

## GOVERNMENT OF THE DISTRICT OF COLUMBIA

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## BOARD OF ZONING ADJUSTMENT

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## PUBLIC HEARING

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WEDNESDAY

MAY 23, 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 9:59 a.m., Frederick L. Hill, Chairperson, presiding.

## BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson  
LORNA JOHN, Board Member  
LESYLLEE M. WHITE, Board Member  
CARLTON HART, Board Member (NCPC)

## ZONING COMMISSION MEMBER[S] PRESENT:

ROBERT MILLER, Vice Chairperson  
MICHAEL TURNBULL, Board Member (FAIA)

## OFFICE OF ZONING STAFF PRESENT:

TRACEY W. ROSE, Sr. Zoning Specialist  
ALLISON MYERS, Zoning Specialist

## D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.  
MARY NAGELHOUT, ESQ.

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OFFICE OF PLANNING STAFF PRESENT:

ANNE FOTHERGILL  
STEPHEN MORDFIN  
MAXINE BROWN-ROBERTS  
ELISA VITALE

DISTRICT DEPARTMENT OF TRANSPORTATION STAFF PRESENT:

PATRICK REED

The transcript constitutes the minutes from the  
Public Hearing held on May 23, 2018.

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

9:59 a.m.

MS. ROSE: Ready?

CHAIRPERSON HILL: And I'll go ahead and make an announcement. The first hearing case, I did have an opportunity to read into it and watch the whole thing. However, I'm going to let Vice Chair Hart, since he started it, continue it. So Ms. Rose, whenever you like to announce it.

MS. ROSE: Yes. First case is a limited hearing continued from April 25th. It is Application No. 19377 of The Boundary Companies and The Missionary Society of St. Paul the Apostle, as amended, pursuant to 11 DCMR Subtitle X, Chapter 9 for special exceptions under the theoretical lot subdivision requirements of Subtitle C Subsection 305.1, the roof structure requirements of Subtitle C Subsection 1500.4, and the new residential development requirements of Subtitle U Subsection 421, and pursuant to 11 DCMR Subtitle X, Chapter 10, variances from the vehicular access requirements and the RA-1 Zone development standards of Subtitle C Subsection 305.3, to construct 60 row dwellings and a new clerical residential building in the RA-1 Zone at premises 3015 4th Street, NE, Square 3648, Lot 915.

MEMBER HART: Can we have the parties to the table, please? Thank you. We can start whenever you're

1 ready, but I would like for you to just provide your name and  
2 address, so welcome.

3 MR. UTZ: Sure. Thank you. Let's go ahead and  
4 start down with Father Eric, please?

5 FR. ANDREWS: Father Eric Andrews, President of  
6 the Paulist Fathers, Missionary Society of St. Paul the  
7 Apostle, 415 West 59th Street, New York, New York.

8 MR. VANPELT: Good morning. Dan VanPelt with  
9 Gorove Slade Associates, 1140 Connecticut Avenue, N.W.,  
10 Washington, D.C.

11 MR. UTZ: I'm Jeff Utz with Goulston & Storrs, the  
12 land use counsel, at 1999 K Street, N.W., in D.C.

13 MR. HORN: Hi. Steve Horn with Elm Street  
14 Development, 1355 Beverly Road, Suite 240, McLean, Virginia  
15 22101.

16 MR. RALSTON: Warren Ralston, S.C. Ralston  
17 Architects, 3684 Centerview Drive, Chantilly, Virginia.

18 MR. ANDERSON: And John Anderson, 502 Regent  
19 Place, Washington, D.C. 20017, representative of the St.  
20 Paul's College Neighbors For A Thoughtful Development Party.

21 MEMBER HART: Welcome everybody. And so, Mr. Utz,  
22 we had a fairly lengthy discussion the last time that you all  
23 were here and currently, what we are doing is there were some  
24 questions that we had at the end of that regarding a variety  
25 of things. But you all have submitted some documents. Mr.

1 Anderson, you have submitted some documents as well which I  
2 appreciate. And right now we can kind of talk about those --

3 MR. UTZ: Sure.

4 MEMBER HART: -- in a little bit more detail, and  
5 then we'll go from there.

6 MR. UTZ: Great.

7 MEMBER HART: So you need like 15 minutes?

8 MR. UTZ: Yes. So I think -- would you want us  
9 to just kind of go through some of the elements that we  
10 submitted specifically and then return to the rebuttal and  
11 the close --

12 MEMBER HART: Yes.

13 MR. UTZ: -- later? Okay.

14 MEMBER HART: Yes.

15 MR. UTZ: You know, I don't think we need a great  
16 deal of time to go through the items that we submitted. We  
17 could kind of run through them. We have them listed on a  
18 slide to talk about generally, and I believe this is -- this  
19 references Exhibit 170 in the record. But the -- I'm happy  
20 to run through the seven bullets now and kind of talk  
21 generally to each on in a narrative fashion. If you have 170  
22 available, we do have it on this drive with us today as well.  
23 At the hearing last month --

24 MEMBER HART: Having it up here is fine.

25 MR. UTZ: Okay.

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1 MEMBER HART: Thanks.

2 MR. UTZ: At the hearing on 24th of April, you  
3 asked us for seven things and they're listed here. There's  
4 a map showing the property ownership and how every -- the  
5 various parcels relate to each other. So that was submitted  
6 into the record.

7 (Off microphone comments.)

8 MR. UTZ: So while we're pulling that up, we also  
9 submitted a description of the new Paulist building and the  
10 proposed use, which is kind of a paragraph that we had been  
11 referencing throughout the hearing. What you see on the  
12 screen now is the first time, this map of ownership, the  
13 current configuration as it exists today. The "gray" is the  
14 subject parcel that we're talking about now where the town --  
15 60 townhomes and the new Paulist building will go. The  
16 "yellow" is the school building, the St. Paul's historic  
17 building, and then the "pink" is the Chancellor's Row  
18 community that was subject to the PUD 07-27. And then to the  
19 north is to the left of the screen, that's the bishop's  
20 property, and then to the south is the surrounding Brentwood  
21 neighborhood.

22 What you see up on the screen right now is the  
23 proposed configuration. So the boundary lines do not change.  
24 IT's just the programming of the "gray" portion changes. So  
25 this actually shows the relationship of the proposed

1 townhomes and the new Paulist building to the boundary lines  
2 and the access out to 4th Street.

3           What we also did as part of this, since much of  
4 the discussion centered around the access to the schools,  
5 even though the schools aren't part of this application, we  
6 wanted to sketch out exactly how the access is affected by  
7 the project. So there are several pages that do that. The  
8 third page of that Exhibit A to Exhibit 170 in the record is  
9 the current state of affairs. This is how pedestrians get  
10 to the school, kids walking to school or parents walking  
11 their kids to school.

12           What you see as the fourth page of that Exhibit  
13 is the new access plan, so you can see that there's quite a  
14 bit -- it's quite a bit improved. There are several new  
15 pathway options from current state of affairs to the proposed  
16 state of affairs. And this relates to something that we'll  
17 talk about later; there's a public access easement that is  
18 submitted into the record, both for pedestrians and  
19 vehicular. The agreement you see here corresponds to  
20 portions of the pedestrian easement areas that are in the  
21 record as another exhibit that I'll discuss.

22           This also shows on the fifth page of that exhibit  
23 where the site is in relation to the wider context, in  
24 particular, the Brookland Metro Station not that far away so  
25 they have a variety of pathways to get there. So again, the

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1 theme of the application is the school is not part of the  
2 application but it is actually improving the accessibility  
3 to the school, and it's a benefit as a result. It will  
4 actually end up taking pressure off of the Chancellor's Row  
5 community for accessibility.

6 We already talked about the description of the new  
7 Paulist building and the proposed use. That is further in  
8 the text of the pages of this document. This exhibit, also  
9 submitted, cites sections with trees. There was much  
10 discussion about the effect of the construction on adjacent  
11 trees, and the Board wanted to know exactly how the trees  
12 would relate to the homes. So we did some extra work and  
13 included those sections in the filing.

14 And there's also the final landscape plan is  
15 included here. That has been amended further due to  
16 some OP comments requesting further detailing of benches,  
17 trash receptacles, lights, and things of that nature. So  
18 that was actually changed from the first few pages of this  
19 exhibit that's in the record to include those items, and  
20 that's in front of you today as a paper copy. So that is --  
21 the May 9th date corresponds to the item that was submitted  
22 as Exhibit -- portion of Exhibit B for Exhibit 170; the  
23 current should show a date of May 23rd and replace the pages  
24 here to address OP's comment.

25 You also asked for the tree designation,

1 preservation, and removal information that results from the  
2 project, so we submitted some detailed figures -- facts and  
3 figures for that. That's Exhibit D for 170 -- Exhibit 170  
4 in the record. This is a lot to have up on the screen at  
5 once but it shows this quite bit of tree preservation both  
6 under the prior tree preservation law and the current tree  
7 preservation law. The upshot is that there are 76 trees  
8 onsite and under the current law, 19 special trees and 7  
9 heritage trees are preserved; under the old special trees --  
10 there were not heritage trees at the time -- are preserved.  
11 The site is actually vested under the old code. And then at  
12 the bottom of the slide, you can see there's been quite a bit  
13 of focus on replacement of trees at a 3 to 1 ratio, so that  
14 results in 117 new trees being added to the site in addition  
15 to the trees retained further up in the slide.

16           You also asked for a plan to show the distribution  
17 of IZ units, which was submitted into the record and this,  
18 similar to the landscape plan, has been updated based on OP  
19 comments. So the exhibit to -- sorry, the -- the exhibit to  
20 address the first element of the question is one of the later  
21 pages in Exhibit C. And we actually submitted -- it's page  
22 C08A, and we submitted updated sheet indicating the new  
23 distribution of units today, so that's before you right now  
24 as well. And essentially, what we did is take one of the IZ  
25 units from where it's shown now in the stick 23 through 28

1 and moved it over to the 16-foot units that front on the  
2 viewshed.

3           You also asked for more information on the  
4 easement and the easement itself, so that was submitted as  
5 Exhibit C to Exhibit 170 in the record. The text of the  
6 document reflects and is based on some of the recent  
7 easements that were submitted for Case 16-17, the Josephites  
8 case not far from this site. And then it expands upon that  
9 to include all the various elements of the easements that we  
10 discussed. So the important portions of this that make the  
11 best representations of it are the exhibits, Exhibit A to  
12 Exhibit C to Exhibit 170 as shown. This is the first page  
13 of it showing here.

14           This is the public space easement that we spent  
15 a fair amount of time -- or I'm sorry -- the public access  
16 easement that we spent a fair amount of time discussing.  
17 Obviously, the street would be subject to a vehicular  
18 easement for access, public access, and the smaller elements  
19 are the sidewalks. They are primarily six feet, although in  
20 some cases where they wander through the woods might be a bit  
21 smaller than that to provide public pedestrian access. And  
22 those were -- those correspond to those three green strands  
23 that we saw on the second visual that we looked at just now  
24 to get to the school.

25           The second aspect of the easement document is the

1 open space easement. Everything shown in "green" is that  
2 open space so as you can see, it's quite substantial.  
3 Basically, everything that is not a yard or some kind of  
4 smaller area that probably wouldn't be very efficient to  
5 include in this sort of easement is included in this open  
6 space easement. So it's quite a bit of space. And most  
7 importantly, it's quite a bit of usable space. You have the  
8 what we're calling the Sylvan Woods, which is the very  
9 highly-concentrated area of trees that fronts on 4th Street  
10 will be -- it'll have -- it'll be highly programmed with the  
11 recreational elements that are identified on the final  
12 landscape plan, but it'll also be open in perpetuity. Then  
13 also the viewshed and then the area south of the Paulist  
14 building is open in perpetuity as well.

15 We spent a lot of time talking about the springing  
16 easement at the last hearing. Exhibit C shows the updated  
17 design of this. Previously, we were talking about it  
18 potentially being located in the area where this little  
19 pointer is on the screen. But after some discussions with  
20 the team and figuring out feasibility and just gauging some  
21 of the interest of the neighbors and discussions with DDOT,  
22 we decided that the area shown in kind of some sort of  
23 "purple" hue, would be the more appropriate springing  
24 easement. This connects Regent Place and Chancellor's Row  
25 to what is already the public access easement that we

1 identified on Exhibit A. The trigger mechanism would be that  
2 Chancellor's Row would dedicate the portions of Regent Place  
3 adjacent to the areas shown in "pink" in order for this to  
4 become a public access easement. So due to the sensitivities  
5 that Chancellor's Row has on this, they would control the  
6 mechanism to make it public.

7 And I think that corresponds -- I know it corresponds  
8 to some language that was in the HOA letter, where  
9 essentially they said if this is to exist, they're not  
10 thrilled with this concept, but if it's to exist, this  
11 mechanism is what they would want to see. So the way that  
12 the language is in their letter reflects the mechanism in the  
13 paragraph that talks to the springing easement and the form  
14 easement.

15 And that's a kind of quick -- maybe too quick --  
16 overview of the submission. I don't want to belabor it, but  
17 I'm happy to talk about it more if you have questions about  
18 that.

19 MEMBER HART: No. I do -- it wasn't too quick.  
20 I do appreciate you kind of stepping through that. It's very  
21 helpful for us to kind of see that. Ms. Board Member White?

22 MEMBER WHITE: Unless you want to go first, but --

23 MEMBER HART: No, go ahead.

24 MEMBER WHITE: -- ladies first. Anyway, can you  
25 go back to the slide regarding the inclusionary zoning,

1 because I'm not convinced that you've incorporated some of  
2 the concerns that the Office of Planning raised with respect  
3 to a revised plan showing units that are evenly distributed  
4 throughout the site including a mix of 16- and 20-foot units  
5 more representative of the overall development.

6           So this is a development where you're constructing  
7 60 townhouse community and a new building for the Missionary  
8 Society of St. Paul. So for this particular development,  
9 there is the opinion that you would have to comply with the  
10 inclusionary zoning rule. So I'm still seeing everyone kind  
11 of -- it looks like they're kind of -- the affordable units  
12 are kind of together and kind of away from the -- you know,  
13 some of the, I guess, maybe the market rate units. So I just  
14 wondered if you could address that, because it doesn't really  
15 seem like a mix to me but --

16           MR. UTZ: Sure.

17           MEMBER WHITE: -- if you could clarify that, that  
18 would be helpful.

19           MR. UTZ: Sure, happy to. What is showing on the  
20 screen is the updated IZ plan. This updates the exhibit to  
21 Exhibit 170 we were just discussing, and this was just passed  
22 out today. It does move one of the units from the northeast  
23 corner over to the viewshed, and this is what we were talking  
24 about, I was mentioning in my overview of the post hearing  
25 submission.

1           There are kind of two aspects, actually three  
2 aspects to that question. The first one is that regarding  
3 the 16- and 20-foot units, it actually is in compliance with  
4 the IZ regulations to locate IZ units in 16-foot types when  
5 there are other larger types. In this case in particular,  
6 the square footages are similar. They're almost the same and  
7 in some cases, some of the 16s could be even bigger with the  
8 models that are here. But we will say that every place,  
9 every stick or kind of bunch, block as it's known, of the 16-  
10 foot-type has at least one IZ unit in it, so they are  
11 distributed throughout the product type and in compliance  
12 with IZ based on what a dwelling unit would constitute.

13           As far as the distribution goes on the site, the  
14 kind of second prong of the concept, they are distributed  
15 evenly over locations of the site. Based on the way that IZ  
16 is interpreted, meaning they don't need to be absolutely  
17 everywhere, kind of even -- perfectly evenly distributed  
18 based on the IZ implementation regs and the zoning  
19 requirements for IZ. Some portions of the site can be kind  
20 of reserved; for example, if you have a multi-family  
21 building, the top two levels would not require IZ units.  
22 Similar to -- similar case is this: units fronting on  
23 particular courtyards or kind of viewsheds are not required.  
24 Again, just referencing Case 16-17. That's a good example  
25 for this. They maintain some kind of non-IZ strings of the

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1 townhomes for that.

2 MEMBER WHITE: Why wouldn't you want to spread  
3 them out more? Is there a reason other than --

4 MR. UTZ: Well, so everywhere else is -- every  
5 string or stick where they're not included is a 20-foot unit  
6 stick. They're distributed throughout where the 16-foot  
7 units are. And then the other aspect of this is the project  
8 definitely isn't requesting relief to IZ, and we know that  
9 we would need to comply. We wouldn't expect to need to  
10 request relief. So if during permitting there are comments  
11 that are raised about this and the compliance of the concept,  
12 then we would certainly make sure that those are ironed out  
13 and the compliance is part of the project.

14 MEMBER WHITE: Thank you.

15 MEMBER HART: Question?

16 CHAIRPERSON HILL: I'll just quickly -- I'll just  
17 piggyback on your comment. I mean talking to -- I mean I  
18 wasn't here again, but I watched the whole thing and read the  
19 whole record, and so, you know, I do appreciate that the  
20 applicant is providing more -- I think it's more units than  
21 you would have been providing.

22 MR. UTZ: Yes.

23 CHAIRPERSON HILL: But I still think it's kind of  
24 interesting that, you know, you -- the way that you kind of  
25 have grouped them, and I'll be interested in talking to --



1 or hearing more from the Office of Planning. And I do  
2 appreciate that you've changed the locations from the last  
3 time, and, you know, I think we're going to have a lot of  
4 different questions as we kind of go through this. But I  
5 just wanted to kind of piggyback my thoughts with yours, Ms.  
6 White.

7 MEMBER WHITE: Thank you, Mr. Chair.

8 MEMBER HART: Commissioner Miller, do you have any  
9 comments?

10 ZC VICE CHAIR MILLER: Yes. Thank you, Mr. Vice  
11 Chair. Thank you for all the information you provided in  
12 response to the last hearing, and we'll get to those other  
13 points later. But on the IZ, I would concur that they're  
14 still overly concentrated, so I think there needs to be a  
15 change there. And you may not have to do as many units if  
16 you have to do another 20-foot -- I mean it's a square  
17 footage requirement, so if it's a bigger unit, I don't know  
18 what the calculations are but anyway, I think they're still  
19 overly concentrated. But I appreciate the movement toward  
20 evenly distributing.

21 MEMBER HART: Yes. I understand the comments that  
22 my fellow Board Members have regarding the IZ unit kind of  
23 distribution. I, too, had some questions that they've asked,  
24 so I won't belabor that anymore.

25 I will talk about the easement information. I do

1 appreciate that information to understand that a little  
2 further. It seems like there were a lot of pieces that were  
3 kind of being talked about with regard to the roads and  
4 sidewalks. And so what I'm also understanding you saying is  
5 that the open space easement means that that area -- those  
6 areas will not be developed because they are part of an  
7 easement that is now open space. One of the things that you  
8 had heard from Mr. Anderson and from others is that they  
9 thought that the 16-unit area was a open space area that  
10 would be developed. So it's interesting that we now have an  
11 open space delineation that will keep that from being  
12 developed in the future. So I do appreciate all that.

13           The springing easement, from what I understand,  
14 is if the -- if at some point in the future, the Chancellor's  
15 Row development decides that they want to have -- make their  
16 roads public, then that would then translate into that  
17 trigger, which would then allow that access to be connected  
18 -- that access to be made, so you wouldn't have to have a  
19 gate there? Is that how I'm understanding that?

20           MR. UTZ: Yes. That would essentially be up to  
21 Chancellor's Row to document that and remove the gate. The  
22 gate really largely exists at their request and --

23           MEMBER HART: Yes.

24           MR. UTZ: -- we are agreeing to the condition in  
25 the HOA's letters, actually both of them, it's contained in

1 there about putting a metal gate at that location and  
2 designing in a certain way.

3 MEMBER HART: And the gate itself would be at the  
4 east or west of that trigger area?

5 MR. UTZ: It would be at the east.

6 MEMBER HART: Okay. I thought it would but -- I  
7 thought it was, but I just was trying to kind of understand  
8 that.

9 Okay. I also appreciate the information regarding  
10 the tree designation. In some of the -- the tree  
11 designation, tree removal, that's helpful to see that you're  
12 supplying all of that -- supplying all of those -- that you  
13 are including all of those trees in the plan. Regarding the  
14 section that you've created, I think that those are very  
15 helpful because they help me understand the massing for the  
16 existing development and the proposed development for both  
17 the schools and the Chancellor's Row development and what you  
18 all are proposing, to understand how those things kind of fit  
19 in massing wise and how they fit on the slope that's actually  
20 there.

21 And it seems as though the distance between the  
22 northeast most stick or block between that and the block  
23 where Mr. Anderson is, that stays -- it's always -- it has  
24 been 50 feet at the last meeting, and it's that same distance  
25 now.

1 MR. UTZ: Right.

2 MEMBER HART: And it seems as though that's a  
3 similar distance than the existing Chancellor's Row as well,  
4 not -- just -- I mean just throughout their own development.

5 MR. UTZ: Right. It's actually --

6 MEMBER HART: Maybe a little more.

7 MR. UTZ: It's more. Certainly, the alleyway --  
8 as you can see on what's up on the screen right now, there's  
9 a private alley identified in the top left of this image.  
10 That is much narrower. I would think it's more in the range  
11 of 20-something.

12 MEMBER HART: Yes. But those are the backs of the  
13 houses.

14 MR. UTZ: Those are the backs --

15 MEMBER HART: This --

16 MR. UTZ: -- and then when you go to the --

17 MEMBER HART: The next over.

18 MR. UTZ: -- east of the C --

19 MEMBER HART: Yes -- yes.

20 MR. UTZ: -- where it's "green," I believe that's  
21 36 feet so that's -- and that's one of the most ample  
22 distances between those homes on that site. So 50 feet is  
23 very significant in comparison to the site configuration of  
24 Chancellor's Row. And 50 feet was actually the result of  
25 discussions with the adjacent residents where it was brought

1 back at least once and maybe more than that from less  
2 distance, 40 feet for certain and maybe even less than that.

3 MEMBER HART: Okay. Are there any other questions  
4 for the Board Members?

5 CHAIRPERSON HILL: Yes.

6 MEMBER HART: Sure.

7 CHAIRPERSON HILL: Well, as we kind of just go  
8 through some of this -- but Mr. Utz, just -- I just want to  
9 be clear on this particular slide. I see the 50 feet. The  
10 next stick over, it looks like there's more distance between  
11 that one. Isn't that -- yes, the one to the south, the stick  
12 --

13 MR. UTZ: We're checking on that. Right, the --  
14 it's homes 23 through 28. I believe that's the case. I  
15 remember looking at it myself.

16 CHAIRPERSON HILL: But the one there was some  
17 testimony taken from some residents before that were how  
18 close the proximity was to their development, and that  
19 testimony was coming from people that were in the stick that  
20 has the 50 feet now in between -- correct?

21 MR. UTZ: Correct.

22 CHAIRPERSON HILL: Okay. Well, maybe there was  
23 other people giving testimony even on that other stick, but  
24 I just wanted to clarify. Okay.

25 MR. UTZ: Correct. And then at the south, it's

1 75 feet which was also, based on discussions with those  
2 neighbors, which obviously is wider, and that's more akin to  
3 the width that you would expect in even a public street.

4 CHAIRPERSON HILL: Okay.

5 MEMBER HART: Okay. And I know, Mr. Anderson, I  
6 just wanted to give you a chance because this was kind of  
7 some newer testimony, if you had any questions that you had  
8 or cross that you had.

9 MR. ANDERSON: I share similar concerns on the IZ  
10 unit clustering. It seems a little unfair to have all those  
11 immediately adjacent to the existing homes that are going to  
12 be burdened by the development. A little surprised the  
13 development team isn't aware explicitly on what their  
14 setbacks are, the stone home distance that you requested to  
15 the south is 60 feet. It's identified on plans in multiple  
16 locations. And with respect to the distance in the existing  
17 courtyards, while several of them are 36, there are others  
18 that are larger within Chancellor's Row, the intersection  
19 with, I believe it's Regent and Chancellor's Way is over 60  
20 feet.

21 MEMBER HART: Do you have a particular question  
22 that you are asking?

23 MR. ANDERSON: No -- no --

24 MEMBER HART: Okay.

25 MR. ANDERSON: -- just curious why we're not

1 explicit in our statements. And then --

2 MEMBER HART: And I'll give you a chance to be  
3 able to give --

4 MR. ANDERSON: Sure.

5 MEMBER HART: -- an argument or a closing about  
6 all of this.

7 MR. ANDERSON: Okay.

8 MEMBER HART: I just wanted to see if you had any  
9 particular questions with this information since this was  
10 somewhat new information.

11 MR. ANDERSON: No. Okay, sorry.

12 MEMBER HART: No, that's okay. You don't have to  
13 -- it's fine. I just wanted to give you an opportunity to  
14 be able to do that.

15 I would like to hear from the Office of Planning,  
16 since we did get some other information, just to see where  
17 they are on all of this. Good morning.

18 MS. VITALE: Good morning, Mr. Chair, Members of  
19 the Board. Elisa Vitale with the Office of Planning. We  
20 appreciate the applicant responding to the items that we  
21 identified in our supplemental report as needing additional  
22 information. We actually do agree with some of the Board  
23 Members' comments today that while we appreciate the movement  
24 that was made with respect to the location of the IZ units,  
25 I think a bit more could be done to ensure that there isn't

1 a clustering of those units. We do appreciate the  
2 applicant's commitment that they would not be requesting  
3 relief from the IZ provision, so obviously this would be  
4 reviewed at the time they're applying for building permits,  
5 and they would work with DCRA and DHCD to ultimately  
6 determine conformance with IZ. So I don't know that that's  
7 something we need to solve for today, but I do think there  
8 may need to be some additional movement there.

9 And the updated landscape plan, that does show the  
10 additional items that we requested so we can now see  
11 locations for items such as trash cans, bike racks, benches,  
12 items that are proposed for onsite as well as in public  
13 space. So that addressed our outstanding issue.

14 I am happy to answer questions though if the Board  
15 has any at this time. Thank you.

16 MEMBER HART: I do, Ms. Vitale, regarding the IZ  
17 units themselves. How do you -- you're saying that at some  
18 point through the DCRA process, you'll get to a this is where  
19 we think the distribution is? What is a -- I don't know what  
20 the term is -- not fair distribution but what is an  
21 acceptable distribution? Are you thinking that one or two  
22 of the units may move or it's just --

23 MS. VITALE: I can't --

24 MEMBER HART: -- that's a discussion?

25 MS. VITALE: -- it's a discussion and I can't



1 speak to that. That's not something that -- that's not a  
2 determination that the development review staff is involved  
3 in. We saw the IZ original plan. I had a chance to speak  
4 with someone in our office that works on that as well as  
5 someone in DCRA who said, yeah, that looks too clustered.  
6 The applicant submitted the revised plan last evening. I  
7 obviously didn't have a chance to get additional feedback on  
8 that, but I did have a discussion with the applicant  
9 yesterday and they said, "We're not going to request relief,"  
10 so I'm comfortable in knowing that that discussion will  
11 continue and if they're complying with the IZ requirements,  
12 those units will be located in an appropriate manner.

13 MEMBER HART: Okay. Any other questions for the  
14 Office of Planning? Any question for the Office of Planning?

15 MR. UTZ: Not from us.

16 CHAIRPERSON HILL: Okay. Mr. Anderson?

17 (No audible response.)

18 MEMBER HART: Okay. Sure.

19 CHAIRPERSON HILL: Now going back over here to the  
20 applicant. So Mr. Utz -- and --

21 MEMBER HART: I wanted to go to --

22 CHAIRPERSON HILL: Oh, sure, yes.

23 MEMBER HART: -- to DDOT before we get to.

24 CHAIRPERSON HILL: That's okay.

25 MEMBER HART: I'm not trying to tell you what to

1 do, Mr. Chairman. I'm just telling you what to do.

2 (Laughter.)

3 MEMBER HART: If we could just get a brief  
4 discussion about the DDOT issues that you all raised or just  
5 how they've responded to the -- since our last public  
6 hearing?

7 MR. REED: Sure. Patrick Reed with DDOT for the  
8 record. DDOT is maintaining its support of the application  
9 on the condition that the applicant meet the intent of the  
10 recommendations listed in DDOT's first report to the record.  
11 To that end, regarding the evolution of the springing  
12 easement concept, we coordinated with the applicant and  
13 recognize and appreciate the applicant's work to locate the  
14 easement in a way that -- the springing easement in a  
15 location that addressed the community's concerns about  
16 maintaining open space and trees. We think it's an important  
17 connection. While it doesn't provide any kind of present  
18 term benefit, it maintains the potential for this connection  
19 to be made in the future in the event Chancellor's Row  
20 decides that they would like to provide public access to  
21 their site.

22 MEMBER HART: And do you see the springing  
23 easement as something that's normally done, or do you see  
24 this as being unique or rare?

25 MR. REED: Yes. Generally, I would say it's not

1 something that I've seen before. It is unique. However, I  
2 think it is a good concept in terms of being able to maintain  
3 some kind of long term potential for connection rather than  
4 just negate that totally.

5 MEMBER HART: And the pedestrian plan, you are --  
6 you all are supportive of?

7 MR. REED: That's correct. We're supportive of  
8 the pedestrian easement shown in the applicant's post hearing  
9 submissions, as well as the vehicular easement shown.

10 MEMBER HART: Any other questions for Mr. Reed?

11 (No response.)

12 MEMBER HART: Okay. Mr. Chairman, you had some  
13 questions for the applicant?

14 CHAIRPERSON HILL: So Mr. Utz, just the one thing.  
15 So Mr. Anderson was mentioning and I saw some drawings get  
16 put forward again -- so like the distances that -- Mr.  
17 Anderson is saying that the distances don't reflect  
18 accurately what you were saying here?

19 MR. UTZ: No. I think he was expressing surprise  
20 that we didn't know the dimension of that particular --

21 CHAIRPERSON HILL: Oh, that one, that other stick.

22 MR. UTZ: -- element. Yes.

23 CHAIRPERSON HILL: Right, okay.

24 MR. UTZ: And the reason is because, you know,  
25 we've been focusing on the 50 feet is that's the most

1    constraining, or that's the closest.    The other one is 64  
2    feet between Lots 23 through 30 -- I'm sorry, 28 and the most  
3    --

4                   CHAIRPERSON HILL:    Okay.    That's okay.    There's  
5    a lot of information.    Like I --

6                   MR. UTZ:    Yes.

7                   CHAIRPERSON HILL:    -- I understand.    So -- okay,  
8    right.    That's all.

9                   MEMBER HART:    Sure.

10                  MEMBER JOHN:   Mr. Vice Chair, I had a question for  
11   Mr. Utz.   So there is a comment from one of the parties about  
12   parking, and a suggestion that the applicant could remove  
13   eight houses to provide parking.   Did you have a response to  
14   that?

15                  MR. UTZ:    Sure.    I believe that was the HOA's  
16   second letter in the record, and we were a little surprised  
17   to see that frankly.   We got their first letter and agreed  
18   to the conditions that they put forth in that letter which,  
19   you know, related to ensuring that the use of the Paulist  
20   building remains as stated, and that was assented to; the  
21   gate that we were just discussing on the kind of northeast  
22   tip of the springing easement is designed in a certain way  
23   and that it will be a metal gate, and that was agreed to.  
24   But that was a surprise to see, no doubt, in the record.

25                  There are a variety of reasons why that would not

1 work. First of all, the removal of eight townhomes from a  
2 60-unit proposal would be financially ruinous to the project.  
3 Also, the location of a parking lot there, I'm a little  
4 confused as to why they were suggesting it because they were  
5 also mentioning that it could be an easement area, this kind  
6 of new parking area. I don't believe that that would be  
7 something that HPO and HPRV would support. In fact, when we  
8 had similar conversations, they were not excited about  
9 locating parking spaces within the viewshed. And also, I  
10 don't know if DDOT would support additional parking being  
11 located on the site, particularly open pavement located on  
12 a site like this.

13           The parking for the school is being provided in  
14 a way that complies with zoning, first of all, and then  
15 secondarily, replaces the parking that is there. So there  
16 is not a kind of constriction of the concept, but it would  
17 not be an item, it would not be an amendment to the site plan  
18 but would be realistic for this team.

19           MEMBER HART: Mr. Utz -- and I was looking through  
20 the record earlier, and I noted that there is actually two  
21 letters or exhibits from the United States Conference of  
22 Catholic Bishops, the Office of General Counsel. They've --  
23 they're submitting comments in opposition to this case, but  
24 I was just trying to figure out who they are if -- Father  
25 Eric Anderson if you could --

1 (Off-microphone comment.)

2 MEMBER HART: Okay, we have somebody that just  
3 came --

4 FR. ANDREWS: There is a representative from the  
5 Bishops Conference if you'd like to speak with -- have him  
6 testify, that's possible, or I can explain. The United  
7 States Conference of Catholic Bishops is the administrative  
8 offices of the Bishops -- U.S. Catholic Bishops of the United  
9 States. They have -- it's an office building that's been  
10 there since the mid-80's, and it does all the administrative  
11 work for the -- work of the Catholic bishops in the United  
12 States. So they've --

13 MEMBER HART: And so they oversee this order?  
14 What's the connection to --

15 FR. ANDREWS: Well, ecclesiastic -- yes, that's  
16 interesting. The Catholic Church is made up of a lot of  
17 separate entities all under the umbrella. We are separate  
18 landowners. They do not have jurisdiction over us in this  
19 respect. As an Ordinary of a religious order, I have  
20 jurisdiction over our property, and I report directly to the  
21 Pope, if you will. They, as bishops, are owners as well.  
22 We report to them and the places we serve around the country,  
23 but not to them directly or them to us. So we're kind of  
24 separate but together, if that makes any sense.

25 MEMBER HART: You're under one -- you're under the

1 umbrella of the Catholic -- as Catholics --

2 FR. ANDREWS: We're all Catholics but we all have  
3 different missions and charges and sometimes -- and we work  
4 side-by-side on certain things but when it comes to property  
5 and things like that, that would be separately -- separate  
6 civil incorporations -- we look at it that way, too.

7 MEMBER HART: Okay. And did you see the letters  
8 that they submitted?

9 FR. ANDREWS: Yes. We've been in conversation for  
10 a long time and then -- and they didn't get very specific of  
11 what exactly was going to be the development. I think that  
12 was the genesis of the letter in terms of good neighbors,  
13 good fences sort of thing, if you will. We have been  
14 endeavoring to work with them, work with our neighbors. We  
15 have in the last -- even with the Chancellor's Row case, we  
16 worked extensively with the Bishops Conference to ensure that  
17 we worked together on those two -- in that development and  
18 this one, probably not as early on in the process as we ought  
19 to have, which I think is reflected in their letter.

20 MEMBER HART: And the area that they say that they  
21 have an easement on is -- do you know -- like do you have  
22 that in --

23 FR. ANDREWS: Yes. I think Jeff has that  
24 somewhere.

25 MR. UTZ: Sure. So we're pulling up -- this is

1 Exhibit 170 in the record and we're going into Exhibit B of  
2 that exhibit. This is the civil -- portions of the civil set  
3 that were submitted in the record and where the hand is  
4 tracing this kind of triangular wedge is the area where there  
5 is this slope easement. Then there's also a fence easement  
6 located along a similar line. So in order to address -- you  
7 know, the hope was that we could amend that slope easement  
8 to provide the same benefits to the Bishops but yet be  
9 available to build a unit within that space. That does not  
10 appear that that is going to be possible so the units were  
11 pulled away from that and it is now the same as it ever was.  
12 The proposal was in compliance with the slope easement that  
13 is already recorded.

14 MEMBER HART: And so -- I mean we got a letter  
15 today.

16 MR. UTZ: Yes.

17 MEMBER HART: So this was changed when?

18 MR. UTZ: This was changed after their first  
19 letter and before today so in their letter --

20 MEMBER HART: Okay.

21 MR. UTZ: -- this was changed in our post hearing  
22 submission that was submitted on the 9th and we -- as Father  
23 Eric said, we have been in a fair amount of communication  
24 with them as a team. And of the four initial issues that  
25 they had with the project, three of those issues have been



1 resolved, so that's -- today's letter signifies this and  
2 talks about each one of these elements. This is, I think,  
3 the most important element to them and they say that the  
4 revisions to the site plan satisfy, I believe -- I don't want  
5 to speak for them -- but my interpretation of the letter is  
6 that they amended site plan satisfies their concerns about  
7 the easement.

8 I can talk to the other aspects of their letter  
9 as well if you want to resolve those items.

10 MEMBER HART: Yes. I just was -- you know, as we  
11 get stuff, it's kind of listening to you and trying to get  
12 into some -- take in some of this information gets a little  
13 bit, you know, but I appreciate that. Do the other Board  
14 Members have any questions for the applicant on this matter  
15 or any other matters?

16 CHAIRPERSON HILL: I had a question for DDOT  
17 again. We don't get to see DDOT that open -- that often.  
18 So there was something in the testimony about like -- so  
19 Chancellor's Row not getting parking permits or is that  
20 right?

21 MR. REED: That's correct, because it's a private  
22 right-of-way, they manage their own on-street parking.

23 CHAIRPERSON HILL: Okay.

24 MR. REED: DDOT doesn't have any jurisdiction over  
25 their parking and as I understand it, we are not able to give

1    them permits because they have a private road network.

2                   CHAIRPERSON HILL:    Okay.    So they can't get  
3    permits in a different zone is what I'm -- you know, outside  
4    of that Chancellor's Row area?

5                   MR. REED:    That's correct.

6                   CHAIRPERSON HILL:    And that's just the way that  
7    is?

8                   MR. REED:    Yes.

9                   CHAIRPERSON HILL:    Mr. Utz, the tree plan that you  
10   guys came up with, like did that get submitted to the --  
11   there was like a tree group that came and testified?

12                  MR. UTZ:    Casey Trees, yes.

13                  CHAIRPERSON HILL:    Okay.

14                  MR.    UTZ:       That    was    worked    out    in    close  
15   coordination with Casey Trees.

16                  CHAIRPERSON HILL:    Okay.

17                  MR.    UTZ:    Yes.

18                  CHAIRPERSON HILL:    Okay.

19                  MEMBER HART:    Mr. Miller?

20                  ZC VICE CHAIR MILLER:   Thank you, Mr. Vice Chair.  
21   Just a couple questions.   Just to clarify or reiterate the  
22   condition that you're agreeing to now and that Office of  
23   Planning supports and the Chancellor's Row community  
24   requested, you are agreeing to a condition that limits the  
25   current existing Paulist building to clerical residency of

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1 no more than 15 residents.

2 MR. UTZ: Correct.

3 ZC VICE CHAIR MILLER: Okay. And the Office of  
4 Planning supports that, correct?

5 MS. VITALE: That is correct.

6 ZC VICE CHAIR MILLER: I just want to have that  
7 on the verbal record. I just -- and it's the use that we're  
8 limiting, not the user. I wanted to -- we're not going to  
9 say it has to be St. Paul's if this goes under the way we do  
10 conditions, it's the use, not the user. But I think that's  
11 an important condition because of the intensity of use that's  
12 happened on this property and that will be happening on this  
13 property and the expectations that are there for -- that were  
14 there that may have been misunderstood previously and that  
15 will be going forward that everyone knows that you would have  
16 to come back for a -- to this Board for special exception if  
17 you were wanting to do a charter school and on that use --

18 MR. UTZ: Right.

19 ZC VICE CHAIR MILLER: -- or some other -- even  
20 a matter of right use, currently matter of right use?

21 MR. UTZ: Right.

22 ZC VICE CHAIR MILLER: Okay.

23 MR. UTZ: It is the expectation should it get  
24 approved that that would be a condition --

25 ZC VICE CHAIR MILLER: Okay.

1 MR. UTZ: -- of the order, and some language that  
2 I would imagine to act as a basis for that condition is  
3 submitted as the last substantive paragraph of the cover-  
4 letter to Exhibit 170 --

5 ZC VICE CHAIR MILLER: Right.

6 MR. UTZ: -- to lock in exactly what you're  
7 saying.

8 ZC VICE CHAIR MILLER: Right. And we'll expect  
9 you to be working with the -- our -- with the OAG on that  
10 language to make sure it's appropriate.

11 I already said what I said previously about  
12 thinking that it's still overly concentrated IZ. Although  
13 appreciating the move into one of the units, I think probably  
14 one more, at least one more needs to be but -- so I'd hope  
15 to see some more -- further movement in that direction.

16 But while we're on IZ, I want to reiterate  
17 something. I think I said it either the -- I think I said  
18 at the last hearing is that we appreciate -- I appreciate --  
19 I think I can speak for my other colleagues -- we appreciate  
20 that you're doing more, a greater amount of inclusionary  
21 zoning and a deeper affordability level than what is the  
22 minimum that's required under the zoning regulations. So we  
23 wanted to do more as a Zoning Commission on the zoning  
24 regulations but we went as far as we thought we could go  
25 currently, but are doing more. You've got 9 of the 60 units

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1 -- of the 60 townhomes, three at 50 percent MFI, median  
2 family income, three at 60 percent MFI, and three at 80. So  
3 I think that comes up to roughly 15 percent or 13 percent or  
4 14, what is it? It comes up to higher than 8 to 10 --

5 MR. UTZ: Right.

6 ZC VICE CHAIR MILLER: -- that's required under  
7 the -- the minimum that's required under the zoning  
8 regulation.

9 MR. UTZ: Right.

10 ZC VICE CHAIR MILLER: So the other thing that I  
11 and others focused on last time were these public access  
12 easements that DDOT is requiring as conditions of their  
13 recommendation or recommending as part of the conditions of  
14 their recommendation. And we wanted to see a diagram that  
15 more clearly showed where these vehicular and pedestrian  
16 easements are and where they are delineated. That's it?

17 MR. UTZ: So this is the --

18 ZC VICE CHAIR MILLER: Does it delineate the  
19 difference between pedestrian and vehicular?

20 MR. UTZ: It does in the text of the document.  
21 It basically says the sidewalk areas shown on Exhibit A,  
22 this, are pedestrian and then crosswalks and then the street  
23 areas are vehicular. So it's meant -- this is meant to be  
24 both. We -- perhaps it's too much information but we  
25 actually had both and it didn't work as well as putting

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1 everything in one visual for pedestrian access easements.

2 ZC VICE CHAIR MILLER: And so all of those  
3 easements are on this project's -- are -- well, let me ask --  
4 let me put it in the form of a question. Are all those  
5 easements on this project's property and not on Chancellor's  
6 Row's property?

7 MR. UTZ: Right.

8 ZC VICE CHAIR MILLER: You got the gate that  
9 you're going to -- that you also are agreeing to.

10 MR. UTZ: Right.

11 ZC VICE CHAIR MILLER: That will prevent --

12 MR. UTZ: That's correct. This is all --

13 ZC VICE CHAIR MILLER: -- what normally should  
14 happen in a city public streets and public easements, not  
15 private gated communities, but that's the way this got  
16 approved, because it works -- just works out better if all  
17 the street and sidewalk network is connected and integrated,  
18 built to city standards, and so that it's all more evenly  
19 distributed. But this got approved that way and I'm not sure  
20 why but it did so here's what we got as the compromise and  
21 the springing easement that will come into play if Chancellor  
22 Row agrees. Okay. That's all. I guess I understand where  
23 they are now. Thank you.

24 MR. UTZ: Sure.

25 MEMBER HART: Any other Board Members have

1 questions for the applicant?

2 MEMBER JOHN: Yes, Mr. Vice Chair. I --

3 MEMBER HART: And I did see you, Mr. Anderson.

4 MEMBER JOHN: Now I had another question for Mr.  
5 Utz in terms of the letter from the U.S. Conference of  
6 Catholic Bishops. And perhaps it would be helpful to go  
7 through each of the items, because they're requesting that  
8 we not decide this case until those matters are resolved.

9 MR. UTZ: Sure. I'd be happy to. Just taking  
10 them one at a time, there are four issues that were expressed  
11 in both letters and they show the progress from the April  
12 timeframe til today. The first one was the preservation of  
13 the easement in the boundary fence. That is what we were  
14 just talking about, showing that wedge at the north portion  
15 of our site. That is -- according to their letter, they are  
16 satisfied with the site revisions and we seem to be in a  
17 favorable place on that.

18 They requested the preservation of the 4th Street  
19 fence. The item that is up on the screen right now is a page  
20 that we submitted into the record today. This is a kind of  
21 amended 4th Street fence that is proposed as part of the  
22 project to address that concern of the Bishops. That does  
23 indeed run from the edge of their property line along 4th  
24 Street South going around the anticipated Bikeshare station  
25 there to the pier that's adjacent to the curb cut. So this,

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1 according to their letter, satisfies that concern, so that  
2 should be resolved as well.

3 The third was stormwater management. They  
4 essentially requested more information and a better  
5 understanding of what the stormwater management plan will be  
6 for the project and reviewed this information and have come  
7 to a resolution on that item. So that appears to be resolved  
8 as well.

9 The fourth item relates to the location of the  
10 curb cut that's showing here, this north curb cut which is  
11 a new curb cut and was relatively recently approved at the  
12 Public Space Committee. Their letter kind of discusses the  
13 issues that they had with it and what they believe to be the  
14 required further study of it in light of its impact on their  
15 property. But I would say just globally, the reviews of this  
16 curb cut were done and, in fact, that would be required by  
17 the Public Space Committee and DDOT. But I think I get out  
18 of my depth quickly on these issues. I can pass it over to  
19 Dan VanPelt of Gorove Slade to talk with a little more  
20 specificity about their objections and how those have  
21 actually been addressed and anticipated by the team.

22 MR. VANPELT: Okay. Yes, again, Dave VanPelt with  
23 Gorove/Slade. So I think one of the concerns is about school  
24 traffic using this new northern curb cut, and it's really  
25 anticipated that vehicular school traffic will use the



1 southern curb cut. The school's transportation management  
2 plan has their traffic coming in and out through that  
3 southern access to the site. And actually, the way queuing  
4 for pick up and drop off would want to work for the  
5 Montessori School, they really need to come in and out  
6 through that southern access point, and that's the best way  
7 for the circulation to efficiently work for the schools.

8 I think there is concern about the school's  
9 driveway. It is narrow today but it's going to be relocated  
10 and widened to 20 feet in width. DDOT standard for two-way,  
11 minimum is 18 feet so this will be in excess of that at 20  
12 feet and will accommodate the two-way traffic for the school  
13 sufficiently. I think one thing to point out is that we  
14 don't really anticipate school traffic utilizing the northern  
15 drive but the school traffic is matter of right, and so the  
16 transportation study that was done here really, according to  
17 DDOT guidelines, a transportation study wouldn't have been  
18 necessary for the townhome portion, for the BZA portion of  
19 the project because we're below the threshold for the number  
20 of trips that'll be generated by the townhomes. But because  
21 it's all -- the transportation is interconnected and the  
22 school's driveway is moving, DDOT felt that it was best for  
23 us to have a -- to do a CTR and review that. But the trips  
24 that are going to be generated and expect to be using that  
25 northern driveway are very light and normally would not even

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1 require a vehicular capacity analysis.

2 I think as -- one of the other concerns is about  
3 that we have not looked at USCCB traffic. Their trips that  
4 come in and out of their site today, while we didn't  
5 specifically collect movements, lefts and rights in and out  
6 of their driveway, their traffic is very much in our count,  
7 so those trips that are on 4th Street associated with them  
8 are on the -- are in our analysis. And as Jeff said, the  
9 curb cuts have already been reviewed by DDOT and have been  
10 approved by the Public Space Committee.

11 I think one other thing to point out to you is  
12 just there are some changes that are -- DDOT is proposing to  
13 4th Street that would implement a cycle track and a permanent  
14 parking lane. Those aren't something that we have proposed  
15 but those are things that DDOT is doing.

16 And I think I touched on most of it but happy to  
17 answer any of your questions.

18 MEMBER JOHN: Thank you.

19 MEMBER HART: Mr. Anderson, and I do actually --  
20 I do know that you're here, sir. I know that you've been  
21 raising your hand. Can you come to the table, please?

22 MR. PICARELLO: Sure.

23 MEMBER HART: The reason that I did not ask you  
24 to come before is because the people that are at the table  
25 now are all parties --

1 MR. PICARELLO: Sure.

2 MEMBER HART: -- to this case. You've submitted  
3 a letter. I'm assuming that you submitted the letter when  
4 we hear from you, but typically, we don't -- we -- I was not  
5 listening -- I was not going to hear from the general public.  
6 I was trying to talk about the letter because I needed to  
7 understand how they were responding to the letter and the  
8 comments that you've raised. If you could introduce yourself  
9 and please give your name and address.

10 MR. PICARELLO: Sure. My name is Anthony  
11 Picarello. I'm the General Counsel to the United States  
12 Conference of Catholic Bishops, which is located at 3211 4th  
13 Street, NE, immediately to the north of the subject property.  
14 I was only raising my hand both -- just to indicate my  
15 presence here. I'm happy to wait my turn. I realize that  
16 the folks are parties and when you called the parties, I  
17 stayed back because I know I'm not one. But I just wanted  
18 to make sure that there'd be an opportunity to speak to  
19 these. It could be now if you prefer but I'm happy to wait,  
20 whichever you prefer.

21 MEMBER HART: You might as well do it now so that  
22 we can hear it and --

23 MR. PICARELLO: Sure.

24 MEMBER HART: -- because we're discussing this at  
25 this present time.

1 MR. PICARELLO: Sure -- sure.

2 MEMBER HART: And I'll give you -- I guess you're  
3 representing a group so five minutes?

4 MR. PICARELLO: Sure. I'll try to be as quick as  
5 possible.

6 MEMBER HART: Thanks.

7 MR. PICARELLO: I would just generally that we are  
8 -- we're hoping to be constructive in this. We're not -- we  
9 want to see if this can be made to work, but we do need to  
10 be sort of informed about these things and have a reasonable  
11 time to manage them. We did first get notice of this quite  
12 late in the process and have been working diligently ever  
13 since learning of that. It's just taking time as we learned  
14 of the various issues to be able to work through them.

15 As has been discussed, three of the four issues  
16 appear to be on track toward resolution. One of them is  
17 predicated on that last element that was added. I think the  
18 issue with traffic, you know, a lot of the things that were  
19 discussed had to do with -- well, there were a low number of  
20 trips that were indicated by the traffic study coming out of  
21 that northernmost driveway, but that anticipates that there  
22 would be no school traffic. That was an assumption of the  
23 study. I don't see any physical barrier or anything else  
24 that would make that assumption realistic. In other words,  
25 it seems to me that people coming up from the south are going

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1 to go in at the southernmost driveway and go out the  
2 northernmost driveway. If I were dropping my kid off, that's  
3 what I would do.

4           The reason why that makes a difference is not  
5 because it affects the overall volume of traffic from the  
6 school which may well be as of right but because it gets  
7 duped out about 124 feet from our driveway and our driveway  
8 is very busy. We have 300 employees. We have a parking lot  
9 of 220 spaces. It's full almost every day. We've got lots  
10 of lefts and rights coming out of there. I understand that  
11 perhaps the volume associated with that is taking into  
12 account the overall volume going up and down 4th Street, but  
13 it seems to me as if the fact that the volume is coming  
14 precisely out of there, about 125 feet from this new driveway  
15 needs to be taken into account in some way.

16           Again, we're not trying to spike this. We're not  
17 trying to kill it but we think that that, the proximity of  
18 those two driveways and the fact that it appears, by all  
19 accounts, that the high volume that's coming out of our  
20 driveway is not being taken into account means that the way  
21 that they're interacting with each other isn't being taken  
22 into account. I'm also not expert in these particular issues  
23 regarding traffic. It may well be that maybe a light is a  
24 good solution. Maybe a little manually operable gate that  
25 will prevent the school traffic from coming out that northern

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1 driveway might work, but that's not something that I think  
2 would be consistent with the public right of way that's been  
3 indicated going in that direction.

4           Again, what was referenced there was just this is  
5 an assumption, this is what the school's plan is but, you  
6 know, folks are going to be able to drive that way.  
7 Nothing's going to stop them unless something is put there  
8 to stop them. So again, we're saying sort of no for the  
9 moment only because we're trying to work our way through  
10 this. We've been very diligent about this since late January  
11 when we first learned of it.

12           We're also, well, in due course, will be  
13 interested to know sort of the method by which we're entitled  
14 to notice of these things. Even the DDOT painting of lines  
15 on 4th Street was something that we learned about only at  
16 this hearing when we came here about a month ago. We had no  
17 idea that was happening. We think that that's going to be  
18 further complicating this element of these two driveways  
19 right next to each other.

20           So again, it's just that there are a lot of  
21 questions. We think they can be resolved. It takes a little  
22 time to resolve them. We've used the time that we have to  
23 be -- to resolve them as much as we can but I think they're  
24 still one kind of significant thing because it's a safety  
25 issue. We don't want people walking down our driveway. We

1 don't want cars turning in front of our driveway quite so  
2 much unless it's regulated in a way that will kind of make  
3 it orderly and manageable. So we're game and we're amenable  
4 to whatever can be done in that regard but we need to be able  
5 to work it through.

6 MEMBER JOHN: Mr. Vice Chair, is there a chart or  
7 a diagram that shows that traffic pattern from north to south  
8 so that we could better understand what's at issue? It's an  
9 overview of the area?

10 MR. UTZ: I think it's probably Exhibit A to  
11 Exhibit 170, the pedestrian kind of connectivity review.  
12 Each page that we have has kind of a different function.  
13 This probably comes the closest to answering your question.  
14 Okay. That's as big as we can get it.

15 MEMBER JOHN: So if you could point out the new  
16 curb cut and in terms of the flow to the USCCB facility?

17 MR. UTZ: Okay. So the new curb cut -- I don't  
18 know if I'm the best to speak to this but the new curb cut  
19 is the northernmost "yellow" line on the site. The existing  
20 curb cut is down about where the cursor is and it moves to  
21 this location. So these are the two curb cuts, south curb  
22 cut, north curb cut. This is a pedestrian access point.

23 MEMBER HART: And USCCB is just to the north of  
24 where it says Lee Montessori entrance?

25 MR. UTZ: Right.

1 MEMBER HART: Where the words are?

2 MR. UTZ: Where the words are, the -- where it  
3 turns from "grey" back to a picture, that is the Bishops'  
4 property back to the parking lot and then north to the  
5 parking lot and back down to 4th Street. Go ahead.

6 MEMBER WHITE: I'm wondering whether or not DDOT  
7 weighed in on this particular issue that Mr. Picarello just  
8 raised, whether or not you weighed in on that potential  
9 safety issue that he talked about?

10 MR. REED: Sure. I think from DDOT's perspective,  
11 it is atypical for us to study driveways unless -- if there  
12 is any kind of specific concern about traffic in and out of  
13 the driveway. Typically, when we do transportation studies,  
14 CTRs, we do any access points to the site in addition to  
15 intersections within the vicinity of the site for exactly  
16 what Mr. VanPelt was saying in that the intersections capture  
17 traffic that is generated by sites around the area.

18 In regard to the distance between the two curb  
19 cuts, the distance is well beyond what's required for  
20 distance between two driveways for commercial properties, so  
21 from that perspective, we don't have any concerns.

22 In terms of internal cuing to the driveway to this  
23 USCCB site, that's sort of out of DDOT's jurisdiction. We  
24 focus on the public right-of-way. We're not really involved  
25 with looking at cuing that occurs on private property in



1 order to access the public right-of-way.

2 MEMBER HART: Thank you, all. Thank you very  
3 much, Mr. Picarello. I appreciate it. So we've been  
4 bouncing around here so I appreciate your -- us moving  
5 through this. Mr. Anderson, you actually had some questions  
6 or something that you wanted to say earlier?

7 MR. ANDERSON: Yes. It's about the gate. I --  
8 there's a lot of discussion on it I'd just like to provide  
9 an opportunity, if the Board wishes, to clarify what that is  
10 and what the history has been.

11 MEMBER HART: Since -- this is around the trigger,  
12 that area?

13 MR. ANDERSON: The gate that's being proposed at  
14 the existing entrance between the Paulist -- St. Paul's  
15 College property and Regent Place. So when -- and I know  
16 that there was some reference made by one of the parents of  
17 Lee Montessori the last time about -- I guess he represents  
18 the Zoning Commission in some way and brought up the issue  
19 about how the Zoning Commission specifically said they did  
20 not want a gated community. What they were referring to was  
21 the notion that gates would be -- so there are four existing  
22 points where Chancellor's Row's infrastructure meets existing  
23 public streets of the District. What they were saying was  
24 we don't want to see gates installed across all those points  
25 and create a gated community, as Mr. Miller indicated.

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1           The gate that's at the -- that's being proposed  
2 at the entrance to the St. Paul's -- or now the Montessori  
3 School and WLA School property, that was installed by the  
4 Paulists to prevent St. -- from Chancellor's Row accessing  
5 their property. It exists today. It's -- it looks like  
6 something out of a strip mall. It's an automated boon gate  
7 and all that's being proposed here, through the good work of  
8 Mr. Horne and Mr. Wilkinson, was the notion that that gate  
9 would be formally established, that would look more like what  
10 you'd expect in a residential area associated with a school.  
11 It's not something that we're proposing to bar anybody. It's  
12 the notion being that that exists today and it was just  
13 supposed to be formalized.

14           The issue that we've had is that the school that  
15 are -- the schools that are there today have only been there  
16 for two years, and they are an as of right use that did not  
17 have to go before a Board. The traffic management plans that  
18 were developed associated with the charter approvals  
19 contemplated not using that point of access. So all this was  
20 just supposed to formalize that and is outlined in the  
21 agreement that was sent over.

22           So I just want to try and clarify that the notion  
23 is not gating off the community but rather establishing  
24 something that's already existing today.

25           MEMBER HART: I appreciate the clarification. I

1 think we've heard a lot of discussion already. I think I'd  
2 like to move into the rebuttal and then closing for both of  
3 you. I don't know if you're -- just to kind of let you know  
4 where I am on all of this, it still is a lot of information  
5 to kind of put your hand around. And hearing information  
6 from the USCCB, just they've provided their, you know, piece  
7 of this as well.

8 I think where I'm ending -- where I would like to  
9 go from here is to actually get a -- the findings of fact and  
10 conclusions of law. I don't think I'm going to be deciding  
11 this today, but I think that we would likely have this as a  
12 public meeting, a decision case at the next point. I think  
13 we've heard a lot of information, but I do want to hear your  
14 -- any rebuttal and then a conclusion -- concluding  
15 statements. That would be helpful and I think you can start.  
16 I don't know how long you want for the rebuttal or if you  
17 just want to go into the -- your conclusion --

18 MR. UTZ: Right.

19 MEMBER HART: -- that's up to you.

20 MR. UTZ: Right. I think this discussion has been  
21 helpful, in part, that it's reduced the amount of rebuttal,  
22 so I think that's good. I probably need 5 to 10 minutes to  
23 get through the items that we haven't yet discussed and try  
24 to bring some closure to some of the different threads out  
25 there that I believe will be helpful to consideration of this

1 case.

2 MEMBER HART: What I would do is to have you do  
3 your rebuttal, have Mr. Anderson do a conclusion statement,  
4 and then have you finish with your conclusion statement at  
5 the end if you're -- just so that we're kind of clear as to  
6 --

7 MR. UTZ: Right.

8 MEMBER HART: -- as to what that is. Mr.  
9 Anderson, do you know how long that you'd like to have for  
10 your -- 10 minutes?

11 MR. ANDERSON: I would hope less than 10 minutes,  
12 yes.

13 MEMBER HART: So would I. So Mr. Utz, go right  
14 ahead.

15 MR. UTZ: Great. Thank you.

16 MEMBER HART: And when you said -- let's just put  
17 eight minutes on and then we'll start --

18 MR. UTZ: Okay. I'll try to make this work.  
19 Apologies if I speak fast.

20 MEMBER HART: It's okay.

21 MR. UTZ: Okay. So obviously, there's a lot in  
22 the record here and we've heard from a lot of different  
23 folks. This array of input really shows how many people care  
24 about the site and the vast degree of interests that are out  
25 there about this case. All of these folks have been in

1 communication with the development team and vice-versa the  
2 whole time, so it really indicates just how much of a  
3 balancing act this has been from the development team. And  
4 there's been a large effort on behalf of the development team  
5 to reach out and incorporate as many of these comments as  
6 possible And I hope that you agree that changes have been  
7 made and that the iterative process that the design has gone  
8 through is really fairly significant.

9           And I know this has been mentioned by the Board  
10 a bit but in its totality, this -- there's a lot to really  
11 like about this project, not only the IZ element which is  
12 above and beyond what you would find just about anywhere,  
13 even in PUDs, but there is also a lot of open space that's  
14 retained by the site; unlike many other projects out there,  
15 this -- there is an easement on the site that will keep the  
16 open space open space and then also the public access  
17 easement.

18           But we also did want to highlight, you know, going  
19 back to some of the discussion from some of the students and  
20 the parents. Their issues were resolved, in large part, by  
21 the production of this public access easement. That seemed  
22 to be, by and large, their number one issue. They also had  
23 concerns about the open space but as I said, the open space  
24 will be retained as a result of this project. And in fact,  
25 this particular approach to development on this site is a

1 unique way to consolidate the homes in one place and then  
2 allow for the open space to be consolidated elsewhere and  
3 then allow folks to use it as open space.

4 I should also note that the school -- the owner  
5 of the school is supportive of the case. They actually  
6 submitted a letter in support that exists in the record, and  
7 they were well aware of this project, and they actually  
8 worked kind of hand-in-glove with the development team for  
9 the townhouse and the Paulist when these were initially on  
10 the drawing board in the outreach to the community.

11 There was some issue -- there's some discussion  
12 about the site compatibility with the location or this  
13 project's compatibility with the location, and some of the  
14 over-densification of the site, but I would just highlight  
15 that this project is highly compatible with the setting in  
16 this neighborhood. As I said, it balances many different  
17 interests and priorities and achieves in an uncommonly number  
18 of all of them, all without needing a PUD. We're not asking  
19 for an upzoning unlike other cases in the neighborhood. This  
20 is an R -- this is the old R-5A RA-1 and it stays there.

21 The allowed FAR is 1.08. This comes in at .91  
22 with a very conservative calculation to get there. It strips  
23 out the streets. It includes decks on all lots, things like  
24 this. The lot occupancy is 32 percent where 40 percent would  
25 be the limitation. Again, that's -- on a site this big,

1 that's a lot of open space and that's also conservatively  
2 calculated. The height limit, by right, is 40 feet. These  
3 townhomes come in at 32 feet and 36 feet so again, under that  
4 and every metric below where the matter of right limitation  
5 would be.

6 As we talked about, the site setbacks all around  
7 with the neighbors are ample and they are more than what the  
8 setbacks between the homes and the Chancellor's Row community  
9 provide unto themselves; 50 feet at a minimum in the  
10 northeast; 75 feet at a minimum in the south. These are very  
11 significant setbacks and that will be not only setbacks but  
12 that'll be landscaped space, so this will be a nice space  
13 between those.

14 There was some discussion in the first hearing and  
15 some submissions into the record about what exactly was said  
16 or what the commitments were for the PUD on the Chancellor's  
17 Row site. It's case 07-27. And just again, the operative  
18 page from that hearing is in the record, but it expressly  
19 shows what is considered the open space for that project.  
20 It shows three different types of space, a "dark green,"  
21 "darker green," and then a "light green." The "light green"  
22 is the subject site and that was shown for context only but  
23 not part of the obligated parcels by the project. It was not  
24 part of the conditions of the order which, as we've seen with  
25 what we've worked on on this case, when you have an easement

1 for open space, folks spend a lot of time talking about that  
2 and committing to that and then detailing it, documenting it  
3 as we've done here. None of that occurred in the case for  
4 07-27 and in fact, there's actually -- there are a number of  
5 recorded documents that discuss development happening on the  
6 site.

7           So there's an REA that talks about the different  
8 obligations and rights that both parties have, the Paulists  
9 and the Chancellor's Row folks at the time, that talks about  
10 development coming to the parcel that we're talking about in  
11 the future. It doesn't talk about exactly what it was  
12 because that was a few years ago, but it does indicate that  
13 development is coming. It's certainly not going to be green  
14 space. And then there are other ancillary documents that are  
15 in the same vein, that development is coming.

16           Regarding tree preservation, there was some  
17 discussion about that as well. I would just note again that  
18 the development team has worked closely with Casey Trees and  
19 to the point that Casey Trees is supportive of the project  
20 and submitted quite a bit of detail as to why. As I said,  
21 we agreed to all the conditions of the Casey Trees support  
22 including the replacement trees are coming back to the site  
23 at a 3 to 1 ratio, which is quite significant. There will  
24 be a high level of tree diversity at the site during  
25 replacement. There will be a tree canopy which, in this



1 case, will be no less than 30 percent, and proper tree  
2 protection measures will be undertaken for construction.

3 We also altered the sidewalks and the stormwater  
4 facilities in the kind of northeast of the corner to go a  
5 little bit above and beyond where we were before for -- it's  
6 tree 62 on the site plan, the site inventory plan, to ensure  
7 even further that survivability will occur.

8 There were a few construction concerns voiced at  
9 the hearing as well and in the record. We would just note  
10 that we have been negotiating an agreement with the neighbors  
11 including Mr. Anderson discusses, in some level of detail,  
12 these construction items, and it incorporates all the typical  
13 elements from construction agreements including surveying  
14 some of the homes and assuring -- both before and after  
15 construction and providing some assurances that construction  
16 can occur next to places where people are living and don't  
17 want to be disturbed.

18 Regarding the letter in the record, Exhibit 181  
19 from the Neighbors for Thoughtful Development, there is some  
20 topographical discussion in there, and I would just note that  
21 throughout, this is one of the points that we've been making  
22 that this site is unique as to its slope, and that's actually  
23 a challenging factor for its development. The development  
24 has been very carefully crafted to exist on a site where that  
25 slope is. So the sticks of the townhomes have been proposed

1 in response to kind of a select number of -- constrained  
2 number of locations on the site where they can be built, in  
3 part, due to the slope. And the slope complicates other  
4 matters like having trees there and the historic viewshed and  
5 wanting to provide access, so all these things combined to  
6 really make it a unique, difficult challenging site to  
7 develop. But tree preservation is an aspect that has always  
8 been a guiding light of this project, and we think that the  
9 resulting plan before you today will amplify that.

10           Regarding the HOA conditions, as we said, we have  
11 agreed to all of their terms, although I did want to state  
12 one that we did not mention when we were discussing it. They  
13 asked -- essentially provided a restatement of their prior  
14 condition regarding no traffic from the project will use  
15 Chancellor's Row, and that is something that we previously  
16 agreed to.

17           So those are primarily the points that we have not  
18 yet discussed today by way of addressing and rebutting some  
19 of the other threads in the record from the hearing and  
20 further discussion. We're happy to provide more information  
21 or talk more about them. Otherwise, I would move to the  
22 close.

23           MEMBER HART: I just have one question -- not a  
24 question, it's more of a comment. I think we seem to have  
25 a lot of conditions that have been described by various

1 entities, Casey Trees, DDOT, you know, the Home Owners  
2 Association, and it would be helpful to have all that in one  
3 location.

4 MR. UTZ: Sure.

5 MEMBER HART: And I'm realizing that it's -- that  
6 we have some of the DDOT ones in the Office of Planning  
7 report or actually in the DDOT report but the may be a little  
8 different, you know, because of the changes and, you know,  
9 where we've come for the last whatever, few months. So it  
10 would be helpful if you could provide that as well --

11 MR. UTZ: Sure.

12 MEMBER HART: -- so that we have kind of like, you  
13 know, one list. I know that there are -- you know, you have  
14 a construction management agreement that you're working on.  
15 I'd like to see it but I don't really think that that's a --  
16 that's not necessarily a condition but it would be just  
17 helpful to understand what that is, wherever that -- wherever  
18 you are in that process.

19 MR. UTZ: Sure. And as to that, Mr. Anderson, I  
20 believe, uploaded it last night so that updates the prior  
21 version that was submitted on the 24th of April to include  
22 additional homes that we're asking to be part of the  
23 consideration of that agreement. So for example, the survey  
24 -- pre and post construction survey, that has been expanded  
25 to include additional homes nearby. So that Exhibit exists,

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1 I believe, if not last night then this morning.

2 MEMBER HART: Do you know what -- I'm looking at  
3 which -- 183A, I think it might be; I'm waiting for it to  
4 open so -- okay, it's just taking it too long but that's  
5 helpful to have so I appreciate it. Thank you very much, Mr.  
6 Anderson. Do we have any other questions for the applicant?

7 MEMBER WHITE: My only comment, not necessarily  
8 a question because I don't know if we can do this as a  
9 condition or if it's something that the applicant can  
10 continue to opine upon regarding the IZ clustering. And I  
11 know I've probably made a big issue out of it but for me,  
12 it's a very important issue in terms of inclusionary zoning  
13 and I really applaud the efforts of the church and the  
14 applicant in doing more than what's required. But from my  
15 perspective, urban planners and sociologists really see a  
16 significant benefit to having inclusionary zoning and it be  
17 integrated within a neighborhood so that people aren't  
18 segregated based on income levels. So not to state that it  
19 should be a condition but if the applicant could continue to  
20 think about that particular issue, I think that would make  
21 a difference in the success of the project.

22 MEMBER HART: Thank you.

23 CHAIRPERSON HILL: Are we at the end?

24 MEMBER HART: Yes. We're at the end.

25 CHAIRPERSON HILL: Yes, okay.

1 MEMBER HART: So --

2 CHAIRPERSON HILL: Because I'm going to --

3 MEMBER HART: Go right ahead.

4 CHAIRPERSON HILL: Okay. Well, so --

5 MEMBER HART: We still have the closing to do but  
6 we're --

7 CHAIRPERSON HILL: I'll wait.

8 MEMBER HART: You're going to wait? Mr. Anderson,  
9 10 minutes? Then we'll --

10 MR. ANDERSON: That would be helpful. Thank you,  
11 Mr. Vice Chair.

12 MEMBER HART: Thank you.

13 MR. ANDERSON: Well, first of, thank you all for  
14 enduring yet another round of this and for the development  
15 team in providing their additional information. I will say  
16 at the outset that I'm a bit frustrated with the number of  
17 submissions that we're discussing today that don't seem to  
18 have been entered into the record with enough time for us to  
19 really take a look at them. There's been a lot of references  
20 today to materials that seem like they were just entered  
21 today, so that's a little frustrating, not the least of which  
22 is with respect to the stormwater management.

23 Since Mr. Utz brought up the REA, one of the main  
24 elements of that document was a permanent stormwater  
25 easement, the basin that's located in the northwest corner

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1 of the site, which is going to be abandoned and moved  
2 elsewhere. We've asked for a long time, as a primary party  
3 to that easement, that we have an opportunity to take a look  
4 at the stormwater management plan to make sure that our  
5 interests are going to be protected both during construction  
6 and post construction and basically have been told that we  
7 would be provided that after it was completed and signed off  
8 on by the city.

9           The fact that the Conference of Catholic Bishops  
10 has received and reviewed that document and the primary party  
11 that is under that easement has not is a little troubling to  
12 me, but that is one of the elements that I think is, you  
13 know, kind of highlights the challenge of this entire  
14 process. While we have been talking for a long time, both  
15 the neighbors and HOA and other interested parties and the  
16 development team, this has been going on for two years, and  
17 the fact that we're resolving some of these on the fly feels  
18 a little bit like building a car driving down the highway  
19 going 60 miles an hour.

20           As I explained in the last hearing, this is not  
21 unique to me. I do this for a living. While I've  
22 transitioned to energy away from commercial and residential  
23 development, I have gone through these processes and know a  
24 little bit about them. And I can't say that this has been  
25 the easiest experience for my community in dealing with this.

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1 I think the number of people that have submitted testimony,  
2 it's not just an indication of interest in the property but  
3 the potential impact to the community and the surrounding  
4 neighborhood.

5 On the setback issue, I will say that while I can  
6 completely appreciate, and I've shared with Office of  
7 Planning for some time and with you all the last time around,  
8 while I understand and my neighbors understand that this is  
9 an urban environment, it's not a suburban neighborhood, and  
10 that in-fill development happens all the time, the fact, for  
11 my particular household and the others on my row that there's  
12 going to be a 50-foot permanent setback distance is all well  
13 and good. The reality is though that the construction is not  
14 going to be across the street, it's not going to be across  
15 an alley or next door or behind us. It's going to be outside  
16 our front door eight feet away.

17 So while that is not, I think, a reason to deny  
18 an application, it certainly is a consideration on the use  
19 and enjoyment of our homes during the construction process.  
20 And unlike the rest of Chancellor's Row or anywhere else in  
21 the city, you would not have opposing facing buildings under  
22 construction while they're currently being occupied, at least  
23 that I'm aware of. Each phase in Chancellor's Row was built  
24 so that the back side of a building was what was facing the  
25 next stage of construction. So take a little exception on

1 the cavalier statement that this is a generous setback.

2           On traffic and parking, I continue to have  
3 concerns about this. I mean it's all well and good to say  
4 that the schools were as of right, they don't need to be  
5 considered; but for this development, they would not be  
6 having these additional access routes provided; but for the  
7 Paulists not selling that building to Building Hope two years  
8 ago, understanding that they were already in the process to  
9 develop the rest of the site, seems to me that there should  
10 have been an accommodation for a better of understanding of  
11 how the traffic management was going to work for all these  
12 entities together.

13           I do question how much DDOT and Mr. VanPelt looked  
14 at the Zoning Commission testimony for Chancellor's Row. I  
15 was not aware of it until a neighbor pointed it out that  
16 there was actually a lot of analysis done about a connection  
17 road between 4th Street and 7th Street through the Paulist  
18 property. And they said, if you go too far to the north,  
19 you're impacting the Catholic Bishops. If you go too far to  
20 the south, you're impacting the intersection with Franklin  
21 and 4th. And we can't go through the middle of the property  
22 because it's open space. Now whether or not that open space  
23 was a matter of record, there are numerous indications  
24 throughout the process that the Paulists and EYA relied on  
25 the notion that that site would not be developed in order to

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1 get what they wanted. I'm not making that up. If it's an  
2 interpretation issue, that is all well and good but the  
3 testimony from that hearing should be considered as part of  
4 all this analysis on what was allowed then and what should  
5 be allowed now.

6           The open space, again, I appreciate how much they  
7 have provided and that it's going to be dedicated under  
8 easement, but I really do think that there needs to be  
9 honesty about what was considered in 2007-2008. I appreciate  
10 the development team working extremely hard to try and  
11 accommodate all the competing interests between the schools  
12 and the Chancellor's Row HOA and individual homes but again,  
13 I think that this highlights the problem of piecemeal  
14 development. Again, this is not an individual property owner  
15 who's just seeking to develop their property. This was a  
16 property owner who sold off portions of their property at  
17 different times over the last 10 years, apparently with a  
18 full understanding that they were going to eventually develop  
19 or try to develop the entire thing but not being forthcoming  
20 on those facts and then impacting each of the adjacent  
21 neighbors without taking into consideration what their  
22 investments in the city were and how they were going to  
23 accommodate the needs of school children who -- and their  
24 parents who now utilize the building with an expectation that  
25 they were going to have some sort of recreation.

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1           As best as I know, when the charter schools were  
2 approved, they were still struggling to try and find a  
3 location for the school children to be able to have permanent  
4 recreation. There is no recreation space in that building  
5 that I'm aware of. There is a small courtyard that's fenced  
6 off behind the building and a couple other discreet areas,  
7 so they really do rely on that open front lawn area for  
8 recreation. And I understand, again, that that is not a  
9 decision for this Board but it should be a consideration,  
10 that this was something that was thoughtfully developed by  
11 the property owner in a way that did not take into  
12 consideration the full use and interaction between the  
13 properties.

14           On the traffic -- I'm sorry, on the parking for  
15 the schools, that parking lot, whether it's allowed by zoning  
16 or not is already at capacity. That school, as best as I  
17 understand it, two to three years away from reaching full  
18 capacity. If we can't address these traffic and parking  
19 situations now, there is not going to be any mechanism to  
20 provide relief in the future, and then we're all going to be  
21 worse off.

22           The reason, again, that Chancellor's Row is so  
23 concerned about traffic and parking is because we can't get  
24 parking for our residents off-site. It's just a matter of  
25 fact. We didn't ask for the private streets. That was a

1 construct of EYA trying to get as much as they could in terms  
2 of density, narrowing down the roadways, and in order to do  
3 that, they had to make them private roadways which then  
4 impacted people purchasing those homes.

5           This isn't sour grapes on somebody's part. These  
6 are, again, homeowners that are trying to just enjoy their  
7 use and enjoyment of their homes and made an investment in  
8 this city with certain expectations. I don't have much more  
9 to say than that. I do appreciate everything that's been  
10 said to date and how hard the deliberations have been and the  
11 questions that have been raised by the Board and thank you  
12 for your time.

13           MEMBER HART: You get an A-plus for right on time  
14 here. Do appreciate that but I thank you for your comments.  
15 Now the last is Mr. Utz, if you provide your closing?

16           MR. UTZ: Sure.

17           MEMBER HART: And 10 minutes.

18           MR. UTZ: Yes, 10 minutes. I don't think we'll  
19 need that long but sure. So let me just clarify some of  
20 these items on the record. Did you want to say a couple  
21 words about the stormwater?

22           MR. HORNE: Sure. Mr. Anderson referenced a  
23 permanent stormwater easement on the Paulist property.  
24 That's true. It's contained -- actually referenced in the  
25 reciprocal easement agreement that was signed between EYA and

1 subsequently inherited by the Chancellor's Row owners and the  
2 Paulists. So it also is a recorded document that would have  
3 been included in the disclosure packages for buyers of  
4 Chancellor's Row. And within that document, it references  
5 a stormwater management facility and the ability to relocate  
6 that upon development of the Paulist property.

7           So it's been pretty clear to everyone who has ever  
8 read the document that's contained in their package that the  
9 Paulist property would be developed at some point in time,  
10 and there's a mechanism for triggering that ability to do  
11 that. It also resets maintenance responsibilities, so it  
12 takes the increase in impervious surface, if there is any on  
13 the Paulist property, and resets the rates at which the  
14 parties join in paying for maintenance. So there's a  
15 mechanism in place for development of this property. There  
16 has been from the very beginning of Chancellor's Row and sort  
17 of to say that no one was aware of it, it's curious, to say  
18 the least.

19           In regard to the conversation with the Bishops,  
20 they asked specifically how our stormwater management would  
21 work, because they were afraid of having increased impervious  
22 surface on the Paulist property overflowing the system.  
23 Today there is a stormwater management pond that collects  
24 rainwater and in big events, it discharges quite a bit  
25 without filtering it, without cleaning it, goes straight out

1 through the outflow device. And what I explained to them was  
2 that our system that we're proposing is a concept. It's not  
3 detailed engineering yet because that happens at building  
4 permit. But the concept is that there are underground  
5 chambers that have filter cartridges that take the water in,  
6 clean the water, slow down the rate at which it is flowing  
7 and infiltrate it back into the ground. So if anything, the  
8 situation in the developed condition will actually be better  
9 than it is today. We did not share any detailed engineering  
10 with them. The documents we shared with them were already  
11 in the BZA record as part of the civil package that we  
12 submitted from the very first year. Thank you.

13 MR. UTZ: Great. Thank you Steve. And then a  
14 couple of other things to make sure the record is correct.  
15 The discussion of how many new items were submitted today,  
16 there actually was a total of three, and these were not major  
17 items. The IZ plan moved a unit, as we discussed; the final  
18 landscaping plan included some elements of additional  
19 information, lighting, trash cans, bike racks but that's it,  
20 mostly concentrated around the Sylvan Woods portion but this  
21 is not a big ticket item. And then the fence, the page  
22 regarding the fence segment that we showed in "red" during  
23 the Bishop discussion was the additional page. That's not  
24 a lot, actually for a project of this complexity at this  
25 stage. That's a fairly small basket of open items and it

1 just indicates the intent here is to resolve everything and  
2 really make sure that these threads are tied up and the  
3 people that can be satisfied are being satisfied.

4           Regarding the statement about the setbacks and the  
5 impact, particularly during construction, as mentioned, there  
6 is a construction agreement that is in place. It's in the  
7 record. That is intended to mitigate the effects of this  
8 construction. Construction happens all over the city where  
9 new townhomes, new row houses are built right next to  
10 existing townhomes, from historic districts to not. It is  
11 not uncommon so that 50-foot distance is ample even if a  
12 portion of that is taken up by some of the construction  
13 fencing and other materials.

14           The open space from the PUD, I just have to  
15 reiterate, there's been a lot of terminology used to create  
16 this so-called obligation. Implication is a word that's  
17 commonly used or inference or interpretation. These aren't  
18 words that are used to obligate a property to stay green and  
19 open in perpetuity. It's not a small-ticket item. This is  
20 a big deal. If you do read the transcript, I think the  
21 transcript is actually very illuminating. There was an  
22 explicit discussion about this concept of open space during  
23 that hearing, and the applicant's representative said --  
24 detailed that 25 percent of the site was to be open space,  
25 25 percent based on the 10.5 acres of the site. They used

1 specific metrics that didn't leave any room for  
2 interpretation. The site, the Chancellor's Row site is 10.25  
3 acres and it's open space, the green space that he's  
4 discussing is 25 percent. They were really talking about the  
5 town center primarily and kind of pushing and pulling, couple  
6 hundred, maybe a couple thousand square feet relating to it  
7 but not about the site we're talking about today. This was  
8 a very highly calculated statement that the representative  
9 made.

10           Also, regarding the schools. I would just say  
11 again that the initial design of the schools, the  
12 preliminarily analysis of the schools and how this all fits  
13 together were done at the same time, so representatives of  
14 the school initially went out to the community with the old,  
15 more dense townhome proposal showing on the same site. This  
16 wasn't a surprise to them. This was something that was  
17 always anticipated, actually, at a greater density than this.  
18 And again, there is a letter from the owner of the school  
19 building in support of the application.

20           Regarding the parking, as I said, the zoning  
21 requirements are being met for the school and then even  
22 additionally, the parking that's there is being replaced, so  
23 when you look at the effect of the school, it's actually --  
24 what's happening is the access to the school is being  
25 improved by this. So yes, this is affecting some aspects of

1 the school in a way that's going to increase the  
2 accessibility and really kind of address some of the concerns  
3 that the parents have.

4           Moving on to some more kind of broad themes here  
5 as I bring this to a close, I did want to mention that the  
6 project has been designed to meet the purpose and intent of  
7 the regulations and to mirror or improve the surrounding  
8 development regarding lot size, unit configuration, and  
9 architecture. However, the site has difficult topography,  
10 a historic viewshed, existing trees, and an odd  
11 configuration. As such, it is difficult to develop the  
12 property in compliance with all zoning constraints. We have  
13 submitted detailed information regarding the satisfactions  
14 of the standards of relief, particularly in Exhibit 64 in the  
15 record.

16           This team has worked tirelessly with the District  
17 agencies including OP, HPO, and DDOT for approval, and these  
18 agencies deserve deep gratitude for the amount of time and  
19 the ideas they have contributed to improve this project.  
20 Ultimately, the process resulted in Agency reports in support  
21 and such relationship will continue going forward. Further  
22 we note that the development team is able to address all the  
23 conditions in the Agency reports.

24           Additionally, the team has spent a great deal of  
25 time with the community and incorporated their feedback, and



1 it's gone through several iterations of the project to  
2 address these concerns. We believe that this is evidenced  
3 by the ANC's vote in support. It was an 8 to 2 to 0 vote in  
4 support and that letter is in the record as Exhibit 53. We  
5 note that Exhibit 53 should be given the great weight of the  
6 ANC rather than any other ANC-related exhibit in the record.

7           The team also obtained approval for the new  
8 Paulist building under HPA Case 18-101 before the HPRB, since  
9 it is part of the viewshed of the St. Paul's College  
10 building.

11           And I did want to mention one other thing in the  
12 letter that I should mention on behalf of the Paulists, is  
13 previously, during the prior hearing, they were not talking  
14 about a Fifth Amendment takings of their site. They were  
15 simply noting that there is a regulation known as RLUIPA out  
16 there in the Freedom of Religion Act that Father Eric was  
17 referencing long ago. This wasn't intended to kick off a  
18 constitutional discussion. I just wanted to mention that to  
19 also clear up some incorrect elements in the record.

20           But regardless, this project, as I mentioned,  
21 represents a unique opportunity to create benefits for the  
22 community through a BZA case, stay within the larger  
23 constraints of the zoning regulations here, and include  
24 significant open space and enhanced affordable housing for  
25 the community. We ask that the Board approve this project

1 at its earliest convenience. Thank you.

2 MEMBER HART: Thank you. Mr. Chairman?

3 CHAIRPERSON HILL: So Mr. Utz, again, the thing  
4 that I -- and I know that we're going to put this one for a  
5 meeting and so if -- I think Vice Chair Hart mentioned again  
6 all of the conditions, if you could kind of put a list of the  
7 conditions together including also the easement things just  
8 so it's all in one place as well as the 15 people that are  
9 going to be in the -- and you can't mention -- don't mention  
10 the Pauls just so that it's easy for us to understand the  
11 conditions, or at least what I think we're going to  
12 understand the conditions.

13 And then since I wasn't here before, I just didn't  
14 want to -- I just did want to have an opportunity to make a  
15 quick statement, and since this has taken up also 8 to 10  
16 hours of my life, that Mr. Anderson, I thought, did a lovely  
17 job and that you've been working together the applicant. And  
18 if you guys -- you know, I mean it seems -- and Mr. Anderson,  
19 I'm just kind of asking you. I mean I know you guys don't  
20 want this or at least some of the people didn't want it, but  
21 you guys are now kind of in agreement?

22 MR. ANDERSON: I wouldn't say agreement is the  
23 right word. We understand that development is going to  
24 happen on the site and there -- if this is the best that  
25 we're going to get, then that is what we're asking for.

1 CHAIRPERSON HILL: Okay.

2 MR. ANDERSON: But we would want to have that be  
3 a condition.

4 CHAIRPERSON HILL: Okay. So those are the  
5 conditions that we all -- you guys have already talked about  
6 and everything. And then to repeat what Ms. White said also  
7 -- and also, I don't know if Chairman Miller -- I mean I feel  
8 that -- Father Andrews, I mean I understand you guys are  
9 giving up a lot; you know, you're giving more IZs than you  
10 did; right? But if you could kind of mix it up a little bit  
11 more, show you how you could mix it up a little bit more,  
12 that be, you know, at least -- I don't know, I mean they're  
13 all on one row; you know, they're on two sticks but they're  
14 all in the same, you know, row there basically.

15 And then also just in my comments in terms of  
16 like, you know, I understand that where the community is kind  
17 of talking about what they thought they had or what they  
18 thought might have been going on and that it is the -- yes,  
19 okay, that's it. So, all right, there you go. That's all  
20 I need.

21 MEMBER HART: So if we don't have any other -- any  
22 comments, I will just kind of end with I think I've let you  
23 know what we're looking for. The Chairman just gave you a  
24 few other things but I think those are fairly  
25 straightforward. And I guess I'll look to -- no, not -- I'm

1 sorry -- to -- to see when we can schedule this, and I'm  
2 assuming it's -- it may take several weeks to get to the  
3 findings of fact and conclusions of law. So it may be a  
4 month that we're looking at. I mean I'm looking at you, Mr.  
5 Utz, to see what their -- and also, Mr. Anderson, if you'd  
6 like to provide them as well, you're more than welcome to do  
7 that. So I'm guessing it may be about a month, that we're  
8 probably talking about like mid to late June -- we're in May,  
9 gosh -- mid to late June.

10 MR. UTZ: So -- for the submission? I'm sorry,  
11 for the submission of our documents?

12 MEMBER HART: Yes.

13 MR. UTZ: We could probably do it in, I would say,  
14 three weeks we could get it done and put a bow on it or maybe  
15 even a little less than that.

16 MEMBER HART: Mr. Anderson, question? Well, just  
17 I didn't know if that -- if three weeks, a month is -- the  
18 Board enough time? You're like --

19 MR. ANDERSON: I'm not even sure that we will be  
20 doing that but if we were --

21 MEMBER HART: That's fine. I just wanted to give  
22 you an opportunity to do that.

23 MR. ANDERSON: -- I think a month would be fine.

24 MEMBER HART: Sufficient?

25 MR. ANDERSON: Yes.

1 MEMBER HART: Okay. So I guess we're looking at,  
2 I don't know, the end of -- could do the 20th?

3 MEMBER SOIFER: June 27th is what would recommend.  
4 Mr. Miller will be here so --

5 MEMBER HART: Actually, no.

6 MEMBER SOIFER: No, Mr. --

7 MEMBER HART: Maybe the -- well, we're going to  
8 have to move to July then, beginning of -- the 11th because  
9 we don't have a meeting on the 4th. July 11th I think is  
10 what we're -- what does that meeting -- what does the meeting  
11 itself look like?

12 MS. ROSE: Right now we have two cases.

13 MEMBER HART: Any -- I guess any appeals in the  
14 meeting on a decision? Okay. Well, let's look at -- let's  
15 put it on the 11th and we'll give the applicant until the  
16 20th of June -- yes, of June --

17 MS. ROSE: The applicant's submission would be due  
18 June 28th and responses would be due July 5th.

19 MEMBER HART: You're going to make them work over  
20 a July 4th weekend?

21 MS. ROSE: They can do it sooner.

22 MEMBER HART: Is that sufficient Mr. Utz?

23 MR. UTZ: It definitely is.

24 MEMBER HART: Okay.

25 MR. UTZ: We can probably deliver the order that

1 we could faster than that if --

2 MEMBER HART: Yes, I know. I just am looking at  
3 our own schedule and I know we won't be able to -- we're  
4 going to have two of our Commissioners or Board Members not  
5 here on the 27th, which makes it a little hard to do that.  
6 And the 4th is just the 4th and so the 11th is the date we're  
7 looking at so.

8 MR. UTZ: Okay.

9 MEMBER HART: I know it's not -- may not be ideal  
10 but we're just trying to work within the schedule that we  
11 got. So I think we're okay. The 28th is when we're getting  
12 -- you all are providing -- and Mr. Anderson, you'd be  
13 providing it on the same date, again, if you want to. That's  
14 fully up to you. And I think that's it. Is it?

15 MS. ROSE: Responses, any responses.

16 MEMBER HART: You want to do the -- is it the 6th?

17 MS. ROSE: I have the 5th.

18 MEMBER HART: That's fine.

19 MS. ROSE: So the Board will consider a decision  
20 on this matter on July 11th 00

21 MEMBER HART: 11th, yes.

22 MS. ROSE: -- at a meeting at 9:30 a.m.

23 MEMBER HART: That's correct. And thank you all  
24 very much. I appreciate it. I know it's been a pretty full  
25 hearing. I do appreciate the time and effort you all have

1 put into this and seems like we're very close to the end of  
2 the process so that's it.

3 MR. UTZ: Great. Thanks so much.

4 MEMBER HART: Thank you. We're going to take a  
5 few minute break since we actually haven't. I just realized  
6 it's almost noon. We haven't had a break yet.

7 (Whereupon, the above entitled matter went off the  
8 record at 11:48 a.m. and resumed at 12:03 p.m.)

9 CHAIRPERSON HILL: Okay, let's get back and get  
10 started. Just so everybody else knows, that went longer than  
11 Vice Chair Hart had anticipated and so just to let the  
12 audience know where we are, we're going to keep kind of  
13 plodding along here and if we have to get through a lunch  
14 break we will. What that means is I don't know what's going  
15 to happen to people later.

16 So at least now you know. There could be lunch,  
17 there couldn't be lunch. I'm not sure. Ms. Rose, you can call  
18 our next case.

19 MS. ROSE: Next is application number 19630 of  
20 Elodie Goirand & Andreas Xenophontos. Pursuant to 11 DCMR  
21 Subtitle X, Chapter 9, for a special exception under Subtitle  
22 D, Section 5201 from the lot occupancy requirements of  
23 Subtitle D, Section 804.1 to permit an existing rear garage  
24 in the R15 zone at premises 454 Lowell Street, NW, Square  
25 1608, Lot 68.

1 In the record there is a motion to postpone the  
2 hearing as well as responses to this postponement request and  
3 this matter is before the Board.

4 CHAIRPERSON HILL: Okay. If you could please  
5 introduce yourselves from my right to left.

6 MR. XENOPHONTOS: Andreas Xenophontos, 4540 Lowell  
7 Street, NW, Applicant.

8 MR. BAKER: Peter Baker, party in opposition, 4546  
9 Lowell Street, NW. I've also been asked, there's a second  
10 party in opposition, Dr. Steve Weissman, who's a sole  
11 practitioner, and due to a client emergency today could not  
12 be here, and he asked me to speak on his behalf. He is an  
13 adjoining neighbor, along with me. He resides at 4536 Lowell  
14 Street, NW.

15 CHAIRPERSON HILL: Okay. Do you have a letter of  
16 authorization for that?

17 MR. BAKER: No.

18 CHAIRPERSON HILL: We'll see what happens, okay?

19 MR. ELKINS: I think the other party did submit a  
20 form saying that he was giving his delegation to Mr. Baker.

21 CHAIRPERSON HILL: Okay. I'll go ahead and look for  
22 that. Could you introduce yourself, sir?

23 MR. ELKINS: I'm Chuck Elkins. I'm the vice chair  
24 of ANC 3D.

25 CHAIRPERSON HILL: Okay. There's a couple of



1 things. Mr. Xenophontos?

2 MR. XENOPHONTOS: You might call me Andreas, if  
3 it's easier for you. Otherwise it's 'Xenophontos.'

4 CHAIRPERSON HILL: 'Xenophontos.'

5 MR. XENOPHONTOS: Like a photo.

6 CHAIRPERSON HILL: Okay. Mr. Xenophontos, you have  
7 a motion in front of us to postpone?

8 MR. XENOPHONTOS: I do.

9 CHAIRPERSON HILL: So I guess, before we even get  
10 to your motion to postpone, you were here five months ago,  
11 in December?

12 MR. XENOPHONTOS: Yes, sir.

13 CHAIRPERSON HILL: And in December you were here,  
14 and we talked about the fact that you needed an area variance  
15 and not a special exception. And you're back before us again  
16 for a special exception?

17 MR. XENOPHONTOS: Well, I filed a motion to object  
18 to that. As an applicant, I do have the right to file for the  
19 exception.

20 CHAIRPERSON HILL: Okay. So you're saying you're  
21 staying with the special exception.

22 MR. XENOPHONTOS: And that's the correct exception  
23 I'm seeking for, yes.

24 CHAIRPERSON HILL: According to you.

25 MR. XENOPHONTOS: Yes.

1 CHAIRPERSON HILL: So there is now, so what's your  
2 argument for postponement?

3 MR. XENOPHONTOS: The only simple argument is the  
4 following: My wife and I had a conversation, this story goes  
5 on for more than six years. We came here before long, you --  
6 I think Mr. Miller was here when we came the last time. It  
7 goes so long. So my wife and I decided we like to put this  
8 behind us, we like to move on with our lives, it cost us a  
9 great deal --

10 CHAIRPERSON HILL: Okay. What's your reasoning for  
11 the postponement?

12 MR. XENOPHONTOS: Instead of asking you guys here  
13 today, the Board, to give us, grant us about four percent lot  
14 occupancy exception, we like to just ask for a much smaller  
15 amount so we can keep a very little portion of the garage.  
16 We're here for the roof of the garage. We're here only for  
17 the simple thing. If the roof of the garage as existing can  
18 remain or has to be removed to meet lot occupancy.

19 So what we're asking and we ask for Mr. Goirand  
20 for a meeting, to propose, to show him plans to just keep  
21 two percent or less of the garage and then we come to you  
22 back for an exception of two percent. We thought maybe it  
23 would be a lot easier to grant us that rather than asking for  
24 four percent. That's the only reason.

25 CHAIRPERSON HILL: So you want a postponement so

1 you can change the amount of relief you're requesting.

2 MR. XENOPHONTOS: Yes. We want just barely a little  
3 spot so we can -

4 CHAIRPERSON HILL: Mr. Xenophontos, I have to let  
5 you know two percent, four percent, the barely stuff, it's  
6 all the same. It could be ten, 15, 20, if you're here for  
7 something that you shouldn't be here for, which we believed  
8 you weren't here for the last time, then I'm just trying to  
9 understand that whole situation. Does the Board have any  
10 thoughts about the postponement?

11 MEMBER HART: Mr. Chair, we've gone through a  
12 number of postponements and changes and moving, I feel like  
13 we have had more than sufficient time to be able to deal with  
14 this. We've asked that Mr. Xenophontos, back several months  
15 ago, look at this being a variance case, in which case you  
16 could have actually changed it to a variance case and we  
17 could have heard this a while ago. But now we're not here.

18 I'm not asking for a response for it, I'm just -

19 CHAIRPERSON HILL: I'm asking you for your opinion.

20 MEMBER HART: Not from the Applicant, I'm saying.  
21 And so I just feel like we need to move forward with this  
22 today. I don't think that there is, the zoning  
23 administrator's been pretty clear that they are thinking this  
24 is a variance and I just think we have enough information to  
25 move forward with it now.

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1 CHAIRPERSON HILL: Okay, all right. Does the Board  
2 have any other thoughts?

3 COMMISSIONER TURNBULL: Mr. Chair, I would agree  
4 with the vice chair that both OP and the ZA are consistent  
5 in their view that this is really a variance case and not a  
6 special exception, so my feeling is for us to weigh in on a  
7 special exception is sort of outside of the scope of what --  
8 it becomes a strange point as to what we're really doing  
9 here.

10 CHAIRPERSON HILL: And also, I don't want us to  
11 waste our time here if we're not here for the right thing.  
12 I mean, I'm looking through some material and, again, The  
13 Board is not required to decide a self-certified application  
14 when the Board finds no plausible basis to conclude that the  
15 relief requested is sufficient.

16 I'm just going to cite 18263-B Lester from 2011:  
17 If the Board finds that there is no plausible basis for the  
18 Applicant's certification that special exception relief is  
19 available, the Board can dismiss the application because a  
20 variance was not requested.

21 And so I think that, and we can hear from the  
22 Office of Planning if that's helpful at all for the Board,  
23 but I think that we're here for the wrong thing and I don't  
24 think we need to waste everybody's time to go through this  
25 and just get to the point where we're in here for the wrong

1 thing. Does the Board have any thoughts?

2 MEMBER WHITE: I was ready to move forward with  
3 this because of the multiple postponements, and I agree with  
4 you that I can only decide what's before me and for a last  
5 minute modification of the relief, it's very awkward. So I'd  
6 like to hear Office of Planning's opinion on it.

7 CHAIRPERSON HILL: Okay. I am going to actually  
8 turn to the Office of Planning, just to see if you can help  
9 clarify what you've already stated in your record, or in the  
10 record, I should say.

11 MR. MORDFIN: Good afternoon, I'm Stephen Mordfin.  
12 The Office of Planning finds that this should be a variance  
13 request. The reason is because not only did the zoning  
14 administrator determine that this was new construction, but  
15 also in the BZA Case 18659 which was when this came before  
16 this Board approximately five years ago, the Board in its  
17 order also found that this was new construction.

18 The availability of special exception relief is  
19 only for modifying an existing structure. Since this is all  
20 new construction, the Applicant's avenue for relief is  
21 therefore an area variance and that is what the Office of  
22 Planning believes.

23 CHAIRPERSON HILL: Okay. So I'm back to here with  
24 the Board. I think that we are here, and I don't want to  
25 waste our time going through something that we're not here

1 for for the right reason, so I'm going to make a motion for  
2 dismiss, unless, and I'll let you speak, Mr. Xenophontos, but  
3 -- I'll let you speak, Mr. Xenophontos. Go ahead.

4 MR. XENOPHONTOS: Okay. The whole disagreement here  
5 is a matter of future litigation and other things I will tell  
6 you. We are ruled, that we razed our structure, therefore  
7 what is he saying? However, the ruling by the ZA was based  
8 on a rule which doesn't exist in any book. It doesn't exist.  
9 It is not, it doesn't exist. So if we have to appeal this and  
10 we go to the next court, that one will come up.

11 So we think you know, we are not in the variance,  
12 we are here for a special exception. We are not here because,  
13 the only reason, please refer to the Section number 3, and  
14 the ruling here says because we did not, In the course of a  
15 partial demolition of a building, one needs to maintain at  
16 least four feet of height of floor presence for non-  
17 conforming.

18 Where does it show that to any book? I'm sorry,  
19 is the ZA making rules on his own, or he follow the rules  
20 which already in the books and they can process them. This  
21 is a question. We're not here wasting your time. We been  
22 here, we wasted our time for six years. Economic catastrophe.  
23 For a little, you know, for a house of our right. A house of  
24 our right. Because our neighbors doesn't like our house?

25 CHAIRPERSON HILL: Now Mr. Xenophontos, I got to

1 tell you, there's a lot of information in the record that  
2 shows that you're incorrect. And I think, I think that the  
3 Board, as I've cited before, you're here for the wrong  
4 application. So I'm going to make a motion unless the Board  
5 has any other thoughts, to dismiss this.

6 MEMBER HART: Just one other clarification. Were  
7 we deciding on a motion to postpone first?

8 CHAIRPERSON HILL: I'm denying the motion to  
9 postpone.

10 MEMBER HART: No, I agree. I'm just saying, I want  
11 to be sure that we kind of step through the motions because  
12 I thought there was a motion to postpone first, and I would  
13 not, and I think we've heard from the rest of the board  
14 members, that we would be in agreement that we would not want  
15 to postpone, and then we can --

16 CHAIRPERSON HILL: Oh, no, I appreciate that. And  
17 so we should talk about that first. And again, we were here  
18 in December and we had talked through this entire situation,  
19 and we're back here at this point in time and I wouldn't be  
20 in favor of a postponement. Does anyone else have any  
21 thoughts.

22 COMMISSIONER TURNBULL: Did you say you were in  
23 favor?

24 CHAIRPERSON HILL: No, no, I'm in opposition of the  
25 postponement.

1 COMMISSIONER TURNBULL: With that, I would concur  
2 with you.

3 CHAIRPERSON HILL: Okay. I'm going to make a motion  
4 to deny the motion to postpone. Ask for a second?

5 MEMBER HART: Second.

6 CHAIRPERSON HILL: Motion made and seconded. All  
7 those in favor, aye?

8 (Chorus of ayes.)

9 CHAIRPERSON HILL: All those opposed? The motion  
10 passes.

11 MS. ROSE: Staff will record the vote as 5 to 0 to  
12 0 to deny the request for postponement with Mr. Hill, Mr.  
13 Hart, Mr. Turnbull, Ms. White and Ms. John in support of the  
14 motion.

15 CHAIRPERSON HILL: Okay. And then I'll go ahead and  
16 make a motion to dismiss, unless the Board has any other  
17 thoughts. So then as I said before, I don't think that --

18 (Simultaneous speaking.)

19 MR. XENOPHONTOS: May I have a final --

20 CHAIRPERSON HILL: No, you had your opportunity.  
21 You had your opportunity in December, and you're back here  
22 now from December, and as I said before, I think that you're  
23 here with the wrong request and you can go about the  
24 different avenues that are before you, and I'm just letting  
25 you know what we have before us is a special exception that

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1 the Office of Planning has shown should be an area variance,  
2 that the zoning administrator has shown that it should be an  
3 area variance, that the ANC is against, you have letters of  
4 opposition, and I again now am just going to go back that I  
5 don't think we find any plausible basis to conclude that the  
6 relief request is sufficient.

7 That being the case, I'm going to make a motion  
8 to deny application number 19630 as captioned and read by the  
9 secretary, and ask for a second.

10 MEMBER HART: Second.

11 CHAIRPERSON HILL: Motion has been made and  
12 seconded. All those in favor?

13 (Chorus of ayes.)

14 CHAIRPERSON HILL: The motion passes.

15 MS. ROSE: Is it a motion to deny, or to dismiss?

16 CHAIRPERSON HILL: Sorry, oh my gosh. It's a motion  
17 to dismiss.

18 MS. ROSE: Seconded by Mr. Hart?

19 CHAIRPERSON HILL: I'm going to do it again. I will  
20 make a motion to dismiss application number 19630 as  
21 captioned and read by the secretary and ask for a second.

22 MEMBER HART: Second.

23 CHAIRPERSON HILL: Motion made and seconded. All  
24 those in favor, aye?

25 (Chorus of ayes.)

1 CHAIRPERSON HILL: All those opposed?

2 (No response.)

3 MS. ROSE: Staff will record the vote as 5 to 0 to  
4 0 to dismiss the application with Mr. Hill, Mr. Hart, Ms.  
5 White, Ms. John and Mr. Turnbull in support of the motion.

6 CHAIRPERSON HILL: Okay, great. Thank you. Thank  
7 you very much. All right, Ms. Rose.

8 MS. ROSE: Next is application number 19744 of  
9 Compass Coffee, pursuant to 11 DCMR Subtitle X, Chapter 9,  
10 for a special exception under Subtitle U, Subsection 513.1(n)  
11 from the use requirements of Subtitle U, Subsection  
12 512.1(d)(3) to permit a coffee and prepared foods shop with  
13 more than 18 seats in the MU-4 zone at premises 4850  
14 Massachusetts Avenue, NW, Square 1500, Lots 4 and 3.

15 CHAIRPERSON HILL: Okay. Good afternoon. If you  
16 could please introduce yourselves, please, for the record?  
17 Push the button.

18 MR. HAFT: Michael Haft, Compass Coffee.

19 MR. SUAREZ: Harrison Suarez, Compass Coffee.

20 MR. WHALEN: Holmes Whalen, commissioner in 3D03.

21 CHAIRPERSON HILL: Could you say your last name  
22 again, sir? I'm sorry.

23 MR. WHALEN: Whalen.

24 CHAIRPERSON HILL: Oh, Whalen. And there was  
25 somebody here at party status request? Okay, if you could

1 please come forward also? Oh, so you guys are both –

2 MR. WHALEN: Yes, I'm the SMD commissioner for this  
3 case.

4 CHAIRPERSON HILL: You can come on forward, sir.  
5 We'll just listen to everybody. Could you introduce yourself  
6 again?

7 MR. KRAVITZ: My name is Troy Kravitz. I'm a SMD  
8 3D02, Spring Valley.

9 CHAIRPERSON HILL: Okay. So ma'am, yes, please?

10 MS. RANDOLPH: I'm Gretchen Randolph with Spring  
11 Valley Neighborhood Association.

12 CHAIRPERSON HILL: All right, so Ms. Randolph,  
13 you're requesting party status, correct? What I got confused  
14 by is you're requesting party status in support?

15 MS. RANDOLPH: Correct.

16 CHAIRPERSON HILL: Okay. At least that's good.

17 MS. RANDOLPH: And I'll be short.

18 CHAIRPERSON HILL: That's even better. All right,  
19 can you please let us know why you should be granted party  
20 status?

21 MS. RANDOLPH: My association represents the  
22 neighborhood, many neighbors in Spring Valley, which is an  
23 adjacent community to where Compass Coffee is proposing to go  
24 in. So we'll be directly affected by the development.

25 CHAIRPERSON HILL: Okay. And just for clarification

1 again, you want to have party status in support so that you  
2 can basically be notified of all the different aspects of the  
3 project?

4 MS. RANDOLPH: No, we just feel it important to  
5 share the sentiments that we've received from our members and  
6 involve neighbors regarding Compass Coffee's entering the  
7 neighborhood.

8 CHAIRPERSON HILL: Okay. And so for my  
9 clarification, also the Board, since you have party status  
10 in support, that would allow us, the Board to actually write  
11 a summary order as opposed to a full order, and I'm  
12 clarifying that for myself.

13 MEMBER HART: That is if we approve it.

14 CHAIRPERSON HILL: Yeah, that is if we approve it,  
15 I know. Thank you. So what does the Board think about the  
16 request for party status?

17 MEMBER HART: Just, if you could Ms. Randolph, do  
18 you think that there's going to be some additional impacts  
19 from the development or are you, what specifically are the  
20 concerns that you're raising. I know they may not be concerns  
21 that you think are negative, I just, what is it that you are,  
22 more foot traffic, more car traffic, more, is there something  
23 in particular that you're looking at or just general  
24 development, like if any development came in you'd want to  
25 be a party status request or have a party status request.

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1 MS. RANDOLPH: Sure. We just feel it's important  
2 to be able to speak on behalf of our members and our involved  
3 neighbors that we speak with regarding any development that's  
4 coming into the neighborhood, any changes that may impact the  
5 neighborhood, good or bad.

6 MEMBER HART: So there isn't a, I only say traffic  
7 because that's the only thing that comes to mind that may be  
8 there. Are there any -- I don't necessarily have a question,  
9 I'm just trying to figure out, drilling down on what you  
10 want.

11 MS. RANDOLPH: Sure, absolutely. We've been granted  
12 party status before in other cases and we just wanted to have  
13 the opportunity to provide our support for Compass Coffee as  
14 we've spoken to our members and involved neighbors, and the  
15 sentiments that we've received have been aligned with that  
16 support. So I just wanted to express that sentiment to  
17 provide extra feedback for the Board when you make your final  
18 decision in regards to Compass.

19 MEMBER HART: And are you thinking you wouldn't be  
20 able to do this through regular testimony? Because you can  
21 give testimony as a --

22 MS. RANDOLPH: If you'd prefer me to do that, in  
23 the honor of saving time, but I talk fast and I have a short  
24 thing, but I don't have to --

25 MEMBER HART: No, that's okay.

1 (Simultaneous speaking.)

2 MEMBER HART: I'm not against it, I was just trying  
3 to understand what it is -- Typically we have folks come in  
4 that are opposition because they are opposing whatever the  
5 proposal is. Or, you have someone come in that has a  
6 specific, well, we're concerned about traffic or we're  
7 concerned about the amount of coffee shops or we're concerned  
8 about something, more retail, and we're just wanting to  
9 understand what this is. And I'm just trying to tease that  
10 out. And if they don't have that, then they have, and then  
11 they have the other issue, which is to just come in to give  
12 testimony and that's what I'm trying to gauge.

13 MS. RANDOLPH: I understand. And I think that when  
14 we applied for party status, it was to balance the potential  
15 obstructionists versus the support, and we just wanted to  
16 have that support on the record. That's why I'm here. It  
17 doesn't seem that there is opposition, so maybe it's moot,  
18 but I'm here and if you would like me to --

19 CHAIRPERSON HILL: No, Ms. Randolph, what we're  
20 trying to -- and I do appreciate your application and I guess  
21 having party status through Subtitle Y, Section 404.1(I),  
22 there's a bunch of criteria, that I'm just trying to work my  
23 way through so that the next time you might be here, your  
24 association might be in opposition and I will be kind of like  
25 trying to understand again even why in particular you should

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1 be granted party status --

2 MS. GLAZER: Mr. Chair, I'm sorry to interrupt but  
3 I just want to refer the Board to the criteria for party  
4 status, which really doesn't have to do with whether the  
5 prospective party is in opposition or in support. There are  
6 factors, and I think what I'm hearing from the representative  
7 today is that the proximity of the neighbors who are  
8 constituent members of the group are what makes this group  
9 affected differently than any other group of neighbors as  
10 property owners or residents or occupants of the buildings  
11 nearby. And that, I think, is the relevant criteria and not  
12 whether they need to be a party to make their case one way  
13 or another.

14 CHAIRPERSON HILL: And I appreciate that  
15 clarification from OAG. I was not saying that, I was not  
16 implying, in terms of support or opposition whether or not  
17 you were to get party status. I was again trying to  
18 understand how you were uniquely affected better than the  
19 general public. Okay. So does the Board have any questions  
20 about the application for party status?

21 MEMBER JOHN: I think we --

22 MS. RANDOLPH: May I make one other comment? I'm  
23 so sorry to interrupt.

24 CHAIRPERSON HILL: Sure.

25 MS. RANDOLPH: Obviously, because of our proximity

1 to the development, we would be kept informed then as well  
2 if there were any other changes to the project. So I think  
3 that would also be an official if we did have party status.  
4 Just as a final comment.

5 MEMBER JOHN: So the only other thing I would  
6 suggest that you describe for the record is how many, if you  
7 know, how many of your members live within the 200 foot  
8 radius? Just an idea, for the record.

9 MS. RANDOLPH: Sure. We have over 200 active  
10 members in our association. We also have hundreds of other  
11 neighbors that are involved in our association. We have  
12 members that reside within one block of a development on 48th  
13 Place, 49th Street, Fordham Street, and Mass Ave.

14 CHAIRPERSON HILL: So do you have any members of  
15 your organization actually border the development?

16 MS. RANDOLPH: Within one block, yes.

17 CHAIRPERSON HILL: Okay. Mr. Turnbull?

18 COMMISSIONER TURNBULL: Thank you, Mr. Chair. I've  
19 had the opportunity to be involved with Spring Valley on  
20 several zoning cases. To find them in support is very nice.  
21 I've been in a lot of cases where they're opposed.

22 But I want to say that Spring Valley Neighborhood  
23 Association's a very involved community. They usually have  
24 a lot of input on different things and very good insights on  
25 different things, and they do express the views of the



1 neighbors very well.

2 And I never fully understand how the boundaries  
3 weave in and out on all of this, but if Ms. Randolph says  
4 that their boundaries are overlapping and come very close,  
5 I would be willing to accept that.

6 CHAIRPERSON HILL: Okay. Then we'll go ahead and  
7 approve Ms. Randolph's association as party status.  
8 Congratulations. So you'll have party status in all that  
9 comes with it during this process. I guess, who's going to  
10 be presenting it to us?

11 MR. HAFT: Sorry, we are just here to answer  
12 questions.

13 CHAIRPERSON HILL: Nobody's presenting?

14 MR. HAFT: Not unless there's anything we need to.

15 CHAIRPERSON HILL: Okay. Does anybody have any  
16 questions for the applicant?

17 MEMBER WHITE: Yes. The main question is how are  
18 you meeting the criteria for the relief that you're seeking,  
19 which is the special exception application that you've made  
20 to allow the prepared food shop with 75 seats in the MU-4  
21 zone. Maybe you could tell us a little bit about the project  
22 and how it's impacting the neighbors?

23 MR. SUAREZ: Absolutely. We run a coffee company  
24 called Compass Coffee here in D.C., and the project that we  
25 are entering is in Spring Valley, 4850 Massachusetts Avenue.

1 The space that we have leased is approximately 3,000 square  
2 feet, and what we hope to do, and the reason for our special  
3 exception request, is build a coffee shop that has more than  
4 18 seats.

5 The café will be organized in such a way that we  
6 hope people will come, they'll sit, they'll stay a while,  
7 they will have coffee. In that proposal we envision a large  
8 community area for, I think we outlined Sunday morning, read  
9 the newspaper, and areas for kids to play. There's a lot of  
10 young families in the neighborhood, and we see it as being  
11 critical to our business that we be a spot for the community,  
12 and for this reason we are requesting the special exception.

13 CHAIRPERSON HILL: Now, I'm sorry, were you Mr.  
14 Haft?

15 MR. SUAREZ: I'm Harrison Suarez.

16 CHAIRPERSON HILL: Who is Mr. Haft? Okay, great.  
17 I'm just reading your application now. That's basically,  
18 everything that's in your application would have been your  
19 presentation, so we're resting on your submittal. Okay.

20 Does the party status person have any questions  
21 for the presentation? It's a very thorough presentation that  
22 was just given.

23 MS. RANDOLPH: No, sir.

24 CHAIRPERSON HILL: So you now also have the same  
25 amount of time to present as the Applicant, so you can

1 present as much or as little as you like. They seemed to take  
2 about four minutes. So we'll give you as much time as you  
3 like, however.

4 COMMISSIONER TURNBULL: Mr. Chair, I wonder before  
5 we leave the Applicant, I just had a question. The ANC had  
6 five conditions in their letter. You're willing to accept  
7 those conditions?

8 MR. SUAREZ: We've worked extensively with Holmes,  
9 our SMD commissioner and Troy and Gretchen, and we feel  
10 comfortable that we've come up with something that's good for  
11 the neighborhood and we can live with these conditions.

12 COMMISSIONER TURNBULL: So if these conditions are  
13 in the order, you're fine with that.

14 MR. SUAREZ: The one line that we would like added  
15 is, we don't define the parking rules and regulations of the  
16 building. If for some reason our landlord were to say, we  
17 don't validate parking for more than an hour, then we would  
18 not be in compliance with the order. The order says two  
19 hours, we would like to do two hours. But our landlord is the  
20 ultimate decision-maker on that point.

21 MR. SUAREZ: Okay. Understandable. Thank you.

22 MEMBER WHITE: There was another condition in there  
23 too that seemed a little subjective regarding, well, telling  
24 people they should not park on neighborhood streets. Were you  
25 okay with that particular condition too? Okay.

1 CHAIRPERSON HILL: Okay. And we will get to the  
2 ANC, because what I got confused about with the ANC's  
3 conditions where it said 74 and they were applying for 75  
4 seats, was it a typo? Or do you want, do you guys know  
5 anything about that?

6 MR. HAFT: That was an error on my part.

7 CHAIRPERSON HILL: Okay. That's all right.

8 MEMBER HART: I'm sorry, so you want 74.

9 CHAIRPERSON HILL: You want 74 seats.

10 MR. HAFT: Yes, 74 seats.

11 CHAIRPERSON HILL: Okay. Ms. Randolph, you can give  
12 your testimony whenever you like.

13 MS. RANDOLPH: Morning, Chairman, hello, members  
14 of the Board. Thank you again for granting us party status.  
15 My name is Gretchen Randolph. I'm here not only as an  
16 individual resident raising three children in Spring Valley,  
17 but also on behalf of the Spring Valley Neighborhood  
18 Association, SVNA.

19 SVNA strongly supports Compass Coffee's  
20 application. We clearly appreciate the opportunity to  
21 participate in today's BZA hearing.

22 SVNA is comprised of residents of Spring Valley,  
23 a neighborhood immediately adjacent to Compass' proposed  
24 store site in Spring Valley Village. Our association has over  
25 200 active members as well as hundreds of neighbors involved

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1 in SVNA's community activities and initiatives.

2 While SVNA is a relatively new organization, we  
3 represent an active and engaged group of Spring Valley  
4 neighbors who are working together to maintain and even  
5 improve our community through community service days, hosting  
6 social functions and providing timely, accurate information  
7 about important issues of interest to neighbors.

8 Some of these efforts include supporting  
9 responsible development and positive growth exactly like that  
10 embodied by this application.

11 SVNA believes that Compass' proposed coffee shop  
12 will have a positive impact on the immediate community, and  
13 our neighbors have been overwhelmingly supportive of Compass'  
14 application as evidenced at the March and April ANC 3D  
15 meetings as well as neighborhood email, listserv and Next  
16 Door posts.

17 Just to read two quickly, a neighbor on Cedric:  
18 "Compass Coffee will be an outstanding addition to our  
19 community. We need more locally owned and operated businesses  
20 in our neighborhood, and these folks are terrific." Another  
21 neighbor on Fordham: "Can't wait for them to open."

22 We also think it's important to mention that while  
23 our neighbors live throughout all of Spring Valley, we do  
24 have neighbors who live within one block of the Center, and  
25 they are in support of this project. We understand a handful

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1 of neighbors still harbor concerns over traffic and parking,  
2 but we feel that Compass has made extensive coordinated  
3 efforts to mitigate those concerns adequately.

4 Compass has made a concerted good-faith effort to  
5 proactively communicate with neighborhood residents regarding  
6 their proposed plans, most notably by making detailed,  
7 substantive presentations at consecutive ANC 3D meetings in  
8 March and April. In addition to providing specific details  
9 regarding their application and proposed store plans, Compass  
10 owners spent more than an hour each meeting answering  
11 questions at the ANC3D commissioners to commissioners and  
12 neighborhood residents to address individual residents'  
13 concerns that its proposed plans would cause parking and  
14 traffic problems on nearby neighborhood streets, Compass  
15 agreed to a number of conditions outlined in the ANC 3D  
16 report filed with the Board on May 18.

17 SVNA commends both Compass and the ANC 3D  
18 leadership for its work on this matter, and we sincerely hope  
19 that the Board will grant ANC 3D's request to include its  
20 resolution of support and accompanying report as part of the  
21 record. Thank you again for giving me the opportunity to  
22 testify.

23 CHAIRPERSON HILL: Thank you, Ms. Randolph. Does  
24 anyone have any questions for Ms. Randolph? Does the  
25 Applicant have comments or questions from the testimony that

1 was given by Ms. Randolph? Okay, thank you Ms. Randolph. I'm  
2 going to turn to the Office of Planning.

3 MS. BROWN-ROBERTS: Yes, good morning -- good  
4 afternoon, Mr. Chairman and members of the Board. Maxine  
5 Brown-Roberts for the record.

6 The Applicant has requested a prepared-food shop.  
7 That is permitted as a matter of right with 18 seats, and  
8 they are proposing to expand to 74 seats. The special  
9 exception is outlined in Section U51.3(1)(n) and is discussed  
10 in our report. We stand on the record and recommend approval  
11 of the request.

12 CHAIRPERSON HILL: Thank you. Does anyone have any  
13 questions of the Office of Planning? Okay. Does the Applicant  
14 have any questions of the Office of Planning? Does party  
15 status have any questions of the Office of Planning? Okay.  
16 Is there anyone here from the ANC? There's two people, okay.  
17 I'll go ahead and let whoever would like to go first.

18 MR. WHALEN: I'll start. Good morning, Mr.  
19 Chairman. My name's Holmes Whalen. I'm the commissioner in  
20 3D, Single Member District 3.

21 I currently serve as the ANC commissioner in 3D  
22 ANC Single Member District 3. I'm here to submit for the  
23 Board's consideration a brief statement in support of case  
24 number 19477, Compass Coffee's application for a special  
25 exception relief for its new coffee shop at 4850 Mass Ave.,

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1 NW. Compass Coffee's seeking a special exception relief under  
2 Subtitle U, Section 513, from the use requirements of  
3 Subtitle U, Section 512.

4 Compass would like to operate a prepared food shop  
5 with more than the 18 seats to which it is entitled by right  
6 in an MU-4 zone under ZR 16. There exists currently a  
7 commercial corridor on Massachusetts Avenue, and this portion  
8 of Spring Valley, Square 1500, is right now home to Crate &  
9 Barrel, Starbucks Coffee, Capital One banking center, Bank  
10 of Americas, a pop-up retail outlet, Millie's Restaurant,  
11 some professional and Le Pain Quotidien Bakery.

12 A new building on the Square has just been  
13 constructed which will hopefully soon house Compass Coffee,  
14 a Pizza Paradiso restaurant next door and professional  
15 offices on the second floor.

16 On May 2nd the letter in Exhibit 33 came before  
17 the ANC for consideration and the applicant answered  
18 questions from both the community and the commission at that  
19 time. A number of Spring Valley residents who lived closest  
20 to the site raised concerns regarding parking and traffic  
21 safety in and around Square 1500. The community and the ANC  
22 discussed as reflected in our letter, that the number of  
23 parking spaces for all businesses in Square 1500 will remain  
24 static. There will be 65 parking spaces to serve these  
25 patrons in addition to visitors at the existing

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1 establishments, including Crate and Barrel, Le Pain Quotidian  
2 and the two banks.

3 The residents expressed they're not opposed to the  
4 development but believe it's important to address the  
5 parking, traffic, and safety issues. Other residents have  
6 expressed support for a new coffee establishment in the area  
7 and have noted that Compass Coffee is locally owned and  
8 wholly worth community support.

9 The ANC took note of these concerns at the May 2nd  
10 meeting and voted 6-2-0 in support of the application subject  
11 to the five conditions that are enumerated in the letter.

12 Point four, the ANC hopes to address the overall  
13 parking issues with the property owner, Washington Real  
14 Estate Investment Trust.

15 I'd like to note that at all times in the process  
16 Compass Coffee has been receptive to concerns of nearby  
17 residents and pledged to meet the conditions set forth in ANC  
18 3D's letter of support. As such we look forward to welcoming  
19 Compass to the neighborhood. I am happy to answer any  
20 questions anybody has.

21 CHAIRPERSON HILL: Great. Are you the SMD  
22 commissioner?

23 MR. WHALEN: I am.

24 CHAIRPERSON HILL: Okay. Thanks for coming down,  
25 thanks for spending this morning with us. Hope it was

1 entertaining.

2 MR. WHALEN: Very.

3 CHAIRPERSON HILL: Does anyone have any questions  
4 for the commissioner? All right, our next Commissioner?

5 MR. KRAVITZ: Thank you. My name is Troy Kravitz,  
6 I am the SMD Commissioner for the residents that are  
7 immediately adjacent to the shopping center in 3D02. We're  
8 also joined by a fellow officer of ANC 3D, Mr. Chuck Elkins,  
9 is in the back so you've got quite a turnout from ANC 3D.

10 I will keep my comments brief. Thank you for  
11 having us here and providing ANC 3D with an opportunity to  
12 share our perspective and judgement. We are here in support  
13 of this application. The Spring Valley shopping center has  
14 long been a key asset to our community, always generating  
15 fulsome community discussion. This application for the  
16 introduction of Compass Coffee to our neighborhood is no  
17 different.

18 There are multiple online threads about these  
19 plans. One has 16 posts. Another has 45 posts. And still  
20 another has 7 posts, with neighbors sharing their views  
21 publicly, many of whom aren't the usual participants in  
22 community discussions, are overwhelmingly in support of this  
23 application. The community is in support of the application.  
24 The support exists throughout the neighborhood, including  
25 some of those closest to the shopping center. Some of those

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1 supporters are so-called '200 footers.'

2           Of course, while this description of support  
3 applies to most neighbors, it does not apply to all. There  
4 are parking and traffic issues related to the shopping  
5 center, but here Compass is part of the solution even though  
6 the problem long predates their arrival into our community.  
7 Compass has agreed, and frankly with no hesitation  
8 whatsoever, to prohibit employee parking on immediately  
9 adjacent neighborhood streets and to provide free validated  
10 parking for patrons.

11           In addition to the extensive community discussion  
12 that has taken place, Compass also appeared and presented  
13 their plans before the community at two consecutive ANC 3D  
14 meetings. I'm going to correct Ms. Randolph, those meetings  
15 were the April and May meetings, not the March and April  
16 meetings.

17           The discussions were lengthy, detailed and  
18 productive. The ANC devised conditions for our support of  
19 Compass' application. These conditions were developed in  
20 coordination with Compass and we thank them for that, in  
21 response to concerns raised by neighbors.

22           These conditions are: That the establishment have  
23 no more than 74 seats, that trash be handled in such a way  
24 to minimize any potential annoyance to the neighbors living  
25 closer to the site, that there be no tables outside in front

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1 of the coffee shop, that validated parking be provided for  
2 patrons, and that staff parking be prohibited on immediately  
3 adjacent neighborhood streets.

4 We asked that these conditions be included in your  
5 approval of Compass' application. The community is excited  
6 to welcome Compass Coffee into the Spring Valley  
7 neighborhood, my neighborhood, our neighborhood. The ANC  
8 concurs and urges this Board to grant this application  
9 subject to the conditions above. Thank you.

10 CHAIRPERSON HILL: Thank you, Mr. Commissioner.  
11 Also thank you for coming down. What I have for the  
12 conditions, and this is where I'm trying to -- so the  
13 conditions that I understand and that I'm trying to  
14 understand how we're going to implement them, because they  
15 came in a little bit later than we would have normally had  
16 time to kind of process but that there will be no more than  
17 74 seats in the establishment, which Compass is agreeing to,  
18 the trash will be temporarily stored in closed containers  
19 within the establishment and periodically removed to an  
20 enclosed trash container proved on the lot.

21 MR. HAFT: We're able to do that. There's a trash  
22 area.

23 CHAIRPERSON HILL: Okay. That all table seating  
24 will be in the interior.

25 MR. HAFT: Yes. There will be benches outside but

1 no tables, no chairs.

2 CHAIRPERSON HILL: Okay. And then, so this is what  
3 we were talking about earlier, the Applicant can't provide  
4 two hour validated parking because the landlord, they don't  
5 know what the landlord's going to do, so they want to provide  
6 as much validated parking as possible, so we would just have  
7 to strike that because we can't implement something that the  
8 landlord would need to do.

9 MR. HAFT: Is it possible to include something  
10 subject to landlord's reasonable approval or best commercial  
11 efforts or if possible?

12 COMMISSIONER TURNBULL: We could simply say  
13 validated parking, put no time limit on it, and simply say  
14 validated parking as approved by the owner. I would think  
15 something to that effect.

16 MR. WHALEN: Mr. Chairman, could I ask one  
17 question? Guys, in your conversation with REIT, has there  
18 been any indication that they won't validate for two hours?  
19 Because that was something that we talked about at the ANC  
20 meeting and that was a pretty central part of this.

21 MR. HAFT: No. We have a list of hours and times  
22 and rates from the landlord. It shows two hours on there.  
23 We're just concerned that maybe they change the policy five  
24 years from now.

25 MR. WHALEN: Okay. Very well.

1 CHAIRPERSON HILL: Okay. So to Commissioner  
2 Turnbull's, the Applicant will provide validated parking for  
3 its patrons as approved by the landlord?

4 COMMISSIONER TURNBULL: If that seems amenable to  
5 everybody.

6 MR. HAFT: That's fine with us.

7 CHAIRPERSON HILL: Okay.

8 MR. WHALEN: That's fine.

9 CHAIRPERSON HILL: If allowed, okay, if allowed by  
10 the landlord.

11 MR. WHALEN: Mr. Chairman, what was the language  
12 going to be? To provide validated parking if allowed by the  
13 landlord?

14 CHAIRPERSON HILL: Yeah. The Applicant will provide  
15 validated parking for its patrons if allowed by the landlord.

16 MR. WHALEN: I mean, this was a big piece of what  
17 we talked about at the meeting. Validated parking. And I  
18 understand that the lease will be the ultimate arbiter here  
19 and that REIT will as well, so I understand what you're  
20 saying, that the Board can't press a private entity to do  
21 something, but -

22 COMMISSIONER TURNBULL: Maybe we could, instead of  
23 'if' say 'as?' As allowed by the landlord?

24 CHAIRPERSON HILL: Okay. Now I'm looking at OAG.  
25 You all seem to be trying to get to the same place and so I

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1 don't want to hold this up just to get to, I mean, we can't  
2 do anything, we can't make the landlord do anything, they're  
3 not here.

4 MR. WHALEN: Right.

5 CHAIRPERSON HILL: So the Applicant, if the Board's  
6 comfortable with it and you all are comfortable, the language  
7 would be that the Applicant will provided validated parking  
8 for its patrons as provided by the landlord.

9 MR. WHALEN: Okay.

10 MS. GLAZER: OAG would recommend, Mr. Chair, I  
11 apologize for interrupting, but OAG, I just saw these  
12 conditions for the first time, they did come in late, and so  
13 we did not discuss this, but OAG would suggest that several  
14 of these conditions are problematic and that the Applicant  
15 and the ANC are free to enter into any kind of a private  
16 agreement that they want regarding these conditions, but if  
17 the Board were to impose these conditions, remember that this  
18 would, these would run with the land and be subject to, these  
19 are really personal conditions is what I'm trying to get at  
20 and that's something the Board should stay away from.

21 MR. WHALEN: May I ask which ones are problematic,  
22 that OAG sees?

23 CHAIRPERSON HILL: And the reason why, again, since  
24 we got these so, usually we get recommendations from the  
25 Office of the Attorney General in terms of the conditions,

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1 which make it easier to get through this portion of the  
2 hearing, and so, we could come back if you could take some  
3 time to look at it and we could come back at the end of the  
4 day. Meaning we could come back at the end of this, we could  
5 hear the next two cases and then come back if OAG has time  
6 to look at the conditions and provide any -

7 MS. GLAZER: I've looked at conditions. I'm happy  
8 to comment on them if you want, but it's up to the Board  
9 whether they want to discuss these on the record or off the  
10 record.

11 CHAIRPERSON HILL: Okay.

12 MEMBER JOHN: Mr. Chairman, I think the last two  
13 conditions are really quite restrictive and I think just from  
14 looking at them, that perhaps just 'the Applicant will  
15 provide two hour validated parking,' no, 'will provide  
16 validated parking.

17 My concern about that condition is that the  
18 landlord might allow up to four hours validated parking so  
19 would you be prepared to pay for three, four hours, isn't  
20 that part of your lease terms in terms of the amount of some  
21 sort of estimate of how much validated parking you will have  
22 to pay the landlord for?

23 CHAIRPERSON HILL: Okay. So the --

24 MS. GLAZER: Mr. Chair, I'm sorry. I'm going to  
25 chime in one more time and that's it. The purpose of Board-



1 imposed conditions is to mitigate adverse impacts, and  
2 there's really no evidence in the record at this point as to  
3 any parking-related adverse impacts at all. So I don't think  
4 there's a basis, we can go back and forth and quibble about  
5 how many hours and what the landlord will provide, but that's  
6 something that should be between the parties, between the ANC  
7 and the Association and the Applicant, not something that the  
8 Board should be addressing without any evidence in the  
9 record.

10 CHAIRPERSON HILL: Okay. So, and again the reason  
11 we're having this discussion is because this will go along  
12 with the applications, so if it were something else, that's  
13 kind of where we're stuck. So you could have a community  
14 agreement with the Applicant, and it seems like you guys are  
15 all on the same page with that community agreement, and so  
16 the only thing that I would think we would put down as a  
17 condition would be the 74 seats because that then locks them  
18 into the 74 seats and you guys can come up with a community  
19 agreement, I forget what that term is with the, yeah,  
20 memorandum of understanding, thank you. There was another one  
21 that was called community something, I forget what it's  
22 called.

23 But so you'll work together with the Applicant for  
24 those, I'll get back to you, one second, for those items that  
25 we can't implement in conditions based on some of the

1 discussion you've heard today. Mr. Commissioner?

2 MR. WHALEN: I'm not familiar with an MOU like  
3 this, Troy. I'm assuming you are. How is that enforceable?

4 MR. KRAVITZ: It's a legally binding document the  
5 way it's been done in ANC 3E or adjacent ANC. Our ANC doesn't  
6 have much experience with it but we can rely upon ANC 3E for  
7 guidance if need be, and I have no doubt that with the  
8 surfeit of lawyers upon our commission that we'll be fine.

9 CHAIRPERSON HILL: There's a bunch in the back, if  
10 you want to like just turn around.

11 COMMISSIONER TURNBULL: I think 1, 2 and 3 could  
12 be included. I mean, they're kind of standard things that we  
13 talk about from an operational standpoint.

14 CHAIRPERSON HILL: Okay. All right. So does the  
15 Bard have or does OAG have any comments concerning the 1, 2  
16 and 3 conditions? And then we can leave it up to the  
17 Applicant to work together with the community for the final  
18 two?

19 COMMISSIONER TURNBULL: I mean, the seating is  
20 going to be what it is, they're not going to provide seating  
21 outside, that's what this says, and the trash is what we  
22 normally require, containers and then --

23 CHAIRPERSON HILL: All right. I think that's  
24 mitigating adverse impact and I think that that's what we've  
25 done many times before. So then the conditions would be that

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1 there will be no more than 74 seats in the establishment, if  
2 you can just give me a yes, if you wouldn't mind --

3 MS. GLAZER: Mr. Chair, I'm sorry to disagree about  
4 Three; what's the adverse impact about having tables outside?  
5 What evidence is there in the record that that would be  
6 problematic?

7 CHAIRPERSON HILL: Okay, so I'm just kind of  
8 following along here with the Board, and in terms of what has  
9 been provided into the record as far as adverse impact for  
10 outdoor seating, I think that again if, now this is where I'm  
11 just going to, unless anybody has an issue, we have right now  
12 that one condition and then the second was the trash be  
13 temporarily stored in closed containers within the  
14 establishment and periodically removed to an enclosed trash  
15 container provided on the lot. And you've agreed to this.

16 MR. SUAREZ: Yes.

17 CHAIRPERSON HILL: And then 3, 4 and 5 you guys can  
18 talk amongst yourselves and come up with a memorandum of  
19 understanding to get through that. Okay. So I'm going to move  
20 on.

21 All right. Is there anyone here wishing to speak  
22 in support? Is there anyone here wishing to speak in  
23 opposition? Okay. So I'm going to reread the conditions at  
24 the end, but does the Applicant have anything, well, first  
25 of all does the party status individual have anything they'd

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1 like to add at the end?

2 MS. RANDOLPH: No, sir.

3 CHAIRPERSON HILL: Does the Applicant have anything  
4 they'd like to add at the end?

5 MR. HAFT: No. Thank you.

6 CHAIRPERSON HILL: Okay. I am kind of curious. Are  
7 you both the owners?

8 MR. HAFT: Yes.

9 CHAIRPERSON HILL: Well, congratulations. It's a  
10 lovely local business. I think most of us, even though I got  
11 a cup here right now, but you are on the way so  
12 congratulations in terms of just a wonderful establishment  
13 and thanks for dressing up for us too, by the way.

14 COMMISSIONER TURNBULL: Mr. Chair, I got one  
15 question for the Applicant. I'm just curious, because  
16 everybody loves your -- is there something special in your  
17 coffee?

18 MR. HAFT: We can't comment on that, I'm sorry.

19 (Laughter.)

20 COMMISSIONER TURNBULL: Ah. I mean, go to New  
21 Orleans, Café Des Moines, so is this got something special,  
22 you got chicory in it?

23 MR. HAFT: We'd love to have you come by and do a  
24 tour.

25 CHAIRPERSON HILL: All right. I'm going to go ahead

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1 and close the hearing unless the Board has anything else  
2 they'd like to add. I'm going to make a motion to approve  
3 application number 19744 as captioned and read by the  
4 secretary, including conditions that 1), there will be no  
5 more than 74 seats in the establishment, 2), that the trash  
6 will be temporarily stored in enclosed containers within the  
7 establishment and periodically removed to an enclosed trash  
8 container provided on the lot, and ask for a second?

9 MEMBER WHITE: Second.

10 CHAIRPERSON HILL: The motion has been made and  
11 seconded. All those in favor, aye.

12 (Chorus of ayes.)

13 CHAIRPERSON HILL: All those opposed? The motion  
14 passes. Ms. Rose?

15 MS. ROSE: Staff will record the vote as 5 to 0 to  
16 0 to approve the application with a motion by Mr. Hill,  
17 second by Ms. White with Mr. Hart, Ms. John and Mr. Turnbull  
18 in support of the motion with two conditions.

19 CHAIRPERSON HILL: Okay. Thank you. Summary order?

20 MS. ROSE: Thank you.

21 CHAIRPERSON HILL: That's it. Thank you all very  
22 much. We are going to take a quick break. We're not going to  
23 have lunch but we are going to take a quick break.

24 (Whereupon, the above-entitled matter went off the  
25 record at 12:57 p.m. and resumed at 1:09.)

1 CHAIRPERSON HILL: All right, Ms. Rose, if we can  
2 start again.

3 MS. ROSE: Next is Application Number 19752 of  
4 Jemal's Hecht East T, LLC, pursuant to 11 DCMR Subtitle X  
5 Chapter 9 for a special exception under the use requirements  
6 of Subtitle U Subsection 802.1J to permit a large-format  
7 retail use in the PDR-3 Zone at premises 1515 New York Avenue  
8 Northeast Square 4037, Lot 813.

9 CHAIRPERSON HILL: Good afternoon. If you could  
10 please introduce yourself for the record?

11 MS. BLOOMFIELD: Good afternoon. Jessica  
12 Bloomfield with the law firm of Holland and Knight.

13 MS. GOURDINE: Andrea Gourdine with Douglas  
14 Development.

15 CHAIRPERSON HILL: Okay. Ms. Bloomfield, I assume  
16 you're going to present to us? Okay. If basic -- well, I  
17 guess, are there two experts that are going to be speaking  
18 that are not in our book?

19 MS. BLOOMFIELD: We did proffer experts, but we  
20 believe that the record is full, and so we're not going to  
21 have them testify unless there's any specific questions or  
22 unless you ask for a presentation. So I was not going to  
23 qualify them unless you'd like us to give a presentation.

24 CHAIRPERSON HILL: Okay, we'll see what happens.  
25 So in that case, if you could just kind of go ahead and tell

1 us a little bit about the project that you're doing and also  
2 the way in which you're meeting the standards for us to grant  
3 the request.

4 And then also, I guess the one thing is about --  
5 and we will get to it, but about the text amendment and when  
6 it's been published and how we'd be able to move forward with  
7 that. So if you want to address that, you can as well. I'm  
8 going to go ahead and put 15 minutes on the clock just so I  
9 know where we are, and you can start whenever you'd like.

10 MS. BLOOMFIELD: Great. Thank you. There's  
11 actually one other preliminary matter I wanted to check in  
12 on, was we submitted an updated set of drawings after the  
13 pre-hearing submission deadline. We requested a waiver. We  
14 submitted that on May 9th after our pre-hearing submission  
15 Exhibit 38.

16 The reason we submitted that is because we had a  
17 meeting with the Office of Planning and DDOT following our  
18 pre-hearing submission, and we got some really good feedback  
19 from them and responded to their comments in those drawings.  
20 So we would request that those be the drawings that are  
21 approved if this case is approved.

22 CHAIRPERSON HILL: Okay. And so those drawings  
23 have or have not been reviewed by OP?

24 MS. BLOOMFIELD: They have been reviewed by OP and  
25 DDOT and by the ANC.

1 CHAIRPERSON HILL: Okay. I don't have any issues  
2 with the wavier. Does the Board?

3 MEMBER WHITE: I'm fine with it, too, Mr.  
4 Chairman.

5 CHAIRPERSON HILL: Okay. Then we're going to go  
6 ahead and approve that waiver, and we'll have those drawings  
7 as the ones that are in the submission. And again, you can  
8 start whenever you'd like.

9 MS. BLOOMFIELD: Great, thank you. We're here  
10 this afternoon requesting special exception relief to permit  
11 large-format retail in the PDR-3 district at 1515 New York  
12 Avenue Northeast. The site is presently improved with a  
13 surface parking lot and warehouse uses and will be developed  
14 with a one- and two-story new building containing  
15 approximately 92,000 square feet of retail, including one  
16 large-format retailer and small -- and three to four smaller  
17 retailers.

18 The project will have one level of below-grade  
19 parking, access from 16th Street, and on-site loading  
20 facilities that meet the zoning regulations and also meet the  
21 anticipated loading demand from the retailers.

22 MEMBER HART: Ms. Bloomfield, I'm sorry for  
23 interrupting, but could you also just let us know how -- what  
24 the changes were between the drawings that you submitted  
25 previously and the drawings that you submitted now?



1 MS. BLOOMFIELD: Absolutely.

2 MEMBER HART: Just after you've finished going  
3 through your presentation. Thank you.

4 MS. BLOOMFIELD: Our pleadings go through in great  
5 detail how we meet the standards for the special exception  
6 review, and we're happy to go through those one by one if  
7 necessary. Essentially, there will be no objectionable  
8 conditions as there are no residential uses surrounding the  
9 property. New York Avenue is to the north, 16th Street is  
10 to the east, and private property also owned by the applicant  
11 is to the south and west.

12 The building is in contact with a nearby  
13 architecture that all vehicular ingress and egress will be  
14 provided off of 16th Street to avoid conflict on New York  
15 Avenue. And appropriate Public Spaces will be provided for  
16 cyclists and pedestrians.

17 Each retail tenant will have its own ground-floor  
18 entrance and extensive glazing has been provided along the  
19 sidewalk to create visual interest. We have met with OP and  
20 DDOT to review the application, and we are pleased to have  
21 support from both of those agencies. As noted in DDOT  
22 report, in DDOT's report, we prepared a loading management  
23 plan and have agreed to TDM measures.

24 We also agree to all of DDOT's stated conditions.  
25 There were a couple of them in the report, which are to

1 implement the loading management plan, install a marked  
2 crosswalk along New York Avenue at Walt Lincoln Way, which  
3 is the private street adjacent to the site, and to provide  
4 curb ramps along Walt Lincoln Way.

5 We are also pleased to have support from the  
6 Office of Planning -- I'm sorry, from the ANC 5D which  
7 submitted their report on Monday. That's Exhibit 42. And  
8 there were no conditions in that report.

9 The one final item I'd like to mention before I  
10 talk about the updated plans is that we would like to request  
11 flexibility on the type of retail doors that are provided.  
12 When we met with OP and DDOT, they asked that the doors be  
13 recessed so that they do not swing into Public Space, which  
14 is a fairly common comment, and so we did that. They have  
15 been recessed in the current set of drawings.

16 We would like flexibility to have the ability to  
17 have doors that slide like you can imagine for a retailer as  
18 opposed to doors that swing out so long as neither one swings  
19 into the Public Space, which was the specificity requested.  
20 So we would like to request that flexibility and have it in  
21 the order if granted.

22 That concludes our summary and presentation. The  
23 drawings that we submitted on May 9th had very minimal  
24 changes. You probably would not be able to notice them if  
25 you didn't also read our summary of them. There were some

1 items that we addressed in the Public Space plan.

2 Like I said, we revised the entry doors so they  
3 don't swing into Public Space. We removed a set of bollards  
4 in Public Space that DDOT didn't like. We identified the  
5 number and location of the short-term bicycle parking spaces  
6 on the perimeter of the site which were not previously shown  
7 on the plans. And we submitted a more detailed conceptual  
8 Public Space plan.

9 We also indicated the location of the curb ramps  
10 and Pepco vaults which are currently existing on the site.  
11 We provided information on the pedestrian access and ride-  
12 share drop-off strategy. DDOT didn't want drop-offs on New  
13 York Avenue, so we talked with them and submitted information  
14 on that.

15 And then finally, we updated the project's loading  
16 configuration, the loading management plan and the trash  
17 facilities. Those were all details that we had talked  
18 extensively with DDOT on, and they appear to be, according  
19 to their report, happy with what we've submitted. So again,  
20 both of the agencies have reviewed this set of plans before  
21 they submitted their reports, as did the ANC.

22 And that would conclude my portion of the  
23 presentation. We're happy to -- oh, you know what, I will  
24 address the timing for issuance of this order. The zoning  
25 regulations do not currently show this special exception that

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1 we've requested. The Office of Planning submitted a text  
2 amendment to incorporate a special exception allowing for  
3 large-format retail use in the PDR zone which was  
4 unintentionally omitted from ZR16.

5 The Zoning Commission had a hearing on it in  
6 February. The Notice of Proposed Rulemaking was published  
7 in the DC Register in March. The Zoning Commission voted  
8 unanimously to approve the text amendment on April 30th. The  
9 order has not yet been issued.

10 We've been advised by Office of Zoning staff that  
11 it will be issued next week. So it's our position, and we've  
12 looked at some precedent on this, that you could vote today  
13 and hold off on publishing the order until after the text  
14 amendment order has been published.

15 MS. GLAZER: According to the Zoning Commission  
16 Secretary, the text amendment should be published on June  
17 1st.

18 MS. BLOOMFIELD: Which would be a week from  
19 Friday.

20 CHAIRPERSON HILL: Okay. So now repeat that last  
21 part again? No, not the thing from Friday. That we can vote  
22 today and not -- what is your assumption?

23 MS. BLOOMFIELD: The Zoning Commission has  
24 reviewed this. It was published for 30 days and sat on the  
25 DC Register. They reviewed it again and took final action

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1 a couple of weeks ago. The order hasn't been published. So  
2 the text has not yet been amended officially. We're asking  
3 for relief from those regulations, so we would ask that you  
4 vote on the application today, but you can't issue your order  
5 until after the order approving the text amendments is  
6 published in the DC Register which will be in a week and a  
7 half.

8 CHAIRPERSON HILL: Sure, I understand. I was just  
9 waiting -- we had been advised before, and we'll see what OAG  
10 has to say, that again, to -- I mean, I don't know where  
11 we're going to get at this point, but if we got to a vote,  
12 then we would -- well, I'll let OAG advise. OAG, what is  
13 your understanding of the applicant's position?

14 MS. GLAZER: Well, I don't have any comment on  
15 precedent or whether that's been done before, but generally  
16 speaking, OAG's position is that a final order must be filed  
17 on the record and the text amendment must be published in the  
18 DC Register in order for the text amendment to become  
19 effective. Therefore, it will be effective sometime after  
20 June 1, and OAG recommends in these cases that the decision  
21 be put off until after June 1.

22 CHAIRPERSON HILL: Okay, so Ms. Bloomfield, I'm  
23 just -- I mean, we're talking about not a lot of difference  
24 in time here. I'm just trying to understand how this would  
25 harm the applicant in terms of if we -- well, let's see how

1 far we get here, because basically, we'll be back here on  
2 June 6th for a meeting case. But let me kind of work through  
3 where we are, okay?

4 First, the conditions. So that you got from DDOT.  
5 And I think you are in agreement with what you had said, but  
6 just so I'm clear, the applicant shall implement the loading  
7 management plan, LMP, as proposed with the exception of the  
8 truck detection, thanks, detection equipment which should not  
9 be included.

10 MS. BLOOMFIELD: Yes, we agree.

11 CHAIRPERSON HILL: Okay. Two, the applicant shall  
12 install the following ABA-compliant pedestrian facilities as  
13 proposed, A, a marked crosswalk along New York Avenue at the  
14 Walt Lincoln Way intersection, and B, curb ramps along Walt  
15 Lincoln Way on both sides of the service/delivery space to  
16 connect to the existing sidewalk to the south of the site.

17 MS. BLOOMFIELD: Yes.

18 CHAIRPERSON HILL: Okay. All right. So does  
19 anyone have any questions for the applicant?

20 MEMBER HART: Ms. Bloomfield, thank you for going  
21 through the changes in the plan. It's just helpful to  
22 understand what they are. You were -- I was just looking at  
23 the plans -- well, I'm looking at one of the exhibits, give  
24 me a sec.

25 I guess it's Exhibit 38B, which were the revised

1 architectural drawings. You have kind of a long facade along  
2 New York Avenue, which has the -- I guess the main entrance  
3 for the large-format or maybe it's, Ms. Gourdine, if you'd  
4 like to respond to that, that's fine, too. Can you talk  
5 about what that facade kind of looks like?

6 I mean, it's a long facade. It's kind of where  
7 you may not have a lot of people walking there right now, but  
8 your intention is that -- not your intention, but the  
9 intention is to have -- there to be more development that's  
10 happening there. So can you talk about just the kind of  
11 visual interest as you're walking along that? And you know  
12 where I'm talking about? This is the, I guess it's the north  
13 facade of the building.

14 MS. BLOOMFIELD: We can pull up the plan if that's  
15 helpful.

16 MS. GOURDINE: So this area right here, this is  
17 all storefront.

18 MEMBER HART: And it's storefront, but you know,  
19 storefront can be done many different ways.

20 MS. GOURDINE: Right.

21 MEMBER HART: You can have it so that you just  
22 have your own -- I mean, are people able to actually see out  
23 of that, or is that going to be -- and how do you ensure that  
24 so you don't have that space become space to put up, you  
25 know, displays or something else that will make it just

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1 extremely difficult to see through there?

2 MS. GOURDINE: Right. So it's my understanding  
3 that this area, people, pedestrians will be able to see  
4 inside the store. So it won't be like a CVS where they have  
5 marquee covering it up. So people can see outside onto New  
6 York Avenue and pedestrians can see inside the store.

7 MEMBER HART: And so you're only proposing the  
8 single -- you're proposing the single entrance because just  
9 to give the -- to give fewer access points along there? It's  
10 easier to -- for security purposes, to be able to understand  
11 where that is?

12 MS. GOURDINE: Yes, that's correct.

13 MEMBER HART: And is it also because of the  
14 escalator that's going down to the garage?

15 MS. GOURDINE: Yes.

16 MEMBER HART: Have you thought about any other  
17 ways of kind of trying to break up that? I mean, it's a long  
18 -- how long is that, are we talking about? It's almost most  
19 of the block, so you're probably looking at a couple hundred  
20 feet?

21 MS. GOURDINE: Yes, it's about 400 feet.

22 MEMBER HART: Yeah, that's a fairly long distance  
23 that we're talking. And you have -- which I'm pleased to see  
24 that you have more tenants along Walt Lincoln.

25 MS. GOURDINE: Yes, Walt Lincoln Way.

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1           MEMBER HART: Walt Lincoln Way. Gosh, I'm like,  
2 thinking I want to say Walt Whitman, and I'm like, that's not  
3 Whitman. But you have more kind of interest along there.  
4 Have you thought about that? And, you know, what I'm trying  
5 to get to is how do you make it so that you have -- you're  
6 trying to create a pedestrian experience, and having an  
7 appropriate pedestrian experience, how do you do that to try  
8 to break that up?

9           MS. GOURDINE: So, this question actually came up  
10 in our inner-agency meeting a couple of weeks ago, and we  
11 talked about adding more green elements along the facade.  
12 So the building is located in Ivy City, so we talked about  
13 incorporating ivy along New York Avenue. And it's actually  
14 shown on the Walt Lincoln Way rendering.

15           MALE PARTICIPANT: These slides here show it.

16           MEMBER HART: Yeah, you can come up if you want.

17           CHAIRPERSON HILL: Is the architect -- yeah, sure,  
18 go ahead. Sir, so you were not in our expert book, correct?

19           MS. BLOOMFIELD: He is not.

20           CHAIRPERSON HILL: But you did submit -- which  
21 exhibit was it?

22           MS. BLOOMFIELD: Exhibit 15.

23           CHAIRPERSON HILL: Okay. Exhibit 15. Sir, well,  
24 as you're pulling that up, I have a question for you also.

25           MEMBER HART: So really what I'm trying to get to

1 is the issue of -- and you have a large retailer that you are  
2 probably going to be displaying on here, so I don't know if  
3 that is the one or not, but you do have -- I mean, I've seen  
4 some of these facilities, some of these buildings that have  
5 another -- maybe it's a coffee shop or something else that  
6 you have to be able to kind of break up that. Have you  
7 thought about how to do that?

8 MR. NUR: Yes.

9 MEMBER HART: And I know you may have -- that may  
10 be in some of the other buildings along Walt Lincoln Way, but  
11 --

12 MR. NUR: Yes.

13 CHAIRPERSON HILL: Give me one second. So, can  
14 you first introduce yourself?

15 MR. NUR: Abdel Nur.

16 CHAIRPERSON HILL: I'm over here. Hi.

17 MR. NUR: Abdel Nur with Bignell Watkins Hasser  
18 Architects.

19 CHAIRPERSON HILL: How do you spell your last  
20 name?

21 MR. NUR: N as in Nancy, U-R.

22 CHAIRPERSON HILL: Okay, great. So Mr. Nur,  
23 again, we see your application -- I'm sorry, your resume  
24 that's been submitted, and we need to, again, just determine  
25 whether or not we're going to add you to our expert book.

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1 If you could just tell us just a little bit about yourself  
2 since we haven't necessarily reviewed this right away here,  
3 your experience.

4 MR. NUR: Yes. I'm an architect and a partner in  
5 a 45-person firm. I graduated in 1985 from Howard  
6 University. Been registered. My first registration was in  
7 Washington D.C. in 1988, and I've been working predominantly  
8 on retail, especially large-format retail and mixed-use  
9 development.

10 CHAIRPERSON HILL: Okay, great. Thank you. Does  
11 anybody have any questions for Mr. Nur concerning his  
12 experience?

13 MEMBER HART: No, I don't.

14 CHAIRPERSON HILL: Okay.

15 MEMBER HART: I have another question.

16 CHAIRPERSON HILL: Okay, so Mr. Nur, we're going  
17 to go ahead and admit you into our expert book, so now you're  
18 considered an expert, so congratulations. And have your  
19 question, Mr. --

20 MEMBER HART: I mean, the question I have was  
21 really around how do you not have -- how do you create a more  
22 pedestrian-style experience along New York Avenue, which is  
23 really going to be the -- how many people will be  
24 experiencing this site.

25 MR. NUR: Correct.

1 MEMBER HART: Because you're going to have just  
2 thousands of cars going by here.

3 MR. NUR: Absolutely.

4 MEMBER HART: And you are going to have more  
5 people walking by here.

6 MR. NUR: Absolutely.

7 MEMBER HART: So how do you create something so  
8 that you can try to reduce the vehicular kind of feel of this  
9 as opposed to making something that is more oriented to a  
10 pedestrian experience?

11 MR. NUR: Yes, sir. And I'm one of these people  
12 that you mentioned. I drive -- I live in Washington D.C. in  
13 Logan and drive to Annapolis where our office is, so I pass  
14 by the site every day and been doing so for a long time. The  
15 tenant and the developer, they went through a lot of  
16 measures. This wouldn't be the typical big-box retail that  
17 you see in a shopping center where a lot of people are  
18 parking in front of it.

19 One of the elements is that the parapet, we gave  
20 a variation of the parapet and the material. The developer  
21 orchestrated an additional tenant at the corner, so we could  
22 have a two-story building on the west side of the corner that  
23 you see on the right-hand side of the slide that's currently  
24 on display. And then we have three different materials of  
25 various sorts of reflectivity and color and texture.

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1           We have two or three -- possibly three tons of  
2 masonry product, split-face, smooth-face, and rock-face rock.  
3 We have the aluminum perforated target marquee that you see  
4 that identifies where the vestibule is. And then we have a  
5 stone wood which is a wood-looking material that's between  
6 the two red marquees in the middle here. And this stone  
7 wood, we've chosen a mixture of three different colors and  
8 patterns, so it adds interest.

9           Now, what this particular tenant would typically  
10 not do is have that amount of storefront. They have --  
11 they're currently working on the interior, and the goal is  
12 that along this pedestrian walk, they're going to be, at any  
13 given point, able to look at the inside of the store, see the  
14 hustle and bustle of retail activity of people shopping and  
15 the cashiers working behind the counters. They do not intend  
16 to put high fixtures.

17           I mean, this is very, very valuable for a big-box  
18 retailer, very valuable wall space that you can put high  
19 shelving and stock a lot of merchandise. But the retailer  
20 went through the measure of, at the most, they might have a  
21 low shelf that they have quick-grab items, but the goal here  
22 is that the majority of the facade that you see is going to  
23 be glass and is going to be reflective of what's happening  
24 inside.

25           And then the two-story feature on the corner that

1 broke the otherwise linear composition of the New York  
2 frontage if it was one store all the way to the corner.

3 MEMBER HART: And was there any discussion about  
4 having a -- some other retailer within? I mean, because  
5 Target does have other kind of stores within stores, and I  
6 don't know what that term is. But would they have another  
7 entrance to be able to get in and out of that particular  
8 aspect of it? And I've seen it in other locations to be able  
9 to do that, so that you don't have just the one entrance.

10 I mean, my other Board members can chime in on  
11 this if they want to, but I just find that it is several  
12 hundred feet is a long, long way to have what is essentially  
13 a kind of blank wall that you are -- that you cannot  
14 penetrate in terms of walking through. You can look through  
15 it, but you can't kind of see through that.

16 So I thought it might be helpful to be able to  
17 incorporate something to that extent. And again, I don't  
18 know what the plans are for the two-story buildings that are  
19 to the west. But it's just a thought.

20 MR. NUR: Thank you.

21 CHAIRPERSON HILL: Anyone else?

22 MEMBER WHITE: No, I kind of concur with what Mr.  
23 Hart is saying, because that is a long distance, you know,  
24 in terms of an entrance.

25 So I think you're suggesting considering an

1 entrance right on the corner as opposed to having people  
2 bringing out a lot of merchandise and having to walk 400 feet  
3 in order to get to a crosswalk. It kind of reminds me of a  
4 similar development on Georgia Avenue, the Walmart.

5 But there's only one entrance, you know, on the  
6 front. But it's -- the distance to get to the entrance is  
7 not as long. So I'm just sharing some thoughts with you.

8 COMMISSIONER TURNBULL: I think the only  
9 opportunity you could do that is down by the pharmacy, which  
10 is a CVS. I think CVS is partnering now with Target in all  
11 their stores. I think that would be about the only -- that  
12 would be a place that you could put and it make sense. But  
13 I'm just curious. Ms. Bloomfield, what exhibit are these  
14 drawings?

15 MS. BLOOMFIELD: 38B.

16 COMMISSIONER TURNBULL: Are you sure? Really?

17 MS. BLOOMFIELD: I'm sorry. The renderings you  
18 have here, that you have on the screen, were not submitted.  
19 These are just for our PowerPoint, I apologize.

20 COMMISSIONER TURNBULL: I was going to say, I'm  
21 looking at these, because I don't -- the only thing I've got  
22 here is a black and white drawing.

23 MS. BLOOMFIELD: So, we colored in the elevations,  
24 so they're the same elevations, they just show color. And  
25 we added four renderings that's on the screen. Otherwise,

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1 it's exactly the same as what you have. The plans are all  
2 the same.

3 COMMISSIONER TURNBULL: Can you submit those for  
4 the record then?

5 MS. BLOOMFIELD: Absolutely.

6 COMMISSIONER TURNBULL: Okay.

7 MEMBER HART: So, is there no opportunity to have  
8 another entrance along New York Avenue?

9 MR. NUR: Yes, the store is right now planning for  
10 their interior, and we don't know what's going to go where.  
11 But typically, these smaller tenants are not the stationed  
12 tenants. I mean, they are for the shoppers over there. And  
13 it would be difficult to anticipate that you would be able  
14 to accommodate another door.

15 MEMBER HART: Is this issue also an issue of  
16 topography?

17 MR. NUR: The site -- that's correct. The site  
18 slopes down slightly towards the east, and if we were to add  
19 steps, for example, at the corner where the sign that says  
20 CVS is, that's going to require stairs and require steps  
21 down. And the main entrance, right now, the finished floor  
22 slab is located where the entrance vestibule, which acts as  
23 an entrance point from New York Avenue and a vertical  
24 circulation point from the garage below.

25 CHAIRPERSON HILL: Well, maybe if the Board is



1 interested, we can see, rather than even necessarily a door,  
2 like just how you think that you might be able to break this  
3 up in some fashion, even leaving the way it is currently  
4 existing, but just show us some of the ivy that you were  
5 speaking of and how you were thinking about breaking it up.  
6 But just let me keep moving along here. And okay, you can  
7 pull it up if you like.

8 MR. NUR: Our rendering especially to address  
9 those comments. It's one of the last three pictures.

10 COMMISSIONER TURNBULL: Well, while you're trying  
11 to pull that up, do you expect most of the people who would  
12 be using Target were going to be arriving by car?

13 MS. BLOOMFIELD: Erwin, do you want to take that  
14 one, please?

15 CHAIRPERSON HILL: If you could just introduce  
16 yourself, please.

17 MR. ANDRES: Yes, good afternoon, Chairman Hill,  
18 members of the Board. Erwin Andres with Gorove Slade  
19 Associates. So, Mr. Turnbull, the short answer is yes. The  
20 New York Avenue, there's very limited transit in the area.  
21 So until the neighborhood matures with more residential  
22 users, New York Avenue, as you know, is a major gateway into  
23 the district, so this is an opportunity to capture retail  
24 dollars leaving the city. So the short answer is yes, a lot  
25 of the patrons will be driving here.

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1 MS. BLOOMFIELD: I would also add that we are  
2 working very closely with DDOT through the large tract review  
3 process, which this application is also subject to, and we're  
4 doing a full CTR as part of that process, which wasn't needed  
5 for BZA, but we will be addressing any sort of mitigation  
6 that may be necessary. But at this point, we don't think  
7 that it's going to create much of an impact based on what  
8 everyone just said, that cars are already on New York Avenue.

9 MEMBER WHITE: How large is the parking lot  
10 expected to be?

11 MS. BLOOMFIELD: It will be one level below grade  
12 with 140 parking spaces.

13 MEMBER WHITE: 140? And Target has already  
14 submitted a Letter of Interest, they're locked in?

15 MS. GOURDINE: Yes, the lease is signed, and we're  
16 starting demolition tomorrow.

17 MEMBER WHITE: Oh, okay.

18 CHAIRPERSON HILL: All right.

19 MEMBER WHITE: Thank you.

20 CHAIRPERSON HILL: Okay. All right, I'm going to  
21 turn to the Office of Planning.

22 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman  
23 and members of the Board. Again, I'm Maxine Brown-Roberts.  
24 I'm going to stand on the record with recommended approval  
25 in that they have met all of the requirements of Section

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1 802.1J, and we are in support.

2 I just wanted to make a comment, not on the length  
3 of the building, that's something different. But just wanted  
4 to let you know that this store is not as large as the  
5 suburban stores that we usually see that has the different  
6 uses incorporated. This is a much smaller store than theirs.  
7 So there's likely not to be those other stores that we  
8 usually see that are incorporated that could give you that  
9 breakup of the way along the front edge there.

10 CHAIRPERSON HILL: Okay, great, thank you. Anyone  
11 have questions for the Office of Planning?

12 MEMBER HART: Yeah, just Ms. Brown-Roberts, with  
13 regard to the U802.1J, can you describe how you think about  
14 this as being consistent with that? I mean, it's -- and I  
15 understand you're saying that there may not be another  
16 entrance or possible for another entrance, but can you just  
17 provide a little bit more information on how you think that  
18 it's meeting that?

19 Well, actually, I'm looking at the number five,  
20 which is that the applicant -- an applicant requesting  
21 approval under the section must demonstrate that the proposed  
22 use building or structure, including the siding,  
23 architectural design, site plan, landscaping, sidewalk  
24 treatment, and operation will be in concert with the  
25 surrounding street patterns, minimize unarticulated blank

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1 walls adjacent to Public Spaces, etcetera. That's the part  
2 that I'm looking to get more.

3 MS. BROWN-ROBERTS: Sorry, I think that if it's  
4 possible, as was said before, this is going to go through the  
5 large tract review process, which looks in more detail at the  
6 design. You won't see that, but I think that we would be  
7 willing to work with the applicant at this stage to see if  
8 there's anything else that could be added to have more  
9 articulation along the side.

10 MEMBER HART: And with respect to number -- I  
11 guess it's Subsection 7, U802.1J-7, part of this says that  
12 it's the building roof shall incorporate pitched rooflines  
13 and detailed roofing materials. I'm just not exactly sure  
14 what that means.

15 It's, the following list shall be considered as  
16 guidelines for the design of large-format retail buildings,  
17 and then of that, the third part of that, which is C, says  
18 building roofs shall incorporate pitched rooflines and  
19 detailed roofing materials. And I just don't understand what  
20 that -- if they've actually met this or if they need to meet  
21 that? I don't know. I'm just trying to understand that.

22 MS. BROWN-ROBERTS: Well, I think when you look  
23 at the overall, I think you may just be looking at the Target  
24 portion. But if you look at the overall building, there may  
25 not be pitched rooflines, but there is some variety that is

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1 incorporated in the entire building.

2 MEMBER HART: And so you're looking at it as --  
3 you're looking at it as the entire development as opposed to  
4 the larger portion of the development, which is the Target?

5 MS. BROWN-ROBERTS: Yes. And I think that this  
6 roof, if you pass along here all the time, and most of the  
7 buildings, I don't remember that one building along there  
8 that has a pitched roofline, you know?

9 So I think that if we were to incorporate  
10 something like that here, it would change the sort of design  
11 that is within this PDR zone. I think maybe on some of the  
12 buildings that a pitched roofline may be more appropriate,  
13 but taking in context, this building, I don't think that is  
14 the most appropriate way to do that.

15 MEMBER HART: And don't get me wrong, I was not  
16 saying that they should have one. I was just trying to  
17 figure out --

18 MS. BROWN-ROBERTS: Address the pitched roofline.

19 MEMBER HART: Yes, how that kind of met that. So  
20 I appreciate it, thank you.

21 CHAIRPERSON HILL: Okay, anyone else for the  
22 Office of Planning? Does the applicant have anything for the  
23 Office of Planning?

24 MS. BLOOMFIELD: No, thank you.

25 CHAIRPERSON HILL: Okay. Is there anyone here who

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1 wishes to speak in support? Is there anyone here who wishes  
2 to speak in opposition? Is there anyone here from the ANC?  
3 Okay. So Ms. Bloomfield, we're back to you for a second. I  
4 guess no one has any more questions for the applicant. Ms.  
5 Bloomfield, did you have something that you'd like to add?

6 MS. BLOOMFIELD: I'd like to go back to the matter  
7 of whether you can vote on this application today. We  
8 actually do have precedent. A recent BZA case that was  
9 approved in December 2015 incorporated the penthouse  
10 regulations that had recently been approved. I can go  
11 through that if you'd like me to, but it was exactly the same  
12 fact pattern.

13 The Zoning Commission voted on the text amendment,  
14 it sat and the notice of Proposed Rulemaking went to the DC  
15 Register, then the Zoning Commission voted for final action  
16 to approve the new penthouse regulations a couple of weeks  
17 later. This BZA case was heard that sought relief from the  
18 new penthouse regulations. The BZA voted on it and approved  
19 it a couple of weeks after that.

20 The text amendment for the penthouse regulations  
21 was published in DC Register, and a week after that, the BZA  
22 order was published. So it was the exact same fact pattern  
23 as this case. We would use that as precedent to say you  
24 could do the same here. Again, we leave it up to the Board.  
25 I understand it's only a couple of weeks, but if there's

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1 precedent for it and if there's really no issues, we would  
2 ask that you take a vote today.

3 MEMBER WHITE: I was just going to ask for the  
4 application number, just for my information.

5 MS. BLOOMFIELD: 19121.

6 CHAIRPERSON HILL: And I guess, Ms. Bloomfield,  
7 and I'm going to ask OAG again, but the reasoning behind --  
8 I mean, and we have had this discussion with other people in  
9 that we don't want to get in the way of things happening if  
10 this were to get approved. But so then is there some  
11 reasoning that you can give us why, you know, two weeks is  
12 going to delay you in some capacity?

13 MS. BLOOMFIELD: Yes, we do have a reason.

14 MS. GOURDINE: Just based on our permit scheduling  
15 and construction scheduling, we would need the zoning  
16 approval around that time so we're not held up during our  
17 approvals.

18 CHAIRPERSON HILL: Okay, so what you are  
19 testifying to is that these two weeks are going to slow your  
20 project down?

21 MS. GOURDINE: Yes.

22 CHAIRPERSON HILL: Okay. All right.

23 Ms. Glazer?

24 MS. GLAZER: I do recall that case, the penthouse  
25 regulations case. I believe that that was distinguishable

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1 because there were other types of relief, and that the  
2 penthouse portion was bifurcated from the other portion of  
3 the case.

4 So I don't think it's exactly the same. That  
5 being said, that may have not been the best practice if it  
6 was done, even in that case. And so OAG just wants to  
7 caution the Board of that fact, that technically, the  
8 regulation is not in effect, so you'd be voting on something  
9 that is not really in effect yet. And I'm being cautious.

10 CHAIRPERSON HILL: Oh, no, I'm sorry, I was  
11 rolling my eyes at the applicant. The two -- again, the two  
12 weeks is going to harm you how?

13 MS. GOURDINE: Because the tenant, Target, has a  
14 milestone schedule, and we have a milestone schedule with  
15 construction, so zoning approval is critical to getting  
16 building permit approval.

17 CHAIRPERSON HILL: Okay, give me one second here.  
18 Could you please introduce yourself?

19 MR. MILLSTEIN: I apologize for the late entry.  
20 Paul Millstein, Douglas Development Corporation. So to  
21 elaborate more on what Ms. Gourdine is saying --

22 MEMBER HART: And you are -- I know you're with  
23 Douglas. What is your --

24 MR. MILLSTEIN: I am Vice President.

25 MEMBER HART: Thank you. It's for the record.



1 MR. MILLSTEIN: No problem, all good. So what's  
2 happened here is we have an aggressive schedule, more so than  
3 usual. We are trying to deliver this building to Target in  
4 March of '19.

5 CHAIRPERSON HILL: Mr. Millstein, I'm sorry. Just  
6 real quick. If you came in late, did you get sworn in? Did  
7 you get sworn in?

8 MS. BLOOMFIELD: Yes, he did.

9 MR. MILLSTEIN: Yeah.

10 CHAIRPERSON HILL: Okay, all right. Okay. Now  
11 please continue.

12 MR. MILLSTEIN: Yeah, and I'm just waiting for my  
13 tags.

14 CHAIRPERSON HILL: Okay.

15 MR. MILLSTEIN: Okay, sorry. So we have a very  
16 aggressive schedule here. We are trying to deliver this  
17 building in March of '19 to Target. If in fact we're able  
18 to do that, they have committed to open in October of '19.  
19 It's a very aggressive schedule for Target and for us. But  
20 that actually, if we miss that, they open in cycles.

21 We will lose eight months, they will push eight  
22 months to open that store, even if the building is ready.  
23 So eight months in that neighborhood is meaningful. It's  
24 meaningful the rest of our tenants. It's meaningful to the  
25 general pedestrian experience of Ivy City right now that we

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1 have retail tenants there that some of them are struggling  
2 more than we'd like them to be, and a Target is meaningful.

3 So we'll only make -- every week now, we're being  
4 monitored by Target, and if we're not in a certain position  
5 by August 1st, they're going to not commit to taking it  
6 September or October of '19. We'll lose a cycle. So we have  
7 a tremendous amount of pressure on us every day and every  
8 week.

9 They're looking at this milestone date. They're  
10 looking at our permits. They're looking at our demolition.  
11 And two weeks could be the difference between us opening this  
12 in October of '19 or the following year, eight months later.  
13 So that's what we're up against.

14 CHAIRPERSON HILL: Okay, I appreciate that, Mr.  
15 Millstein.

16 MR. MILLSTEIN: Thank you.

17 MS. BLOOMFIELD: I would also note that this order  
18 that I'm looking at is not bifurcated. It approves variances  
19 from off-street parking, loading, and special exception from  
20 the roof structure requirements. So I'm not sure -- this is  
21 a corrected summary order. I don't know if you want to look  
22 at this. I only have one copy. I'm happy to give it to you.

23 CHAIRPERSON HILL: Oh, that's okay. That's okay.  
24 That's okay.

25 MS. BLOOMFIELD: Okay.

1 CHAIRPERSON HILL: Just give us a minute. Give  
2 us a minute. Okay. Yes?

3 MEMBER JOHN: I'm having difficulty with the notion  
4 that we should vote on language that's not been actually  
5 implemented. I could see where we would go through the  
6 process of hearing the case and putting it off for decision  
7 once the language is published in the registry, in the  
8 Register.

9 So I would recommend, Mr. Chairman, that we pay  
10 attention to what OAG is advising, and I recognize that there  
11 could be some delay, but it seems to me there are lots of  
12 things that could be done to mitigate that schedule. And we  
13 haven't heard how you could mitigate the schedule if you had  
14 a two-week delay. I'm not convinced that two weeks would  
15 prevent Target from opening in 2019.

16 MR. MILLSTEIN: With all due respect, this is what  
17 we do for a living. I've been building buildings in the  
18 District of Columbia for 30 years. We have got this schedule  
19 extremely tight, and the delay -- so I have --

20 CHAIRPERSON HILL: Just give me one second. Just  
21 give me one second.

22 MR. MILLSTEIN: Sure.

23 CHAIRPERSON HILL: So, sorry. So Ms. John, I hear  
24 what you're saying, and I appreciate that. And I guess if,  
25 for me, and we can see what other Board members -- I mean,

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1 we haven't even gotten to whether or not we're voting on this  
2 into approval or not.

3 And so, but I would be understanding of taking a  
4 vote on this if it's something, because in the past, we've  
5 done things in order to not get in the way of different types  
6 of projects, if we do vote. I mean, if you vote a no, then  
7 you vote a no, and that's the end of that. But I'm open to  
8 hearing what other members have to say.

9 MEMBER WHITE: It is -- I guess procedurally, is  
10 it possible to take a vote -- let's assume we voted in favor  
11 of it, with language indicating that it's conditioned on the  
12 approval of the publish of the text amendment on June 1st,  
13 whenever it's being published?

14 MS. GLAZER: The Board can do that. It's not  
15 going to be any faster than just voting after June 1st. It  
16 will be exactly the same, presuming approval. It would be  
17 exactly the same.

18 CHAIRPERSON HILL: Okay, but we could do it that  
19 way? Okay.

20 MEMBER WHITE: Well, I guess the question is,  
21 would that be something that would be --

22 MR. MILLSTEIN: Yeah, that was actually what we  
23 assumed it would be, conditioned to the zoning published,  
24 yes, ma'am.

25 MEMBER WHITE: I'm just thinking out loud.

1 MR. MILLSTEIN: No, that works perfectly.

2 MEMBER WHITE: I'm not saying I'm going to do  
3 that.

4 MR. MILLSTEIN: That works.

5 MS. BLOOMFIELD: May I respond to a comment from  
6 Commissioner John?

7 CHAIRPERSON HILL: No, just one second. Let's  
8 just see where we are with this. So Mr. Hood or anybody,  
9 Commissioner? I'm trying to see where we are with this one  
10 idea.

11 MEMBER HART: Yeah, I mean, I get it. I mean,  
12 this is kind of what I -- this is how I kind of see this.  
13 This is the first time this applicant has been before us.  
14 We've only heard it today. The urgency that the applicant  
15 has told to us is not of our making. We did not create that.  
16 It is just theirs.

17 Whether or not we -- if we feel comfortable in  
18 making a decision today, then that's us to be able to have  
19 that comfort. I just don't think that -- while I understand  
20 that there is an urgency, I'm not -- I'm not, one way or the  
21 other, to say that we have to do it today or to do it in two  
22 weeks.

23 I just think that we should be trying to be as  
24 consistent as we can with our policies that we -- or  
25 procedures that we typically go through.

1           And I'm hearing OAG, and OAG's saying that it  
2 would be preferable to wait until -- for the two weeks, so  
3 I'm okay with that. I know that the applicant is wanting to  
4 have that today, but I'm -- I don't have a strong feeling one  
5 way or the other on it, that's what I'm getting to.

6           MS. GLAZER: I just want to chime in. There have  
7 also been cases where the Board has decided to continue the  
8 hearing and not hold the hearing while it was waiting for a  
9 text amendment to become final. So, you know, every case has  
10 been different. And the best practice is to actually act on  
11 a final regulation. But I'm not telling the Board it can't  
12 do it. It has done it before. But it's not the best  
13 practice.

14           CHAIRPERSON HILL: Commissioner Turnbull?

15           COMMISSIONER TURNBULL: Well, I just, to reassure  
16 the Board, since I was there and I voted, the resolution was  
17 passed. It's just caught up in paperwork trying to get the  
18 order out. And OZ is just doing the best they can. And I  
19 don't want to -- I mean, I think it's up to the BZA to really  
20 -- I know what OAG is saying.

21           I mean, there are procedures, and they are  
22 important. So I'm torn. I mean, obviously, from the Zoning  
23 Commission standpoint, it's approved, this development, what  
24 they're proposing meets the special exception criteria. But  
25 I also understand the other side, because we've often gotten

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1 ourselves in a bind at the Zoning Commission on doing things  
2 that may -- we've sort of jumped the gun on some things.

3 So I'm ready to go either way, if you wanted to  
4 do the take a vote, but with language in there. Whatever you  
5 wanted to do.

6 CHAIRPERSON HILL: Okay, all right.

7 COMMISSIONER TURNBULL: I am ready to go whichever  
8 way you want. I will vote in favor of this project

9 CHAIRPERSON HILL: Okay. So I heard what the  
10 Board had to say. I mean, I would be comfortable with the  
11 language that seems to be able to work for the process. I  
12 do hear what my fellow Board members are saying in terms of  
13 their desires to wait. But now after hearing Commissioner  
14 Turnbull again, what is being reiterated to me now is that  
15 this has passed the Zoning Commission and that this is  
16 something that we're waiting on paperwork.

17 So I mean, I just want to, you know, mention that  
18 I'm comfortable moving forward with the vote. And what seems  
19 to -- and we don't have to take a vote here, I just -- it  
20 seems as though I'm at a 3-2 in terms of moving forward with  
21 taking a vote. Is that kind of where we are? Okay.

22 All right. So that was whatever that was. Okay.  
23 All right. Let's see. So does the applicant have anything  
24 else that they'd like to add?

25 MS. BLOOMFIELD: No, thank you.

1 CHAIRPERSON HILL: Okay, so is the Board  
2 understanding what the discussion has been? All right.  
3 Okay. So there you go. All right. I'm going to go ahead  
4 and close the hearing, and then is the Board ready to  
5 deliberate?

6 MEMBER WHITE: Yes.

7 CHAIRPERSON HILL: Okay, so I mean, we can hold  
8 that deliberation area in -- you can deliberate on anything  
9 you'd like. In terms of the items that the applicant has put  
10 forward and the Office of Planning and the record, I do  
11 believe that the application has met its criteria for our  
12 approval.

13 I think that I don't have an issue with the  
14 flexibility of the sliding doors as far as the applicant has  
15 put forward. And I think that, again, the ANC being in  
16 support, the Office of Planning in support, and DDOT in  
17 support, as well as the record being full, I would be in  
18 support of this application.

19 Does anyone else have anything they'd like -- oh,  
20 also with the condition that if we were to vote today, which  
21 we seem to be voting today, that the order could not be --  
22 what was the language again you mentioned, Ms. White? The  
23 order could not be issued until after the text amendment is  
24 published.

25 MEMBER WHITE: Yes.



1 CHAIRPERSON HILL: Okay. So does anyone else have  
2 anything they'd like to add?

3 MEMBER HART: Yeah, only that I mean, I have a lot  
4 of questions regarding the New York Avenue. I mean, I  
5 understand that you have a limited design that you can  
6 actually deal with along New York Avenue. I do appreciate  
7 the windows.

8 I don't know if -- I almost want to add something  
9 in the record, add a condition that has to deal with not  
10 having anything against the window, not having any displays  
11 against that window so that you can actually continue to see  
12 through.

13 Because the New York Avenue window just seems like  
14 that's the only part that is -- that at some point, it might  
15 be -- you might have -- the Target or whatever the company  
16 is, that the store that is using that facility, they may want  
17 to start putting things up against the window to -- displays  
18 to show off the wares that are inside the building.

19 I just think we should have some sort of condition  
20 that says that we want to keep the windows open. And I don't  
21 know what that might look like.

22 COMMISSIONER TURNBULL: Do you want that also to  
23 read as clear glass?

24 MEMBER HART: Yes. Yes. And I don't know that  
25 it's -- I don't know how Commissioner Turnbull, if you all

1 deal with that with the Zoning Commission in terms of some  
2 of the retailers that are -- that want to put up displays on  
3 their -- some of the national retailers that want to put  
4 displays on their -- at their window front.

5 COMMISSIONER TURNBULL: I think most of the  
6 planned unit developments we've had are rather small shops  
7 as part of an overall project, and it's either called out in  
8 the drawings. But it's usually understood to be open.

9 MEMBER HART: Open? Yeah.

10 COMMISSIONER TURNBULL: I mean, because here's  
11 coffee shops. There's all kinds of little restaurants that  
12 are in the planned unit developments.

13 CHAIRPERSON HILL: So, the condition would just  
14 be clear windows in the --

15 MEMBER HART: Along New York Avenue, along the New  
16 York Avenue facade or the north facade.

17 CHAIRPERSON HILL: Okay. Clear windows along the  
18 New York Avenue facade? Okay. All right. So I'm  
19 comfortable with that condition. Does the applicant have any  
20 thoughts on that condition? I saw some nodding. Okay.

21 MR. NUR: This is the intent of the tenant.

22 CHAIRPERSON HILL: Okay, all right. Okay. Then  
23 there's not an issue. All right. So then I'll go ahead and  
24 make a motion. What's the condition?

25 MS. GLAZER: Mr. Chair?

1 CHAIRPERSON HILL: Yes?

2 MS. GLAZER: I just want to interject. I don't  
3 think it's advisable to put the condition order that it will  
4 not be released until after the text amendment. That's just  
5 going to be understood.

6 CHAIRPERSON HILL: Okay. Okay.

7 MEMBER HART: It doesn't need to be in it.

8 CHAIRPERSON HILL: Okay. I understand. All  
9 right. Okay. So all right then, we're still at the same  
10 place. So the condition, what was the condition that you --

11 MEMBER HART: That the applicant shall have --  
12 shall maintain clear glass along the New York Avenue street  
13 frontage, north facade. I don't know what you want to --

14 CHAIRPERSON HILL: The applicant shall maintain  
15 clear glass along --

16 MEMBER HART: New York Avenue street frontage.

17 CHAIRPERSON HILL: Okay. All right. Okay, so I'm  
18 going to go ahead and make a motion to approve application  
19 number 19752 as captioned and read by the secretary, also  
20 including the conditions that the applicant has agreed to,  
21 as well as that the applicant shall maintain clear glass on  
22 the New York Avenue street frontage, and ask for a second.

23 MEMBER HART: Second.

24 CHAIRPERSON HILL: Motion has been made and  
25 seconded. All those in favor.

1 (Chorus of aye.)

2 CHAIRPERSON HILL: All those opposed? The motion  
3 passes.

4 MS. ROSE: Staff will record the vote as 5-0-0 to  
5 approve the application with a motion by Mr. Hill, seconded  
6 by Mr. Hart, with Ms. White, Ms. John, and Mr. Turnbull in  
7 support of the motion with conditions as stated. Are you  
8 leaving the record open for the PowerPoint to be submitted  
9 as requested by Mr. Turnbull?

10 CHAIRPERSON HILL: Yes, if you could submit the  
11 PowerPoint.

12 MS. BLOOMFIELD: Yes, we will do it today.

13 CHAIRPERSON HILL: Okay, and then summary order?

14 MS. ROSE: Thank you.

15 CHAIRPERSON HILL: Thank you. Thank you all.

16 COMMISSIONER TURNBULL: Mr. Chair, I just wanted  
17 to add that I'm a little let down by the name of the project.  
18 I think it falls way short of what we're used to from Jemal.

19 CHAIRPERSON HILL: Actually, since Mr. Turnbull  
20 is mentioning it, it would be -- you saw how much we  
21 struggled today. So it would be nice if we could get here  
22 as early as possible, obviously, with what you need to do.  
23 Thank you.

24 CHAIRPERSON HILL: All right, Ms. Rose, if you  
25 could go ahead and read our last one.

1 MS. ROSE: The next application is number 19754  
2 of Capital One pursuant to 11 DCMR Subtitle X Chapter 9 for  
3 a special exception under Subtitle U Subsection 513.1N from  
4 the use requirements of Subtitle U Subsection 512.1D3 to  
5 permit a prepared food shop with 106 seats in the MU-4 Zone  
6 at premises 3146-3150 M Street Northwest, Square 1199, Lot  
7 64.

8 CHAIRPERSON HILL: Okay, if you could please  
9 introduce yourselves for the record.

10 MS. PRINCE: Allison Prince of Goulston and  
11 Storrs, here on behalf of the applicant.

12 MS. LINKENS: Cindy Linkens with Leo A Daly, on  
13 behalf of the applicant.

14 CHAIRPERSON HILL: Okay, great. Ms. Prince, I  
15 assume you're going to present to us?

16 MS. PRINCE: We could do a very abbreviated  
17 presentation.

18 CHAIRPERSON HILL: Yeah, that's okay. I agree  
19 with you. So let's see. I think the record was pretty full.  
20 I would like to hear, I guess, what it is you are proposing,  
21 and just briefly how you're meeting the criteria under the  
22 standard for us to grant that proposal. And you can start  
23 whenever you'd like.

24 MS. PRINCE: Great. As I said, Allison Prince of  
25 Goulston and Storrs, here on behalf of the applicant, CapOne.

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1 Just so everyone's clear, this is a very interesting new  
2 concept that CapOne is presenting. Millennials don't like  
3 to go to banks. They bank online and they go to ATMs. And  
4 banks need to get people into banks.

5           So CapOne has come up with a new concept that's  
6 a combination of a coffee shop, community meeting rooms that  
7 can be leased out to community members at no charge for non-  
8 profits, and a banking function that's not traditional teller  
9 services but rather bank employees walk around the premises  
10 to see if people have questions about their banking needs.  
11 There are four to six employees that walk around the  
12 premises.

13           I was skeptical. But this has been extremely  
14 successful in other cities. So it's a nice way to activate  
15 the corner, and we were certainly happy to see that the  
16 community was very excited about it as well. This corner I  
17 think everyone knows. It's where Nathan's used to be.  
18 Nathan's was then displaced by Serendipity Restaurant, which  
19 is no longer there.

20           The bank will take over the whole building. The  
21 top story will remain residential. And oddly, because of  
22 this seat limit that we have that we heard about for Compass  
23 Coffees, we run afoul of that, because we have 106 seating  
24 capacity. Even though only a fraction of the use is coffee  
25 shop use, we still trigger that and need to get special

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1 exception relief.

2 As we also heard from Compass Coffees, there's no  
3 specific special exception criteria that we need to meet for  
4 a coffee shop seating capacity. Special exception is just  
5 the broad special exception criteria of being in harmony with  
6 the general purpose and intent of the zoning regulations and  
7 the lack of adverse impacts.

8 Here, this use, I would contend has a lesser  
9 impact than the matter of right restaurant use that had been  
10 there. The hours of operation will be shorter. No liquor  
11 license. And really, a community-serving kind of use. ANC  
12 2E had absolutely no issue. They voted unanimously to  
13 support. Office of Planning and DDOT are also in support.  
14 DDOT has asked that we try to provide a bike rack in front.

15 We'll certainly agree to a condition that asks us  
16 to provide a bike rack subject to Public Space Committee  
17 approval. I'm a little concerned the sidewalk is narrow, and  
18 the Committee might not welcome a bike rack, so definitely  
19 has to be subject to Committee approval.

20 There are some changes proposed for the exterior,  
21 but those are completely subject to Old Georgetown Board  
22 approval. So we'd appreciate a condition just noting that  
23 the plans are subject to Old Georgetown Board approval.

24 Other than that, we have Cindy Linkens here today  
25 from Leo Daly who can walk through the plans if you're really

1 interested. But if you're not, we're happy to rest on the  
2 record.

3 MEMBER WHITE: I had a question. So is the bank  
4 operating in this property with the coffee shop? Are you  
5 just making money off of selling coffee?

6 MS. PRINCE: It's a banking use on the premises  
7 in the sense that financial services employees wander the  
8 floors and ask people if they need help with a mortgage or  
9 whatever. And Cindy is very familiar with it, because  
10 there's one in Chinatown that's under construction right now.

11 MS. LINKENS: Good afternoon. There's no -- it's  
12 not a bank in that there are no tellers. There's no cash.  
13 You do not walk up and meet with people like you do at the  
14 bank. They have a bank up the street, and that bank will  
15 remain there at Wisconsin and Q. As she said, it's targeting  
16 a different audience.

17 So it is an arrangement where we lease out part  
18 of the premises to the coffee entity. So Capital One does  
19 not run the coffee shop. The coffee shop is run by a coffee  
20 entity. In this case it will be Peet's. But Capital One  
21 owns the premises, and Capital One has bank employees.

22 Just to note on this photo is an example of pretty  
23 much the amount of people that are standing on this corner  
24 every 30 seconds to cross the street. So I would agree with  
25 Allison on cautioning on the bike rack. It's basically got

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1 narrow sidewalks. And we're certainly willing to do those,  
2 but we would want to make sure that they're safe and that  
3 they don't impede pedestrian flow. But we can briefly just  
4 go through the plans if I could figure out how to --

5 MS. PRINCE: Would you like us to go through the  
6 plans?

7 CHAIRPERSON HILL: I'm okay. Is the Board all  
8 right? I mean, it was all on the record, and we did --  
9 unfortunately, we have to look at everything. So we did look  
10 at everything. It was interesting. I like that guy in  
11 particular, actually. Yeah, the hoodie hipster. And so  
12 let's see. Yeah. Sorry, please. Please, of course.

13 MEMBER JOHN: I do have one question. Did I read  
14 that one or more of the conference rooms would be available  
15 to the community? Without cost?

16 MS. LINKENS: Yeah, I want to clarify. It's not  
17 -- they don't lease the conference rooms. The conference  
18 rooms are available to the community, to anyone, or to the  
19 coffee patrons if they're not being used. The only people  
20 that can reserve a conference room in advance are the non-  
21 profit organizations in the community that would like to use  
22 them.

23 So they are allowed to specifically call in and  
24 reserve the use of a conference room. Other patrons and  
25 bank, financial institution patrons, as well as café patrons,

1 can use them as they would like to when they're not in use  
2 in a reserved capacity from another entity. So up on the  
3 second floor, you'll see here there's a small meeting room.  
4 And in the lower level, whoops, which way am I going? No,  
5 wrong way.

6 Down on the lower level, the previous owner has  
7 spent a good deal of energy and time digging out the basement  
8 underneath the Nathan's, so there's now a 14-foot high  
9 basement in the lower level there. And so that lower level  
10 is a large meeting room area and coffee hangout space, if you  
11 will, so you can see there's a large meeting area here with  
12 drop-down screen and video wall that can be used by any  
13 entity that would like to use it.

14 MEMBER WHITE: One more question. How do you  
15 manage the amount of people that are going to be coming in  
16 here? This is Wisconsin and M Street. I'm just curious.  
17 I'm looking at the criteria, specifically, but this is just  
18 a question that I'm asking. I'm looking at your renderings,  
19 and it's just, you know, people kind of peppered around. But  
20 I get the sense that when it opens, it's probably going to  
21 be a lot of traffic coming through there, or am I mistaken?

22 MS. LINKENS: It's not going to be any more of an  
23 intense use than a bank lobby or a coffee shop. I mean,  
24 those are the two functions here. So we don't anticipate  
25 that being a problem and feel that it's a lesser use than the

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1 previous restaurants that have inhabited the corner.

2 COMMISSIONER TURNBULL: Is there going to be an  
3 ATM in here, something where I can go in, get money, make a  
4 deposit like a drive-up thing?

5 MS. LINKENS: Yes. So, the third bay here  
6 incorporating 3146 into the property, this area here is a 24-  
7 hour ATM vestibule. So it has its own entrance. At night,  
8 there will be some glazed fold-out doors that come across  
9 here and cordon that off and so that you will have access  
10 into the 24-hour ATM vestibule. Anyone will have access into  
11 that all the time.

12 And then during the day, when the Capital One is  
13 open, these glass doors get folded away, so the ATM lobby is  
14 opened to the rest of the lobby. We also have various  
15 millwork stations throughout that have iPads that are  
16 anchored to the tables so the banking associates can help  
17 people learn how to do online banking or apply for loans  
18 online or how to use any of their financial services that  
19 they offer through the online form.

20 COMMISSIONER TURNBULL: But there's not an advisor  
21 in here that I can go in to and talk about redoing my  
22 mortgage or something?

23 MS. LINKENS: They can arrange for that, and there  
24 are small meeting rooms, so you could come in and make an  
25 appointment. There may not be one on site, but certainly the

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1 associates here that work for Capital One can schedule an  
2 appointment with an advisor for you, and there are many small  
3 meeting rooms for that purpose.

4 COMMISSIONER TURNBULL: Okay. Now, the vendor for  
5 the coffee, does that change in the different locations?

6 MS. LINKENS: It does across the country. So  
7 right now -

8 COMMISSIONER TURNBULL: So if I go into one  
9 Capital One and say, gee, this coffee is great, but I go to  
10 another one, I may not get the same thing?

11 MS. LINKENS: You might not.

12 COMMISSIONER TURNBULL: Okay.

13 MS. LINKENS: Currently I believe they're working  
14 with Peet's to finalize Peet's as the coffee.

15 CHAIRPERSON HILL: All right, did you say that the  
16 previous owner dug out the basement?

17 MS. LINKENS: Correct.

18 CHAIRPERSON HILL: Was that -

19 MS. LINKENS: Sagamore Development.

20 CHAIRPERSON HILL: Were they hoping for Under  
21 Armour?

22 MS. LINKENS: Correct.

23 CHAIRPERSON HILL: Yeah. Okay. That's weird.  
24 Interesting.

25 MS. LINKENS: But they never got as far as

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1 permitting other than the shell work.

2 CHAIRPERSON HILL: Okay, I'm going to turn to the  
3 Office of Planning.

4 MS. FOTHERGILL: Good afternoon, I'm Anne  
5 Fothergill with the Office of Planning, and we rest on the  
6 record in support of the application.

7 CHAIRPERSON HILL: Okay, does anyone have any  
8 questions of the Office of Planning? Okay. Does the  
9 applicant have any questions of the Office of Planning?

10 MS. PRINCE: None.

11 CHAIRPERSON HILL: Okay. Is anyone here from the  
12 ANC? Is there anyone here wishing to speak in support? Is  
13 there anyone here wishing to speak in opposition? Does the  
14 Board have any further questions for the applicant? Does the  
15 applicant have anything they'd liked to add?

16 MS. PRINCE: Nothing to add.

17 CHAIRPERSON HILL: Okay. I'm going to go ahead  
18 and close the hearing. Is the Board ready to deliberate?  
19 Okay, I can start. I thought that it was pretty  
20 straightforward. I thought that the Office of Planning's  
21 analysis was very good, and I appreciate their analysis. I  
22 agree with it. I also appreciate the ANC's unanimous vote  
23 in support. Also, that DDOT have no objection.

24 There was the condition that I didn't -- I think  
25 I'm going to -- if the applicant can just confirm with me,

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1 what I thought the condition was, was the applicant shall  
2 provide at least two inverted U-racks on Wisconsin Avenue  
3 within Public Space adjacent to the site subject to Public  
4 Space and Georgetown Board approval? Was that what --  
5 because the Georgetown Board, I understand. So that was what  
6 the applicant had understood from our discussion the  
7 condition to be?

8 MS. PRINCE: Yes.

9 CHAIRPERSON HILL: Okay. So I'm in support of the  
10 application, and I could move to make a motion. Does the  
11 Board have anything else they'd like to add?

12 MEMBER HART: Just one. Ms. Prince, did you say  
13 there was another condition about you wanting to have some  
14 leeway about the Old Georgetown Board?

15 MS. PRINCE: Our plans are subject to approval  
16 from the OGB. Any of the minor exterior changes require OGB  
17 approval, so we don't -- we want to make sure that this order  
18 is subject, the plans are subject to OGB approval.

19 MEMBER HART: I mean, I don't think that we need  
20 to add anything necessarily ourselves to that. I think that  
21 -- yeah, I think that --

22 MS. LINKENS: You know, I would prefer that we not  
23 tie the two. We have some matters before the OGB, and we're  
24 working with them.

25 MEMBER HART: So, I just wanted to make sure I

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1 understood what you were --

2 MS. PRINCE: It's just the plans that are in the  
3 record. I want them to have that flexibility.

4 MEMBER HART: Yes.

5 CHAIRPERSON HILL: Thank you for that  
6 clarification, Mr. Hart. What I thought, and so the way I  
7 did read the condition, or what I thought the condition was,  
8 or what I thought the applicant was asking the condition to  
9 be, was concerning the DDOT bike rack.

10 So I still -- the way that I would have read the  
11 condition, and now that the applicant is commenting on this,  
12 the condition that I have is that the applicant shall provide  
13 at least two inverted U-racks on Wisconsin Avenue within  
14 Public Space adjacent to the site, and that would be the end  
15 of the condition, meaning that if Public Space doesn't  
16 approve it, then that -- it would still have to be subject  
17 to Public Space approval.

18 MS. PRINCE: Correct.

19 CHAIRPERSON HILL: But not the Old Georgetown  
20 Board.

21 MS. LINKENS: No, it would have to go through  
22 both. Anything you do at the exterior would have to go  
23 through both.

24 CHAIRPERSON HILL: Okay, so I'm going back to the  
25 original condition, which is that you -- in the condition,

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1 you would like it to say subject to Public Space and  
2 Georgetown Board Approval?

3 MS. LINKENS: The bike rack, correct.

4 CHAIRPERSON HILL: The bike rack. The bike rack.

5 MS. LINKENS: It's just the bike rack.

6 CHAIRPERSON HILL: Yes, just the bike rack.

7 MS. LINKENS. All I'm saying is that the plans  
8 that are in the record, to the extent that they depict the  
9 exterior in any way, have not been approved by the Old  
10 Georgetown Board. So I don't want any confusion over that.

11 CHAIRPERSON HILL: Right. I'm just talking about  
12 the bike rack.

13 MS. PRINCE: Right.

14 CHAIRPERSON HILL: Okay. All right. Does the  
15 Board have anything else they'd like to add? So then again,  
16 I'm going to go ahead and make a motion to approve  
17 application number 19754 as captioned and read by the  
18 secretary with the one condition that the applicant shall  
19 provide at least two inverted U-racks on Wisconsin Avenue  
20 within Public Space adjacent to the site subject to Public  
21 Space and Georgetown Board approval, and ask for a second.

22 MEMBER WHITE: Second.

23 CHAIRPERSON HILL: The motion is made and  
24 seconded. All those in favor?

25 (Chorus of aye.)



1 CHAIRPERSON HILL: All those opposed? The motion  
2 passes. Ms. Rose?

3 MS. ROSE: Who seconded?

4 MEMBER WHITE: Ms. White.

5 MS. ROSE: Okay. Staff would record the vote as  
6 5-0-0 to approve the application with Mr. Hill and Ms. White  
7 to approve the application. Mr. Hart, Ms. John, and Mr.  
8 Turnbull in support of the motion, with the conditions as  
9 stated.

10 CHAIRPERSON HILL: Great. Summary order, Ms.  
11 Rose?

12 MS. ROSE: Thank you.

13 CHAIRPERSON HILL: Thank you. Thank you all very  
14 much.

15 MS. LINKENS: Thanks.

16 CHAIRPERSON HILL: Ms. Rose, is there anything  
17 else before the Board?

18 MS. ROSE: No, sir.

19 CHAIRPERSON HILL: Okay, then we stand adjourned.

20 (Whereupon, the above-entitled matter went off the  
21 record at 2:18 p.m.)  
22  
23  
24  
25

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: DCBZA

Date: 05-23-18

Place: Washington, DC

was duly recorded and accurately transcribed under  
my direction; further, that said transcript is a  
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