

11 We agree to the public access easements from  
12 DDOT's report with some adjustments. The streets and  
13 sidewalks in this community, as we said, will be open to  
14 public use. Additional street treats will be added to 4th  
15 Street where they're missing and we'll be committing to a TDM  
16 plan.

17 We noted DDOT's technical correction that was  
18 submitted to the record. We appreciate DDOT making the  
19 update so there's confusion as to what was contained in the  
20 application, our CTR and their position on these items. The  
21 applicant will continue to coordinate with DDOT through the  
22 final design of public space elements.

23 And with that I turn it over to Kyle.

24 MR. OLIVER: Hi, my name is Kyle Oliver, 4910  
25 Massachusetts Avenue, Suite 214, Washington D.C., 20016. I'm

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1 a civil engineer with VICA Capital. In this slide you can  
2 visually see the topography we've been talking about all day.

3 The practical difficulty with the topography is  
4 actually getting a public right of way into the site. A  
5 typical public right of way is a 70-foot wide and based on  
6 what we spoke about, we're going to be putting in 24 in 20-  
7 foot roadways.

8 In the corner, you can see the green area there.  
9 There's an existing storm water management facility. It's  
10 essentially a retention pond that fills up during rain  
11 events. The water drains out via under-drains and in larger  
12 storm events it goes through an existing outlet control  
13 structure and out into the D.C. Water's sewer system.

14 Next slide is the 62 theoretical units. We're  
15 having 1 for each town home, which is a total of 60, 1 for  
16 the new building and the overall private roadway network and  
17 open space will be an additional theoretical lot. It could  
18 be more than one but it will always include the roadways and  
19 open space.

20 Next slide. The existing storm water management  
21 facility, as I spoke about, will be removed and be replaced  
22 with four new underground storm water management quality and  
23 quantity vaults. These new facilities will adequately handle  
24 the anticipated storm water for the collection areas.

25 The next slide is our new proposed storm water

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1 management plan. We will design multiple bioretention  
2 facilities as well as utilize the existing trees to be  
3 preserved as part of the storm water management and design  
4 to meet DOEE's storm water management requirements.

5 Please note that this plan doesn't show every tree  
6 we're preserving because some of the trees don't meet the  
7 size requirements in order to receive storm water management  
8 credit.

9 And then the pedestrian circulation plan one more  
10 time, you can see the multiple connections to 4th Street. Due  
11 to the difficulties of the site configuration, the need to  
12 maintain trees, the historic view shed.

13 It's not possible to create 24-foot-wide  
14 circulation across the entire site. We do have some 20-foot-  
15 wide streets but they do meet all D.C. standards including  
16 the D.C.'s Fire Marshal's Office and will not impair the  
17 adjacent areas.

18 And then the tree plan. Finally, we wanted to  
19 include the tree preservation plan since preserving the trees  
20 and maintaining good health drives so much of this project.  
21 This page shows the trees being retained.

22 I won't go into each detail here but as mentioned  
23 by Steve and Lauren, a great deal of the existing trees are  
24 preserved, 36 in fact. And many more trees, as we showed,  
25 will be planted as part of the project.

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1 Thank you and I'll turn it back to Jeff Utz.

2 MR. UTZ: Thank you. I just wanted to say a few  
3 final words and I'll try to make this brief. I wanted to  
4 just acknowledge the OP report and the conditions and speak  
5 to those with some specificity to tie that off on the record.

6 The OP report was in support but had some  
7 conditions to that, including the submission of measured line  
8 drawing elevations for the town houses, which specifically  
9 would identify the penthouses.

10 So, that was submitted as the second pre- Hearing  
11 filing, that's Exhibit 85 on the record on April 4th. They  
12 asked for a final landscape plan, so that is what Lauren's  
13 section detailed and we're happy to submit that, kind of  
14 break it out from the presentation and submitted in more plan  
15 form after this.

16 And then the easement, preserving open space in  
17 perpetuity, which is a little bit different than the easement  
18 that DDOT requested regarding public access.

19 But we do have a draft of that that we're happy  
20 to submit post-Hearing that kind of ties all these items  
21 together, the public space access easement, both for vehicles  
22 and pedestrians, as requested by DDOT with some  
23 clarifications, and then open space as well. It will remain  
24 open space, landscaped streets, things like this, in  
25 perpetuity.

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1           And then they also mentioned the 0.91 FAR and just  
2 wanted a clarification of how we got there. The matter of  
3 right non-IZ FAR for this site as RA1 is 0.9 FAR. Our FAR  
4 is 0.91 FAR so it actually used 0.01 FAR of density, bonus  
5 density under the IZ program.

6           So, if you look through the IZ regulations, we're  
7 really founding that on Section C, 1002.3, which provides  
8 this 20 percent density bump. So, the matter of right and  
9 density under an IZ-triggered project is 1.08 in the RA1 zone  
10 district.

11           So, it's more of just kind of a sip of that  
12 density bonus, although I should mention that the project  
13 really does embrace IZ and has a very strong IZ component to  
14 it that goes far above and beyond the IZ requirements under  
15 the regulations.

16           And the other thing I wanted to mention, just to  
17 put it on record, we flew through it in our presentation but  
18 I wanted to mention the slide, the Open Space Plan, since  
19 this is referenced in some of the materials that are in the  
20 record.

21           The Open Space Plan from Case 07-27, which was the  
22 adjacent PUD that actually procured the entitlements for  
23 Chancellor's Row itself. This space that we're talking about  
24 today, this property that's the BZA subject site, was not  
25 included in that application. It actually was specifically

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1 carved out of that PUD application.

2 This page that's showing is the most detailed, the  
3 best Exhibit to speak to this condition that we're talking  
4 about today. It was by the developers, called the Open Space  
5 Plan, to detail with particularity the two darker hues of  
6 green.

7 The dark green was intended to denote, which it's  
8 kind of hazy here so it looks like the lines are bleeding  
9 together, but there are actually three hues of green here and  
10 one hue of grey.

11 The two darker hues of green were the operative  
12 colors that were intended to really be focused on by this  
13 Exhibit. The darker green is private open space, meaning  
14 terraces, not terraces but yards that are fenced off for each  
15 individual unit.

16 The proposed public open space is similar to what  
17 we're talking about now with our BZA case. These are the  
18 kind of communal greens or those kinds of areas that are  
19 shared commonly between the HOA.

20 Those were what was intended to be governed by  
21 this Exhibit. The grey is private terraces or elevated, more  
22 decks or terraces overlooking someone's property or the  
23 community. The transcript of the Hearing underscores this  
24 when the Applicant was detailing this exact Exhibit.

25 And then when you look through the record, there's

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1 no covenant or obligation on the record in 07-27 Zoning  
2 Commission Case that would otherwise obligate the subject  
3 site for this BZA case to remain open.

4 That would be a very heavy lift to have added to  
5 a benefits and amenities package, but there isn't actually  
6 a condition in the order either even referencing that.

7 Instead what it references is the open space that  
8 is showing here, and then actually, it jumps across 4th  
9 Street and mandates the greening of a park created by an  
10 awkward intersection between 4th Street and Lincoln, which  
11 they've done. And it exists right outside the gates of this  
12 property.

13 VICE-CHAIRMAN HART: Mr. Utz, why was this land  
14 left out? Or the area that's to the west I guess of the  
15 existing St. Paul's College Building, was that described in  
16 Zoning Case 0727?

17 MR. UTZ: It was shown as it's shown here, just  
18 to provide a reference for the project, similar to how we  
19 are, in our case, showing how the project today impacts and  
20 has considered its surroundings, Chancellor's Row and other  
21 neighbors.

22 VICE-CHAIRMAN HART: There was no discussion of  
23 it being at a historic landscape or contributing to the  
24 historic St. Paul's college building?

25 MR. UTZ: They certainly talked about it and how

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1 it helped formulate the context for the Chancellor's Row,  
2 what was to be Chancellor's Row Project, but there was no  
3 obligation saying this will be open space in perpetuity, or  
4 anything like that.

5 VICE-CHAIRMAN HART: Was there an understanding  
6 that might be there?

7 MR. UTZ: I don't see how that could arise from  
8 the record. In fact, when they drill into the details, it's  
9 kind of similar to how we are talking about. There's a 32  
10 percent open space, not counting streets on this project.  
11 I'm sorry, there's a 68 percent open space, not counting  
12 streets, for the project before you today.

13 The Applicant at the time, in the same testimony  
14 when they were talking about the slide and the open space  
15 provided, was talking about a 25 percent open space  
16 provision. So, they actually drilled into it and that 25  
17 percent open space provision utilizes the kind of denominator  
18 of the subject site for that PUD at the time.

19 So, it's basically the dark green and the medium  
20 green added together provide 25 percent. So, they actually  
21 drill into the numbers and they were talking in terms that  
22 reference just this kind of C-shape on its side, leaving out  
23 the obligation of the rest of the site that we're talking  
24 about today.

25 Ms. John?

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1 BOARD MEMBER JOHN: I have a question. I think  
2 this is a good place to ask it.

3 Can you show me where the metro station is in  
4 relationship to both Chancellor's Row and this new  
5 development, and try to point out on one of the slides how  
6 pedestrians would walk from the metro station to any of the  
7 schools on the site?

8 And if you could tie in the whole Chancellor's Row  
9 issue? I think it's good if we bring it up now so we all  
10 have a frame of reference as we move forward.

11 MR. VAN PELT: Do you want me to describe it and  
12 you try to trace it with the mouse?

13 MR. UTZ: That would be great.

14 MR. VAN PELT: So, the metro station, as you can  
15 see, there's the red line and there's the metro station there  
16 with the letter M. The path to get from the metro really is  
17 to find your way to come down 7th Street, over 7th, and then  
18 enter in at Hamlin and come across Hamlin into the schools  
19 that way.

20 So, that is right where the Capital Bike Share  
21 Station is, is Hamlin. So you would come and Hamlin's at the  
22 bottom of the page there.

23 BOARD MEMBER JOHN: I'm sorry where's the entrance  
24 to the school?

25 MR. VAN PELT: Well, there's two different

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1 entrances so Washington Leadership Academy is the southern  
2 one there, the circular one, and then you have Montessori is  
3 there, the northern one.

4 BOARD MEMBER JOHN: Okay, and what's the distance  
5 from the metro to the school?

6 MR. VAN PELT: It's about six-tenths of a mile.

7 BOARD MEMBER JOHN: Okay, and so there was  
8 testimony that some of the access to the schools would be  
9 closed off through the new development. Am I understanding  
10 that correctly?

11 MR. VAN PELT: Well, the pathways as you come from  
12 the east and come from that direction won't be affected by  
13 the plan.

14 BOARD MEMBER JOHN: Can you use the cursor for me,  
15 please? I'm having a hard time.

16 MR. VAN PELT: Sure. So, I think what's in the  
17 record, because I've read something that talks about the  
18 access and the concerns about cutting off the access.  
19 Nothing to the east of the direction of where the cursor is  
20 going to change.

21 The access from the west as you would come in from  
22 some of the bus lines and walking in on foot, I think that's  
23 what some of the concern is. The access coming in off of 4th  
24 Street is actually going to be enhanced.

25 If you could point out, Jeff, the new -- well,

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1 you'll have that connection there which is the spine that  
2 comes right up from 4th Street and bring you right up towards  
3 Montessori. The new southern driveway actually gets widened  
4 to help out from a transportation standpoint but it will also  
5 now have a sidewalk that parallels it.

6 So, as you come in from 4th Street on foot and  
7 head up towards Washington Leadership Academy, there will be  
8 a sidewalk that you'll use to get up to the front door of  
9 that school.

10 BOARD MEMBER JOHN: What about residents who live  
11 in the area who would send their children to those schools?  
12 Could you show me how, for example, kids who live in  
13 Chancellor's Row would get to the schools? Or kids who live  
14 south of the site, how would they get into those schools?

15 MR. VAN PELT: Well, the kids who live in  
16 Chancellor's Row could use their streets with their sidewalks  
17 and walk around to the front of the Montessori or towards  
18 Leadership Academy.

19 If you're coming from the south, there will be --  
20 maybe it actually shows in the pedestrian circulation diagram  
21 better.

22 BOARD MEMBER JOHN: If you could also point out  
23 that Chancellor's Row gate which seems to be causing so much  
24 consternation?

25 MR. VAN PELT: So, this is oriented a little bit

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1 differently.

2           So, north is to our left on the page but if you're  
3 coming from the south, which is on the right of the page, you  
4 would be able to either come up 4th Street, and you would  
5 come in the new -- let's see, I don't actually the cursor on  
6 the page now. There you go.

7           So, you come up that red line, that sidewalk, if  
8 you're coming up from 4th Street, and if you're coming from  
9 Chancellor's Row to the south, you can see there's a  
10 connection that goes to the south right there that will bring  
11 you up into the site that way.

12           BOARD MEMBER JOHN: Okay, thank you.

13           VICE-CHAIRMAN HART: Do you have any questions?  
14 One or two.

15           ZC CHAIRMAN MILLER: Thank you, Mr. Vice Chair.  
16 Mr. Van Pelt, you said that or on Page 57 of the PowerPoint  
17 it says Applicant agrees to DDOT conditions with adjustment  
18 to the last bullet. What is the adjustment?

19           MR. VAN PELT: Do you want to describe that?

20           MR. UTZ: Sure. The DDOT report had a request to  
21 include a public easement in this location. There's a box  
22 that they drew in red, if it's showing up on IZs -- I think  
23 it is -- relating to this section, and they ask for a public  
24 easement to be furnished in that area.

25           This is just something that needs to be carefully

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1 drafted if this is indeed the direction that the Board would  
2 want to go. There are sensitivities to the neighboring  
3 property to opening that up.

4 We would want to make sure that whatever happens  
5 on this site would match up to whatever happens on that site,  
6 but then also, by the time that later there would be a public  
7 easement utilizing this space presumably for vehicles or  
8 something, there would be an open space easement on that  
9 already because of the easement that we'll be creating to  
10 govern the rest of the site's open space.

11 So, it'll kind of need to be unwound and then  
12 recreated, this springing public easement in the future.

13 We are able to, I'm pointing at my own screen --

14 ZC CHAIRMAN MILLER: I wish I could say I  
15 understood what you've just said but I don't.

16 MR. UTZ: So, there are going to be three  
17 easements, I think it's good to look at it broadly, three  
18 easements that are able to be created and we'll submit a  
19 form, ideally, as part of the post-Hearing package if desired  
20 by the Board.

21 The first one is the open space easement that OP  
22 requested in their report. And it will govern all the open  
23 space including the tree groves and basically state these are  
24 to be landscaped with trees used for recreation and similar  
25 uses.

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1           The second type of easement is what we're calling  
2 the public access easement, which was asked for by DDOT and  
3 then echoed by OP. That will be an easement that tracks  
4 these roads and allows for public access, so presumably,  
5 primarily the schools but also anybody to utilize these roads  
6 to come through the site and exit out the new north curb cut  
7 here.

8           That also includes these flanking sidewalks for  
9 pedestrian use. So, it'll be the real deal, vehicular and  
10 pedestrian access out to the streets.

11           And then the third type, DDOT requested I believe  
12 a pedestrian access easement through this sidewalk, which  
13 that could be affirmatively granted now because we know what  
14 it is and we have the sidewalks drawn.

15           But then there's kind of a 3A piece to their  
16 request that was a 42-foot-wide rectangle that was drawn in  
17 their report that was this area, and it was requested as  
18 public access easement, which I think would need to unwind  
19 those elements that I just talked about, to meet a future  
20 condition.

21           Right now, there's no vehicular access for this  
22 segment coming from the 4th Street entrance and the main  
23 access road through the site. There's no vehicular access  
24 from this sidewalk all the way east to Chancellor's Row and  
25 Regent Place, and that's by design.

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1           But I believe, and DDOT should correct me if I'm  
2 wrong, that the request was to provide a public access  
3 easement over this whole portion for vehicular use,  
4 presumably in the future. So, that's the clarification we're  
5 referencing, is trying to figure out exactly how that  
6 mechanism would work.

7           We're relatively easily able to offer the  
8 pedestrian easement now, six-foot-wide sidewalks or something  
9 similar, provided that they don't harm the trees in this  
10 segment. That can be done now but the springing easement is  
11 going to be a trickier, more nuanced endeavor than just  
12 saying the public access exists on this rectangle.

13           ZC CHAIRMAN MILLER: Okay, well, I guess we'll  
14 hear more dialog on that from DDOT and from others who are  
15 testifying today. So, I look forward to that.

16           VICE-CHAIRMAN HART: Okay, I don't think we have  
17 any other questions right now. I probably will have some  
18 others as we go through this. I'll give Mr. Anderson an  
19 opportunity to cross-examine.

20           MR. ANDERSON: Yes, thank you.

21           VICE-CHAIRMAN HART: And the cross-examination,  
22 as you're probably aware, I just wanted to reiterate, is just  
23 to ask questions about what was presented by the testimony  
24 that you've heard today. You'll have an opportunity to  
25 present your case as well.

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1 MR. ANDERSON: I don't know that I can separate  
2 out those two right now so if it's easier to just yield the  
3 time, I'm happy to do that. Because they're all kind of  
4 intermingled.

5 VICE-CHAIRMAN HART: And you're more than able to  
6 do that. It's just sometimes if you have questions that  
7 you'd like a particular response to, it's hard to do that  
8 during your presentations.

9 So, if you wanted to just move on to your  
10 presentation, that's fine as well.

11 MR. ANDERSON: Yes, I think that would probably  
12 be easier for me. And again, my apologies for being a little  
13 fuzzy right now.

14 VICE-CHAIRMAN HART: It's quite all right.

15 MR. ANDERSON: So, again for the record, John  
16 Anderson --

17 VICE-CHAIRMAN HART: And just so that we haven't  
18 -- Mr. Moy, could we have an hour? I know you're probably  
19 not going to use all of it but you have the ability to have  
20 another hour for your presentation.

21 MR. ANDERSON: And just a point of clarification,  
22 Mr. Vice Chair, do I have the ability to yield any of my time  
23 to any of the others that are here to speak?

24 VICE-CHAIRMAN HART: They will have an opportunity  
25 to speak themselves. You are representing your group and

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1 that is -- yes, you'll be representing your group.

2           They will have the opportunity to speak after we  
3 have gone through the Office of Planning Report and hear from  
4 DDOT, and if the ANC is here, we'll hear from them as well,  
5 but they'll have an opportunity to do that.

6           It's basically three minutes for each person, five  
7 minutes for if that person is representing a group, like a  
8 civic association.

9           MR. ANDERSON: Great, thank you. So, again, for  
10 the record, John Anderson, 502 Regent Place, Northeast. I've  
11 been a citizen of the District for about eight years now.  
12 I think just for point of record, I'd like to enter my  
13 credentials in just so you understand where I'm coming from  
14 on this.

15           I've got 25 years of professional experience in  
16 land use, zoning, and environmental consulting. I started  
17 out, I've got a degree in natural resource management and  
18 have served in a series of consultancy capacities.

19           Most relevant to this case was the Environmental  
20 Officer for the town of Greenwich, Connecticut for a number  
21 of years and was the Regulatory Analyst for the law firm  
22 Robinson and Cole, where we dealt with everything from  
23 residential, commercial, industrial development, including  
24 redevelopment of entire portions of cities.

25           And more relevant or more recent, I've been

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1 working on energy-related project development, renewable wind  
2 and solar development, which usually spans over multiple  
3 counties and municipalities. So, I understand full well how  
4 development works and the challenges and the hard position  
5 that you all have in serving in your capacity.

6           The first thing I'd like to touch on, and I don't  
7 mean this in a confrontational way, but since Father Eric  
8 brought it up, I would be remiss to not talk about it.

9           That is that as part of my role at Robinson and  
10 Cole, we represented the City of New London in the pivotal  
11 Kelo takings case that went before the Supreme Court so I'm  
12 very familiar with the term taking and what that actually  
13 entails.

14           And just a reminder for folks, the Fifth Amendment  
15 requires that the Government pay just compensation for lands  
16 that they're taking from a party for public access.

17           So, I would be very careful about being kowtowed  
18 by the remark that somehow, if you did not grant them the  
19 full approval for what they're proposing here, that would  
20 somehow constitute a taking of their property.

21           In fact, I would say that through the sale of the  
22 property for Chancellor's Row, whatever additional value that  
23 they got from the sale of each unit, the sale of their  
24 building to Building Hope and whatever they're going to get  
25 out of this process. They've been fairly monetized for the

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1 land and its fair market value.

2           The other point I'd like to point out is that  
3 while I appreciate his concerns, Father Eric's concerns, that  
4 they are being misfairly treated by having private citizens  
5 on their property, there's a significant amount of case law  
6 that indicates that quasi-public land, such as schools,  
7 churches, institutional uses, all constitute the ability for  
8 people to use and enjoy those properties at the benefit of  
9 the public.

10           So, the notion that this is somehow the good will  
11 of the Paulist doesn't sit squarely with me, particularly  
12 when the D.C. comprehensive plan makes so much note of the  
13 fact that this area of the city in particular is devoid of  
14 public parks and that these institutional lands play a very  
15 important role in providing that public access to the  
16 citizens and the open space.

17           On the traffic issue, I'm a little confused, and  
18 it still has not been parsed out today, why we are not  
19 looking at the entirety of the use for the site. While I  
20 understand that the schools are not party to this application  
21 but for this development, this traffic circulation, the  
22 parking issues that are going to be associated with it, can't  
23 be parsed out from the rest of it.

24           So, saying that there's only going to be 60  
25 vehicle trips a day doesn't quite square with me.

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1           What we're trying to avoid, and let me just take  
2 a step back, I think it's apprehensible for people to say  
3 that private citizens trying to assert their First Amendment  
4 rights and petition their Government and protect their  
5 private property is somehow demonized and that we're bad  
6 people because we're trying to protect our private property.

7           Nobody is telling the Paulists that they can't use  
8 their land. Nobody is saying you have to provide us with a  
9 public park. All we're saying is this may be too much, you  
10 may have gotten what you intended to get to begin with, and  
11 let's talk about what a reasonable plan might look like.

12           I do commend Steve Horne and John Wilkinson for  
13 their efforts to sit down with the community. I do think  
14 there has been far too long between when the process started  
15 and where we are now.

16           The fact that we do have an agreement is a good  
17 thing. That agreement, I think, addresses a number of  
18 quality of life issues that any good developer would want to  
19 provide to the adjacent property owners that are going to be  
20 impacted by their project.

21           The fact that we're dealing with this right up  
22 until the day of the Hearing, I don't know that was really  
23 the best way of handling it. And that's not a criticism,  
24 it's just an observation that we may have wanted to get some  
25 of this resolved well in advance of bringing it before you.

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1           On the conditional support from the HOA, I don't  
2 know that's what that letter says. I think the letter states  
3 that there are a number of concerns that the HOA had.

4           Unfortunately, because of the easement agreements  
5 that we were bound to by the developer and the Paulists when  
6 we purchased the property. We are not allowed as an HOA to  
7 outright oppose development on this site.

8           So, we had to be very careful about how we  
9 characterized our statements and really, what it was was to  
10 note that there were concerns and that there were three  
11 elements that if the project was approved by the BZA, that  
12 those be included. So, that's a little different than a  
13 conditional support.

14           Getting back to the traffic, I'm allowed to  
15 confused about the creation parking in the cycle lane on 4th  
16 Street. My understanding, having looked out the window on  
17 a typical business afternoon, is that there's already a  
18 traffic problem on 4th Street.

19           So, if we're eliminating a lane, a traffic lane,  
20 to now place parking and a bicycle lane there, I don't see  
21 how that's improving the conditions.

22           So, I guess that would probably be my first  
23 question, would be how are we talking about the status quo  
24 versus what's going to be the effect of this project with all  
25 the elements that are included in it?

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1 VICE-CHAIRMAN HART: Right now, you're just  
2 presenting to us.

3 MR. ANDERSON: Okay, I see.

4 VICE-CHAIRMAN HART: So, we have the Office of  
5 Planning here, we have DDOT here. They can answer some of  
6 this stuff as well and I'm kind of noting some of this stuff  
7 so that I can ask questions if I need to.

8 But right now, you are presenting the case that  
9 you have to why you were opposing this and the concerns that  
10 you have as you're representing this group.

11 MR. ANDERSON: I see. Got it, thank you.  
12 Obviously, every municipality has a little different way of  
13 approaching things so I appreciate the correction there.

14 On the buffer to the northeast units, while I  
15 appreciate that efforts were made to increase that, 50 feet  
16 may seem like a decent amount of distance, except for the  
17 fact that there is no separation.

18 In no other place in the city can I find a spot  
19 where there's new development that's not across the street  
20 or behind the house or next door to a house, but literally  
21 right outside your front door. There is no way in my mind  
22 that that is going to not be disruptive to the residents in  
23 that row.

24 The other challenge being that while there are  
25 certainly instances within our own community where there was

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1 a narrower setback between the two opposing faces, those  
2 homes were not occupied at the time that the construction of  
3 the opposing building was being constructed.

4           It was always that they were constructed,  
5 occupied, and then the developer moved onto behind them. So,  
6 you had that separation from construction activity.

7           I again applaud the developers for doing what they  
8 have been offering to do in terms of minimizing that but I'd  
9 be remiss if I didn't bring up the fact that that is going  
10 to be a real imposition, that for the construction period  
11 it's going to make it very challenging for the use and  
12 enjoyment of our front porch, being able to even access out  
13 the front door.

14           And I have a six-month-old at home that receives  
15 home care so it's a bit challenging for me to think about  
16 when she's woken up by trucks picking up trash in the  
17 mornings, how that's going to affect her quality of life for  
18 the next year.

19           On the public easements, while I appreciate what  
20 is trying to be accomplished here, the reality is, and this  
21 gets back to another issue that we've faced throughout this  
22 process, is that the residents of Chancellor's Row are not  
23 EYA.

24           We didn't create this problem, we didn't develop  
25 the site, we purchased homes in this community with an

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1 expectation of what our quality of life was going to be.

2 EYA asked for the ability to get greater density,  
3 narrower road widths, et cetera, et cetera, and in doing  
4 that, created a situation that makes it next to impossible  
5 for us to deal with some of the increases in use that we're  
6 talking about.

7 It's not that anybody's opposed to the schools,  
8 it's that we have narrow streets with a limited number of  
9 parking spaces. Because those are private streets, DDOT has  
10 denied applications from residents trying to obtain zoned  
11 parking.

12 So we're stuck with the 88-some odd spaces that  
13 we have without the ability of going anywhere outside of our  
14 property. So it makes that parking a real premium for us to  
15 be able to have residents and their guests be able to have  
16 adequate parking on site.

17 The road widths and the design of the roads are  
18 not intuitive. We've had a water-main break on Franklin  
19 Street about a month and a half ago. For three to four  
20 hours, the traffic coming off of Franklin was directed  
21 through our property.

22 It was a nightmare, it was a traffic snarl the  
23 entire time because of people trying to cut around where they  
24 thought they were going to be able to loop back around or go  
25 on a different street just rejoined with the traffic that

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1 they were just separating from.

2           So, that's our concern with all this, is that we  
3 didn't create this situation. We also weren't encumbered  
4 with public-use easements. If that was something the City  
5 wanted, they should've required EYA to do that.

6           So now to have public-use easements that go right  
7 up to our property line and encourage passage through our  
8 property onto streets and sidewalks that we're responsible  
9 for paying solely, not the City, and that we're responsible  
10 for ensuring solely, it just becomes a burden to our  
11 community that doesn't seem fair.

12           And if you want talk about taking, that seems to  
13 be more along the lines of what the fifth amendment was  
14 talking about.

15           And then finally on the PUD application, while I  
16 understand that the property was specifically excluded, I  
17 think that it's probably not an accurate statement to say  
18 that the City Staff thought that was the case.

19           When we came in and started talking to Staff about  
20 the concerns that we had about the new proposal, everybody  
21 seemed to be shocked and said why are we talking about this  
22 property again? And then they went back and looked and sure  
23 enough, the Zoning Commission did not condition that site as  
24 being open space.

25           But when you look throughout the transcript, time

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1 and time again, the reasoning for why should we get nearly  
2 double the density that even any of the current PDU  
3 applications are getting was the additional density, the  
4 reduced setbacks, the increased heights, the reduced road  
5 widths.

6 All of that was, well, because we don't have any  
7 intention of developing our property, we intend that that  
8 will be used as an institutional site, so that is the reason  
9 why you should give us this application. Because we're not  
10 going to use this, we've been here for 100 years, we have no  
11 intention of going anywhere.

12 And while my heart goes out to them that they are  
13 a declining order that has a financial hardship, that  
14 shouldn't put their problems on the burdens of people's backs  
15 that work hard and bought those homes with the expectation  
16 and the understanding from all the testimony in the Zoning  
17 Hearing that that was the condition that was going to exist.

18 I find it kind of odd that, for example, the  
19 buildings that sit on either side of St. Paul's college that  
20 are within the view shed, why on earth would they be told  
21 that they have to match the materials to look like the  
22 building, the historic building, if they were just going to  
23 have new buildings put in front of them?

24 It just doesn't square up, and it's unfortunate  
25 that the City didn't say either figure out how to make all

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1 this work using your property if you're not going to include  
2 the rest of the property. Or include the entire property and  
3 be bound by those conditions.

4 But to now come back after selling Chancellor's  
5 Row, selling their historic building, and now looking for the  
6 third bite of the apple, it seems like it's a bit of a shell  
7 game and it's not been done in a way that protects the public  
8 citizens of the District.

9 So, with that, I think that's about it. The only  
10 question I did have is on the IZ units, I was under the  
11 impression that there were eight units but I think I've heard  
12 today six? If we could clarify that, that would be helpful.

13 VICE-CHAIRMAN HART: Thank you. Mr. Utz, do you  
14 have any questions on cross?

15 MR. UTZ: Not at the moment. I think we'll save  
16 our discussion for our close.

17 VICE-CHAIRMAN HART: Do the Board Members have any  
18 questions for Mr. Anderson? Go ahead.

19 ZC CHAIRMAN MILLER: Thank you. Mr. Anderson,  
20 you said that you've very recently reached an agreement with  
21 the Applicant?

22 MR. ANDERSON: Yes.

23 ZC CHAIRMAN MILLER: Do we have a copy of that  
24 agreement, or is anybody intending to share that with us?  
25 Or is that just a private agreement between you guys?

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1 MR. UTZ: No, our anticipation was to submit it  
2 today. I don't believe we have 12 copies but we do have the  
3 agreement as it's currently in the process of being signed.  
4 It's not fully executed yet but we have the document as  
5 agreed to by the relevant signatories.

6 ZC CHAIRMAN MILLER: If you could submit it for  
7 the record, I think that would be helpful and from your  
8 perspective, could you just briefly -- I think you did touch  
9 on it but could you briefly just summarize what the key  
10 element is?

11 MR. ANDERSON: Yes, so one of the challenges that  
12 we have in this whole school use and the proposed development  
13 use issue is that the way that Chancellor's Row was  
14 developed, the south corner -- so, if you imagine that Regent  
15 Place kind of looks like a capital A and Chancellor's Way  
16 cuts across the middle of it.

17 If you look at the left side of Regent Place --

18 VICE-CHAIRMAN HART: Hold on a second. Mr. Utz,  
19 can you put a map on here? Because it's hard to see where  
20 this stuff is. Thank you. And you can put that mic right  
21 in front of you.

22 MR. ANDERSON: Yes, happy to.

23 VICE-CHAIRMAN HART: You can sit down too.

24 MR. ANDERSON: So this is Regent Place that does  
25 this. Chancellor's Way then comes in from here, wraps around

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1 the former St. Paul's building and comes out and joins Regent  
2 Place here.

3           The way that the property was crafted, again kind  
4 of leading to our frustration, was that rather than  
5 containing the road network on the property for obvious  
6 reasons of being able to increase the density on the site,  
7 the road was pushed half onto the Paulist property and half  
8 onto our property with a reciprocal roadway easement that  
9 extends from their parking lot down this road, Regent Place,  
10 around and then onto Hamlin down here.

11           Thank you.

12           So the challenge is that the way the easement was  
13 drafted, it basically said the Paulists, their heirs, their  
14 assignees, their guests, so pretty much anybody in the  
15 District that they chose to include, could potentially use  
16 that easement.

17           When the schools were getting their charter  
18 approved, they had a traffic management plan that anticipated  
19 short term before the development happened of them being able  
20 to utilize the existing driveway, which is more like over  
21 here, come in, circulate around, and come back down, and then  
22 long term, once the development happened, to come in this  
23 way, circulate around, and then come back down and out.

24           There are points of pedestrian access that they  
25 agreed to as well, coming in off of Hamlin, directing

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1 students either this way, this way, or off of 4th Street  
2 coming up the driveway and into the front of the building.

3           Unfortunately, that was not made a condition of  
4 their approval either. So the challenge that we have is that  
5 we've got this access point that historically served a  
6 building with 15 or 20 residents in it and some associated  
7 office space to now a school that has a projected full  
8 population by 2020 of nearly 800 students.

9           So, in talking with the developers, we said, look,  
10 the schools have their traffic management plans, they should  
11 be following them, but would it be possible to not have your  
12 traffic go out through that gate?

13           Because practically, it's impossible for us to  
14 separate out who would be the residents using it versus the  
15 schools versus public that would be coming up and utilizing  
16 the streets.

17           And if you go to the right, you're on the easement  
18 out of the gate. If you go to the left, you're on private  
19 streets that aren't encumbered with an easement. So, it  
20 becomes very challenging to be able to say how that would  
21 work in practice.

22           So, that was one of the primary issues, the other  
23 is that that access point is not owned by the Paulists or the  
24 developers. It's owned by Building Hope, the entity that  
25 purchased the school building.

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1           So, we had to sit down with Building Hope; John  
2 Wilkinson did a great job of talking through with Joe Bruno,  
3 the CEO of Building Hope, about what the challenges were.  
4 Bruno said that he agreed to allowing them to develop the  
5 access gate so long as they paid for it.

6           So, that's kind of the crux there, Mr. Miller.

7           ZC CHAIRMAN MILLER: Okay, thank you.

8           MR. ANDERSON: So, that's one of the primary  
9 issues.

10           We did agree to move. I think initially, Steve,  
11 the building face to face along my row starting with 500  
12 Regent Place was 25 feet, building face to building face, and  
13 they pushed it out to 50 feet and agreed that they would work  
14 with us on coming up with a communal landscaping plan for  
15 that area, which was greatly appreciated as well.

16           The rest of it tended to be mostly operational  
17 logistics issues with the exception of the AC units on the  
18 roofs and trying to suppress the building height so that at  
19 least the people in those rows, when they went up and  
20 utilized their rooftop decks, they would be able to continue  
21 to have some view shed.

22           On the operational side, there were agreements  
23 about pre-loading, having contractors on site moving  
24 equipment around, making noise prior to the start of  
25 construction time designated by the City.

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1           And then reducing construction hours on Saturdays  
2 to further reduce the impacts on the community. And that's  
3 probably about it. I don't know if I'm missing anything off  
4 the top of my head.

5           ZC CHAIRMAN MILLER: Can you point out on this map  
6 that's up on the screen where you actually live?

7           MR. ANDERSON: Where I live?

8           ZC CHAIRMAN MILLER: Yes.

9           MR. ANDERSON: Right here.

10          ZC CHAIRMAN MILLER: Okay, thank you.

11          VICE-CHAIRMAN HART: Thank you. And I want to  
12 make sure this is -- tie this part of it up. The number of  
13 IZ units, Mr. Utz, there are nine?

14          MR. UTZ: Correct.

15          VICE-CHAIRMAN HART: Nine units that are being  
16 proposed?

17          MR. UTZ: Correct.

18          VICE-CHAIRMAN HART: And there's a different AMI  
19 for each one, 3 at 50 percent, 3 at 60 percent, and 3 at 80  
20 percent.

21          MR. UTZ: Correct.

22          VICE-CHAIRMAN HART: So, there are a total of 9.  
23 That was your question that you had, so I think that kind of  
24 answers that. It's funny because I'm finding that it would  
25 be helpful to almost have a map of who owns what because I

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1 feel like there's so many different things.

2           Mr. Anderson, I appreciate your presentation that  
3 you've given because it helps me understand some things that  
4 I didn't realize and some of the logistical problems that you  
5 might have with some of this.

6           Because if you put a gate on something, then where  
7 do you put the gate exactly, and who owns that gate, and when  
8 is that actually able to be operated or opened? And who can  
9 open it? And all that depends on who actually owns the land  
10 that it sits on.

11           And I wasn't really thinking about the roadway,  
12 but Regent Place has its own concerns because it's half on  
13 your property, half on the Chancellor's Row development  
14 private ownership, and then half is owned by the school. And  
15 so that itself creates some challenges and concerns.

16           So, it would be helpful, Mr. Utz, if we could have  
17 some -- and I'm not looking for -- I know there are  
18 individual homes and things. I'm really looking for the big  
19 picture who owns what in terms of some of this because I  
20 think it's helpful for us to understand that.

21           MR. UTZ: I think we understand the need. We'll  
22 put that together.

23           VICE-CHAIRMAN HART: Mr. Miller, you had another  
24 question?

25           ZC CHAIRMAN MILLER: Oh, I was just going to

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1 follow up on your IZ clarification question and Mr. Utz  
2 referred to this earlier; so it's 9 of the town homes, 9 of  
3 the 60 town homes will be at affordable levels, 3 at 50  
4 percent, 3 at 60 percent AMI, and 3 at 80 percent AMI.

5 And under IZ, I guess this is going to be a home  
6 ownership property?

7 MR. UTZ: Yes.

8 ZC CHAIRMAN MILLER: So, the affordability level  
9 is only required to be the 80 percent MFI level and the  
10 percentage amount is, what, 8 percent or 10 percent?

11 MR. UTZ: Yes, it would be 10 percent here. So  
12 it would be 6 roughly at 80 percent AMI so that's where we  
13 got the 50 percent increase of IZ density, but then that  
14 figure doesn't actually speak to the suppressed MFI levels,  
15 which are fairly significant here.

16 ZC CHAIRMAN MILLER: Right, I do appreciate the  
17 increased amount and deeper affordability levels than the  
18 minimum that's required under the law. So, I think that's  
19 a very positive aspect of this project.

20 BOARD MEMBER JOHN: So, Mr. Anderson?

21 MR. ANDERSON: Yes, ma'am?

22 BOARD MEMBER JOHN: I'm still a little confused  
23 about how Chancellor's Row operates. And so if there's a map  
24 or a slide that could sort of help me figure it out?

25 So, you referred to the development as private and

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1 the roads as private, so my question for you is does the City  
2 provide any services to --

3 MR. ANDERSON: No, ma'am.

4 BOARD MEMBER JOHN: None at all?

5 MR. ANDERSON: No, we pay for our plowing and we  
6 pay for our garbage removal, street sweeping. There are no  
7 City services.

8 BOARD MEMBER JOHN: Okay, and if a sewer pipe  
9 bursts on the private road, who repairs it?

10 MR. ANDERSON: We do.

11 BOARD MEMBER JOHN: You do, okay.

12 MR. ANDERSON: We're responsible for repairs.

13 BOARD MEMBER JOHN: Okay, and these are  
14 condominiums?

15 MR. ANDERSON: No, they are not.

16 BOARD MEMBER JOHN: They're not condominiums. So  
17 how is the ownership of the common areas -- they're town  
18 houses so how does that work?

19 MR. ANDERSON: Through the Association.

20 BOARD MEMBER JOHN: Okay, and so the deed to the  
21 common areas, who owns that?

22 MR. ANDERSON: The Chancellor's Row Homeowners'  
23 Association.

24 BOARD MEMBER JOHN: Okay, and the gate that's been  
25 put up to separate regular traffic, non-homeowner traffic,

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1 who maintains that?

2 MR. ANDERSON: That was an artefact of the Paulist  
3 building. Right now, it's just a boom gate where it's got the  
4 two arms that stick out and come up.

5 It's now owned by Building Hope, the entity that  
6 owns the former of the St. Paul's College building. We don't  
7 have access to that gate or the road either. It was a one-  
8 way street.

9 BOARD MEMBER JOHN: So, I'm also confused about  
10 something that's in the record that a parent could not, a  
11 parent going to one of the schools could not, drive through  
12 Chancellor's Row or could not stop?

13 MR. ANDERSON: Well, again, the schools agreed  
14 through their charter approval that they would follow a  
15 traffic management plan. That was unfortunately again not  
16 a condition of approval but it was presented as the reason  
17 why you should grant us our charters is because we have this  
18 plan in place.

19 Because of the confines of the road widths, the  
20 parking challenges, and just general concerns about who would  
21 be liable if there was an accident, we have repeatedly tried  
22 to work with the schools to ask them to have their parents  
23 follow that traffic management plan.

24 And it has created conflict where you've got  
25 private citizens going out because the schools have said,

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1 well, if you see somebody violating the terms of the  
2 agreement, or the traffic management plan, take a picture and  
3 send it to me.

4 Well, then the parents start screaming at the  
5 person that's taking the picture at the request of the  
6 school, saying how dare you take a picture of my car? So,  
7 our concern is that we're already seeing a degradation of the  
8 quality of life that people anticipate when they purchase  
9 their homes, and we just don't want to see that continue.

10 So, whatever is approved, we just want to make  
11 sure that what is approved we are protected and that we're  
12 not sitting there five years from now in Court trying to  
13 figure out whether or not there was an intensification of use  
14 of easement agreements, et cetera.

15 VICE-CHAIRMAN HART: Just one follow-up question,  
16 how many units would your organization be?

17 MR. ANDERSON: 237.

18 VICE-CHAIRMAN HART: No, would you be I won't say  
19 supportive of it but right now, they're proposing 60 units  
20 for this. Are you looking at 40 units or was there ever a  
21 number that you were --

22 MR. ANDERSON: I don't think we have a set number  
23 in mind.

24 VICE-CHAIRMAN HART: That's fine.

25 MR. ANDERSON: It's a comprehensive use of the

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1 property.

2 VICE-CHAIRMAN HART: And I didn't want to put you  
3 on the spot, I just wanted to know if there was a discussion  
4 that you all have had about it, but you've answered the  
5 question.

6 MR. ANDERSON: There's a number of ways to look  
7 at it.

8 VICE-CHAIRMAN HART: Okay. At this point --

9 MR. ANDERSON: Would it be possible to ask a  
10 couple of cross-reference questions, cross-examine?

11 VICE-CHAIRMAN HART: We typically don't but I know  
12 that you haven't given any questions. I'll allow you to do  
13 those questions now but sometimes they come up to you.

14 But this is now you are cross-examining, these are  
15 questions that you're asking of what's been actually  
16 presented from the Applicant?

17 MR. ANDERSON: That's right.

18 VICE-CHAIRMAN HART: And Mr. Utz, I'm not sure who  
19 from your team is going to be answering them but I'll allow  
20 a few questions. And just so that the audience knows, we  
21 haven't taken a break; I just realized that we haven't. So  
22 we're going to take a 10-minute break, just letting you know.

23 MR. ANDERSON: Great, thank you. So, Mr. Utz, I  
24 don't know if this is best for you or somebody else on the  
25 team, but do you think that HRB would have granted an

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1 approval for a building that was not the Paulist building in  
2 the historic view shed?

3 VICE-CHAIRMAN HART: You're referring to the HPRB?

4 MR. ANDERSON: Yes.

5 VICE-CHAIRMAN HART: The Historic Preservation  
6 Review Board?

7 MR. ANDERSON: Yes.

8 MR. UTZ: I have no ability to answer that. I  
9 don't think that we can substitute our judgment for the  
10 judgment of HPRB.

11 MR. ANDERSON: Do you think that weighed in on  
12 their decision, was that it? It was the historic Paulist  
13 building or Paulist site, and they were looking to stay on  
14 the site?

15 MR. UTZ: It was certainly discussed as part of  
16 HPRB's consideration but, again --

17 MR. ANDERSON: Thank you. And I'm sorry, I forget  
18 everybody's names. So, landscape architect question, in the  
19 grove, the large tree preserve area down on 4th Street, how  
20 do you anticipate dealing with the significant grades in  
21 there?

22 It looks on the renderings like it's a fairly  
23 level spot and that you're going to have amenities for  
24 recreation, et cetera, but in reality, right now there's six,  
25 seven-foot grade difference between the top of the slope and

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1 the bottom.

2 How is that going to be achieved?

3 MR. HELGASON: Sure, my colleagues can speak to  
4 this too. The perspective that we saw does show that's more  
5 a view from the intersection.

6 VICE-CHAIRMAN HART: Can you put an image on that  
7 screen, please? Thanks.

8 MR. HELGASON: There we go. And this view, so it  
9 is obviously at a level at that point for pedestrian  
10 connection. It's more as you go south that you get that  
11 grade change that you're speaking of.

12 In terms of what we're doing, I guess you're  
13 talking about --

14 (Simultaneous Speaking.)

15 MR. ANDERSON: How is it going to function in  
16 reality?

17 MR. HELGASON: We haven't gotten into that level  
18 of detail. There would need to be some sort of low fence or  
19 something like that on the top of the hill at the edge of  
20 that recreation area.

21 I would suspect that would be the case. You don't  
22 want to rely just on planting material or things like that.

23 VICE-CHAIRMAN HART: So, you're talking about a  
24 retaining wall?

25 MR. HELGASON: Low fence. We're not talking about

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1 a retaining wall. Everything is natural grade out there  
2 along 4th street, there's no new walls introduced there.

3 VICE-CHAIRMAN HART: So the bioretention and the  
4 storm water management facility is actually just to the north  
5 of this?

6 MR. HELGASON: Correct.

7 MR. ANDERSON: Steve, we're you going to say  
8 something?

9 MR. HORNE: Yes, there are retaining walls but  
10 they are as you go into the site so as you see on this  
11 imagine to the left hand, the left middle of the frame,  
12 there's a small, low retaining wall.

13 That is there to protect the grade upon which  
14 those trees are now in so that we don't get the roof  
15 structures, but along 4th Street, it's a smooth transition.  
16 And the meandering walk that goes through there meanders so  
17 that you can have both accessibility and traverse the grade  
18 over a series of lengths.

19 The hardscape elements that are proposed for that  
20 are both passive and somewhat active, mildly active, in their  
21 function. So, in terms of the function and the operation of  
22 the space, I don't see any issue with what we've planned.

23 VICE-CHAIRMAN HART: Mr. Anderson, I would  
24 actually like to have actually a couple of sections through  
25 the property.

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1 I'm assuming that you all are working on them or  
2 have some of them because it's hard for me to understand some  
3 of the topographic -- you've raised the issue of the 20-foot  
4 decline, incline from 4th Street up to where the St Paul's  
5 College building is.

6 And I'd like to understand what that difference  
7 is and how that affects the building heights. And I raise  
8 this issue because -- I'm forgetting your name -- Mr.  
9 Edwards, thank you, provided a section that showed the  
10 southern side.

11 And I'd like to see what happens where Mr.  
12 Anderson is and I'm not just saying your house, I'm saying  
13 it seems like a lot of the visual impact will be along that  
14 northeastern side of the property, where the new units are  
15 being proposed.

16 And one, I'd like to understand what the distance  
17 is between the existing buildings and the proposed buildings,  
18 but, two, I'd also like to understand what are the height  
19 differences? Because right now I don't really have a good  
20 understanding of that.

21 And I think there are some topographic changes  
22 that are happening that are being kind of lost in this  
23 because we're seeing flat images. And while the perspective  
24 is helpful, it still is a perspective and you're having to  
25 generate that.

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1 I think the sections will help to show what that  
2 looks like in a little bit better. I mean, this one does to  
3 some extent, but it's still a little bit, I don't know, it  
4 seems a little bit like there's something that's -- I don't  
5 know.

6 Maybe it's just a scale to show what that height  
7 is.

8 (Simultaneous Speaking.)

9 MR. HELGASON: -- and things like that?

10 VICE-CHAIRMAN HART: Yes, to understand what we're  
11 really talking about with this.

12 MR. HELGASON: One last quick clarification on  
13 that. If we could go back to the slide of the grove, the  
14 meandering path that we talked about. That was early on  
15 before we really dug into -- can you go back to the grove  
16 slide?

17 That was before we dug into the grading there, and  
18 part of that recent request about the pedestrian connection  
19 through there as we collectively looked at the grades in  
20 there and hammered that out, that wouldn't have required  
21 stairs.

22 And that's what the bottom right image is of that  
23 plan. There we go. So, at the very bottom right, that's  
24 actually a stair connection. It wouldn't be switched back  
25 around so it would be far too many switchbacks for that to

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1 happen. Yes, yes.

2 VICE-CHAIRMAN HART: You said the bottom right?  
3 Can you point to that?

4 MR. HELGASON: We'll point to both the stairs and  
5 where the accessible --

6 VICE-CHAIRMAN HART: You mean the plan that's  
7 shown there?

8 MR. HELGASON: Yes.

9 MR. HORNE: If I may, this connection was  
10 requested by DDOT so we added that, and that's where the  
11 stairs are. And then there's also pedestrian access from the  
12 town homes into this area in that meandering path.

13 VICE-CHAIRMAN HART: But that's the front of the  
14 town homes?

15 MR. HORNE: It is, yes, but the sidewalks connect  
16 through the community so it's not exclusive to the town  
17 homes.

18 VICE-CHAIRMAN HART: No, I understand that. I'm  
19 just saying that they front on that space?

20 MR. HORNE: They do, correct.

21 VICE-CHAIRMAN HART: Okay.

22 MR. UTZ: I should mention that we do have some  
23 sections in the record sprinkled throughout. The first one  
24 is Exhibit 65A and it's actually Page A6, which takes you  
25 through some of those.

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1           There are three sections for the site and then the  
2 topography has shown with some particularity as it relates  
3 to the town houses in Exhibit 85C, which is the line  
4 drawings, the elevations of the town houses that actually  
5 take each stick of town houses and traces it over.

6           One might be a significant topography change.

7           VICE-CHAIRMAN HART: Yes, there are a lot of  
8 documents that we're looking through and it's helpful too.  
9 I mean, as I'm going through it, it's hard to sometimes  
10 always say, okay, this is what I need.

11           But as we have kind of gone through the discussion  
12 today, I think I'm realizing that I needed to have something  
13 that actually gives me that. And I appreciate you pointing  
14 me in the right direction where that information is located.

15           Mr. Anderson, do you have any other questions?

16           MR. ANDERSON: Just one more for VICA.

17           Could you explain a little bit about how the  
18 replacement of the existing bio basin with the underground  
19 detention basins in the driveway and how they're going to  
20 connect with the adjacent property next door?

21           Because I was looking through the letter submitted  
22 recently and saw that the Catholic bishops have expressed  
23 some concern about the flooding within their driveway. We  
24 already see in peak events that our basin is overwhelmed.

25           So, how are those conditions going to be addressed

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1 in order to address a greater density of development?

2 MR. OLIVER: So, basically, we're going to handle  
3 it with piping is the short answer. The longer answer is  
4 there are existing pipes that outfall the storm water into  
5 the pond so we're going to intercept them with manholes and  
6 take them over to these four facilities. They're not just  
7 detention facilities but they're also water quality  
8 structures.

9 They'll be storm-filter cartridges so if you think  
10 of a Brita cartridge, which is the best way to describe it,  
11 the water will flow through those cartridges, clean the  
12 water. The facilities will also detain the water as well and  
13 then they'll be piped around Units 22 and 17 at the bottom  
14 which is the northeast corner of the site.

15 So, it'll be piped back into the existing pipe  
16 that then drains out into 4th Street and into D.C. Water's  
17 facilities.

18 MR. ANDERSON: Finally, for Steve, you've been in  
19 the development game a while, right? How challenging would  
20 you say this site is from all the different aspects in  
21 comparison to other projects that you've worked on?

22 MR. HORNE: It's very difficult to compare apples  
23 to apples for any project as you know being in the business.  
24 The site certainly has its challenges but to be honest, these  
25 days, there are no truly easy sites because of the area we

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1 live in.

2 So, yes, there's challenges, do I think they are  
3 ones that we could meet with solutions? Yes, I do.

4 MR. ANDERSON: Great, thank you.

5 VICE-CHAIRMAN HART: Thank you. So, right now,  
6 I think it seems like a little bit of a lull and I need to  
7 eat something I think. But I think we're going to take a 15-  
8 minute break and when we come back, we will hear from the  
9 Office of Planning and DDOT.

10 MR. ANDERSON: So, one question from a hardship  
11 perspective, we've got some folks that need to leave. Is  
12 there any way to work them into the schedule?

13 PARTICIPANT: Including the ANC, please.

14 VICE-CHAIRMAN HART: Yes, how about instead of  
15 having -- even though we typically do OP before, we can hear  
16 from the ANC and the people that have come to give their  
17 testimony, and then we'll go to OP after that if that's a  
18 little beneficial.

19 I know you all have been here for quite a while  
20 so I do appreciate it. But if, Mr. Utz --

21 MR. UTZ: That works for us.

22 VICE-CHAIRMAN HART: So, we'll take a 15-minute  
23 break and we'll be back here at about I think it's 12:45 p.m.  
24 Thanks.

25 (Whereupon, the above-entitled matter went off

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1 the record at 12:27 p.m. and resumed at 12:57  
2 p.m.)

3 VICE-CHAIRPERSON HART: Just wanted to say welcome  
4 to Ms. White, Board Member White has now joined us, so  
5 welcome. Thank you ---

6 COMMISSIONER WHITE: Thank you.

7 VICE-CHAIRPERSON HART: --- for coming. So, Mr.  
8 Utz, right now while we would have typically gone to the  
9 Office of Planning and DDOT report after the presentation and  
10 just to save some of the folks that are here, since there are  
11 quite a number of people here that have come to testify, we  
12 thought we would kind of jump to that, and then get back to  
13 the Office of Planning and DDOT reports.

14 So if we could have the folks up --- you can come  
15 up to the --- up to the table. The ANC, most definitely, I'm  
16 sorry, I should have mentioned that as well. If any of you  
17 have not been sworn in, you will need to do so. So has  
18 everybody been sworn in?

19 You have to come to the --- this is --- what I'm  
20 doing right now is parties --- the ANC and parties in  
21 opposition --- Yes?

22 UNKNOWN: Persons in opposition.

23 VICE-CHAIRPERSON HART: Oh, I'm sorry, persons ---  
24 I'm sorry, not parties, you're right. I'm sorry, ma'am,  
25 ma'am.

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1 UNKNOWN: Yes, we would ---

2 VICE-CHAIRPERSON HART: If you want to do support  
3 that's fine. We can do that --- we can do that now, and then  
4 the opposition folks are --- I hate having to move you  
5 around, I'm sorry. So if we do support now, and then we'll  
6 do parties in opposition after that. And all I need for you  
7 to do is to give your name, and your address. And I  
8 understand you're the commissioner for the ANC, so you'll  
9 have five minutes. The parties --- the --- I keep saying  
10 parties. The people that are speaking in support have three  
11 minutes. If you're representing an organization, then you  
12 have five minutes, but --- so if you could give me your name,  
13 and your address.

14 MR. GARNETT: Edward Garnett, 3055 Chancellor's  
15 Way, N.E., Washington, D.C. 20017.

16 VICE-CHAIRPERSON HART: Good. And you're the --  
17 You're the commissioner of ANC.

18 MR. GARNETT: Yes, sir.

19 VICE-CHAIRPERSON HART: Yes.

20 MR. GARNETT: Good afternoon, Vice-Chairperson  
21 Hart, and members of the Board of Zoning Adjustment. My name  
22 is Edward Garnett. I represent the communities of Edgewood  
23 and Brookland as the Advisory Neighborhood Commissioner, or  
24 ANC, for ANC5E01. I previously submitted for the record  
25 Exhibit 53, which is ANC 5e, Resolution 2017, Tag 07, which

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1 outlines the support of this project from our Commission as  
2 well as several conditions that were agreed to by Boundary  
3 Companies in the Missionary Society as part of that support  
4 by the Commission.

5 I appreciate the amount of material this body  
6 needs to consider during our hearing today, so I'll keep my  
7 remarks brief, but I would like to outline how the Commission  
8 came to its support before returning to those conditions.  
9 I have a few slides here. Is it possible to call those up?

10 VICE-CHAIRPERSON HART: The slides you'd need to  
11 put on the --- do you have a drive, or are they already on  
12 there?

13 MR. GARNETT: They're already on the record.

14 VICE-CHAIRPERSON HART: They're on --- they're in  
15 the record now?

16 We can see them, I think, but if you have not  
17 brought them we don't have them, at least I'm pretty sure.  
18 Mr. Moy, we don't have the --- they have to bring them with  
19 them, correct?

20 MR. MOY: They would have to bring with them. I'm  
21 looking for the exhibit of the ANC's PowerPoint presentation,  
22 correct?

23 MR. GARNETT: Yes.

24 MR. MOY: All right. Give me a second so I can  
25 figure out the exhibit number.

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1 MR. GARNETT: Fifty-three is the Resolution. I  
2 also submitted testimony and slides on page 3 of the website.

3 VICE-CHAIRPERSON HART: Sorry, give us a second.  
4 Yes, it looks like it is --- it's Exhibit Number 110a. And  
5 there are three slides on there, ---

6 MR. GARNETT: Yes.

7 VICE-CHAIRPERSON HART: --- Mr. Garnett?

8 MR. GARNETT: Yes.

9 VICE-CHAIRPERSON HART: So we have them. It's a  
10 2008 Saint Paul's College submission, is one of the slides.  
11 Another one is comparison of the development, and the last  
12 one is the ANC 5e priorities.

13 MR. GARNETT: Yes. If you could call up the first  
14 slide, that would be great.

15 VICE-CHAIRPERSON HART: Excellent.

16 MR. GARNETT: This project was very controversial  
17 in my neighborhood. I sought to represent both my neighbors  
18 and friends, as well as the future residents whose voices we  
19 cannot hear today. The incontrovertible truth is this, the  
20 Missionary Society has gotten a better deal by developing  
21 their land in two phases than in one. The two projects in  
22 sum are more lucrative for the Paulists and their partners  
23 than would have been if the entire property were developed  
24 when this organization appeared before the zoning commission  
25 in 2008. Here is their application submission from April

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1 2nd, 2008. Is it possible to pull that up?

2 VICE-CHAIRPERSON HART: We're just reviewing it.

3 MR. GARNETT: Reviewing it.

4 VICE-CHAIRPERSON HART: Yes, we're reviewing it.

5 MR. GARNETT: Great. So a little over ten years  
6 ago today. No one in their right mind, or even anyone who  
7 has sat through a Zoning Commission, or zoning adjustment  
8 hearing would have said nice plan, but what you should think  
9 about doing to improve it is to add two charter schools in  
10 the main building and build another seminary and 94  
11 townhouses on that green area on the left, it's a nice  
12 picture of the development on the slide. No, what happened  
13 in 2008 was that the Zoning Commission reduced the number of  
14 townhomes from 251 to 237 while applauding the application  
15 for preserving green space.

16 We can't go back and assess what the Zoning  
17 Commission thought of the big green space on the left, but  
18 what we can look at is this project relative to others in the  
19 Brookland Edgewood areas. And I ask the Board to look at the  
20 next slide at this point. This is a comparison of the  
21 Josephite, Redemporist, Missionary Society, and EYA project  
22 in 2008, the project we're looking at today, and the combined  
23 density of the two projects. As you can see, this project  
24 by itself has fewer units per acre than either the recent  
25 Josephite project in Brookland, or the recent Redemporist

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1 project. But when you consider the entire scope of develop  
2 of the original Josephite, Redemptorists and Paulists  
3 campuses it's easy to see that 15 units per acre, which is  
4 the combined density of the total Missionary Society  
5 Development 2008 to 2018 is higher than either of the other  
6 projects.

7           Again, we don't get to review the 2008 project,  
8 but what I would point out is that neither of these projects  
9 -- the Josephite or the Redemptorist project -- is considering  
10 using the original building for two charter schools with  
11 projected 700 students, or building an additional seminary  
12 building. So when the ANC heard objections from the  
13 community, and when this body considers testimony from people  
14 I know as friends and neighbors it is entirely understandable  
15 there was some emotion.

16           The other fundamental truth is that I would not  
17 be here today, nor many of the people fighting against this  
18 project if it were not for the actions of the Missionary  
19 Society, their partners, and the Zoning Commission in 2008.  
20 I live in a house that was built on land that was once an  
21 open field. So I ask all parties to keep these truths in  
22 mind as we attempt to find a resolution.

23           We cannot re-litigate the 2008 hearing. We can't  
24 go back and design a better Chancellor's Road community that  
25 incorporates two charter schools the neighborhood kids can

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1 attend and neighborhood families can support. And I point  
2 out that Board Member John mentioned how would Chancellor's  
3 students --- how would Chancellor's Row children walk to  
4 school? I point out that there's no neighborhood preference  
5 at charter schools, and to my knowledge only one member of  
6 our community attends those schools.

7           These are great benefits for the entire city, but  
8 at the cost of our little community. What we can do is  
9 proceed from the facts on the ground in a way that treats all  
10 parties as neighbors, and ask them to behave in a neighborly  
11 fashion. In doing so the ANC set out three priorities, this  
12 is the next slide, that I would ask the Board to keep in  
13 mind. Provide additional housing for a growing community  
14 including an affordable component, preserve as much green  
15 space as possible as former institutional uses are converted  
16 to residential, and minimize the impact of new development  
17 on the existing community during and after construction.

18           To this end, I've had hundreds of conversations and  
19 email exchanges with the developers, the community and my  
20 fellow commissioners. Based on the feedback and concerns I  
21 received from the entire Edgewood community I push for  
22 additional affordable housing as part of the project. We  
23 face a housing crisis as a city, and this is no more felt  
24 than in a rapidly changing neighborhood such as Edgewood.  
25 As part of the agreement with the ANC the Boundary Companies

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1 agreed to provide nine affordable homes at 50, 60 and 80  
2 percent of median family income. This means that nine  
3 families making \$53,000 to \$85,000 will be able to purchase  
4 homes at a reduced rate. This is a 50 percent increase over  
5 the previous offer, and setting aside 15 percent of the  
6 project as inclusionary zoning. So it's a new standard for  
7 development in both Edgewood and around the city including  
8 the nine affordable units, the 60 new homes will add new  
9 classmates for our children, customers for local businesses,  
10 and friends to our Metro-oriented community.

11 As areas like Brookland and Edgewood have large  
12 swathes of institutional land that are developed, the city  
13 loses green space. It may be private green space, but it's  
14 still green space. Several constituents were very concerned  
15 about the loss of mature trees Paulists property. The  
16 revised plan reducing from 94 to 60 homes allows for the  
17 preservation of many more trees and green space. I'm pleased  
18 to see the Casey Trees testimony that the updated plan will  
19 preserve 27 trees including 17 special trees. I hope that  
20 going forward the city and this Board pushes for innovative  
21 uses of existing institutional space that will allow for  
22 green space to be maintained as our city grows.

23 In addition, as part of the agreement with the ANC  
24 the development team pledged to keep the remaining green  
25 spaces on the site, a natural play scape, a smaller open

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1 field and a pocket park open to the entire community. I  
2 applaud the Boundary Companies and the Missionary Society for  
3 this commitment, and I look forward to the entire community  
4 enjoying their generosity. While I have outlined the  
5 positive aspects of the project 60 new homes, nine  
6 affordable, new play spaces, these benefits are distributed  
7 across the entire community and among people who do not live  
8 here yet.

9           The cost of the project, years of construction,  
10 additional traffic, uncertainty are borne by a concentrated  
11 few. Several of those people are here today, and I urge the  
12 Board to do what they can to protect the rights of these  
13 individuals. I myself live right next to the Redemptorists  
14 townhouse project that is under construction, and I'm  
15 reminded of these costs every morning at 7:00 a.m.

16           As part of the agreement with the ANC, the  
17 development team committed to several protections. No  
18 construction or residential traffic is to be routed through  
19 the existing Chancellor's community. The revised plan meets  
20 the commitment to the 75 foot buffer between the new Paulists  
21 seminary and existing homes, as well as the 40 foot buffer  
22 between the new townhomes and existing homes.

23           In conclusion, ANC 5e supported the project as  
24 currently constituted on May 16th, 2017, subject to  
25 conditions outlined in the ANC resolution on this matter,

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1 which you have as Exhibit 53. I would point that the ANC  
2 reviewed three variances and exceptions in our April and May  
3 meeting, and today I've heard about four exceptions so I'd  
4 like to follow up on the fourth, which is the small habitable  
5 roof. That's the first time I've heard of that. It wasn't  
6 reviewed by the ANC, so I'd like to get some follow up on  
7 that.

8 With that, I appreciate the public service of the  
9 Board, and the willingness of those present to hear the  
10 Commission's input on this case. Thank you.

11 VICE-CHAIRPERSON HART: Thank you, Mr. Garnett.  
12 Any questions for the ANC?

13 COMMISSIONER WHITE: One question is you said there  
14 --- out of the 60 homes, there are going to be nine  
15 affordable.

16 MR. GARNETT: Yes, ma'am.

17 COMMISSIONER WHITE: And the AMI is going to be 50  
18 percent to 80 percent.

19 MR. GARNETT: 350, 360 and 380 of median family  
20 income.

21 COMMISSIONER WHITE: Okay. And what kind of  
22 response did you get back from the Applicant? Are they on  
23 board with that?

24 MR. GARNETT: Yes, they've committed to that.

25 COMMISSIONER WHITE: Okay, okay. Was there a

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1 particular location within the mapping of the development  
2 that these affordable units are going to be located? Are  
3 they integrated within?

4 MR. GARNETT: I believe by rule they're supposed  
5 to be integrated, and I think that's been maintained, but I  
6 don't have the information on that.

7 COMMISSIONER WHITE: Yes, if that could be answered  
8 at some point. Maybe it's already been dealt with because  
9 I'm a little late today, but I'm interested in that as well.

10 VICE-CHAIRPERSON HART: Thank you, Ms. White. Any  
11 other questions for the ANC?

12 (No audible response.)

13 VICE-CHAIRPERSON HART: And, Mr. Garnett, you had  
14 a question about the use of the habitable roof. That's  
15 something that's new that you've just heard today?

16 MR. GARNETT: Yes, the project that we reviewed had  
17 three variances, or exceptions, and I believe there are four  
18 involved. There appears to have been a change between May  
19 2017 when we reviewed this project and February 2018 when the  
20 most recent submission was made.

21 MR. UTZ: I could explain that. I was going to ask  
22 you. There actually hasn't been a change. There was an  
23 additional element to relief added because of the ---  
24 basically a different consideration of what the townhomes  
25 are. It's kind of a convoluted arcane interpretation of

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1 multi-family versus single-family homes and the way that's  
2 interpreted under the zoning regs. It shifted from multi-  
3 family consideration to single-family homes. If you have a  
4 row house you essentially need to get a special exception to  
5 have a roof structure above.

6           So the roof structures have been part of the plan  
7 it's just, you know, they've been small and kind of a non-  
8 event, which is really what they are. It is what Warren  
9 walked through. It's the small landing, which I believe is  
10 something like six -- four by four, or something, I'm not  
11 actually sure of the dimensions. It's as small as you can  
12 get and still have a usable landing on the roof and on the  
13 stairs that go down. So it's a very kind of small element  
14 on certain roofs and those are the elements that are not on  
15 the two sticks of townhomes, lots 1 through 7, and 23 through  
16 28, nearest northeast corner of Chancellor's Row.

17           So the additional relief has to do with something  
18 that's been there we're just re-characterizing how it's  
19 treated under the zoning rights. It's a special exception  
20 just like some of the other special exceptions that have been  
21 advertised since the beginning of the case, so as far as the  
22 notice issue or anything like that there isn't a problem  
23 associated with having a failure to notice of this relief  
24 here.

25           VICE-CHAIRPERSON HART: Okay.

1 MR. UTZ: Thanks.

2 VICE-CHAIRPERSON HART: Any other questions?

3 MR. GARNETT: No, I'd just point out that people  
4 come to the ANC all the time solely for roof variances and  
5 that did not happen here. Thank you.

6 VICE-CHAIRPERSON HART: Thank you. Okay. I don't  
7 hear any other questions. Do you have any questions for the  
8 ANC, Mr. Utz?

9 MR. UTZ: Not at this time, thank you.

10 VICE-CHAIRPERSON HART: So, ma'am, if you could  
11 introduce yourself, ---

12 MS. McGUIRE: Yes.

13 VICE-CHAIRPERSON HART: --- and give us your  
14 address as well.

15 MS. McGUIRE: Yes, I am Patricia McGuire, and I am  
16 president of Trinity Washington University. Probably one of  
17 the closest institutional neighbors to the Paulists, and I'm  
18 testifying on behalf of Trinity today. And I'm testifying  
19 in support of the project. I want to take a moment to thank  
20 Mr. Garnett for being our ANC commissioner too, and he does  
21 a great job. And I greet all the neighbors who are here.  
22 And while my testimony may be from a slightly different point  
23 of view, we're all neighbors interested in the vitality of  
24 our community. So we share an end goal in all of this.

25 I have three reasons for testifying today. First,

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1 to underscore the importance of respecting the mission and  
2 ministry of the Paulists fathers in our community and in the  
3 world. Second, to underscore the vitality the development  
4 has brought to our neighborhood in Brookland and Edgewood.  
5 And third, to express Trinity's confidence that this  
6 development will continue that very progressive and vital  
7 development of our neighborhood in good ways.

8           Trinity and the Paulists have enjoyed a mutually  
9 supportive relationship ever since a group of Paulist  
10 seminarians sang at the laying of the cornerstone of Main  
11 Hall at Trinity in 1899. So we go back a long way together.  
12 Having the Paulists fathers present at Trinity down through  
13 the years as chaplains and members of the faculty and  
14 directors of campus ministry was a source of spiritual  
15 nourishment and mutual celebration of a mission we share  
16 together to evangelize and teach the world.

17           When the sisters of Notre Dame still maintained  
18 their convent at Trinity, the priests would walk over every  
19 single day in all kinds of weather through snow and heat to  
20 say mass for the sisters in the campus community.

21           In later years as Trinity has changed its focus  
22 to serve the needs of Washington more fruitfully welcoming  
23 a majority of students who are District of Columbia  
24 residents, who are low income women of color, most of whom  
25 are not catholic, the Paulists fathers have continued to

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1 support our campus ministry program now welcoming many  
2 different faiths and consistent with the Paulists mission to  
3 meet every person at any point on the journey of faith. The  
4 Paulists are among the most progressive of catholic religious  
5 orders in the world. They reach out and teach through the  
6 creative use of television, and film, and media. And they  
7 promote peace and reconciliation, and they welcome persons  
8 of all faith in their dialogue and ministry.

9 Over the past century the Paulists seminary here  
10 in Washington launched the careers of hundreds of Paulists  
11 priests all over the world, but like many religious orders  
12 the number of candidates entering religious life declined as  
13 social attitudes toward vow of religious life changed.  
14 Religious orders like the Paulists, the Sisters of Notre Dame  
15 at Trinity and many others in the Brookland/Edgewood  
16 community have had to reorganize their structures, their  
17 administrations, their facilities and assets to find new ways  
18 to perform their ministries with diminished numbers and to  
19 meet the demands of contemporary society.

20 These changes in religious life do not mean an end  
21 to the ministry at all, but, in fact, a transformation of the  
22 ways in which the mission and ministry lives today, in  
23 partnership with more lay leaders like me in the ministries,  
24 in smaller less grandiose facilities, and in a simpler focus  
25 on service for justice in our world with fewer trappings and

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1 better results. Given their important ongoing service to the  
2 spiritual needs of our society, and in light of their  
3 humility in realizing they no longer need so much space in  
4 such a large property to achieve their mission, as a matter  
5 of justice we should support the plan of the Paulists fathers  
6 to live in simpler space, while realizing the income stream  
7 that their property will generate to support their ongoing  
8 work.

9           The development and vision for the property of the  
10 Paulists fathers continues the development of our  
11 neighborhood in a way that adds to the vitality of the  
12 community. I came to his neighborhood as a Trinity freshman  
13 in 1970. The area was lovely, but the only way to get any  
14 life was to take the 80 bus downtown. Recruiting students  
15 became increasingly hard for Trinity as this neighborhood for  
16 many years continued to be beautiful and bucolic, but not  
17 very exciting for college students. The revitalization of  
18 the neighborhood has been part of Trinity's renaissance as  
19 well.

20           Today the mainstream is very close by. We don't  
21 have to go downtown anymore. We can stop at a Starbucks for  
22 a cup of coffee, or walk up to Busboys or over to Brookland's  
23 Finest, the hum of activity along Michigan Avenue and Rhode  
24 Island Avenue, and all places in between is very exciting.  
25 For older institutions like Trinity these changes are

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1 remarkable and welcome. They bring new life and excitement  
2 to our campus, new enrollments eager to be part of the  
3 Brookland Edgewood neighborhoods. The growth of our  
4 community has inspired us to add programs, and consider ways  
5 that we, too, can be part of the economic revitalization of  
6 this part of Northeast Washington.

7           And so this leads to my final point: the  
8 development of the Paulists project continues the great  
9 renewal of our neighborhood in a wonderful way, keeping the  
10 vital presence of the Paulists fathers as a spiritual anchor,  
11 while contributing to the attractiveness of this area for new  
12 neighbors who can enjoy many benefits that we already know.  
13 I'm especially delighted that the development will include  
14 some affordable housing, so perhaps some of Trinity's  
15 families might be able to live there.

16           Our city's future depends on a strong mix of  
17 housing options built for modern lifestyles. I think that's  
18 part of the Mayor's agenda as well. And this development is  
19 an important part of building the future of the District of  
20 Columbia. Recognizing that development causes short term  
21 discomfort and certainly acknowledging the discomfort our  
22 neighbors are expressing today, we have to bear in mind that  
23 there is also a longer term game for this neighborhood in the  
24 city. A view does not make a neighborhood; neighbors make  
25 the neighborhood, and we all benefit when the community has

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1 room to grow and to welcome an even more diverse and  
2 interesting group of new neighbors committed to building a  
3 community together.

4 For all these reasons, Trinity supports this  
5 project, and we look forward to the continuing positive  
6 growth of our neighborhood in the Brookland Edgewood  
7 community. Thank you.

8 VICE-CHAIRPERSON HART: Thank you. Any questions  
9 for Ms. McGuire?

10 (No audible response.)

11 VICE-CHAIRPERSON HART: Thank you very much.

12 MS. DEUTSCH: My name is Barbara Deutsch, and I  
13 live at 558 Regent Place in Chancellor's Row. I ---

14 VICE-CHAIRPERSON HART: Can you spell your last  
15 name?

16 MS. DEUTSCH: Sure. German, Deutsch, I always say  
17 Deutsch for some reason, D-E-U-T-S-C-H.

18 VICE-CHAIRPERSON HART: Okay. Thank you.

19 MS. DEUTSCH: Yes. So I have over 20 years  
20 professional experience in landscape architecture in private  
21 practice, academic practice, and now non-profit practice.  
22 I worked for Casey Trees when they started for six years, two  
23 thousand --- developing the Citizen Forester Program, and  
24 doing the street tree inventory. And now I'm the CEO of the  
25 Landscape Architecture Foundation, but I am testifying as a

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1 resident in the neighborhood in Chancellor's Row, and in the  
2 community and in D.C. I've lived here since 2001.

3 VICE-CHAIRPERSON HART: And I'm sorry, Mr. Moy,  
4 could you put three minutes on the --- I should have said  
5 that before you started.

6 MS. DEUTSCH: Thank you.

7 VICE-CHAIRPERSON HART: Good.

8 MS. DEUTSCH: That's great. Okay, so I --- I am  
9 a fan of density and urban living, and transit orient  
10 development, and that's one reason that attracted me to the  
11 neighborhood of Brookland, where I live. And --- but open  
12 space and trees and certainly the landscape framework is  
13 important part of making that work, and making that livable.  
14 And so what I want to share today are some of my views on the  
15 open face tree issues, and some access issues.

16 So some of the metrics that I put together would  
17 be looking at almost an 80 percent decrease in usable open  
18 space. So we're not counting the private property open  
19 space. An 88 percent loss of the special trees. And I want  
20 to talk about why --- how I came up with that. But 14 were  
21 planned for removal. And then talk about projected mortality  
22 from site works, another 15, leaving four surviving special  
23 trees out of 33. And that's how I got the 88 percent. And  
24 then assuming that Casey Trees and the Boundary Company  
25 agreed on developing a 30 percent tree cover as a result of

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1 the plans, that would still be an 8 percent decrease in  
2 overall tree cover.

3           And then I was happy to hear comments today ---  
4 my bullet here about lack of equity and inclusion is not by  
5 intention, but more by physical access. So had some  
6 suggestions. So I wanted to share with you details on how  
7 I came to those, and then offer some recommendations for  
8 improvements to the program.

9           So why do we care, why do we care, because --- and  
10 I bring this up, the research, to show we have schools here  
11 now, and like we said, who knew they were going to be here  
12 even a decade ago? But, you know, children focus better,  
13 perform better on tests, are less aggressive and I think  
14 adults are too if they have access to nature or green and  
15 cities. They also if they have access to open space and, you  
16 know, they are more healthy, they weigh --- they're more  
17 health weights.

18           Certainly our property values and the tax --- the  
19 city's tax revenues, there's tons of studies and research  
20 that shows that at least 20 percent is a reasonable estimate  
21 for having good landscape framework, and open space as part  
22 of that. Healthy, mature, large street trees to help with  
23 traffic calming, we've heard about traffic issues. And  
24 making sure on Fourth Street and within the neighborhood that  
25 we have them for safety. And I know D.C. has the zero

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1 fatality objective, pedestrians. And so the framework is  
2 important. And then certainly all the other eco system  
3 services that trees provide as well as reducing heat island,  
4 and the temperatures for asphalt, and we own the streets in  
5 Chancellor's Row so the future neighbors if they own the  
6 streets too to make sure we have good street tree covers so  
7 that they have less maintenance on their roads.

8           And then finally I share some research that shows  
9 that patients recovering from surgery that had a window with  
10 a view of a tree versus looking at a brick wall they reported  
11 10 percent shorter hospital stays, needed less painkiller,  
12 pain medication, and also the staff -- had less issues with  
13 the staff. And so when we look in Chancellor's Row, I know  
14 it's been talked about before, but this development is really  
15 packed in, and I know I --- let's see if I can show on the  
16 cursor where I live right here. Can you see that? So this  
17 is very dense around, and if you look at the other neighbors  
18 in a tradition block setting they have front yards and back  
19 yards and alleys to give them much more open space.

20           And so I know there's been discussion back and  
21 forth what was said, but at least I was in phase one, it was  
22 understanding that we would have the open space here on the  
23 parcel that we're talking about today. And certainly --- so  
24 one of the key issues then is, besides the absolute loss of  
25 tree cover and open space as a result of the design is also

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1 that we're going to --- what I want to share with you is how  
2 we'll lose some of the trees that we really worked hard to  
3 save through the design and construction process, and that  
4 they just don't die outright. They will go into decline,  
5 have diminishing returns, and then it becomes the  
6 responsibility of the homeowner to remove them. So just a  
7 little science to ground this, and then I'll share examples  
8 in the care plan.

9 VICE-CHAIRPERSON HART: How many more slides do you  
10 have?

11 MS. DEUTSCH: I have a lot, but I'll talk quickly.

12 VICE-CHAIRPERSON HART: Well you can't because we  
13 ---

14 MS. DEUTSCH: Oh.

15 VICE-CHAIRPERSON HART: --- we're already over the  
16 time that you have.

17 MS. DEUTSCH: Oh are you?

18 VICE-CHAIRPERSON HART: Yes.

19 MS. DEUTSCH: Yes, oh my gosh.

20 (Laughter.)

21 MS. DEUTSCH: All right. I was thinking it was  
22 going up

23 VICE-CHAIRPERSON HART: No, no, no.

24 MS. DEUTSCH: Okay.

25 VICE-CHAIRPERSON HART: There is --- basically each

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1 person has ---

2 MS. DEUTSCH: Okay.

3 VICE-CHAIRPERSON HART: --- three minutes to  
4 present their case on how they think that this is -- the  
5 particular project is --- there is a problem with it, or give  
6 them their testimony.

7 MS. DEUTSCH: Okay.

8 VICE-CHAIRPERSON HART: You can provide your  
9 PowerPoint to us. You can submit it to the record, and that  
10 way you can have the PowerPoint that you have.

11 MS. DEUTSCH: I gave it. Can I have one minute?  
12 I really want to make a point about the tree.

13 VICE-CHAIRPERSON HART: The issue that we're having  
14 is that we have a lot of people that are here, and I can't  
15 give them five minutes each.

16 MS. DEUTSCH: Okay.

17 VICE-CHAIRPERSON HART: And so that's the issue  
18 that I'm running into. I'm trying to equally give the ---  
19 enough time to people so that we don't kind of waste your  
20 time, but right now if you could give us like 10 seconds, 15  
21 seconds.

22 MS. DEUTSCH: Tree roots they double the critical  
23 root zone this tree was the special tree that they worked to  
24 save. If you look underground there's --- first of all the  
25 crown would have to be cut. This tree will not survive, so

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1 it's being built around and that was a good intention, but  
2 there's the sewer vaults, the storm water vaults, the  
3 sidewalks, the front stairs, the buildings, the amount of  
4 space, the impact from construction --- compaction from  
5 construction. So this tree will not survive, and I make the  
6 case for some of the other trees there and in the grove,  
7 especially depending on the proposed works where there's  
8 footers for the place structures or benches. If the grading  
9 --- we're looking for a section to see what that looks like.  
10 So it's a nice idea, but in reality, concerned about the  
11 survivability of that And then the cost borne by the future  
12 homeowners to do that, because we've had that issue in  
13 Chancellor's Row.

14 VICE-CHAIRPERSON HART: Thank you very much.

15 MS. DEUTSCH: You're welcome.

16 VICE-CHAIRPERSON HART: Go right ahead.

17 MR. MARTIN FIRVIDA: Good afternoon. Good  
18 afternoon, Vice-Chairman Hart. My name is Bryan Martin  
19 Firvida, last name is Martin Firvida. I'm a resident at 510  
20 Regent Place, N.E., along with my wife and son. We are the  
21 original homeowners, and in fact, I was immediate past ---  
22 one of the past presidents of the homeowners association  
23 board of directors. I think I was the first point of contact  
24 when this whole adventure started several years ago.

25 As a resident of the District of Columbia for 22

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1 years, I've been excited by the District's growth and  
2 investment in our neighborhoods as I have moved from  
3 northeast to northwest and back to northeast. I'm testifying  
4 today on Case 19377 and fully aware of the unique  
5 circumstance that my home today sits upon land that the  
6 Paulists previously sold for development, and today I'm  
7 testifying about land that the Paulists want to sell once  
8 again for development.

9 I'm not testifying in full support or opposition  
10 of the proposed development, but to share my concerns with  
11 the Board to carefully consider the overall impact of the  
12 sale of this land and the proposed development. And that any  
13 potential approval was given in a thoughtful manner that  
14 addresses all of the issues in a comprehensive manner that  
15 I and others have been sharing with the Board today.

16 Unfortunately, the development of the Paulists'  
17 open space of what was their campus and the significant  
18 change in the use of their buildings from seminary and  
19 religious house to now two growing public charter schools has  
20 been a piecemeal process over the last decade. And the  
21 cumulative impact of these changes is only now beginning to  
22 be clearly seen and realized.

23 Even as these changes have all been individually  
24 reviewed and approved over the years, had the Paulists chosen  
25 in their words to monetize their land all at once with the

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1 EYA project, the District would have been able to create a  
2 true public street grid, instead of something that cannot be  
3 easily changed, the two potential networks of privately  
4 maintained streets with public access easements. The  
5 District also would have been able to approve a  
6 comprehensively planned neighborhood of residential and  
7 institutional usage from Forth to Seventh, and from Paulists  
8 building to the U.S. Conference and Catholic Bishops  
9 building.

10           The proposed continued expansion of residential  
11 and institutional building and increased usage will continue  
12 only to increase the quality of life issues for residents,  
13 students and seminarians alike. Many of these issues will  
14 not be able to be solved, but they will all require ongoing  
15 communication and management for the years ahead of us by all  
16 to address on an ongoing basis. The close proximity of this  
17 proposed development to the existing homes and schools  
18 present unique challenges. In-field development projects  
19 across the District have had a positive impact on life in the  
20 District, bringing new residents, businesses and schools and  
21 the like, like we see in-field development in this case  
22 taking place 50 feet and 75 feet from existing homes, on new  
23 sub-lots that are being created specifically for the support  
24 of this project.

25           A number of residents have had an ongoing dialogue

1 with the development team, and I've been one of those  
2 residents. And the development team in this case has been  
3 willing to listen and respond to the number of issues that  
4 have been raise. There's still much work to be done, and the  
5 impact --- as the impact of an approval of this project will  
6 not just be the few months of construction, but it will be  
7 across the decades ahead of all of us.

8           If this development is approved, again, I only ask  
9 of the Board that any approval given takes a complete view  
10 of what the Saint Paul's campus will become, and looks at all  
11 the usage current and new as well as this proposed  
12 development ultimately creates a positive impact for all  
13 current and new residents, students and teachers, priests,  
14 and seminarians alike. Thank you.

15           VICE-CHAIRPERSON HART: Thank you, Mr. Martin  
16 Firvida.

17           MR. MARTIN FIRVIDA: Well done. Very nice, yes.

18           VICE-CHAIRPERSON HART: I --- I --- just listening  
19 to what you said. Are there any questions?

20           (No audible response.)

21           VICE-CHAIRPERSON HART: No. Okay.

22           MR. MARTIN FIRVIDA: Thank you.

23           VICE-CHAIRPERSON HART: Thank you very much. So  
24 we're moving down. Welcome.

25           MS. TADDEI: Thank you. Good afternoon, Board

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1 Members. My name is Kristin Taddei, and I'm the planning  
2 advocate with Casey Trees. Casey Trees is located at 3030  
3 Twelfth Street, N.E., Washington, D.C. 20017. As you may  
4 know, Casey Trees is a Washington, D.C. based non-profit with  
5 a mission to restore, enhance, and protect the tree canopy  
6 of the Nation's Capital. I just wanted to pause and ask for  
7 five minutes on the clock, because I know I will go over  
8 three. Thank you.

9 VICE-CHAIRPERSON HART: Are you representing Casey  
10 Trees?

11 MS. TADDEI: Yes.

12 VICE-CHAIRPERSON HART: Okay.

13 MS. TADDEI: To fulfill this mission, we plant  
14 trees, monitor the city's tree canopy, and work with decision  
15 makers, developers, and residents to encourage tree planting  
16 and protection. We are dedicated to helping the District  
17 reach its 40 percent tree canopy goal by 2032. As a city we  
18 will achieve this goal with sustainable development projects  
19 that protect existing trees, and achieve a net gain in tree  
20 canopy.

21 We have been working with the development team to  
22 ensure that trees are prioritized in the development of the  
23 townhome community on Saint Paul's College property at 3015  
24 Fourth Street, N.E. Preserving trees is integral to  
25 preserving the historic nature of Saint Paul's College as

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1 many of the 165 trees on the entire site have likely been  
2 growing since the early years of the college.

3           The group of 73 trees located on the townhome site  
4 ---

5           VICE-CHAIRPERSON HART: Ms. Taddei.

6           MS. TADDEI: Yes.

7           VICE-CHAIRPERSON HART: I'm not sure. Mr. Moy, can  
8 they see the images that she's --- that's not on the camera,  
9 is it?

10           MR. MOY: Probably not. I think it would be better  
11 to use one of the ---

12           VICE-CHAIRPERSON HART: Easels?

13           MR. MOY: Easel stands or easels. And if you want  
14 you could stand by that if you'd like, because I have a  
15 remote microphone.

16           MS. TADDEI: Sure.

17           MR. MOY: That way you can speak through your  
18 drawings.

19           VICE-CHAIRPERSON HART: There's a camera that's  
20 down there ---

21           MS. TADDEI: Yes, yes.

22           VICE-CHAIRPERSON HART: --- that if --- in case  
23 somebody wants to see the ---

24           MS. TADDEI: What if I sat here and held them up,  
25 would that work or no?

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1 MR. MOY: Sure if you like.

2 MS. TADDEI: Yes, okay.

3 VICE-CHAIRPERSON HART: And can we stop the time?  
4 All right.

5 MS. TADDEI: The grove of 73 trees located on the  
6 townhome site include 33 special trees, those designated by  
7 the Urban Force Preservation Act of 2002, as any tree greater  
8 than 55 inches in circumference. And in total tree canopy  
9 covers 38 percent of this space. I do just want to clarify  
10 that we considered two areas in our analysis so you'll hear  
11 me refer to the townhome site, which is what I'm showing now,  
12 and the entire site, which is what was on the previous  
13 figure.

14 Also, it is our understanding that the development  
15 team acquired permits to remove special trees before the Tree  
16 Canopy Protection Amendment Act of 2016 took effect. This  
17 act changed the size of a special tree from greater than 55  
18 inches in trunk circumference to between 44 and 99.9 inches  
19 in trunk circumference, and established the new heritage tree  
20 category. Healthy heritage trees, which are greater than 100  
21 inches in circumference, cannot be removed without a mayor's  
22 order.

23 As such, our testimony, which you're hearing  
24 today, and analysis refers to special trees on site as those  
25 greater than 55 inches in trunk circumference per the 2002

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1 law, and does not acknowledge heritage trees for this reason.  
2 These trees also provide a valuable community amenity, add  
3 value and privacy to the homes of current residents, and help  
4 to manage pollution, flooding, erosion and extreme  
5 temperatures as you've already heard. Boundary Companies has  
6 been receptive to the testimony Casey Trees originally  
7 submitted in December 2016.

8 In November 2017, and again in February 2018,  
9 Casey Trees met with Mr. Wilkinson and Mr. Horne to review  
10 revised plans for the townhomes. He updated site and roadway  
11 configuration for the Saint Paul's College Project shows 60  
12 row homes surrounding the majority of the existing grove of  
13 mature trees. This is a vast improvement from the original  
14 plan, which showed 78 row homes that would have necessitated  
15 the removal of all but three of the 73 trees including 24  
16 special trees. This would have reduced the tree canopy  
17 within the townhome site from 38 percent to 8 percent.

18 Our analysis shows that the updated plan would  
19 provide a 30 percent tree canopy and preserve 27 trees  
20 including 17 special trees. After further analysis, Casey  
21 Trees found that even after townhomes are constructed 46  
22 percent of the entire site will remain plantable space. This  
23 provides the necessary space to plant replacement trees.

24 We recommend the development team adopt a canopy  
25 goal of 30 percent throughout the entire site to be

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1 accomplished by planting new trees in the open space around  
2 Saint Paul's College. In particular, we have asked the  
3 development team to provide a detailed tree protection and  
4 replacement plan showing the 46 trees to be removed replaced  
5 at a three to one ratio throughout the entire site. The  
6 level of tree diversity currently exhibited on site  
7 maintained in the tree replacement plan, a variety of large  
8 canopy trees and small under story trees included in the  
9 replanting plan, and proper tree protection measures  
10 implemented to protect remaining trees near construction.  
11 Boundary Companies has agreed to implement these measures  
12 implemented to protect remaining trees near construction.

13           Boundary Companies has agreed to implement these  
14 measures to create development with a 30 percent tree canopy  
15 post-construction. This will ensure that the tree canopy is  
16 gained, not lost, with the construction of this development.  
17 We look forward to receiving the detailed tree protection and  
18 replacement plan and analyzing this plan to ensure 30 percent  
19 tree canopy is met. We are confident that if our suggestions  
20 are implemented, this development will be a shining example  
21 of environmentally conscious design.

22           Thank you for the opportunity to testify.

23           VICE-CHAIRPERSON HART: Thank you Ms. Taddei.

24           MS. TADDEI: Pretty good. Taddei.

25           VICE-CHAIRPERSON HART: Taddei.

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1 MS. TADDEI: Although I think you have it more  
2 right than I do.

3 VICE-CHAIRPERSON HART: It's your name.

4 (Laughter.)

5 VICE-CHAIRPERSON HART: Are there any questions for  
6 Ms. Taddei?

7 (No audible response.)

8 VICE-CHAIRPERSON HART: The only question that I  
9 had was one of the past folks that testified, Ms., I'm going  
10 to say it wrong, Deutsch, good enough --- Deutsch, Deutsch,  
11 okay, was talking about a tree that you have included. It's  
12 kind of the star that's in the --- the northern most star,  
13 I guess, on your Figure 2. That one, yes. And that it would  
14 be that because of basically the impacts to the root zones  
15 due to a number of underground development, or development-  
16 related impacts, that it would mean the loss of that tree.  
17 Do you have a ---

18 MS. TADDEI: So I'm not familiar with what's going  
19 on underground or what will --- what the utilities will look  
20 like under there, so I would prefer to look at that before  
21 I made any sort of assessment, but what I can tell you at  
22 this point is that the development team has verbally and in  
23 writing agreed to protect the trees that they laid out and  
24 encircled in yellow on their plan. And so my understanding  
25 is that they would make every effort to protect this tree

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1 during construction, and there are ways to do that as long  
2 as those utilities are not in the way of that.

3 VICE-CHAIRPERSON HART: I didn't mean to put you  
4 on the spot; it was more ---

5 MS. TADDEI: That's okay.

6 VICE-CHAIRPERSON HART: --- just understanding that  
7 you all have had it as kind of demarcated, and I didn't know  
8 if you had actually looked at that, at the impacts from  
9 underground development. And you're saying that you haven't  
10 ---

11 MS. TADDEI: Right.

12 VICE-CHAIRPERSON HART: --- but you're also saying  
13 that you've heard from the Applicant that has said that they  
14 are looking to put in place the measures to, to the best of  
15 their ability, protect the trees that they have identified  
16 as being protected.

17 MS. TADDEI: That's correct.

18 VICE-CHAIRPERSON HART: Any other questions?

19 (No audible response.)

20 VICE-CHAIRPERSON HART: Thank you very much.

21 Yes, sir.

22 MR. TAMPE: Good afternoon. My name is Juan Tampe,  
23 T-A-M-P-E, and I live in 2868 Chancellor's Way. I'm one of  
24 the residents who lives just south of where the Paulists  
25 building is being proposed. And I wanted to make sure that

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1 the perspective of some of us who do live in that row is  
2 reflected.

3           When we first heard that the Paulists building was  
4 being sited right in front of our townhouses, we were, to say  
5 the least, a little bowled over. Since then in conversations  
6 with the Paulists they have agreed to widen the buffer  
7 between us and them. I think originally it was 35, 40 feet,  
8 and I think now we're at 75 feet. Of course if we had it our  
9 way we wouldn't have the building in front of us, or we would  
10 prefer that it be pushed even further. But that being said,  
11 there's still some concerns that we have in terms of the  
12 impact of an institutional building being placed right in  
13 front of our townhomes.

14           We would like that the Paulists would include us  
15 in landscaping the buffer between us and them to ensure that  
16 there's enough privacy, since right now their dorms literally  
17 would be looking into our living spaces. And the other is  
18 some sort of assurance that this building won't in a few  
19 years be flipped and sold to who knows what other use, a  
20 school that could impact even more so the quality of our  
21 lives in front of this building. So that's what I wanted to  
22 say.

23           VICE-CHAIRPERSON HART: Thank you very much, Mr.  
24 Tampe. Are there any questions for Mr. Tampe?

25           (No audible response.)

1 VICE-CHAIRPERSON HART: Hearing none. Thank you  
2 very much.

3 Just because I'm kind of curious, how many others  
4 are there? I know you all have just kind of sat down here.  
5 How many others are there to testify in opposition besides  
6 the people that are sitting here? So just --- is that three  
7 more?

8 (No audible responses.)

9 VICE-CHAIRPERSON HART: If you all could --- two  
10 of you could --- could you let them sit over here? Thank you  
11 very much. And everybody's been --- has everyone been sworn  
12 in?

13 (No audible response.)

14 VICE-CHAIRPERSON HART: Just want to make sure.  
15 I kind of figured as much, but I have to ask.

16 MS. CASWELL? May I ask to whom do we give copies of  
17 our testimony? Thank you.

18 VICE-CHAIRPERSON HART: Mr. Moy, who's sitting over  
19 here. Okay, sir.

20 MR. SHAH: Hi. Thank you everybody for your time  
21 today. I really appreciate it. My name is Mihir Shah. I'm  
22 at 500 Regent Place, N.E., Washington, D.C., one of the homes  
23 that's directly impacted by the development -- the proposed  
24 development, as well.

25 To start it off from a background perspective, I

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1 have a family. I have two kids. I have a dog and a cat.  
2 And ultimately the usage of the front yard, or the front  
3 space in front of us has been not only used by us, but by a  
4 number of people throughout the community that are outside  
5 and inside our --- inside of Chancellor's Row. So I don't  
6 want to make it seem like this is a Chancellor's Row item  
7 only. We're looking for a preservation of the land as much  
8 as possible if the development were to move forward or not.

9 I am not here to say that I'm in support of it,  
10 but I'm also not here to say I'm in opposition of it, because  
11 I understand that there are still some city requirements and  
12 city rules and guidelines that they may have to put in place  
13 in order to be able to help support other people that are  
14 coming in.

15 But I do want to say from a background perspective  
16 I work for Ernst & Young, and a lot of my clients that I work  
17 for my job is to really help them with a strategic outlook,  
18 a strategic viewpoint, of where they want their operations  
19 to be. And similarly the work that I'm --- even though I may  
20 not be an expert when it comes to the housing rules and  
21 policies, the work that --- the stuff that I do should apply  
22 to the work that's being done here. Where we should be  
23 looking at it from a long-term perspective and the impact  
24 that we're bringing forth.

25 I think we're --- you know, a couple of things

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1 that were brought up today, and I won't be going through  
2 every single point, so I don't really --- but I want to make  
3 sure that, you know, we're --- there are serious concerns  
4 when it comes to the number of parking spaces that have been  
5 proposed, you know, there was the original documentation of  
6 69 spaces, as per their own hearing materials, but then we've  
7 seen as recently of 62 spaces.

8           So those reductions, how does that from a longer  
9 term perspective impact or potentially roll over into the  
10 Chancellor's Row community or to other areas? I note,  
11 additionally, I'm also part of the HOA Board, and I know that  
12 our HOA attorney has also submitted in writing that traffic  
13 patterns should be reviewed based on real world needs, not  
14 purely on zoning requirements and plans. So I really think  
15 that there needs to be appropriate thorough viewpoint or  
16 assessment done on that aspect.

17           From Barbara's perspective and what she was  
18 mentioning earlier, and I know that she only had a finite  
19 amount of time, ultimately we want to be able to look at it  
20 from a strategic perspective when it comes to the tree  
21 preserves. I know that post-EY development we're looking at  
22 a roughly 50 percent --- a minimum of 50 percent of the trees  
23 that we started losing within three to five years, it wasn't  
24 within the first two years. We started seeing that  
25 degradation take time, so --- and it's not because we weren't

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1 taking care of the trees, but it's just because that's really  
2 kind of the way that it was done, with construction or  
3 whatever may be.

4 I think a lot of us strongly request that while  
5 the technical merits may have passed in certain aspects, and  
6 met certain zoning rules and policies, there are a number of  
7 concerns and issues that have been brought up by my neighbors  
8 and my friends, along with those who submitted testimony that  
9 detail out the impact.

10 If the BZA so chooses to move this project  
11 forward, I would urge two things, one, the number of open and  
12 unclear items, or ambiguous items that were left unclarified,  
13 be provided clarity prior to any approval. And, two, there  
14 is a dedicated amount of time to set --- that is set aside  
15 prior to the development start that is addressing any of  
16 those construction items, or to resolve any currently  
17 identified issues and items along with those that may be  
18 coming up as part of this process since this is not an area  
19 of expertise of many of us. We're --- we've unfortunately  
20 been sleeping at a Holiday Inn when it comes to this kind of  
21 stuff.

22 So thank you very much, and that's it.

23 VICE-CHAIRPERSON HART: Thank you very much, Mr.  
24 Shah. One of the things that you brought up that I think is  
25 --- that I probably should have raised earlier is that if

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1 there's any testimony that you'd like to --- you may use  
2 others' testimony that they've already provided, and kind of  
3 incorporate their's so that you don't have to do --- not you,  
4 but just anyone --

5 MR. SHAH: Yes.

6 VICE-CHAIRPERSON HART: --- that has to repeat,  
7 because there are things that people have already said. If  
8 there are new things that you'd like to raise that hasn't  
9 already been said --- not --- I'm looking at you, but ---

10 MR. SHAH: Yes.

11 VICE-CHAIRPERSON HART: --- because you just spoke,  
12 and you just reminded me of it, so I do appreciate that. But  
13 I also understand the issues that you raised as well  
14 regarding parking, the traffic and how they're kind of  
15 looking at the traffic, the tree preservation issues, and not  
16 just kind of now, but understanding that that might be a  
17 longer term, you know, ---

18 MR. SHAH: Quality of life longer term issue, yes.

19 VICE-CHAIRPERSON HART: So with that we can --- I  
20 don't know if there are any questions for Mr. Shah.

21 (No audible response.)

22 VICE-CHAIRPERSON HART: Okay.

23 MR. SHAH: Thank you.

24 VICE-CHAIRPERSON HART: Thank you very much.  
25 Welcome.

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1 MS. OLEAN: Good afternoon, my name is Kirsten  
2 Olean, and I'm at 506 Regent Place. I'm in the same row as  
3 Mihir, and John, and Bryan. Obviously our row is in closest  
4 relationship to the proposed new units, and so we obviously  
5 have been very actively involved in these discussions. And  
6 as was stated, that proposed distance at this time is about  
7 50 feet wall to wall facing the new units, with landscaping  
8 and pathways in between.

9 I will say that, you know, when I --- when I  
10 purchased my home, I certainly purchased my home specifically  
11 because it was located on the green space. It was definitely  
12 a prime location. Probably naively at the time, I didn't  
13 really think much about whether that land would be developed,  
14 and I realize it's unrealistic to think that undeveloped land  
15 in the District is probably not going to be developed, but  
16 I will say that the --- that green space is a huge part of  
17 the quality of life for all of us that live in Chancellor's  
18 Row, and not --- and the surrounding neighborhood because  
19 certainly a lot of people take advantage, and I'm sure you'll  
20 hear that from the schools as well, because I know those kids  
21 take advantage of that space.

22 Five out of the seven homes in our row have  
23 children, school aged children. Two homes who have daycare  
24 in-house, but, you know, our --- we feel very comfortable  
25 letting our kids just run out the front door and play in that

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1 space. And we've been very appreciative of the use of that  
2 space by the Paulists. It certainly has enhanced the quality  
3 of life for us, and we feel very comfortable sending our kids  
4 out there, dogs run out there, the school kids are out there,  
5 neighbors gather out there, especially when it starts to get  
6 beautiful like this. It's definitely been central to the  
7 quality of life and the building of community, just as  
8 background.

9           So, you know, as I think somebody mentioned  
10 earlier, maybe John, that, you know, it's not --- I don't  
11 think it's typical for in-field development to be so --- in  
12 such close proximity to existing homes, and I think that  
13 feels concerning to us. And usually there's some sort of  
14 separation with --- either by a roadway or something else,  
15 or it's built to the side or to the back, and these literally  
16 are --- we're looking at townhomes that are going to be 50  
17 feet from our front door and facing us, and that's very  
18 unusual. And I think it's really going to have an impact on  
19 how it feels in our community.

20           In addition to just the concern about the  
21 proximity in general, the real concern with the proximity,  
22 for me, is the construction, and I know that's a short term  
23 concern, but it is a major concern. Because we're so close  
24 to the new construction, I think the construction is going  
25 to be hugely impactful on our row in particular. As I had

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1 mentioned there's a lot of kids in those houses. A couple  
2 of those houses have in-home daycare, so the kids are in the  
3 home throughout the day. So I think that the noise and the  
4 dust and all that's going to have an impact.

5           But specifically, in order to achieve the grade,  
6 the leveling that it appears from the plan between our  
7 townhomes and theirs, we are figuring -- and, again, not  
8 being experts -- that there's going to be a significant  
9 amount of grading and earth work that's going to need to be  
10 done in order to achieve that flat level between our row and  
11 the row that's going to be facing us with the new  
12 development. So we think --- we're estimating that that is  
13 going to have to probably start at our property line, if not  
14 even closer.

15           And I've submitted some pictures, but just to give  
16 a little bit of perspective this is taken from the front of  
17 our homes, and that pole is the property line more or less.  
18 So it's very close. It's only about 10 feet out from our ---  
19 from the front of our homes. And in order to achieve that  
20 kind of grading, we think that that construction work is  
21 probably going to have to happen at our property line if not  
22 in our property. I mean, we have real concerns about the  
23 adverse effect of that. It seem --- it's actually hard to  
24 imagine how we could even potentially use our front porches,  
25 or our front doors, or anything during that time of

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1 construction, which obviously will have a huge impact on us.

2           So, not wanting to just bring concerns, but I have  
3 a couple of suggestions for proposed solutions. One would  
4 be to --- and I think our ideal solution, and I think my  
5 neighbors would agree with this in our row -- is to create  
6 a minimum of a 40 foot construction buffer zone between our  
7 property and the use of any heavy construction equipment.  
8 And I think in order to do that, would push the wall to wall  
9 distance between our row and that row to 75 feet.

10           What we would propose is that there is a  
11 significant amount of green space down by Fourth Street, and  
12 relocating some of that proposed space up into that sort of  
13 buffer zone and still would allow for green space along  
14 Fourth Street, which of course benefits the general  
15 neighborhood, but then it also benefits the residents that  
16 are closest and would be most affected by the new  
17 construction. That would be a first choice of solution.

18           And another thing to potentially consider would  
19 be the elimination of the Paulists building from the plan,  
20 and relocating some of the new homes to that area. We have  
21 heard --- the Paulists have stated that the construction of  
22 that building is on a separate development pathway, and that  
23 it is contingent upon raising capital to construct the  
24 building, and I under --- we understand there's been some  
25 challenges with raising that capital. And so I think a lot

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1 of us question how or when that building might actually be  
2 built, and would a better use of that space be to relocate  
3 some of the residential homes there, and allow this new  
4 development to be pushed back a little bit further from  
5 Chancellor's Row?

6 Thank you for the opportunity to provide testimony  
7 today.

8 VICE-CHAIRPERSON HART: Thank you, Ms. Olean.  
9 Okay. Are there any questions?

10 COMMISSIONER WHITE: Just one question. So these  
11 are your pictures, right?

12 MS. OLEAN: Correct.

13 COMMISSIONER WHITE: So --- They're very good,  
14 thank you, but so you're living in these townhomes?

15 MS. OLEAN: Correct, I'm at --- my --- specifically  
16 I'm in the middle --- the middle townhome.

17 COMMISSIONER WHITE: Okay.

18 MS. OLEAN: There's seven altogether in that row.

19 COMMISSIONER WHITE: And the development would  
20 occur in this area?

21 MS. OLEAN: Yes.

22 COMMISSIONER WHITE: Okay.

23 MS. OLEAN: I think this picture probably shows the  
24 best perspective. This is from the sort of triangle  
25 sidewalk, so our homes are here. And we --- it's going to

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1 be just sort of beyond these trees.

2 COMMISSIONER WHITE: Okay.

3 MS. OLEAN: Yes, it's about 150 feet.

4 COMMISSIONER WHITE: Okay. How long have these  
5 developments been there?

6 MS. OLEAN: We moved in in two thousand ---

7 UNKNOWN: Twelve.

8 MS. OLEAN: -- 12, thank you.

9 COMMISSIONER WHITE: Are those new construction?

10 MS. OLEAN: They're part of the EYA development.

11 COMMISSIONER WHITE: Okay, okay, just verifying.

12 MS. OLEAN: Okay, yes.

13 COMMISSIONER WHITE: Okay, yes.

14 VICE-CHAIRPERSON HART: I have a question.

15 VICE-CHAIRPERSON HART: Yes, go ahead, please.

16 BOARD MEMBER JOHN: So can you identify this  
17 building for me?

18 MS. OLEAN: That's the U.S. Conference of Catholic  
19 Bishops.

20 BOARD MEMBER JOHN: Okay, thank you.

21 MR. MOY: Mr. Vice Chair, if I may, while there's  
22 a little bit of a pause ---

23 VICE-CHAIRPERSON HART: Sure.

24 MR. MOY: If I can remind people who are testifying  
25 to remember to fill out the witness card, and then hand that

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1 over to the reporter I'd appreciate it. Thank you.

2 VICE-CHAIRPERSON HART: Thank you. Yes, welcome.  
3 You can go ahead.

4 MS. CASWELL: Good afternoon, my name is Tracy  
5 Caswell. I live at 596 Regent Place. I would like to, prior  
6 to the start of my time request, request additional time.  
7 We had an individual who wanted to testify, and who prepared  
8 notes, but unfortunately had to leave to attend a work  
9 obligation.

10 VICE-CHAIRPERSON HART: If they are --- if they  
11 could --- have they submitted testimony?

12 MS. CASWELL: It is not submitted in writing, but  
13 I have his notes ---

14 VICE-CHAIRPERSON HART: They can.

15 MS. CASWELL: --- here, and he asked ---

16 VICE-CHAIRPERSON HART: They can submit that to us.

17 MS. CASWELL: But he did ask me to read it to you,  
18 if that is all right.

19 VICE-CHAIRPERSON HART: You are not --- you're  
20 unable to do that, because we can't ask them questions.

21 MS. CASWELL: Okay.

22 VICE-CHAIRPERSON HART: And so that's the issue  
23 about having the testimony read from somebody else, because  
24 you can't answer for them even though you may know the  
25 answer, it still is their testimony.

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1 MS. CASWELL: He is my husband.

2 (Laughter.)

3 VICE-CHAIRPERSON HART: I have --- I too have a ---  
4 I have a wife, so I know, but I can't speak for her all the  
5 time.

6 MS. CASWELL: Fair enough. And ---

7 VICE-CHAIRPERSON HART: So --- but I do appreciate  
8 that. I understand that. It's just hard because when ---  
9 if somebody wants to ask questions and they're not here then  
10 we don't have a way to do that, so --- but you can provide  
11 that information to us in writing and submit that to us.

12 MS. CASWELL: Until what time? Is it today?

13 VICE-CHAIRPERSON HART: We actually are going to  
14 --- we've asked the Applicant for some other information so  
15 we'll probably keep the record open so you can submit it to  
16 the --- submit it into the record after this meeting. I  
17 don't think there's a particular time. Mr. Moy, there isn't  
18 a time, per se, --- I figured until we have the --- it's  
19 really up to us, but until we have the continued hearing I  
20 think that's where we're --- the direction that we're going  
21 to be moving in, so ---

22 MS. CASWELL: Understood.

23 VICE-CHAIRPERSON HART: It's a lot of testimony  
24 that we're taking, and we have to kind of take all this stuff  
25 in. There's some information that we've requested, and ---

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1 any how, so ---

2 MS. CASWELL: Thank you very much. I appreciate  
3 it.

4 VICE-CHAIRPERSON HART: You're welcome.

5 MS. CASWELL: And thank you for your time. I've  
6 heard a lot of testimony today, and I'm actually not one of  
7 the folks who is directly adjacent to where this development  
8 will be ongoing, but I am still affected by it. And I think  
9 the most important thing is that we wouldn't be here if the  
10 Paulists and the developer were proposing 35 homes or 30  
11 homes. What we're looking at is an increase in density in  
12 the number of homes in a really very small area that wasn't  
13 anticipated originally when the EYA and Paulists development  
14 was approved.

15 The homes in which we now live, we're looking at  
16 such a shift over such a short amount of time. And we've  
17 seen some inconsistencies in testimony. I'm not an expert,  
18 though I do work in real estate, I'm an accountant, you know,  
19 kind of different. I've gone back and tried to understand  
20 how things came to be, what the Board was considering when  
21 the EYA development was approved. And even though, you know,  
22 the Applicant has brought a slide saying, look this open  
23 green space wasn't a part of the EYA application, it was  
24 still discussed at length and statements were made.

25 And I think it's pretty unreasonable to assume

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1 that looking at 5.5 acres of land immediately adjacent to  
2 multiple hundreds of home development wasn't considered when  
3 EYA was constructing Chancellor's Row. This though is more  
4 than about Chancellor's Row, this is about all of us. And  
5 I know it's the height of allergy season, and so it's kind  
6 of weird to be promoting trees. I certainly feel it every  
7 morning, but want to echo what my neighbor said, and what  
8 Casey Trees has said.

9 Casey Trees from the sound of things doesn't  
10 really know what's going to be happening underground with  
11 this development. And what my neighbor Barbara said is very  
12 much correct. We've seen a tremendous amount of die-off in  
13 the mature trees that were supposed to be preserved as part  
14 of EYA's development. It's unreasonable to think that we  
15 wouldn't see the same die-off of trees in this upcoming  
16 development.

17 So why do trees matter? In addition to all the  
18 reasons that Barbara stated, I've actually provided in my  
19 written testimony a study that was conducted in 2015 led by  
20 scientists from the University of Chicago that actually says,  
21 residents who live in urban areas who are surrounded by more  
22 trees, as opposed to less, have a lower incidence of major  
23 health problems like heart disease, cancer, diabetes,  
24 obesity, mental health problems.

25 It's real, and it's more than just a character of

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1 how we feel about our neighborhood. It's more than just the  
2 kids playing outside, and all the hundreds of children who  
3 come to the building Hope and the other charter schools  
4 they're outside every day, that's their playground, that's  
5 where they go, it's more than just us. So nothing could be  
6 better than what's there today, nothing could be more  
7 beautiful, nothing could be greater.

8           So, okay, the Paulists want to develop, but what  
9 do they want to put there? They want to cram a bunch of  
10 million dollar homes like sardines in a can. And I'm sorry,  
11 the District doesn't need more million dollar homes. I know  
12 that a couple of them are going to be affordable, and that's  
13 great, but if you have \$1 million dollars to spend on a house  
14 go to Capitol Hill, it's beautiful there. There's so many  
15 neighborhoods that don't need to be developed that already  
16 exist for you. Those are not the residents we need to look  
17 out for. And I get more efficient housing, I'm all for it.  
18 I love my house, but I love my neighborhood, too.

19           So I know it's easy to just say yes, I do, I get  
20 it. I know it's easy to make a decision based on decisions  
21 made in the past, to let's go down this path because we've  
22 already started down it, but I'm looking at you guys, please  
23 let's consider this, let's step back. We don't need 60 homes  
24 in this neighborhood. We just don't. And the Paulists has  
25 made so much money. And I get it, they're a declining order,

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1 I understand. But I would encourage you to please be the  
2 voice of reason and reduce the number of homes in this  
3 development.

4 Thank you for your time; I appreciate it.

5 VICE-CHAIRPERSON HART: Thank you, Ms. Caswell.  
6 Are there any questions for Ms. Caswell?

7 COMMISSIONER WHITE: Just one question. You  
8 talked about reducing the number of homes. I'm just curious  
9 what number, in your mind, would be reasonable for that area?

10 MS. CASWELL: Well, they started with what felt  
11 like a million, so all of that discussion of stepping back  
12 the plan and stepping back the plan. Ninety homes. It  
13 really might have just as well been a million. If they had  
14 come with something reasonable, given the acreage, given the  
15 density that our ANC chairperson referred to, when you look  
16 at the projects as a whole with all of the surrounding  
17 development, if we were looking at between 30 and 35 homes,  
18 none of us would be here today. Your meeting would be so  
19 short. You would have been in and out because that's a  
20 reasonable number of homes for what we're looking at. Plus,  
21 an institutional building that may or may not stay  
22 institutional, given the concerns that my neighbor, Juan,  
23 raised. How long will the Paulist occupy that building?  
24 Will they be back here in two years asking to convert it into  
25 condos? I'll bet you a cup of coffee.

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1           So I think we have to look at what's really  
2 reasonable given everything. If you step back and look at  
3 the whole picture. I've included a map, the very last page  
4 of the written testimony that I submitted is the D.C.  
5 Comprehensive Plan Future Land Use Map. There are no parks.  
6 There's nothing. Those things that look like parks are  
7 cemeteries.

8           When you look at the whole thing, if you said 30  
9 to 35 homes, like I said, we wouldn't be here today. We  
10 wouldn't have such strenuous objections. All of the other  
11 issues, like ground water, parking, and street access and  
12 school access would go away. Everything is exacerbated by  
13 the number of little postage stamp-sized homes that are going  
14 into this area.

15           And, again, 14 feet or 20 feet or whatever, it  
16 sounds great. But if you could see it today, if you could  
17 be there, it's beautiful. It's absolutely gorgeous, and  
18 there's nothing like it.

19           VICE-CHAIRMAN HART: Thank you. Yes, welcome.

20           MS. BERK: Hi. I'm Jillian Berk, B-E-R-K, and I  
21 live at 515 Regent Place. Thanks for the opportunity to  
22 speak today. I share a lot of the same concerns that have  
23 been raised earlier today, so I won't spend your time  
24 repeating that. I really wanted to just focus on this issue  
25 of construction dust. I think that's an important issue for

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1 us to take really serious during the construction process.

2 I'm particularly worried about the potential for  
3 lead in the soil. Fourth Street is a very highly-trafficked  
4 street, and, you know, previous research has shown that soil  
5 along heavily-trafficked streets have higher lead content.  
6 I think that's something that needs to be tested before we  
7 want to have that much construction dust from all of the  
8 earthwork required for this development affecting all the  
9 houses in Chancellor's Row, the surrounding neighborhoods,  
10 and the schools. Clearly, lead has been a very important  
11 issue in D.C. and I don't think we should forget about that  
12 piece.

13 And then the last part is this issue about the  
14 traffic. You know, we're attracted into the area because of  
15 its quiet, child-friendly, private streets. And it sounds  
16 like there's been an agreement not to have the school traffic  
17 routed through Chancellor's Row and to keep that gate in  
18 place, but I do think that's a very important thing to take  
19 into account and I know that's different, in my  
20 understanding, than DDOT's recommendation. So I just wanted  
21 to emphasize the importance of keeping those streets at a  
22 manageable traffic level. When we have more traffic coming  
23 through the neighborhood, there are car accidents. It's just  
24 a real mess. The streets can't handle more traffic. Thank  
25 you.

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1 VICE-CHAIRMAN HART: Thank you very much, Ms.  
2 Berk. Are there any questions for Ms. Berk? Thank you.

3 MS. BERK: Thank you.

4 VICE-CHAIRMAN HART: Yes, sir?

5 MR. RITTING: Hi. Before I begin, I wanted to ask  
6 if we could combine our time. The three of us that are left  
7 are representatives of the charter school, and I think it  
8 would be easier for the Board if you could listen to our  
9 comments together and then ask us questions collectively, if  
10 that's okay with you.

11 VICE-CHAIRMAN HART: Are you all representing the  
12 charter school?

13 MR. RITTING: No, but we're all parents and so we  
14 have similar concerns.

15 VICE-CHAIRMAN HART: I mean, it's three minutes  
16 apiece or nine minutes you're saying?

17 MR. RITTING: I just wanted to throw it out there  
18 in case you're interested.

19 VICE-CHAIRMAN HART: We can hear from each one.  
20 It's fine.

21 MR. RITTING: The other request I had, is it  
22 possible to call up the site plan on the screens? It was  
23 included in the applicant's presentation as slide 19. I  
24 think it might help sort of to digest the information.

25 VICE-CHAIRMAN HART: Mr. Utz, can you --

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1 MR. UTZ: Yes, sure.

2 VICE-CHAIRMAN HART: Thank you.

3 MR. RITTING: And while Mr. Utz is doing that, I  
4 have another housekeeping thing I need to mention, but,  
5 before I begin, I'd like to disclose that, in addition to  
6 being a D.C. resident and a parent of two children attending  
7 Lee Montessori Public Charter School -- by the way, my name  
8 is Jacob Ritting. My address is 1312 Randolph Street,  
9 Northeast. Sorry.

10 I'm also an attorney employed by the D.C. Attorney  
11 General's office, and I frequently give legal advice to the  
12 Zoning Commission. Some of the Board members may recognize  
13 me for that reason, so I want to be clear that I am not here  
14 in any official capacity but strictly as a parent exercising  
15 my First Amendment right to petition the government. I'm on  
16 leave from my job today so I could be here. I have had no  
17 communications with the Board members about this case, other  
18 than the written comments I submitted into the record, and  
19 I'm even wearing my dad tee-shirt so it's very clear to  
20 everyone why I'm here.

21 VICE-CHAIRMAN HART: I do appreciate the  
22 information that you've provided and the clarity around that.  
23 And I don't have any issue with you presenting your testimony  
24 here, so I'm making sure that the rest of the Board is okay  
25 with that. Okay. Thank you.

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1           MR. RITTING: I also wanted to acknowledge that,  
2 and thank you to the applicant for conceding that there will  
3 be public access easements on the private streets on their  
4 portion of the property. That was our biggest concern and,  
5 until now or until today, we didn't know that that was the  
6 case. So it's a big relief, and I think it's very important  
7 that those are included in the order as conditions. As  
8 you've seen with the Chancellor's Row testimony, the fact  
9 that the expectations of the homeowners may not have matched  
10 up with the promises made by the developers when they  
11 initially appeared here.

12           So with that, I'd like to begin. I'm here to  
13 testify in opposition to the project because I believe it  
14 will adversely affect my children's school, which is located  
15 directly adjacent to the project site in the old St. Paul's  
16 College building. The way I think it will adversely affect  
17 the school is by blocking access to the building and creating  
18 potentially dangerous conditions for students and parents  
19 walking to the school. Of course, I made these comments  
20 before the public access easements were promised.

21           As you can see on the site plan, the school  
22 building is surrounded on three sides by the Chancellor's Row  
23 development. It was approved as a PUD about 10 years ago  
24 before the school moved into the old St. Paul's College  
25 building. Like the developer in this case, the Chancellor's

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1 Row development needed a special exception to allow for  
2 construction of townhouses that were not on individual lots  
3 of record. This allowed the development to build the  
4 separate buildings without each having their own access to  
5 a public street. Instead, access to the individual  
6 townhouses is by what has been called private streets.

7 This project would continue the encirclement of  
8 the old St. Paul's building with a similar scheme of  
9 townhouses that are not on individual lots and connected by  
10 private streets. The private streets are an issue for the  
11 school because, if the Board permits this scheme without the  
12 public access easements, the applicant or the HOA that  
13 eventually steps into their shoes after the townhouses are  
14 sold will likely restrict access to those streets and  
15 prohibit access to the private streets by students and  
16 parents trying to reach the school, which is exactly what's  
17 happened in the Chancellor's Row development.

18 It may be interesting to you that in the original  
19 PUD application there is some testimony from another parent,  
20 and it's Exhibit 116, where she cites what the developer said  
21 in the original PUD case, and I quote, "There will be no  
22 gates or barriers preventing members of the public from  
23 gaining access to the site. An interconnected street grid  
24 network disperses automobile traffic and facilitates  
25 pedestrian movement, connecting homes to the public streets

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1 and integrating the entire development into the existing  
2 neighborhood. It does not create a self-contained suburban  
3 style village." That was in the application document  
4 submitted September 14th, 2007 at page 12 in Zoning  
5 Commission Case 0727.

6 As you can hear from the testimony from  
7 Chancellor's Row, that hasn't turned out to be the case. In  
8 fact, their expectations are completely different.

9 So that brings me to the site plan. Ms. John had  
10 some questions earlier about how students access the  
11 building. I guess I could just try to answer the questions  
12 I think that she asked before, which is the Metro station is  
13 at sort of the upper left-hand corner of the site, and so  
14 people that are leaving the Metro station, they have a  
15 choice: They either walk down 7th Street to past Jackson, I  
16 actually made a misstatement in my written comments when I  
17 said it was Jackson. It's actually they have to walk past  
18 Jackson, which would have been the direct route to the  
19 school, down to Hamlin and then turn and sort of retrace  
20 their steps to get to the building that's marked with a big  
21 A in the middle.

22 What I actually see happening is students, mostly  
23 from the high school, they'll walk down from the Metro  
24 station down Michigan all the way to 4th Street and then  
25 access the building from a gate and a walkway that will be

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1 completely blocked by the buildings. It's presently located  
2 about midway there and then access the school that way.

3           So my concern about access was that the logical  
4 way for people coming from 4th Street, of course, is to  
5 access through the new private street that's next to the  
6 little D there that now will have a public access easement,  
7 which is a very good thing, and walk into the school building  
8 that way.

9           Absent that easement, they would have to walk all  
10 the way down to sort of the driveway entrance that's next to  
11 the new Paulist building, which is where all the vehicles  
12 will be entering, as well. It's considerably out of the way  
13 so no reasonable person would choose that route.

14           So that's the essence of my testimony. I think  
15 that the public access easements will ameliorate and mitigate  
16 these potentially adverse conditions of the project, and I  
17 think that they're critical to include in the conditions of  
18 the order.

19           Before I conclude, there are just two other things  
20 that I wanted to address in the record because they were  
21 mentioned today. As parents, the school administration has  
22 told us many, many times how to access the school in light  
23 of the concerns of Chancellor's Row, and I know that almost  
24 everyone follows them, as far as I'm aware. I know in the  
25 beginning of the school year, there was some confusion about

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1 how do I get to the building and so forth, which is  
2 understandable, given there are what looks like streets that  
3 go to the building that you're not supposed to use. And even  
4 though it's inconvenient for parents to do it, we all try to  
5 follow them, including myself. I have to drive all the way  
6 around the building to 4th Street and access the driveway  
7 there.

8           One other unrelated issue that I wanted to address  
9 which is some of the Chancellor's Row people talked about how  
10 they weren't expecting a charter school to locate in the  
11 building, and I just wanted to make sure it's clear on the  
12 record that it's a matter of right use for a school to locate  
13 in the building, unlike the Chancellor's Row development that  
14 required all this zoning relief to locate there. And the  
15 school has a right to be there, and they followed all the  
16 zoning regulations and they have all the required number of  
17 parking spaces.

18           So that concludes my testimony. As a person that  
19 drives and walks there every day, I could answer any  
20 questions you might have about access to the building.

21           VICE-CHAIRMAN HART: Thank you, Mr. Ritting. Are  
22 there any questions for Mr. Ritting? Thank you very much.  
23 Welcome.

24           MS. HAMMERSLEY: Thank you. My name is Faye  
25 Hammersley. I'm at 1312 Randolph Street, Northeast. You

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1 might notice that's the same address as Mr. Ritting. I'm  
2 also a Lee parent. We have two children at Lee. We've been  
3 at Lee Montessori since the school opened. It's an amazing  
4 school. I can see why a parent in Chancellor's Row would  
5 like to have preference to go to Lee, and I'm really happy  
6 that our children go there. And, in fact, some Lee students  
7 might be watching this on the webcast today. I know Ms.  
8 Denny's third and fourth class for fourth grade classes were  
9 going to watch and see how zoning happens, so we'll see if  
10 they're still, if their PARCC testing is done, they'll be  
11 watching us online.

12 I submitted my letter of opposition, it's Exhibit  
13 113, on Tuesday, April 24th. My main concerns were the  
14 safety for pedestrians and driving, given the limitations in  
15 the proposal as it was my understanding since this morning.  
16 As Jake stated, the public access easement ameliorates a lot  
17 of those concerns, but I still have a few other issues that  
18 I think should be considered that, because Chancellor's Row  
19 has private roads, that they're having, I believe, police,  
20 privately paying police officers to monitor. It's created  
21 some tension between Lee Montessori and Washington Leadership  
22 Academy and the private community. It's essentially blocking  
23 the most efficient route to the Metro, which was discussed.  
24 I want to point out one letter, I think Jake pointed this,  
25 too, but one of the other Lee parents wrote an excellent

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1 letter, it's Exhibit 116 in the record, that outlines not my  
2 experience but her experience with kind of this tension and  
3 the tension that we will hopefully not have with public  
4 access to the new development.

5           There was another Lee parent here and,  
6 unfortunately, she had to leave, but Sara Dos Holby also has  
7 a letter in the record. But I would like to say, I'm just  
8 going to cut the rest really short because everybody else has  
9 said pretty much everything else, but since I've been at --  
10 I'm desperate for Lee to succeed and I feel strongly that  
11 Washington Leadership Academy should also have that benefit.  
12 The project, as proposed, would have had severe adverse  
13 effect on the school by creating both a dangerous and  
14 impossibly congested travel routes to and from the schools.  
15 As I know from my experience dealing with Chancellor's Row,  
16 private roads create a dead zone in the middle of a vibrant  
17 city where residents feel compelled to self-police their  
18 roads, I think, is a disaster waiting to happen. I would  
19 prefer not to see any more of those. And I think it  
20 adversely affects the private interest.

21           I agree with all of DDOT's proposed conditions,  
22 including sidewalks, public access easement, and east/west  
23 travel lane that would decrease traffic pressure for all of  
24 Brookland. So I'll just say that, one, the six-foot  
25 sidewalks, it sounds like the public access easement will

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1 cover that. Two, public access on private streets, that  
2 should also be covered if we have a public access easement.  
3 Three, and this is new because I didn't know this, I would  
4 recommend against reducing 4th Street down to one lane. I'm  
5 the pick-up parent, and 4th Street is jam-packed. So if you  
6 reduce that lane without having an east/west crossway to get  
7 out in another way, I would argue it would create a very  
8 dangerous situation in the event of something catastrophic  
9 happened in the school and it doesn't take anyone in this  
10 room, it's no stretch of the imagination what catastrophic  
11 events can happen at schools these days. And, fourth, to  
12 consider requiring some noise mitigation, noise, dust  
13 mitigation because the pre-K-3, pre-K-4, and K classes are  
14 going to be facing the construction site and I think that  
15 would be very detrimental to their ability to concentrate and  
16 learn in what's otherwise a really quiet environment in an  
17 amazing school. So thank you for letting me testify.

18 VICE-CHAIRMAN HART: Thank you very much. Are  
19 there any questions for Mrs. Hammersley? Hearing none, yes,  
20 sir.

21 MR. KANAGALINGAM: Hi, yes, thank you. My name  
22 is Jurgen Kanagalingam. Mr. K is fine if we end up --

23 VICE-CHAIRMAN HART: Did you submit some comments?

24 MR. KANAGALINGAM: No, sir. So I will be brief.

25 VICE-CHAIRMAN HART: I always ask because

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1 sometimes we have the names on here, so it's a little easier  
2 to see that.

3 MR. KANAGALINGAM: I'll hand out my ID or  
4 something.

5 VICE-CHAIRMAN HART: Well, actually you filled out  
6 a card.

7 MR. KANAGALINGAM: Yes, sir.

8 VICE-CHAIRMAN HART: You can fill that out and  
9 hand that out to the court reporter. At some point, we'll  
10 have the correct spelling for it. But go right ahead.

11 MR. KANAGALINGAM: Well, thank you. So I reside  
12 at 645 Girard Street, Northeast, so I am a block and a half  
13 away from the school and the Chancellor's Row community. I'm  
14 a neighbor. I'm a parent at the Lee Montessori. You know,  
15 my hope today is to talk about, you know, my aspirations for  
16 the community.

17 I came in opposed. I'm now feeling a little more  
18 undeclared. I am sympathetic to all the different sides, but  
19 my primary concern is, because if, you know, by what may be  
20 exemplified by Chancellor's Row, there is, for me living in  
21 the community there, an erosion of a sense of community, and  
22 I know that's very contrary to what the Paulist, you know,  
23 envisioned for it and what the Trinity College has envisioned  
24 for it. And I think there's a role that zoning and design  
25 can have on making sure we limit that. I mean, my walk with

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1 my daughter to school is up half a block, over on 6th, and  
2 I cross the street. But the second I get to Regency Place,  
3 there is a bit of trepidation in the back of my mind of is  
4 a neighbor going to come out and talk to me about how I'm  
5 walking my kid to school? And I don't blame them. I mean,  
6 I think, because of the design flaws, there's acrimony there.  
7 There's now a police officer there. It's not a very  
8 welcoming thing for my daughter and I when we walk to school  
9 to have a police officer there who is armed. He's very nice.  
10 I've talk to him at length. He's a lovely man. But it  
11 doesn't send a great message.

12 My concern broadly is, and I know you can't  
13 regulate or zone for humanity, but are there things that can  
14 be done, like the public easements and, you know managing the  
15 size of the community, to make sure we don't have a repeat  
16 of this because we have a lot of potentially great neighbors  
17 in the Chancellor's Row who I can't necessarily interact with  
18 because there is that unspoken acrimony there and discomfort  
19 because of how, you know, who's parking where and are people  
20 coming through the neighborhood because the road is private,  
21 where am I supposed to walk, where is the Washington  
22 Leadership Academy kids supposed to walk? All of that  
23 baggage, it's so corrosive to the community.

24 And I'm happy to welcome a second community, you  
25 know, into this neighborhood. I mean, I live on Girard. My

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1 house is almost, you know, over 100 years old. I live with  
2 multi-generational D.C. families. They welcome me in, I'm  
3 happy to welcome others in. But whatever can be done to sort  
4 of mitigate some of these issues through design, through  
5 zoning, to make everyone feel comfortable and make not just  
6 Chancellor's Row, not just Girard Street, different  
7 neighborhoods but one big neighborhood, I think it's  
8 important for the community to be cognizant of.

9 VICE-CHAIRMAN HART: Okay. Thank you very much.  
10 Are there any questions?

11 BOARD MEMBER JOHN: I have one quick question.  
12 Can you show me on this diagram how you walk to school, and  
13 can you show me on the diagram how you walk to school and  
14 what the issue is and where the policeman is?

15 MR. KANAGALINGAM: Yes, ma'am. On this computer  
16 here? So it's just off the screen. Right here is 6th  
17 Street. My road is just a little bit off here, so this would  
18 be Girard. So I walk up Girard. I come across onto 6th, and  
19 I would say probably two to three days a week the police  
20 officer is right here. He tends to kind of make a loop  
21 through here, and he may have expanded his activities  
22 throughout the rest of the neighborhood. But right here is  
23 where I cross ostensibly from, quote/unquote, my neighborhood  
24 into the Chancellor's Row, and we, you know, kind of go  
25 through this area up into the school, onto the school

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1 property.

2 BOARD MEMBER JOHN: Okay. And I can follow up  
3 with Mr. Utz later on because I'm not sure how the new plan  
4 changes all of that.

5 MR. KANAGALINGAM: Thank you.

6 VICE-CHAIRMAN HART: Thank you very much. You can  
7 come back up. Let's see. We are now going to go to the  
8 Office of Planning since they haven't actually given their  
9 report yet and DDOT. You've been sitting very quietly off  
10 to my right, so I do appreciate it. And you've heard quite  
11 a bit of testimony already. Typically, that's not the  
12 process that we go through, but I think it was helpful to be  
13 able to do that and, if you could, provide just a summary.  
14 I mean, we have your reports. We've read through the  
15 reports, but if you could provide a summary of where you are  
16 and if there are any, if there's anything new because of some  
17 of the testimony that you've heard today, that would be very  
18 helpful. Thank you.

19 MS. VITALE: Sure. Good afternoon, Mr. Vice  
20 Chair, members of the Board. Elisa Vitale with the Office  
21 of Planning. The Office of Planning recommends approval of  
22 the requested area variances and special exceptions. This  
23 includes the theoretical subdivision to permit construction  
24 of 60 new row dwellings, as well as a new building for the  
25 Paulist Fathers.

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1           To kind of bring things up to date, our report had  
2 noted three items that were outstanding. The applicant  
3 covered this briefly, but I'll just reiterate that the first  
4 item, the measured line drawings, have been received. We  
5 have not received a final landscape plan, and it does sound  
6 like, you know, while their presentation included a landscape  
7 plan, it sounds like there may still be some further  
8 refinement and development of that. So I think that is  
9 something that still needs to be submitted into the record.

10           And then the final item that's still outstanding  
11 would be an easement that would preserve the open space  
12 that's captured in theoretical lot 62 in the project to  
13 preserve that open space in perpetuity and to allow for  
14 public access to that open space.

15           We have DDOT here today and we'll just note that  
16 we would support the inclusion of DDOT's proposed conditions  
17 as part of the Board's potential approval of this project,  
18 should you go there. And then I think the only, the final  
19 item, and, again, this was addressed by the applicant, should  
20 the project develop, you know, kind of to the maximum  
21 potential, including the decks that were proposed as optional  
22 for the row dwellings, if those were all to be constructed  
23 and they achieved that 0.91 FAR, that that would be  
24 contemplated and appropriate within the additional density  
25 that they can achieve through the inclusion of the IZ units

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1 that would take them up to a 1.08 FAR. So we had requested  
2 additional information about that, and we believe that has  
3 been addressed.

4 VICE-CHAIRMAN HART: And so you don't, you think  
5 that that's no longer an issue because it has been included  
6 under IZ?

7 MS. VITALE: That's correct.

8 VICE-CHAIRMAN HART: The IZ density bonus?

9 MS. VITALE: Correct.

10 VICE-CHAIRMAN HART: Okay.

11 MS. VITALE: And that actually concludes my  
12 report. I'm happy to answer any questions that anyone might  
13 have at this time. Thank you.

14 VICE-CHAIRMAN HART: Actually, I did have a  
15 question regarding the open space easement issue. Mr. Utz  
16 had described several different types of easements that were,  
17 that they were looking at. And I'm looking at my notes to  
18 see which -- oh, there was a DDOT, one for public access,  
19 which seemed like those roads and sidewalks, one for open  
20 space, and there was one for, and I wasn't exactly sure what  
21 that would be considered. Do you have a, I don't know, is  
22 . . .

23 MS. VITALE: In my notes, I had three items. I  
24 had open space, and I think that captures my point, and that  
25 open space easement, it would be my understanding that that

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1 would include public access to the open space. The second  
2 item was a public access easement, which would provide access  
3 for the use of the private roads and sidewalks. And then the  
4 third item was pedestrian access at Regents, and I can't  
5 point not the screen, but perhaps the applicant can. So that  
6 would provide that pedestrian connection from the northern  
7 entrance to the proposed project up to the sidewalk that kind  
8 of wraps around at the western edge of the Chancellor's Row  
9 development there.

10 VICE-CHAIRMAN HART: And are you looking for a map  
11 or plan that shows where these easements are going to be  
12 located?

13 MS. VITALE: That is one piece of it. So,  
14 certainly, a graphical representation, as well as the  
15 language that would go along with that.

16 VICE-CHAIRMAN HART: I mean, you're talking like  
17 meets and bounds or are you talking about --

18 MR. UTZ: Do you want me to --

19 VICE-CHAIRMAN HART: Sure.

20 MR. UTZ: So it would be a draft of the easement  
21 document itself, the actual agreement that's signed by the  
22 property owner, that would be recorded, but then the exhibits  
23 would both be a legal description that would identify the  
24 property so it could be indexed correctly in the land records  
25 and then, however many easements there are, an exhibit that's

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1 a visual matching where those rights are. So those wouldn't  
2 be meets and bounds. It would actually be a graphical  
3 representation typically done by our civil engineer that  
4 would identify something similar to the screen that's up now  
5 based on what the relevant easement is, although the open  
6 space would be a big blob of greens.

7 VICE-CHAIRMAN HART: Yes, but you would have at  
8 least a legal description that says where that is.

9 MR. UTZ: So the legal description would be the  
10 first exhibit that would identify the property where this all  
11 relates, and then the civil engineer-generated exhibits would  
12 actually identify exactly where those are on the site, yes.

13 VICE-CHAIRMAN HART: Okay. And, Ms. Vitale, you  
14 also were looking for a final landscape plan. It seems as  
15 though we have somewhat of a, what's been presented is  
16 somewhat of a, well, it's less than ideal. It doesn't give  
17 a lot of kind of detail. But you're looking for an actual  
18 landscape plan? Are you looking for -- what are you looking  
19 for?

20 MS. VITALE: We are looking for an actual  
21 landscape plan, so that would include the final -- the  
22 initial issue was in the documents submitted into the record  
23 with the application there was a note on the plan that  
24 basically indicated that it was illustrative and subject to  
25 change. The landscape plan that's been included in the

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1 applicant's presentation today, while that note has been  
2 removed, I think we heard discussion that there are ongoing  
3 conversations about the open area that's designated with the  
4 letter G on the plan. There's been the -- yes, so the  
5 southernmost open space, it was described as a dog park, is  
6 now no longer a dog park. So I just, I think that's a bit  
7 up in the air, so we'd like to have final resolution for  
8 treatment of that area.

9           There's been the addition of the pedestrian  
10 connection to the 4th Street sidewalk. I don't think that's  
11 reflected on the plan that was in the presentation today.  
12 So we just, we need certainty with respect to the proposed  
13 landscaping.

14           And then I know there are certain hardscape  
15 improvements, certain, I believe, play equipment, benches,  
16 bike racks. We would need all of those items, you know,  
17 located and called out in that landscape plan.

18           VICE-CHAIRMAN HART: Okay. Thank you. Any other  
19 questions for the Office of Planning? Mr. Utz, do you have  
20 any questions for the Office of Planning?

21           MR. UTZ: I don't, just to say we can easily  
22 provide that. We'll break out what we have, update it  
23 slightly, and provide the final landscaping plan.

24           VICE-CHAIRMAN HART: Now for DDOT.

25           MR. REED: Good afternoon, Mr. Vice Chair, members

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1 of the BZA. For the record, I'm Patrick Reed with the DDOT  
2 project review team. DDOT has issued a report recommending  
3 conditional support for the application. The applicant has  
4 submitted a comprehensive transportation study in good faith,  
5 despite not meeting the agency's threshold for study which  
6 is 25 trips in the peak direction during the peak hour.

7 DDOT has recommended a total of eight conditions.  
8 I know you're familiar with them. Just to highlight, they  
9 largely focus on pedestrian connectivity and public access.  
10 As you know, a stronger network for alternative modes  
11 increases the likelihood new residents and existing residents  
12 will choose to walk, reducing stress on the District's  
13 transportation network.

14 And I think, as demonstrated by the testimony today, the  
15 provision of public access easements helps all parties have  
16 clear expectations about who can use segments of the  
17 transportation network.

18 I did want to address some of the other elements  
19 that I heard during discussion today. I think there were  
20 some questions about the cycle track on 4th Street. This was  
21 integrated into the applicant's CTR for analysis. At this  
22 time, DDOT anticipates a two-way protected bike lane on the  
23 west side of 4th Street, which would be opposite the  
24 property. It would create a three-lane section with a shift  
25 in the center lane to accommodate left turns, and I'm

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1 certainly happy to connect any member of the community with  
2 the project team post-hearing if you'd like some more  
3 information about that project.

4 Other than that, I'm happy to field any questions  
5 that you might have.

6 VICE-CHAIRMAN HART: Thank you very much, Mr.  
7 McReedy?

8 MR. REED: Reed.

9 VICE-CHAIRMAN HART: Reed. Excuse me. Sorry.  
10 So one of the questions I had was there was some questions  
11 from the community about 4th Street being one way. If you  
12 could just talk about what 4th Street will be.

13 MR. REED: Sure. So you're talking about in  
14 regard to the future cycle track project? Yes. So at this  
15 time, I can't speak off the cuff. I'm not the project  
16 manager for that particular project, but, at this time, I  
17 think we anticipate a reduction of one lane, so you would  
18 still have three travel lanes, as well as a center lane shift  
19 to accommodate turns.

20 VICE-CHAIRMAN HART: But it would be two-way?

21 MR. REED: Correct, correct.

22 VICE-CHAIRMAN HART: Even in the future with the  
23 cycle traffic?

24 MR. REED: Correct. No one-way is anticipated at  
25 this time.

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1 VICE-CHAIRMAN HART: Okay. Are there any  
2 questions with DDOT? Yes, sir?

3 ZC CHAIRMAN MILLER: Thank you, Mr. Chairman. So  
4 thank you for your presentation and your report. The graphic  
5 that's up, the circulation legend, the pedestrian  
6 connectivity, so is it everything outlined in red that's part  
7 of the project site that you are saying that there should be  
8 a public access easement?

9 MR. REED: That's correct.

10 ZC CHAIRMAN MILLER: For pedestrians?

11 MR. REED: Correct.

12 ZC CHAIRMAN MILLER: And is there a, there's  
13 vehicular access that's being proposed, I think with an  
14 additional curb cut on 4th Street. Can you, with the screen  
15 that's up there, maybe Mr. Utz can point where the vehicular  
16 access is proposed.

17 MR. UTZ: Right. We were anticipating that it  
18 would be the primary access portions of the site, so coming  
19 up from 4th Street on the south which is the relocated  
20 southern curb cut adjacent to the new Paulist building,  
21 incorporating these elements in front to kind of semi-  
22 roundabout, the Regent Place on the site, the current project  
23 site and then ducking into the private street that is the  
24 kind of spine of this development and going out to 4th  
25 Street.

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1 ZC CHAIRMAN MILLER: And is that all one way?

2 MR. UTZ: It would be, that would be two way.

3 Each is kind contemplated as two ways --

4 ZC CHAIRMAN MILLER: Okay.

5 MR. UTZ: -- with the sidewalks. DDOT requested  
6 six-foot sidewalks adjacent, so where we could fit those,  
7 which is everywhere. I'm not sure if it's everywhere in red,  
8 but where we could fit those with that six-foot dimension we  
9 would include those, as well. I don't think there is a  
10 pressing need, although we can discuss, to have these kind  
11 of more alley characteristic surface vehicular access ways  
12 included in this easement. I think that the primary access  
13 way through, the loop through the site, is what would unlock  
14 this issue that so many are focusing on.

15 ZC CHAIRMAN MILLER: Are you proposing that  
16 vehicular access easement as part of your recommendation  
17 along the loop, the loop from 4th Street that includes Regent  
18 Place?

19 MR. REED: Yes, DDOT would concur with that. I  
20 think the only point of clarification I would make, which is  
21 sort of, I think, already been addressed by my colleague from  
22 OP, DDOT is also recommending an easement along the  
23 pedestrian access points where there's no current vehicular  
24 access shown just to maintain that area and not preclude a  
25 future connection in the long term.

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1           ZC CHAIRMAN MILLER:  Where is that that you're  
2 talking about?

3           MR. REED:  And so that, and maybe Mr. Utz, if you  
4 don't mind, demonstrating, that would be in this area where  
5 there was already previous discussion about an open space  
6 easement, as well as a public access easement, on that  
7 portion of the property.

8           ZC CHAIRMAN MILLER:  And so what are you proposing  
9 for that stretch?

10          MR. REED:  We're proposing a public access  
11 easement, and we're open to any kind of technical adjustment  
12 that needs to be made.  I think DDOT's intent is to just  
13 ensure that that area is not developed or not developable in  
14 the future in case there is some sort of future opportunity  
15 in the long term for a potential vehicular connection there.

16          ZC CHAIRMAN MILLER:  So you're not proposing a  
17 vehicular access easement at this time there, so that's  
18 where, as Mr. Utz referred to it as a springing easement?

19          MR. REED:  That's correct.

20          ZC CHAIRMAN MILLER:  Can somebody maybe provide  
21 in the record at some point what action would spring that  
22 into an easement?

23          MR. UTZ:  Sure.

24          ZC CHAIRMAN MILLER:  A vehicular easement.

25          MR. UTZ:  Yes, it would spring from an open

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1 easement, from the open area easement to this more active  
2 vehicular conducive easement. So it would still be an  
3 easement and it would still be an unbuilt area at the  
4 beginning of the easement term. It would just change what  
5 it's for, if that makes sense.

6 ZC CHAIRMAN MILLER: So you're going to have these  
7 three types of easements. You're going to submit drafts of  
8 those for the record and graphic --

9 MR. UTZ: Yes.

10 ZC CHAIRMAN MILLER: -- illustrations that clarify  
11 where the vehicular and where the pedestrian, where the  
12 sidewalks and --

13 MR. UTZ: Yes.

14 ZC CHAIRMAN MILLER: Because this map, as helpful  
15 as it is, doesn't have really all that.

16 MR. UTZ: No, this isn't the ideal image for this  
17 discussion. I'll say that.

18 ZC CHAIRMAN MILLER: Okay. So that would be very  
19 helpful to have. Thank you.

20 VICE-CHAIRMAN HART: Any other questions for  
21 either OP or DDOT?

22 BOARD MEMBER JOHN: I'm still suck on that  
23 springing easement. So can you also in your submission  
24 clarify for the layperson what conditions would give rise to  
25 opening that up to vehicular traffic? I know the technical

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1 term is the springing easement, but, to make it more  
2 understandable, if you could do that that would be great.

3 MR. UTZ: Sure.

4 VICE-CHAIRMAN HART: Okay. Any other questions  
5 for DDOT or OP? No? Okay. It's been a long day. So we've  
6 gotten through testimony, as well as the Office of Planning  
7 and the DDOT reports. I think, at this point, I would, I  
8 mean, I know that I'm not ready to vote on this today, so  
9 we're not going to definitely do that. And because we've  
10 asked for, requested some information from you, Mr. Utz, I  
11 think that what I would be, the road that I would be heading  
12 down would be to have a continued hearing and have the  
13 conclusion and the rebuttal at that point, if you could  
14 provide that. And, Mr. Anderson, I'd ask that from you, as  
15 well, or if it's your attorney, either one, that would be  
16 fine, because I think that we need to kind of just kind of  
17 eat through and digest the information that we've gotten  
18 already.

19 I don't know if my fellow Board members have any  
20 other, any comments on that. But my initial kind of reaction  
21 is I think that we probably need to do that and also just  
22 provide time for you all to kind of get a conclusion, as well  
23 as this other information that we've asked for, and continue  
24 the hearing then. I'm not exactly sure what the date is, but  
25 I'll ask Mr. Moy in a minute. Ms. White?

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1           COMMISSIONER WHITE: I was just going to comment  
2 that, you know, that I did read the record when I came in.  
3 I had another board meeting this morning, but I did read the  
4 record. But I think it's a good idea to have the continued  
5 hearing also to give me time to listen to the recorded  
6 testimony so that I can get up to speed on anything that may  
7 have been said while I was out. So thank you.

8           VICE-CHAIRMAN HART: Thank you very much. Let's  
9 see. What would be the -- Mr. Moy, do we have a date that --  
10 and I don't know how long it would take for you to provide  
11 the information that we've asked for.

12           MR. UTZ: We think two weeks would be more than  
13 enough time to get this together.

14           VICE-CHAIRMAN HART: And since we have a party in  
15 opposition, they have a chance to be able to kind of look at  
16 it, too. So we may be looking at the latter part of May, not  
17 latter but I think the 23rd maybe. Mr. Moy?

18           MR. MOY: Actually, that was the date I was going  
19 to suggest, not knowing how long these filings were going to  
20 take. But from what I'm hearing, if the applicant can  
21 provide supplemental information in two weeks, that takes us  
22 to May 9th. And perhaps if the Board is asking for any  
23 responses to the applicant, what the applicant is going to  
24 be providing, let's say in a week's time, which would take  
25 us to May 16th and perhaps include any supplemental the Board

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1 wishes from OP and DDOT for the same date, the 16th, and then  
2 have the continued hearing on the 23rd.

3 VICE-CHAIRMAN HART: And, Mr. Utz, could you read  
4 things that we've actually -- we've asked for a few things.

5 MR. UTZ: Sure.

6 VICE-CHAIRMAN HART: And some of this may be that  
7 it's just contained in the same, you know, so that we have  
8 it contained in the same exhibit. And I understand that  
9 you've submitted some of the stuff already, but some of the  
10 things we have requested are new.

11 MR. UTZ: Sure. I'd be happy to. If I forget  
12 anything, I'm sure folks won't be shy to let me know.  
13 Sections of the site including the landscaping, particularly  
14 the trees. Basically, this would be enhancements to what we  
15 already submitted that show the townhouses and structures in  
16 isolation and then the St. Paulist Building with landscaping  
17 immediately adjacent.

18 The final landscaping plans as updated and  
19 basically broken out from the presentation. We talked about  
20 the number of trees being removed and basically providing as  
21 summary of the current state of affairs, trees being removed,  
22 and then the definition of each special heritage or new,  
23 which we're happy to provide.

24 Ms. White asked for essentially an exhibit showing  
25 where the IZ units will be located, which we can work on

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1 that. The easement and its form to provide these three  
2 easements, plus the springing concept and the exhibits that  
3 would actually, I think, really help understand what they  
4 are. And those were the elements that I had as items to be  
5 submitted as part of the post-hearing.

6 We would make the request of limiting the  
7 continued hearing to those items, if possible, since it seems  
8 like a fairly discreet basket of issues that will be opened  
9 as a result of those filings.

10 VICE-CHAIRMAN HART: I don't have an issue with  
11 limiting the continued hearing to the items that we've, the  
12 information that we've requested. Does the Board have any  
13 other, were there any other things that we've missed that  
14 we've requested?

15 ZC CHAIRMAN MILLER: Mr. Vice Chair, I wanted to  
16 ask if we have in the record, Mr. Utz, if we have in the  
17 record a good description of the new Paulist building and its  
18 proposed use and, if we don't, for that to be provided to  
19 make sure, to give us the opportunity to limit the use to the  
20 proposal for the building, if we so choose to do so, if we  
21 go in that direction. How much square footage is in that?

22 MR. UTZ: Twenty-two thousand, a little over  
23 twenty-two thousand square feet.

24 ZC CHAIRMAN MILLER: Okay.

25 MR. UTZ: And I was just reminded of one other

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1 item, essentially a map showing who owns what, kind of how  
2 everything fits together.

3 VICE-CHAIRMAN HART: I think I asked for that,  
4 too. That's a lot of stuff. I think that's it. Do you all  
5 have any other questions? No? Yes, sir?

6 MR. ANDERSON: Just a point of order, will you be  
7 providing those materials directly to us or do we need to  
8 search for them on --

9 VICE-CHAIRMAN HART: Oh, no, no, these will have  
10 to be, because these are documents that they're adding into  
11 the record, they should be sending them to the opposition  
12 party.

13 MR. UTZ: We send them to the attorney for the  
14 group, Dave Brown, although we'll send them to you, as well.

15 VICE-CHAIRMAN HART: But, yes, they should be sent  
16 to you, as well, as a party.

17 MR. ANDERSON: Thank you.

18 VICE-CHAIRMAN HART: So this will be continued on  
19 May 23rd, and thank you all for coming. Thank you all for  
20 the audience that has stuck around with us. We do appreciate  
21 it. It's been a very full hearing, and thank you.

22 (Whereupon, the above-entitled matter went off  
23 the record at 2:48 and resumed at 3:06 p.m.)

24 VICE-CHAIRMAN HART: Yes, Mr. Moy, the next case  
25 is 19674, Kimberly Ziegler.

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1 MR. MOY: Yes, thank you. If I could have the  
2 parties to the table to Case Application No. 19674 of  
3 Kimberly Ziegler. This is an application requesting special  
4 exception under Subtitle E, Section 5201. This is from the  
5 upper floor addition requirements of Subtitle E, Section  
6 206.1 and from the lot occupancy requirements of Subtitle E,  
7 Section 304.1, to construct a rear and third-story addition  
8 to an existing one-family dwelling in an RF1 zone, at 1139  
9 6th Street Northeast, Square 855, Lot 236.

10 VICE-CHAIRMAN HART: Thank you, Mr. Moy. Good  
11 afternoon. How are you? If you could introduce yourselves  
12 and please give your name and your address.

13 MR. SALTANI: Good afternoon. My name is Adil  
14 Saltani, from REW Architects.

15 PARTICIPANT: Could you spell your last name?

16 MR. SALTANI: Saltani, S-A-L-T-A-N-I. I live in  
17 6108 Cloud Drive, Springfield, Virginia.

18 VICE-CHAIRMAN HART: Thank you.

19 MS. ZIEGLER: Hi. I'm Kimberly Ziegler. I'm at  
20 1139 6th Street Northeast, Washington, D.C. 20002.

21 VICE-CHAIRMAN HART: Welcome.

22 MR. EDMONDS: I'm Johnny Edmonds, 1139 6th Street  
23 Northeast, Washington, D.C. 20002.

24 VICE-CHAIRMAN HART: And Mr. Saltani, you will be  
25 giving the presentation?

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1 MR. SALTANI: Sure, absolutely.

2 VICE-CHAIRMAN HART: If you could, just step us  
3 through how you're meeting the -- the zoning regs  
4 (Simultaneous Speaking).

5 MR. SALTANI: Yes. So we're here today to present  
6 an upper floor and a rear addition to the existing two-story  
7 at 1139 6th Street Northeast. Initially, when we went to PZE  
8 and ANC, we were presenting a full third-floor addition,  
9 basically occupying the entire footprint of the house, and  
10 we were proposing a replica of the turret and the cornices  
11 of the -- of the row house.

12 Based on the comments and concerns, we pushed the  
13 third floor back three feet to preserve the existing turret  
14 and cornices, and also, we reduced the building height to 30  
15 feet, which puts us at basically plus or minus four feet,  
16 under the maximum allowed building height by right.

17 The rear addition, the six-foot addition, which  
18 will be a three story in the rear, will bring the lot  
19 occupancy to 69.9 percent. The existing, basically, lot  
20 occupancy is 61 percent. That will allow more room on the  
21 first floor for the kitchen, which is now, I believe -- it's  
22 a very small kitchen. And -- I think eight by eight. And  
23 also, on the second floor, it will allow for a bedroom in the  
24 back, which is now just a small laundry room. The third  
25 floor will be -- is proposed as a master bedroom and storage,

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1 which there is a lack of right now.

2 VICE-CHAIRMAN HART: And could you talk a little  
3 bit about kind of -- outreach to the neighbors and --- ? I  
4 know that there's a letter from the ANC on this case, as  
5 well.

6 MR. SALTANI: Correct. Yes. My client, Kim and  
7 John, reached out to their neighbors, to their immediate  
8 adjacent neighbors, and they have no opposition to the  
9 addition. We believe we are proposing a design that respects  
10 the architecture, and the --- the style of the neighborhood  
11 would not --- would by pushing it three feet in the back,  
12 we're proposing, basically, a brick veneer to the top  
13 addition. And we also could make it a niche out of the  
14 cementer's board that looks like brick veneer. And also  
15 we're talking to OP. We are considering different colors,  
16 basically, for the main house and the proposed addition.

17 VICE-CHAIRMAN HART: What color are you looking  
18 at?

19 MR. SALTANI: We're looking at a dark blue color  
20 for the existing structure.

21 PARTICIPANT: Blue gray.

22 MR. SALTANI: Blue gray color. I forgot the name  
23 of the color. It's a Sherwin-Williams dark blue. And also  
24 --- the addition will be a lighter version of that.

25 VICE-CHAIRMAN HART: Okay. And the ANC, they've

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1 actually submitted a letter in opposition to your -- the  
2 proposal?

3 MR. SALTANI: Yes.

4 VICE-CHAIRMAN HART: And they have -- I guess  
5 they've provided there your -- these are the most recent  
6 drawings that are -- you've read through the letter?

7 MR. SALTANI: That is correct. Yes.

8 VICE-CHAIRMAN HART: Okay and so the issues that  
9 they raise are basically that the addition that you're  
10 proposing is still going to be visible from the -- from the  
11 street. Do you have any -- can you talk about things that  
12 you've -- changes in the design that you've proposed through  
13 this process?

14 MR. SALTANI: Yes, between PZE and the ANC, we've  
15 talked about the visibility from the street. And their main  
16 concern was basically not preserving the turret and the  
17 cornices, and we revised the drawings to reflect that.

18 As far as visibility, in the first PZE meeting,  
19 we presented photos additions, of third-floor additions  
20 around the neighborhood, same zone, that went full footprint  
21 of the houses, and they were visible. Across the street from  
22 1139, there is a big third-floor addition that is very  
23 visible. We --- before we decided to go with the six-foot  
24 rear addition, we submitted this application to DCRA without  
25 the sixth-floor addition, and the only zoning comment was

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1 push it three feet and we'll approve it, which we tried to  
2 discuss with PZE and ANC. And we said this is going to  
3 happen in this neighborhood, especially in this block, by  
4 right, but this is an opportunity for all of us to discuss  
5 the design that we're presenting before you and give us some  
6 feedback.

7           While the --- in our application, the only thing,  
8 really, that is a special exception is the rear addition. If  
9 -- and that's -- we don't think the visibility of the upper  
10 floor is going to be of a crucial impact to the neighborhood.  
11 And if you look at the ten houses that is on that block, they  
12 are not 100 percent similar. They --- in the initial design,  
13 when they were built, there was an effort, I would say a shy  
14 effort, to not make them similar.

15           When you have row houses in a block like that,  
16 there is always an intent to break the monotony of the  
17 architecture by having one element that repeats every 20  
18 feet. This is a very small block of ten houses. The corners  
19 don't have the turrets. And then three houses from the  
20 right, you lose the turrets completely.

21           I think we're following the -- that intent versus  
22 doing something completely different by adding this upper  
23 floor, which, from a different angle, this is a -- this is  
24 a hardship here for my client, and they could speak to the  
25 history of their house better than I. They don't want to

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1 move out of the district. I could let Ms. Ziegler speak to  
2 that.

3 VICE-CHAIRMAN HART: Yeah, I don't think that's  
4 necessary this time.

5 MR. SALTANI: Okay.

6 VICE-CHAIRMAN HART: I just was asking what you  
7 all had -- how the design had changed as part of what -- your  
8 process so far. Does the Board have any questions for the  
9 Applicant? Okay. We'll turn to the Office of Planning.

10 MR. COCHRAN: Thank you, Mr. Chair. For the  
11 record, Steve Cochran, Office of Planning. With respect to  
12 the lot occupancy, which we address on Page 3 of our report,  
13 the Applicant's going back six feet. They're going to be  
14 under 70 percent. The addition to the north of the  
15 Applicant's goes back farther and has greater lot occupancy  
16 on the house to the north.

17 We don't --- the Applicant isn't proposing any  
18 windows on the side, any balconies that would interfere with  
19 privacy of the neighbors. We don't see where it would have  
20 any substantial impact on the light or the air or the privacy  
21 for adjacent properties. There are no solar installations  
22 on either of the adjacent properties, so it meets that  
23 criteria. And there --- the only chimney that's there is the  
24 Applicant's own, so they'll be extending upwards and it meets  
25 that criteria.

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1           Given that there are other additions in the back  
2 that are visible from the alley, and this one's actually not  
3 as deep as those, it would not necessarily intrude upon the  
4 character of the neighborhood, as viewed from the alley. So  
5 it seems to meet the criteria for lot occupancy. With  
6 respect to the front of the third floor addition, the  
7 Applicant did originally seem to need relief from Subtitle  
8 E-206.1. The Applicant hasn't revised the application since  
9 we've talked to them, but they have revised their actual  
10 plans. So they pulled it back, as Mr. Sultani said, by three  
11 feet. That means that, if you look at 50 --- excuse me --  
12 206.1(a), they're no longer removing or significantly  
13 altering or shifting a location or changing the shape or  
14 increasing the height elevation or size of rooftop  
15 architectural element original to the building.

16           So to some extent, that section becomes not  
17 germane anymore. Nevertheless, OP did analyze that because  
18 it remained as part of the application and found that it met  
19 the criteria for that. We have discussed color with the  
20 Applicant. We weren't necessarily talking about paint.

21           We were suggesting that it would be a good idea  
22 to try to make some sort of distinction between the existing  
23 building and the new addition, but that's not a condition of  
24 our recommendation. It's just something that would be nice,  
25 so that it helps to keep the character clear of what were the

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1 original two-story buildings. That concludes our report.  
2 Of course, I'm here to answer any questions.

3 BZA VICE-CHAIRMAN HART: Does the Board have any  
4 questions for the Office of Planning?

5 COMMISSIONER WHITE: My one question -- how are  
6 you?

7 MR. COCHRAN: Fine, thank you.

8 COMMISSIONER WHITE: Can you just address a little  
9 bit some of the ANC concerns, you know about the Applicant's  
10 request, modification, whether or not it's going to have a  
11 negative impact or have adverse impacts with respect to the  
12 visual street frontage of that particular block, you know for  
13 purposes of meeting the special exception criteria?

14 MR. COCHRAN: Well that's -- that's sort of  
15 problematical because the Applicant, in our view, doesn't  
16 need to come in for relief from 206.1, so then the --- the  
17 regulations that the ANC cited don't necessarily apply. It  
18 will certainly be visible from the other side of the street.  
19 It will even be visible as you're walking up the same side  
20 of the street as the Applicant's from certain angles.

21 But the intent of 206.1 was not fully for design  
22 review on whether you like or don't like the way that an  
23 addition looks. It's to maintain the integrity of the  
24 original architectural features. And this design is  
25 maintaining the integrity of the original architectural

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1 features. I'm not necessarily saying I think it looks great,  
2 but that's not one of the criteria.

3 COMMISSIONER WHITE: Thank you.

4 VICE-CHAIRMAN HART: Mr. Cochran, just one  
5 question regarding C-202, the -- the relief that you cited  
6 in the report. You state that you think that they require --  
7 this application should actually need that, if I'm looking  
8 at that correctly.

9 MR. COCHRAN: Yes, it is already a non-conforming  
10 building. It's --- this is the same procedure we use to get  
11 into with Section 5201 or 2101, sorry. And they didn't ask  
12 for relief from that. It's fairly typical that applicants  
13 don't ask for relief from this because they're looking at  
14 just the new construction that they're doing, but yes, they  
15 technically do need relief from 202, Subtitle C.

16 BZA VICE-CHAIRMAN HART: Has the Applicant -- Mr.  
17 Saltani, have you looked at this, and are you aware of this?

18 MR. SALTANI: Of the rear --

19 BZA VICE-CHAIRMAN HART: Of the relief that Mr.  
20 Cochran was just talking about.

21 MR. SALTANI: Of the lot occupancy?

22 BZA VICE-CHAIRMAN HART: It's actually an existing  
23 --- in addition to an existing non-conforming structure.

24 MR. SALTANI: Yes.

25 BZA VICE-CHAIRMAN HART: It's C-202. It's not in

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1 your -- you did not request it. And the Office of Planning,  
2 in their report, is suggesting that you may need this relief,  
3 as well. They're actually okay, and they are saying that  
4 they think that you meet it, but I didn't know if you were  
5 looking to change your -- to amend your application to  
6 include that relief, as well.

7 MR. SALTANI: Absolutely.

8 MR. COCHRAN: As we point this out out of an  
9 abundance of caution, so that the Applicant doesn't get hit  
10 with any surprises if they go to DCRA.

11 BZA VICE-CHAIRMAN HART: Excuse me. Are there any  
12 other questions for the Office of Planning? Yes, sir.

13 ZC CHAIRMAN MILLER: Thank you, Mr. Vice-Chair.  
14 So under that section that you're just citing, C-202, to  
15 permit an addition to an existing non-conforming building --  
16 I should have looked this up, but what are the criteria in  
17 C-202 that we would be considering? Would any --- would any  
18 go to the issue that the ANC has of the adverse visual impact  
19 from the street?

20 MR. COCHRAN: If someone has access to a device  
21 with a higher speed loading capacity than I've been able to  
22 get today, I'd be happy to answer that question. But not  
23 having the regulations in front of me, I'm sorry; I don't  
24 feel comfortable addressing that.

25 ZC CHAIRMAN MILLER: And I don't have access to

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1 such a device that you described.

2 MR. COCHRAN: It's pretty slow today. I can't get  
3 it up. I've tried.

4 ZC CHAIRMAN MILLER: But you answered this in part,  
5 in response Ms. White's -- to Board Member White's question  
6 about the adverse visual impact, that you don't -- that  
7 doesn't appear to be a criteria for then -- for the rear  
8 addition. You mentioned the problematic nature of applying  
9 that standard to this particular relief that's being  
10 requested because it may be -- it may be allowed even as a  
11 matter of right.

12 MR. COCHRAN: The 202 may well apply because that  
13 refers to the nonconformity with respect to lot occupancy.  
14 They're at, I believe it's 60.1 percent. Let me double check  
15 -- 61.66 percent right now, so they're 1.66 percent over  
16 already on lot occupancy and that's where that relief comes  
17 in for an addition to a nonconforming building. It has  
18 nothing to do with the third-floor addition.

19 ZC CHAIRMAN MILLER: Okay. And I guess I have a  
20 question for the Applicant that -- I don't know if I could  
21 --

22 BZA VICE-CHAIRMAN HART: Sure, go ahead.

23 ZC CHAIRMAN MILLER: The square footage of the --  
24 of the third floor part of this addition, what is --  
25 actually, what is the height of it above the roof? You may

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1 have said that, and it may be in the record, but if you could  
2 just highlight what the height is of that third-floor  
3 addition above the roof line?

4 MR. SALTANI: Ten foot.

5 ZC CHAIRMAN MILLER: Ten feet?

6 MR. SALTANI: Yes.

7 ZC CHAIRMAN MILLER: And the --- the dimensions of  
8 the -- the square footage of the space, what is it, an  
9 additional bedroom up there?

10 MR. SALTANI: Yes, it's going to be an additional  
11 -- a master bedroom with a closet and a bathroom. So  
12 basically, it will be the width of the house, set back three  
13 feet from the front, which is 15 feet by -- the width is 15  
14 from property line to property line, and then 47 -- actually,  
15 it will be 44, I'm sorry, 44 by 15.

16 ZC CHAIRMAN MILLER: What was that, again?

17 MR. SALTANI: Forty-four feet by fifteen feet.

18 ZC CHAIRMAN MILLER: And the owner intends to use  
19 the --

20 MR. SALTANI: Yes.

21 ZC CHAIRMAN MILLER: -- use that for their own  
22 purposes?

23 MR. SALTANI: Correct. We're not changing the --

24 ZC CHAIRMAN MILLER: Not that that really  
25 (Simultaneous Speaking), but I just was curious.

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1 MR. SALTANI: Yeah, it will stay -- we're not  
2 changing the use. It will stay a one-dwelling unit.

3 ZC CHAIRMAN MILLER: And between you and maybe Mr.  
4 Cochran, regarding the -- I realize what you said about the  
5 -- you maybe were looking for a different material or  
6 something that distinguishes that rooftop maybe more than  
7 just paint. I just would make the comment, on behalf of one  
8 of my fellow commissioners, who always makes this comment  
9 when they have rooftop additions, that the darker the color  
10 up there is actually, it goes away more quickly than a  
11 lighter color. It's somewhat --

12 MR. COCHRAN: This is what we had recommended to  
13 the Applicant.

14 ZC CHAIRMAN MILLER: So I and --- and that's seen  
15 -- when he first said that, we all thought what? That  
16 doesn't sound -- but then you know, you look around the  
17 city; it does tend to -- the lighter kind of shines out  
18 brighter, so you might want to consider that. Did you  
19 consider setting it back even further from the front?

20 MR. SALTANI: No, we didn't. Basically, the main  
21 concern here is square footage. Every square foot matters.

22 BZA VICE-CHAIRMAN HART: But if you set it back  
23 farther, would that have also impacted how much you would  
24 have to have added to the -- added as an additional, you  
25 know, to the back of the building?

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1 MR. SALTANI: That's correct.

2 BZA VICE-CHAIRMAN HART: Okay. And just one final  
3 question. Mr. Cochran, you stated, about the relief, the  
4 C-202 relief --- that they -- you noted in your report that  
5 they would need this relief. Did you include that in your  
6 analysis?

7 MR. COCHRAN: No, sir, because it hasn't been  
8 asked for.

9 BZA VICE-CHAIRMAN HART: Okay. Are there any  
10 other questions for the Office of Planning? Any questions  
11 for the Applicant? If the ANC is here? Is anyone here  
12 wishing to speak in opposition to the application? Anyone  
13 wishing to speak in support of the application? And I should  
14 have asked this before, and I didn't. We had a long case  
15 prior to this. Have all of you been sworn in earlier? I  
16 kind of figured as much, but again, I have to ask. Okay. Any  
17 other questions for the Applicant? Do you have anything else  
18 that you'd like to say for the case, in conclusion?

19 MR. SALTANI: No, thank you.

20 BZA VICE-CHAIRMAN HART: Ms. Nagelhout, does the  
21 Applicant have to submit an amended -- and amended  
22 self-certification?

23 MS. NAGELHOUT: It wouldn't hurt, but the relief  
24 -- relief from C-202 is available under E-5201, which is what  
25 you're considering, so it's not absolutely essential, I don't

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1 think, but it could be done before an order is issued.

2 BZA VICE-CHAIRMAN HART: Okay. That's good to  
3 know. Does the Board have any other final questions for the  
4 Applicant? Okay, I'm going to close the hearing. Is the  
5 Board ready to deliberate?

6 BOARD MEMBER JOHN: Yes, Mr. Vice-Chair.

7 BZA VICE-CHAIRMAN HART: Would you like to start?

8 BOARD MEMBER JOHN: No, sir. Okay, I'll take a  
9 shot at this. So this request is a relief from the lot  
10 occupancy requirement of Subsection 304.1, Subtitle E,  
11 Section -- under Subtitle E, Section 5201. Relief from  
12 Section E-206.1 is no longer necessary because the  
13 application has been amended. And as I understand, the  
14 recommendation of the attorney general, the relief, under  
15 Subtitle C-202, for an --- an expansion or addition to an  
16 existing nonconforming building would be included in any  
17 analysis of Section E-5201.

18 MS. NAGELHOUT: You would -- you would be  
19 considering a special exception under E-5201 for a project  
20 not meeting lot occupancy under E whatever and enlargement  
21 of a non-conforming structure.

22 BOARD MEMBER JOHN: Right, but there's no need to  
23 do two independent analyses because (Simultaneous Speaking).

24 PARTICIPANT: No.

25 BOARD MEMBER JOHN: Okay. So based on that

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1 clarification and the testimony from OP clarifying some of  
2 the analysis in OP's report, in particular the ANC opposition  
3 to the view from the street, I believe the Applicant has met  
4 the burden of proof with respect to the relief requested, as  
5 amended. And I think this is a fairly straightforward and  
6 modest addition. The third floor, the addition itself is  
7 only six feet. And while it is somewhat visible from the  
8 street, it is not very intrusive. And so based on all of  
9 those considerations, I would recommend approval of the  
10 application.

11 BZA VICE-CHAIRMAN HART: I would second your ---  
12 your --- the analysis that you've -- would agree with the  
13 analysis that you've provided. I'll also say that --- there  
14 the Applicant is not actually seeking the relief from height  
15 of the structure, which also helps me to support the  
16 application. I also --- I do feel, as well, that it is a  
17 fairly modest expansion and would make a motion to approve  
18 Application No. 19674 of Kimberly Ziegler, as read, not by  
19 the secretary, but as amended, which is for -- pursuant to  
20 11 DCMR, Subtitle X, Chapter 9, for the special exception  
21 under Subtitle E-5201, from the upper floor requirements of  
22 -- excuse me, from the lot occupancy requirements of Subtitle  
23 E-304.1 and the -- what's the other one, the lot -- the  
24 addition to an existing non-conforming building, under  
25 Subtitle C-202, to construct a rear and third-story addition

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1 to an existing one-family dwelling in the RF1 zone, at  
2 premises 1139 6th Street Northeast, Square 855, Lot 236.

3 COMMISSIONER WHITE: I just have a quick point of  
4 clarification. Mr. Miller mentioned the recommended color  
5 for the addition. I just wondered whether or not that should  
6 be incorporated, or whether or not -- for it to be darker.

7 BZA VICE-CHAIRMAN HART: So you just have a  
8 question about whether or not we should have a condition  
9 around the color. There's also the question -- and I wanted  
10 to understand if the Applicant has actually withdrawn the  
11 request for upper floor addition requirements under Subtitle  
12 E-206.1? And this is because you were, at one point, going  
13 to be impacting the turret.

14 MR. SALTANI: Correct.

15 BZA VICE-CHAIRMAN HART: So are you withdrawing  
16 that relief?

17 MR. SALTANI: Yes.

18 BZA VICE-CHAIRMAN HART: Whichever is easiest,  
19 right? Actually, for this, it would be helpful if you did  
20 submit a self-certification that --- if you are removing --  
21 actually, you are -- what I've heard is that you are no  
22 longer needing Subtitle E-206.1, but you do need Subtitle  
23 C-202.

24 And so what you should do, in the  
25 self-certification, is state the relief, which is Subtitle

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1 E-5201. And you're looking for the lot occupancy  
2 requirements -- relief from lot occupancy requirements under  
3 Subtitle E-304.1 and the addition to an existing  
4 non-conforming building under Subtitle C-202. So those are  
5 the two things that you're -- does that -- Ms. Nagelhout, is  
6 that -- okay.

7 MR. SALTANI: Okay. I'm sorry; so submit a revised  
8 self-certification for these two sections, the C-202, and  
9 then E-304.1?

10 BZA VICE-CHAIRMAN HART: That's --

11 MR. SALTANI: Relief from two sections.

12 MS. NAGELHOUT: Relief under E-5201, for lot  
13 occupancy and enlargement of a non-conforming structure, and  
14 then what I understand is you're withdrawing the other relief  
15 that you initially asked for.

16 MR. SALTANI: Okay, will do, thank you.

17 BZA VICE-CHAIRMAN HART: And so the question that  
18 Board Member White asked, which was around the color --

19 COMMISSIONER WHITE: The color recommendation that  
20 Mr. Miller raised, in terms of it being less visually  
21 obtrusive. I didn't know whether or not that was something  
22 we could incorporate as part of the condition or just make  
23 a verbal recommendation to them.

24 BZA VICE-CHAIRMAN HART: I will ask our secretary  
25 or our OAG whether or not we -- if this is something that

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1 should -- the color issue, should that be in -- is that  
2 included -- can that be included in the actual order, or is  
3 that better as a standalone condition? I mean the condition  
4 would be in the order, too, but does it need to be called  
5 out?

6 MS. NAGELHOUT: Well, you certainly can encourage  
7 them to do it. Whether --- if you feel strongly about it,  
8 and you're finding substantial evidence in the record to  
9 impose this condition to mitigate an adverse impact, then  
10 yes, you can do that.

11 MR. COCHRAN: Might I point out, however, that  
12 they're no longer asking for relief from that section that  
13 would be linked to that proposed condition.

14 BZA VICE-CHAIRMAN HART: Thank you. I think that  
15 I --- I think that we can encourage them to use a darker  
16 color, but I don't think we need to have that as a condition.

17 COMMISSIONER WHITE: Okay.

18 BZA VICE-CHAIRMAN HART: So, I'm not going to read  
19 this again, but I will make a motion to approve Application  
20 No. 19674, of Kimberly Ziegler, as we've amended previously.  
21 Do I have a second?

22 COMMISSIONER WHITE: Second.

23 BZA VICE-CHAIRMAN HART: All those in favor say  
24 aye.

25 (Chorus of ayes.)

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1 BZA VICE-CHAIRMAN HART: Any opposed?

2 (NO RESPONSE.)

3 BZA VICE-CHAIRMAN HART: Motion carries, Mr. Moy.

4 MR. MOY: Staff would record the vote as 4-0-1.

5 This is on the motion of Vice-Chair Hart to approve the  
6 application, as amended. Second the motion is Ms. White.

7 Also in support, Mr. Rob Miller, Ms. Lorna John. We have no  
8 other Board members. The motion carries.

9 BZA VICE-CHAIRMAN HART: I guess this is going to  
10 have to be a full order.

11 MR. MOY: Yes, sir.

12 BZA VICE-CHAIRMAN HART: I just thought about it.  
13 Thank you very much.

14 MR. SALTANI: Thank you so much, appreciate it.

15 MS. ZIEGLER: Thank you, everyone.

16 (Whereupon, the above-entitled matter went off the  
17 record at 3:38 p.m. and resumed at 3:38 p.m.)

18 BZA VICE-CHAIRMAN HART: Next case, Mr. Moy.

19 MR. MOY: That would be Case Application No. 19721  
20 of Zhenwei Qiang Trustees, as amended, for area variances  
21 from the nonconforming structure requirements, Subtitle C,  
22 Section 202.2, and the lot occupancy requirements, Subtitle  
23 F, Section 604.1. This would repair and expand an existing  
24 rear and side deck addition to an existing attached principle  
25 dwelling unit in the RA8 zone --- RA8 zone. This is at 2131

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1 N Street Northwest, Square 69, Lot 181. The Board last heard  
2 this on April 4th.

3 BZA VICE-CHAIRMAN HART: Thank you very much, Mr.  
4 Moy.

5 ZC CHAIRMAN MILLER: Mr. Chairman, just as a  
6 preliminary matter, I just want to say I wasn't here for  
7 April 4th hearing, but I did watch it in its entirety  
8 yesterday, and I have reviewed the entire record of this  
9 case, and I'm prepared to participate.

10 BZA VICE-CHAIRMAN HART: Thank you. Good  
11 afternoon. If you could introduce yourselves.

12 MR. GREGG: Michael Gregg. I'm with Soe Lin and  
13 Associates Architects, 4340 East West Highway, Suite 105,  
14 Bethesda, Maryland.

15 MR. PITT: Alexander Pitt. I'm the homeowner in  
16 2131 N Street Northwest, Washington 20037. Thank you.

17 MS. QIANG: I'm Zhenwei Qiang. I'm one of the two  
18 owners, two co-owners, thank you.

19 BZA VICE-CHAIRMAN HART: Okay, excuse me. Mr.  
20 Gregg, we heard the case at -- I'm not even sure what that  
21 meeting was, about a month ago. And what you all were --  
22 what we asked for you to do is to look at the -- at the  
23 project and determine whether or not -- one, if there was an  
24 ability to reduce the size of it, to -- so that this case  
25 would be not a variance, but a special exception, and you

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1 also provided some information around the size -- the cost  
2 it would be to make this change, and if you could just kind  
3 of focus on that aspect of it. Do you have any presentation  
4 that you'd like to make, or?

5 MR. GREGG: Mr. Pitt was going to make the  
6 presentation today.

7 VICE-CHAIRMAN HART: Sure.

8 MR. PITT: Thank you. We have submitted  
9 additional documentation through the system to you, which  
10 consists of new plans how to -- to change the deck to make  
11 it conforming, as well as a letter from Mr. Gregg, including  
12 some photographs that illustrate a little bit better the  
13 situation, how things look like, also including a comparison  
14 with a neighboring deck, as well as a letter from my wife and  
15 myself and some additional photographs.

16 We --- in this -- in our own letter, we have  
17 summarized, again, how we see -- how we see the criteria for  
18 a variance met. If you allow me, I would like to make a few  
19 points in this regard, including addressing the cost issue  
20 that you were asking about.

21 BZA VICE-CHAIRMAN HART: Sure.

22 MR. PITT: So we have -- we have asked for two  
23 independent proposals of how to cut back the deck to its  
24 original size because we have -- as you may recall, we had  
25 this overhang of -- when we rebuilt the deck, it was extended

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1 by two feet. And that because these two feet were about two  
2 or three inches too high above the ground, that created a  
3 whole issue. So if you build it back to where it was, which  
4 would still imply a lot coverage of 70.4 percent, so still  
5 above, but to the original, where it was before we built  
6 anything, that would cost about \$8,500 to \$9,000.

7           And building the deck, itself, only cost \$14,000.  
8 It's somewhat disproportionate, in our view. Then I've  
9 already alluded to the fact that already, prior to any  
10 construction, the lot occupancy was already 70.4 percent, so  
11 it was nonconforming. So if you don't do anything, then we  
12 would breach the threshold.

13           And so we are basically being punished for  
14 improving our deck and rebuilding it because we have to  
15 request a variance, in any event. And finally, we also have  
16 compared our deck to one of the --- one of our neighbors'  
17 deck. We have some photographs there. That deck is  
18 substantially larger, and we don't know how it was approved  
19 or whether the regulations were different at the time when  
20 it was built in the first place.

21           But in any case, that's much larger. Ours is  
22 basically in line with the other houses and the lot  
23 occupancy, yes, is 71.9 percent, but it's, in our view, a  
24 very small transgression, so to speak, and it also only  
25 because the deck -- because we extended the existing deck at

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1 the same level, at the same height, it's a few inches too  
2 high, which was the original measurement error. And so a  
3 little bit too high leads to a little bit of a breach of the  
4 lot occupancy rule. So we think all these are small  
5 breaches, and they lead to a -- if you force us to build back  
6 the deck, that would be a considerable cost, also, relative  
7 to what the deck cost to build -- to rebuild in the first  
8 place.

9 BZA VICE-CHAIRMAN HART: What do you -- you've  
10 provided this other deck that shows what your neighbor built.  
11 I mean do you have any information about that deck at all,  
12 besides that photograph of it?

13 MR. GREGG: Well what we know is that when we  
14 embarked on this project back in 2015, they were in the  
15 process of rebuilding that deck. As you can see, it's very  
16 contemporary in nature and architecture, looks very similar  
17 to ours because we happen to like the look of it. It is  
18 actually a lot taller. You know, they can actually park  
19 their cars underneath of it. And they've got about 100  
20 percent lot occupancy.

21 BZA VICE-CHAIRMAN HART: The reason I was asking  
22 was do you know if they've gotten a variance for theirs?

23 MR. GREGG: No, sorry no.

24 BZA VICE-CHAIRMAN HART: They could have gotten  
25 a variance for theirs, which would have allowed them to do

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1 that. I don't know, and I'm not going to speculate on it,  
2 but you're making a comparison to a neighbor that you don't  
3 really know how they got that one different.

4 MR. GREGG: I understand that. The only reason  
5 we bring it up is because the Board brought it up in the  
6 previous hearing. We understand that the Board looks at each  
7 individual project on its own basis and merit. And we  
8 weren't prepared to talk about it last time because the Board  
9 looks at it that way. But because the Board brought it up,  
10 we figured it was of interest, and so we provided the  
11 information for such.

12 BZA VICE-CHAIRMAN HART: Please.

13 MS. QIANG: Thank you, Mr. Chairman. If I may  
14 just want to add a few points. We actually started this  
15 project in 2014. So in the last, close to four years, we  
16 tried our best, we make our best efforts to work with various  
17 committees to, you know design the house in a way that is  
18 compliant to the regulation. And with three kids, I think  
19 our house just needed a little bit more space, and we went  
20 through, actually, two architectural plans to see what is  
21 possible.

22 The first one actually required a variance, so at  
23 that point, we decided not to pursue. So we picked,  
24 actually, an easier one, which is the one that we followed.  
25 The reason we're here today for the request for the variance

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1 is largely because there was a measurement error, and we were  
2 not aware of the measurement error at the time. We went  
3 ahead and built the deck. And we were only brought to the  
4 awareness when DCRA conducted the inspection. I actually  
5 went to DCRA myself four times, after two and a half months,  
6 and were told basically this was the issue why they didn't  
7 approve the inspection. So what I'm trying to say is that  
8 we want to follow all the regulations, but there was an  
9 error.

10 But it was not a deliberate deviation from our  
11 normal behavior of wanting to follow the regulations. So  
12 that's my first point I want you to be aware of. The second  
13 one is that in the last hearing, three weeks ago, you did ask  
14 us to prove, basically, the practical difficulty, as one of  
15 the conditions for the request of variance. So my husband  
16 and Michael both mentioned the cost.

17 It is a practical challenge of spending quite a  
18 lot of money, again, for relatively small, you know deviation  
19 above the 70.4 percent of our old house. But there's also  
20 another reason that I want to present to you is that we have  
21 been asked to actually transfer. My -- my employer asked me  
22 to be transferred to Europe and to be there, onboard, as of  
23 August 1.

24 So we basically literally have to move the family  
25 within the next two months. I'm not sure whether this is

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1 relevant information, but I do have evidence that this  
2 transfer is going to take place. So this is also adding to  
3 the practical, basically, cost and difficulty if you decide  
4 to rule that we need to actually cut back the deck. Thank  
5 you.

6 BZA VICE-CHAIRMAN HART: Thank you. Are there any  
7 questions for the Applicant?

8 BOARD MEMBER JOHN: I just have one quick  
9 question. So there's something in the record that said when  
10 the original construction was done, the addition -- you had  
11 an addition or something a few years ago -- that the deck was  
12 not shown in that diagram. And so what you're trying to do  
13 now is to make sure that the plat shows the correct  
14 dimensions of the deck. Maybe you can speak to that.

15 MR. GREGG: Yes, ma'am. When we came before the  
16 Board, as mentioned before -- this is the second go around  
17 on it because the original one had an addition going out the  
18 back. And we decided not to pursue that because it was just  
19 going to be too long. So when we came back the second time,  
20 we had a third-story addition added. And we had to go  
21 through the hearing process because the existing property was  
22 nonconforming.

23 And the deck wasn't really shown on that set of  
24 plans because we felt that the deck was below the four foot  
25 minimum. So we weren't concerned with the deck. We were

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1 only concerned with the third-story addition. And so as we  
2 moved forward, we said okay let's renovate the deck, you know  
3 basically. We extended it a little bit because we felt that  
4 because it was under the four-foot minimum, it wasn't counted  
5 towards lot occupancy. And you know, there it is. Then we  
6 come back and say okay, it is you know 4'3", as opposed to  
7 3'10" you know, and we're trying to correct the record is  
8 what we're trying to do right now.

9 BOARD MEMBER JOHN: Okay, thank you. I think it's  
10 4'6" in the official record.

11 MR. GREGG: In the official record -- we went back  
12 out and remeasured it. It varies somewhere between 4'2" and  
13 4'3 1/2" depending, because it slopes a little bit across the  
14 site.

15 MS. QIANG: I was there when DCRA actually, at the  
16 end, showed up and measured. It was 4.2 to 4.3. Yes, I was  
17 there.

18 BZA VICE-CHAIRMAN HART: Okay, if there are no  
19 other questions, I'll go to the Office of Planning.

20 MS. MYERS: Good afternoon, Crystal Myers, for the  
21 Office of Planning. The Office of Planning continues to  
22 recommend denial of this case, and we continue to recommend  
23 that the deck be developed or built to special exception  
24 standards, so the lot occupancy would be no more than 70  
25 percent.

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1           BZA VICE-CHAIRMAN HART: Any questions for the  
2 Office of Planning?

3           COMMISSIONER WHITE: I guess the one question I  
4 have is obviously, it would cost a substantial amount of  
5 money to make the change, in order to get it to 70 percent.  
6 But considering the facts of this particular case, in your  
7 opinion, have -- is there a practical difficulty to the  
8 owner, in this particular case, and is this an exceptional  
9 situation that meets the variance test?

10          MS. MYERS: According to the variance relief test,  
11 we didn't feel that the argument was sufficient enough to say  
12 that it's a unique or exceptional situation, resulting in a  
13 practical difficulty. And one of the main things that kind  
14 of weighed it out is the fact that this error has been in  
15 existence for quite a while.

16          So when the addition was done, the third-story  
17 addition was done, the addition was reviewed as a special  
18 exception. It would have been reviewed as a variance, which  
19 is a higher standard, but at the time -- you know and I  
20 understand that this is an error that even the Applicant you  
21 know assumed, at the time, that the deck wasn't tall enough.

22          But if the correct measurements were known, then  
23 the deck would have been included, and the lot occupancy  
24 would have been higher, and Office of Planning would have  
25 viewed this as a variance relief, so just a whole different

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1 level of review. So now we're, today, looking at this case.

2           After the addition's built, permitted, etc., but  
3 now we're looking at the deck, and the deck would be at a  
4 level of pushing that lot occupancy even further. And like  
5 I said, the variance relief test you know, is a higher  
6 standard. It just seems that some flexibility, some benefit  
7 has been given to the Applicant already because of the  
8 addition that's already been approved. And though there you  
9 know, there is a bit of a financial cost here, the fact that  
10 they are doing more than a small repair to the deck -- they  
11 took down their complete deck. Even if it were to maintain  
12 a 70.4 percent, it would require a variance relief because  
13 the City would want it to be built to zoning standards.

14           In our case, we actually viewed it as saying yes,  
15 special exception could be granted, but we'd still want it  
16 to be built to the 70 percent level, since the deck was being  
17 completely torn down and rebuilt again. So we recommend  
18 denial of the variance relief, but we recommend approval as  
19 a special exception.

20           MR. GREGG: Vice-Chair, just as a matter of  
21 setting the record straight, we did not tear the existing  
22 deck down. The existing floorboards, the decking cover was  
23 taken off, but the floor joists are still in place today.  
24 We replaced -- the foundations are still in place. The floor  
25 joists are still in place. The only thing that was replaced

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1 entirely was the rail that goes around the perimeter and the  
2 floor decking.

3 BZA VICE-CHAIRMAN HART: Any other questions for  
4 the Office of Planning? Do you have any questions for the  
5 Office of Planning? Is this a question for them?

6 MR. PITT: In a sense, yes.

7 BZA VICE-CHAIRMAN HART: Go ahead.

8 MR. PITT: So what do you propose? I mean we can  
9 --- if we build it back to where it was, it's still in  
10 breach, as you say yourself, since 70.4 percent of coverage,  
11 so you will still need a variance. So we need a variance  
12 either way. And I think to ask us to build it back to a lot  
13 coverage less than at the time when we bought the house  
14 ourselves, 15 years ago, that, we think, is a little bit --  
15 that would be really hardship.

16 And yeah so what's the solution to this? If I may  
17 make one small remark on this -- the addition on top that,  
18 as you say, would have been treated as a variance, but that  
19 has nothing to do -- I know the rules, but it did not  
20 increase the lot coverage. So I mean that is -- I understand  
21 the process would have been different, but it didn't do any  
22 material change to the lot coverage. Thank you.

23 BZA VICE-CHAIRMAN HART: Do you have a response  
24 for that?

25 MS. MYERS: Well my response would be even if you

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1 were to maintain your existing lot occupancy of 70.4 percent,  
2 as you know, it would be a variance review. I mean that's  
3 just -- if you look at the special exception test and the  
4 variance test, it's two different levels of review.

5           And so you know, even if you were to maintain the  
6 existing one, it would still require that, a more rigorous  
7 review. Yes, we would want you to reduce the deck to a 70  
8 percent lot occupancy. With the zone that is on the property  
9 today, 70 percent is the special exception maximum. And the  
10 intent behind that is whenever something is considered more  
11 than a small repair, you have to conform to the zoning  
12 requirement. In this case, like we said, special exception  
13 is something that we are supportive of, but if it were by  
14 right, it would be 60 percent, so 70 percent is that level  
15 of flexibility. So Office of Planning would recommend it as  
16 a 70 percent lot occupancy.

17           MR. GREGG: I think we understand the Office of  
18 Zoning's point of view --

19           BZA VICE-CHAIRMAN HART: Office of Planning.

20           MR. GREGG: I'm sorry -- Office of Planning's  
21 point of view and the line that they have to draw. And to  
22 that point, we are here asking for a variance.

23           BZA VICE-CHAIRMAN HART: I understand. Is there  
24 -- is the ANC here? Is there anyone wishing to speak in  
25 support of the application? Anyone wishing to speak in

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1 opposition to the application? Okay, do you have any final  
2 remarks that you'd like to make? Oh, sorry, we have a  
3 question.

4 ZC CHAIRMAN MILLER: I just have one question of  
5 the Applicant. So you did these two cost estimates to cut  
6 back the size of the deck to the pre-existing size, which  
7 only gets you to 70.4. You didn't do -- you didn't have them  
8 look at if you went further, to just get to the 70 percent,  
9 so you could apply for a special exception, which the Office  
10 of Planning says it would support, probably support. So  
11 would I. But you didn't -- your cost estimates didn't look  
12 at reducing the size of the deck to the 70 percent level.  
13 It only got you to 70.4, the pre-existing size.

14 MR. GREGG: Correct.

15 MS. QIANG: Because our -- because the project was  
16 based on the assumption that we were renovating an existing  
17 deck. And you know for cost reasons, of course, we were  
18 keeping as much as possible of the original deck, so that we  
19 just renovate the above part. And for that reason, actually,  
20 that was why there was oversight. We didn't even think that  
21 the deck was too high.

22 I mean this point is important for us because  
23 we're not trying to violate anything. And now, we're asking  
24 for common sense here, right. Is that if you are asking to  
25 go back to something that doesn't require a variance here,

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1 that means that the wall where it's supporting, now, the  
2 current deck will also have to be moved back. So that will  
3 be a much bigger project than the \$9,000 we're talking about,  
4 so you know, for something that is really an oversight, and  
5 we agree. And for various reasons, right, the original deck,  
6 and also neighbors' deck, led to that, you know, kind of  
7 assumption that there was no problem with the height.

8 BZA VICE-CHAIRMAN HART: I understand that there  
9 are a lot of assumptions that you'd made, but you're making  
10 assumptions at your own risk. And that -- this is the risk  
11 that we're in the middle of, --

12 MS. QIANG: Yes, yes.

13 VICE-CHAIRMAN HART: -- that we're having to deal  
14 with. I do understand that there are errors that are made,  
15 but there are also people that have to look at this  
16 information and be able to say this is what the rule allows;  
17 this is what you can actually build or not build. I don't  
18 know if Mr. Gregg was your designer at the time or not, but  
19 it is -- there are things that you have to understand about  
20 the area that you are building in, regardless of what you're  
21 doing. And I mean you understand where you are now with it.

22 MS. QIANG: We understand.

23 BZA VICE-CHAIRMAN HART: I'm just saying that I  
24 understand that there are -- that it may not have been an  
25 error that you did purposefully, but it is an error,

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1 nonetheless. And so then it causes these problems. You're  
2 asking us to say it's okay because it's just a little bit  
3 above 70 percent, but 70 percent is actually the maximum.

4 I mean there is a 60 percent, and then a 70  
5 percent. So you're actually above where that maximum amount  
6 is, regardless if it's .1 percent or .1 or if it's 5  
7 percentage points higher than that. So anything above that  
8 becomes a variance, and that's what we're having to decide  
9 and deliberate upon.

10 MS. QIANG: Yeah, no fully understand. Sorry, it  
11 was a too long to (Simultaneous Speaking) question.

12 BZA VICE-CHAIRMAN HART: No, it's fine. I was  
13 just saying that's -- that's kind of where we are with all  
14 of this. Are there any other questions for the Applicant?  
15 Do you have any other final comments to make? Okay so I'm  
16 going to close the record. Is the Board ready to deliberate?  
17 And I'm hearing nothing, so I will move forward. So for the  
18 case -- this is a difficult case. In what is -- it's a  
19 fairly straightforward case in what it is that you're  
20 requesting. It is difficult in terms of how to decide the  
21 case. And the reason that it's difficult is because, as I  
22 kind of noted a few minutes ago, we have a regulation that  
23 we have to look at and understand where this particular  
24 project comes within that regulation.

25 We have a report by the Office of Planning. We

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1 are as the Board of Zoning Adjustment, we're to give the --  
2 both the advisory neighborhood commission and the Office of  
3 Planning reports great weight. The ANC actually stated that  
4 they would support the application. And that's Exhibit 38.

5           Excuse me. And they note that it is an existing  
6 deck, and that it's nonconforming, and that it would only  
7 increase -- you've already increased it, but it is -- they  
8 didn't think it was a very major project. The Office of  
9 Planning, on the other hand, kind of looks at it on a -- they  
10 look at it and determine whether or not the project should  
11 be -- actually meets or does not meet the zoning regulations.

12           While I don't have a -- while I am -- while I  
13 having -- had a hard time looking at the case because I  
14 thought that the Office of Planning was a little bit hard in  
15 it in where they were standing, I understood where they were  
16 standing and why they were stating that. It's because of  
17 that that I actually would have to side with the Office of  
18 Planning and, unfortunately, deny the application, as  
19 recommended by the Office of Planning. I know that it's not  
20 something that you all wanted to hear, necessarily, but I  
21 don't have a lot of leeway in this. And it is something that  
22 is an unfortunate situation that we're in, but we're here.

23           I don't have a lot of, as I said, leeway to be  
24 able to say sure you know let's not do that. I have to look  
25 at not only this case, but understand that this is something

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1 that is -- that does not follow the -- what the zoning  
2 regulations state. And I'd rather -- I'd like to hear from  
3 my fellow Board members, but that's where I am with it.

4           COMMISSIONER WHITE: Thank you, Mr. Vice-Chair.  
5 This is a difficult case, and I understand, you know the cost  
6 associated with it because that's why I kept asking about,  
7 you know some of the specific tests surrounding the variance  
8 tests. And you know the variance test is a lot higher, a lot  
9 harder to meet, as opposed to a special exception. And  
10 that's why I kept asking the question about whether or not  
11 there was an exceptional situation, was it an extraordinary  
12 situation.

13           And I know that cost was something that you  
14 considered extraordinary and exceptional and kind of created  
15 that whole practical difficulty, but for purposes of the  
16 variance test, you know in terms of how I interpret it, I  
17 don't see that as something that gets me to the point where  
18 I can actually support offering a variance relief in this  
19 particular situation. I did look at the ANC letter, but I  
20 also did give great weight to the Office of Planning's  
21 analysis, in terms of how they went through the various tests  
22 for area variance. And I would concur with your assessment,  
23 Mr. Vice-Chair, that in this particular case, even though  
24 it's very difficult -- because I'm very -- I understand how  
25 you know this is a very difficult situation for the

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1 Applicants, especially because of the cost associated with  
2 making this adjustment so, but in this case, I would concur  
3 with your assessment that the variance test was not made in  
4 this particular situation and deny the application.

5 BZA VICE-CHAIRMAN HART: I mean, are we going to  
6 a vote, or do you have some --

7 ZC CHAIRMAN MILLER: No, I -- this case, yeah,  
8 does present some difficulty for me, too, for the reasons  
9 that you each have stated because the variance test that's  
10 applicable requires an exceptional or extraordinary  
11 situation. And the Office of Planning doesn't usually  
12 consider cost as an exceptional or extraordinary situation.

13 And I, personally, on the whole area of rear decks  
14 of people's homes, I don't think the city should make it so  
15 difficult for homeowners to put a deck on. And in the  
16 future, I might be asking the Office of Planning to look at  
17 maybe changing the standard to a special exception standard,  
18 instead of a variance standard. Because with a rear deck,  
19 it really, it should be more the adverse impact on the  
20 neighborhood -- the ANC's unanimously in support of it, in  
21 this case -- adverse impact on adjacent neighbors -- I think  
22 we have letters in the record, I think, from some neighbors,  
23 or indication. So but, it isn't a special exception now;  
24 it's a variance.

25 The error was the Applicant's responsibility, even

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1 though the City had approved it, but it was an error that it  
2 was based on erroneously supplied lot occupancy information  
3 when you got the other addition, under a special exception  
4 criteria, which would have been -- which you might not have  
5 gotten under a variance test. It never was analyzed for that  
6 means. So having said all that, I'll just wait to vote.

7 BOARD MEMBER JOHN: Mr. Vice-Chair, I agree with  
8 everything that's been said so far. The real difficulty is  
9 the variance test. And when I looked at your application and  
10 the OP's analysis, at first, and I saw that OP wanted you to  
11 get below 70 percent, and you were arguably at 70.4 percent,  
12 well there's nothing in the regulation that says if they're  
13 just a little bit pregnant, it's okay to go ahead, and you  
14 know, which is how I look at it.

15 Either you are, or you're not. That's the only  
16 discretion that we're allowed in the regulation. So you have  
17 to show some exceptional condition. And I struggled with  
18 trying to say that an exceptional condition could be a  
19 drafting error. And I don't think that gets me anywhere.  
20 For all of those reasons, and what everybody else has said,  
21 reluctantly, I can't support the application.

22 BZA VICE-CHAIRMAN HART: I will then make a motion  
23 to deny Application No. 19721 of Zhenwei Quiang Trustees, as  
24 read by the secretary. Do I have a second?

25 BOARD MEMBER JOHN: Second.

1 BZA VICE-CHAIRMAN HART: All those in favor say  
2 of denying the application, say aye.

3 (Chorus of ayes.)

4 BZA VICE-CHAIRMAN HART: Any opposed?

5 (NO RESPONSE.)

6 BZA VICE-CHAIRMAN HART: Mr. Moy, motion carries.

7 MR. MOY: Staff would record the vote as 4-0-1.  
8 This is on the motion of Vice-Chair Hart -- Vice-Chair Hart  
9 to deny the application for the requested variance relief.  
10 Second the motion, Ms. Lorna John, also in support, Mr. Rob  
11 Miller, Ms. Lesyllee White. No other Board members present  
12 or participating. The motion carries.

13 MR. GREGG: Vice-Chair, I'm sorry, just as a point  
14 of clarification, we understand this has been denied, and  
15 there's no question about that. Moving forwards, if we pull  
16 the deck back to the 70 percent, that's a special exception.  
17 Is there a new process that we have to go through, or as  
18 Department of Zoning had mentioned that they would be in  
19 support of that?

20 BZA VICE-CHAIRMAN HART: I'd have to ask. I  
21 couldn't give you that --

22 MR. GREGG: Since the homeowners are going to be  
23 deployed overseas, we want to try to speed it up and correct  
24 the issue as fast as possible.

25 BZA VICE-CHAIRMAN HART: Mr. Moy?

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1 MR. MOY: I think it'd be appropriate if I speak  
2 with the Applicant off record.

3 BZA VICE-CHAIRMAN HART: Okay, thank you. And is  
4 that a full order because it's denied?

5 MR. MOY: Yes.

6 BZA VICE-CHAIRMAN HART: The next case, Mr. Moy?

7 MR. MOY: Yes, if I could have the parties to the  
8 table to Case Application No. 19732, Focus Works, LLC.

9 BZA VICE-CHAIRMAN HART: We've already done that  
10 one. We're at the last one which is --

11 MR. MOY: Oh, I'm sorry.

12 BZA VICE-CHAIRMAN HART: -- 19737.

13 MR. MOY: I'm sorry. I'm sorry.

14 BZA VICE-CHAIRMAN HART: It's okay.

15 MR. MOY: I'm sorry. All right.

16 BZA VICE-CHAIRMAN HART: It's been a long day.

17 MR. MOY: I have to turn the page. This is  
18 Application No. 19737, Fulcrum Properties Group, LLC. This  
19 is a request for a use variance from the use provisions of  
20 Subtitle U, Section 301.1 to use the existing two-story  
21 building for an office use in the RF-1 zone at 500 13th  
22 Street Southeast, Square 1043, Lot 817.

23 BZA VICE-CHAIRMAN HART: Thank you, Mr. Moy. Yes,  
24 good afternoon.

25 MS. MOLDENHAUER: Good afternoon.

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1 BZA VICE-CHAIRMAN HART: Could you introduce  
2 yourself, please.

3 MS. MOLDENHAUER: Sure, good afternoon. Vice-  
4 Chair Hart and members of the board, my name is Meridith  
5 Moldenhauer from the law firm of Cozen O'Connor here on  
6 behalf of the applicant.

7 MR. VOYLES: My name is Ty Voyles. I am the  
8 contract purchaser of the building and the applicant.

9 MR. VARGA: Stephen Varga, Planning Services  
10 Director at Cozen O'Connor.

11 BZA VICE-CHAIRMAN HART: So how much time would  
12 you need. A lot of people in the audience.

13 MS. MOLDENHAUER: A lot of support.

14 BZA VICE-CHAIRMAN HART: It's okay. No, that's  
15 fine.

16 MS. MOLDENHAUER: And so we --

17 BZA VICE-CHAIRMAN HART: There are more people now  
18 than there were, like, ten minutes ago. So I was just --

19 MS. MOLDENHAUER: Technology as we email people.  
20 So we'll probably just need ten minutes, try to get through.

21 BZA VICE-CHAIRMAN HART: Ten whole minutes?

22 MS. MOLDENHAUER: Ten whole minutes.

23 BZA VICE-CHAIRMAN HART: Okay. I'm kidding. Just  
24 kidding. You --

25 MS. MOLDENHAUER: Trying to be efficient.

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1           BZA VICE-CHAIRMAN HART: I appreciate it, and  
2 please go at your own --

3           MS. MOLDENHAUER: Sure. Well, I'll first just  
4 introduce the case. We are here and the property is in front  
5 of the board. We also just want to make sure that there are  
6 some new filings in the record. We have the ANC filing and  
7 resolution on the record. And the ANC commissioner is  
8 present, so he will obviously also speak to that. But I just  
9 want to point the Board out to that filing.

10           And there was also some additional individuals  
11 that were in support of the case that were here earlier that  
12 had to leave. But they did also upload letters of -- and  
13 extra kind of testimony in support that we would just like  
14 to point the Board to.

15           That being said, I'll turn it over to Mr. Voyles  
16 to kind of walk through some initial information about the  
17 project.

18           MR. VOYLES: Hello. As you can see in our next  
19 slide, the property is zoned RF-1. It's located in Square  
20 1043 which is a mixed-zone square. It's also a highly mixed-  
21 use intersection as well. There is a retail shoe repair shop  
22 across the street and DPR fields base catty-corner as well  
23 as a mixed-use commercial building directly across the  
24 street. And then the property also abuts a PDR-1 zone and  
25 is extremely close to other multiple MU-4 zones.

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1           Just to give a little bit of background about, I  
2 guess, myself as the contract purchaser, I have been a  
3 Capitol Hill resident for about 15 years, the last 7 of those  
4 as a real estate agent, building Fulcrum Properties Group  
5 which is a residential real estate business that serves  
6 mostly the Capitol Hill and Hill East communities.

7           We're excited about this property in particular,  
8 making it our business' home within the neighborhood. The  
9 project we're proposing is real estate office use in the  
10 existing two-story building with no exterior changes proposed  
11 to that space, and we would like to reactivate a longstanding  
12 vacant space. We believe that this would have a huge impact  
13 to the community allowing us to positively impact our  
14 neighborhood by reactivating this longstanding vacant  
15 storefront.

16           So the next slide, you can see that the building  
17 has clearly been marked for sale for quite a while. As an  
18 immediate neighbor, we've certainly noticed that over the  
19 last few years that it's regularly been for sale. It's  
20 clearly marked with signage.

21           And what we can see in relation to the rest of the  
22 community and activity, specifically from the real estate  
23 standpoint, is that residential properties on Hill typically  
24 sell in less than three weeks for or above asking price. To  
25 speak to this in specific numbers, our absorption rate is 1.3

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1 months. And what that means is if no new buyers were to  
2 enter the market, every listing that was on the market would  
3 sell in 1.3 months. We like to see about six months' worth  
4 of inventory, so you can see that that's really tight.

5           This property in particular has been on the market  
6 this time for almost a year. That said, it's been on and off  
7 the market for the last three or four years consistently.  
8 And in a next-level analysis, we've looked at it and clearly  
9 determined that the price per square foot of this property  
10 is actually below the median number and it's in an above-  
11 average condition.

12           The reason I bring those up is I think that that  
13 points specifically to the conclusion that if the market,  
14 specifically buyers on Capitol Hill, saw a residential use  
15 for this property, a sale would've already happened.  
16 Statistically, it could've happened four or five times over  
17 in the last 12 months. And so that's the reasoning that the  
18 specific challenges of this building don't lend it to  
19 residential or specifically mixed-use occupancy.

20           And essentially, there are a combination of  
21 factors here that kind of lead to that conclusion. But you  
22 see the classic corner store features, the curtain-style  
23 display windows, the corner-facing door that points not to  
24 13th Street or E Street but actually to the intersection of  
25 the two. And then the curtain-style display windows and the

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1 interior arrangement create pretty odd and inefficient spaces  
2 that don't adhere to typical residential use.

3           It also is on a block that is almost entirely  
4 commercial and industrial, looking at while the address is  
5 on 13th Street, the majority of the building actually lies  
6 on the E Street side. And along that, that's where the PR-1  
7 zoning is and a lot of the commercial and industrial space.  
8 We also lack a lot of efficiency on the first floor which  
9 drives the use of the second floor as the office space,  
10 specifically around private offices and then collective or  
11 conference areas.

12           So you can see that we also have some pretty  
13 overwhelming support by the community. We have a letter of  
14 support from our Councilmember Charles Allen. We have  
15 attended all ANC meetings and received unanimous support in  
16 each of those. And while I didn't know if our ANC  
17 commissioner would be here today, I specifically spoke by  
18 phone with our specific neighborhood subcommissioner  
19 yesterday who would've been here as well except he is in  
20 Germany.

21           We received 53 letters of support from our  
22 neighbors, and we actually limited our canvassing to the  
23 specific block of the property. So at the request of our  
24 council, we actually stopped at that point. Otherwise, I  
25 think we could've come up with a lot more letters of support

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1 if we extended throughout the neighborhood and not just the  
2 immediate block. And this came from 53 residents and then  
3 businesses that specifically surround the property.

4 And then it doesn't specifically affect the use  
5 variance. I know that the use variance is typically  
6 considered for the property in particular, but I did want to  
7 give a little bit of background about our organization. We  
8 have been Hill East area since we started seven years ago.  
9 It's where the majority of our employees both live and work.  
10 And due to the neighborhood support that our business has  
11 seen, we've grown beyond what our existing footprint can  
12 handle.

13 A majority of our employees are Ward 6 and Hill  
14 East residents. They walk to work. They bike to work. We  
15 believe that keeping traffic and parking issues in mind is  
16 important as good stewards of the neighborhood. And then a  
17 vast majority of our clients as well either walk to the  
18 office or use public transportation which is extremely close.  
19 And then finally, we're a really strong supporter of the Hill  
20 community schools and nonprofits, both with our finances and  
21 then with our time.

22 And with that, I'm going to hand the presentation  
23 to Mr. Varga.

24 MR. VARGA: Thanks, Ty. Again, Steve Varga, Cozen  
25 O'Connor. In preparation for my testimony today, I performed

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1 some historical research on the property and discovered that  
2 it was originally constructed in 1924 as stores, in the  
3 plural, as noted on the historic building permit database,  
4 Building Permit No. 4108 is indicated on the slide there, as  
5 you can see.

6           Next, as Ty alluded to, there's a mix of zones on  
7 the square which is also coincidental with a mix of uses as  
8 well. As you can see, going down the block, you can see E  
9 Street running from east to west there along the northern  
10 part of the top part of the slide. You can see the property  
11 in the upper left-hand corner next to a garage, truck parking  
12 lots, Frager's Hardware Store, and then also Safeway across  
13 the square.

14           That leads me to the corner store. So one of the  
15 things that we looked at is to prove the undue hardship, we  
16 need to look at other permitted uses. So in the RF-1 zone,  
17 corner stores are a permitted use with certain conditions.  
18 We evaluated the location of other corner stores in the area.

19           And as you can see, there are at least two, plus  
20 there is a Safeway down the way, as indicated in the previous  
21 slide, which shows that use of a corner store. Because those  
22 other corner stores are within 500 feet, this would not be  
23 permitted as a matter of right. The applicant would need  
24 relief in order to operate a corner store as well as a lack  
25 of a need for this corner store use due to the proximity of

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1 Safeway.

2           And also, it's close to public transportation.  
3 You can see in this slide it's less than a tenth of a mile  
4 to Pennsylvania Avenue and the numerous bus routes that run  
5 along it. It's also within easy walking distance to two  
6 Metro stations.

7           And now, I'm going to present a little testimony  
8 that builds on the land use reports submitted with our pre-  
9 hearing statement. Again, this case involves a request to  
10 put a chronically vacant, commercially designed two-story  
11 building to productive use as a neighborhood-serving office.

12           Granting the requested variance for both floors  
13 of the building would not be adverse to the zone or harm the  
14 intent of the regulations because an office use will satisfy  
15 a number of the stated purposes and objectives of the RF zone  
16 plan, including Subtitle E, 100.3(b), which, quote, "allows  
17 for limited compatible non-residential uses."

18           The office use is compatible with the Capitol Hill  
19 neighborhood which itself, as stated before, is generally  
20 characterized by a mix of neighborhood-serving uses. Within  
21 Square 1043 alone, properties are zoned RF-1, MU-4, and PDR-1  
22 which happens to abut the property to the east. The proposed  
23 use would create a buffer and low-impact transition to these  
24 more intensive uses down E Street, Southeast such as, as you  
25 saw on the previous slides, an auto body repair shop and

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1 garage, a garbage truck parking lot, among others. Also, no  
2 expansion to the building is proposed. And so therefore, the  
3 importance of Capitol Hill's character is recognized and  
4 reinforced as described in Subtitle E, 100(a).

5 Further, the use would contribute to the  
6 walkability of the neighborhood, also stated in Subtitle E,  
7 100(a), because most of the employees walk or bike to work,  
8 as Ty mentioned. Similarly, the majority of all expected  
9 visitors are expected to walk or use public transportation  
10 to the property has been the applicant's experience at its  
11 current Capitol Hill location. As you can see, it's located  
12 in the orange diamond on that slide.

13 The proposed real estate office will serve as a  
14 good neighbor on the block, both during the week and also on  
15 the weekend. Given the type of office proposed, the space  
16 would not be dark on the weekends and would promote non-  
17 impactful pedestrian activity in the area. The requested  
18 zoning relief is not inconsistent with several planning  
19 objectives detailed in the comprehensive plan's framework and  
20 land use elements as well as the Capitol Hill area element.

21 In summary, they call for the promotion of infill  
22 developments specifically near transit stations for which  
23 there are two, supporting easy access to neighborhood-  
24 oriented services, promoting reinvestment in existing  
25 structures while protecting the historic fabric, and

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1 preserving small businesses that serve the community's needs.

2 In closing, I'd like to draw your attention to the  
3 Pennsylvania Avenue Southeast Corridor Small Area Plan  
4 adopted by Council in 2008. This small area plan was  
5 developed through a previous stakeholder engagement process  
6 and is part of the Office of Planning's road map for  
7 incorporation into the Comprehensive Plan Second Amendment  
8 Cycle currently underway.

9 The subject property falls within the Potomac  
10 Avenue sub-area recommendations which calls specifically for,  
11 quote, "active ground floor retail with upper story small  
12 offices or residential." The use of the building as a modest  
13 office, including the second floor, would align nicely with  
14 this recommendation and would complement the current mixed-  
15 use nature of the block without any impacts to neighbors.

16 For all these reasons, the granting of the use  
17 variance will not cause any detriment to the public good and  
18 does not impair the intent purpose and integrity of the zone  
19 plan. I urge you to approve the relief requested. Thank  
20 you.

21 MS. MOLDENHAUER: Thank you, Mr. Varga. I'm just  
22 quickly just going through the variance test, how we believe  
23 that we satisfy the three prongs of the variance test here  
24 for use variance. One, as testified to, the property exhibit  
25 unique and exceptional conditions, not only its corner store

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1 appearance and physical layout with the windows, but also the  
2 specific fact that it is abutting and next to PDR zones.

3           As we heard testimony, these are garages, truck  
4 locations, and other types of PDR uses which create a  
5 difference in the fact that this is not -- when you look down  
6 the block on E, it is not a corner store or corner store  
7 windows that then abut other residential homes which could  
8 then maybe be converted into residential use. But rather  
9 something where there is this long image of curb cuts and  
10 industrial uses which are part and parcel of the confluence  
11 of factors which create the exceptional conditions.

12           In addition to that, the small lot size which  
13 creates, as you heard from Mr. Voyles, regarding a challenge  
14 of efficiencies and layouts for not just the first but the  
15 second floor for the project. In this regards, we believe  
16 there is an undue hardship, both based on testimony that the  
17 property has been on the market and the inability for,  
18 obviously, anybody to obviously look to purchase it for  
19 residential uses. And the statistics that have been provided  
20 by Ty as a real estate professional in the Hill East area  
21 indicating that if this were to be a viable residential use,  
22 it could've been sold over and over again. Given that, we  
23 believe that there is a property and the applicant does face  
24 an undue hardship in that the other possible reasonable uses  
25 are just not reasonable or applicable in this project here.

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1           Given that, there are other cases in which the  
2 Board has found that there are situations which support the  
3 challenge, obviously, of layouts and conditions to support  
4 other types of use relief and use variances in not allowing  
5 land to lay idle. We believe this land has been laying idle,  
6 as provided in the record in our application. And we don't  
7 believe there is any substantial detriment to the public good  
8 or to the zone plan as the proposed use would be consistent  
9 with the neighborhood. It would be a neighborhood-servicing  
10 office use. It actually already exists on the square.

11           So I just want to make sure that's clear. The  
12 location that they're currently in is just on the other side  
13 of the square. So the number of employees, the uses would  
14 be very harmonious with the current location because you're  
15 not introducing a new use. You're actually just simply  
16 relocating that use that already exists in the neighborhood.

17           Given that, we believe that we satisfy the  
18 standards. We'd just like to point the Board out to that  
19 DDOT has provided no objection. As we indicated, we have  
20 substantial letters of support and individuals here today to  
21 testify. And we believe that under De Azcarate that there  
22 is an exceptional requirement and that the use variance is  
23 appropriate when the use of land does not threaten the  
24 neighborhood or the adjacent land owners with the maintenance  
25 of an incompatible use of the subject property. We believe

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1 this actually will enhance and improve the maintenance of  
2 this long-vacant property and be an asset to those in the  
3 neighborhood.

4 And we'll answer any questions at this time.

5 BZA VICE-CHAIRMAN HART: Thank you, Ms.  
6 Moldenhauer. Mr. Voyles, could you talk a little bit about  
7 the layout again, just of the second floor?

8 MR. VOYLES: Sure. So the layout, I think, is  
9 driving in two places. One is the first floor has the  
10 curtain windows and creates some substantial inefficiency in  
11 the space because of that. It -- also in its current use --  
12 has an internal almost firewall that creates an inefficient  
13 flow as well. And then the connection to the upstairs is  
14 almost partitioned by an interior stairwell that creates two  
15 distinct areas, again, noncontiguous.

16 BZA VICE-CHAIRMAN HART: And I'm just -- I'm  
17 sorry. I'm looking at Exhibit -- is this the right one --  
18 7, I think, which were the artificial plans and elevations.  
19 Can you show -- this is the existing -- this is what it looks  
20 like now?

21 MR. VOYLES: This is what it looks -- so the  
22 exterior elevations do -- yes, they do show the current state  
23 of the building. The floor plans that are here are only for  
24 the first floor.

25 BZA VICE-CHAIRMAN HART: Okay. Did I see -- I

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1 thought I saw a plan for the second floor here as well.

2 MS. MOLDENHAUER: They're not part of the record.

3 BZA VICE-CHAIRMAN HART: And where's the stairwell  
4 getting up to the second floor?

5 MR. VOYLES: So the stairwell to the second floor  
6 would essentially be identified on the elevation only. It  
7 would be -- if you're looking at the first floor plan, it's  
8 actually going to be to the far left. It doesn't appear  
9 here. This is only a portion of the first floor plan. The  
10 stairwell would be on the far left side of that. And then  
11 beyond that is the single-car garage.

12 BZA VICE-CHAIRMAN HART: And that's also part of  
13 the property?

14 MR. VOYLES: Correct, it is.

15 BZA VICE-CHAIRMAN HART: So on the other side of  
16 the -- I don't know. On this first on the -- on the first  
17 page you have there's a north elevation. Underneath is the  
18 first-floor plan. There are two -- it looks like two  
19 apartments that are shown. And on the left-hand side of that  
20 first-floor plan, there's a wall and that wall is next to  
21 something.

22 MR. VOYLES: Correct, yes.

23 BZA VICE-CHAIRMAN HART: So that's the garage?

24 MR. VOYLES: Well, see, you're only seeing about  
25 two-thirds of the footprint on these plans. These plans were

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1 from some renovations that were done, I believe, three years  
2 ago.

3 BZA VICE-CHAIRMAN HART: Okay.

4 MR. VOYLES: And yes, correct. So to the left of  
5 what you currently see here would be stairs to the second  
6 floor and to the left of that is the single-car garage.

7 BZA VICE-CHAIRMAN HART: And so just out of  
8 curiosity, what were the renovations trying to do, do you  
9 know?

10 MR. VOYLES: My understanding is that they were  
11 trying to convert it to a three-unit apartment.

12 BZA VICE-CHAIRMAN HART: And is that the  
13 configuration of it now?

14 MR. VOYLES: More or less, although that's not a  
15 permitted use nor was it approved as a three-unit apartment.

16 BZA VICE-CHAIRMAN HART: They did it and they were  
17 asking for some --

18 MR. VOYLES: I'm not sure.

19 BZA VICE-CHAIRMAN HART: Okay. And I'm sorry I'm  
20 harping on it. Just it was submitted and so I was thinking  
21 that that was what was there. And I was trying to figure  
22 out, how do you get from one side to another because there's  
23 no door? It didn't seem like there were stairs or anything  
24 to get upstairs, though.

25 MS. MOLDENHAUER: I think you pointed out part of

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1 the practical difficulty, the undue hardship.

2 BZA VICE-CHAIRMAN HART: Well, but also, I was  
3 pointing out that they created apartments. And I thought I  
4 was looking at a second floor. That's why I was trying to  
5 understand if they'd already had it as apartments, then --

6 MS. MOLDENHAUER: We don't represent the current  
7 owner, but there was an attempt that was obviously not  
8 compliant to zoning. And so thus, it's been in flux.

9 BZA VICE-CHAIRMAN HART: And the other question  
10 I have is just maybe it's for Mr. Varga. Do you think this  
11 is the wrong zone for this? Is this zoned incorrectly?

12 MR. VARGA: No, so although it's a use variance,  
13 as I noted, there's a lot of support in the comprehensive  
14 plan as well as small area plan to support this type of use  
15 in Capitol Hill which is, as we all know, a very mixed-use  
16 area. If you look at the square in particular, you see that  
17 it's abutting to a PDR-1 zone. There's a number of  
18 commercial uses along this corridor. The idea being that  
19 this office could serve as more or less of a buffer between  
20 residential uses into the more intensive uses down the block  
21 a little further. In addition, it has walkability and  
22 there's a number of other factors.

23 And I think you'll hear from some of the folks  
24 testifying in support later that I think a lot of the folks  
25 who live in the community are tired of walking by a vacant

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1 storefront essentially. And so this use hopefully would put  
2 that building to good use and offer some stability on that  
3 corner moving forward in the future.

4 BZA VICE-CHAIRMAN HART: I was only asking because  
5 it just seems like if it were a different zone, you wouldn't  
6 be in front of us for variance relief.

7 MR. VARGA: Yes, one other point just to clarify  
8 really quickly is this also isn't a great opportunity for a  
9 map amendment. So yes, and that's why we're here, so --

10 BZA VICE-CHAIRMAN HART: And we have a zoning  
11 commission member here. So I hope he's got his ears on. I  
12 mean, he can't bring it. But it may come up at some point.

13 Any other questions from the Board Members?

14 COMMISSIONER WHITE: Yes, one quick question. How  
15 long has the property been vacant? How long has the first  
16 floor been vacant and how long has the second floor been  
17 vacant? And can you just tell me again specifically what  
18 were the uses at that time?

19 MS. MOLDENHAUER: So to our understanding, the  
20 first floor has been vacant for a year approximately. The  
21 second floor is being utilized by the current owner who has  
22 been trying to sell the building for a year.

23 COMMISSIONER WHITE: And so it's occupied?

24 MS. MOLDENHAUER: Right, it's occupied, but it's  
25 owner occupied. So it's not as though it's --

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1 COMMISSIONER WHITE: As --

2 MS. MOLDENHAUER: -- I think that's part of the  
3 challenge.

4 COMMISSIONER WHITE: -- a business or residential?

5 MS. MOLDENHAUER: Residential.

6 COMMISSIONER WHITE: Okay.

7 BOARD MEMBER JOHN: So my question is, was the  
8 first floor occupied as a residence before it became vacant?  
9 Is there any --

10 MS. MOLDENHAUER: It was rooming --

11 BOARD MEMBER JOHN: There was rooming --

12 MS. MOLDENHAUER: -- use.

13 BOARD MEMBER JOHN: -- on the first floor?

14 MS. MOLDENHAUER: Yes.

15 BOARD MEMBER JOHN: And you don't happen to know  
16 what the uses were for the last seven years? No? Okay.  
17 What's the square footage of the second floor? Approximately  
18 1,500 square feet you think?

19 MR. VOYLES: I believe it's about 1,500 square  
20 foot per floor, yes.

21 BOARD MEMBER JOHN: And I think this question is  
22 for Ms. Moldenhauer. I hope I pronounced it right. So could  
23 you address the burden of proof issues to the second floor?  
24 And if you can, please try to explain for me how each of  
25 those conditions that you've listed independently would

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1 create an exceptional condition. Because there are corner  
2 lots everywhere in my neighborhood. And so I don't see that  
3 as being unique.

4 And the commercial history of the property, how  
5 is that unique? And I'm not sure why we're talking about the  
6 square and not the zone. And then the small size of the lot.  
7 So as I look at this, you could have a perfectly decent 1,400  
8 square foot apartment on the first floor as well as the  
9 second floor. And there are stairs that could be made to  
10 work for the second floor. I'm just not getting it, and it  
11 might be something I'm not doing. So --

12 MS. MOLDENHAUER: I can try to --

13 BOARD MEMBER JOHN: -- I'd appreciate that.

14 MS. MOLDENHAUER: -- pull together what we believe  
15 we presented so far even more succinctly.

16 So one, the exceptional conditions are that the  
17 building, despite what OP indicated in their report, based  
18 on research, there's no indication that the building was  
19 first built with residential in mind. The documentation that  
20 we have -- unless OP found something else, I don't know if  
21 they did -- says that the original use was for stores. The  
22 image that we showed you is something that shows the original  
23 occupancy. There's no reference there to residential. So  
24 our understanding is that one of the unique factors is that  
25 it was originally built potentially as stores without

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1 residential use.

2           Second, the uniqueness of the confluence of  
3 factors of not just being a corner store. Because I agree.  
4 If it was just a corner store and it just had the corner  
5 windows but it was located in a full circumference of all  
6 residential uses, that may not be unique. However, this is  
7 unique in the fact that it abuts a full strip of PDR uses.

8           So the challenge of being able to convert this to  
9 a residential use on the first and the second floor we  
10 believe has been clearly shown by evidence in the record,  
11 both from the broker letter which is Exhibit 36 and based on  
12 the testimony from Mr. Ty Voyles, that the market is a fairly  
13 efficient market on Capitol Hill -- overly, very efficient.  
14 And if this was viable to your point of, why couldn't this  
15 be a residential unit on the first floor or on the second  
16 floor, it would have sold. It would have sold four times  
17 over.

18           And that the fact that it has been on the market  
19 for a year and there has been not but one letter of intent  
20 and no interest of this as a flat or as a single-family home  
21 is clear evidence that there is undue hardship in applying  
22 the zoning regulation strictly, that when someone looks at  
23 this property and says, how can I use this as a compliant  
24 use, everyone walks away. And I think that if we were here  
25 and we only had maybe two months or three months of rental

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1 or kind of a sales history, would say maybe we haven't done  
2 our job or that we don't have enough evidence for you to make  
3 a decision.

4 But I do think that that shows that there is undue  
5 hardship in meeting the standards. Then the question is, how  
6 does that then maybe does not affect the first floor but the  
7 second floor? As testified to, the first floor could not be  
8 a corner store because it is in too close of proximity to  
9 other corner stores. There is a specific regulation that  
10 limits it. I think it limits it from a zoning perspective  
11 as a well as a practicality perspective that practically you  
12 walk to a corner store because you're not going to walk to  
13 a grocery store and you're not going to walk to a corner  
14 store because there's not an MU or a commercial zone nearby.

15 Here, we have an MU zone at the end of the block.  
16 So you can buy, right, do any commercial uses at the corner  
17 of Pennsylvania Avenue. And you also have a corner store  
18 that's literally right across the street that actually came  
19 back to this Board, I think, last week -- maybe it was  
20 actually next week you're going to see the case, sorry --  
21 where they're asking now for their second continuance,  
22 indicating that there's a challenge in kind of creating a  
23 corner store on just that single floor.

24 So if it's not a single-floor user, then what  
25 happens to the building? And I think you see what happens

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1 to the building. It lays idle. So what we are arguing is  
2 that without the relief for both the first and the second  
3 floor, you have a situation in which the building will lay  
4 idle. And that we then believe based on that that we would  
5 meet the zoning standard for a use variance and that we also  
6 would not be creating the situation which would be adverse  
7 to the public good of the zone plan based on testimony from  
8 Mr. Varga.

9 I hope that's kind of pulled it together a little  
10 bit better.

11 BOARD MEMBER JOHN: Well, I have a follow-up  
12 question for Mr. Varga. So when you researched the history  
13 of the property, you found no information on the type of  
14 occupancy that existed until you got back to that one in 1940  
15 where it was used as stores?

16 MR. VARGA: No.

17 BOARD MEMBER JOHN: There was nothing at all?

18 MR. VARGA: No, so the research that I performed,  
19 the Washingtonian room in the D.C. Historical Building Permit  
20 Database didn't uncover any other additional information with  
21 regard to the other use of the building subsequent to its  
22 initial construction in that checkoff of when the building  
23 was finally built about what its use was for.

24 BOARD MEMBER JOHN: But it's actually used since  
25 then. Did you check with DCRA, do you know?

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1 MR. VARGA: No.

2 BOARD MEMBER JOHN: Okay.

3 MR. VARGA: No, a consultation of PIVS and the  
4 other information available online didn't uncover any of that  
5 --

6 BOARD MEMBER JOHN: Okay, thank you.

7 MR. VARGA: -- information.

8 MS. MOLDENHAUER: And I do believe that, as OP  
9 indicated, there were rooming houses and then prior to that,  
10 there was a deli use.

11 BZA VICE-CHAIRMAN HART: Any other questions for  
12 the applicant? Go ahead.

13 ZC CHAIRMAN MILLER: Thank you, Mr. Vice-Chair.  
14 So you say, on E Street, it's adjacent to a strip of mostly  
15 PDR uses and, in fact, a PDR zone. And it's adjacent to an  
16 auto body shop on E Street?

17 MS. MOLDENHAUER: I just pulled up, sorry, kind  
18 of our back-of-the-deck image. And so right -- the red car  
19 is, I believe -- correct me if I'm wrong. That's the end of  
20 the property line. So kind of where that car is, is the end  
21 of the property line. The overhang above the red car is part  
22 of the property. So you can see that literally right next  
23 door is a non-DDOT compliant, very long, very unattractive  
24 curb cut as well as then four garage doors that all relate  
25 to an industrial use.

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1           ZC CHAIRMAN MILLER: Right. I wouldn't want to  
2 live next to that, but that's not the standard.

3           (Laughter.)

4           ZC CHAIRMAN MILLER: But it's a factor in my head.

5           MS. MOLDENHAUER: But it does go to the fact that  
6 that is part of the uniqueness that creates the undue  
7 hardship as to why this has been sitting and no one has used  
8 it for a flat or converting it to a single-family home or a  
9 compliant zoning use.

10          ZC CHAIRMAN MILLER: And as you've pointed out and  
11 the map shows that you provided in one of our attachments,  
12 there's a lot of PDR zoning not just adjacent to this  
13 property but in the whole -- in the middle of the square.  
14 But I guess then -- but a lot of the outer perimeter,  
15 beginning with this building and going south and around, is  
16 RF-1, I guess.

17                 What's the comp plan map amendment for this  
18 square? Is it moderate residential?

19          MS. MOLDENHAUER: It's all low density  
20 residential.

21          ZC CHAIRMAN MILLER: Low density residential?  
22 Okay, thanks.

23          BZA VICE-CHAIRMAN HART: Do you have the -- can  
24 you put the comp plan --

25          MS. MOLDENHAUER: We don't have --

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1 BZA VICE-CHAIRMAN HART: Do you have that?

2 MS. MOLDENHAUER: -- that on -- well, I think --

3 BZA VICE-CHAIRMAN HART: I thought I saw that on

4 --

5 MS. MOLDENHAUER: We have. It's a picture of the  
6 zoning, sorry. So it's --

7 BZA VICE-CHAIRMAN HART: Oh, maybe that's why --

8 MS. MOLDENHAUER: -- the zoning.

9 BZA VICE-CHAIRMAN HART: Oh, okay.

10 MS. MOLDENHAUER: Yes, you saw was the zoning  
11 image.

12 BZA VICE-CHAIRMAN HART: Yes, yes, that's it.

13 MS. MOLDENHAUER: And I just want to --

14 BZA VICE-CHAIRMAN HART: Yes.

15 MS. MOLDENHAUER: -- indicate that that's not the  
16 FLUM. So this is the existing current zoning, not the Future  
17 Land Use Map.

18 BZA VICE-CHAIRMAN HART: And what's the other map  
19 that you guys have?

20 MS. MOLDENHAUER: I think that's it.

21 BZA VICE-CHAIRMAN HART: Was that also another?

22 MS. MOLDENHAUER: The other one was just an image  
23 of the existing kind of aerial.

24 BZA VICE-CHAIRMAN HART: And I thought there was  
25 another one that you had that showed the distance between the

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1 two.

2 MS. MOLDENHAUER: Keep going down, I think.

3 BZA VICE-CHAIRMAN HART: Yes, yes.

4 MS. MOLDENHAUER: Yes.

5 BZA VICE-CHAIRMAN HART: So it was just a larger

6 version --

7 MS. MOLDENHAUER: This one.

8 BZA VICE-CHAIRMAN HART: -- of the zoning map?

9 MS. MOLDENHAUER: Yes.

10 BZA VICE-CHAIRMAN HART: That's what I've seen.

11 Okay.

12 MS. MOLDENHAUER: It's still the zoning map, yes.

13 BZA VICE-CHAIRMAN HART: Okay. Any other  
14 questions for the applicant? I think we'll move to the  
15 Office of Planning.

16 MS. MYERS: Hello, Crystal Myers for the Office  
17 of Planning. The Office of Planning recommends approval for  
18 office use on the first floor. We believe that the variance  
19 test has been -- the arguments have made the variance test  
20 and an office use would be an alternative appropriate use for  
21 that part of the building.

22 However, the Office of Planning is recommending  
23 denial of office use on the second floor. We don't believe  
24 that the argument has been sufficiently made for a variance  
25 or an office use on the second floor. The Office of Planning

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1 actually was provided with floor plans for the second floor  
2 and the hard copy version. And so I'm not quite sure why  
3 they're not in the record. But it's a perfectly adequate  
4 layout for a residential dwelling unit on the second floor.  
5 And we see no physical reasons as to why a dwelling cannot  
6 be maintained up there.

7           Also the RF zone encourages preservation of  
8 housing. And so in order to look at the variance test and  
9 support anything but preserving residential housing, there  
10 would have be a pretty strong argument for it. And as of  
11 what we've heard, we don't feel the case has been met for the  
12 second floor.

13           I also want to note that I want to make a small  
14 staff report correction. In our report, we said that the  
15 property has been on the market for seven years. Apparently,  
16 it's actually one year which, again, kind of strengthens our  
17 argument that on the second floor the residential unit should  
18 be maintained.

19           So in conclusion, the Office of Planning  
20 recommends approval of the office use on the first floor but  
21 not on the second floor. We recommend denial on the second  
22 floor and stands on the record the staff report.

23           BZA VICE-CHAIRMAN HART: Are there any questions  
24 for the Office of Planning? I had the question on the -- I  
25 mean, is the Office of Planning saying that if this site had

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1 three years of being on the record, that -- I mean, is the  
2 number of years on the market a concern that you're looking  
3 at? Or is that just an indicator of saying that the owner  
4 is having a hard time trying to sell the site?

5 MS. MYERS: Exactly. It's more in the argument  
6 of the site is difficult to sell. In other cases, sometimes  
7 part of the argument is 15 years on the market or quite  
8 extensive years on the market as for trying to support the  
9 argument that it's very difficult to sell it under the use  
10 of the current zoning. But in general, I mean, the Office  
11 of Planning would want the property to maintain the uses that  
12 are allowed in that zone. So we typically would support what  
13 is allowed in the RF zone.

14 BZA VICE-CHAIRMAN HART: And the applicant has  
15 also stated that there is no permit, I guess. I mean, in the  
16 OP report, you state that it's permitted for residential on  
17 the second floor and office on the --

18 MS. MYERS: There's a rooming house use and  
19 occupancy permit that was issued. And my understanding is  
20 that I don't think it ever actually was used as a rooming  
21 house. But just looking at the permit history, apparently  
22 the current owner had attempted to add additional rooms and  
23 the DCRA concluded that it was more of a rooming house. And  
24 so it issued a rooming house permit. But my understanding  
25 is that at least over the last -- in the current ownership,

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1 it's been operating really more as, like, just a residence.

2 BZA VICE-CHAIRMAN HART: So that it's been rented  
3 out as a residence?

4 MS. MYERS: No, I think the owner actually lives  
5 on the property. And so it's been a residential use.

6 BZA VICE-CHAIRMAN HART: Oh, you're saying --  
7 okay, yes, yes, yes.

8 MS. MYERS: Yes.

9 BZA VICE-CHAIRMAN HART: And do you have the  
10 actual permits for the rooming house permit?

11 MS. MYERS: I don't have it with me. But just  
12 looking at DCRA's records online, there is evidence that a  
13 rooming house permit was -- or use and occupancy permit was  
14 issued.

15 BZA VICE-CHAIRMAN HART: I mean --

16 MS. MYERS: I think it was in 2011.

17 BZA VICE-CHAIRMAN HART: -- the applicant had  
18 provided -- they provided some drawings that I noted earlier,  
19 and I'm trying to think of which exhibit it is, I think 7,  
20 which were the architectural plans for the first floor. I  
21 also noted that there wasn't a plan for the second floor.  
22 But in the first floor, it had actual demarcations or areas  
23 that were shown as being an apartment, I guess -- at least  
24 two apartments for that first floor.

25 I'm not necessarily sure there's a question there.

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1 It's more it seems as though there has been some sort of  
2 residential use that's happened there, and I'm assuming that  
3 that's what your kind of take on this as well. There was at  
4 least some that was going on. It may not have been fully  
5 occupied, but there has been some residential use for the  
6 site. And you've noted some sort of rooming house permit  
7 that was issued. Was that recent?

8 MS. MYERS: Yes.

9 BZA VICE-CHAIRMAN HART: The applicants showed  
10 some images that were a renovation that had happened or at  
11 least drawings for a renovation that the owner wanted to do.  
12 Whether or not they actually were able to rent it out at the  
13 end of that, I think that's still a big question mark, but --

14 MS. MYERS: Yes, I mean, in 2011, according to the  
15 notations on mine, the boarding or the rooming house use and  
16 occupancy permit was issued. But with our conversations with  
17 the applicant, my understanding is that it was not actually  
18 used a rooming house.

19 And this kind of goes -- part of our support of  
20 the first floor being an office use is that it does appear  
21 that the -- there's the fact that the building was originally  
22 noted as a store. The fact you have the windows, the whole  
23 architectural internal and external layout, it does make  
24 sense for a commercial use. And it seems like the applicant  
25 or the owner's attempts to make it into a residential use on

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1 the first floor, there's been some challenges. So we are in  
2 support of an office use on that first floor.

3 BZA VICE-CHAIRMAN HART: Thank you. Are there any  
4 other questions for the Office of Planning?

5 COMMISSIONER WHITE: I'm still struggling a little  
6 bit with the second floor. It's kind of hard for me to  
7 differentiate the two in terms of why it meets the variance  
8 test -- to get the use variance for commercial use on the  
9 second floor. And one of the things that you said that that  
10 particular space was kind of designated for residential  
11 purposes.

12 But do you ever examine the surrounding area in  
13 terms of are there a lot of rental apartments in that area?  
14 Is there an adequate supply? Would three or four extra rooms  
15 make a difference in terms of the value that that building  
16 would bring from a residential perspective on the second  
17 floor? Because right now, I'm just still having some  
18 challenges getting to the point where I'm not comfortable  
19 with the second floor being a commercial use and meeting the  
20 variance test based upon some of the information that I've  
21 gotten from counsel.

22 MS. MYERS: Well, I just want to be clear. The  
23 Office of Planning is not in support of an office use on the  
24 second floor. It's a perfectly functional residential unit  
25 upstairs on the second floor. And as the applicant's own --

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1 what the applicant has already testified to, when residential  
2 units are on the market, they apparently are purchased  
3 within, like, 21 days. It does seem that there is a demand  
4 for residential units. And the Office of Planning typically  
5 does not support loss of residential units. And this is what  
6 we would be experiencing if we were to recommend approval of  
7 an office use on the second story.

8           Unlike the first floor, the second floor, there's  
9 no physical reasoning for supporting anything but a  
10 residential unit up there. On the first floor, it is -- the  
11 whole setup for the first floor, it does seem to lean more  
12 in the direction of commercial. And looking at the  
13 surrounding area, as you pointed out, that was part of the  
14 reason why we supported office use on the first floor is  
15 because it is sort of a mixed-use neighborhood. A lot of the  
16 other properties on the first floor, they have commercial  
17 uses. The applicant pointed out some corner stores and other  
18 commercial uses in the area.

19           So we agree that on the first floor, a commercial  
20 use is a logical option for using that part of the building.  
21 But on the second floor, we are not able to support a loss  
22 of that residential unit because it would be significant, we  
23 feel, to lose, especially in this zone. This zone  
24 specifically encourages preserving the residential units.  
25 So it would be contrary to that is what our position would

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1 be.

2 BZA VICE-CHAIRMAN HART: Any -- sure.

3 ZC CHAIRMAN MILLER: One final question for the  
4 Office of Planning. Ms. Myers, do you agree that this site  
5 is part of the Potomac Avenue sub-area of the Pennsylvania  
6 Avenue Southeast Corridor Small Area Plan which encourages --  
7 or I don't know what the word is. But it encourages upper-  
8 story office, small office uses or residential? Isn't that  
9 what the small area plan then calls for, for this area?

10 MS. MYERS: Yes, I do agree that it is in the sub-  
11 area plan area, but the zone is RF-1. So we consider the  
12 zone to be the priority when we look at the review.

13 ZC CHAIRMAN MILLER: Is this property had the same  
14 zoning as the immediately adjacent property on E Street, the  
15 office use would be permitted as -- that's being contemplated  
16 here would be permitted as a matter of right; is that  
17 correct?

18 MS. MYERS: I couldn't answer that when I haven't  
19 actually --

20 ZC CHAIRMAN MILLER: Okay.

21 MS. MYERS: -- looked at that one, yes.

22 ZC CHAIRMAN MILLER: Well, I don't know with the  
23 -- I would think the PDR-1 use, if it permits an auto body  
24 repair shop, might permit a small office.

25 BZA VICE-CHAIRMAN HART: Just one follow-up

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1 question to what Commissioner Miller just asked, and I asked  
2 the applicant this too. Do you think this property is zoned  
3 incorrectly?

4 MS. MYERS: No, I don't. I don't believe it is  
5 zoned incorrectly. RF is the zoning in that area. It is a  
6 residential area with a little bit of mixed use on the  
7 street. But one thing we pointed out in our staff report is  
8 there's a commercial area not far away. And we also bring  
9 up the concern that if we were to encourage a lot of  
10 commercial uses in this site, it would take away from where  
11 we actually were trying to designate more commercial uses.  
12 So trying to keep that balance of residential area and  
13 commercial area, we're trying to maintain that.

14 BZA VICE-CHAIRMAN HART: Thank you. Do you have  
15 any questions for the Office of Planning?

16 MS. MOLDENHAUER: Just one or two.

17 BZA VICE-CHAIRMAN HART: Sure.

18 MS. MOLDENHAUER: In supporting the first floor,  
19 you do find that the property, though, is unique?

20 MS. MYERS: Yes, we do.

21 MS. MOLDENHAUER: And that goes to the property  
22 as a whole?

23 MS. MYERS: For the first floor.

24 MS. MOLDENHAUER: But I'm saying if the property  
25 is unique -- I'm not asking whether you're applying it from

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1 the second prong of undue hardship. I'm asking, do you find  
2 that the property has a confluence of factors that make it  
3 unique?

4 MS. MYERS: I would say that the property is  
5 unique in the sense that you have a commercial first floor  
6 that is not, at this point, allowed to be a commercial use.

7 MS. MOLDENHAUER: And so then you indicated that  
8 your concern about the loss of residential and that then goes  
9 to the third prong of adverse impact to the public good?

10 MS. MYERS: Yes.

11 MS. MOLDENHAUER: Okay. And then would you, in  
12 your opinion, believe that an office use as proposed would  
13 be compatible with the neighborhood?

14 MS. MYERS: Yes, on the first floor is what we  
15 would emphasize, but it is mixed use on that street.

16 MS. MOLDENHAUER: Thank you.

17 BZA VICE-CHAIRMAN HART: No other questions?  
18 Okay. So is the ANC here? Oh, behind the column. I didn't  
19 even know there was anybody over there. And just to make  
20 sure, have you been sworn in? I'm so glad that it's late  
21 that I can actually laugh at that. Actually, if there's  
22 anybody here that needs to be sworn in, Mr. Moy, could you  
23 administer the oath, please. And you have to stand up for  
24 it.

25 MR. MOY: We have quite a few.

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1 Do you solemnly swear or affirm that the testimony  
2 you're about to present at this proceeding is the truth, the  
3 whole truth, and nothing but the truth?

4 (No audible response.)

5 MR. MOY: Thank you. You may be seated.

6 BZA VICE-CHAIRMAN HART: Thank you. Welcome.

7 MR. RIDGE: Thank you. Thank you for the  
8 opportunity to testify in support of relief for 500 13th  
9 Street Southeast. As the applicant has mentioned, the SND  
10 commissioner for this area, Nick Berger, is out of the  
11 country at the moment. And so I'm testifying on behalf of  
12 the ANC. I'm also the chair of the ANC.

13 The ANC considered this issue --

14 BZA VICE-CHAIRMAN HART: I'm sorry. Could you  
15 just give your name?

16 MR. RIDGE: Sure, Dan Ridge.

17 BZA VICE-CHAIRMAN HART: Sorry.

18 MR. RIDGE: The ANC considered the issue for April  
19 3rd meeting of our planning and zoning committee and placed  
20 it on consent for full ANC. The ANC supports the use of the  
21 first and second floors of the building as offices for a real  
22 estate firm.

23 ANC 6-B has worked with developers over the last  
24 few years to navigate the landing of many hundreds of  
25 residential units within feet -- within steps, as real estate

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1 agents say -- of the site that's proposed, hundreds and  
2 hundreds. And we've worked to increase that density and to  
3 make sure that there are affordable units and accessible  
4 units and all of the kinds of units that could not be built  
5 at this property.

6           While there may be a shortage of housing across  
7 the city, that shortage is not centered in this neighborhood.  
8 The shortage felt most acutely in Eastern Capitol Hill is  
9 retail and small business, especially as existing business  
10 locations have been demolished or converted to residential.  
11 Many properties in the nearby 15th Street commercial zone,  
12 for instance, have been converted to residential over the  
13 last ten years.

14           CHRS notes that this building is from 1924 which  
15 is within the period of historical significance for the  
16 Capitol Hill Historic District that ends just on the other  
17 side of the street. It is my view that use of 500 13th as  
18 a real estate office will be almost uniquely protective of  
19 the views of an otherwise unprotected building.

20           A comparable nearby building, 1300 Pennsylvania,  
21 has recently gained a story and lost its original  
22 contributing curb slate roof in order to maximize residential  
23 square footage. By contrast, Dila Construction operates the  
24 site at 1200 Potomac Southeast as offices within the original  
25 structure with much less apparent pressure to explode their

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1 envelope to the maximum allowed by right under the zoning  
2 code.

3           The ANC does not challenge the applicant's claim  
4 that this relief is warranted. It is my experience  
5 personally and empirically over the last 15 years that there  
6 are and have been challenges finding users for this property  
7 as built. Finding Fulcrum who's been using another row house  
8 in the neighborhood as an office for some time seems quite  
9 a lucky stroke. In fact, a consolidation of Fulcrum's  
10 operations at this site, were it to happen, could allow their  
11 existing premises to someday be recaptured as residential.  
12 And those are premises built and used historically as  
13 residential that are much more suitable for use as a  
14 residence.

15           Many neighbors, myself included, hoped that retail  
16 would return to this building someday, maybe sales and  
17 service of vintage espresso machines, maybe children's shoes.  
18 But what I have realized is that real estate is retail,  
19 retail where the neighborhood itself is on sale. Neighbors  
20 window shop at real estate offices on Pennsylvania Avenue and  
21 on 7th Street as if they sold candy.

22           While I expect that Fulcrum will support schools  
23 and sports leagues and the like, I consider that their mere  
24 presence at the site will itself be a service to neighbors  
25 and the neighborhood. Thank you.

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1 BZA VICE-CHAIRMAN HART: Thank you very much.  
2 Excuse me. Are there any questions for the commissioner?

3 COMMISSIONER WHITE: Just one question. Have you  
4 worked with Fulcrum Properties Group before? And in your  
5 experience, have they been a good neighbor in your community?

6 MR. RIDGE: I have never worked with them, either  
7 as an official as an ANC commissioner or as a resident of the  
8 neighborhood, though I've been in the neighborhood for 15  
9 years. I am aware that Fulcrum did sponsor a cleanup  
10 recently that I attended and picked up trash for. And I've  
11 been aware that they're a good neighbor, but I have no  
12 professional or personal connection to them.

13 BZA VICE-CHAIRMAN HART: Any other questions?  
14 Okay. Is there anyone here in opposition to the case?  
15 Anyone wishing to speak in support of the application? Oh,  
16 just a few hands. If you could all -- or some of you could  
17 come up, I don't know how many seats we have here. It looks  
18 like five -- one, two, three, four, five. Thank you,  
19 Commissioner Ridge. I should say Chairman Ridge.

20 We're going to take a minute break. We'll be back  
21 in a minute.

22 (Whereupon, the above-entitled matter went off the  
23 record at 5:12 p.m. and resumed at 5:21 p.m.)

24 BZA VICE-CHAIRMAN HART: Okay. So we have a full  
25 contingent. They are across the table taking the whole space

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1 up. So if you could just provide your name and your address.  
2 And you all are here testifying in support, and you may start  
3 from my right. Thank you.

4 MR. RODGERS: Brian Rodgers, 1426 G Street  
5 Southeast, Washington, D.C. I've been on the Hill about 11  
6 years, and I have, one, known Fulcrum, their current  
7 location. And I just want to say that they're good  
8 neighbors. They support the community in a variety of ways,  
9 and I feel very good about their presence in our  
10 neighborhood.

11 I'm familiar with the building in that my children  
12 have gone to school at Watkins and there's a path from my  
13 house to their school. I've done the math and it's somewhere  
14 in excess of 500 times I've walked past that building. And  
15 I can't remember a lot of activity there at all. I can't say  
16 when it was on the market, when it was not on the market.  
17 But my remembrance was that there's very little, if any,  
18 activity at that building. And I think I'm very supportive  
19 of them having access to both levels for the commercial use.  
20 I think they're the kind of business you want in your  
21 neighborhood.

22 I don't know what the term would be, if it's a  
23 clean industry or a white-collar industry. There was a trash  
24 hauler there. And on a warm summer's day, if you're  
25 downwind, it's not very pleasant. There was an auto repair

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1 shop there. And again, you've got pneumatic hand tools going  
2 on and off all day. So I think it could be a very positive  
3 impact on the neighborhood.

4           Again, they've been good neighbors and I support  
5 this. And I thank you for taking my statement.

6           BZA VICE-CHAIRMAN HART: Thank you very much, Mr.  
7 Rodgers.

8           MR. WINSTON: And my name is Walter Winston at  
9 1817 Potomac Avenue Southeast, Washington, D.C. My house is  
10 on Potomac Avenue. My backside of my house is on E Street,  
11 and E Street is the path for us to get to school which is at  
12 Watkins. We pass the building every day, and nothing seems  
13 to ever happen at that building. It seems to be vacant most  
14 of the time. Either outgrown, the little area, there's bald  
15 spots of grass or something, it's never taken care of. So  
16 that's one of the things.

17           So secondly, in terms of what they do, what  
18 Fulcrum has done, our cemetery, which is Congressional  
19 Cemetery, they do a lot of fundraisers. They're not in  
20 fundraising. They just basically give out pumpkins to the  
21 kids and have face painting and all that kind of stuff every  
22 year. They support the school by some of the events that  
23 happen. For our fundraisers at school, they are there. Mr.  
24 Voyles, actually I have seen him actually do some of the  
25 presentations, some of the auction stuff that we do.

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1 I'm just very, very proud of this company, and I  
2 think that I would like them to have the entire building.

3 BZA VICE-CHAIRMAN HART: Thank you very much, Mr.  
4 Winston. Were there any questions for Mr. Winston or Mr.  
5 Rodgers? Okay. Welcome.

6 MR. MCKEAN: Thank you very much. My name is  
7 David McKean. I live at 1351 G Street Southeast which is  
8 across the street from Fulcrum's current office. My children  
9 -- or at least one of my children goes to Watkins. We walk  
10 down G Street past Fulcrum's current office which is a  
11 wonderful space in the community. We round the corner up  
12 13th which is partially residential. Across the street on  
13 13th, there's a gas station. And then you get to that  
14 corner, and in all the years that I've been walking my son  
15 to Watkins, longer than the time frame that's been discussed  
16 here, I've never seen anything happening at that building.

17 I think it's important just for the neighborhood  
18 context to understand that the issue in our neighborhood is  
19 not too little housing that the loss of these three units  
20 would really be a detriment to the neighborhood. Across the  
21 street where the Safeway is, there's a discussion of corner  
22 store use which would be impractical. No one would ever shop  
23 there. Safeway is right there.

24 They're putting in lots of units above that  
25 Safeway, I believe, as a matter of right. Directly across

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1 the street, they redid the International Graduate University  
2 that has lots of units. On the other side of Pennsylvania,  
3 there's the New York Avenue Pizza building that has already  
4 been demolished and they're building units there. There's  
5 units everywhere.

6           If you go to this block and you go to that corner,  
7 the idea that somebody would rent the three units above that  
8 space -- I own a condo just two blocks north -- you couldn't  
9 rent it. And I think the evidence is that it hasn't been  
10 rented. I think that if the person who owns this building,  
11 I'm sure if we found their financials, they're eating a lot  
12 of money by not turning this into a rentable unit of some  
13 kind. Just I think that speaks to the fact that it's not  
14 done.

15           I know it's not really quite part of the  
16 consideration, but there were a lot of questions about  
17 Fulcrum as a neighbor. My son plays little league. He  
18 recently just crushed Fulcrum's team that they sponsor.

19           (Laughter.)

20           MR. MCKEAN: I'm sorry, but it's --

21           BZA VICE-CHAIRMAN HART: Did you want to say that  
22 any louder?

23           (Laughter.)

24           MR. MCKEAN: Yes, it was brutal.

25           BZA VICE-CHAIRMAN HART: I mean --

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1 MR. MCKEAN: It was a bloodbath, but it is a  
2 pitching machine, double A. So mostly as long as there's a  
3 batter, there's a run. But they sponsor just about  
4 everything in the neighborhood. And so the idea that they  
5 would take over this vacant deteriorating property and turn  
6 it into their business headquarters is incredibly appealing  
7 to me as a neighbor.

8 And then also since we're talking about -- since  
9 there was just discussion about the loss of residential  
10 units. If they move there, the house -- which basically it's  
11 a business but looks like a row house, that would be a  
12 residential unit. I don't think this would constitute any  
13 loss of residential units in the neighborhood. In fact, I  
14 think it would probably basically be a wash. And frankly,  
15 as somebody who owns property in the neighborhood, the idea  
16 that Fulcrum would be taking up that kind of ugly space would  
17 only make it more attractive for people coming in.

18 Thank you.

19 BZA VICE-CHAIRMAN HART: Thank you, Mr. McKean.  
20 Any questions for Mr. McKean? Okay. Thank you.

21 MS. MOSCOSO: Hi.

22 BZA VICE-CHAIRMAN HART: Welcome.

23 MS. MOSCOSO: Thank you. I'm Sandra Moscoso. I  
24 live at 109 13th Street Southeast. I've lived there for over  
25 13 years with my family. Thank you for the opportunity to

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1 speak about my support for granting approval for both levels  
2 to be used for commercial purposes and letting me give a  
3 little shout out to Fulcrum as well.

4           With regard to the property, I walk, bike, run  
5 most days near that space in my runs to Frager's, the  
6 hardware store, or to CVS or, until recently, Safeway. When  
7 my children were at Watkins, I would go by there twice a day,  
8 dropping off or picking up the kids.

9           So I know that space, and in all of that time and  
10 in my 13 years on Capitol Hill, I really have not seen very  
11 much activity in that space, in that empty -- what I've  
12 always thought of it as an empty building. The only sign of  
13 life I've ever seen is a really cute little library that --  
14 a mini library that exists out front. And I assume that was  
15 one of the neighbors around there trying to give that space  
16 a little bit of life.

17           With regards -- well, in my own block, we've had  
18 three empty properties for, like, many years. And so I know  
19 what it feels like to live near an empty space. And beyond  
20 the loss of opportunity for a community, it's a great space  
21 for rats to hang out in and sometimes I certainly feel less  
22 secure when I walk by the one empty space that we have left.  
23 For many years, we had three empty spaces. Now, we're down  
24 to one. I think we're doing well getting rid of another  
25 empty space. It sounds like a good thing to me.

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1           And then finally with regards to Fulcrum, I've  
2 never been a client of theirs but I've certainly been a part  
3 of their community since they came to be. And I'm glad you  
4 reminded me. It was seven years ago. I don't even remember.  
5 I feel like you guys have always been around.

6           So the pumpkin carving, the summer festival with  
7 the awesome dunking booth and all the way to homeowner  
8 education panels that they'll host where we learned about  
9 renovating our bathroom that we'll one day get to. And then  
10 finally, all of these things are open to the community. It's  
11 not just -- again, I've never been a client. But I  
12 appreciate the fact that I feel included in their events.  
13 I would be remiss if I didn't mention how much the support  
14 schools. And as a longtime parent to two kids in D.C. public  
15 schools, I mean, we are able to do things from putting on  
16 shows to supporting teacher outings thanks to Fulcrum and  
17 their support. Oh, one more thing. They organized an  
18 awesome trip to see Diana Ross last summer. It was a great  
19 date night.

20           So anyway, I want to just give my support for  
21 Fulcrum and what they bring to the community. I mean, what  
22 they've done in that smaller space has been incredible. I  
23 can't imagine how much more impact they'll have with a bigger  
24 space. Thank you.

25           BZA VICE-CHAIRMAN HART: Thank you. Ms. Macosco?

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1 MS. MOSCOSO: Moscoso.

2 BZA VICE-CHAIRMAN HART: Say that again.

3 MS. MOSCOSO: Moscoso.

4 BZA VICE-CHAIRMAN HART: Moscoso? Okay.

5 MS. MOSCOSO: Yes, thank you.

6 BZA VICE-CHAIRMAN HART: Excuse me. Are there any  
7 questions for Ms. Moscoso? Okay. Thank you very much.

8 Yes, sir.

9 MR. COLE: Hello. My name is Darren Cole. My  
10 family and I live at 701 Kentucky Avenue Southeast. We've  
11 lived on the Hill for 18 years and at our current address for  
12 10 years as of June. I live only a few blocks away. My kids  
13 used to go to Watkins. My remarks are going to, I think,  
14 mirror everyone else's here.

15 We used to pass that property repeatedly. And in  
16 all that time, it's always struck me how it sort of stuck in  
17 a state of limbo. It's either always for sale or for rent.  
18 There's ever any sign of habitation or activity there. And  
19 meanwhile, that same block has seen a flurry of activity with  
20 other properties. So right now, it just seems to be a case  
21 of lost potential.

22 The amount of residential construction shows  
23 there's more than enough demand for housing and yet this  
24 building has remained vacant or seemingly vacant the entire  
25 time. It seems that its current zoning is unsuitable.

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1 Otherwise, it would've been put to constructive use long ago.  
2 And I feel the approval should be granted to zoning the  
3 entire for commercial use.

4 I would also add Fulcrum is extremely community  
5 minded and always has the best interest of the neighborhood  
6 at heart. The owners are local residents and neighbors.  
7 They routinely sponsor community events, neighborhood  
8 cleanups, school programs, festivals, block parties, movie  
9 nights at the cemetery. I have no doubt they will put this  
10 building to constructive, responsible, and neighborly use.  
11 And thanks for the opportunity to speak.

12 BZA VICE-CHAIRMAN HART: Thank you. Are there any  
13 questions for Mr. Cole? Thank you very much.

14 Yes, sir.

15 MR. MILLS: Good afternoon. I'm Floyd Mills, and  
16 I'm at 109 13th Street Southeast. Transparency, I am  
17 Sandra's husband and I was the date for the trip.

18 (Laughter.)

19 MR. MILLS: We've lived there --

20 BZA VICE-CHAIRMAN HART: Lots of transparency --

21 MR. MILLS: -- now for --

22 BZA VICE-CHAIRMAN HART: -- going on here.

23 (Laughter.)

24 MR. MILLS: Exactly. We've lived there now for  
25 13 years, as Sandra mentioned. I think what I want to say

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1 basically is -- I'm going to echo that, right? We walk by  
2 the property regularly. We've taken the kids there, by there  
3 for taking them to school. We walk to the local CVS, the  
4 drug store, the hardware store, et cetera.

5           The property has been essentially empty. We've  
6 never seen any sort of life at the property. All that is  
7 true. I think the more important really, from my point of  
8 view, is the idea of Fulcrum being there would be, I think,  
9 an addition to the neighborhood, I think an asset to that  
10 block for certain. They've been supportive of, as you heard,  
11 schools, the students, et cetera in the area, sponsors of  
12 events for schools for years and years. Most recently, I  
13 called upon them to help me fund an internship for a student  
14 who was looking in the area. They responded to that  
15 immediately.

16           So they've been very supportive of the  
17 neighborhood, of the kids in the neighborhood, and the  
18 families. I think they'd just be an asset to that block.  
19 And their presence of them moving from their old to the new  
20 to me would seem to be a wash in the point of view of the  
21 loss of residential property. So not a reason to not to do  
22 that for that particular reason.

23           But I think from what all you heard from all of  
24 us and I think more importantly just their presence in the  
25 neighborhood as a supporter of the community would be an

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1 asset. Thank you very much.

2 BZA VICE-CHAIRMAN HART: Thank you, Mr. Mills.  
3 Any questions for Mr. Mills? No? Okay. Thank you.

4 Yes, sir.

5 MR. GARBOUSHIAN: Hi. My name is Ralph  
6 Garboushian. I live at 1726 Potomac Avenue Southeast. I've  
7 lived at that address since 2009 and on Capitol Hill for 23  
8 years, most of my adult life. My comments are going to echo  
9 a lot of what you heard, so I'll try to be brief. I strongly  
10 support Fulcrum's request to use the entirety of 500 13th  
11 Street Southeast for its office. I think it's in the best  
12 interest to our neighborhood for a lot of the reasons  
13 outlined here.

14 Getting to what you mentioned earlier, I would  
15 argue current zoning does not fit this property. As everyone  
16 has said, I was surprised to hear during deliberations that  
17 somebody lives on the second floor. This is about as forlorn  
18 a property as you can imagine. I walk and bicycle by it  
19 almost every day, sometimes multiple times a day. And it has  
20 sat there and sat there and sat there. It's that building  
21 you say, I wonder what's going on there. I mean, previous  
22 owners have clearly made some good-faith attempts to renovate  
23 it, to market it. It all seems to no avail.

24 Therefore, I was thrilled to hear that Fulcrum  
25 wants to buy this building for their office. I'd be pleased

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1 if anybody moved their office into that building. Having  
2 Fulcrum move in there is icing on the cake. As everyone has  
3 said, they're a backbone of the community. Most of their  
4 employees live in our neighborhood. If there is an event on  
5 Capitol Hill, it's a safe bet that Fulcrum is a sponsor,  
6 often a lead organizer of that event. They'll only be an  
7 asset in that location.

8 In terms of the lack of housing, I think, as many  
9 of my neighbors have argued, our concern on our end of  
10 Capitol Hill is we don't have enough commercial. We have  
11 plenty of housing. As has been mentioned, we have probably  
12 about 900 to 1,000 units of new housing coming online in the  
13 immediate vicinity. My hope is that's going to lead to more  
14 commercial. I hardly think that the loss of these three  
15 units is going to hurt housing in the neighborhood.

16 PARTICIPANT: Units is being generous.

17 MR. GARBOUSHIAN: Right, right. I mean, I  
18 appreciate the need to protect historic Capitol Hill homes  
19 from conversion to commercial. But we're not talking about  
20 a lobbying firm or a trade association converting a townhouse  
21 to an office. This is a property that was clearly built as  
22 commercial, probably spent most of its useful life as  
23 commercial, and we're talking about a company with deep roots  
24 in the neighborhood putting their office in that space.

25 So I mean, I was talking with Ty. And if you look

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1 on the map, the RF-1 line goes up 13th Street and just keeps  
2 going to the end of the block. Looking at the map, that  
3 probably makes sense. If you're on the ground, you probably  
4 would've turned left before this building. It's clearly a  
5 commercial building.

6 So thank you. I'd urge you to support this  
7 request.

8 BZA VICE-CHAIRMAN HART: Thank you, Mr.  
9 Garboushian. Okay. Are there any questions for Mr.  
10 Garboushian? No? Okay. Thank you all very much.

11 So are there any questions that the Board has for  
12 Ms. Moldenhauer? Okay.

13 Do you have a concluding statement that you'd like  
14 to make?

15 MS. MOLDENHAUER: We believe that under the  
16 variance test, the three prong test, that the property is  
17 unique, that the uniqueness is based on a confluence of  
18 factors, its corner location, its original construction as  
19 stores.

20 The fact that the property abuts what you can see  
21 in this image here of a long line of abutting industrial uses  
22 which create a specific challenge and undue hardship for the  
23 owner to be able to stop this property from -- as you heard  
24 from all of the neighbors -- these aren't neighbors from a  
25 large swathe of the city but literally neighbors that are on

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1 this square and walk past this property every day -- that the  
2 property has remained idle.

3           The Board is given very unique authority to  
4 address properties and grant use variances, not often but  
5 when it's specifically and uniquely appropriate. The  
6 standard is that obviously when the Board finds a situation  
7 to be appropriate, that they then have the ability in De  
8 Azcarate that they find exceptional extraordinary uses to be  
9 the term design to serve as an individual source of authority  
10 enabling the Board to temper the strict application of the  
11 zoning regulations in appropriate cases. And we believe that  
12 this is the appropriate case here.

13           We believe that the concern that has been posed  
14 by OP in regards to the loss of residential uses would not  
15 be an adverse impact to the zone planner, the public good  
16 here in this case, that Fulcrum currently has a location that  
17 is literally on the square that could potentially be returned  
18 to residential if this expansion could be provided and this  
19 use variance could be provided.

20           We believe that the opportunity to enliven this  
21 building that currently has not been able to be used. And  
22 that, as provided testimony, while the property has been  
23 marketed in its most recent instance for just the last year,  
24 that it has been on and off the market. And as provided  
25 testimony by the broker, that he started working with this

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1 client many, many years ago. And that is clear evidence that  
2 the current zoning and the permitted matter of right uses in  
3 this case lead to undue hardship.

4 Based on that, we would ask the Board to support  
5 the application. If the Board needs any additional  
6 information, we'd be more than happy to supplement the record  
7 if that is required.

8 BZA VICE-CHAIRMAN HART: Thank you very much, Ms.  
9 Moldenhauer. Does the Board have any final questions? No?  
10 I'm going to close the record. Does the Board need any  
11 further information? Okay. So is the Board ready to  
12 deliberate? Okay. Well, there we go.

13 So this case is an interesting one. It really  
14 looks at what types of uses. In this case, what type of use  
15 is appropriate for a building that is in a neighborhood.  
16 It's in an area that while there are some residential that's  
17 next to it, it's also some other uses that are not  
18 residential. And I think that the -- excuse me -- that the  
19 applicant has provided us with an interesting take on how the  
20 building could be used by a commercial for office space if  
21 we were to approve this application.

22 After looking at the -- or reviewing the Office  
23 of Planning report, listening to the Office of Planning  
24 explanation as well as listening to the number of people that  
25 have come to testify, the ANC that was here, Commissioner

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1 Ridge I think it was that came to describe the area and also  
2 to lend their support for the application, I think that the  
3 applicant has provided sufficient information for me to be  
4 able to support the application.

5 I don't know where my other Board Members are with  
6 it. I'm not sure where I was before the hearing itself. But  
7 listening to this case and understanding that the applicant  
8 is seeking a use variance and use variances have a different  
9 requirement than area variances. And the one kind of prong  
10 that's different is the undue hardship. I think I could  
11 support that. I would like to hear from my other Board  
12 Members to see where they are in this case as well.

13 COMMISSIONER WHITE: I'll just add some brief  
14 comments. I think it was clear that I was struggling with  
15 my analysis regarding the second floor. And based upon  
16 looking at the factors of the use variance test, I believe  
17 that the test has been met. I mean, I agree with OP that  
18 certainly that there could be an opportunity for commercial  
19 on the first floor, but I did disagree somewhat with respect  
20 to the second floor. I thought that this could certainly  
21 serve the community by having a commercial on both the first  
22 and the second floors.

23 Mr. Ridge's testimony was very, very helpful. But  
24 I was also very impressed with all the neighbors that came  
25 out in support with specific items that supported the

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1 project. They filled in some gaps that I had regarding, are  
2 there enough units online for residential opportunities?  
3 Based upon the information that I kind of gathered, I could  
4 get the sense that there's a lot of development in that  
5 neighborhood. The council member supports it, and also I  
6 think that there was a specific intent overall for that  
7 building to serve as a commercial building.

8           And I think for purposes of this particular case  
9 -- I'll just pass it on to my fellow Board Members -- I could  
10 be in support of the use variance relief that the applicant  
11 is seeking today.

12           BZA VICE-CHAIRMAN HART: Yes, Mr. Miller.

13           ZC CHAIRMAN MILLER: Thank you, Mr. Vice-Chair.  
14 Yes, I concur with the comments of both of my colleagues  
15 who've spoken thus far. I think the applicant had presented  
16 testimony today and in the written record which supports the  
17 use variance for both the first and the second floor and has  
18 demonstrated this will be a useful purpose for this building  
19 as the neighborhood also supports it.

20           So I think that third prong, there is no  
21 substantial -- I don't see any substantial harm to the public  
22 good or the zoning regulation. I see the opposite, a  
23 substantial benefit for the use of this building for the real  
24 estate office that's being contemplated. So I'm ready to  
25 move forward with that.

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1 BZA VICE-CHAIRMAN HART: Ms. John, do you have any  
2 thoughts?

3 BOARD MEMBER JOHN: Well, I am actually in the  
4 minority here because -- not that it will make any difference  
5 at this point, but that I appreciate the value that having  
6 a brand-new, reconfigured, nicely done building with a real  
7 estate company occupying it. And I appreciate the neighbors'  
8 support of the applicant. But I still have to go back to the  
9 regulations and what they require.

10 And I am having a difficult time getting to the  
11 first prong which is this exceptional condition that creates  
12 an undue hardship as to the second floor because it is  
13 currently used as a residence, configured as a residence, and  
14 there's no reason it cannot continue as a residence. And the  
15 regulations don't allow us to grant, as far as I understand  
16 it, a use variance based on the intended use.

17 So the fact that the applicant would like to use  
18 the upper floor as an office is great for the applicant, but  
19 I don't see how it fits with the regulation. So I would  
20 support the analysis of the Office of Planning, and I would  
21 vote to support the conversion as the first floor but not to  
22 the second floor.

23 BZA VICE-CHAIRMAN HART: Okay. So hearing all  
24 that, I would make a recommendation -- excuse me. I guess  
25 it is late. I'm, like, losing my train of thought. I'd make

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1 a motion to approve Application No. 19737 of Fulcrum  
2 Properties Group, LLC as read and captioned by the Secretary.

3 Do I have a second?

4 ZC CHAIRMAN MILLER: Second.

5 BZA VICE-CHAIRMAN HART: All those in favor --

6 ZC CHAIRMAN MILLER: I meant to add in my comments  
7 today, we did have the unanimous support of the ANC which --

8 BZA VICE-CHAIRMAN HART: Yes.

9 ZC CHAIRMAN MILLER: -- you noted earlier --

10 BZA VICE-CHAIRMAN HART: Yes.

11 ZC CHAIRMAN MILLER: -- and they were here.

12 BZA VICE-CHAIRMAN HART: Having heard a second,  
13 all those favor say, aye.

14 (Chorus of aye.)

15 BZA VICE-CHAIRMAN HART: Any opposed?

16 BOARD MEMBER JOHN: Nay.

17 BZA VICE-CHAIRMAN HART: The vote is three to one,  
18 Mr. Moy.

19 MR. MOY: Yes, sir. Staff will record the vote  
20 as three to one. This is on the motion of Vice-Chair Hart  
21 to approve the application for the relief; a second of the  
22 motion, Mr. Miller; also in support, Ms. White. Ms. Lorna  
23 John is opposed to the motion. We have no other Board  
24 Members participating. The motion carries.

25 BZA VICE-CHAIRMAN HART: Summary order?

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1 MR. MOY: Yes, thank you.

2 BZA VICE-CHAIRMAN HART: Thank you all. Mr. Moy,  
3 do we have any other work we have to do today?

4 MR. MOY: No, sir. We're done.

5 BZA VICE-CHAIRMAN HART: So hearing that, I will  
6 close the meeting -- the hearing -- the meeting -- the  
7 hearing. Thank you. Or adjourn, I should say. Thank you.

8 (Whereupon, the above-entitled matter went off the  
9 record at 5:51 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC BZA

Date: 04-25-18

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



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Court Reporter

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