

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

JUNE 13, 2018

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBERS PRESENT:

PETER MAY, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON
JONATHAN KIRSCHENBAUM
MATT JESICK
ELISA VITALE
MAXINE BROWN-ROBERTS
STEPHEN MORDFIN
KAREN THOMAS
ANNE FOTHERGILL

The transcript constitutes the minutes from the
Public Hearing held on June 13, 2018.

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

(9:57 a.m.)

CHAIRMAN HILL: All right, Mr. Moy.

SECRETARY MOY: All right, Mr. Chairman. The first two cases, I don't know if, whether or not you want me to call both cases or not, but for now, the first case is appeal number 19613 of B Monroe Ventures, LLC, captioned and advertised as an appeal from the determination made on July 28, 2017 by the Zoning Administrator at Department of Consumer Regulatory Affairs, that per Subtitle E, Section 307.3, a side yard would be required to construct two flats on the existing vacant lots in the RF-1 Zone.

This is at 1844 Monroe Street, Northwest, square 2614, lot 38. As I was mentioning earlier, there is a related case application to the same subject property.

CHAIRMAN HILL: Can you read them both? Can we do them both?

SECRETARY MOY: Yes, I, yes, I can.

CHAIRMAN HILL: Because they're both, they're both requesting postponement, correct?

SECRETARY MOY: Absolutely, Mr. Chair. That is case application number 19614 of B Monroe Ventures, LLC. Captioned and advertised for a variance from the side yard requirements, Subtitle E, Section 307.3, which would construct a new three-story flat, RF-1 Zone, 1844 Monroe

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1 Street, Northwest, square 2614, lot 38. And this Board will
2 recall, there is approved party status.

3 CHAIRMAN HILL: Okay. Whoever's here, could you
4 come to the table? Okay, good morning. If you could please
5 introduce yourselves, from my right to left.

6 MS. LORD-SORENSEN: Good morning, Chairman Hill,
7 and members of the Board. Adrienne Lord-Sorensen, assistant
8 general counsel with the DC Department of Consumer and
9 Regulatory Affairs.

10 MR. KELLER: Keenan Keller, 1850 Monroe Street
11 party intervenor, along with Donna Murphy.

12 CHAIRMAN HILL: Could you say your last name
13 again, sir? I'm sorry.

14 MR. KELLER: Keller. K-E-L-L-E-R.

15 CHAIRMAN HILL: Keller. Thank you.

16 MS. MURPHY: All right. I'm Donna Murphy, and
17 together with my husband, Keenan Keller, we own the property
18 at 1850 Monroe Street, and we're the party intervenors.

19 CHAIRMAN HILL: Okay, great.

20 MR. SULLIVAN: Good morning, Mr. Chairman, and
21 members of the Board. My name is Marty Sullivan, on behalf
22 of the Applicant and Appellant.

23 CHAIRMAN HILL: Okay. So Mr. Sullivan, I guess
24 you have filed a motion -- a motion? -- you've requested
25 postponement. And in the request, it is, the reasoning

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1 behind it was that you believe that this, that you're working
2 with DCRA to possibly resolve the issue, and is that
3 basically it?

4 MR. SULLIVAN: That's it. And then, we wanted to
5 reserve our right, especially for the appeal, in the
6 meantime, to make sure that our, what's going to be, looks
7 like a matter of right solution, is, works. And as long as
8 that gets approved, but we would like to reserve our rights
9 in regard to the appeal.

10 And then, the Zoning Commission didn't resolve the
11 issue of the text amendment that would've resolved this, in
12 their last meeting, and so that's been extended as well.

13 CHAIRMAN HILL: Okay. So you're sort of trying
14 to, I mean, okay. So when is it that you think this will be
15 resolved, one way or the other?

16 MR. SULLIVAN: I'd like to think really quickly.
17 But since we requested the postponement, and I know the
18 neighbors have requested a date --

19 CHAIRMAN HILL: The intervenor --

20 MR. SULLIVAN: -- and we're fine with that.

21 CHAIRMAN HILL: Right. The intervenor was --

22 MR. SULLIVAN: Yes.

23 CHAIRMAN HILL: -- in objection to the
24 postponement, and then they mentioned that they had prior
25 obligations, and that there was a date that possibly could

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1 have worked for them. But even if that were the case, are
2 you saying that this will be resolved by July 18th?

3 MR. SULLIVAN: It sure seems like that.

4 CHAIRMAN HILL: Okay, one way or the other.
5 Whether we're either going to be here or not, that --

6 MR. SULLIVAN: Yes.

7 CHAIRMAN HILL: Okay. All right. So now, Mr.
8 Murphy and -- oh, I'm sorry. Ms. Murphy and Mr. Keller, so
9 you guys are, we seen the objection to the postponement, and
10 then also the possibility that even if we were to postpone,
11 to do something either July 18th or later, and would you, do
12 you have any comment on that?

13 MS. MURPHY: Yes. We object to the postponement
14 because, as parties to these cases, we think that the cases
15 should be resolved, involving us, and we have not been
16 notified or provided any information about what the possible
17 resolution is.

18 So we just, we didn't know, learn about the
19 possible resolution until we received a request to consent
20 to the motion to postpone. So if there's a resolution to
21 these matters, we think it should involve all of the parties.

22 And then, with regard to the date, if it is
23 postponed, yes, a date July 18th or later, you know, we'd
24 like the opportunity to make sure that we can be present for
25 whenever the hearing is rescheduled.

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1 CHAIRMAN HILL: Okay. So I actually don't know
2 what the intervenor is supposed to be involved in, right?
3 I mean, and now I'm looking at Ms. Glazer. Like, there's not
4 any, that's not something that they are involved in as the
5 intervenor. They're an intervenor to this particular case,
6 correct?

7 MS. GLAZER: Well, since this is an appeal, it's
8 a little different than if it were an application, I think.
9 With an appeal, it sounds like the parties are, the other
10 parties, DCRA and the Appellant, are discussing a matter of
11 rights solution, which would probably result in a withdrawal
12 of the appeal, if I'm not --

13 CHAIRMAN HILL: Okay. So I guess the answer to
14 that is you are not part of this process, and if the appeal
15 were to go through, you're an intervenor for the appeal.

16 And so if the appeal is, if the appeal is dropped,
17 then I guess it would go away. And then, your, then I don't
18 know what the next steps would be on your part, in terms of,
19 I guess, then you would appeal a permit or anything like
20 that, that might, I don't know. I don't know.

21 MS. MURPHY: So this is the first time we've heard
22 that this is a matter of rights solution, so that's new
23 information to us.

24 MR. KELLER: Today, as of this moment.

25 MS. MURPHY: As of this moment, that was not

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1 included in the motion. So that's useful information,
2 obviously.

3 In terms of the application for variance though,
4 I don't know, we're a party also to the application for
5 variance, so I don't know whether that is a different legal
6 standard.

7 CHAIRMAN HILL: I think that, in the experience
8 that I've had, the parties will try to come to some kind of
9 resolution, and if you're here before us, you will then find
10 out, you know, any information during the hearing that you
11 would be privy to as an intervenor.

12 MS. MURPHY: And that really seems to put existing
13 property owners at a disadvantage in this process, but you
14 know, we will do what we can.

15 CHAIRMAN HILL: Okay.

16 MR. KELLER: I think the thing that we want to
17 stress at this particular moment, that the zoning approval
18 process shouldn't be a trial by ambush, with respect to
19 property owners. We're getting new information, as of this
20 moment, with respect to an as a right solution.

21 CHAIRMAN HILL: No, that, I'm just going to --

22 MR. KELLER: Yes.

23 CHAIRMAN HILL: First of all, like, I don't
24 believe that there's any ambush involved. And so I mean, you
25 have, we just hear the cases that come before us.

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1 And so you know, I can't, we're not here to force
2 other people to do, like, you know, they're here, the
3 Appellant is here, and they're trying to work whatever
4 they're trying to work through.

5 You, as the neighbor, as a property owner, as the
6 intervenor, will have all of the information necessary during
7 the hearing for the appeal, if it does happen. And so --

8 MR. KELLER: When you say during the hearing, do
9 you mean literally at this moment, so that we can't brief any
10 issue that comes before us?

11 CHAIRMAN HILL: You would have, if the appeal were
12 to go through, you would have an opportunity, as the
13 intervenor, to cross-examine and present your testimony also,
14 during the appeal. And everything would be in the record
15 before the appeal happens. So you'd be able to see
16 everything in the record before you came to the appeal. So
17 you'd see, you'd see everything in the record before you came
18 here.

19 MS. MURPHY: So the other thing I would note, and
20 I don't, again, I don't, I'm not an expert in this area, so
21 I don't know how it applies, but the ANC has also opposed the
22 variance in this case and submitted an opposition, so that
23 should be taken into account and --

24 (Simultaneous speaking)

25 CHAIRMAN HILL: Yes, it will be. It will be.

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1 Okay. So, and from our standpoint, again, I'm just trying
2 to, we're trying --

3 MR. KELLER: So with respect to any new
4 application that would be made, before, given the fact that
5 the ANC has a right to comment, and they've taken a position
6 adverse to the original application, before there could
7 actually be any hearing, this information would have to come
8 before the ANC so they could actually review it also before
9 this body actually heard and took a position on any new
10 application that was given.

11 CHAIRMAN HILL: Yes.

12 MR. KELLER: So put it, to sort of make it simple,
13 assuming that they file a new application, before this body
14 would be able to make a determination, the ANC would have to
15 have its time period to review that new application and
16 potentially comment one way or another, or not comment at
17 all, before it would come back here?

18 CHAIRMAN HILL: Yes.

19 MR. KELLER: Okay. So that would actually extend
20 the time period for any hearing beyond July. And since the
21 ANCs don't meet in August, you're actually now into
22 September.

23 CHAIRMAN HILL: I mean, I don't understand what
24 your question is.

25 MR. KELLER: My --

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1 MS. MURPHY: We just, I think what we're trying
2 to say is we want to make sure that the process is followed
3 in the way it needs to be, and that the ANC, and we as
4 parties, have an --

5 CHAIRMAN HILL: Sure.

6 MS. MURPHY: -- opportunity to get the information
7 in advance. With regard to this July 18th date, it's not
8 clear that if there's new information relevant to the
9 variance, that that's going to allow enough time for ANC
10 participation. I don't, you know, we don't have any idea
11 what's being considered --

12 (Simultaneous speaking)

13 MS. MURPHY: -- so that's the issue.

14 CHAIRMAN HILL: Okay. Mr. Sullivan?

15 MR. SULLIVAN: Yes, if I could clarify something.
16 If we, if we're here on July 18th, it's with, it's with this
17 case.

18 CHAIRMAN HILL: Yes.

19 MR. SULLIVAN: And if we, if we are, can satisfy
20 the matter of right requirements -- it's called compliance,
21 not an ambush -- then we won't be here.

22 CHAIRMAN HILL: Yes.

23 MR. SULLIVAN: So there's not going to be any
24 changes prior to --

25 CHAIRMAN HILL: Okay. So if you have any

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1 questions for, beyond, and I know it's confusing, but the
2 Office of Zoning is located across the hall, and they can
3 give you a little bit more information about the process.
4 But the process is followed.

5 And so if you are here on, if we do, and I don't
6 know what date we're going to do it, but if we do do it on
7 July 18th, then you would be here for the appeal, which is
8 what we're here for, and you would be here --

9 MS. MURPHY: For the existing record?

10 CHAIRMAN HILL: For the existing record. And you
11 would be here for the application that is, you know, whatever
12 the back up, you know, the other application that's also
13 being postponed today, if we're back here on --

14 MR. KELLER: On or about July 18th.

15 CHAIRMAN HILL: -- the 18th, yes. On or about
16 July 18th, right. So --

17 MS. MURPHY: On the existing record?

18 CHAIRMAN HILL: Yes, on the, so Mr. Moy, can you
19 tell me how July 18th is looking, and also, then, I think
20 there's only one more day before we recess after that, right?

21 SECRETARY MOY: Yes. Well, actually, Mr.
22 Chairman, there, July 18th and July 25th, was it, they're
23 coequal, and so, in other words, it won't matter, in terms
24 of the load of the docket, on which day --

25 CHAIRMAN HILL: For the Board? Okay. Then let's

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1 do July 18th, because the last day is the last day. So I'd
2 rather not --

3 SECRETARY MOY: That's correct. That's correct.

4 CHAIRMAN HILL: -- you know, okay. So we're going
5 to postpone both, unless the Board has any other questions
6 or thoughts, I'd go ahead and say, let's postpone appeal
7 number 19613, as well as application number -- excuse me one
8 second -- as well as application number 19614, to September
9 -- I'm sorry, not September -- July 18th. Does the Board
10 have any thoughts on that? Okay. You had a question?

11 MS. MURPHY: Mr. Chairman, may I?

12 CHAIRMAN HILL: Sure.

13 MS. MURPHY: We, the first time we heard the July
14 18th date was when you just mentioned it. Could we have an
15 opportunity to check and make sure that we can be present on
16 that date? That was not ever --

17 CHAIRMAN HILL: I thought that was the date that
18 you guys said that --

19 MS. MURPHY: No.

20 CHAIRMAN HILL: -- worked for you guys.

21 MR. KELLER: No, we did not.

22 MS. MURPHY: We said, we said that we were not
23 available on the dates they had previously suggested.

24 CHAIRMAN HILL: Okay. I'm sorry. I'm trying to
25 --

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1 MS. MURPHY: So --

2 CHAIRMAN HILL: I'm trying to help also in this

3 --

4 MS. MURPHY: I appreciate that.

5 CHAIRMAN HILL: -- particular area. I mean --

6 MS. MURPHY: I'm just trying to make sure we're

7 --

8 CHAIRMAN HILL: -- because if, the postponement
9 means that we wouldn't be here. I'm sorry. We're postponing
10 to see whether or not these two cases go away. And so that's
11 what I'm just trying to see, and if it, and we're going to
12 be back here and they're not going to go away -- I'm sorry.
13 If they don't go away by July 18th, then we will be back
14 here. So you're not here July 18th.

15 MS. MURPHY: I don't know. We need to, we don't
16 literally have our work calendars in front of us.

17 CHAIRMAN HILL: Okay. One second. One second.

18 VICE CHAIR HART: Mr. Chairman, the intervenor has
19 actually submitted a letter, and they submitted a letter in
20 opposition, of course. We all read through that. But in
21 that, it does say if the Board --

22 MS. MURPHY: I'm sorry.

23 VICE CHAIR HART: -- does grant the Appellant's
24 request for postponement of the hearing, we would request
25 that it be postponed to July 18th or later, as we will be out

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1 of time on a long planned trip, blah, blah, blah.

2 CHAIRMAN HILL: Right. All right.

3 MS. MURPHY: I apologize.

4 VICE CHAIR HART: But I'm just saying that we are
5 not just pulling the number out of the air, we're actually
6 looking at what it is that is before us, and we're trying to
7 make a determination on that.

8 MS. MURPHY: You're correct. That was my mistake.
9 I'm sorry.

10 CHAIRMAN HILL: That's okay.

11 VICE CHAIR HART: I'm just reading what's here.

12 CHAIRMAN HILL: That's okay. Did you guys submit
13 that one?

14 MR. KELLER: Yes.

15 MS. MURPHY: Yes, we did.

16 CHAIRMAN HILL: Oh, okay. Yes. So --

17 MS. MURPHY: I'm not going to look at it.

18 CHAIRMAN HILL: That's all right. So July 18th,
19 then, we're going to put it on there, okay? Because --

20 MS. MURPHY: Okay.

21 CHAIRMAN HILL: -- that's what seemed to work.
22 And so Mr. Moy, July 18th, okay?

23 SECRETARY MOY: Yes, sir.

24 CHAIRMAN HILL: All right. Okay. I know it's
25 confusing, and I know it's difficult, and I know it's a pain,

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1 and so, but we'll, hopefully, we'll see you on July 18th.

2 MR. KELLER: with the caveat being that we're not
3 necessarily in control of our schedules. Today, we're
4 actually here for another postponement, when they, business
5 of the United States is being done, and we're not there, and
6 we'll get back to it. But thank you very much, Mr. Chairman.

7 CHAIRMAN HILL: All right, Mr. Keller. Thank you.

8 MS. MURPHY: Thank you.

9 CHAIRMAN HILL: Thank you. All right, Mr. Moy.

10 SECRETARY MOY: All right. If we could have
11 parties to the table to case application number 19689 of MIC9
12 Owner, LLC, as amended for special exceptions from the
13 private school regulations under Subtitle X, Section 104.1,
14 and from the bulk extension regulations under Subtitle A,
15 Section 207.2.

16 This would construct a new office space and a
17 111-unit apartment house on the campus of an existing adult
18 private school in the RA-2 and RA-4 Zones as premises 2300
19 16th Street Northwest, square 2568, lot 806, 808, and 809.
20 And I believe, in the record, Mr. Chair, there is a request
21 for party status under Exhibit 54.

22 CHAIRMAN HILL: Okay. Is the party status request
23 person here? Okay, great. Let's go ahead and do that first.
24 Okay, give me one second. Just give me one second. Let's
25 introduce everybody, okay? So if I could just go right to

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1 left --

2 MS. PERRY: Amanda Perry. I'm the ANC
3 commissioner for 1C08.

4 MR. HITCHCOCK: Con Hitchcock, counsel for Beekman
5 Place Condominium Association.

6 CHAIRMAN HILL: Welcome back, Mr. Hitchcock.

7 MR. HITCHCOCK: Welcome back, sir.

8 MR. CUMMINGS: Jon Cummings with Westbrook
9 Partners, the Applicant.

10 MR. AVITABILE: David Avitabile with Goulston &
11 Storrs, counsel for the Applicant.

12 CHAIRMAN HILL: Could you say your last name
13 again, sir?

14 MR. AVITABILE: Avitabile.

15 MR. BELL: Matthew Bell with Perkins Eastman DC
16 architect.

17 MR. HART: Mathew Hart, Perkins Eastman architect.

18 MR. HOLLIDAY: Stuart Holliday , CEO, Meridian
19 International Center.

20 MS. MILANOVICH: Jami Milanovich with Wells +
21 Associates, traffic consultant for the Applicant.

22 CHAIRMAN HILL: Okay. Just if you all could just
23 turn off your microphones when you're not speaking, just
24 because there's feedback sometimes. Mr. Hitchcock, so you
25 had asked, requested party status?

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1 MR. HITCHCOCK: Yes, sir. And yesterday, we filed
2 a letter on behalf of the association withdrawing the
3 request. It should be, it's in the record as Exhibit 70.

4 CHAIRMAN HILL: Okay. All right. Well, then,
5 that's easy. Well, then, thanks for coming.

6 MR. HITCHCOCK: Thank you.

7 CHAIRMAN HILL: All right. So which one of the
8 group here is going to be speaking? Okay.

9 MR. AVITABILE: I'll be the ringleader today.

10 CHAIRMAN HILL: Okay.

11 MR. AVITABILE: We do have a two experts that we'd
12 like to proffer.

13 CHAIRMAN HILL: Yes.

14 MR. AVITABILE: They're in the record. Matt Bell
15 from Perkins Eastman DC as an expert in architecture, and
16 Jami Milanovich, at the end of the table, as an expert in the
17 field of transportation engineering.

18 CHAIRMAN HILL: I thought you guys were both in
19 the book already. Aren't you?

20 MR. AVITABILE: They are.

21 CHAIRMAN HILL: Okay, great. All right. So Mr.
22 Avitabile --

23 MR. AVITABILE: That's right.

24 CHAIRMAN HILL: Sorry. The first thing, just
25 really quick, so well, I, if we could go through your

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1 presentation, and then, again, just highlighting what is the
2 request that you're asking of us to relief from, and then how
3 you're meeting the standards for the, that relief, for us to
4 grant the relief.

5 If you'd also touch on the DDOT condition that
6 they had mentioned, I'm going to go ahead and put 20 minutes
7 on the clock, just so I know where we are, and you can start
8 whenever you begin, or start whenever you like,

9 MR. AVITABILE: Right. Our case is somewhat
10 complicated. The presentation may be a little bit longer
11 than 20 minutes, but we'll --

12 CHAIRMAN HILL: Okay.

13 MR. AVITABILE: -- do our best to --

14 CHAIRMAN HILL: We'll just see where, we'll see
15 where you end up.

16 MR. AVITABILE: Great. All right. Good morning,
17 Chairman Hill, members of the Board. We're pleased to be
18 here today to present an application that's been years in the
19 making, and will permit the construction of a new building
20 on a missing gap in the 16th Street corridor, across from
21 Meridian Hill Park. It's a special and unique site.

22 It's located in the Meridian Hill historic
23 district, and it's also adjacent to two historic landmark
24 mansions designed by John Russell Pope. It's also located
25 in two different zones, the moderate density RA-2 Zone, and

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1 the high density RA-4 Zone.

2 The site is located on the campus of Meridian
3 International Center, which is operated here as a private
4 school since 1960. We propose to construct a new condominium
5 building on the site. The building will also contain space
6 for modernized office and meeting space for Meridian, and
7 parking for both uses.

8 To facilitate the project, we require two areas
9 of special exception approval. Approval to move the zone
10 boundary line of a split zone lot, and the approval to modify
11 the existing private school plan to accommodate the project.

12 The building's followed a long and winding road
13 to arrive before you today. I first started working on this
14 project back in December 2013, four and a half years ago.

15 The initial proposal was for a larger building
16 with a more modern design that was intended to proceed as a
17 plan unit development. The version of the project that is
18 before you today was discussed extensively, or the version
19 of the project that we presented then was discussed
20 extensively with a working group of neighbors that was a
21 convened by a facilitator, and it was submitted to HPRB back
22 in early 2015.

23 Based on extensive comment from community
24 stakeholders, the ANC, staff at the Historic Preservation
25 Office, and the Historic Preservation Review Board, we halted

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1 the advancement of that version of the project in mid-2015.

2 We then took a fresh look at the project, and
3 beginning in 2016, changed the direction with a new
4 architect. Over a period of many months, and through three
5 trips to HPRB, we ultimately secured concept approval from
6 HPRB in June 2017.

7 Following HPRB approval, we prepared and submitted
8 this application, and we also reconvened the working group
9 of neighbors to discuss the anticipated impacts of this
10 project, as well as other issues and concerns.

11 Over a period of many months, the working group
12 engaged with us in a thoughtful, constructive, and
13 deliberative manner, and we are pleased to say that we are
14 here today with a revised design, and a memoranda of
15 understanding that have been agreed to by the associations
16 and representatives of our surrounding homeowners.

17 It's been a long road, but the end result has made
18 it a worthwhile journey. As you may have seen in the last
19 few days, we've reached consensus with the Beekman Place
20 Condominium Association on an alternative circulation plan
21 for the project. Those plans were submitted yesterday.

22 All vehicles will still enter from Belmont Street
23 Northwest. However, under this revised plan, all vehicles
24 that are parked in the garages exit directly out onto
25 Crescent Place Northwest, rather than back onto Belmont.

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1 The trucks, valet, and vehicles conducting drop
2 off and pickup activity do still use Belmont. We'll go
3 through this in the presentation, but I wanted to make sure
4 that you were aware of this change, which was just submitted
5 yesterday, based on these last minute discussions with
6 Beekman Place.

7 We submitted the plans, along with a brief
8 memorandum from our traffic expert, affirming that the change
9 will not have any adverse impact on the transportation
10 network, and we also submitted revised versions of the MOUs
11 with the surrounding associations acknowledging this change.

12 Presentation we have before you today, we have
13 some comments from both Meridian and the Applicant. Our
14 architect, Matt Bell, of Perkins Eastman will then review the
15 design of the project with you, followed by a review of the
16 transportation study from our traffic consultant, Jami
17 Milanovich.

18 And then, I'll work through the remainder of the
19 burden of proof. In the interest of time, we could cut the
20 introductory comments from both Meridian and the Applicant
21 to move this along.

22 I think that might be appreciative to move it
23 along. I recognize you want to keep the presentation short,
24 so we can jump right to Mr. Bell, if you'd like.

25 CHAIRMAN HILL: Okay. Unless the Board has any

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1 objection.

2 MR. AVITABILE: Okay.

3 CHAIRMAN HILL: Okay.

4 MR. AVITABILE: So we'll skip to Matt.

5 MR. BELL: Good morning. Oops, I'll turn the
6 microphone on. Good morning. Matt Bell with Perkins Eastman
7 DC. I'm going to cover several different things that David
8 mentioned.

9 I'm going to talk a little bit about the site
10 context, and the historic district, and what some of the
11 issues are, and characteristics of that district that we are
12 embracing as part of the design.

13 I want to talk a little bit about the Meridian
14 campus, and what's there on the site, and how we're
15 responding to what's there. Talk some more about the project
16 design, showed some perspectives, both aerials and ground
17 level views.

18 This is an aerial from the southeast, if you can
19 see. Talk about the floor plans. Mention, of course, I'll
20 point out the new parking arrangement, and how that works,
21 because I think that's essential to the most recent
22 developments that Mr. Avitabile has pointed out, and the
23 heightened density issues in the context of 16th Street, and
24 then move on to talk about the zoning building line moving,
25 and the adverse impact of that, and why that makes this a

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1 better project, and why that was a necessary aspect of the
2 design in shifting the density to the, to the 16th Street
3 side.

4 And also, the fact that the project will really
5 not have any objectionable impacts, in terms of light air or
6 shadow, and noise impacts. In the end, we're bringing to you
7 a project that is both in harmony with the zoning
8 regulations, asking for this building zoning line movement
9 to accommodate a very important aspect, which is the historic
10 buildings next door, which, by right, would probably have a
11 very different kind of impact.

12 So with the zoning change, it gives you something
13 that is quite sympathetic to the historic buildings next
14 door. And we think, in the end, through the feedback that
15 we've gotten, the approval with HPRB, and also the back and
16 forth of the neighborhood, we're bringing to you something
17 today that we think is quite in character with the
18 neighborhood, and quite, something that will add to the
19 historic character of the, character of the historic
20 district, the grandeur of 16th Street, and also, the grandeur
21 of the two John Russell Pope houses on the site.

22 So this is the design that was submitted
23 initially, by another architect in 2015, and the design that
24 we're bringing to you today, on the right side. And one of
25 the things we've sought to do is to, a couple of things.

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1 Number one, design a building that is in character
2 with the, with the landscape of 16th Street, and also the
3 historic buildings next door, in a sense that we're using a
4 language of bay windows, this tall vertical element in the
5 center, and putting the main entry to the building on the
6 center axis of the, of the, of the facade.

7 Also, stepping the building back at the skyline
8 to get a lot of interest and relief there, and using these
9 corner balconies to make more vertical readings on the side
10 elevations.

11 We also have corner entries. You can see, it's
12 a lower portion there. I don't know if you all can see the
13 arrow. Can you see the arrow there?

14 CHAIRMAN HILL: Yes.

15 MR. BELL: Okay. All right. And then, entries
16 and stairways that I'll point as we go into the site plan.
17 The building, where are we here? I thought we were going to
18 that one. Yes. We'll get around to that.

19 Let me just back up a second and talk about the
20 16th Street Meridian Hill historic district. It is
21 characterized as two essential building types. One of the
22 grand apartment buildings that you see as you go up 16th
23 Street, and surrounding Meridian Hill Park, these tend to be
24 larger buildings, they tend to have vertical expressions,
25 they tend to have centralized entries, bay windows.

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1 They tend to have a sort of sense of arrival at
2 the front door, which is quite distinct. Some of them extend
3 back into the block some distance there. You can see some
4 of those noted in red.

5 And also, we have smaller neoclassical pavilions
6 like the White-Meyer House and Meridian International, which
7 are two of the buildings that are part of the Meridian school
8 complex that are also on the site.

9 So the historic district talks about these two
10 buildings types as important characteristics of the area, as
11 important things to recognize and respond to, in particular,
12 on this site.

13 And this is a site where those two kinds of
14 buildings meet each other, the taller buildings on 16th
15 Street, and the sort of neoclassical pavilions to the, to the
16 west.

17 VICE CHAIR HART: Mr. Bell, just one quick
18 question. That, the slide that you just had, did you say the
19 buildings in black are part of the, are all historic
20 district, are all historical buildings?

21 MR. BELL: This is a, the, I don't, these aren't
22 --

23 MR. HART: They're either historically significant
24 or on the registry.

25 MR. BELL: Yes, they're either historically

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1 significant or on the registry, and the historic district is
2 outlined in the dotted line.

3 VICE CHAIR HART: Okay, thank you.

4 MR. BELL: Okay. And the two pavilion buildings
5 that are just to the west of our site, are the two buildings
6 I'm going to talk a little bit about.

7 VICE CHAIR HART: Thank you.

8 MEMBER WHITE: Yes, I had one question too. I'm
9 familiar with this area. What's on that site right now? The
10 --

11 MR. BELL: You're way ahead of me.

12 MEMBER WHITE: Okay.

13 MR. BELL: We're getting there.

14 MEMBER WHITE: All right.

15 MR. BELL: Hold that thought. And typically,
16 these apartment buildings, this is one analysis we did, they
17 have centralized entries. They're typically made out of
18 masonry. There's a very formal sense of entry on 16th
19 Street, a very grand sense. Some of them are illustrated
20 there.

21 There's a general symmetry to the building in the
22 massing, mostly vertical expressions of the architectural
23 language. And also, very important aspect, there's a front
24 yard garden.

25 16th Street has this sort of continuous garden,

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1 as you go up and down 16th Street, you can see illustrated
2 here with our general massing taller on 16th and shorter to
3 the west.

4 You can see Meridian Hill Park, but as a
5 characteristic of that sort of grand boulevard, as it was
6 extended from the L'Enfant plan to have this sort of green
7 sort of front lawn across the front of the building. And you
8 can see this a little bit more in detail here.

9 It also characterized by two very important items.
10 One is a group of two trees. There are two very large trees
11 on the site, you can see there, that we are seeking to
12 preserve and enhance and extend their lives.

13 And the second is this berm. There's a berm that
14 sort of goes up from 16th Street to the building that we, of
15 course, unlike the previous design that was submitted, we
16 think that's something that would be very good to experience,
17 and we've designed a walkway that allows to people to move
18 up and down that.

19 Getting onto the existing school plan, as you
20 asked, this is what's there today. So the two buildings that
21 are there today are the White-Meyer House and the Meridian
22 House.

23 The earlier one was the White-Meyer House,
24 designed by John Russell Pope, and also the Meridian House,
25 also designed by Pope. Pope was the architect of the

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1 National Gallery, the National Archives, did a number of
2 buildings, very important neoclassical buildings that are
3 well-loved aspects of our city scape today.

4 These were residential buildings, but one
5 important thing as well about Pope, is that he was a student
6 at the Beaux-Arts in Paris. So he was a very academic
7 architect, and these are buildings that have a sort of very
8 academic kind of style associated with them. Back up.

9 I just want to point out entries. You can see
10 along Crescent Place, Jami Milanovich is going to talk more
11 about the traffic, but there's a wall that extends around
12 this property. There are formal entries to the White-Meyer
13 and the Meridian House on Crescent Place.

14 There's a loading entry for the Meridian House on
15 Belmont, and then a loading area for White-Meyer on Crescent
16 Place. The site, currently, as you can see there to the, to
17 the east, on the eastern side, is currently used as a parking
18 lot.

19 Next one. So that gives you a sense of the
20 character. This is a view of the, of the rear of the
21 White-Meyer from 16th -- or, excuse me -- from Belmont, and
22 a view of the Meridian International House. And I mentioned
23 Pope is a kind of academic architect.

24 Both of these two buildings that he designed have
25 these very beautiful forecourts. White-Meyer came first, so

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1 that has a very generous kind of oval shaped forecourt that
2 you go up, and maybe you've been to events there.

3 You go up into that, and it's a very beautiful
4 sort of entrance into that building, and the same thing with
5 the Meridian House, although that's a bit, a bit shallower.

6 The White-Meyer House, you can see clearly what
7 he was doing was that when the Meridian project came along,
8 he sort of pushed that building up so that it kind of flanks
9 the side, rather than pushing it all the way back.

10 You have a slight difference in the approach to
11 the street there, but they are actually oriented towards
12 Crescent Place. They are, clearly, the idea was like a
13 French hotel, that clearly, Pope was familiar with.

14 They were to be, meant to be experienced, first,
15 through the forecourt, and then, rising up to the entry in
16 both of these buildings. We have used the forecourt as a way
17 of organizing our project, which you can see on the right
18 hand part of the slide, and actually, a forecourt, in this
19 case, facing south to Belmont.

20 That was the easiest way to make a very efficient
21 forecourt for service, and for different kinds of entry into
22 the building that I've explained, but it does something to
23 compliment that.

24 So what we were doing, really, in adding to this
25 site, was making a new edge that reflects the opposite side

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1 than what Pope was doing with the Meridian House.

2 So our new edge, which is the lowered edge, which
3 is in scale, and I'll walk through that, is in character and
4 in scale that is complimentary to the White-Meyer House,
5 which is the building in the middle of that complex.

6 So it's sort of framing it, in a sense. So in our
7 design, moving from right to left, or from east to west,
8 across the slide, we have a formal entry on 16th Street
9 there, and on the north of that, I'll show the parking exit
10 there on Crescent.

11 Then, we have an entry court on Belmont, which
12 takes care of our pedestrians, it takes care of service
13 entry, it takes care of entry into both parking of customers,
14 which are the residential parking and the Meridian House
15 parking, and it brings people into that complex.

16 So it pulls any kind of service, or those entries,
17 into this sort of courtyard off the street. And then, there
18 is a lawn entrance for Meridian's operations, which is on the
19 upper part of our building, that goes out into the lawn areas
20 that Meridian uses for different kinds of activities. And
21 you can see the rest of them labeled there.

22 So just walking around the site now, from the,
23 from, starting from the southeast, you can see, this is a
24 view, you can see the bay windows and the prominent entry,
25 the way in which the site entourage and the stairs referred

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1 to, bringing you up onto the, onto the site, over the berm.

2 You can see the two existing trees that are there,
3 that we'll be designing around. And you can see the way in
4 which the building has, we believe, the sense of the grandeur
5 that you have along 16th Street that makes it such a
6 wonderful part of our city scape. You can see to the north,
7 as well, some of the tall apartment buildings that are our
8 neighbors.

9 So the bay windows, the balconies, and the lawn,
10 sort of contribute to that, and then, the garden wall steps
11 up to the court, the entry court on Belmont, that you can see
12 between us and the White-Meyer House. So we're just going
13 to move around the corner there.

14 This is a view of the entry court, moving into the
15 building from Belmont. And as I mentioned, this will be an
16 entry point for pedestrians, cars for Meridian, cars for
17 residents, and also, this service entry.

18 So won't have any service or loading docks or
19 parking entries on this side of the street, facing the
20 street. That's all taken care of in the court, so this is
21 a place where Ubers will come, and taxis will leave people
22 off, and so on and so forth.

23 The materials of the building are designed to be
24 a kind of subtle but rich palate of brick, of irrigated
25 stone, and some probably metal architecture that will be of

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1 a warmer color. This is the palate we presented to the HPRB,
2 and we think that this is really consistent with what we see
3 on 16th Street.

4 The building, as it sits next to the White-Meyer
5 House, if you sort of came out of White-Meyer and took
6 immediate view to the right, you would see this facade, with
7 one caveat I'll mention, which is a really a three-story
8 facade, which is in scale with the Meridian House on the
9 other side.

10 Next slide here. It's changed a slight bit,
11 because Meridian's requested us to put a door on that side,
12 and this is an updated drawing that Mat's highlighting the
13 new door there, so it's pretty much the same facade. We're
14 just moving the door around from the end elevation to this
15 elevation, facing Meridian.

16 VICE CHAIR HART: Sorry. Mr. Bell, the, that,
17 this elevation is, you're saying that it's the, is this, I
18 didn't remember seeing this drawing in the, in the packet.

19 MR. BELL: Yes.

20 VICE CHAIR HART: This is the, this is the first
21 time we're seeing this?

22 MR. BELL: Yes, this is the --

23 VICE CHAIR HART: Which is fine, I just wanted to
24 make sure that that's what I'm --

25 MR. AVITABILE: There's actually a package in our

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1 pre-hearing submission from three weeks ago.

2 VICE CHAIR HART: Okay.

3 MR. AVITABILE: One of the sets of plans should
4 have this change, but it is, it is new. It's not, it wasn't
5 in the original set.

6 VICE CHAIR HART: I understand that. Thank you.

7 MR. BELL: It's not changing the height or
8 anything. It's just moving the door around the corner. But
9 you can see here, as well, in this drawing, the way in which
10 we're shifting heights to respond to the different conditions
11 on different sides of the building. So moving around the
12 building, then, from that facade, this is on Crescent Place
13 now, and you can see the wall of the White-Meyer building,
14 and the red brick, and then you can see the lower portion,
15 the 50-foot high portion of our section there, again,
16 articulated with bay windows and a general vertical massing
17 in stone that is compatible with the scale of the
18 neighborhood. As we step down, there's a bit of grade here,
19 stepping down, and then you can see the building as it is
20 taller on 16th Street with the various setbacks there that
21 we've agreed to, in terms of the height. And this, of
22 course, is what's been approved by the Historic Preservation
23 Review Board. So we come all the way around to the, to the
24 northeast corner of the building, and you can see, again, the
25 entry from the sidewalk, coming up some steps, with a ramp

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1 to the front door. A very prominent front door there, and
2 then the central entry feature and the vertical bay windows.
3 I will point out one thing that is not in the drawings that
4 is in the plans, we will have a parking exit door there, and
5 that's been a result of the late-breaking developments that
6 Mr. Avitabile referred to, in terms of changing the parking
7 ramp there. We will have a parking exit door there that will
8 be a one way out condition. I'll explain that in a minute.
9 It's a fairly minimal change to that facade. So just talking
10 about the building's plan and organization, as has been
11 mentioned, this building is, and in the submissions, this
12 building is both a residential building, and it is also a
13 conference facility for Meridian. So it is solving a number
14 of problems at once. It has an entry lobby on the east,
15 which is the main lobby for the residential building, and
16 that, this is shown at the 168 elevation, and we'll show
17 what, so this is a, if you were walking into the building
18 from 16th Street, up the ramps, you would go into that main
19 lobby, and you would find the elevator lobby and some
20 residential units along the hallways there. And if you
21 continued on, you would find, to the west, in pink, the
22 conference facilities for Meridian. Okay? If you go down
23 a level --

24 CHAIRMAN HILL: Mr. Bell?

25 MR. BELL: Yes?

1 VICE CHAIR HART: Could I, just --

2 MR. BELL: Sure.

3 VICE CHAIR HART: -- one question again. I'm
4 sorry I'm interrupting, but it's --

5 MR. BELL: That's all right.

6 VICE CHAIR HART: -- as you're kind of showing
7 them, they're kind of coming to me. In one of the images,
8 you've noted a couple of times that there's some existing
9 trees on 16th Street --

10 MR. BELL: Yes.

11 VICE CHAIR HART: -- that you wanted save. They,
12 are they heritage trees? Are they -- they are? And can you
13 just describe a little bit about the topographic change that
14 you're, that's happening along, because I'm not really sure
15 that there is --

16 MR. BELL: How far up is this?

17 VICE CHAIR HART: -- you know --

18 (Off microphone comments)

19 MR. BELL: Yes, it's about 11 feet of grade.

20 VICE CHAIR HART: And so what is the, so you're
21 regrading a portion of this? This is all staying the same?

22 MR. BELL: We're, so here, okay. I'm glad you
23 asked, I'm glad you asked that.

24 VICE CHAIR HART: That, well, that's kind of --

25 MR. BELL: Yes, no, that's important. I --

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1 VICE CHAIR HART: -- what I'm trying to
2 understand.

3 MR. BELL: The, it's in public space, first of
4 all. We are working, we've designed a ramp system that will
5 work with the roots of those trees so as not to disturb them.
6 They are in public space, so obviously, there's an issue
7 there relative to how, you know, getting approval for what
8 you would do there.

9 There's significantly more grade from the south
10 than there is from the north on the sweep arc of that,
11 because the building's pictured, the street's pictured
12 downhill.

13 What we've designed is a ramp that will be
14 accessible, there's a small accessible jump ramp on Crescent
15 that comes up to the front door there, and then there's a
16 step ramp that comes up from the southern, southeastern
17 corner.

18 That berm is sloped pretty good, but it is a
19 fundamental characteristic of 16th Street, and we want to
20 keep it. It's a nice thing. There are two significant
21 specimen trees that are more or less symmetrically disposed
22 around the axis of the building. Not exactly, but close
23 enough, you know?

24 So what we want to do is have the entry of the
25 building and the trees work in as a kind of framing element

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1 together so the ensemble of those things seems like they're,
2 they always were.

3 VICE CHAIR HART: So it's more, you're looking at
4 a more natural, as, you've kind of laid out, this is how
5 you've seen it in other instances, and you're trying to
6 emulate that in this case?

7 MR. BELL: You said it much better than I did.
8 I mean, in a sense, we think that adds to the grandeur of the
9 building on 16th Street. There was concern by HPRB with the
10 previous design about the corner entry and things, and we
11 think that, you know, this will be a very important way for
12 the building to nest along that street, to have the formality
13 of the symmetry of the two trees, and the berm in referring
14 to all that.

15 We spent a fair amount of time, by the way,
16 looking at the design of that ramp to make sure it would
17 work.

18 VICE CHAIR HART: Yes, no, that's fine. I just
19 wanted to make sure that I was understanding it.

20 MR. BELL: Yes.

21 VICE CHAIR HART: Actually, looking at this image,
22 and you had another image that was actually down 16th Street,
23 looking up, and I was kind of looking at it like, wow,
24 they're, are they building, you know, are they adding some
25 topography? And I was trying to understand what that

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1 existing topography was --

2 MR. BELL: No, sir.

3 VICE CHAIR HART: -- with that. So thank you.

4 MR. BELL: We're working with what's there.

5 VICE CHAIR HART: Thank you.

6 COMMISSIONER MAY: So while we're on that topic,
7 the, you're actually increasing the berming there, where the
8 trees are? Or is it all existing?

9 MR. BELL: It's all there.

10 COMMISSIONER MAY: All existing, okay. That's
11 all.

12 MR. BELL: We've embraced the berm. Have a lot
13 of history with berms in this town, but --

14 MR. AVITABILE: Very early on in the process, we
15 met with DDOT and with Urban Forestry, and they directed us
16 that those trees must be saved. They wouldn't allow them to
17 be removed, and so that became a fundamental concern at the
18 site.

19 MR. BELL: And we think they're great things, so
20 we want to keep them. So this is the entry I just mentioned.
21 If you go down a level, you get to the entry court level that
22 comes in off of Belmont. So those are at two different
23 levels in the building.

24 Now, someone arriving by car could, would come
25 into the court, and they would go into the garage if they

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1 were parking, and if they were a residential, you know,
2 someone living in the building, they would go down a speed
3 ramp to the lower level, which Mat's showing here.

4 If they were coming for a Meridian event, they
5 would go into the garage, and they would park on that level.
6 So the Meridian parking and the residential parking are
7 separated there.

8 If you were coming to an event, you could get
9 dropped off at the pink lobby there for Meridian, or if you
10 were coming to visit somebody via car, you could come into
11 a residential lobby and go into the elevators there on the
12 right side.

13 The service entry and the service activity is just
14 inside the gate, so a truck would come in and then could back
15 into there, and then pull back out. So the, and the other
16 thing I want to point out, in the upper right corner, is the
17 exiting of the ramp out onto Crescent.

18 This enables the vehicles from the residential
19 level, and also from the Meridian level, the meeting
20 conference level, to exit out onto Crescent. So the cars can
21 go out onto Crescent, but the truck traffic and service still
22 goes out onto Belmont. So a couple things have been achieved
23 here.

24 As I mentioned, service vehicles and service doors
25 and loading docks are all contained within the courtyard, so

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1 the visual impact of that is significantly minimized, as
2 compared to what you might see in other projects. And we
3 have the private vehicles of either Meridian business or
4 residential inhabitants of the building going out onto
5 Crescent there.

6 That was a significant advancement from previous
7 design, and we think that's a totally acceptable way for this
8 to work, and it has assuaged many of the issues that some of
9 the community groups had with the building. These are lower
10 level parking.

11 You can see, you come down on the lower level
12 there, on the left, and you go back out on the far right
13 there. All right? You go up, this is, again, that first
14 level.

15 Again, so going up above that, you can see
16 residential levels there, double height space, Meridian's
17 conference facilities, in yellow are all of the residential
18 levels, and that's, these are floors six, seven, and eight,
19 and you can see the extent to which -- go back one, Mat, if
20 you don't mind -- yes, you can see the Crescent side, it
21 pulls out to the street, but as we, the second floor, but by
22 the time we hit the sixth floor, that piece is pulling back
23 there, so we're at a 50-foot height, plus penthouse there,
24 and then we're pulling back even further on seventh and
25 eighth.

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1 So the bulk of the massing of the building is
2 along 16th Street. Let me just take you to some elevations,
3 so you can see these things in a, in a more conceptual way.

4 This is the elevation on 16th Street, and I think
5 this gets to the question of the formal entry and the trees,
6 you know, what we were seeking to do with the ramp and the
7 front door and the expression of the skyline and preserving
8 the two trees.

9 The berm is existing, and we're setting back and
10 using that berm as part of that entry. We've also stepped
11 the roof line back to get both a more interesting roof line,
12 and that was also something we worked very hard on the design
13 to make it something that was, could be embraced by all.

14 The court here, the Belmont court is here in
15 elevation. This is the side elevation, facing south. You
16 can see the balconies on the corner, which tend to make the
17 building seem more vertical on that elevation. We have a
18 more vertical expression there, which we think,
19 proportionally, is nicer.

20 And then, you can see the extent to which the
21 building, more or less, addresses the cornice height of the
22 White-Meyer, with the 50-foot height there, and we have
23 another drawing to show that. So the building steps down.

24 VICE CHAIR HART: And for, sorry, and for this
25 one, you have the red brick on the wall.

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1 MR. BELL: Right.

2 VICE CHAIR HART: That's existing? That's --

3 MR. BELL: Some of that's existing, some of that
4 will be part of our wall, extending the White-Meyer wall down
5 to our courtyard. We have a view of that. We'll show you
6 --

7 VICE CHAIR HART: Thanks.

8 MR. BELL: -- in a second here. This is the
9 section here showing the piece facing the White-Meyer House,
10 and the outline of a piece of the White-Meyer House beyond,
11 and you can see the building, the height differential between
12 16th Street and the Crescent Place sign here. And this is
13 the Crescent elevation.

14 So on the far right, is the White-Meyer building,
15 and you can see the way in which our height approximates the
16 White-Meyer building, and then we step up to 16th Street,
17 again, addressing the characteristics of the historic
18 district, which are tall, grand, Beaux-Art apartment
19 buildings, and then these pavilion, neoclassical pavilions
20 that are also characteristic of the historic district.

21 So that building makes very clear reference to
22 both. And then, the further elevation along 16th Street, the
23 extent to which you can see some of the taller buildings, and
24 grand apartment buildings, and how our building fits in
25 there.

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1 We have the characteristic berm probably a little
2 bit more so than some of the other buildings, and we're, as
3 I mentioned, we'll be retaining that. And then, the
4 elevation of the courtyard.

5 So you can see, there was a wall that will be
6 continuing, that sort of becomes the wall of our Belmont
7 Place courtyard there, and you can see the general massing
8 there.

9 It's easier to see in this slide, the 50-foot
10 height of our building, and then the outline of the buildings
11 beyond, which are some of the other existing apartment
12 buildings in the area.

13 And then, the Crescent elevation, showing from
14 right to left, the Meridian International House on the right,
15 the original White-Meyer, which was the first building here,
16 and then our proposal to the left, and then the height as it
17 goes up along 16th Street.

18 CHAIRMAN HILL: Mr. Bell, I'm going to, do you
19 have a lot more slides?

20 MR. BELL: We just want to talk a little bit about
21 the zoning request.

22 CHAIRMAN HILL: Okay. Yes, because you just --

23 MR. BELL: Yes, not a lot more.

24 CHAIRMAN HILL: No, I appreciate it. I mean, it's
25 a lovely project, and if it wasn't for we're going to be here

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1 all day, I'd like to --

2 MR. BELL: I hear you.

3 CHAIRMAN HILL: -- spend more time on it, but
4 just, I was kind of, like, you know, about the traffic noise,
5 adverse impact issues, if you can kind of --

6 MR. BELL: Yes.

7 CHAIRMAN HILL: -- touch on those, but --

8 MR. BELL: Sure.

9 CHAIRMAN HILL: Thanks.

10 MR. BELL: So this is the view looking down 16th
11 Street. You can see the way it fits into that context. So
12 the zoning issue, we're requesting a zoning boundary shift.

13 This is the existing RA-4 on the, on the east,
14 RA-2 on the west there. We are requesting the shift of 35
15 feet. This would allow us to place more of the FAR buildable
16 area into the west, or the eastern portion of the site, which
17 has some significant benefits in terms of the massing of the
18 building. And this gives you a sense of the density by
19 right.

20 On the left side would be 182,000. On the right
21 side, with the shift, would be 195,000, but we're only
22 building 141,996, so we're not maximizing the density, we're
23 shifting what would be in the RA-2 zone into the RA-4 zone
24 so that we can more directly address the character, the
25 character difference between the shorter side of the site and

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1 the taller side on 16th Street.

2 Where that is most felt is in the height of the
3 building. The maximum allowable height in the RA-4 zone is
4 90 feet. Our building is 80 feet 4 inches there. You can
5 see by the measuring point.

6 The maximum allowable height in the RA-2 is 50,
7 but we're extending that 50-foot height further east. So the
8 yellow zone shows, theoretically, what we could do in the
9 taller zone, but not what we are doing. The green line is
10 what we are proposing.

11 So this is the massing, as has been approved by
12 the Historic Preservation Review Board. We have been careful
13 to, as I mentioned, make the building massing have a very
14 salubrious effect on the White-Meyer House with the courtyard
15 and the steppings there.

16 Just to show a little bit of what that would be
17 like, if we didn't have the boundary shift and shifted the
18 density on the 16th Street portion further east there, it's
19 not clear whether HPRB would've approved this, but certainly,
20 that's where that massing could've ended up.

21 So it does have a very important positive impact
22 on both making a building that is in character and taller on
23 16th Street, and addressing the character of the historic
24 buildings to the west.

25 So just to go back and toggle back and forth a

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1 little bit, you can see, excuse me, you can see what that
2 does by putting that massing there. It makes a big
3 difference in terms of the height of the building, and even
4 though we're not maximizing any of the FAR.

5 We have solar studies we could show. They don't
6 make any adverse impact, or objectionable impacts of the, we
7 have them as compared to by right, or what we're proposing.
8 I don't know if you want to see them or not, but we do have
9 them if the, anyone would like to --

10 CHAIRMAN HILL: At least not yet. We'll see what
11 happens.

12 (Simultaneous speaking.)

13 CHAIRMAN HILL: There's a bunch of stuff I think
14 we're still going to go through, but okay.

15 MR. BELL: Right. This is showing the height of
16 our building as compared to some of the adjacent buildings.
17 There, 1661 Crescent is actually closer. It's a tall
18 building. It's actually closer to the White-Meyer building
19 than 2300 16th, as we are proposing it. So before I turn it
20 over to Jami, I think what we have here --

21 (Off mic comments.)

22 MR. BELL: David's telling me now, that's enough.
23 So that's enough.

24 CHAIRMAN HILL: Okay.

25 MR. BELL: But I think we have something that

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1 works pretty well.

2 CHAIRMAN HILL: Okay.

3 MR. BELL: And it's a nice design, and we think
4 that there's no objectionable impacts or no adverse impacts.

5 MR. AVITABILE: All right. Now we have a few
6 comments from our traffic engineer on the traffic and parking
7 impacts, and then I'll summarize it.

8 CHAIRMAN HILL: Okay, great. Thank you.

9 MS. MILANOVICH: Good morning. I'd like to start
10 by talking about the proposed circulation in the context of
11 the larger neighborhood, but before I do that, I think it's
12 really helpful to understand the existing circulation.

13 So you can see on this slide, our site, what is
14 currently an existing parking lot is located here, obviously
15 16th Street to the, to the east. This portion of Belmont
16 Street, between 16th Street and Beekman Place, is two-way.

17 The rest of Belmont Street to the west, and then
18 the loop around to Crescent, is one-way, as you can see by
19 the arrows. And 17th Street here, also, is one-way
20 northbound.

21 So currently, all of the traffic that enters this
22 neighborhood to the various residential buildings must enter
23 from Belmont Street, because that's the only two-way portion.
24 And so you can see Beekman Place, which is immediately to our
25 south.

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1 They enter via Belmont Street, make the left into
2 their site, and the existing parking lot that occupies the
3 site currently, you have to enter Belmont, travel around the
4 loop, and then make the right turn into the parking lot.

5 CHAIRMAN HILL: Is Beekman Place there, is that
6 two-way right there?

7 MS. MILANOVICH: Beekman Place?

8 CHAIRMAN HILL: That street, is that --

9 MS. MILANOVICH: Yes. That is street is two-way
10 as well.

11 CHAIRMAN HILL: Okay.

12 MS. MILANOVICH: That's, essentially, a driveway
13 to that condominium development.

14 CHAIRMAN HILL: Okay, thank you.

15 MS. MILANOVICH: And then, in terms of outbound
16 traffic, Beekman Place has the option of turning left or
17 right out of their site. They get to take advantage of that
18 two-way portion of Belmont Street.

19 Belmont is a stop sign controlled intersection,
20 where it intersects with 16th Street. The Meridian traffic
21 that is in the existing parking lot has to turn right out of
22 their site, again, because Crescent is one-way.

23 And so all of the current Meridian traffic is
24 exiting via Crescent Street -- I'm sorry -- Crescent Place,
25 to the traffic signal there. So in terms of the proposed

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1 circulation, again, you can see, we've overlaid the site plan
2 on the aerial.

3 Again, all traffic has to enter from Belmont
4 Street, taking advantage of that two-way portion of Belmont
5 Street. We're not changing any access for Beekman, so our
6 cars that are heading to the parking garage will enter there.
7 Trucks will enter there.

8 As Matt indicated, this service court not only
9 serves cars, provides access to cars that are going to the
10 garage, it also can accommodate Uber and Lyft traffic, so
11 we're getting those on private space, and not having them
12 stop on the public street to create traffic congestion.

13 And the loading facility has also been designed
14 so that all of the backing maneuvers happen on private space.
15 So they're, the trucks are entering and exiting front first
16 from Belmont. In terms of the outbound traffic, this is the
17 change that we've been talking about.

18 We have incorporated an additional curb cut on the
19 north side of the project in this location that will allow
20 traffic that parks in the parking garage to exit via Crescent
21 Place, where they would have to make that right turn, and
22 then they will be able to turn onto 16th Street with the aid
23 of the traffic signal there.

24 CHAIRMAN HILL: It wasn't clear to me, just real
25 quick, the parking garage, is that one-way? Like, everyone

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1 has to come in and out the same direction, correct?

2 MS. MILANOVICH: Everybody comes in via Belmont
3 to the, to our parking facility.

4 CHAIRMAN HILL: The parking garage?

5 MS. MILANOVICH: Yes.

6 CHAIRMAN HILL: Yes.

7 MS. MILANOVICH: And then, they exit onto Crescent
8 Place.

9 CHAIRMAN HILL: Right. Everyone that goes into
10 the parking garage will have to come out there?

11 MS. MILANOVICH: That's correct.

12 CHAIRMAN HILL: Okay.

13 MR. CUMMINGS: The only, the only are that I'd add
14 to that is if Meridian has valet, the valet operators will
15 be able to use the garage in two-way fashion. So valet would
16 return the car back through the entry court, deliver it to
17 --

18 CHAIRMAN HILL: To the courtyard?

19 MR. CUMMINGS: -- the passenger, the courtyard,
20 right.

21 CHAIRMAN HILL: Okay. So then people would come
22 out that courtyard and take a left?

23 MR. CUMMINGS: That's correct. But if you're a
24 resident in the building, if you're an employee of Meridian,
25 if you're a self-parker for an event or a meeting there, you

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1 would have to use the exit onto Crescent, so we'd have a
2 mechanized arm bar or something of that measure to, you know,
3 notify and signalize traffic which direction that they should
4 go at the time.

5 CHAIRMAN HILL: Okay.

6 MR. CUMMINGS: Yes.

7 MS. MILANOVICH: And --

8 CHAIRMAN HILL: Thank you.

9 MS. MILANOVICH: And I would also add, trucks will
10 be required to exit via Belmont Street. They'll make the
11 left turn onto Belmont, and then the right turn onto 16th.
12 And the reason for that is the grading of the site. We
13 weren't able to get enough clearance to get the trucks up to
14 Crescent Place.

15 CHAIRMAN HILL: Okay. And again, and thank you
16 for pointing that out. When the receptions are over, then
17 there would be, you're saying, a bar or something, so they
18 couldn't take a right turn. They'd have to take a left turn.

19 MR. CUMMINGS: The, if you're receiving your car
20 through valet, you could take either a left or a right out
21 of that, out of the entry car, with your car. Trucks have
22 to turn left towards 16th Street.

23 CHAIRMAN HILL: You said something about a bar.
24 That's what I just didn't understand, so --

25 MR. CUMMINGS: Yes. So in a valet scenario, the

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1 bar would be raised, allowing two-way traffic. We're still
2 working through the logistics of --

3 CHAIRMAN HILL: Oh, okay, you're talking about
4 inside the garage?

5 MR. CUMMINGS: Correct, inside the garage.

6 CHAIRMAN HILL: Okay. So then, but people from
7 the reception, or whatever it is, the special event, they
8 could take a left or a right, leaving that court?

9 MR. CUMMINGS: That's right.

10 CHAIRMAN HILL: Okay.

11 MR. CUMMINGS: And then, the intent was not to
12 have valet run all the way through Crescent, back down
13 through 16th Street, back into Belmont. So it was, again,
14 trying to internalize --

15 (Simultaneous speaking.)

16 CHAIRMAN HILL: So I mean, most likely, they're
17 not going to take a right anyway, but okay. All right.

18 MR. AVITABILE: Right. And well, part of it is,
19 too, when the garage is being used for valet operations, many
20 of those events will still actually be up at either Meridian
21 House or White-Meyer House.

22 So the valet will actually be returning the car
23 to the person coming out at Meridian or White-Meyer on
24 Crescent Place. So that's part of the reason why, for valet
25 operations, they're coming out on Belmont, because they're

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1 coming out on Belmont, and the valet is bringing the car
2 around to the front of either historic house, and then that's
3 when they're picking it up.

4 CHAIRMAN HILL: So how do they do it now? They
5 do it with that, the courtyard --

6 MR. AVITABILE: Well, right now, if you have an,
7 they have that surface parking lot right now.

8 CHAIRMAN HILL: Oh, okay.

9 MR. AVITABILE: And so right now, the car has to
10 come out on Crescent and go all the way around the block.

11 CHAIRMAN HILL: Or the valet in that court, you
12 mean, the existing court?

13 MR. AVITABILE: Right, on the existing parking
14 lot. That's right.

15 CHAIRMAN HILL: Okay.

16 MS. MILANOVICH: Right. So the valet actually has
17 to come out of the parking lot, and they have to go back out
18 to 16th Street, and loop around down to Belmont to return,
19 because they can't make a left --

20 (Simultaneous speaking.)

21 CHAIRMAN HILL: I see. Okay. All right. Thank
22 you. I'm sorry.

23 MEMBER WHITE: Quick question. Rush hour, 16th
24 Street, how, are there any accommodations for that? And how
25 is that going to impact the area?

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1 MS. MILANOVICH: Yes. So if you can bear with me
2 one minute, I'm going to get into that. We have actually
3 done a detailed study, looking at the evaluation during both
4 the morning and the afternoon peaks.

5 MEMBER WHITE: Okay.

6 MS. MILANOVICH: So in terms of trip generation
7 for the proposed project, you can see the number of vehicle
8 trips that this project is expected to generate in this
9 table.

10 I would note that DDOT has a trip threshold that
11 requires a traffic impact analysis, and that threshold is if
12 you have 25 or more trips in the peak hour, in the peak
13 direction. And you can see, in the morning, we have 28 trips
14 in the peak direction, and in the PM, we have 26 trips in the
15 peak direction.

16 So we barely meet DDOT's threshold for requiring
17 a traffic impact analysis. Anything less than 25 trips is
18 generally considered inconsequential, and so a traffic impact
19 analysis isn't required.

20 Nevertheless, we, you know, we did exceed that,
21 and so we did, we actually did, despite the fact that we
22 barely exceeded that, we did an extensive study that included
23 12 study intersections that you can see on this map.

24 I just note that north is pointed to the left, so
25 16th Street is running horizontally across your page, and our

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1 development is on the bottom side of 16th Street on this map.

2 We paid particular attention to the three
3 intersections that are shown in this, in this box, and that's
4 because, as we've been working with the neighbors over the
5 last several years, they obviously were most concerned about
6 those three intersections.

7 So most of our discussion, despite the fact that
8 the study included all 12 of those intersections, most of our
9 study, discussion with the community, has focused on those
10 three intersections.

11 DDOT defines an impact as a drop in a level of
12 service from a level of service D or better, to either a
13 level of service E or a level of service F, as a result of
14 the proposed project.

15 For intersections that are currently operating at
16 a level of service E or F without the project, any increase
17 in average delay per vehicle of more than 5 percent is
18 considered an impact.

19 Likewise, if you increase any queue lengths by
20 more than, by 150 feet or more, that would be considered an
21 impact by DDOT. DDOT requires all impacts to be identified,
22 and mitigation measures to be recommended to alleviate those
23 impacts.

24 Based on DDOT's criteria that I've just listed,
25 the, and as we've shown in our study, the proposed project

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1 would not have any adverse impact on any of those 12 study
2 intersections.

3 I will say that DDOT, their criteria for an impact
4 is one of the most aggressive of any jurisdiction that I've
5 worked in. It's very difficult to not have an impact. I
6 think is probably the first project I've worked on in 15
7 years that didn't have an impact that needed to be mitigated.

8 So I think that just goes to two things. One, the
9 trip generation for this project is pretty low, and two, the
10 existing volume on the neighborhood streets is relatively
11 low, and there's some additional capacity there.

12 CHAIRMAN HILL: So since you're talking about
13 DDOT, I mean, the condition that they had was that, you know,
14 the Applicant fund and construct improvements that bring the
15 intersections of 16th Street Northwest and Belmont Street
16 Northwest and 16th Street Northwest and Crescent Place up to
17 DDOT standards. All improvements are subject to DDOT review
18 and approval, so the Applicant does agree to that situation?

19 MR. AVITABILE: Yes. Yes, we do.

20 MS. MILANOVICH: Yes, we do.

21 CHAIRMAN HILL: Okay.

22 MS. MILANOVICH: And those are focused on
23 pedestrian improvements.

24 CHAIRMAN HILL: Yes, I was just curious. Just
25 since we were talking about DDOT, like, what are, what are

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1 DDOT's standards?

2 MS. MILANOVICH: Yes. So the ADA ramps at the
3 crosswalks do not currently comply with the existing
4 standards. At Belmont, where it intersects, there's a
5 crosswalk here.

6 There are ADA ramps, but they don't have the
7 truncated domes on them, which allows visually impaired
8 people to sense that they're approaching a crossing. So
9 those need to be updated. DDOT is trying to move away from
10 what are considered mid-block crossings, or unsignalized
11 crossings.

12 So they had actually done a study a number of
13 years ago that recommended the removal of these two
14 crosswalks across 16th Street, because the traffic on 16th
15 Street does not stop. And so we've agreed to remove those
16 crosswalks. That was part of what DDOT had requested.

17 Up at Crescent Place, the ADA ramps, I think
18 they're actually even missing on the east side of 16th
19 Street, so we'll need to construct those. And then, on the
20 west side, there's only one ramp for two crosswalks, and the
21 current standards require you to have separate ADA ramps for
22 each crosswalk. So we'll have to construct new ADA ramps at
23 that intersection as well.

24 CHAIRMAN HILL: Okay.

25 MS. MILANOVICH: So that's what DDOT was referring

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1 to.

2 CHAIRMAN HILL: Okay. Okay.

3 MS. MILANOVICH: I just --

4 CHAIRMAN HILL: Sure, yes, go on.

5 MS. MILANOVICH: -- one more thing. I just want
6 to answer Ms. White's questions.

7 CHAIRMAN HILL: Sorry.

8 MS. MILANOVICH: So we did look specifically at
9 the intersection of Belmont and 16th Street. The Belmont
10 Street approach was an unsignalized intersection during the
11 AM peak period, as projected to operate at a level of service
12 A, and during the PM peak period, is projected to operate at
13 a level of service C. That's primarily due to the fact that
14 the vast majority are turning right.

15 I think there's one car in the PM that turned left
16 when we did our traffic counts. No one in the AM turned
17 left, because everybody that lives in that development has
18 the opportunity to traverse the loop and come out at Crescent
19 with the aide of the signal, where it's much easier to make
20 a left.

21 I've spent a fair amount of time at that
22 intersection myself, just looking at it, and that's exactly
23 what happens. Every once in a while, you see somebody trying
24 to make a left, but it's much easier and quicker to go up to
25 the signal to do it. So that's why we're seeing such a good

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1 level of service there.

2 And then, at Crescent Place, the eastbound
3 approach on Crescent Place, as it approaches 16th Street, is
4 projected to operate at a level of service D during both the
5 AM and PM peak period. And in both cases, the queues are
6 very short.

7 One of the things that we'd heard from the
8 neighbors at Belmont Street is that that two-way portion is
9 very constrained, and it's very hard for two-way traffic to
10 get through.

11 And if you look at this picture, you can see, with
12 parking on both sides of the street, it is pretty tight. And
13 so, you know, based on the concerns that we heard from the
14 neighbors, you can see on the left here, there's about 16
15 feet of travel way in between the two sides of parked
16 vehicles.

17 That's very tight for two-way traffic. So what
18 we've proposed is to remove those three parking spaces on the
19 south side of Belmont that would allow us to open up that
20 travel way to 22 feet, which is more typical for two-way
21 travel.

22 And then, we would stripe a double yellow line to
23 further delineate that there's two separate lanes of traffic.

24 CHAIRMAN HILL: And then you're just losing the
25 three spots?

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1 MS. MILANOVICH: That's correct.

2 CHAIRMAN HILL: Okay.

3 MS. MILANOVICH: And then, just really quickly,
4 some additional improvements that we've recommended, based
5 on our, not because we have an impact, but based on our
6 discussions with the neighbors, they very much wanted a
7 signal installed at Belmont. The Applicant was willing to
8 do that.

9 Unfortunately, the traffic volumes aren't high
10 enough. It doesn't meet any of the warrants that are
11 required to be met in order to install a signal. But what
12 we've done is we've said, once the building is open and
13 occupied, we'll conduct a study afterward, in case our
14 projections were off, for whatever reason.

15 And if a traffic signal is warranted at that time,
16 and if approved by DDOT, we would install the traffic signal
17 at that time. I mentioned the upgrade to the ADA ramps.

18 We've also, will be working with DDOT to see if
19 they'll allow us to install do not block the box markings.
20 That's the cross hatch pattern that signals to people on 16th
21 Street to stop in advance of the intersection, and not block
22 that intersection.

23 We think that'll help people as they're exiting
24 Belmont Street. One of the other things was a recommendation
25 by one of the neighbors, a very creative suggestion, was,

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1 well, if we can't get a traffic signal at Belmont, could we
2 install a signal detector at Belmont that would essentially
3 trip the signal at Crescent, and stop traffic on 16th Street
4 to allow traffic at Belmont, that creates a gap in 16th
5 Street, to help facilitate that traffic?

6 So we're exploring that with DDOT. They seemed
7 open to it. They needed to look into it a little further.
8 But again, I thought that was a creative solution that we can
9 work on with DDOT.

10 We do have a transportation management plan. I
11 won't read all of those. It's pretty typical of what we see.
12 I would note that DDOT has indicated that it is appropriate,
13 given the level of impacts that this project is projected to
14 have.

15 We'll have a loading management plan as well, and
16 we do meet the minimum parking requirements, and we looked
17 at census data, as well as DDOT's parking tool, and our
18 proposed parking ratio is in the range of those two pieces
19 of information.

20 So we feel pretty comfortable that we have the
21 right number of parking spaces. So with that, I'll turn it
22 back over to David to summarize.

23 MR. AVITABILE: All right. And we'll wrap up as
24 how we address the burden of proof. I think you've heard
25 from Mr. Bell how we've generally addressed the burden of

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1 proof for adjusting the zone boundary line.

2 The standard is that there's no adverse impact on
3 the present character or future development in the
4 neighborhood. And as Mr. Bell walked through, the way we've
5 massed and organized the development at this site is the best
6 approach for fitting in with the surrounding context,
7 focusing the density towards 16th Street, pulling away from
8 the center of the neighborhood, pulling away from the
9 historic landmarks, and that's the conclusion that HPRB came
10 to, was the right balance, given the mix of historic
11 character of the historic district, as well as the historic
12 landmarks.

13 And I think the other important point here is,
14 even though moving that zone boundary line does increase the
15 amount of density we can build on the RA-4 side of that line
16 by about 13,000 square feet, we're leaving far more than that
17 on the table, so to speak, by not building it over on the
18 RA-2 side, in the moderate density.

19 So it, I think, is not only, meets the test, but
20 it's consistent with the intent and purpose of the zoning
21 regulations of focusing density in medium and high density
22 zones, and away from moderate density zones. That's that
23 special exception.

24 The other special exception is the modification
25 of the private school. And of course, the standard there is

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1 no objectionable impact due to noise, traffic, the number of
2 students, or other objectionable conditions.

3 And what we've done, through the extensive
4 conversations with the neighbors, as encapsulated in those
5 three memoranda of understanding that are in the record, is
6 come up with a whole series, I mean, there's 15, 20 pages to
7 each of those agreements, of measures that we've committed
8 to put into place to address those impacts.

9 And to summarize, on noise, we have limits on the
10 use of amplified music for both Meridian events, and for
11 anything that's happening on the rooftop of the residential
12 building, restrictions on the hours and location of Meridian
13 events to limit where outdoor events do happen for Meridian,
14 and how late they go.

15 We have screening requirements and restriction on
16 hours for the residential rooftop as well to limit the noise
17 impact from that. And finally, a number of measure to
18 mitigate noise related to truck traffic, you know, the fact
19 that the loading is interior to the development and inside
20 the building, limitations on the locations of where that sort
21 of activity occurs, and again, limitations on the hours of
22 when trash trucks and loading and catering is going to
23 happen.

24 All will help to reduce adverse impacts due to
25 noise during, you know, off hours, when people are sleeping

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1 or relaxing. Next slide. That was, next slide after that.
2 Thank you.

3 Traffic impacts, I think Ms. Milanovich addressed
4 many of those, how we don't have the objectionable impacts
5 there.

6 I mean, the change in addressing the circulation
7 of the traffic through the building really does go a long way
8 toward ensuring that the project won't have an adverse impact
9 on the surrounding network. The MOUs have a number of other
10 measures in them to address traffic impacts.

11 All of those different street improvements for,
12 not just vehicular traffic, but pedestrian traffic,
13 improvements to the intersections, will all help address any
14 impact of this project, and frankly, represent an improvement
15 over existing conditions.

16 There are also numerous measures in the MOUs,
17 particularly in the Meridian MOU, that deal with management
18 of, not just truck traffic and trash, but also the shuttle
19 bus and the Meridian events, the Meridian valet.

20 And then, moving to the next slide, there's
21 objectionable impact here due to parking. We're providing
22 nearly double the amount of required residential parking, and
23 the Meridian use will use both valet and offsite.

24 There are commitments to offsite parking as well
25 to accommodate their event needs. And finally, there are two

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1 ways in which the project will actually help improve existing
2 conditions in the neighborhood. Meridian will continue to
3 allow for evening and weekend parking in its garage by
4 neighborhood residents, so that provides an additional
5 parking resource for neighborhood residents or their guests.

6 And to the extent that we don't sell all of the
7 parking spaces in our building, in the residential building,
8 we have offered to give the neighbors an opportunity to
9 purchase those spaces as well. Go to the next slide.

10 The next standard is no objectionable impact due
11 to number of students or number of people. And here, again,
12 Meridian's committed to maintain its existing levels of
13 activity. We've mentioned this a number of times in the
14 filing, that this new space within our building for Meridian,
15 isn't being used to expand their use.

16 It's merely modernized state of the art space that
17 will be an alternative to holding events or having offices
18 in the existing historic mansions. Some of the programs and
19 events that Meridian operates, there's a need to have a more
20 state of the art venue for audio visual capabilities. That's
21 what this space will provide.

22 And in terms of number of people, the residential
23 building is a matter of right, and there's no limit on the
24 number of units you could have. So from that perspective,
25 there's no adverse impact. Okay.

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1 And then, finally, the last, you know, any other
2 objectionable impacts, I think we've also encapsulated in the
3 MOUs. You know, there are commitments to maintain the
4 surrounding sidewalks, you know, removal of litter
5 management, even a commitment to put up dog waste stations
6 to help with people walking their dogs, commitments to
7 address potential light pollution with cutoff lights.

8 And the last item, but it's certainly not the
9 least, one of the major items that's encapsulated in the
10 MOUs, and comes out of this project, is the creation of an
11 ongoing group for dialogue between Meridian and all of the
12 surrounding neighborhood associations.

13 And this partnership will provide an opportunity
14 to talk through issues, resolve disputes, if and when they
15 arise.

16 There's a measure for, there are measures to
17 address complaints, and there's even provisions in there
18 where the neighbors can impose fines on Meridian, and on the
19 new condominium development, should they not live up to the
20 commitments that they've made to help, to help ensure the
21 enforcement of these commitments.

22 And I think that's important. I think the last
23 thing I'd note on the MOUs is that the versions we submitted
24 to you, we have continued to have conversations with all of
25 our neighbors, and as we've been talking through the impact

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1 of the change in the garage entrance, which was primarily
2 required, requested by the neighbors to the south, some of
3 the neighbors to the north have, had some very good insights
4 onto making sure that that entrance is designed in a way
5 where we're thinking through pedestrian safety and other
6 things.

7 And so we're continuing to look at that, and
8 continuing to have that dialogue, and there may be one or two
9 items that are added to address that. So then, finally, you
10 know, the last standard of proof for a special exception, any
11 special exception, is that it's in harmony with the purpose
12 and the intent of the zoning regulations and the zoning map.

13 And I think as we walked through in our written
14 submissions, and you've heard today, you know, you've got,
15 the residential use here is permitted as a matter of right,
16 so it's consistent with the underlying zoning.

17 The Meridian use has coexisted in this
18 neighborhood since 1960. It has, it has expanded its uses
19 over those years and decades, but this project here is not
20 to expand the intensity of the use. It's merely to
21 reallocate the uses across the site. And the overall height
22 and density of the project is within the matter of right
23 zoning limits.

24 So this is consistent with the purpose and intent
25 of the zoning regulations. And then, the last standard is

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1 that the special exceptions will not tend to adversely affect
2 neighboring property, and I think that's very similar to the
3 no objectionable impact, and we've walked through that.

4 You know, you've got a building design that's been
5 determined to be compatible with the historic context. Not
6 only the overall historic context of 16th Street or along
7 Meridian Hill Park, but also specifically these two
8 landmarks. We've got massing here that results in actually
9 less impact than matter of right.

10 CHAIRMAN HILL: Okay.

11 MR. AVITABILE: And then, finally, all of the
12 other impacts.

13 CHAIRMAN HILL: Okay.

14 MR. AVITABILE: That's it.

15 CHAIRMAN HILL: All right. Thanks, Mr. Avitabile.
16 Mr. Avitabile, I ran into you before, at the little coffee
17 shop. You said you were going to help me get out of here
18 fast, right? Okay. I'm going to turn, I'm sorry, does the
19 Board have any questions? Please.

20 MEMBER WHITE: Just one quick question. Can you
21 respond to some of the push back that you've gotten from the
22 ANC on this project? I mean, it's a very extensive project.

23 It looks like you've made some significant
24 attempts to address some of the concerns of the neighbors,
25 but I'm looking at their response in the record. So I have

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1 some concerns and questions about that, so I'd like you to
2 respond to it.

3 MR. AVITABILE: Sure. You know, I think, first,
4 understand that the ANC resolution was passed before we had
5 reached this most recent design change to address the
6 concerns of Beekman Place, I think at that ANC meeting.

7 The majority of the people that were there and
8 were still expressing concerns about the project were Beekman
9 Place residents. I won't speak to whether the changes we've
10 made addressed the ANC's concerns or not. You know, the ANC
11 commissioner's here. He can speak to that.

12 What I will say is that, I think that, of the
13 concerns that were raised in that resolution that are issues
14 that are before the BZA in this case, I think we've addressed
15 all of them, and I think we've addressed all of them in a
16 very comprehensive and meaningful manner, and I think the
17 fact that the condominium association to the south, that had
18 filed for party status and has withdrawn, that shows you that
19 that condominium association determined that we had addressed
20 it, and that the other associations around the perimeter did
21 not even choose to file for party status.

22 I know some of them are here today, and I'm not
23 going to presume to speak for them as well, but you know,
24 they'll address, I think, the process that we all went
25 through in pulling together these MOUs, that ultimately, I

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1 do think, represent a concerted balance, concerted effort to
2 balance the impact of this project, and make sure it would
3 fit within the context in an acceptable way.

4 I would note that there were two other areas that
5 come up repeatedly in the ANC resolution. One are
6 construction impacts, and I think the Board has traditionally
7 found that construction impacts aren't really a zoning impact
8 that gets considered when you consider whether or not a
9 project has objectionable or adverse impacts.

10 With that said, one of those three MOUs is a very
11 detailed memoranda of understanding on construction, intended
12 to deal with the impacts of this project while it's being
13 constructed.

14 Not only the construction itself, but also
15 ensuring the provision of parking, not only alternative
16 parking for Meridian, since we'll be constructing on their
17 existing parking lot, but also, there are provisions in there
18 to deal with alternative parking for the on-street parking
19 spaces that will come out of service during the construction
20 of the project.

21 The other item that's raised in the ANC resolution
22 repeatedly is the comprehensive plan. And as I think as the
23 Board knows, the comprehensive plan is not, is not considered
24 when you're considering a special exception request.

25 It's not listed in the criteria. It's not

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1 something that the Board considers. They're relying largely
2 on the provisions of the comprehensive plan that say, the
3 Board should consider the comprehensive plan, but the
4 comprehensive plan itself is not a self-executing document.

5 The, ultimately, if the Board were to consider the
6 comprehensive plan, the Zoning Commission would have to write
7 that into the Board's rules and regulations and say, Board,
8 we'd like you to consider the comprehensive plan. So those
9 --

10 CHAIRMAN HILL: Okay, one second. I think, I
11 think Ms. White got her answer.

12 MR. AVITABILE: Okay.

13 CHAIRMAN HILL: Commissioner May?

14 COMMISSIONER MAY: Thank you, Mr. Avitabile, for
15 that lengthy explanation, but I don't think you really got
16 to the key issue from my perspective. I mean, everything you
17 said was, you know, I could've pretty much said that.

18 The real issue, from my perspective, is that the
19 complaint from the neighbors, and from the party, before the
20 withdrew their request for party status, was the fact that
21 the school is not living up to current agreements.

22 And now, we have a new and improved agreement, and
23 there are definitely some operational improvements that are
24 apparent for the operation of the school, private events and
25 things like that, that will come with this project, I mean,

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1 along with the massive change that it's going to be.

2 But generally speaking, I think operational
3 improvements. But I mean, what is it, you know, why do we,
4 why should we believe at this point that the school is going
5 to behave better than the neighbors allege they have not in
6 the past?

7 And I'm not saying, you know, I don't know how
8 accurate all that stuff is, but it's in there. Let's have
9 an answer to it.

10 MR. HOLLIDAY: So Stuart Holliday. I'm the CEO
11 of Meridian, and I just wanted to state that, you know,
12 Meridian, while it's classified as a school, is a, is a,
13 really a leadership center. We bring work with the State
14 Department to help strengthen international understanding.

15 COMMISSIONER MAY: I, you know, I'm going to cut
16 you off, because we've been going on too long. We don't need
17 to know the mission. From our perspective, a school is a
18 school.

19 MR. HOLLIDAY: Okay.

20 COMMISSIONER MAY: So if you can speak to the
21 specific --

22 MR. HOLLIDAY: Sure.

23 COMMISSIONER MAY: -- complaints about --

24 MR. HOLLIDAY: Yes.

25 COMMISSIONER MAY: -- you not behaving in

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1 accordance with previous agreements.

2 MR. HOLLIDAY: Thank you. We have received very
3 few complaints at Meridian over the last decade. There is
4 a, we see, a very, a gap in understanding between how some
5 of our neighbors feel about our living up to our existing
6 MOU, which was voluntarily entered into, and their
7 perception.

8 The evidence is that we simply have not received
9 that many complaints over the last five years about our work.
10 There are areas of improvement. There are, there have been
11 complaints that are legitimate that relate to shuttle buses
12 double parked, noise at events.

13 But this characterization, I think, is not widely
14 held, I would submit, by the majority of neighbors in terms
15 of how we conduct our activities. So we actually disagree,
16 and do not have a --

17 CHAIRMAN HILL: So Mr. Holliday, I'm going to, I'm
18 going to follow up with --

19 MR. HOLLIDAY: Yes.

20 CHAIRMAN HILL: -- Commissioner May, because, so
21 basically, like, what's the teeth in this now --

22 MR. HOLLIDAY: Right.

23 CHAIRMAN HILL: -- that wasn't there before?

24 MR. HOLLIDAY: So this will become part of the BZA
25 order, as I understand it. This is a binding, you know,

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1 document, which we have to live up to, and has penalties in
2 there. We're a not for profit --

3 CHAIRMAN HILL: That's okay.

4 MR. HOLLIDAY: -- organization.

5 CHAIRMAN HILL: So what are the penalties? How
6 do the penalties work?

7 MR. HOLLIDAY: The penalties work in that, through
8 this community group mechanism, that if there, if an issue
9 has not been resolved immediately, that the group can meet,
10 and can impose a penalty --

11 CHAIRMAN HILL: All right. And what's the
12 penalty?

13 MR. HOLLIDAY: -- a monetary penalty.

14 CHAIRMAN HILL: What's the monetary penalty?

15 MR. HOLLIDAY: Well, there are successive
16 penalties. There, as up to \$7,000 worth of penalties that
17 can be incurred.

18 CHAIRMAN HILL: Okay.

19 MR. HOLLIDAY: And we also think, frankly, that
20 having this mechanism, this community group, and better
21 relationship and open channel with our neighbors is going to
22 lead to, I think, us being aware where there are issues, be
23 more readily to respond to them, and to put into place
24 whatever policies we can to make sure that the, that the
25 issues are addressed.

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1 CHAIRMAN HILL: Commissioner May, are you getting
2 your question answered?

3 COMMISSIONER MAY: Yes, I just have one followup,
4 which is, you specifically cited shuttle buses double
5 parking.

6 MR. HOLLIDAY: Yes.

7 COMMISSIONER MAY: What do you do when that
8 happens? Somebody complains that that's happened, what do
9 you do?

10 MR. HOLLIDAY: So two thing. First, is we have
11 our staff that goes out and actually, if somebody calls
12 Meridian or emails us, we go out and make sure we get on that
13 right away. We have a great staff of people who manage our
14 operations.

15 The second thing is we have contracts with our
16 shuttle bus providers. These are for our State Department
17 programs, and these guidelines are very specifically put in
18 there, and we have said two things.

19 One is we have reached out as a result of this
20 process to actually reaffirm that we will not use these
21 vendors or partners anymore if they, if they exhibit, you
22 know, disregard for the, for our standards, and we are
23 serious about that, and we've put them on notice.

24 COMMISSIONER MAY: Well, one last question. How
25 long have you been the CEO?

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1 MR. HOLLIDAY: Eleven years.

2 COMMISSIONER MAY: Okay, thanks.

3 MR. CUMMINGS: If I may just talk to process
4 quickly, about --

5 CHAIRMAN HILL: No, that's okay.

6 MR. CUMMINGS: No? With the evaluation reports
7 --

8 CHAIRMAN HILL: Okay, all right. Okay. Thanks.
9 Appreciate the offer. Anyone else real quick? I know the
10 Office of Planning, I mean, we've still got to go through a
11 bunch of people and things. Office of Planning?

12 MR. JESICK: Thank you, Mr. Chairman, and members
13 of the Board. While this is a very complex case with a lot
14 of moving pieces, the criteria for a zoning evaluation are
15 relatively straightforward, and that gets to, what are the
16 impacts of the project? And that is for both of the special
17 exceptions.

18 So in regards to the special exception for the
19 private school, we felt that the impacts would be minimal.
20 According to the Applicant, the number of staff and number
21 of events would not increase as a result of the new physical
22 space of the school, and therefore, the traffic study
23 concluded that the overall level of traffic would not
24 increase a significant amount.

25 Visually, the school was, the expansion of the

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1 school was designed to almost feel like it was tucked into
2 the hillside, and would act as an extension of the plinth on
3 which the White-Meyer House sits, and that was done in
4 cooperation with HPRB to minimize the visual impacts of the
5 expansion of the school.

6 It would be visible from some vantage points, and
7 a portion of the retaining wall would increase in height
8 along Belmont Street, but that retaining wall would still be
9 much, much lower than the existing retaining wall immediately
10 behind the White-Meyer House.

11 Similarly, in regard to the zone boundary line
12 shift, we found it compelling that the overall level of
13 density would be significantly less than what could be
14 achieved as a matter of right under the current zoning. So
15 therefore, any impacts related to density would not be a
16 result from the zone boundary line shift.

17 The zone boundary line shift simply allows a
18 concentration of the density along 16th Street, where it has
19 historically been developed in that neighborhood. Also, we
20 placed a lot of value on the design review that went into the
21 HPRB process.

22 They sought to minimize the appearance of height,
23 while not wanting the building to appear too squat along that
24 16th Street frontage, which is characterized by taller
25 buildings.

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1 So we felt that overall the project did not have
2 unacceptable impacts on the surrounding neighborhood, and
3 therefore, we recommended approval of both special
4 exceptions. I'd be happy to take any questions. Thank you.

5 CHAIRMAN HILL: Okay. Does the Board have any
6 questions for the Office of Planning?

7 VICE CHAIR HART: Just a quick question. Maybe
8 it's not a quick one. Just saying. So just the question on
9 the, you know, the issue that talked about a little bit. I
10 think you may have heard some of that.

11 But the question that I had was really around,
12 what was envisioned with the, I mean, this has a split zone,
13 so there was some acknowledgment that there would be a
14 different type of development on the eastern side than there
15 would be on the western side. So this is, you're saying that
16 this is in keeping with that, with that idea?

17 MR. JESICK: Yes, I think the design, as proposed,
18 is in keeping with that. Although, the, as the Applicant
19 showed in their presentation, some of those existing
20 apartment buildings extend well back into the block.

21 In this particular situation, you do have those
22 landmarks of the Meridian House and the White-Meyer House,
23 and I think the density is appropriately kept off of those
24 buildings and concentrated along 16th Street. So yes, we
25 felt that the density in that location was appropriate.

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1 VICE CHAIR HART: And the, and the, as you're
2 going down 16th Street, from north to south, you have kind
3 of taller buildings, and then you get to south of the site,
4 which is much more, much lower density development that's
5 happening just south of, what is that street now? Belmont,
6 I think.

7 MR. JESICK: Yes, the Beekman Place development
8 is row houses, so that is much lower density.

9 VICE CHAIR HART: And so you wouldn't, you
10 wouldn't expect there to be an even lower transition between
11 the apartment houses that are, or apartment buildings that
12 are to the north of the site, and, or do you think that this
13 is, and the Beekman Place development, you wouldn't think
14 there would be an even greater kind of stepping down in
15 development?

16 MR. JESICK: We concurred with the outcome reached
17 by the HPRB, which is the development, as proposed, is
18 compatible with the buildings to the north, and that it had
19 no adverse impact on the townhouses to the south, if you
20 examine the shadow studies.

21 I can get you those, obviously, since this
22 building is to the north, but not have light impacts. Also,
23 the building is symmetrical, you know, in and of itself, so
24 a step down within the building mass would likely be viewed
25 as inappropriate, from a historic preservation standpoint.

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1 And furthermore, I believe the HPRB and HPO staff
2 did not want the building to be reduced in height as a whole.
3 They didn't want it to appear too low scale for that historic
4 district, which is characterized by taller buildings.

5 VICE CHAIR HART: Thank you.

6 CHAIRMAN HILL: Okay. We can jump around here,
7 but let me just keep moving forward, unless anybody has a
8 pressing question for OP? Okay.

9 Commissioner Perry, welcome. So is there anyone
10 else here from the ANC, other than this commissioner? Okay,
11 please, come forward. If you could please also introduce
12 yourself.

13 MR. GUTHRIE: Ted Guthrie.

14 CHAIRMAN HILL: So are you a commissioner, Mr.
15 Guthrie?

16 MR. GUTHRIE: Yes.

17 CHAIRMAN HILL: You're both the same ANC?

18 MR. GUTHRIE: yes.

19 CHAIRMAN HILL: Okay. Are you both presenting the
20 same opinion, or you have different views, or you don't know?

21 MR. GUTHRIE: We are presenting a consistent
22 opinion --

23 CHAIRMAN HILL: Okay.

24 MR. GUTHRIE: -- which is focused more on the
25 specifics.

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1 CHAIRMAN HILL: Okay.

2 MR. GUTHRIE: And I'm a more generalized speaker.

3 CHAIRMAN HILL: Just, so the ANC has five minutes,
4 so you all can divide your time up the way you like, and
5 we'll have, I'm sure we'll have questions, but I just wanted
6 to let you know.

7 And so since Ms. Perry came first here, I'll start
8 with you, Ms. Perry. I'm going to put five minutes on the
9 clock, and you guys can just kind of go through what you want
10 the Board to know. And then, I'm sure we'll have some
11 questions for you. But welcome to both of you. Thanks for
12 coming out.

13 MS. PERRY: Okay.

14 CHAIRMAN HILL: Please.

15 MS. PERRY: Thank you. Amanda Perry. I'm the
16 commissioner for 1C08, which is the district in which this
17 project is located. The ANC, as you know, adopted a
18 resolution unanimously on May 23rd, at a special forum that
19 we convened just for this project.

20 The, some of the residential groups have since
21 entered into MOUs with the developer, however, there continue
22 to be individual residents who have concerns. I know some
23 of them have submitted their concerns to the record for this
24 case, and given some of our own concerns, we maintain our
25 opposition to this project.

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1 And some of that also is that there's other
2 members of this ANC who will be impacted if this is allowed
3 to move forward, including the residents at the envoy, who
4 weren't a part of the working group, negotiations, people who
5 are using 16th Street are going to be impacted, or that's how
6 we see it.

7 So I know you wanted to just kind of keep this
8 focused on the zoning impacts, so I will try to, try to keep
9 it within that analysis. Critical to this case is the
10 Applicant's request for an expansion of an institutional use,
11 and to do so, obviously they need to show that doing, putting
12 this project there is not going to be likely to create any
13 objectionable impacts on the surrounding neighborhood.

14 So the first point I want to make, which we also
15 pointed out in the resolution, is that this isn't a question
16 of likelihood, this is certainty. They, Meridian is already
17 creating a burden on the community. Commissioner May raised
18 that, and I appreciate that, you know, and Mr. Avitabile
19 noted as well, that the prior BZA orders allowing Meridian
20 to operate as a private school have expanded over the years.

21 And even though it was anticipated as functioning
22 like a private school, it's functioning as a private event
23 center, as much as anything else. In 2017, they had 149
24 events, 87 of which were private rentals, 39 weddings. You
25 know, when that happens, the entire neighborhood turns into

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1 a parking lot. You know, the shuttle traffic is a problem.

2 I know Mr. Holliday said that, you know, when they
3 get complaints about it, they move them, but half the time,
4 when we say that complaints have been registered with them,
5 they say they didn't get them, and the fact remains that the
6 shuttles end up exactly where they were the next time they
7 have an event.

8 So in light of that, and the history of their, of
9 violating this previously enacted MOU with the community, you
10 should not allow them to modify this. The Applicant states
11 that it's not going to, that this conference center is not
12 going to have any undue impacts, and we think that's a bold
13 assertion.

14 And when you look at the, at the size and the
15 location of this project, it really strains belief to think
16 that a 10,000 square foot conference center is not going to
17 create additional undue burdens on the community.

18 On page 10 of the Applicant's statement, they
19 discuss all the ways that this conference center is going to,
20 you know, help them and help Meridian, and you know, enable
21 them to come into the next century, and you know, attract
22 business and whatnot.

23 But that only makes it harder for us to believe
24 that they're not going to expand their operations, despite
25 their assertion that this is not about adding additional

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1 space, it's just going to be alternative space.

2 And again, that would be easier to believe, if
3 they had not consistently violated the underlying MOU. You
4 know, and there was reference to the enforcement provisions
5 of the MOUs that create a working group for the community,
6 which I think is good.

7 It's really important that those MOUs have that.
8 But it's still unfortunate that that puts a huge burden on
9 the residents, who have spent so much time already, you know,
10 trying to improve the situation there, then going through
11 this working group process, to then have to come together
12 every time and vote on whether violations have occurred, and
13 hopefully make them stick.

14 So I realize I'm running out of time. The other
15 thing, too, is that we're being told, only look at the
16 conference center, and not at the building, because the
17 building is by right.

18 The components of this project are inseparable
19 from each other. You've got the motor court, the parking
20 garage. They're all going to be shared. So we would say
21 that it really is impossible to separate them, and that the
22 burdens, the impacts from both should be considered.

23 And even if you don't include it as being covered
24 under the requirements of 11X1041, it needs to be considered
25 as an existing entity. And it's hard to say that it, that

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1 as an existing entity, a 10,000 square foot conference center
2 would not have a burden on the noise and traffic and
3 congestion, because, you know, if you assume for the moment
4 that that building was already built, how would that
5 conference center, a 10,000 square foot conference center and
6 parking garage in your backyard not create an impact?

7 You know, I am also concerned, based on what I'm
8 seeing from the OP report, is that that seems to be working
9 off of the Applicant's statement and the MOUs, and I'm
10 curious to know what other studies were done to really assess
11 this project, and some of the underlying complaints about,
12 you know, what's been going on there, to just take it at the
13 Applicant's word and these MOUs --

14 CHAIRMAN HILL: Okay.

15 MS. PERRY: -- does not, does not give the, a full
16 picture.

17 CHAIRMAN HILL: Okay, Commissioner Perry. I just
18 want to let the other commissioner also have some time.
19 Would you like to go ahead?

20 MR. GUTHRIE: Yes, I've just got a couple of brief
21 points to make. This process has been going on for a long
22 time. The ANC had a special meeting, passed a resolution two
23 weeks ago.

24 During the discussion of that resolution, we were
25 told that it was absolutely physically impossible to direct

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1 traffic onto Crescent Place. That was two weeks ago.

2 Suddenly, miraculously, that it is possible, and
3 we would suggest that they're coming here before you today
4 without bringing it back in front of the ANC, suggests that
5 they're trying to avoid getting the ANC's position on this
6 newly reframed transportation approach.

7 The other piece is that they look at this as
8 solving two problems, but the two problems aren't existence
9 of a condominium project and a conference center. The two
10 problems are funding for the conference center, and the
11 conference center.

12 The only reason that we have had such continued
13 and strenuous objection from the neighborhood is that they're
14 trying to do too much on what is actually a fairly small lot.

15 They are putting two project where there should
16 only be one. They should either have the conference center
17 or have the residences. When you put both of them on, that
18 has to have the sort of impact that will be substantially
19 detrimental to all of the people who live in the
20 neighborhood, probably all of the people who commute down
21 16th.

22 And for them to claim that their studies show that
23 this will have no impact on traffic to build a substantial
24 condominium, and to have substantially additional space for
25 their conference facilities is disingenuous, to say the last.

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1 CHAIRMAN HILL: Okay. Okay. I mean, I don't
2 think, I mean, I hear what you guys are saying, and I'm glad
3 that we're going to have a chance to kind of, like, vet some
4 of this and talk a little bit more about it.

5 I don't think, they're not saying that they're not
6 going to have any impact. They're saying they're not going
7 to have any undue impact. And so that's where we also always
8 seem to come in.

9 I do have another question for Mr. Avitabile, and
10 we're going to kind of go back and forth here a little bit,
11 but does the Board have any questions for the commissioners?

12 MEMBER JOHN: I have a question.

13 CHAIRMAN HILL: Sure.

14 MEMBER JOHN: I was wondering if, in your opinion,
15 the provision of parking spaces in the project would somehow
16 ameliorate some of the problems that the residents were
17 having in the past, and whether the provision of that new
18 circular driveway off of Belmont Street would help with some
19 of the load, not loading, some of the traffic that would come
20 from the events, you know, that might occur?

21 MR. GUTHRIE: Well, I do think that putting all
22 of the heavy traffic into that court that is right off
23 Belmont is going to limit the impact on, and requiring them
24 to leave going out to 16th, is going to reduce the amount of
25 traffic that has historically been there for events or

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1 conferences, because, you know, they had to go all the way
2 around before. So yes, it will reduce from, basically, from
3 Beekman on, the impact of traffic there. Your first question
4 was --

5 MEMBER JOHN: Well, the second question was about
6 the traffic light at, I believe that's Crescent. There will
7 be a new traffic light at Crescent?

8 MR. GUTHRIE: There is currently --

9 MEMBER JOHN: It's proposed, or there is one now?

10 MR. GUTHRIE: There is currently one at Crescent.
11 There was requested by the Belmont, by the Beekman people
12 that there be one at Belmont as well --

13 MEMBER JOHN: Okay.

14 MR. GUTHRIE: -- but the DDOT study suggested that
15 it was not sufficient to meet their threshold requirement.
16 But they've indicated that they're going to do another
17 traffic study later to see whether once the facility is
18 built, it meets the threshold for DDOT, is my understanding.

19 MEMBER JOHN: Thank you.

20 VICE CHAIR HART: Mr. Guthrie, I was trying to,
21 and I asked the Office of Planning this as well, but, and I'm
22 only asking you or Ms. Perry, either one of you can answer.

23 The, there is existing zoning that's there. The
24 existing zoning allows a certain amount of development. Are
25 you, are you thinking that that is allowing too much

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1 development by right? Or are you thinking that what they're
2 proposing is too much?

3 I'm trying to kind of understand where you're
4 coming down on it, because it does allow 182,000 total square
5 feet of development. They're doing 141. I understand that's
6 still a lot, but I'm trying to kind of understand where you
7 all are with that.

8 MR. GUTHRIE: The problem comes from both the
9 expansion of the school facility and the construction of this
10 substantial residential facility on a piece of property that
11 reasonably supports one or the other, but not both. That's
12 where the problem comes in. Yes, zoning --

13 VICE CHAIR HART: Yes --

14 (Simultaneous speaking.)

15 MR. GUTHRIE: Zoning allows a certain amount.
16 HPRB limits the amount that you can use the available zoning,
17 because of historical context, that they won't allow you to
18 build to the full height.

19 But the problem is that they're wedging two
20 projects into one site that will have such an adverse impact
21 because the amount of traffic generated by those two is
22 clearly more than either one would be by the, by itself.

23 VICE CHAIR HART: Okay.

24 MR. GUTHRIE: And the fact that they've chosen to
25 finance it that way is what leads to the imposition on the

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1 neighborhood.

2 VICE CHAIR HART: Okay, thank you. And one other
3 questions that doesn't have anything to do with the actual,
4 the structure itself. The, Ms. Milanovich, who is our
5 traffic consultant, said that as part of the things that DDOT
6 asked them to do, one of them was to actually, to remove the
7 pedestrian crossings along 16th Street at Belmont.

8 MR. GUTHRIE: I'm not sure whether it's Belmont
9 or Crescent.

10 VICE CHAIR HART: I think it was Belmont, because
11 --

12 MR. GUTHRIE: Belmont?

13 VICE CHAIR HART: -- Belmont because there's no,
14 there's no light there.

15 MR. GUTHRIE: Right. And --

16 VICE CHAIR HART: And I didn't know what, I didn't
17 know what your, the ANC's position was on that.

18 MR. GUTHRIE: We haven't taken a position on that.

19 VICE CHAIR HART: Okay, thank you.

20 CHAIRMAN HILL: Anyone else? Okay. Just a
21 reminder, Commissioner Guthrie, so you meet, Commissioner
22 Perry, you're the SMD for this project. Where are you,
23 Commissioner Guthrie?

24 MR. GUTHRIE: I'm over in the Washington Heights
25 historic district, but also sit on the Timing Zoning and

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1 Transportation Committee, and was, until the 1st of the year,
2 the chair for this ANC.

3 CHAIRMAN HILL: Okay. I'd say congratulations,
4 but our, for getting off of it, I guess. But still on.
5 Okay. Let's see. Mr. Avitabile, what, can you explain to
6 me, just a little bit again, kind of what the matter of right
7 option would be for your client?

8 MR. AVITABILE: So the height of the building that
9 could be built in the RA-4 zone is 90 feet. Our building is
10 80 feet tall.

11 Over on the RA-4 side of the line, if we didn't
12 move the zone boundary line, could we bring up the slide that
13 has that data? You could build, what's 103 minus 13? Thank
14 you, 90. So you could build, on that --

15 CHAIRMAN HILL: Right, you wouldn't get, you
16 wouldn't get the height. You wouldn't get the height. So,
17 because the HPRB wouldn't give you the height.

18 MR. AVITABILE: Well, right. But we're not even,
19 but the point is, we're not even using 90 feet of height,
20 even on all of the property where we could do 90 feet of
21 height.

22 So we're, the little sliver in the center, where
23 we're moving the property line, we're not doing that to get
24 height. What it does is it allows extra density. It
25 increases the amount of density that's generated by that

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1 portion of the property --

2 CHAIRMAN HILL: Okay.

3 MR. AVITABILE: -- by 13,000 square feet.

4 CHAIRMAN HILL: Okay. So that takes care of that.

5 And then, the expansion of the use, so you wouldn't then do
6 the conference center?

7 MR. AVITABILE: You couldn't have the Meridian,
8 the problem, it's a little bit of a complicated puzzle here,
9 because the existing parking lot is used by Meridian right
10 now.

11 It's been mentioned in their previous private
12 school approvals. It's questionable as to whether, if we
13 were simply building a condominium building here, whether
14 that alone would require you to go back and modify the
15 private school plan, because this has been historically used.
16 But we're not asking that question. So --

17 CHAIRMAN HILL: Okay. I'm just, I got my answer.
18 I got my answer.

19 MR. AVITABILE: Okay.

20 CHAIRMAN HILL: Okay. Okay, yes. So, and I think
21 we're going to hear from a lot of people, and I don't know
22 if we need to take a, how many people are here testifying,
23 if you could raise your hand. Okay. Oh, okay. Two, three.
24 Okay. Okay.

25 Let me just ask my one quick question, and then

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1 I think we're going to take a break. The, so right now,
2 commissioners, so, and this is where we're going to kind of
3 get back, I think, to again, the teeth of all of this,
4 because I live in, I live next to a place that's turned into
5 a conference center, and so, you know, there's a bunch of
6 things that happen, and we have to complain, and they go on
7 deaf ears at times. So the process now that you guys kind
8 of go through, what's the process now?

9 MS. PERRY: For?

10 CHAIRMAN HILL: A complaint. They're double --

11 MS. PERRY: Complaining?

12 CHAIRMAN HILL: -- parking on the, you know,
13 whatever. Do you call somebody?

14 MS. PERRY: Sending emails, text messages.

15 CHAIRMAN HILL: To who?

16 MS. PERRY: It's harder, to the Meridian event
17 staff, usually during the event --

18 CHAIRMAN HILL: Okay.

19 MS. PERRY: -- but oftentimes, that person who's
20 designated is in the middle of running an event, so --

21 CHAIRMAN HILL: Right.

22 MS. PERRY: -- can't necessarily be responsive.

23 CHAIRMAN HILL: Right. So you didn't have, up
24 until, and I don't know, and I'm going to ask for
25 clarification in terms of the MOU, you didn't have a direct

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1 person that you could call, that is an immediate, you know,
2 will answer the phone and you'll deal with that? It was just
3 kind of like, you know, you called the center and you got who
4 you got?

5 MS. PERRY: No. My understanding is that we did,
6 and I think it has evolved kind of over the years, but that
7 there was a directed person to contact. It wasn't just like
8 we were calling over to Meridian, you know, their general
9 number.

10 CHAIRMAN HILL: Okay. And have either of you had
11 experience with like calling them and then nothing really
12 happened?

13 MS. PERRY: Yes. How do you mean though?

14 CHAIRMAN HILL: You guys. Either, anyone in your
15 community? I mean, you've had feedback --

16 MS. PERRY: Oh, yes.

17 CHAIRMAN HILL: -- that people have called, and
18 they call, and nothing happens.

19 MS. PERRY: Absolutely. Absolutely.

20 CHAIRMAN HILL: Okay.

21 MS. PERRY: Yes, I mean, the, you know, events are
22 going late, or that, you know, the shuttles are double
23 parked, or that people can't get through to their homes
24 because there's, you know, they're doing drop offs for, you
25 know, the event rentals.

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1 CHAIRMAN HILL: Right.

2 MS. PERRY: And yes, generally --

3 CHAIRMAN HILL: Right. Okay.

4 MS. PERRY: -- those complaints are not responded
5 to.

6 CHAIRMAN HILL: Because, and we're going to, we're
7 going to take a quick break here, but Mr. Avitabile, I mean,
8 I thought this was going to be easy, or I didn't necessarily
9 know it was going to be easy or not, but like, I'm really
10 going to, and I think the Board members, at least one other
11 has expressed, again, what is the difference now between what
12 we're agreeing to as the Board versus the MOU that we did the
13 last time with the Board, right?

14 And there seems to be enough in the record to
15 indicate that it hasn't been the easiest to take care of, and
16 unfortunately, you're the CEO and have been for 11 years, so
17 you got kind of a bad track record that's going on here at
18 this point.

19 You're disagreeing with it, but there's other
20 people that are saying, you know, and as somebody who lives
21 next to one of these things, you know, you know, you know,
22 yes. So okay. So anyway, so we're going to take a break,
23 okay? All right, we're going to take a 15 minute break.

24 (Whereupon, the above-entitled matter went off the
25 record at 11:45 a.m. and resumed at 12:01 p.m.)

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1 CHAIRMAN HILL: Okay. All right. So, there was
2 people -- so, we asked for -- we talked to the ANC people.
3 Before the Commissioners come back, or if they come back,
4 we'll see, is there anyone here wishing to speak in support?
5 Doubted it.

6 Is there anybody here wishing to speak in
7 opposition? Okay, if you can come forward. I thought there
8 was one other -- okay. You -- okay, that's all right. You
9 can come forward or you don't have to, it's up to you if you
10 want to come forward. You can come forward and if you want
11 to speak, now's your opportunity.

12 I think you guys got sworn in, correct? Okay.
13 Did you get sworn in? No, you did not? If anybody's here
14 who hasn't gotten sworn in who plans on testifying today, if
15 you could please stand and take the oath administered by Mr.
16 Moy here, to the right?

17 If anyone's going to testify, I don't know if that
18 gentleman is -- okay, if you can stand and take the oath
19 here, administered by Mr. Moy. Anyone else? Great.

20 (Witnesses sworn.)

21 CHAIRMAN HILL: Okay. So, if you could please
22 state your name for me, both of you?

23 MR. PERRY: Jake Perry.

24 CHAIRMAN HILL: And where do you live, Mr. Perry?

25 MR. PERRY: I live at 1664 Beekman Place --

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1 CHAIRMAN HILL: Okay.

2 MR. PERRY: -- Washington, D.C.

3 CHAIRMAN HILL: Okay. And, sir?

4 MR. McPEEK: Steve McPeek, I live at 2200 17th
5 Street Northeast.

6 CHAIRMAN HILL: Okay. So, you'll each have three
7 minutes, as members of the public. And so, the clocks are
8 up there on the ceilings and you can begin whenever you like.

9 MR. McPEEK: Great, thank you.

10 MR. PERRY: Thank you, first, to the Board. I just
11 want to say, as a former member of the Alcohol Beverage
12 Control Board, I appreciate your service. I spent many, many
13 hours and days in your position.

14 CHAIRMAN HILL: Yes, your board sucks more than
15 this Board, by the way.

16 (Laughter.)

17 MR. PERRY: It was a very learning experience.
18 Anyway, I'm just here to express my opposition to the
19 application before you right now.

20 The developers are obligated to show that the
21 special exemption they seek will not have an adverse impact
22 on the neighboring properties. As a ten-year resident of
23 this SMD, they have not and cannot satisfy that obligation
24 under the current proposal.

25 Again, I just want to say, when I was on the

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1 Alcohol Beverage Control Board, I gave great -- the idea of
2 the ANC's great weight weighed heavy with me and I think the
3 fact that the ANC sort of voted unanimously on this, I think
4 it says a lot.

5 I would just say, as an 11-year resident, I think
6 a lot of what has been said about the -- the complaints, I
7 think are valid. I think the shuttle buses are there all the
8 time, so they block the way, the delivery loading docks block
9 the way.

10 And I would just say, I mean, I'm sorry, but for
11 me, we're all busy, for me to look up a number and try to
12 figure out how I call the person, I got to -- usually, I'm
13 trying to get somewhere.

14 So, the idea that I'm going to have to call and
15 make a complaint -- if there aren't a lot of them, which I
16 don't think that's true, but I think it's just, you know,
17 sometimes people just don't have time to complain. But I
18 just say, it does happen. The shuttle buses are there all
19 the time.

20 And, look, there's also just the noise and I would
21 just tell you this, come to that block on a Saturday after
22 a wedding, I guarantee you you're going to see cigarette
23 butts on the sidewalk, because there's a patio, people smoke
24 cigarettes, and that's what happens.

25 So, thank you for your time, thank you for your

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1 service, and I hope you will oppose this.

2 CHAIRMAN HILL: All right, Mr. Perry. Sir? Yes,
3 you get a new three minutes. Mr. Moy, you got a new three
4 minutes there? And you have to push the button in order to
5 -- yes. No problem.

6 MR. McPEEK: Okay. My name is Steve McPeek. I've
7 been an owner at Meridian Crescent Condominium for 12 years
8 and I represented our association on the community working
9 groups, developing the MOUs. I participated in 16 working
10 group meetings since December. I also engaged our
11 association and board during this process.

12 In my observation, the developer and Meridian
13 International Center acted in good faith while collaborating
14 with neighbors to draft the MOUs to address community demands
15 and to mitigate potential adverse impacts of the proposed
16 development.

17 We understand the MOUs are now near final and the
18 Meridian Crescent Condominium Association Board has voted to
19 sign them. On behalf of our association, I would like to
20 provide the following brief statement.

21 Meridian Crescent Condominium neither supports nor
22 objects to the new development at 2300 16th Street. Our
23 building is situated on 17th Street between Belmont Street
24 and Crescent Place, where 100 percent of our residences face
25 the street across from Meridian House.

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1 If you look on the diagram, we're the crescent
2 shaped building at the lower-left hand corner of the screen.
3 And you can see where we overlook Meridian House and also,
4 that court -- or that lawn, which a lot of the events are
5 held, including the weddings. We have large windows of our
6 living rooms and bedrooms across the face of our building.

7 Our residents have raised concerns about adverse
8 impacts of the development, especially increased traffic flow
9 in front of our building, and increased delays at 16th and
10 Crescent Place intersection. We also understand the
11 importance of safety and unobstructed traffic flow at the
12 16th and Belmont intersection, as the intersection is the
13 gateway of our community.

14 The proposed building will sit directly on 16th
15 Street, a major thoroughfare. We strongly oppose diverting
16 traffic through the quiet streets of the neighborhood,
17 including 17th Street. We endorse the MOUs as written, as
18 they ensure that traffic flow will exit onto 16th Street in
19 the most direct way.

20 By having traffic enter the new development from
21 Belmont and garage traffic exit onto Crescent, the overall
22 adverse impacts on both intersections should be less than
23 previously considered alternatives.

24 The MOUs also contain numerous provisions to
25 mitigate potential adverse impacts from Meridian operations,

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1 the construction of the building, and activities of the
2 proposed condominium. Most importantly, they include a
3 framework for accountability, including penalties designed
4 to enforce the provisions of the agreements.

5 It is essential that Meridian and the developer
6 abide by the obligations of these agreements and that the BZA
7 or other appropriate body will help the neighbors enforce the
8 MOUs, if necessary.

9 Although we are in close proximity to Meridian
10 House, we have not heard significant objections to Meridian's
11 current operations from our residents. We trust that they
12 will continue to act as good neighbors. And I thank you for
13 the opportunity to present.

14 CHAIRMAN HILL: Could you repeat that second --
15 what you just said just before the end?

16 MR. McPEEK: Although we are in close proximity to
17 Meridian House, we have not heard significant objections to
18 Meridian's current operations from our residents. And that
19 we trust that they'll continue to act as good neighbors.

20 CHAIRMAN HILL: Okay. All right. Does the Board
21 have any questions for the witnesses? Okay. All right. For
22 the record, this Board does not suck, it's a very good Board.

23 (Laughter.)

24 CHAIRMAN HILL: And ABRA also does not suck,
25 they're just -- I was just using a term of endearment.

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1 (Laughter.)

2 CHAIRMAN HILL: Exactly, it's a very, very
3 important job ABRA does. Oh, the clock, right, no, it
4 doesn't work all the time. Okay. Thank you all very much.
5 Thank you. Okay. So, we're back over here.

6 Mr. Avitabile, I'm just kind of curious, since you
7 have this thing on here, what could you build in that little
8 lot that's right there, next to Meridian House? To the left
9 of Meridian House?

10 MR. AVITABILE: So, theoretically, that's in the
11 RA-2 zone. You could build a building of up to 50-feet in
12 height and a 1.8 FAR. You'd have to deduct the existing
13 Meridian House from that.

14 I'm not sure exactly what you'd be able to build,
15 but that's a lot that's about 30,000 square feet and change.
16 So, double that for the amount of density you could build,
17 backup in Meridian House.

18 We'd have to do the math, but you could
19 theoretically build something there. Whether it would get
20 approved or not, unlikely given that that is a historic --

21 CHAIRMAN HILL: Oh, HPRB, you'd have to go through
22 HPRB? That's right.

23 MR. AVITABILE: It's a historic landmark --

24 CHAIRMAN HILL: Okay, all right.

25 MR. AVITABILE: -- and that lawn is considered to

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1 be --

2 CHAIRMAN HILL: Okay.

3 MR. AVITABILE: -- I think part of the landmark.

4 CHAIRMAN HILL: Okay, great. Just curious.

5 MR. AVITABILE: So, ultimately, nothing.

6 CHAIRMAN HILL: All right. Does the Board have
7 questions for the applicant?

8 MR. AVITABILE: We did have a very short rebuttal,
9 that was really to go --

10 CHAIRMAN HILL: Yes, that's okay.

11 MR. AVITABILE: Okay. But --

12 CHAIRMAN HILL: Yes, that's all right. I think
13 we're going to have some things we're going to ask of you.
14 Do you guys have any questions? I mean, I know what I'm kind
15 of struggling with and it's still, again, is the -- I mean,
16 there's three MOUs, right? And they're extensive.

17 And so, I guess I'll kind of talk a little bit
18 through this. I mean, how did you get the group, the Beekman
19 Place Condominium to withdraw their party status? So, that's
20 my first question. What did -- what were they sticking on
21 or how did you kind of get through that? So, I'd be curious
22 of that.

23 Then, I know that what I would like to see later,
24 I'm just asking the question about the -- how you got their
25 withdrawal, right, Beekman Place -- actually, why don't you

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1 just answer that first.

2 MR. AVITABILE: Sure. John will speak to that, I
3 think, and then I'll fill in color.

4 CHAIRMAN HILL: Okay.

5 MR. CUMMINGS: Yes, thank you. So, back in
6 November of last year, we had, through the HPRB process, we
7 had a group of working members through the neighborhood of
8 key stakeholder neighborhoods. So, 1661 Crescent to the
9 north, Meridian Crescent, 17th Street neighbors, and Beekman
10 Place to the south.

11 It was roughly about 15 members in total of those
12 communities. So, we were working together through HPRB
13 process. In November of last year, we reformed that group
14 again to focus on the matters at hand, as it relates to the
15 BZA, the two special exceptions that we were seeking.

16 We knew that we had to address things like noise,
17 traffic, otherwise objectionable impacts. So, we set out
18 this framework to try to pull out what were the concerns from
19 the neighborhood? We essentially did a charrette process.

20 So, back in November, we had the existing Meridian
21 MOU that had been in place, that they offered back in 2000,
22 so it's almost 20 years old at this point. We used that as
23 kind of the guiding framework of what that document would
24 look like.

25 From that process, we solicited out about 120

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1 individual comments from each community. So, we had a
2 running list of about 120 kind of areas of either concern or
3 improvements that they would like to see addressed in these
4 various MOUs. Some of them were related to the new condos,
5 some were related to --

6 CHAIRMAN HILL: I'm sorry, Mr. Cummings --

7 MR. CUMMINGS: Yes?

8 CHAIRMAN HILL: -- I'm going to cut you off.

9 MR. CUMMINGS: Okay.

10 CHAIRMAN HILL: So, what, again -- so, they just
11 withdrew --

12 MR. CUMMINGS: Yes.

13 CHAIRMAN HILL: -- like last week.

14 MR. CUMMINGS: Yes.

15 CHAIRMAN HILL: So, what finally got them to
16 withdraw?

17 MR. CUMMINGS: So, basically the drive aisle. The
18 original design had everything coming in off Belmont, also
19 exiting off of Belmont.

20 CHAIRMAN HILL: Okay.

21 MR. CUMMINGS: We --

22 CHAIRMAN HILL: So, you moved that up to the top
23 corner there?

24 MR. CUMMINGS: We moved the drive aisle exit from
25 the resident parking garage and the Meridian garage to allow

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1 that traffic to exit onto Crescent. The main concern that
2 was identified from Beekman was really the peak hour traffic
3 congestion.

4 And by moving residents who were leaving the site
5 or coming to the site for rush hour times, I believe that
6 mitigated their concerns, so they were ready to sign on to
7 the MOU and withdraw their concerns at that point. They were
8 involved in the process from the start --

9 CHAIRMAN HILL: Okay.

10 MR. CUMMINGS: -- a lot of their --

11 CHAIRMAN HILL: Okay.

12 MR. CUMMINGS: -- fingerprints are --

13 CHAIRMAN HILL: Okay. All right.

14 MR. CUMMINGS: -- in that MOU.

15 CHAIRMAN HILL: So, Mr. Avitabile, and you can go
16 ahead and rebut things in a minute here and give a little bit
17 of a conclusion. I mean, I'm not going to, personally, and
18 the Board can speak up, I'm not going to be able to decide
19 this today.

20 What I'd really want to see from you, for the
21 record, is kind of just -- I mean, again, there's three MOUs
22 and there's a lot of things in there. What I would want to
23 know is just exactly how do we know that the applicant will
24 live up to the agreement that they've put forth? And in a
25 very practical sense.

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1 I mean, unfortunately, to one of the witness'
2 testimonies, nobody wants to have the phone call anyway and
3 it seems, at least from some of the witnesses that we've had,
4 it has -- the reputation is not as clean as maybe, obviously,
5 you would have liked it to have been before you came before
6 us.

7 And I can understand that, over 20 years, things
8 might shift. Like that first year, it might be pretty
9 intense, everybody's making sure that things go properly and
10 then, they just kind of go away, less concerns from the
11 applicant.

12 So, really, I would be looking for whatever, just
13 a summary of whatever the teeth are and how the teeth work
14 and convincing the Board that the applicant now is going to
15 live up with these conditions, so that we can feel
16 comfortable in terms of the adverse impact.

17 So, that's my first thought. Does the Board have
18 any other thoughts?

19 MEMBER WHITE: My only thought is, just based upon
20 what Chair Hill just said, because you were able to get
21 Beekman on board with the project, and my question is,
22 whether or not there's anything out there that you believe
23 would get the ANC to be more supportive of it.

24 Maybe it's too late to do that, but it sounds like
25 we probably won't make final decisions on this today. But

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1 anything in the record that would be helpful in terms of
2 olive leaves that you've extended out to the ANC that would
3 address some of their concerns, I think would be helpful,
4 because it is a pretty strong vote here, so I've got to pay
5 attention to it. But that would be my only comment.

6 VICE CHAIR HART: Mr. Chairman, I think that, while
7 I am appreciative of the MOU, there are things in the MOU
8 that are not pertaining to us and it just seems like I'm
9 almost wanting -- I mean, while I understand the OP kind of
10 says the conditions that we had back in -- that the previous
11 zoning order, we shouldn't be kind of moving forward with
12 those, which I don't have an issue with.

13 But I almost feel like we need to have -- kind of
14 pull out some of the items that are in the MOU and to be able
15 to make them conditions in the zoning order, in the BZA
16 order.

17 And I'm just struggling with cutting through the
18 17 pages and kind of saying, okay, well, you're telling us
19 how many events that you're going to have per year, and
20 whatever that is, but those things kind of deal with the
21 amount of impact that is kind of agreed to. And some of the
22 timing and all that stuff, that seems like it should be kind
23 of a condition.

24 And I'm almost thinking that we should have the
25 applicant just go through it and say, these are conditions

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1 that are pertaining to zoning, or that you think are
2 pertaining to zoning, and this is what we should -- we could
3 incorporate as part of the, or include as part of the zoning
4 order, if we do approve this. I mean, that's the big
5 assumption.

6 CHAIRMAN HILL: Okay. So, Mr. Avitabile, you heard
7 what Vice Chair Hart said, in terms of giving us a list of
8 conditions that we would then add to the order. And just to
9 follow up what he's saying, then, I would want to know in the
10 document that you provide us, what are the teeth to those
11 conditions, right? And so, that's -- go ahead, sorry.

12 VICE CHAIR HART: Yes, and one other item is, the
13 drawings, if we could have a complete set that is all
14 updated, because I think we have it in several different
15 places right now. And I appreciate Mr. Bell for going
16 through the drawings, I think it's very helpful to hear the
17 analysis and all that stuff.

18 But it seemed like there were some things that
19 have happened, or at least included, like the new exit of the
20 ramp onto Crescent, you know, that's something that is, while
21 it may be in the drawings in our file, it seems like it's
22 kind of, some of these things are in different places or, oh,
23 we updated this portion of it.

24 And I'd like to have just one set that has, these
25 are all the updated drawings that we have. And then we can

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1 say, if, again, we get to a zoning order, we can say, Exhibit
2 80-whatever, or whatever, these are the final drawings that
3 we're approving, as opposed to, well, Exhibits 50 and 21 and
4 -- so, I just think that would be a little cleaner.

5 MEMBER JOHN: Mr. Chairman?

6 CHAIRMAN HILL: Sure.

7 MEMBER JOHN: I also have a question concerning
8 Paragraph 15 of the Meridian MOU. And it sort of relates to
9 what Mr. Hart has said. It's Exhibit 69D. And in one of the
10 paragraphs, it says that the parties reserve the right to
11 bring this matter before the BZA or DCRA if they cannot come
12 to resolution in terms of payment of fines and things like
13 that.

14 I'm not sure to what extent that that paragraph
15 belongs in the MOU, if the Board is expected to enforce some
16 of the issues. Same thing Mr. Hart said. I mean, we would
17 not have jurisdiction to enforce a lot of the issues that are
18 addressed in the MOU.

19 So, I'm not sure if we want to hear from the
20 parties concerning whether or not the fine was paid or it's
21 an appropriate fine or what. So, I'm not sure --

22 MR. AVITABILE: Right. That's not the intent of
23 that provision. The intent of that provision is -- and
24 again, I think our commitment to the neighbors was that we
25 would proffer all of the conditions in the MOUs as

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1 conditions.

2 I think we all understood that some of these of
3 these things do go beyond zoning and the Board might very
4 well say, parse out the ones that are zoning conditions
5 versus the ones that -- like the construction MOU, those are
6 all commitments that are outside the bounds of zoning.

7 And I think we can and will pull together a list
8 of the conditions that are appropriate for a zoning order.
9 All of the commitments would still stand and be enforceable
10 through the MOUs.

11 The point of that particular provision was to
12 suggest, really, to the extent that the MOUs themselves were
13 conditions of the zoning order or to the extent that
14 provisions of the zoning order, conditions of the zoning
15 order, if we violate a condition of a zoning order, they have
16 a right to ask for enforcement action to be taken.

17 First step is going to the zoning administrator
18 and if they don't agree with the zoning administrator and he
19 declines to take enforcement, they can ultimately appeal that
20 to the BZA.

21 So, I think the important point here was, the
22 neighbors wanted to make it clear that, to the extent that
23 there's a zoning order that says, Meridian or Developer, you
24 need to do this, and we don't do it, the fine isn't their
25 sole remedy, if there's actually a zoning condition. That's

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1 the point.

2 MEMBER JOHN: So --

3 MR. AVITABILE: We're not thinking, if we -- the
4 intent here is not --

5 MEMBER JOHN: I get it.

6 MR. AVITABILE: -- if a truck was --

7 MEMBER JOHN: I get it.

8 MR. AVITABILE: Yes.

9 MEMBER JOHN: So, my rule of thumb is, if someone's
10 asking a question about the language, there's something wrong
11 with it.

12 MR. AVITABILE: Okay.

13 MEMBER JOHN: So, maybe it would be a good idea to
14 rephrase it to say exactly what you just said.

15 MR. AVITABILE: Okay.

16 MEMBER JOHN: Thank you.

17 MR. CUMMINGS: And I think, Ms. White, you had a
18 question about olive branches to the ANC, to go back to your
19 question there. The ANC, back in November when we started
20 this working group, the ANC was part of that. They've been
21 invited to and engaged in pretty much all the meetings to
22 date with the working group.

23 They have every opportunity to provide, you know,
24 comments and concerns in that process. We responded to, a
25 lot of their concerns are in the MOUs. So, they were a party

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1 to that and part of that whole process as well. So, it's
2 been over seven months now of direct engagement, almost on
3 a weekly basis.

4 CHAIRMAN HILL: Okay. Any -- sorry, Commissioner
5 May?

6 COMMISSIONER MAY: I'm sorry, was Mr. Avitabile
7 going to actually do a rebuttal?

8 CHAIRMAN HILL: No, we're not -- yes, I just -- he
9 didn't --

10 COMMISSIONER MAY: I mean, I have some things to
11 say, but I think they're more deliberative than questions.

12 CHAIRMAN HILL: Okay.

13 COMMISSIONER MAY: So, I'm interested in the
14 rebuttal and then, I'll just have a few comments.

15 CHAIRMAN HILL: Okay. Then, the last thing that
16 I would be interested in, and this is -- I don't know
17 whether, Mr. Avitabile, this is something that you could
18 proffer or I'm going to try to understand with OAG later.
19 Because what I'm -- and I'm just, because we do this in the
20 public, I'm just struggling with this myself in trying to
21 speak out loud.

22 That the expansion of the use, I'm trying to
23 figure out how to put some kind of a time limit, or at least,
24 this is just what I'm initially thinking, I don't know, and
25 if you can help me get there, great.

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1 But, like, an expansion of the use, in terms of
2 the conference facilities, like, what we've had, oftentimes,
3 is we'll do a time limit. And so, we'll go ahead and present
4 the order, the order will -- and you have to come back in
5 five years -- three years, five years.

6 And then, you then show us that the -- we made the
7 right judgment in terms of approving it. So, I have to
8 figure out how one even goes about that. But the building's
9 going to be there, so it would be the expansion of the use,
10 I guess, that could be on a time limit, where you'd have to
11 come back.

12 So, I just have to kind of figure that out, I'm
13 just throwing that out there. You want to go ahead and do
14 your rebuttal? Because then, Mr. May has, I think, some
15 questions for you or comments.

16 MR. AVITABILE: Sure. And I think what we were
17 going to focus on in rebuttal was largely answering your --
18 really everyone's question about the existing conditions with
19 Meridian and enforcement --

20 CHAIRMAN HILL: Sure, that sounds great.

21 MR. AVITABILE: -- going forward.

22 CHAIRMAN HILL: That's a good idea.

23 MR. AVITABILE: So, I think the first thing,
24 though, that's helpful -- can you go up and put up the
25 Meridian, the floor plan? We did want to address the nature

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1 of the Meridian space in the building. I think it was
2 suggested it was a 10,000 square foot conference center.

3 It's not quite -- that's not quite accurate. One
4 of, actually, the changes we made in response to the
5 community comments, originally, it was proposed as a single
6 meeting room, but what we've since done is divide it up.

7 So, there is a meeting room there, maximum of 175
8 people, that's on the bottom part of it. That's a room about
9 the size of this room here. And then, the rest of that is
10 open office space, that will be used by Meridian.

11 So, I think the suggestion that this is a
12 conference center is a bit of a misnomer. This is additional
13 space for Meridian to keep doing what they do.

14 CHAIRMAN HILL: Yes, that's okay.

15 MR. AVITABILE: Okay.

16 CHAIRMAN HILL: I think it's a conference space --

17 MR. AVITABILE: Okay.

18 CHAIRMAN HILL: -- but that's okay.

19 MR. AVITABILE: Okay.

20 CHAIRMAN HILL: All right.

21 MR. AVITABILE: But then, regarding the Meridian
22 use, and Ambassador Holliday will speak a little bit to this
23 as well, but I think one of the things that we try to do
24 through the MOU process was identify -- as John said, we
25 started with the existing MOUs and then, we look through them

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1 and try to identify, what isn't being done now that could or
2 should be done?

3 Looking at all the other institutions in the
4 District, both private schools and universities, what are the
5 best practices? And I think we've implemented and brought
6 onboard here nearly every single one.

7 Establishing a hotline that people can call with
8 a specific person as a single point of contact to be
9 addressed. You know, providing notification out to neighbors
10 of when events are going to be and following up on when those
11 events were held.

12 Setting up a system for receiving complaints and
13 reporting out on how they were resolved. Creating this
14 partnership -- and I will say, this partnership is not a
15 novel idea, it's an approach we used very successfully to
16 resolve the issues with Georgetown University. And I think
17 that, I'm optimistic that the same formula can work here, and
18 has worked here, it helped --

19 COMMISSIONER MAY: Are you going to bring in Don
20 Edwards?

21 MR. AVITABILE: Don Edwards actually was the
22 original facilitator on this three and a half years ago.

23 COMMISSIONER MAY: Is he still on it?

24 MR. AVITABILE: He hasn't been on it, we've been
25 operating without him. But I like to think that Don -- we're

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1 using Don's playbook.

2 COMMISSIONER MAY: Okay.

3 MR. AVITABILE: We -- well, I mean, we've had --
4 I mean, the fact is, of the four community association
5 representatives that engage in this working group process,
6 all four of them either have filed party status or actively
7 withdrawn, showed up here and said, we don't oppose or
8 object, or didn't show up, which sometimes silence is golden.
9 I mean, I think --

10 CHAIRMAN HILL: All right Mr. Avitabile.

11 MR. AVITABILE: And then, the last part is, the
12 dispute resolution process. You want to speak to that?

13 MR. HOLLIDAY: I just wanted to make just one
14 minute point, which is, we've been there 58 years. There's
15 a history, there are a lot of neighbors, there are a lot of
16 opinions. I think, while we may disagree on the anecdotes
17 that have been mentioned previously, it doesn't matter, we
18 want to do a better job, we want to be held accountable.

19 We want to be held to the highest standards and
20 we want to do whatever we can do to make sure that this does
21 not affect our neighborhood. And if we need to go back and
22 look at existing approaches to things, we will, we are
23 committed to that.

24 We want to be here and functioning into the
25 future. And so, we're not arguing that there have been

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1 issues, we're just saying they need to be put and framed in
2 the context of our work and that we want to resolve them and
3 make sure we're held accountable.

4 CHAIRMAN HILL: Okay. All right. Well, I mean,
5 we're all hearing the same thing. And so, we're just trying
6 to figure out how to make sure it gets done this time
7 differently than it got done the last time. And I appreciate
8 that, as I said, over 20 years, priorities shift, in terms
9 of what might have been important. And so, Ambassador
10 Holliday?

11 MR. HOLLIDAY: Yes.

12 CHAIRMAN HILL: What were you the ambassador of?

13 MR. HOLLIDAY: I was our deputy representative at
14 the United Nations, back in a different era.

15 CHAIRMAN HILL: So, once you get the Ambassador
16 title, that just sticks?

17 MR. HOLLIDAY: It's good for restaurant
18 reservations, but I don't typically use it.

19 (Laughter.)

20 CHAIRMAN HILL: That's interesting. That's
21 interesting. Okay. All right. I'm pretty -- I mean, I
22 just, I want to be convinced. I mean, I'm just stuck, okay?
23 Like, I just, and no offense, like, there's just -- I just
24 don't know what to say, right? Like you have to kind of --
25 you have to prove it to us, right?

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1 And again, Mr. Avitabile, if you can figure out
2 how to parse this out so that there's a term limit for the,
3 whatever you want to call it, that would be a helpful thing.
4 Does anybody got anything else?

5 COMMISSIONER MAY: Yes, I have a few things to say.

6 CHAIRMAN HILL: Sure, oh, great. Commissioner May?

7 COMMISSIONER MAY: So, I mean, this is a really
8 interesting case and I know it has a long history, I mean,
9 it occasionally gets -- makes the news somewhere and I've
10 seen how it evolved.

11 And I can say that, I mean, not having paid much
12 attention to it before, but seeing what we see today and how
13 sensitively designed the building is and how well it fits,
14 I mean, and the fact that the relief needed to build a
15 building like this, I mean, putting aside the school use, the
16 relief needed to build a building like this is really pretty
17 minor.

18 And I think that the architectural approach, if
19 that's what necessitates shifting the line, the zone
20 boundary, I think that's really very minor. And I think
21 that, in comparison to what can be done as a matter-of-right,
22 what's being done here I think is being done extremely well
23 and the neighbors should be grateful that the design is as
24 strong as it is and they've done the moves that they've done.

25 So, I don't think that there's any question that,

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1 ultimately, the special exception for moving the zone
2 boundary or that shift, is something that can be done. And
3 I think that -- I mean, we did hear a fair amount of
4 opposition, there's opposition in the record, most of that
5 opposition goes to the building.

6 And I think that is rooted in the fact that this
7 has been an open space for a long time and it's been a green
8 space and it's been a substantial amenity just to have that.
9 I mean, granted, there was a parking lot in the middle of it,
10 but still, it was green and open space.

11 And people don't like seeing stuff like that
12 change, but this is -- I mean, it's pretty clear that there's
13 a matter-of-right ability to do something pretty substantial
14 here.

15 So, I think that the concerns having to do with
16 the building itself, while I can appreciate where they come
17 from, I don't think from a zoning perspective that those
18 concerns weigh against approval of that particular special
19 exception.

20 When it comes to the operation of the school, I
21 think that there are unresolved questions and there is
22 clarity that is needed. And I think the Chairman has already
23 stated some of the things that we need in order to get to a
24 decision on this. Of course, having clarity about what's
25 going to become a condition of the order, including a

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1 condition that limits the time.

2 Certainly, the time, I mean, after the time limit
3 is up, if we come back here in three years or five years and
4 say, oh, things are still terrible and everybody's
5 complaining about it, it's not going to make the building go
6 away, but it could certainly change the nature of the
7 operation of the school. And I think that's what the
8 recourse would be in the long run. So, I think having that
9 kind of a time limit is important.

10 And of course, having really excellent operations.
11 I mean, this is an event facility in a residential neighbor
12 and so, it has to be managed extremely well and very much in
13 a hands-on way.

14 And the only way that you can make something like
15 this work and have the neighbors be happy is to bend over
16 backwards to make sure that there are not cigarette butts on
17 the floor and there are not people double-parking and things
18 like that.

19 Those are all manageable things. And based on
20 what you are doing here, I think that they are all within the
21 realm of what the Meridian Center can accomplish. So, I
22 think spelling it out very clearly and making that conditions
23 of the order and then, having to renew in a few years, I
24 think is the way we have to address that.

25 I think the one last thing is that there was a

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1 substantial change in the plans between happened -- or what
2 the ANC reviewed and what we see now. And I think, frankly,
3 it is a huge, huge development, and I don't fault the design
4 team for not having come up with this before. I mean,
5 sometimes, you have to take a few steps backwards and rethink
6 things in order to come to something like this.

7 But I think it is a huge, huge improvement,
8 because it puts people leaving the building right next to the
9 light where they will be getting onto 16th Street. And there
10 are not going to be that many of them, but you certainly
11 don't want to have them loop through the neighborhood and
12 line up at that intersection in order to get out.

13 And I think that this is just a, as I said, a huge
14 improvement and I'm glad it happened, even if it happened
15 late. Just the same, it would be useful to take this back
16 to the ANC and get their reaction to this change and see if
17 that changes any minds.

18 And I think that's an important thing. So, that's
19 something else that I would like to see. Other than that,
20 I mean, if we get those things that you've asked for and some
21 word from the ANC, then I think that we could make a decision
22 on this.

23 CHAIRMAN HILL: Okay. Mr. Avitabile, so, obviously
24 the ANC would be better, because then you don't have to get
25 a full order, you could get a summary order. So,

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1 Commissioner May is asking you to go back to the ANC, would
2 that be something you'd be interested in doing?

3 MR. AVITABILE: We'll do that.

4 CHAIRMAN HILL: Okay. So then, we can put this on
5 for decision, or do you all want to talk to anybody?

6 COMMISSIONER MAY: I think that if we just get the
7 submissions that we requested, then I think we can go
8 straight to deliberation.

9 CHAIRMAN HILL: Okay. All right. Okay. All
10 right. So, then, you would have to go back to the ANC, I
11 don't know when the ANC can get you on their calendar. Yes?

12 MR. AVITABILE: They meet in early July, I'm not
13 sure when. They normally meet the first Wednesday of the
14 month, but that's July 4. July 11?

15 CHAIRMAN HILL: Okay.

16 MR. AVITABILE: So, it would be after July 11 that
17 we'd need to come back to you all --

18 CHAIRMAN HILL: Okay.

19 MR. AVITABILE: -- unfortunately, on those two --

20 CHAIRMAN HILL: That's all right. That's all
21 right. Commissioner Perry, since you're here, would you mind
22 coming forward again?

23 MS. PERRY: Yes?

24 CHAIRMAN HILL: Can you get them on the agenda, do
25 you know?

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1 MS. PERRY: I think, because it should go through
2 PZT, I don't know that I can make that decision --

3 CHAIRMAN HILL: Okay.

4 MS. PERRY: -- at this second.

5 CHAIRMAN HILL: So, that's all right. So, you can
6 try to get -- we'll just see. I mean, you can try to get
7 them on the agenda, whatever, and then, that would be the
8 11th, is the -- and then -- and I'm not saying we're -- if
9 you could get us something one way or the other, that would
10 be great, and then we would have it in the record and be able
11 to at least get your position. I don't necessarily think
12 it's going to change, by the way, but that's just my opinion.

13 So then we would be back here again, maybe for a
14 decision, the last day of July, Mr. Moy? So, can you walk
15 me through how the filings and all that would have to go, if
16 we came here for a decision the last day?

17 SECRETARY MOY: Yes, sir. Yes, sir, with pleasure.

18 CHAIRMAN HILL: And can you come, Mr. May?

19 COMMISSIONER MAY: I'm going to be here for an
20 FMBZA case on the 25th --

21 CHAIRMAN HILL: The 25th?

22 COMMISSIONER MAY: -- so, I'll be able to stay.

23 CHAIRMAN HILL: Oh, great, perfect.

24 COMMISSIONER MAY: That's the last one.

25 CHAIRMAN HILL: Oh, that's perfect.

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1 SECRETARY MOY: Yes. So, I would propose, Mr.
2 Chairman, that, working backwards, then the Board sets this
3 for decision on July 25. Perhaps something in writing, a
4 response from the ANC, July 18, assuming that they meet on
5 this application on their hearing on the 11th.

6 Then perhaps the applicant can submit additional
7 information requested by the Board by -- how much time would
8 you need, Mr. Avitabile? July 4?

9 MR. AVITABILE: Well, other than that being the
10 holiday, but we could certainly I think submit either before,
11 immediately before or immediately after the holiday. I think
12 that's enough time for us to pull together --

13 SECRETARY MOY: Well, let's --

14 MR. AVITABILE: -- a full set of plans.

15 SECRETARY MOY: Okay, let's do before. I mean, I'm
16 assuming --

17 MR. AVITABILE: Sure.

18 SECRETARY MOY: -- you're coordinating with the ANC
19 --

20 MR. AVITABILE: Yes.

21 SECRETARY MOY: -- and that would give the ANC even
22 more time, too.

23 MR. AVITABILE: That's fine with us.

24 SECRETARY MOY: So, how about Monday, July 2?

25 MR. AVITABILE: Sure.

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1 CHAIRMAN HILL: Okay. Everybody got the time line?
2 Okay. So, after Mr. Avitabile -- I'm never going to believe
3 you when I see you again out in public about how long things
4 are going to take.

5 (Laughter.)

6 MR. AVITABILE: This is shorter than I thought it
7 was going to take.

8 CHAIRMAN HILL: Oh, wow.

9 (Laughter.)

10 CHAIRMAN HILL: You're definitely not -- you're at
11 the end every day now. You're at the end. I will see your
12 name and I will go, oh, put him at the end, so all these
13 people can go home before you come up.

14 (Laughter.)

15 COMMISSIONER MAY: We might need to watch out for
16 Mr. Bell, as well.

17 CHAIRMAN HILL: Oh, right, Mr. Bell.

18 (Laughter.)

19 CHAIRMAN HILL: We're calling out names. So, let's
20 see. So, then, Mr. Avitabile, you definitely need to have
21 this tidy, okay? So, you've heard from Commissioner May, in
22 terms of like a time limit of some kind.

23 So go ahead and split that out however you think.
24 I'm looking at five years, you know. And so, that sounds
25 like a reasonable time frame for the expansion of the use.

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1 And so, you can submit that however you want it, make it
2 easier for us.

3 And then, I guess that's it. Does anybody have
4 any other -- oh, sorry, Ms. White?

5 MEMBER JOHN: Mr. Chairman --

6 CHAIRMAN HILL: I mean, John?

7 MEMBER JOHN: -- John. Can you summarize again
8 what we're asking for? The proposed conditions that relate
9 to zoning, split those out of the MOU. And I'm not sure what
10 else.

11 CHAIRMAN HILL: Sure. Mr. Avitabile, I'm going to
12 let you read it back to us, so we know we're on the same
13 page.

14 MR. AVITABILE: The conditions related to zoning.
15 Full set of plans. We're submitting the -- considering the
16 time frame, the time limit, which I think would be part of
17 the conditions.

18 And then, I think, the last item would be the --
19 again, addressing the operational issue, spelling out exactly
20 what Meridian's going to be doing to manage its operations,
21 to live up to the commitments it has made.

22 CHAIRMAN HILL: Yes, specificity of the teeth,
23 right --

24 MR. AVITABILE: Right.

25 CHAIRMAN HILL: -- the repercussions if you don't

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1 live up to those.

2 MR. AVITABILE: And I think --

3 MEMBER JOHN: Mr. Chairman, I thought we were
4 looking at what processes would Meridian institute to handle
5 all of these operations, not just the resolution part of it,
6 but on the front end, what new processes, since apparently
7 some people in the neighborhood feel that whatever is there
8 now is not working.

9 MR. AVITABILE: That's part of what I intended --

10 MEMBER JOHN: Okay, thank you.

11 MR. AVITABILE: -- the process, as well as the
12 results.

13 MEMBER JOHN: Thank you.

14 CHAIRMAN HILL: Okay. Yes, the cleaner it sounds
15 to us, the better your chances, I guess.

16 SECRETARY MOY: Mr. Chairman?

17 CHAIRMAN HILL: Yes?

18 SECRETARY MOY: Just one final thought, does the
19 Board need any further -- from Office of Planning or not?

20 CHAIRMAN HILL: I don't think so.

21 SECRETARY MOY: Okay. I just wanted to --

22 CHAIRMAN HILL: No, I appreciate that. All right.
23 Okay. All right. Are we clear?

24 MEMBER WHITE: Just one thing, you were going to
25 have them connect with the ANC.

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1 CHAIRMAN HILL: Yes, and then, you have to go back
2 to the ANC, which you know that.

3 MEMBER WHITE: Yes.

4 CHAIRMAN HILL: Mr. Avitabile --

5 MR. AVITABILE: Yes.

6 CHAIRMAN HILL: -- any questions?

7 MR. AVITABILE: No questions.

8 CHAIRMAN HILL: Okay. So unfortunately, you all,
9 we are going to take another five minute break. And then,
10 we'll be right back.

11 MR. AVITABILE: Thank you all.

12 CHAIRMAN HILL: Ten minutes, ten minutes.

13 (Whereupon, the above-entitled matter went off the
14 record at 12:40 p.m. and resumed at 12:49 p.m.)

15 CHAIRMAN HILL: All right, Mr. Moy, you want to go
16 ahead and call our next case?

17 SECRETARY MOY: Thank you. Mr. Chair, I believe the
18 next case application is 19739 of Ben Saran and Margot
19 Licker, as amended for special exceptions under the use
20 requirements Subtitle U, Section 301.1(3), Subtitle E,
21 Section 5201 Lot Occupancy Requirements of Subtitle E,
22 Section 404.1, and under Subtitle E, Section 5007 from the
23 accessory building rear yards setback requirements of
24 Subtitle E, Section 5004.1 and pursuant to 11 D.C.MR Subtitle
25 F, Chapter 10, for area variance from the accessory

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1 structured dwelling access requirement of Subtitle U, Section
2 301.1(c). This would construct a two-story rear addition to
3 an existing principal dwelling unit and to construct a
4 two-story accessory structure RF-2 Zone, 1828 15 Street N.W.,
5 Square 191, Lot 58.

6 CHAIRMAN HILL: Okay, great. Thank you, Mr. Moy.
7 Just before we get started, are the people here for
8 application 19759 of Christopher Cassimus in the room? Okay,
9 great. We're going to try to hear that before lunch, so just
10 want to make sure that everybody doesn't leave. And I don't
11 know how much farther, but I think that's it. We'll go
12 through these next two cases and then we're going to have
13 lunch, because a few board members here will start to get mad
14 and you don't want that.

15 So if you could please introduce yourselves?

16 MS. DOWNEY: Hi, I'm Megan Downey, architect.

17 MR. SAFRAN: And I'm Ben Safran, the homeowner.

18 CHAIRMAN HILL: Ms. Downey, I think you presented
19 last time?

20 MS. DOWNEY: Yes.

21 CHAIRMAN HILL: Okay, that's great. If you could
22 just kind of again tell us what has happened since then. I
23 know there's a lot in the record that explains it, but if you
24 could tell what has happened since the last time you were
25 here.

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1 MS. DOWNEY: Sure. Certainly. So just quickly, just
2 so you remember that this is a carriage we're adding, just
3 to the house and a carriage house, accessory structure back
4 of the house. There have really been three main things that
5 have happened since the last hearing.

6 One is that we were able to get the letter of
7 support from both adjacent neighbors and those have been
8 uploaded into the record. The second is that since the
9 hearing we discussed the project with FEMS, which is Fire and
10 Emergency Medical Service. FEMS has reviewed our project and
11 has found it to not impede emergency access. We now have a
12 written statement of approval from them, also uploaded in the
13 record, and lastly, since our presentation we've been working
14 with the Office of Planning to address their concerns and we
15 now have OP support for all four areas of relief.

16 CHAIRMAN HILL: As I said, the record you have,
17 you've put everything into the record, which we reviewed
18 since you were last here. Does anybody have any questions for
19 the Applicant concerning either the previous hearing or this
20 hearing? Or, I mean, what has been submitted into the record?
21 Okay. Then I'm going to turn to the Office of Planning.

22 MS. VITALE: Good afternoon, Mr. Chairman, members
23 of the Board, Elisa Vitale with the Office of Planning. Just
24 briefly, as indicated by the Applicant, the additional
25 information has been submitted into the record. In our

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1 initial report we noted that we believe one additional area
2 of relief was necessary and that we would like to see input
3 from Fire and Emergency Management Services prior to
4 analyzing the Applicant's request for that new and additional
5 relief.

6 We now have that information and we can recommend
7 approval of the variance relief from the access requirements,
8 normally a 15 foot alley within 300 feet of a street is
9 required. In this instance the new accessory structure would
10 be located on a 10 foot alley but it is within 85 feet of
11 Swann Street and there is also a fire hydrant located in
12 close proximity to the proposed accessory structure.

13 That concludes my report. I'm happy to answer
14 questions.

15 CHAIRMAN HILL: Does anyone have any questions for
16 the Office of Planning?

17 MEMBER WHITE: My one question is, I'm still
18 struggling a little bit with the variance test for this
19 particular case. I'm not clear that they've met the test but
20 if you could walk me through what your analysis is with
21 respect to that part of the relief, that would be
22 appreciated.

23 MS. VITALE: Certainly. I think in this instance
24 the variance necessary because the Applicant was proposing
25 to locate an accessory unit, or locate a second principal

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1 unit in an accessory building. When the Zoning Commission
2 updated the zoning regulations in 2016, the ability to split
3 the two principal units in the RF-1 zone between the
4 principal dwelling and the accessory building, this was a new
5 provision.

6 At that time if the accessory building was not in
7 existence as of January of 2013, there was a five-year
8 waiting period that was adopted by the Zoning Commission just
9 so that these new accessory buildings weren't, there wasn't
10 kind of a rush to construct these for a second unit in RF
11 zones.

12 So you can obtain relief to use that new accessory
13 building for a second unit by special exception. In this
14 case, because the Applicant requested that special exception,
15 we supported it, and because they weren't on a 15 foot alley,
16 that's what kicked them into the variance relief and the
17 variance request, and in this instance because they were able
18 to get input from Fire and EMS that that narrower alley width
19 would not present an issue for access for emergency response
20 vehicles we believe that this is relief that we can support
21 for the variance for this second unit in this new accessory
22 dwelling.

23 COMMISSIONER MAY: All right, so I'm struggling
24 with the same thing and I don't think my question was
25 answered by your response. What I'm struggling with is, what

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1 is the necessity, what is the exceptional circumstance and
2 practical difficulty that this, the Applicant faces in the
3 use of this property? Because they could build this and not
4 build it as an accessory unit, or they could have the
5 accessory unit in the basement. And even the plans show
6 something that looks almost like an accessory unit.

7 So I'm having trouble understanding what the
8 circumstances that drives us? I appreciate the fact that it's
9 not going to be a hazard. And don't get me wrong, I like the
10 idea of doing things like this, and in fact when we debated
11 this at the Zoning Commission, the original proposal was, did
12 not include the 15 foot wide alley within 300 feet of the
13 road or whatever it was. And those conditions came out of
14 consultation with FEMS.

15 So if now we are hearing that there are different
16 requirements from FEMS, it seems to me that that implies that
17 there should be a reconsideration of the zoning regulations
18 to allow this wherever it occurs, rather than trying to make
19 an exception in this circumstance because for reasons I don't
20 know. So, anyway, maybe you can shed more light on that.

21 MS. VITALE: I don't think we're, I don't think
22 this is a change from the input from the FEMS because I think
23 that 15 foot wide alley requirement within 300 feet of the
24 street, and then also I think that was to provide the ability
25 for FEMS to weigh in and to look at other factors like the

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1 location of hydrants in the square and other items.

2 I think certainly if the variance test isn't the
3 appropriate kind of test of relief for whether or not this
4 type of use in an accessory building is appropriate, I think
5 that's certainly something we could bring to the Zoning
6 Commission to take a look at if that's not the right test
7 here.

8 COMMISSIONER MAY: I think the real thing I'm
9 struggling with is I just don't see how this meets the
10 variance test. It's not that I'm unsympathetic to what they
11 want to try to do, and I think that the idea of having a
12 carriage house with an upper floor unit makes a lot of sense
13 in this circumstance, providing it can be done safely, but
14 I don't see how it meets the variance test. So anyway, leave
15 it at that.

16 VICE CHAIR HART: Yeah, I actually had the same
17 questions. I just, what makes it difficult is that if you
18 look at even the OP report, the supplemental report, on page
19 6 there was kind of like an image showing the entire, or at
20 least this portion of the block where this alley is, and it
21 looks like just about all of the, if we use the reasoning
22 that you stated, all of those units could be, could actually
23 get the same variance as well for the same reason.

24 Because they are fairly, at least a number of them
25 could, so I don't know what the difference is between why

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1 this property is different than the other properties and that
2 difference should then be allowing this property and not
3 those other properties to be able to get the, this property
4 should get the variance and not those.

5 If not, it seems like all of them could get it and
6 then it becomes well, if it's just kind of normal then why
7 is this, how does this one stand out?

8 CHAIRMAN HILL: Okay, was there, no question just
9 a comment? Okay. Just real quick, back to the Applicant,
10 again, I can't remember, if you don't get the variance, then
11 the whole project doesn't work?

12 MS. DOWNEY: We're not able to put a unit above --

13 CHAIRMAN HILL: Right, so you can have a garage or
14 whatever. So I, in terms of what has been said and in terms
15 also the Office of Planning, the analysis is not necessarily
16 the strongest in some regard, but I'm comfortable with the
17 analysis that the Office of Planning has provided. However,
18 if there is something that the Zoning Commission should look
19 at a little bit more clearly, then that might be something
20 that the Office of Planning again could bring up with the
21 Zoning Commission. But again, that's just kind of a comment
22 on that. Do you have any questions for the Office of
23 Planning?

24 MS. DOWNEY: No.

25 CHAIRMAN HILL: And I think I did the last time,

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1 but since we're here, is anybody here wishing to speak in
2 support? Is there anyone here wishing to speak in opposition?
3 Is there anyone here from the ANC? Okay. Is there anything
4 else you'd like to add?

5 MR. SAFRAN: Just a question for the Board. Is it
6 helpful for us to share our perspective to the points on that
7 first variance test, or you're --

8 COMMISSIONER MAY: If you're going to repeat what
9 you've already stated in the previous hearing or in the
10 written submissions for this hearing today, it's not really
11 worth doing it over again. But if you have something that you
12 think we're missing, by all means.

13 CHAIRMAN HILL: You can clarify, if you want, how
14 you think you're meeting the first prong of the test, I
15 suppose.

16 MR. SAFRAN: Yeah, and maybe one point in
17 clarification in particular to multiple structures and my
18 neighbors being able to meet it the test, I think our
19 understanding was uniqueness isn't necessarily limited to
20 just our building. If there are one or two properties that
21 are meeting the test, for example, in the square, our
22 neighbors could also meet the same criteria.

23 In addition there are structures that are adjacent
24 to us that have in fact kind of built, they are granted, they
25 had structures previously.

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1 CHAIRMAN HILL: Okay. That's okay. So, I'm sorry?

2 MS. DOWNEY: I was going to say, I was just going
3 to follow up on that. I think what he's trying to say is that
4 our understanding of the first part of the variance test is
5 that it can be unique to block, it doesn't necessarily have
6 to be unique to the site, and then following up on Mr. Hart's
7 comment, I was just going to say that there three other
8 existing structures there which kind of limit us in where we
9 can locate it and it will also prevent them from doing the
10 same thing because they already exist.

11 CHAIRMAN HILL: Okay. Does the Board have any
12 questions, final questions, for the Applicant? Okay. Let's
13 see. So is the Board ready to deliberate? Okay. I kind of
14 stated my position in terms of that I think the Applicant has
15 met the requirements, and I think that the Office of Planning
16 has provided a report that I can get behind. I don't
17 necessarily think it is the most strong, but it still is
18 something that I can get behind.

19 In addition to that, the support that they've
20 received from the ANC as well as the neighbors on either side
21 of them, although that does not influence our decision, it
22 is great weight that we give to the ANC to this particular
23 project. So I'd be in support, and look to my colleagues for
24 their opinion.

25 COMMISSIONER MAY: So, maybe I'm an outlier on

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1 this, I don't know, but I think that the test for the
2 variance for the accessory unit in the carriage house has not
3 been met. I think that in terms of the other relief, it's all
4 very sensible, the addition, the lot occupancy, the setback,
5 you know, clearly it's difficult to meet setback requirements
6 when your alley is ten feet wide.

7 I don't have any problem with those, that relief,
8 and certainly building a carriage house makes sense, it's
9 whether that carriage house can be an accessory unit within
10 the bounds of the zoning regulations. And again, I just don't
11 think that the test has been made that there is an
12 exceptional circumstance that creates a practical difficult
13 for the Applicant.

14 They can still have a second unit in the basement,
15 they could use the space over the garage for other purposes,
16 just not for an accessory unit, again within the bounds of
17 what the Zoning Commission previously decided.

18 I think that if we decide that, if this Board
19 decides not to grant that variance as I am suggesting,
20 certainly the Applicant could work with the Office of
21 Planning or could petition the Zoning Commission to have that
22 requirement for a 15 foot wide alley and 300 feet in order
23 to be, have this considered as a special exception. I mean,
24 if this fit within those criteria based upon the information
25 that we have in the record, I mean if it were a 15 foot wide

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1 alley, it would be no problem, but it's not a 15 foot wide
2 alley.

3 And again, those regulations came out of
4 consultation with FEMS and we, as I recall, pushed the Office
5 of Planning and FEMS as far as we thought we could. And
6 apparently FEMS could be pushed farther if they're willing
7 to agree to this.

8 So anyway, I would argue that we grant all of the
9 relief except for the accessory unit in the carriage house
10 and that if there is, if the Applicant still wants to pursue
11 this in the future that again they could petition the Zoning
12 Commission to have that regulation changed and we would have
13 to consider that case.

14 MEMBER WHITE: I guess I kind of question, had the
15 first question about the fact that I was struggling with the
16 variance aspect of it and obviously the, I'm comfortable with
17 the special exception portion of the relief that's requested,
18 but the variance test is a higher test, it's harder to meet
19 that test, I don't think the 10 foot alley is, I don't think
20 that's an exceptional condition that meets the variance test.

21 I would concur with Mr. Peter May there,
22 indicating that I think the best way to resolve this would
23 be to work with the Office of Planning and the Zoning
24 Commission to see if they can make some amendments to the
25 rules here, but looking at the strict construction of the

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1 regulations with respect to meeting the variance test for the
2 accessory dwelling structure access, I don't believe at this
3 point that they've met this test. So I would not support that
4 aspect of it but I would support the special exception
5 request.

6 MEMBER JOHN: Chairman, I too cannot get past the
7 variance test because the size of the lot is not an
8 exceptional condition if there are other lots on the block
9 that are the same size. And while I like the project and it's
10 great to have the carriage house, and if you had come before
11 us for a special exception, I would have been in support of
12 the application. So everything else, all of the arguments
13 that you made are fine, but I have to disagree with the
14 Office of Planning in this case and I cannot give great
15 weight to that part of their recommendation.

16 CHAIRMAN HILL: Okay, just give me one second.

17 VICE CHAIR HART: Yeah, I actually would also be
18 in support of the special exception relief that the Applicant
19 is looking for, but unfortunately I too don't think that
20 you've met the variance test and I think, just for the
21 reasons that my other Board members have given and I don't
22 need to add any more to that,

23 CHAIRMAN HILL: You had something you wanted to
24 say?

25 MR. SAFRAN: Yeah, so given the Board's

1 deliberation for their consideration, if we were to amend the
2 application to remove the kitchen defining elements such that
3 it wouldn't be an additional dwelling unit and it would
4 instead just require a special exemption, would the Board,
5 can we amend our application at this time and have that be
6 something that the Board considers now instead?

7 CHAIRMAN HILL: Well, first of all, I'm turning to
8 OAG first. How does that work?

9 MS. GLAZER: I can't comment on what the Applicant
10 would have to do to negate the existence of the accessory
11 dwelling unit. I think the accessory structure requires
12 relief from the Board, and the Board seems inclined to grant
13 that. But I think in terms of how to build or construct the
14 accessory structure, it might be better off discussing that
15 with OP or with the ZA.

16 CHAIRMAN HILL: Okay. That's fine. What I was just
17 confused about was given the deliberations that the Board is
18 having in that if there was a denial of the variance, and I'm
19 looking to Commissioner May, then do they need the denial in
20 order to go to the Zoning Commission to get reconsideration?
21 Is that what you were --

22 COMMISSIONER MAY: No, no. This case would be
23 decided once and for all here. (Simultaneous speaking.)

24 Petition the Zoning Commission to have a rule, the
25 15 foot alley and 300 feet away from a street rule changed

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1 --

2 CHAIRMAN HILL: Changed to a special exception.

3 COMMISSIONER MAY: No, it is a special exception
4 now, but those are the minimum standards to get the special
5 exception to have the accessory unit, right? Ms. Vitale,
6 maybe you want to come it.

7 MS. VITALE: Sorry, and I think this one, it gets
8 a bit confusing here because we actually had to consult with
9 the zoning administrator to determine the appropriate relief
10 for this case. In the RF zones, as I mentioned previously,
11 you can have two dwelling units. Those dwelling units can be
12 split between the principal building and the accessory
13 building. Subtitle U, Section 301.1 lays out certain items
14 whereby that second dwelling unit can go in the accessory
15 building as a matter of right, and that includes the access
16 requirement which is that 15 foot alley within 300 feet of
17 a street.

18 In that section of the use permissions for the RF
19 zoned in the zoning regulations, it doesn't give you a
20 special exception out. It doesn't provide for that relief if
21 they don't meet those criteria. So then in this instance,
22 because they're not on a 15 foot alley, they can't do it as
23 a matter of right, they can't do it as a special exception,
24 it has to be a variance.

25 There's also another section in 301 in the use

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1 permissions for accessory buildings that relates to this
2 issue of new of dwelling units and newly constructed
3 accessory buildings and it actually says that you can request
4 special exception to locate that second unit in an accessory
5 building that is constructed after 2013, so a newly
6 constructed accessory building, that you can get relief to
7 put, if your accessory building is built as a matter of
8 right, so meaning it complies with all of those requirements
9 laid out in 301.1, if you meet all of those and the building
10 is constructed as a matter of right, you can request special
11 exception.

12 This accessory building cannot be constructed as
13 a matter of right because it doesn't meet the alley
14 centerline setback requirement and because it doesn't meet
15 the minimum access requirements.

16 I think that one thing too, when the Office of
17 Planning was reviewing this was in the lower-density zones,
18 in the R zones, if you want to put, in the R zones you can't
19 have two principal units but you can have an accessory
20 dwelling unit in an accessory building. In the R zones if you
21 don't meet the access requirement, you can get relief from
22 that by special exception. It's not a variance. I think this
23 is something that OP believes would be appropriate to bring
24 back to the Zoning Commission to consider.

25 I think, I don't think there needs to be a change

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1 with respect to the 15 feet, I just think the relief valve,
2 the more appropriate relief valve, is special exception and
3 not variance and that's not accounted for in the RF zones.

4 COMMISSIONER MAY: Right, I got confused for a
5 second, but yeah, the 15 feet is the, that's the matter of
6 right requirement as an alternative to having a 20 foot wide
7 alley.

8 MS. VITALE: 24 foot.

9 COMMISSIONER MAY: 24 foot, right.

10 MS. VITALE: Correct.

11 COMMISSIONER MAY: That's what we worked hard to
12 get when we read the zoning regulations. So petitioning to
13 have special exception relief to that conditioned on FEMS
14 support or something like that, it would not be unreasonable
15 but what that would mean is having that, the Zoning
16 Commission would have to make that change and then the
17 Applicant would have to come back and seek that special
18 exception in another application. Or you could put the whole
19 thing on hold while you get the text amendment and six months
20 from now come back with this case, at which point it wouldn't
21 be a variance relief, it would be a special exception relief
22 assuming the Zoning Commission decided it favorably.

23 But what I think that we could, in terms of the
24 question in front of us right now, I think that the only
25 thing that's an issue is the accessory dwelling unit in the

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1 carriage house and there are two types of relief that are
2 needed for that, the special exception to have it not in the
3 main building, and then the variance for the access issue for
4 the 15 foot wide alley.

5 So if that's what, if you are withdrawing those
6 requests, then I think that the building can still be built,
7 the alley building can still be built, and the addition can
8 still be built, you just will not be able to use it as an
9 accessory dwelling unit. You could do all of those things and
10 then you could petition and then come back for your special
11 exception later and by the time you have it all constructing,
12 because you know the contractor's going to string you out for
13 like a year or two, and maybe you'll get it done before you
14 finish construction. But then it does mean filing for a
15 separate application.

16 MS. GLAZER: Mr. Chair, I don't see a problem with
17 that, or I guess the Applicant could choose and hold this
18 case in abeyance for a period of say, six months, and then
19 come back and amend the application if the text amendment has
20 been changed.

21 CHAIRMAN HILL: Okay, wait a second. Ms. John?

22 MEMBER JOHN: So I have a question. If they went
23 ahead with the building, they could not have any indication
24 that it's being used as a dwelling, because it couldn't have
25 a kitchen or anything like that. So I doubt if they'd get a

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1 permit to put in a kitchen and all of those things and maybe
2 a meter in the back or whatever people do, so I think the
3 advice from OAG might be your best option.

4 COMMISSIONER MAY: Yeah, I think they would have
5 to amend the drawings to take out the things that make it a
6 dwelling unit, whether it's the kitchen and the bathroom, I
7 think there can be a powder room or something like that.

8 CHAIRMAN HILL: Okay, so now I'm jumping around.
9 So what I'm not clear on just in terms of the procedure, I've
10 got the Applicant in front of me, I've already done whether
11 there's people here or not people here, so I can ask
12 questions of the Applicant now. Sometimes I do it the wrong
13 way, and I get told that later.

14 So I'm asking the Applicant here if you would be
15 interested in holding this in abeyance, the application,
16 while you possibly pursue whatever it is you're going to
17 pursue, but do you want to hold this in abeyance for six
18 months?

19 MR. SAFRAN: If I can clarify the options, what I'm
20 hearing is one option is if we withdrew the additional
21 dwelling unit in the back carriage house and instead had all
22 of the other components of the design, but amended, work with
23 OP and work with DCRA to not have the components that make
24 that an additional dwelling unit, that that would be a
25 project that would be supportable.

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1 In parallel, we could work with the zoning
2 administrator and OP and whoever else to determine whatever
3 steps we might be able to take in terms of revision to make
4 that a dwelling unit, however it would not be approved as
5 such at this time. And given that understanding, that feels
6 like a course that we would like to pursue. We would be --

7 CHAIRMAN HILL: You would amend your application.

8 MR. SAFRAN: Amend our application, withdraw the
9 additional dwelling unit.

10 CHAIRMAN HILL: So you'd have to amend your
11 application, then we'd be back here on a decision for the
12 amended application.

13 MS. GLAZER: Plans would also have to be amended.

14 CHAIRMAN HILL: Yeah. We'd have to see new plans
15 and so we'd have to go back to the ANC now instead of just
16 pulling the variance, right? Because we're getting less
17 relief. So what you're asking to do is amend your
18 application. We'll go ahead and let you have time to amend
19 your application, submit drawings, get a supplemental from
20 OP, do we need a supplemental from OP? Guess we don't need
21 a supplemental from OP. Okay. Submit drawings, and then we
22 can put this on for a decision based upon the amended
23 application. Does the Board have any questions, thoughts?

24 MEMBER JOHN: Mr. Chairman, I would just suggest
25 that they confirm that what we have said here is something

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1 they could do. You know. Studios are allowed, I don't know
2 if this would be like a studio, but I would hate for you to
3 go away from here thinking you have a solution and we might
4 not have said what the regulation ---

5 CHAIRMAN HILL: Well, we're not, yeah. They'll
6 submit their application however they will.

7 MEMBER JOHN: I don't want to leave the impression
8 that we're saying that that's a solution that would
9 definitely work.

10 MS. DOWNEY: I actually talked to DCRA about this,
11 when we get to permit what would be considered a unit, and
12 they told me that there were three things. Than one was being
13 independent, one was a bathroom and one was a functioning
14 kitchen. I can't remember which, I think it's like a stove
15 and a fridge, and that we couldn't have one -- As long as one
16 of them wasn't there we would be okay for a permit to not be
17 considered a unit.

18 CHAIRMAN HILL: Okay.

19 MR. SAFRAN: And if I understand your question, we
20 recognize the risk that that may not be able to become an
21 additional dwelling unit, it would have to be used as a home
22 office or something to that effect. Unless as we went through
23 the process that changed. If I'm understanding.

24 MEMBER JOHN: Well, I think you know what the
25 process is, because I believe you just said you spoke with

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1 DCRA and this is what they advised you to do. So I would say
2 go with DCRA and their advice.

3 MS. DOWNEY: I guess my question is, and what's
4 something I don't know, and maybe you probably know this
5 better, I don't know if DCRA, if there's anything between
6 DCRA and zoning, that there's any kind of overlap. Or that
7 there's a difference. I don't know.

8 MEMBER JOHN: Well, I'll look to the Chairman, but
9 I would suggest you work with OP and DCRA and figure out what
10 the best solution is.

11 COMMISSIONER MAY: I think the best solution is,
12 figure out what you, how you would amend your application,
13 make sure it's okay with the Office of Planning, run it by
14 DCRA so that you know what you will be able to do with what
15 you have in your proposed plans. Because they're the enforcer
16 for the zoning regulations and they'll look at our decision
17 and make sure that we've given you the relief that you are
18 supposed to have to be able to do what you want to do with
19 it. Make those couple steps and then come back. That's the
20 way to make sure that you're safe.

21 MS. DOWNEY: Okay.

22 CHAIRMAN HILL: Okay, so you're going to amend your
23 application, you're going to submit revised plans and then
24 we can put this on for decision and Mr. Moy, are we going to
25 go with the same thing, to try to get it the last day, since

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1 Mr. May is here?

2 SECRETARY MOY: It would be July 25th.

3 CHAIRMAN HILL: Okay. So can you talk me back
4 through the deadlines again?

5 SECRETARY MOY: Okay, so you met before the Board
6 July 25th, and I believe I heard you say that this would be
7 for a meeting as opposed to a hearing, is that what you said?
8 So deferring to the Office of OAG, but I think it might be
9 wise to have a period in the event that there may be
10 additional filings from the public, so I'd give that a week
11 if there are any, for any filings for, but for the Applicant
12 to file the amendment, new drawings, whatnot, let's say by
13 July 9, is that possible? That's a Monday.

14 MS. DOWNEY: Yes, that's possible.

15 SECRETARY MOY: Okay.

16 CHAIRMAN HILL: Okay, thanks.

17 MS. DOWNEY: Thank you.

18 CHAIRMAN HILL: Sure. So we've been here for 5, 6
19 hours and we've decided nothing. Anyway, we're going to do
20 one more and then we're going to have lunch, okay? O whoever
21 is next?

22 SECRETARY MOY: All right, that one more is Case
23 Application number 19759, that of Christopher Cassimus, did
24 I pronounce that correctly? Captioned and advertised for a
25 special exception under Subtitle E, Section 205.5 and 5201

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1 from the rear yard addition requirements, and Subtitle E,
2 Section 205.4 and under Subtitle E, Section 206.2 and 5203
3 from the upper floor addition requirements of Subtitle E,
4 Section 206.1, to construct a third story and two-story rear
5 addition to an existing flat RF-1 zone at 1307 S Street,
6 N.W., Square 238, Lot 803.

7 CHAIRMAN HILL: All right, if you would please
8 introduce yourself for the record?

9 MR. ROUSE: Yes. My name is Michael Rouse,
10 architect with MPR Architecture, here representing my client
11 Chris Cassimus. There's a letter of authorization for my
12 representation of him in the record. He is unable to be with
13 us today.

14 CHAIRMAN HILL: Okay. I don't have a lot of
15 particular questions about your application, I thought it was
16 relatively straightforward but if you want to go ahead and
17 kind of walk us through the project as well as the relief
18 that you're requesting and the reason why you think you're
19 meeting the standards for us to grant that relief. I'm going
20 to go ahead and put 15 minutes on the clock just so I know
21 where we are, and you can begin whenever you would like.

22 MR. ROUSE: The project is at 1307 S Street,
23 there's an image here of that streetscape, everything from
24 1320 being a D.C.-owned warehouse to three-story townhouses,
25 two-story standalones and two-story attached houses, so we

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1 have a lot of variety on the street. Just a view from the
2 alley area and then some closeups of the project.

3 What we're proposing to do is, I'm just going to
4 zoom ahead here just to get to the site plan. Basically, 1307
5 is a duplex. It's a frame building in the front, which would
6 be on the south side of the property and then at the back is
7 a 1936 brick structure that is basically a one-bedroom
8 apartment. It's under one ownership, and my client is the
9 owner. He would like to expand the back unit for his own
10 residence and rent out the front to create a three-bedroom
11 house in the back.

12 I'm just going to go back here to some of the
13 elevations. The east side elevation showing that frame
14 building in the front, the very tall three-story brick
15 townhouse in the back and then this two-story kind of brick
16 mass towards the back with a little frame addition on the
17 back which is a filled-in porch and greenhouse.

18 We worked a lot with the Historic Office, Historic
19 Preservation, and I really look to minimize our site lines
20 from the street so this section kind of shows that from
21 directly in front of the house, we've minimized the street
22 views.

23 Some of the interior plans, just kind of showing
24 the layout of the three-bedroom house, two bedrooms on the
25 second level and then a master suite up above. Here's the

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1 east elevation. I do want to talk for just a second about the
2 massing and what you're seeing. We are basically putting a
3 mansard roof on this brick box to kind of help mitigate that,
4 bring the scale down.

5 But the other thing is, the neighbor directly to
6 the east of us, kind of behind us in this view, that would
7 be 1305, we've tried to stop the third story mass at the back
8 of their building so we're not encroaching too much on their
9 rear yard. And then at the back we do step down to a
10 two-story addition there to get some extra space for that
11 second bedroom.

12 Images from the front, now obviously this is an
13 elevation, everything's pulled forward, but as I showed you
14 in Section D, the view of that mansard roof is mitigated.

15 And then this is the view of the west side. One
16 of the things we're doing here with that addition, we're
17 going back an additional four and a half feet from where we
18 are previously, and also in kind of filling the side yard
19 that the little infilled porch left us. Materially, we are
20 going to stop the break at about a two-story level and then
21 go to stucco to help to break down the scale for the western
22 neighbor. And then just some three-dimensional views.

23 I want to talk briefly about the ANC and also
24 reaching out to the neighbors. We received full approval from
25 the ANC. We received a letter of support from 1305, which is

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1 the neighbor in that right hand image, that two-story stucco.
2 In addition, we reached out to everyone through a form letter
3 that my client reviewed the project with them, they signed
4 it that they reviewed it and had no objection. We've been
5 working closely also with the neighbor at 1309. We did ask
6 for a letter, we did not receive one, but we did receive his
7 no objection, I guess, support through that form letter.

8 We also provided solar studies. I'm sorry I
9 don't have those in this file, but we also received favorable
10 reports from OP and also the Department of Transportation.
11 We feel that with the special exceptions tests of light and
12 air, we feel that we're not, we've got a side yard of five
13 feet on the east side so we're not really messing with any
14 windows on that side, light and air is still available for
15 1305, and at 1307 all their windows face north so they're
16 still available at least for their air. They're already not
17 getting any direct sunlight.

18 Privacy and use of the enjoyment of the
19 neighboring yards. On the west we have no windows overlooking
20 into that rear yard for 1309. For 1305, we're actually taking
21 what was a glassed-in porch that had a lot of visibility into
22 the rear yard of 1305 and changing that to just a few
23 windows, so we're reducing the amount of visibility into the
24 yard there. In addition, there's a five-foot privacy fence
25 as well.

1 Visually intruding on the character, scale or
2 pattern of houses along the street, I think the image on the
3 right of this sheet that you're seeing is about the minimal
4 view that you're going to see so we've been very careful to
5 limit that view and to also make it compatible with the
6 mansard roof.

7 We feel that with this special exception grant of
8 extending the 10 foot that we're not, we're still in harmony
9 with the zoning code and the zoning maps. That's all pretty
10 much spelled out in my burden of proof. I'm happy to answer
11 any questions.

12 CHAIRMAN HILL: All right, thank you, Mr. Rouse.
13 Does the Board have any questions for the Applicant?

14 VICE CHAIR HART: Your matter of right is, would
15 be taller than what you're proposing.

16 MR. ROUSE: Yes, it would be. Just heading back
17 here, yes. We can go 35 feet and we propose a height of just
18 about 30 feet, 29.9.

19 VICE CHAIR HART: Thank you.

20 MEMBER WHITE: Can you just tell me specifically
21 what kind of feedback you've gotten from your neighbor, the
22 neighbor at 1309 S Street? Is that the neighbor who didn't
23 submit any --

24 (Simultaneous speaking.)

25 MR. ROUSE: Did not submit any letter.

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1 MEMBER WHITE: But signed a statement.

2 MR. ROUSE: Signed a statement saying he had
3 reviewed it and he had no objections.

4 MEMBER WHITE: So he, he or she is going to have
5 the biggest impact.

6 MR. ROUSE: Correct. We offered kind of a draft
7 letter that he could revise. My client is going through some
8 medical stuff right now so he's been indisposed for two
9 weeks, and right before him being indisposed we were trying
10 to get that letter. The neighbor said yeah, I'll sign it,
11 I'll give it to you, but we never received it.

12 MEMBER WHITE: So no objections what so ever, no
13 concerns.

14 MR. ROUSE: No. And I believe they've been
15 neighbors together for over a decade so they're very much on
16 good speaking terms and things like that.

17 CHAIRMAN HILL: Anyone else? Okay. Going to turn
18 to the Office of Planning.

19 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman
20 and members of the BZA. The --

21 CHAIRMAN HILL: I'm sorry. Could you state your
22 name?

23 MS. BROWN-ROBERTS: Oh, sorry, Maxine Brown-Roberts
24 from the Office of Planning.

25 CHAIRMAN HILL: Thank you.

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1 MS. BROWN-ROBERTS: Thanks. The addition results
2 in the building extending beyond the minimum ten feet and
3 therefore they need to meet the requirements of Chapter 5201.
4 As outlined in our report, the Applicant has demonstrated
5 that the addition will not affect the light and air or
6 privacy of the adjacent properties and that the addition will
7 not be visible from the street. We do not recommend any other
8 special treatment and therefore we recommend approval. Thank
9 you, Mr. Chairman. I'm available for questions.

10 CHAIRMAN HILL: Does anyone have any questions for
11 the Office of Planning? Okay. Does the Applicant have any
12 questions for the Office of Planning?

13 MR. ROUSE: No.

14 CHAIRMAN HILL: Okay. Is there anybody here from
15 the ANC? Is there anyone here wishing to speak in support?
16 Is there anyone here wishing to speak in opposition? Okay.
17 I'm back to the Applicant. Anything you like to add in
18 closing.

19 MR. ROUSE: No.

20 CHAIRMAN HILL: Okay. I'm going to close the
21 hearing. Is the Board ready to deliberate? Okay. I, as I was
22 stating in the beginning I didn't have a particular issue
23 with it in terms of I thought that they were meeting the
24 criteria for us to grant the special exception. I also would
25 agree with the report that the Office of Planning has

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1 provided as well as the report that we received from the
2 ANC1-B, they were in unanimous approval of 10-0-0 and did not
3 state any issues or concerns.

4 I am happy to see that the neighbors on either
5 side who will be the most affected have at least submitted
6 something into the record in terms of their approval. So I
7 again think that the standards have been met so I would be
8 in approval of this application. Does anyone have anything
9 they would like to add? Okay. Then I'm going to go ahead and
10 make a motion to approve application number 19759 as
11 captioned and read by the Secretary and ask for a second.

12 VICE CHAIR HART: Second.

13 CHAIRMAN HILL: Motion made and seconded. All those
14 in favor say aye.

15 (Chorus of ayes.)

16 Those opposed? Motion passes, Mr. Moy.

17 SECRETARY MOY: Staff would record the vote of
18 5-0-0 that's on the motion of Chairman Hill to approve the
19 application for the relief being requested. Seconding the
20 motion, Vice Chair Hart, also in support then Mr. Peter May,
21 Ms. White, Ms. John and the motion carries.

22 CHAIRMAN HILL: Thank you. Summary order, Mr. Moy?

23 SECRETARY MOY: Yes, sir.

24 CHAIRMAN HILL: So as I mentioned before, we're
25 going to go ahead and break for lunch. We're going to shoot

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1 for 2:00, which means 2:05 at least. We're back here 2:00,
2 2:05.

3 (Whereupon the above-entitled matter went off the
4 record at 1:37 p.m. and back on at 2:26 p.m.)

5 CHAIRMAN HILL: All right, Mr. Moy. We can get
6 started again whenever you like.

7 SECRETARY MOY: Okay, Mr. Chair. The recorder is
8 up and running and the time is 2:29. We have parties to the
9 table for case application 19769 of MR 1700 or 1700 Columbia
10 Retail. Caption, an advertisement for a special exception --
11 I'm sorry. Caption for a special exception under the use
12 requirements Subtitle U, Section 513.1 to permit a veterinary
13 hospital in the MU 5A zone at premises 1700 Columbia Road
14 N.W., Square 2562, Lot 52.

15 CHAIRMAN HILL: Okay. Thank you, Mr. Moy. I'm not
16 really good at the predicting lunch thing, so I'll learn
17 again that that was wrong and I, because I took the advice
18 of our Board here members telling me what time we were going
19 to get back and it was wrong. That's right, I'm blaming all
20 you people. I do apologize for that.

21 Let's see. If you could please introduce
22 yourselves for the record?

23 MS. BATTIES: Sure. Leila Batties, with the law
24 firm of Holland and Knight on behalf of the Applicant MR1700
25 Columbia Retail, which is an affiliate of Monument Realty,

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1 and I'm also joined by my colleague Joe Gaon.

2 DR. VARELA: Dr. Rene Verala, I'm director of
3 veterinary quality with Banfield Pet Hospital.

4 CHAIRMAN HILL: How do you say it again, sir?

5 DR. VARELA: Rene Verala, V-E-R-A-L-A.

6 MR. ALVSTAD: Nathan Alvstad, construction program
7 manager for Banfield Hospital.

8 CHAIRMAN HILL: Ms. Batties, I guess you're going
9 to be presenting to us?

10 MS. BATTIES: Very briefly.

11 CHAIRMAN HILL: Okay. I've got good news and I've
12 got bad news. The good news, I guess, is that I don't have
13 a lot of questions. The bad news is I didn't see anything
14 from the ANC so I guess you're going to speak to that. Okay,
15 we'll get to the ANC. We'll get to the ANC. That's fine.

16 And then the other was just that there was an
17 issue of the text amendment, and I guess what in the past,
18 we've done a couple of things in the past but where the Board
19 seems to be falling now is that we're unable to vote on
20 things until after they've been through the, published in the
21 register, so I'm just kind of putting that out there right
22 now so you'll know where we're headed regardless of where we
23 end up going with this.

24 That being said, you can go ahead and present your
25 presentation. Let us know again the relief that you're

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1 requesting for and how you meet the standard for us to grant
2 that relief and I'm going to put 15 minutes on the clock just
3 so I know where we are, and you can begin whenever you like.

4 MS. BATTIES: I'm going to start, Chairman Hill,
5 to address your issue of the text amendment. In the case of
6 the text amendment for the veterinary hospital use, the
7 Zoning Commission approved the text amendment on an emergency
8 basis so it took effect immediately which was back in April.

9 MS. GLAZER: That's what I was going to say, Mr.
10 Chair. I was informed of the same thing, that it was approved
11 initially on an emergency basis. That wasn't what was stated
12 in the OP report, but I did --

13 MS. BATTIES: April 12 was the date.

14 MS. GLAZER: I didn't know the date.

15 CHAIRMAN HILL: Okay, so we can vote on this?

16 MS. GLAZER: It's in effect. If emergency text
17 amendments are treated differently.

18 CHAIRMAN HILL: Okay. We'll get that from the
19 Office of Planning when we get to that point also then. So
20 go ahead, same thing, 15 minutes on the clock and you can
21 begin whenever you like.

22 MS. BATTIES: Okay, great. Good afternoon. The
23 Applicant MR17 Columbia Retail LLC is the owner of the
24 subject property and proposes to lease the space to Banfield
25 Pet Hospital. The two representatives from Banfield here

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1 today are here to testify to the hospital operations, the
2 design of the facility and the mitigation of impacts as set
3 forth in the zoning regulations and they've introduced
4 themselves, Dr. Rene Verala and Mr. Nathan Alvstad.

5 The Applicant is seeking special exception
6 approval to permit a veterinary hospital use and a mixed-use
7 building pursuant to Subtitle U, Section 513.1L. Based on
8 monuments application to the Zoning Commission, this section
9 of the zoning regulations was amended on an emergency basis
10 on April 12 in order to allow veterinary hospital uses in the
11 MU zone, including the subject property, so long as certain
12 criteria are met.

13 In the interest of time I won't walk through every
14 criteria. At this point in my presentation, the application
15 and the pre-hearing statement walk through them. Nathan will
16 speak specifically to some of the mitigation noise, odor and
17 mitigation and how we meet those criteria, and if you have
18 any questions again, the criteria are pretty straightforward
19 in our pleadings but Nathan will speak to some of the
20 specifically.

21 Before concluding my opening remarks, I want to
22 note that in making its case to the Zoning Commission, the
23 Applicant did demonstrate the significant demand for
24 veterinary hospital uses in the District, given the city's
25 growing population as well as the growth in pet ownership.

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1 In D.C. there's only one veterinary hospital for every 27,000
2 households, approximately, and that's compared to markets
3 like San Diego where there's one veterinary hospital for
4 every 3500 households and then in Seattle, where Banfield
5 also operates, there's one veterinary hospital for about
6 every 4000 or 4100 households.

7 So there is significant demand in the city. The
8 need to meet this demand was expressed at the neighborhood
9 level during the ANC meeting, both at the ANC committee
10 meeting and then at the ANC meeting last week. The property
11 is within AN1C and at their regularly scheduled meeting last
12 week they took a vote, voted unanimously to recommend
13 approval of the application.

14 I also want a note in the record that the resident
15 in the unit directly above the proposed veterinary hospital
16 space has issued into the record a letter in support of the
17 application. That's at Exhibit 23 of the record. This
18 concludes my opening comments, and I'll turn the presentation
19 over now to Dr. Verala.

20 DR. VARELA: Okay, so to review my job duties as
21 director of veterinary quality, I oversee the medical
22 operations of 16 hospitals in Maryland, Pennsylvania and
23 Delaware and I also am serving in interim capacity as
24 vice-president of veterinary quality from Pennsylvania down
25 through Virginia as well.

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1 The veterinary operations, obviously, are anything
2 that have to do with the treatment and care of pets
3 themselves, the training of the associates there and also for
4 the recruitment of veterinarians into the communities, so
5 it's a big part of what I do and how we would like to grow
6 as an organization.

7 Our practice, Banfield Pet Hospital, is the
8 largest preventative care practice in the country and we
9 focus on keeping pets healthy. That's what we do, and we do
10 that in communities all across the country. We have one other
11 facility within the District, and that's what we call the
12 Yards. That's at 1212 4th Street, S.E., and it's been open
13 for several years now and has been growing very well for us,
14 so it's definitely meeting the need of those already referred
15 to in that area.

16 We chose this particular site location because of
17 the ability to serve the families because of the ability to
18 serve the families in this community, the pet-owning families
19 in this community, and there seems to be already a pent-up
20 demand for those services that are there.

21 The hospital that we're proposing, as you see, is
22 just under 2500 square feet, so a pretty nice-sized facility.
23 We'll see roughly 17 to 25 pets there on a daily basis, and
24 the services that we provide are largely what you think about
25 in preventative care. There are vaccinations, routine exams,

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1 obviously some other things that go along with that.

2 The blood work, we do in-house blood work for
3 keeping these pets healthy as well, so urinalysis, we also
4 perform anesthesia where we do preventative dentistry is a
5 big part of our practice as well, and the routine spays and
6 neuters that we have grown to expect from veterinarians in
7 the community.

8 We also will see these pets when they're ill.
9 Thankfully, most of the illnesses, which is a small
10 percentage of the cases that we have, roughly about 15
11 percent of the cases we have, run the gamut to simple little
12 ear infections to sometimes when they have an upset belly.
13 So the diarrhea cases that annoy everybody, that really
14 concern them.

15 And there are times when the pets are in a
16 slightly worse state and need to see a specialist, and we
17 definitely leverage Friendship Hospital for Animals in the
18 D.C. area as well as the referral hospital of choice for our
19 clients. The whole point with that is to make sure there's
20 continuum of care for these patients and the clients so they
21 don't have to worry so much about the care of their pets.

22 The hours of operation, our standard hours of
23 operation are 7 a.m. to 7 p.m., and currently we're not open
24 on Sundays but we're actually even thinking about in some
25 places even being open on Sundays. It just depends where

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1 we're going with that right now.

2 We definitely will start off with two full-time
3 veterinarians and one part-time veterinarian in this hospital
4 and roughly about eight support staff including a practice
5 manager, so we think about two to three veterinary
6 assistants, two to three veterinary technicians and two to
7 three receptionists but keeping around eight support staff
8 there.

9 Those are the big highlights, and I'm definitely
10 eager to answer any questions after we get done with our
11 presentation.

12 MR. ALVSTAD: Thank you, Dr. Verala. Like I said,
13 my name is Nathan Alvstad, I'm the construction program
14 manager, and I'm going to be speaking today just purely from
15 a construction standpoint and basically what our design is
16 for the hospital and what we're proposing.

17 So this first, this will be our sixth hospital
18 that we're proposing to build in a similar building, that is
19 a mixed-use building. The markets that we've built in
20 previously include Portland, Oregon; Denver, Colorado; San
21 Diego, California and as Dr. Verala previously mentioned,
22 right here in D.C. at the Yards.

23 Looking at the 1700 Columbia Road location,
24 overall it's a very similar condition in terms of the
25 features, functions and most importantly, the engineering of

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1 the shell building that we're looking to do our build out in.

2 With that, if you'll go ahead and take a look at
3 this slide, this is our proposed layout. I'll do a quick tour
4 of our proposed hospital. Starting here, you can see around
5 the corner of Columbia Road and 17th there. Going into the
6 hospital, we do build out a vestibule. That's to help prevent
7 any pet escapes. We have our lobby area there, reception
8 desk. Going up into the corner, we have our four exam rooms,
9 our canine ward there in the middle, that's where most of the
10 dogs will be kept, and treatment area.

11 In the back you can see we have our isolation ward
12 and then finally, our feline ward. Surgery there in the
13 middle, our x-ray suite and then finally, for the associates
14 a break room and our maintenance area.

15 Moving on the next slide, something we take very
16 seriously is sound mitigation. In relation to where we
17 currently sit and the tenants that are adjacent to us, at
18 this location we only have one to the right of us which is
19 Ace Hardware. What we do, which is a standard design for all
20 of our hospitals, we actually build an additional demising
21 wall which is engineered for sound.

22 Coming off that demising wall that separates the
23 two tenants, we come off one inch which creates an air gap
24 which helps capture a lot of these low and high frequency
25 sound waves that are generate from your larger and smaller

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1 pets.

2 That new wall is a 3 5/8 steel stud frame that
3 goes all the way up to the deck and then it's insulated with
4 three inch bat insulation and instead of just using a
5 standard gyp board or sheetrock, we actually layer a sound
6 dampening sheetrock that's called soundbreak XP.

7 In reference to the residential floor above, we
8 actually commissioned an acoustics analysis, and not to bore
9 you with the details of it, but the summary of the analysis
10 was that based on existing conditions of the shell, which is
11 the floor slab above us which is a 12 inch thick post-tension
12 slab and the proposed design of us having a drop ceiling with
13 lay-in acoustical tiles, they consider this a sufficient was
14 of mitigating any noise from penetrating up to the first
15 floor.

16 Finally, on my last slide here, this just shows
17 basically a higher view of the hospital and its surrounding.
18 This is basically a pathway to the existing trash enclosure
19 that is inside of the building. That is basically it, I'm
20 open to any questions you guys may have.

21 CHAIRMAN HILL: Sure, of course. Does anyone have
22 any questions?

23 MEMBER WHITE: So this building, first of all I
24 love your cover. I'm a pet lover but obviously as a Board
25 member we got to look at the criteria. I have two boxers.

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1 This building, who are the adjacent tenants? This
2 used to be like the Ontario Theatre, is that correct? I'm
3 trying to remember.

4 MS. BATTIES: So they have a commercial tenant,
5 retail tenant, right next to them, Ace Hardware and then
6 above there are residential units.

7 MEMBER WHITE: Are you actually boarding pets as
8 well, 24 hours a day or is it --

9 MS. BATTIES: No.

10 MEMBER WHITE: Just care.

11 MS. BATTIES: Just care. Boarding is not part of
12 the operation. There may be circumstances for convalescence
13 or medical reasons that animals have to stay, but that's not
14 part of their normal operations at this facility.

15 MEMBER WHITE: Okay. And just take me through, you
16 know, waste, how waste is disposed, how you mitigate odor,
17 and that kind of thing.

18 DR. VARELA: On a daily basis, especially I imagine
19 you're talking about the fecal waste, I think that's the
20 biggest thing, we really, we take care of that as normal
21 trash. Our hospitals don't produce more than really, a couple
22 of kitchen-size bags of total waste, whether it's paper or
23 any of that stuff. On a daily basis that's brought right out
24 to the dumpster facility so that's something that's managed
25 by routine very well.

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1 MEMBER WHITE: Do you do surgeries too?

2 DR. VARELA: Yes, absolutely. And so part of the
3 waste in a medical facility, thankfully we're not dealing
4 with humans here, that's part of what I love about my
5 profession, the type of medical waste you have to think about
6 are sharps, like the needles, any kind of glass, slides, that
7 sort of stuff, and that's actually put into hazardous waste
8 containers and we have a vendor that takes those away. We
9 don't store those on site. When the container is full, these
10 are pretty small containers, they get taken away and carted
11 off.

12 MEMBER WHITE: Thank you. That's all.

13 CHAIRMAN HILL: Sure, please.

14 COMMISSIONER MAY: I just have one question. Did
15 you say that the slab above it is a 12 inch thick
16 post-tension slab?

17 MR. ALVSTAD: That is correct.

18 COMMISSIONER MAY: What are they doing on the
19 second floor that they need 12 inches of concrete?

20 MR. ALVSTAD: That's just how the architect
21 designed it, I guess.

22 COMMISSIONER MAY: Wow. I mean, it seems, you
23 usually see like a five inch slab post-tension, but I don't
24 know.

25 MEMBER WHITE: Like I said before, I think, if this

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1 is the same building, it was used as a concert hall and --

2 COMMISSIONER MAY: Well, it was the Ontario
3 Theatre, but didn't that get demolished and then replaced?

4 MS. BATTIES: I don't know. Josh, do you have any
5 history on that?

6 COMMISSIONER MAY: It was demolished.
7 (Simultaneous speaking.)

8 I heard what he said. And I'll repeat it for the
9 record. So it's a stick-built structure on top of a podium
10 and so the top layer of the podium is typically going to be
11 thicker. I was looking at the whole thing and thinking it was
12 concrete construction, so that's why I was puzzled. But it
13 actually helps you a great deal with the sound insulation
14 having 12 inches there. That alone is going to stop 90
15 percent of any kind of sound transmission. Thank you.

16 CHAIRMAN HILL: Okay, going to turn to -- You have
17 a question?

18 VICE CHAIR HART: Just a quick question. On the
19 sound dampening wall, is really just to the, that's just the
20 wall that's abutting the Ace Hardware?

21 MR. ALVSTAD: That is correct.

22 VICE CHAIR HART: So the rest of it won't get that
23 treatment, it's just that area.

24 MR. ALVSTAD: Yeah, so the rest of it is the
25 storefront, and we may also, I believe the entrance there to

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1 the lobby, the whole building, we may propose doing the sound
2 mitigation wall there as well.

3 VICE CHAIR HART: I don't know what the wall is on
4 Columbia or on 17th Street.

5 MR. ALVSTAD: That's all just storefront, except
6 for the built, it's existing storefront, we'll plan of
7 building a 3 5/8 steel-stud wall in front of that so it's not
8 completely exposed.

9 VICE CHAIR HART: So you would have a --

10 MR. ALVSTAD: On the inside.

11 VICE CHAIR HART: On the inside, so that would just
12 be --- what's on the outside?

13 MR. ALVSTAD: Just windows, glass, glazing.

14 VICE CHAIR HART: So the windows would look at the
15 back of a wall, or are you going to be frosting them over,
16 what are you doing to them?

17 MR. ALVSTAD: For the x-ray room, I know we'll
18 definitely be required to build a wall. It will be a
19 lead-lined wall, just because of radiation. So the x-ray room
20 will actually be the only one that has a wall built on the
21 inside with better lead lined. For the break room, it'll be
22 up to what's the landlord will allow us. Normally, typically
23 we'll do like a frosting or graphics so there's a little more
24 privacy in that break room.

25 VICE CHAIR HART: Then the front will actually have

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1 just the storefront, just the glass up there, and then along
2 Columbia you'll have the wall in front of the storefront?

3 MR. ALVSTAD: For the exam room we'll most likely
4 do the exact same thing where we'll have either frosted glass
5 or some sort of graphic. I think the only wall that we're
6 proposing, like I said this is all proposed plan, none of
7 this has been approved yet, the only wall that we propose
8 building on the inside of that glass just because we're
9 required to based on, again, x-ray radiation.

10 VICE CHAIR HART: Okay. Thank you.

11 CHAIRMAN HILL: Okay. The existing tenant, is that
12 the Ace Hardware?

13 MS. BATTIES: There are two tenants in the
14 building. There's an Ace Hardware and there's a Core, Solid
15 Core Fitness studio.

16 CHAIRMAN HILL: I'm just looking, where it says
17 existing tenant, is that the Ace Hardware?

18 MR. ALVSTAD: That is correct.

19 CHAIRMAN HILL: Okay. My friends own it, that's why
20 I was curious. They're dog lovers, too. What does isolation
21 mean?

22 DR. VARELA: In any well-run hospital you want to
23 have a place where maybe very sick pets that are potentially
24 infectious can actually go right to and they can be treated
25 there so they don't potentially infect other pets in the

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1 hospital. Thankfully, we don't use it very often. It would
2 be a place with just a few kennels in there and either a sick
3 pet or a sick dog would actually go right there, and we're
4 able to make our evaluations and determine whether they're
5 truly infectious or not.

6 CHAIRMAN HILL: Okay, great. Thank you. All right,
7 I was just curious. I'm going to turn to the Office of
8 Planning.

9 MR. MORDFIN: Good afternoon. I'm Stephen Mordfin,
10 for the record. The Office of Planning supports this
11 application. It was filed pursuant to a text amendment, 1802,
12 that was approved on an emergency basis and when the
13 Commission took their vote, it had to take effect immediately
14 to allow the Applicant to file for the application. There is
15 an error. The footnote on the bottom of page 1 is not
16 correct.

17 This text amendment is in effect, the Applicant
18 can apply for this -- use as was proposed in the text
19 amendment.

20 CHAIRMAN HILL: Okay. Thank you. Does anyone have
21 any questions for the Office of Planning? No? Does the
22 Applicant have any questions for the Office of Planning?

23 MS. BATTIES: I would just ask that you clarify
24 your report in that the hospital's not limited to serving
25 just cats and dogs.

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1 MR. MORDFIN: No, it's, Office of Planning
2 recommended approval of a veterinary hospital, which includes
3 all pets that can be legally sold in the District of
4 Columbia. The plan showed for cats and dogs, so I described
5 it in the report as a veterinary hospital for cats and dogs
6 but the zoning is not limited to that and I see no reason
7 that the Board should have to either.

8 CHAIRMAN HILL: Okay, great. Anything else? Okay.
9 Is there someone here from the ANC? Good afternoon. If you
10 could just introduce yourself for the record.

11 MR. GUTHRIE: Ted Guthrie for ANC 1C. I'd like to
12 apologize for not having, someone else was supposed to
13 getting the paperwork in that showed our approval, but we
14 voted unanimously to approve this application and we're very
15 supportive of it. In particular in the Adams Morgan we love
16 having commercial space used by something other than a
17 licensed alcohol establishment. We welcome you to the
18 neighborhood.

19 CHAIRMAN HILL: That's great. We know normally when
20 the ANC stands up like that it's not good. So I would just,
21 I was preparing for something else. I was like, wow, okay.
22 So, great. Can you get us something for the record, I guess?

23 MR. GUTHRIE: We'll get you something.

24 CHAIRMAN HILL: Okay. So we'll leave the record
25 open, Mr. Moy, for something from the ANC? All right, great.

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1 Thank you, Commissioner. Thanks for staying with us. Is there
2 anyone here wishing to speak in support? Is there anyone here
3 wishing to speak in opposition? Okay, going back, any
4 questions, Dr. Varela, have you seen Isle of Dogs?

5 DR. VARELA: I've yet to see it. Small children at
6 home, I'm just backlogged.

7 CHAIRMAN HILL: Okay, gotcha. Any other questions
8 for the Applicant? Okay. You have anything you'd like to add?

9 MS. BATTIES: Nothing further.

10 CHAIRMAN HILL: Okay. I'm going to close the
11 hearing. Is everyone ready to deliberate? Okay. I think that
12 the, again, they've met the criteria for us to go ahead and
13 approve this. I think that the Office of Planning support is
14 fairly straightforward and it's nice to hear about all the
15 different things that they have done to alleviate any
16 possible adverse impact on this project, so I don't have any
17 issues. Does anyone have anything they'd like to add?

18 VICE CHAIR HART: Yes, Mr. Chairman, just that I
19 just wanted to point out that the Office of Planning, while
20 they've provided us their report, they also made some minor
21 changes to it, stating that it wasn't just a hospital for
22 cats and dogs, it was a hospital for pets that are legally
23 sold, I guess, in D.C., and that the text amendment, the
24 footnote on the OP report on page 1 about the related text
25 amendment was stated in error and that it actually should be

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1 that the zoning amendment was an emergency text amendment and
2 has already taken effect, so we would be able to if we so
3 choose, be able to approve it today.

4 MEMBER WHITE: I would concur with your comments.
5 I think that the Applicant did meet the special exception
6 criteria for vet hospital use under Subtitle U 513.1 and the
7 record's full, they've got community support, OP support,
8 it's an all-around good project. It seems like it's something
9 that the neighborhood is supportive of and needs and wants,
10 and so my comment is that I would be supportive based on the
11 criteria in the regulations.

12 MEMBER JOHN: I support everything that my
13 colleagues have said, and I also believe that the record of
14 the OP and the analysis of OP is fairly thorough in terms of
15 meeting the special exception criteria under the new text
16 amendment, so I support the application.

17 CHAIRMAN HILL: Commissioner May, do people come
18 with emergency text amendments that much?

19 COMMISSIONER MAY: It happens maybe once a year,
20 something like that, and sometimes we act on them that way
21 and sometimes we don't.

22 CHAIRMAN HILL: All right. I'm going to go ahead
23 and make a motion to approve application number 19769 as
24 captioned and read by the Secretary and ask for a second?

25 MEMBER WHITE: Second.

1 CHAIRMAN HILL: Motion made and seconded. All those
2 in favor, say aye?

3 (Chorus of ayes.)

4 All those opposed? The motion passes, Mr. Moy.

5 SECRETARY MOY: Staff would record the vote as
6 5-0-0, based on the motion on the Chairman Hill to approve
7 the application for the application for the relief being
8 requested. Seconding the motion, Ms. White. Also in support,
9 Mr. Peter May, Vice Chair Hart, Ms. John, the motion carries.

10 CHAIRMAN HILL: Summary order?

11 SECRETARY MOY: Yes, sir.

12 MS. BATTIES: Thank you very much.

13 CHAIRMAN HILL: Thank you. Good luck. Mr. Moy,
14 we're just going to hang out here a little while until Ms.
15 John returns.

16 (Whereupon the above-entitled matter went off the
17 record at 2:55 p.m. and back on at 2:58 p.m.)

18 CHAIRMAN HILL: All right, Mr. Moy.

19 SECRETARY MOY: Thank you, Mr. Chairman. So if
20 we can have parties to the table to Case Application Number
21 19771. This is of Lee Wells and Malcolm Haith, if I
22 pronounced it correctly, H-A-I-T-H, as caption advertised for
23 a special exceptions under Subtitle E Section 5201 from lot
24 occupancy requirements -- or rather lot occupancy provisions,
25 Subtitle E Section 304.1 and the accessory building size

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1 restrictions of Subtitle E Section 5004.2 and under Subtitle
2 E Section 206.2 and 5203.3 from the roof top architectural
3 element provisions of Subtitle E Section 206.1, this would
4 construct an accessory building and remove an existing porch
5 roof on the existing principle dwelling unit, RF-1 Zone at
6 1834 Ontario Place N.W., Square 2583, Lot 351.

7 CHAIRMAN HILL: Okay, great. Thank you. We just
8 got Commissioners coming out of the woodwork today. All
9 right. If you could just please introduce yourselves from
10 my right to left.

11 MR. GAMBRELL: Okay. Alan Gambrell, former ANC1C
12 Commissioner.

13 MR. GUTHRIE: Ted Guthrie, ANC1C.

14 MR. SULLIVAN: Marty Sullivan, Sullivan and
15 Barrows on behalf of the Applicant.

16 MS. WILSON: Alex Wilson from Sullivan and Barrows
17 on behalf of the Applicant.

18 MR. FOTIU: Steve Fotiu form the Eisen Group
19 Architects.

20 CHAIRMAN HILL: Could you say your last name again
21 for me?

22 MR. FOTIU: Fotiu.

23 MR. HAITH: Malcolm Haith, homeowner.

24 MR. WELLS: Lee Wells, homeowner.

25 CHAIRMAN HILL: Okay, great. So Mr. Sullivant,

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1 I guess you're going to presenting to us?

2 MR. SULLIVAN: Yes, sir.

3 CHAIRMAN HILL: Okay. And you guys just -- you're
4 here just to speak during the ANC portion and also then to
5 provide testimony; is that correct? So -- I mean you will
6 be. So if it's okay, I'll just call you back up when it's
7 that time during the hearing. Thank you. All right. Yes,
8 Mr. Sullivan, okay. So I guess this is actually pretty
9 involved. I am going to -- I mean we've read through the
10 record and probably are going to have, you know, questions
11 as you kind of go through this. But if you could, in
12 general, as you know, if you can just go ahead and tell us
13 again the different kinds of relief you're requesting and how
14 you're meeting the standards with which for us to grant that
15 relief.

16 Also, there was, I guess, a preliminary matter
17 with a past filing, the 21-day filing. I think there were
18 some corrections that you specified. One was -- I guess it
19 was in instead of 65 percent -- or it's 66 percent and you
20 were clarifying the record on the drawings. I, unless the
21 Board has an issue -- I mean I thought they were pretty minor
22 discrepancies that I would allow into the record so that we
23 can clearly understand what we're talking about. Does the
24 Board have any objection?

25 MEMBER WHITE: No objection.

1 CHAIRMAN HILL: Okay. So we're going to have Mr.
2 Sullivan and allow that filing and then after that, you can
3 go ahead and begin when -- I'm going to put, I don't know,
4 put 20 minutes up on the clock just so I know where we are.
5 And you can go ahead and begin whenever you like.

6 MR. SULLIVAN: Thank you, Mr. Rodriguez Chair.
7 So the relieve that we're asking for is first of all, special
8 exception relief from Section E 206, which is the
9 architectural element restriction provision, and related to
10 the accessory -- that's related to the front of the house,
11 the alteration of the porch roof.

12 Related to the rear, the accessory structure being
13 constructed takes over lot occupancy, so we're asking for
14 special exception relief to go to 66 percent lot occupancy.

15 And there are two provisions regarding rear yard
16 accessory building. You can have an accessory building in
17 a required rear yard. This is a new provision under the 2016
18 regs and the -- provided, you are limited to 10 feet in
19 height with that building. And the other requirement is that
20 you're limited to 100 square feet of gross floor area. So
21 we are asking for special exception relief. Those two
22 provisions are part of the rear yard requirement in accessory
23 -- in the accessory building regs. And the Zoning
24 Administrator has certified in another case that that is
25 available for special exception because it's part of the rear

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1 yards and the Office of Planning agrees with us on that.

2 So from that, we'll go right to the architect, and
3 we're going to talk about the accessory building first, and
4 then we'll go to the front, the porch room. And I don't
5 think the accessory structure part of this is all that
6 complicated, but --

7 CHAIRMAN HILL: It's okay. That's a good plan.

8 MR. SULLIVAN: Oh, yes, I'm sorry. First, I'd
9 like to just have the homeowner briefly tell us how we got
10 here.

11 MR. HAITH: Hi, again. Malcolm Haith. This is
12 my partner, Lee Wells. We purchased our home approximately
13 a year-and-a-half ago after looking for a long time in Adams
14 Morgan and Lanier Heights. And we submitted our building
15 permit last March of 2017 and received comments in August of
16 2017 that we could not modify the existing front porch.
17 Ourselves, along with Steve, went down and met with the
18 zoning reviewer at DCRA. They determined that the porch
19 could be removed because our application was in before April
20 2017. At the same time, we also had comments about the third
21 floor height adjustment, so we took those comments and
22 modified the plans to step back the third floor. But the
23 porch was determined to be approvable and was subsequently
24 approved in October of 2017. So we had a fully approved
25 building permit and started construction with permitted and

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1 budgeted plans in November of last year.

2 In late February, we received notice that the
3 porch was in violation of the architectural element rule and
4 we received a stop work order. We met with DCRA and
5 determined the only process for us to continue would be to
6 go through the BZA process, and that's why we're here. The
7 issue for us is we're scheduled to move into our home any day
8 now. We have furniture arriving, trying to get cable set up
9 and because of this porch issue, which we cannot touch under
10 the agreement with DCRA, we can't continue the construction
11 of the front of our house. And the estimated cost to replace
12 the porch is approximately \$26,000.00, and the structural
13 needs for the retaining wall that is failing now that holds
14 up the porch is an additional \$5,100.00. So this could cost
15 upwards of \$30,000.00 for us that is totally unbudgeted and
16 we were going off of approved plans by DCRA which we thought
17 should be valid. So that's why we're here.

18 MR. FOTIU: I just want to say one thing. The way
19 that it was discovered was that Malcolm and Lee decided to
20 pursue BZA relief for a garage, an accessory garage. This
21 had been determined from day one that we would do it in two
22 phases. We thought it was sort of a savvy approach that we
23 would, once the -- we would go for the building permit so
24 that they could start construction. They already live in
25 Lanier Heights. They pay rent. They were going to start

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1 paying a mortgage simultaneously so during the three to four
2 months that you wait in the runup to get to a BZA hearing,
3 we figured we might as well go ahead and submit our building
4 permit, start construction, and then submit a BZA application
5 for the accessory garage.

6 Office of Planning, at that point -- or was it
7 someone from DCRA? Someone from DCRA, when looking at the
8 request for the accessory garage, looked into the record and
9 said, "Wait a second. We should have never let them touch
10 this porch." And so they issued a stop work order without
11 ever telling Malcolm or Lee why they were doing that but, you
12 know, obviously, when you get a stop work order, you
13 immediately jump and try to figure out what's going on. And
14 at that point, it was determined that the zoning reviewer
15 should never have told us we would be allowed to alter the
16 porch and subsequently, the permit should not have been
17 issued showing the porch alteration. So I just wanted to add
18 that detail, how it was discovered.

19 MR. HAITH: And we live in Adams Morgan right now
20 but are moving to Lanier Heights. I know there's a
21 distinction.

22 CHAIRMAN HILL: Okay. So actually, a couple
23 questions just on this. So you had an approved permit in
24 April -- or before April? I'm trying to understanding what
25 the April 2017 date was?

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1 MR. FOTIU: April was when the new regulation that
2 restricted --

3 CHAIRMAN HILL: All right. Okay.

4 MR. FOTIU: -- fully became enacted.

5 CHAIRMAN HILL: And so you had a permit -- you had
6 an approved permit when?

7 MR. FOTIU: In November. Our meeting with DCRA's
8 zoning reviewer was in August, and one last timeline item
9 moving backwards, we submitted our drawings in March.

10 But we were told in our meeting with DCRA that
11 there was no vesting period for this particular zoning
12 regulation and even though we had submitted our drawings that
13 because there was no vesting period, we would need to push
14 back the third floor from the existing facade and which we
15 did and that we wouldn't be allowed to touch the porch. We
16 asked if there was any ability to allow for the porch because
17 this regulation -- because it had -- for the very reason that
18 there had not been a vesting period, could there be some sort
19 of allowance for this. The zoning reviewer went and checked
20 with his supervisor -- I believe it was Mamadou Ndaw and
21 returned and told us that it was okay to proceed with the
22 porch alteration. And subsequently, a couple months after
23 that, the building permit was issued by DCRA showing the
24 porch alteration.

25 CHAIRMAN HILL: What has been done to the porch?

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1 MR. HAITH: It has partially been removed as of
2 today.

3 CHAIRMAN HILL: You don't have a picture of what's
4 been done to the porch, do you?

5 MR. HAITH: I have it on my phone.

6 CHAIRMAN HILL: Okay. That's all right.

7 MR. FOTIU: Also, I should mention the reason it
8 was partially removed is that the Zoning Administrator got
9 involved and basically said, you know, you're going to need
10 to go through a BZA process to get approval for the porch
11 alteration; we shouldn't have given you that. And because
12 the two scenarios are that the porch is under disrepair or
13 animals have lived in it previously, structurally, it's
14 failing and it's connected to the neighbor's porches. So it
15 has the potential for dragging the neighbor's porches down.
16 So what the homeowner was given by the Zoning Administrator
17 was an affidavit that basically stated that the porch would
18 need to be removed before this hearing.

19 And so because no matter what, it has to be
20 removed, it's either going to be replaced with a replica or
21 a replication of that design or the altered plan, which is
22 what we're seeking relief for today. So either way, it had
23 to come down. It was a safety matter. In fact, the postman
24 was refusing to even deliver mail because he felt it was
25 deemed a safety hazard. So again, we had an affidavit

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1 telling us that it needed to be removed before this hearing.

2 CHAIRMAN HILL: Okay. Does the Board have any
3 questions for the testimony at this point? Okay, Mr. May.

4 COMMISSIONER MAY: Yes. I'm a little confused
5 about all of the relief and the entirety of the project and
6 the fact that you're set to move. I mean there's an
7 indication on the drawings that there's an addition to the
8 back of the house beyond the garage? Is that -- or was that
9 how you are describing that part of the building?

10 MR. FOTIU: So we do have a presentation where
11 want to get into a little bit more detail of the design
12 elements. We just wanted to give a little bit of background
13 story.

14 COMMISSIONER MAY: Got it, okay.

15 MR. FOTIU: But just to mention, the addition was
16 part of the building permit application that was approved in
17 November and has been already built. It's part of the
18 existing structure at this point.

19 COMMISSIONER MAY: Right. And that was built as
20 a matter of right because it didn't violate lot occupancy
21 because you didn't have the garage in the plan. All right.

22 CHAIRMAN HILL: Okay. Mr. Sullivan?

23 MR. SULLIVAN: Just a point of clarification. The
24 affidavit, too -- the purpose of that was so that the
25 Applicant could promise DCRA that if the porch was removed

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1 for safety reasons, that it has to -- the Applicant has to
2 agree that it goes back up should this case not be approved.
3 So that was the purpose of that.

4 So I think we'll talk about the accessory
5 structure and how that meets the special exception
6 requirements next.

7 MR. FOTIU: Thank you, Chairman, Members of the
8 Board. Steve Fotiu. I just want to now officially -- that
9 was sort of a background story but I'd like to officially
10 present sort of our case. And I'd like to start with the
11 accessory garage and what you're seeing on the screen are
12 photographs from the alley showing the majority -- the vast
13 majority of houses -- I believe it's 29 houses on the same
14 side of the block -- have a garage. I believe three either
15 have a garage door with a parking pad behind or just in the
16 case of the subject property, a parking pad with no garage
17 door. So again, the vast majority, about 90 percent of the
18 houses, do have a garage.

19 The request to add an accessory garage, as Mr. May
20 actually pointed out this, because there's already an
21 addition -- it was by right, adding the garage now triggers
22 a lot occupancy that's higher than the 60 percent
23 permissible. Through a special exception process, there is
24 permissible up to 70 percent lot occupancy provided that
25 we're able to prove the sort of the standard that we do not

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1 affect the light and air available to neighboring properties,
2 that the privacy and use of and enjoyment of the neighboring
3 properties is not negatively affected and that the addition
4 or structure together with the building is not -- as seen
5 from the street or alley, does not pose sort of a negative
6 design and does not intrude on the character or scale of the
7 neighborhood.

8 So with that, the next -- some of the articles
9 then call for exhibits that would demonstrate this and that's
10 what we'd like to show. Specifically, in our ANC hearing,
11 we heard neighbors concerned about the light and air
12 character, and we did feel it was important to demonstrate
13 what we had known or what we had already studied but had not
14 necessarily shown with exhibits. We have these exhibits here
15 showing -- so this exhibit shows the overall block massing,
16 the red there shows the addition already as the existing
17 condition, and as shown in light red is the proposed garage.
18 And what I want to show are a series of sunlight studies and
19 sort of go through and demonstrate that the affect of the
20 garage as a 10-story tall -- I'm sorry, 10-foot tall garage,
21 which would be identical to the neighbors', versus a 13-foot
22 8 garage, which is what we're proposing, that the difference
23 in light and air is negligible.

24 So what -- in each case here, we're going to look
25 at time of year. This is equinox so it's fall and spring.

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1 CHAIRMAN HILL: I'm sorry, you said 13 point what
2 again?

3 MR. FOTIU: Thirteen foot eight.

4 CHAIRMAN HILL: Okay.

5 MR. FOTIU: So what we see here is -- and the next
6 several slides will be in equinox, May and September, and
7 demonstrating a majority of the year here. Starting with the
8 morning, you see a 10-foot tall garage in red and a 13 foot
9 8 garage, so I will just toggle back and forth and you see
10 a minimal shadow that is just to the lower left of the garage
11 on the neighboring garage, the shadow changes. This is when
12 the sun is coming from the east and is relatively low. There
13 are some -- jump right back one second -- there are some
14 taller structures that are to the south of the property and
15 so in many cases, those taller structures are shading the
16 backyards of our subject property and the neighbors' in the
17 morning. So again, the effect of the garage from 10-foot to
18 13-foot 8 is relatively negligible.

19 Moving through the day, at noon, you can see the
20 difference. You can see all the shadows cast by the garages
21 in a row into the backyards and the difference in the shadow
22 from 10-foot to 13-foot 8. Moving through the day into 3
23 p.m. as the sun has now moved past due south and is sort of
24 heading towards west, you can see again the difference in
25 shadows from 10-foot to 13-foot-8. And now 5 p.m. -- this

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1 is the last one on this particular time of year -- towards
2 the end of the day, the sun is mostly from the west which
3 would be page left here, and toggling back and forth, the
4 shadow is basically casting onto the neighboring garage and
5 the alley. So again, a negligible impact from 10 feet to
6 13-foot-8.

7 Moving into the summer where the sun is relatively
8 high in the sky, this would be, you know, between 20 and 25
9 percent of the year; in the morning, you can see that all of
10 the garage are casting shadows into the backyard. That
11 shadow line is relatively consistently and increasing the
12 height of the garage has a relatively negligible effect.
13 Moving to noontime, again, the two shadows -- and I can speed
14 up if you'd like. That's sort of the effect. Wintertime
15 being that the sun is relatively low, I'll just point out
16 that really, the shadows again are negligible but there's
17 very little sunlight even hitting this back -- any of these
18 backyards in the winter because of the angle of the sun.

19 So at this point, really, the question is what is
20 the standard and I'd like to hand it back over to Marty.
21 Yes.

22 MR. SULLIVAN: So that's the discussion on the
23 accessory building and I'd like to move to Section 2016 now
24 and talk about the front of the building. And we went
25 through this last week and we're trying to home in on what's

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1 the standard for special exception relief from Section 206.
2 And the zoning regulations provide, of course, the general
3 requirement and then the three specific criteria. And the
4 three specific criteria, we meet the first two and all would
5 agree on that. That's a simple test, but it's the third
6 criteria that, which is Subsection D of that section, is
7 identical to the actual restriction. So you have a circular
8 provision that in order to get relief from Section 206, you
9 have to meet the requirements for Section 206.

10 We think that the Office of Planning and the
11 Applicant now agree on what you do in that situation, that
12 you then refer just to the general requirements. And there
13 is no further specific requirement D, because D is cancelled
14 out. Where the Office of Planning and the Applicant pass
15 diverge is what exactly is that general requirement. And the
16 general requirement is, of course, that the project be in
17 harmony or the relief, if granted, be in harmony with the
18 general purpose and intent of the zoning regulations and maps
19 and will not tend to affect adversely the use of neighboring
20 property. So what does that mean?

21 About a year ago, what it meant in cases like this
22 -- and according of the Office of Planning reports -- was it
23 meant the general purpose and intent of the zoning
24 regulations. It was very general language in the reports
25 just about the residential character of a neighborhood and

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1 the other zoning requirements. And you can see from the
2 cases that we submitted with the prehearing statement that
3 this Board and the Office of Planning supported various
4 alterations and special exceptions from Section 206.

5 About a month ago, we requested additional
6 information from the Office of Planning on what I the
7 standard, what do we do with this circular provision. And
8 they told us that the answer was that we should be talking
9 about the character scale and pattern of houses on the
10 street. And that's why you'll see that in our prehearing
11 statement that was our argument.

12 CHAIRMAN HILL: Oh, dear, God, I'm having a
13 flashback now.

14 MR. SULLIVAN: Yes.

15 CHAIRMAN HILL: I completely agree with that.
16 Right. Now I'm back with you.

17 MR. SULLIVAN: So last week then, if you came --

18 CHAIRMAN HILL: Last week. Yes, I remember last
19 week.

20 MR. SULLIVAN: -- last week -- if we're on slide
21 44, this is what it became, the general purpose and intent,
22 they referred to the introductory paragraph for RF-1, pulled
23 out the phrase, "neighborhood character" and said that word,
24 that phrase, among all these other items of general -- and
25 this is RF-1. This isn't general zoning regs. This is the

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1 RF-1, which I think is more specific. Neighborhood character
2 could mean discussion of windows, rhythm, streetscape, who
3 knows. I mean it's hard to understand exactly what the
4 target it. With this report, then that changed. And in this
5 report, they simply say that the intent of this specific
6 provision, the provision requiring review, 206, is intended
7 to preserve the streetscape integrity of residential
8 buildings, so it's a moving target.

9 I have to --

10 COMMISSIONER MAY: I'm sorry, do want to explain
11 to me again how that's a moving target, because it's always
12 been perfectly clear to me.

13 MR. SULLIVAN: Well, I think there's been --

14 COMMISSIONER MAY: I mean just walk me through
15 what you just said again --

16 MR. SULLIVAN: Yes.

17 COMMISSIONER MAY: -- again a little bit slower
18 or something.

19 MR. SULLIVAN: Okay. Maybe a moving target's not
20 the right term. It's not a clearly-defined standard.

21 COMMISSIONER MAY: Okay. Explain to me why you
22 think that is the case, because I did not get it from what
23 you just said.

24 MR. SULLIVAN: Okay. So there's three specific
25 criteria, none of which mention anything about -- the only

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1 -- the third criteria says that you shall not remove an
2 architectural element.

3 COMMISSIONER MAY: Right. These are the criteria
4 relating to putting an addition onto the top of the house,
5 right?

6 MR. SULLIVAN: You can't reduce -- you can't
7 remove a -- yes, 206 says, yes --

8 COMMISSIONER MAY: Right.

9 MR. SULLIVAN: -- you can't alter or remove an
10 architectural element --

11 COMMISSIONER MAY: Architectural feature.

12 MR. SULLIVAN: -- including --

13 COMMISSIONER MAY: Porches, turrets --

14 MR. SULLIVAN: -- dormer, porches, correct. And
15 there's three special exception criteria, the specific
16 criteria and that third criteria is a repeat of 206.

17 COMMISSIONER MAY: Right.

18 MR. SULLIVAN: So in order to meet 206 you have
19 to meet 206.

20 COMMISSIONER MAY: And the special exception
21 relates to what relief? It's a special exception for what

22 MR. SULLIVAN: Relief from Section 206.

23 COMMISSIONER MAY: From 206?

24 MR. SULLIVAN: From the restriction of altering
25 the architectural elements.

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1 COMMISSIONER MAY: So that's how it's -- you're
2 deciding that it's circular?

3 MR. SULLIVAN: Yes. It's written in a circular
4 and so we're not sure what to do with that, but we -- I mean
5 one way to --

6 COMMISSIONER MAY: Well, we'll ask the Office of
7 Planning how they interpret it. I'll go back and look at it
8 again.

9 MR. SULLIVAN: I think -- yes, okay. So I think
10 that the level of detail in the Office of Planning reports
11 for this relief have changed a lot in the past year. And so
12 this report talks about public parking, first of all, and
13 shade of public parking even though we're not in the public
14 space, we're not in the public parking. So, you know, we
15 have an expert witness architect to talk about how this
16 particular alteration fits within the character of this
17 block. I guess we're just looking for guidance on -- in a
18 sense, it's a little bit like we'll tell you what the
19 standard is when we see it but it's not really clearly
20 defined in the zoning regulations. So, Steve, I'll turn it
21 over to you.

22 MR. FOTIU: Yes. I would say that that's actually
23 relatively clear to me as well. I mean I understand you were
24 looking -- seeking for some understanding of what the
25 statement that was being made but to me, it's relatively

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1 clear what the Office of Planning was trying to do, and even
2 though they continue to use different wording, what they're
3 trying to do. There are non-historic districts, non-historic
4 homes that have porches and have architectural elements that
5 the Office of Planning would like to preserve because of
6 their architectural character and their DC-ness, if that's
7 a term.

8 Now I think that the fact that they have allowed
9 for special exception means that there is a standard that
10 could be met, a threshold that you can meet to prove that
11 zoning doesn't apply in every case. I mean that's what today
12 -- that's what BZA is about, is that zoning doesn't apply to
13 every case and there are exceptions, and you can come and
14 prove the threshold has been met, and that's what the Board
15 is here to determine. So for us, in looking what OP is
16 trying to do here, we would agree that there are many cases
17 where it's just very clear a porch or other architectural
18 element should not be altered. And I will show you examples
19 because we feel very strongly that there are some pretty good
20 examples where there should not have been an alteration,
21 there should not be alterations.

22 On the other end of the subjective spectrum, we
23 believe that there, because of the fact that there's a
24 special exception allowed, that there must be a subjective
25 level you could prove that says, well, in this case, it

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1 doesn't negatively impact the block; it doesn't negatively
2 impact the character or integrity of that neighborhood, and
3 that's what we would like to -- that's what we believe we can
4 prove, and I will show you exhibits to that fact. So just
5 a few exhibits here showing examples in Capitol Hill and
6 Mount Pleasant. These are historic districts. Nonetheless,
7 a threshold was met even here that somehow they were allowed
8 to remove porches.

9 COMMISSIONER MAY: Most of these pre-date --

10 MR. FOTIU: Yes, absolutely.

11 COMMISSIONER MAY: -- the regulations, right?

12 MR. FOTIU: Correct.

13 COMMISSIONER MAY: I live around the corner from
14 the one on the top and it looks terrible.

15 MR. FOTIU: And that's my point. That is --
16 that's actually my point.

17 COMMISSIONER MAY: Right. So you're saying that
18 you should not remove these porches?

19 MR. FOTIU: And there are specific cases where
20 there are 13 or 17 or 25 identical --

21 COMMISSIONER MAY: So four doesn't qualify is your
22 argument, because there are four now?

23 MR. FOTIU: And we'll get there. There's actually
24 three. So -- and there's nine different types of row houses
25 or architectural characters on the same side of our block.

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1 So the point here is that when you have the same identical
2 house, this is what OP is trying to stop, both in historic
3 districts, as theses shown -- again, as shown, historic
4 districts and non-historic districts. So showing again
5 examples here. The top example, 15 identical row houses, one
6 had its porch removed on the bottom; 25 identical row houses,
7 one has its -- two have their porch removed. They stand out
8 and this is the end of the spectrum that says this is obvious
9 that these are examples where they should not have been
10 removed. Again, an example -- and most of these -- every one
11 except for one example is an RF-1 zone so, again, 25
12 identical row houses, 3, and in fact, three in a row have
13 been removed.

14 So that moves now to what we believe is at the
15 other end of the spectrum. There are 15 different row
16 houses, apartment buildings, or architectural shifts that
17 happen on this block, nine of which occur on our side of the
18 block. This is a diagram demonstrating whether their
19 building is pushed back from the street -- pulled from the
20 street block wall I should say, whether it's pulled forward
21 from that block wall, whether there is a porch or not a
22 porch. And I'd like to show you some quick photos of those
23 examples. The photo in the upper left, transition from one
24 to two, there is a slight shift in block wall. It's not
25 really visible because of the tree.

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1 And then the porch -- the height of the porch
2 changes, relatively minor there, from two to three. And
3 three -- condition three includes the subject property. You
4 see a roughly six-foot change in the block wall and porches
5 that move out much closer to the street.

6 In transition three-four in the lower left, you
7 see the group of four row houses that are identical. The
8 last one of the four has already had its porch removed, and
9 it transitions to a series of row houses that have no
10 porches, have bay windows. And so there the block wall seems
11 to move forward and the bay window is the predominant element
12 in those. So really, the feeling is that the facade, there's
13 sort of an in and out, back and forth going on, changes in
14 scale, changes in architectural elements. Transition
15 four-five shows a shift back to porches. Condition five-six,
16 porches stop and an apartment building occurs; six-seven, no
17 porches but again, bay windows that culminate with sort of
18 turret roofs. And then sort of at the end of the block,
19 seven-eight-nine, you see there a rapid change from bay
20 windows to porches to a relatively tall apartment building.

21 So as you move down this block, your eye is
22 constantly changing. It's constantly receiving information
23 about a different architectural move. In that sequence, in
24 that overall sequence of things, what we believe is that the
25 subtle porch alteration is imperceptible. And what we have

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1 here is essentially the existing condition, so you see to the
2 left, there's one type of porch; to sort of in the middle is
3 the four identical row houses, one of which already has its
4 porch removed; and then the row houses with no porches. And
5 in that context, the partial porch alteration is just a blip
6 in a larger block of discontinuity, changes in character,
7 changes in architectural elements.

8 I should we struggled right at the last minute to
9 try to get you a visual to show, but one of the other things
10 that the homeowner intends to do here is to paint the brick
11 a light grey and then the trim would be a slightly darker
12 charcoal grey. And what that does is it also further
13 delineates the difference from the partial porch that we're
14 proposing to the porch that's directly to the right that it's
15 connected to. If you see, theirs is essentially white or
16 cream. The proposal on ours is that it be charcoal grey and
17 you would see a very distinct line where that splits, and so
18 there's further separation from the neighbor in that point
19 visually.

20 So at this point, I'd just like to respond to a
21 couple of the items in the OP report. One item Marty alluded
22 to, which is speaking of the parking zone, and the porches
23 have traditionally provided protection or shade for the
24 parking zone. Typically, that's something that is considered
25 beyond the building restriction line. That's sort of --

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1 those are projections, bay windows and porches, that are
2 allowed to be constructed beyond the property line. All of
3 these moves that occur on this block are within the building
4 restriction line, within the property line. So really, I
5 would think that that's not relevant here but even more than
6 that, we have almost 50 percent of the houses don't have
7 porches or 50 percent of the block doesn't have porches. So
8 are we saying that the people who park directly in front of
9 a house that doesn't have a porch somehow don't feel the same
10 experience or somehow don't feel as safe to park there? I
11 think it's not quite correct.

12 COMMISSIONER MAY: I'm sorry, are you talking
13 about parking cars?

14 MR. FOTIU: This is OP's report.

15 COMMISSIONER MAY: Right. So, just so you
16 understand, parking in this context --

17 MR. FOTIU: The streetscape zone.

18 COMMISSIONER MAY: -- it relates to the park-like
19 character of front lawns. It has nothing to do with vehicle
20 parking.

21 MR. FOTIU: Okay. So even if it's about
22 streetscape --

23 COMMISSIONER MAY: Planning can explain that.
24 Christine, the Office of Planning --

25 MR. FOTIU: -- so even if it's about streetscape

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1 --

2 COMMISSIONER MAY: It's just about streetscape.

3 MR. FOTIU: So in the same context, if it's about
4 streetscape, my --

5 COMMISSIONER MAY: It's -- well, yes, I mean
6 street case and again, the park-like character of the front
7 yards.

8 MR. FOTIU: Okay. So my point -- my second point
9 still speaks to that which is that 50 percent of the houses
10 already do not have a porch, in which case are we saying that
11 somehow those houses don't speak to the street or don't have
12 the same sort of relationship to the park-like setting of the
13 streetscape?

14 The next comment is about integrity and character
15 in the OP report, and I believe that our very point is about
16 the fact that the character of this block is one of variety
17 and different types of architecture. And so a porch
18 alteration of this small amount is really one that does not
19 -- could not have the impact of negatively altering the
20 integrity of the block.

21 And finally, there's a comment about window
22 treatments. I'm not sure -- it alludes to window treatments.
23 I'll speak to that for a second but there's a second comment
24 in there. We are replacing the windows with windows that
25 would be approved in a historic district, which isn't

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1 necessary in this particular case but it's something that the
2 homeowners wanted to do, and so it's a high-quality window.
3 The windows themselves, the openings aren't being altered at
4 all. The window product itself will be a high -- it is a
5 high-quality product what has been installed. I believe what
6 was being alluded to was when you remove the porch, what
7 about the areas of the building that used to be covered by
8 a porch. And in that case, it's face brick and the face
9 brick that exists underneath the porch when the porch is
10 removed, the intention here is to repoint the brick with
11 similar joints to the rest of the face brick and then to
12 paint the entire facade. So it will be imperceptible where
13 a porch had been and where there had not been a porch. So
14 I believe the comment about that we had not addressed what
15 is going to happen if the porch alteration is approved, what
16 we would do to the brick, I think, I just wanted to speak to
17 that for a moment. Yes, go ahead. Thank you.

18 MR. SULLIVAN: So in closing our presentation, I
19 just want to touch on a couple of the issues that the ANC has
20 raised and I'm sure we'll maybe address them again in
21 rebuttal and closing. But if I could just briefly, there is
22 a claim that the removal of the front porch would convert
23 this from a three-story building to a four-story building.
24 The removal -- first of all, that's self-certified and this
25 plan was approved by DCRA in October. But the removal of the

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1 porch itself doesn't have any impact on the measurement of
2 -- on the building height measuring point as it relates to
3 stories but also, we're self-certifying. So if that were the
4 case, then we wouldn't be here.

5 There's a claim that the variance is required for
6 the accessory structure for the height and gross floor area,
7 but those provisions are tucked within the rear yard
8 requirement because they only apply when you're in a
9 required rear yard and they're in the rear yard section of
10 the accessory building regulations. And so special
11 exceptions as it applies to yards, the Zoning Administrator
12 has determined that those provisions are tucked into the rear
13 yard and, therefore, get special exception. Actually, that's
14 also an item that's self-certified and so if the Zoning
15 Administrator changed his mind, that would be on me because
16 I self-certified to that.

17 Conversely, if we were over 20 feet, it would be
18 a variance in any case because then we would be in violation
19 of the height section of the accessory building regulations.
20 So between 10 and 20 feet, it's a special exception.

21 There's a claim that you'll read and they're
22 saying we're asking for something four times the size of
23 what's permitted. I have no idea why this accessory building
24 and required rear yard was limited to 100 square feet.
25 That's essentially saying you can't have a garage in a

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1 required rear yard anymore. And so everybody that builds a
2 garage needs special exception relief from that provision and
3 would probably be at least two, three, or four times larger
4 than 100 square feet.

5 Pervious surface was raised. We did revise the
6 plans to clarify that we're over the 20 percent and it's also
7 a self-certified item, and that's all I have.

8 Regarding the petition, I'll just mention I think
9 the petition itself, which had a few signatures, was somewhat
10 misleading. It talks about reducing the required rear yard
11 setback from 20 feet to 15 feet. We have 40 feet. It says
12 we don't comply with the pervious surface requirement, which
13 we do. And then it misstates the lot occupancy limit by four
14 percent, which is a minor difference. Steve, you have
15 something --

16 MR. FOTIU: I just want to add it seemed like
17 maybe there was some confusion about what you said about the
18 garage request. So right now, an accessory structure is
19 allowed to be 100 square feet. If you want an accessory
20 garage, you know, a typical parking space is 9 feet by 18
21 feet, so that's already more than 100 square feet. So if
22 you're looking to do a garage, you're already going to have
23 to ask for special exception.

24 COMMISSIONER MAY: Not if there's sufficient rear
25 yard space between the garage and the house.

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1 MR. FOTIU: For a garage --

2 COMMISSIONER MAY: If the space --

3 MR. FOTIU: That's just --

4 COMMISSIONER MAY: -- if you got 20 feet --

5 MR. FOTIU: Right.

6 COMMISSIONER MAY: -- between the garage and the
7 house, you don't need a special exception to build a garage.

8 MR. SULLIVAN: Correct.

9 MR. FOTIU: Correct.

10 MR. SULLIVAN: Right. It's just for when you're
11 in the required rear yard.

12 COMMISSIONER MAY: Right.

13 MR. SULLIVAN: Right, which all of these buildings
14 are or most buildings in the row house district would be.

15 COMMISSIONER MAY: I'll get to my questions in a
16 second. Thank you.

17 MR. SULLIVAN: So that's all.

18 CHAIRMAN HILL: Okay. I agree. All right.
19 Thanks, Mr. Sullivan. Okay. Let's go to the Office of
20 Planning first. Do you want to go to -- okay. all right,
21 sure. Commissioner May, you want to do your questions now?

22 COMMISSIONER MAY: Yes, please. Thank you. So
23 you talked about the repair that would be done to the brick
24 if the porch is removed. So yes, I mean I think you alluded
25 to this or mentioned it specifically that very often the

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1 brick that is, you know, behind where the porch is attached
2 is a sidewall or rearwall brick as opposed to a front-facing
3 brick with a narrow joint or something. I don't know what
4 the particular detailing is here. And you talked about
5 repointing but repointing doesn't necessarily fix joints if
6 the bricks are of different sizes or of a different finish.
7 So would you be removing those bricks and toothing in new
8 brick that matches the old?

9 MR. FOTIU: No. The intention is to have --

10 COMMISSIONER MAY: Yes. So let me just tell you
11 that I am a student of porches, okay, and particularly in
12 RF-1 neighborhoods, and I can tell you I can think of one
13 example where a porch has been removed where it is not
14 visible. And I forget the exact address. It's on F Street
15 N.E. But there's only one example and they removed the brick
16 and they toothed in new brick to match the old and you don't
17 notice it. That's the only way to do it. So that's just a
18 statement. That's not a question.

19 And I have a question about the rear yard relief
20 and this goes to the addition. So if there had not been an
21 addition that was already approved, would there be relief --
22 would you need relief for the garage; would there already be
23 a 20-foot rear yard?

24 MR. FOTIU: If the addition had not been --

25 COMMISSIONER MAY: Built.

1 MR. FOTIU: -- built --

2 COMMISSIONER MAY: Right.

3 MR. FOTIU: -- then we would not need the -- we
4 would still need a special exception for the size and for the
5 proposed height of the garage, however, not for the --

6 COMMISSIONER MAY: No, no, no.

7 MR. FOTIU: -- lot --

8 COMMISSIONER MAY: I'm not talking about the
9 10-100 rule. I'm talking about --

10 MR. FOTIU: Yes, not the lot occupancy.

11 COMMISSIONER MAY: If the addition had not been
12 built, which was part of your original approved project that
13 you've already built, right -- if that had not been built,
14 was there 20 feet between the back of the house and where you
15 would be building your garage?

16 MR. FOTIU: Yes. There would have been 20 feet.

17 COMMISSIONER MAY: Right. Okay, thank you.

18 CHAIRMAN HILL: All right. Anybody else?

19 MEMBER JOHN: So when you purchased the house,
20 were you aware that the porch was in disrepair and might need
21 extensive work?

22 MR. HAITH: Yes, we were. That's part of the
23 reason why we decided to remove it.

24 MEMBER JOHN: Okay. All right, thank you.

25 MR. HAITH: The whole was in total shambles so

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1 what we're doing we're really proud of. I think the
2 neighborhood should be, too.

3 MEMBER JOHN: Sure. And one more quick question.
4 I'm still confused about the month and year that you got the
5 permit to do the renovations.

6 MR. HAITH: We received the permit in October of
7 2017. We submitted and were accepted into the permitting
8 process prior to the rule change. We did that in March. The
9 rule change happened in April with no vesting.

10 MEMBER JOHN: Okay. But the permit was issued
11 10/17?

12 MR. HAITH: Correct, after our meeting with DCRA
13 --

14 MEMBER JOHN: Right.

15 MR. HAITH: -- saying we could remove the porch.

16 MEMBER JOHN: But that's still the operative date
17 --

18 MR. HAITH: Correct, yes.

19 MEMBER JOHN: -- 10/17? Okay. Thank you.

20 VICE CHAIR HART: Mr. Fotiu, you've provided us
21 with your analysis of looking at the porches in the kind of
22 -- that would support your contention that this is not a, you
23 know, similar street frontage along Ontario in this location,
24 so there is a variety of street frontages, and this is
25 different than some of the other places where you're taking

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1 out almost the -- you're taking out a porch in an area that
2 there is a continuous line of purchase. But I didn't see you
3 talk about where you think -- because right now you're
4 proposing kind of a partial porch. Do you have instances
5 where that has been -- like where they've done what you're
6 proposing, because it seems like there is the -- either you
7 have porches or you don't have them or you've taken one, a
8 complete porch out, but I hadn't seen any instances where
9 you've looked at just kind of putting in a portion of a
10 porch, so the roof.

11 MR. FOTIU: That's a good question. I didn't do
12 an extensive search for such a condition. I wasn't really
13 looking for that. I apologize, I think -- hearing your
14 question, I see that that would have -- that may have been
15 helpful. I think we were focused really on the case that we
16 were trying to make, which was that because of the overall
17 block having a lot of different conditions, that the partial
18 alteration wouldn't have an impact.

19 VICE CHAIR HART: No, no, I understood that. I
20 was just trying to think of -- you have instances -- you've
21 shown us a variety of instances along this particular street
22 frontage where they have done a lot of different things but
23 not what you're proposing.

24 MR. FOTIU: That's correct.

25 VICE CHAIR HART: So I just didn't know where that

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1 came from.

2 MR. FOTIU: I don't have an example that I could
3 show you to point out someplace else where a partial porch
4 alteration has been done and what impact it has.

5 VICE CHAIR HART: Yes. I mean just it looks a
6 little odd because of what you've kind of shown along the
7 block. And the image that you had on your PowerPoint that
8 shows the kind of before and after -- I don't know which
9 slide this is, slide 56 and 57, you know, kind of showing it,
10 just -- like I said, it just looks a little bit odd.

11 MR. FOTIU: I'd like to, if I could, I want to
12 pull out the thumb drive and I apologize if the presentation
13 goes black, but I wanted to point out we have a version of
14 this that shows the paint that the owner plans to apply and
15 what that does for the porch. I think it has an impact
16 that's worth seeing if you don't mind.

17 CHAIRMAN HILL: I'll tell you what, while your
18 loading that, let me go ahead and turn to the Office of
19 Planning.

20 MS. THOMAS: Good afternoon, Mr. Chair. Karen
21 Thomas for the record. We are not in support of the removal
22 of this porch, partially or otherwise, for the simple reason
23 that the porches in this neighborhood, whether they block
24 face shifts or not, are an integral part of the residential
25 character of the street frontage. So simply put, we don't

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1 think that the removal would satisfy the purpose -- the
2 intended purpose of the regs, which is to maintain the
3 character of a neighborhood or not substantially alter the
4 character.

5 We think that the altered porch would create an
6 incompatible facade with the remaining row dwellings in the
7 group, and that group being those four homes even though one
8 of the -- the yellow house is shown with the porch removed.
9 We think that continuing that pattern will alter that
10 extental (phonetic) of homes. So I don't think it's very
11 complicated for us. Porches do form an integral part of
12 of the RF-1 where they do exist and that's something that we
13 would not be in the habit of encouraging the removal of
14 porches in the RF-1.

15 And with respect to the garage, we have no issue.
16 We take no issue with the special exception request for the
17 garage structure and with that, I'll stand on the record of
18 our report.

19 CHAIRMAN HILL: Okay. Dos the Board have any
20 questions for the Office of Planning?

21 COMMISSIONER MAY: Yes. So with regard to the
22 circular argument or the route -- the argument that the
23 regulations are circular when it comes to removal of porches,
24 I mean basically the regulation state that you can't remove
25 a porch or a turret or other defining feature in a row house

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1 like this, right?

2 MS. THOMAS: That's correct.

3 COMMISSIONER MAY: And so going to 5203.3, which
4 has to do with roof additions, for -- the route for relief
5 seems a little -- I don't know if that makes sense.

6 MS. THOMAS: I think in discussion, we believe
7 that the term porch and those other aspects were
8 inadvertently left out, and that's something that we intend
9 to take a look at and --

10 COMMISSIONER MAY: So there's something missing
11 with regard to conditions --

12 MS. THOMAS: Yes.

13 COMMISSIONER MAY: -- for a special exception
14 approval related to removal of a --

15 MS. THOMAS: Removal --

16 COMMISSIONER MAY: -- feature like --

17 MS. THOMAS: Yes, because --

18 COMMISSIONER MAY: That rings true to me as well.

19 MS. THOMAS: Yes.

20 COMMISSIONER MAY: I can't remember the exact
21 discussion when this was all being debated but certainly, the
22 key issue is this, you know, a contributing factor; is it
23 something where it doesn't really matter very much because
24 there isn't that much integrity or it's sort of a one-off?
25 So I understand and appreciate that and I appreciate that

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1 clarification.

2 I'm a little confused as to why the Office of
3 Zoning supports the relief related to the garage when it
4 comes to the 10-100 rule as it were, because the 10-100 rule
5 was never intended to be about putting garages in rear yards.
6 It was about being able to have a shed or something, right?
7 I mean 100 square feet is just a shed, a storage shed. But
8 the Office of Planning seems to have bought into a pretty
9 bizarre interpretation that I think that DCRA has come up
10 with, yet another of those things I have to list on my areas
11 of disagreement with Matt LeGrant in the interpretation of
12 zoning regulations.

13 But I don't understand how you can connect these
14 two things. I mean basically, this is a kind of a backdoor
15 way to get relief that the Zoning Commission never intended
16 to be relief as a special exception in my view. So I'm
17 wondering how you -- I mean how are you connecting the 10-100
18 rule to the relief that's requested in this circumstance?

19 MS. THOMAS: Well, I did discuss this with Matt
20 and I don't want to speak for DCRA --

21 COMMISSIONER MAY: Of course, yes.

22 MS. THOMAS: -- but there needs to be some clarity
23 with these provisions as well. The way we looked at it is
24 -- was that if this were the case, then every garage within
25 the R-1 would require special exception relief because --

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1 COMMISSIONER MAY: Right.

2 MS. THOMAS: -- because it presumes a lot that is
3 extra long, a deep lot --

4 COMMISSIONER MAY: Right.

5 MS. THOMAS: -- for it not to be within that --

6 COMMISSIONER MAY: -- but within the required rear
7 yard --

8 MS. THOMAS: Yes.

9 COMMISSIONER MAY: -- but the required rear yard
10 is only 20 feet.

11 MS. THOMAS: Twenty feet.

12 COMMISSIONER MAY: And theoretically, your lot
13 occupancy is 60 percent so theoretically, the first 60
14 percent of your lot is your house, then you can have a
15 20-foot rear yard, then you can have a 20-foot garage --

16 MS. THOMAS: Right.

17 COMMISSIONER MAY: -- in a normal matter of right,
18 you know --

19 MS. THOMAS: So --

20 COMMISSIONER MAY: -- confirming lot.

21 MS. THOMAS: -- so what Matt -- Mr. LeGrant is
22 looking at, "perhaps," he said -- and then this would negate
23 the whole issue of why they're here in the first place, but
24 we will not get into that but I'll just explain that at times
25 past, they would look at the portion of the garage that would

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1 actually be in that area of the required rear yard, which
2 would be the 20 feet. And the other portion would be out of
3 it. Let's say you have --

4 COMMISSIONER MAY: Right, partially in, partially
5 out.

6 MS. THOMAS: Partially out, yes. So, you know,
7 we looked at it this way and that and -- but we did discuss
8 it and we realized that there is some clarity needed with
9 respect to that, because we would not typically support
10 relief for height under any circumstances and --

11 COMMISSIONER MAY: Right.

12 MS. THOMAS: -- as a special exception --

13 COMMISSIONER MAY: Right.

14 MS. THOMAS: -- it rightfully should be a
15 variance. The way I looked at it was that if you look at it
16 with it partially in, partially out, you would have -- in
17 this case, the garage would be nine feet. It would meet the
18 10-foot rule within that section of the required rear yard,
19 and out of the rear yard, as you go towards the alley, it was
20 the 13 feet. We, you know --

21 COMMISSIONER MAY: Did you, sort of, do you
22 calculate how much of it was going to be --

23 MS. THOMAS: -- because the height --

24 COMMISSIONER MAY: Yes.

25 MS. THOMAS: -- we don't exactly know how much.

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1 I mean that could be provided by the Applicant --

2 COMMISSIONER MAY: Yes.

3 MS. THOMAS: - if it's a 100 square feet or more
4 because it --

5 COMMISSIONER MAY: Well --

6 MS. THOMAS: -- would be two situations, but the
7 height itself is nine feet --

8 COMMISSIONER MAY: No, I got that point.

9 MS. THOMAS: Yes. And so --

10 COMMISSIONER MAY: I mean if you buy that line of
11 argument -- well, I haven't bought into that line of argument
12 that you can -- that the 10-100 rule was intended to address
13 situations for garages where you would park cars. So that's
14 one of the big things that I'm struggling with here so --

15 MS. THOMAS: Yes.

16 COMMISSIONER MAY: All right. I appreciate your
17 explaining why it was that you --

18 MS. THOMAS: That we --

19 COMMISSIONER MAY: -- agreed with DCRA's bizarre
20 interpretation.

21 MS. THOMAS: Yes, okay. Thank you.

22 MEMBER JOHN: Mr. Chairman?

23 CHAIRMAN HILL: Sure, of course.

24 MEMBER JOHN: I still don't know if I understand
25 this but under Section 5007, there's a special --

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1 CHAIRMAN HILL: Okay. All right. So I'm sorry,
2 go --

3 MEMBER JOHN: Might be for OP --

4 CHAIRMAN HILL: Sure, go ahead, ask again. I'm
5 sorry.

6 MEMBER JOHN: -- or OAG. So there's a special
7 exception for the development standards of this chapter which
8 would be the accessory building structure in the RF zone.
9 So that would seem to allow a special exception for this
10 structure in the rear yard. So I'm not sure if I've got the
11 right provision.

12 MS. THOMAS: Yes. You have the right provision
13 because it starts off with special exception; 500 starts off
14 with the exceptions to the development standards shall be
15 permitted as a special exception --

16 MEMBER JOHN: Okay.

17 MS. THOMAS: -- under X and then under Subtitle
18 E 5201. So --

19 MEMBER JOHN: Then it referred --

20 MS. THOMAS: -- you could -- yes --

21 MEMBER JOHN: -- refers --

22 MS. THOMAS: -- it just refers --

23 MEMBER JOHN: -- refers --

24 MS. THOMAS: -- and refers and refers, yes.

25 MEMBER JOHN: Okay. All right. Thank you.

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1 MS. THOMAS: Okay.

2 CHAIRMAN HILL: Okay. God, I can imagine people
3 -- do you guys like sit around OP and just banter things
4 around and try to -- does the Applicant have any questions
5 for the Office of Planning?

6 MR. SULLIVAN: Yes. Thank you. Ms. Thomas, were
7 garages and accessory buildings, under the 1958 regulations,
8 were they permitted as a matter of right in required rear
9 yards without restriction, without these restrictions?

10 MS. THOMAS: I think without these restrictions.
11 I can't remember. I can't recall without it in front of me
12 so.

13 MR. SULLIVAN: And then your report opines that
14 this garage, exceeding the 60 percent lot occupancy and
15 exceeding the 10 feet in height up to 13 feet and exceeding
16 the 100-square foot to the 375 or whatever it is meets the
17 special exception criteria in the zoning regulations as
18 currently written, correct?

19 MS. THOMAS: Yes. For the garage, yes.

20 MR. SULLIVAN: Yes. Thank you.

21 CHAIRMAN HILL: Okay. All right. Is there anyone
22 here from the ANC? Oh, yes, that's right. It's been so
23 long, you know. I know, just come on up. You guys are --
24 you're lucky everything's happening today, boy, I guess. I
25 don't know. It was meant to be, huh? And I apologize, I

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1 know you did it already but if you wouldn't mind just
2 reintroducing yourselves for the record?

3 MR. GUTHRIE: Ted Guthrie, ANC 1C.

4 MR. GAMBRELL: And Alan Gambrell.

5 CHAIRMAN HILL: All right. Mr. Gambrell, you're
6 a member of the public, okay, and so I'm going to do the ANC
7 first.

8 MR. GUTHRIE: He was, however, authorized
9 specifically by the ANC in our resolution to make a
10 presentation to this Board on behalf of the ANC.

11 CHAIRMAN HILL: Okay.

12 MR. GUTHRIE: We tried -- we --

13 CHAIRMAN HILL: No, that's all right. I'm just
14 trying to figure out what I'm supposed to do. So -- because
15 the ANC gets -- so what are --

16 MR. GUTHRIE: I'm not going to take more than a
17 couple of minutes.

18 CHAIRMAN HILL: -- Ms. Glazer -- no, that's okay.

19 MR. GUTHRIE: And then I'd like to pass it off to
20 him.

21 CHAIRMAN HILL: Okay. So you're -- and so I'm
22 looking to OAG again, and you're almost retired, Ms. Glazer,
23 but not just yet.

24 (Laughter.)

25 CHAIRMAN HILL: So you're, Commissioner Guthrie,

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1 saying that Mr. Gambrell was authorized by your ANC to speak
2 on behalf of the ANC?

3 MR. GUTHRIE: Yes, he was.

4 CHAIRMAN HILL: So you'd like to give some of your
5 time to him?

6 MR. GUTHRIE: Yes.

7 CHAIRMAN HILL: Okay. Is there an issue with that
8 Ms. Glazer? No. Okay. All right, then that's fine. So
9 then combined, you would have had eight minutes, okay, so
10 I'll put eight minutes on the clock and whatever you get to,
11 Mr. Guthrie, you want to pass off to Mr. Gambrell, you're
12 more than welcome to. And Mr. Gambrell, again, if it goes
13 a little over eight minutes, I'm not crazy, okay. So just
14 -- but, you know, it's we're trying to do this properly. So
15 ahead, Mr. Guthrie.

16 Oh, no, I lost -- my Mr. Secretary's gone. So I
17 have a little stop watch on here. I'm going to do it myself.
18 So go ahead and you can begin whenever you like. Hold on.
19 Commissioner May, he did the text savvy thing there the last
20 time as I recall.

21 Okay. Well, then you're out of luck I guess.
22 I'll go ahead and just do my own little clock here. I'll let
23 you know; okay?

24 MR. GUTHRIE: Okay. First of all, ANC 1C has
25 substantial understanding and concern for the Applicants

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1 based on their experience with DCRA. We have regularly had,
2 let's say, similar experience with DCRA where we hear one
3 thing and then we hear another thing and, you know, you don't
4 get bound until you wind up making decisions based on their
5 representations.

6 So we have sympathy there but the problem is that
7 I don't know if you've ever walked down the street, this is
8 a charming, charming street. And Adams Morgan is full of
9 lovely streets but this perhaps is one of the most charming.
10 It's only a block long and it has a wonderful symphony as you
11 walk down the street. It is not done in unison but there's
12 no requirement that I see in that regulation that it be a
13 unified block before the provision applies that says you
14 can't mess with this. This is more of a few and the only,
15 the only sour note along that side of that street is the one
16 that is of the foursome that some 30-40 years ago had the
17 porch stripped off before there were any regulations. And
18 it stands out. It's very clear that there should be a porch
19 there, and their proposal to have a demi-porch gives them
20 sort of a -- they're doing it for reasons other than
21 aesthetics. And I think that the requirement directly goes
22 to aesthetics and that their proposed change does not meet
23 the standards for making the alteration in what is very
24 characteristic on this block.

25 As far as the garage unit, I looked at the initial

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1 photos that they supplied and I thought, well, of course,
2 everybody else has a garage, why shouldn't they have a garage
3 back here. At that time, I wasn't aware that they'd already
4 bumped the house back both the original porch and I believe
5 another five feet beyond that so that they've taken up a
6 substantial amount of the rear yard with their, you know,
7 enclosed housing, which is perfectly fine but you don't get
8 to go back to the buffet line once you have decided that
9 that's what you want. You don't get to come back and then
10 exceed the lot limits, which is what they want to do. And
11 that just doesn't feel fair to the neighbors and yes, the
12 particular sun studies may suggest that there's not going to
13 be a significant number of plants that fail because they no
14 longer get any sun. But I believe it says "light and air"
15 and there is certainly a sense in the row house neighborhoods
16 that we need to have breathing space. We need to feel like
17 we're not in tenements. That's part of the point of being
18 in the row houses. And if you decide to push back the house,
19 you've given up, to our mind at least, the opportunity to
20 build a substantial structure on the rear that, you know,
21 would make it more than the 60 percent lot occupancy.

22 And I'd also point out that the disagreement with
23 the proportion of lot occupancy has to do with whether or not
24 you include the porch that they want to take off, and they're
25 taking that out of the equation and saying it's only 64

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1 instead of 69 percent lot occupancy after they put their
2 garage on. I don't think they get to take the porch off
3 until you say it's okay to take the porch off.

4 So in summary, ANC is opposed to this application
5 in both respects. We think that -- you know, we welcome them
6 to the neighborhood. We hope they enjoy their neighbors.
7 We hope the neighbors get along with them but please stop
8 taking the last shrimp off of the buffet plate, you know.
9 And we're all neighbors here and when you want to have more
10 than your fair share --

11 CHAIRMAN HILL: That's -- wait a second.

12 MR. GUTHRIE: -- you need to recognize that your
13 neighbors are not going to be happy with that.

14 CHAIRMAN HILL: Okay, I got it. Okay. All right.
15 So Mr. Gambrell, you know, you got another five minutes, I
16 suppose. He went a little over but Commissioner Guthrie, as,
17 you know, those things haven't cost the amount of tenements
18 in like forever. I mean that is not, you know -- and those
19 aren't tenement prices anymore. But okay, Mr. Gambrell.

20 MR. GAMBRELL: Okay. Again, my name's Alan
21 Gambrell, a former ANC 1C Commissioner. The vote in
22 opposition to the special exception was four, zero, and one,
23 and it is based on a recognition that special exceptions are
24 intended to accommodate special circumstances. This is not
25 the case for this property. It seems that the homeowners

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1 secured their initial permit but did not request a garage
2 because lot occupancy would be exceeded. Now they want a lot
3 occupancy special exception.

4 Relatedly, the homeowners chose to add an
5 additional 10 feet to the back which was a matter of right,
6 but this had an impact on lot occupancy and also made the
7 rear yard smaller and thus created a need for Board approval
8 for a garage.

9 The homeowners want to tear the porch off alleging
10 that DCRA's initial approval and then reversal puts them at
11 a cost disadvantage in having to preserve the porch, but then
12 they want approval instead to spend that money to build a new
13 garage, one that would exceed lot occupancy.

14 In summary, these challenges were created by the
15 choices that were made. The Applicant is really asking for
16 more than what RF-1 allows, more than what others on the
17 block have but most importantly, as the Office of Planning
18 report details, the request to remove the porch is in
19 conflict with the intended character of the RF-1 district and
20 is not supported by the special exception review criteria.
21 Removal of the porch would diminish the architectural
22 character of this RF-1 block. Opposition to most of what's
23 being requested is pretty overwhelming. It's the Office of
24 Planning report on the porch, the letters from over two dozen
25 neighbors including the abutters and the ANC. Notably, this

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1 opposition does not reflect an NIMBY, or not in my backyard
2 mentality; rather it's the belief that the integrity of the
3 zoning regulations is worth preserving.

4 I'm going to skip a little bit given my time
5 limits. I want to get to the porch first. Regarding the
6 matter of what we learned today, that this was partially
7 removed today, there are some neighbors that'll testify --
8 and I'll let them share their concerns on that -- I am
9 actually personally a little bit in disbelief that happened.
10 As I said, opposition to removal of this porch is
11 overwhelming. ANC 1C agrees with the Office of Planning
12 report to deny the special request to remove the porch.

13 The slideshow, it talks about the lack of rhythm.
14 Well, as you -- many of the Board members, if not all of you,
15 know that's pretty typical of how DC row houses are
16 developed. There aren't that many that necessarily have
17 identical characteristics. Oftentimes row houses were built
18 in little clusters. That's pretty standard. Furthermore,
19 that's not really a criterion in terms of the architectural
20 element of preservation. The porch removal, as Ted
21 mentioned, was done years and years ago. Bottom line, RF-1
22 architectural element is about protecting the neighborhood
23 characteristic of the block.

24 The Applicant had submitted an Exhibit 31-F, and
25 they cite 12 BZA cases where the Office of Planning had

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1 recommended approval to alter the architectural element. The
2 message seems to be, at least for me, go with the Office of
3 Planning recommendation. It was probably inadvertent, but
4 that Exhibit actually supports our position because the
5 Office of Planning also recommends denial to alter. So I
6 probably don't need to say more. Of course, we know the
7 Office of Planning report came out after Exhibit 31 was
8 submitted.

9 Regarding the concern about DCRA's initial
10 approval of this permit, again, I'm going to truncate some
11 of my comments. All parties really have a responsibility to
12 know what the regulations say. That includes architects.
13 Certainly, the ANC knows these rules, the neighbors know
14 them. Frankly, it's an unfortunate fact that errors do occur
15 on this very block of Ontario Place. There are currently
16 seven projects that have resulted in stop work orders,
17 working without permits, and other problems. DCRA should not
18 have issued a permit to remove the porch, but it appears that
19 little apparent harm was done as a consequence because no
20 action was taken in terms of the construction.

21 As for the alleged cost of preserving the porch,
22 the ANC really sees the zoning regulations as the only thing
23 we can all turn to in terms of finding some commonality.
24 Appeals to economic hardship end up pitting neighbor against
25 neighbor. In the discussion of the ANC resolution, there was

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1 recognition that the homeowners clearly had a right to make
2 choices on how to spend their money. However, the special
3 exception process does not seem to be the mechanism to
4 relieve parties of the choices they make. The owners
5 determined to incur expenses to add a floor, which is a
6 right; the owners chose to spend money to add 10 foot to the
7 back of the building, which was a right; the owners chose to
8 spend money to excavate and underpin the footprint of the
9 building but now limit spending to excavate new stairs to
10 enter under the porch. If the porch removal is approved,
11 there will certainly be new costs to demolish the porch, to
12 build a smaller porch and lay a patio service entryway.

13 Again, I'm going to skip through some comments
14 here as I wrap this up. Regarding the garage and the rear
15 yard, the PowerPoint that was reviewed with the shadow
16 studies, which was just submitted yesterday and we just had
17 an opportunity to look at it this morning, some of the
18 drawings are a little unclear. It seems the rear yards seem
19 too big. Proportionally, it seems like they have
20 20-foot-long garages which are the same length as the rear
21 yards, which I'm pretty sure these rear yards would not be
22 20 feet. The adjacent properties seem to be shown with
23 non-existing fourth levels. So those are just things that
24 have to be made observations on the fly looking at these
25 things on a phone. However, the issue is that homeowners

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1 created this problem, as Commissioner May pointed out.

2 In summary, the project is asking for more than
3 everyone else has, a lot more. Special exceptions should be
4 just that, special and exceptions. Two, opposition is
5 overwhelming and is not based on NIMBY mentality but rather
6 a desire to protect the integrity of the regulations, in
7 particular, the intent of RF-1. And ANC also asks the Board
8 to carefully consider how to handle special exception
9 requests that split intended development of a property into
10 multiple permits that actually create so-called hardships but
11 can seek to wash them away by using the special exceptions
12 process.

13 And just my final comment, I would like to respond
14 to a few things that Marty Sullivan mentioned in terms of
15 ANC's position and the petitions. Regarding the removal of
16 the porch would create four-story facade, I was hoping not
17 to get into this but, you know, it has to do with the whole
18 issue about what's a cellar, what's a basement. I'm just
19 going to avoid going into details on that.

20 Regarding the variance versus special exception
21 issue we raised, frankly, that's beyond my pay grade to get
22 into. I get very confused by it. My pay grade, by the way,
23 being here is zero. I get paid nothing.

24 Regarding the pervious surface calculation,
25 concede that point because I believe there's a new permeable

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1 walkway in the front to address the percentage requirement.

2 Regarding the garage impact, I think you're going
3 to hear later from the next door neighbor to speak to that.

4 CHAIRMAN HILL: Mr. Gambrell, I'm going to ask you
5 just to wrap it up just a little bit. I'm sorry.

6 MR. GAMBRELL: I have one more.

7 CHAIRMAN HILL: Okay.

8 MR. GAMBRELL: And then my last point was
9 regarding the rear yard depth of 40 feet, that's 40 feet
10 without a garage. So that there's no confusing there, the
11 OP report uses the 40-foot figure but with the garage, it's
12 not going to be 40-foot.

13 CHAIRMAN HILL: Okay, great. Okay. Thanks. Were
14 you here for the ambassador part, when there was an
15 ambassador here? No, you weren't?

16 MR. GAMBRELL: I wasn't here, no.

17 CHAIRMAN HILL: I think you get to be called
18 Commissioner for life now apparently, probably get to
19 whatever that title is. So all right, does the Board have
20 any questions of the witnesses?

21 (No response.)

22 CHAIRMAN HILL: I guess just Commissioner Guthrie,
23 the -- as far as the garage goes -- and I mean again, you
24 know, I'm a little bit -- you know, you guys talk about the
25 light and air from the garage. I mean you really -- I mean

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1 the -- your ANC was thinking that that garage did take away
2 light. I'm just trying to understand. You really -- are you
3 -- were you guys opposed to the garage because of the light
4 and air or more because it seemed like, you know, they were
5 going after -- you know, going -- returning to the buffet,
6 if you will?

7 MR. GUTHRIE: Had they not extended the house
8 back, I don't believe that there would have been objection
9 to having the garage.

10 CHAIRMAN HILL: Got it.

11 MR. GUTHRIE: But it's like asking for both
12 things.

13 CHAIRMAN HILL: That's okay. I understand. Okay.
14 Anybody else? No.

15 (No response.)

16 CHAIRMAN HILL: All right. Thank you, gentlemen,
17 very much. All right. So, Mr. Sullivan, we're back to you,
18 I guess. Oh, no, I'm sorry. Wow, I forgot. You don't have
19 to worry, I forgot it completely. Does anybody here wish to
20 speak in support?

21 (No response.)

22 CHAIRMAN HILL: Is there anyone here who wishes
23 to speak in opposition? Okay, please come forward. Sure,
24 why not. Come on up. You've been here all day. Okay. Did
25 you all get sworn in I assume? Okay. So if you'd introduce

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1 yourselves for the record? Please let's go through that
2 first, if you could just introduce yourselves for the record
3 and give us your address. You need to push the button.

4 MR. OLOWOFOYEKU: Toby Olowofoyeku, 1878 Ontario
5 Place.

6 CHAIRMAN HILL: Give me one second. Could you
7 spell your last name again, sir? Could you say your last
8 name.

9 MR. OLOWOFOYEKU: It's pretty difficult.
10 Olowofoyeku.

11 CHAIRMAN HILL: Your last name?

12 MR. OLOWOFOYEKU: Yes, Olowofoyeku. You want me
13 to spell it?

14 CHAIRMAN HILL: Yes. I think maybe we'll go ahead
15 and have you spell it for the transcriber.

16 MR. OLOWOFOYEKU: O-L-O-W-O-F-O-Y-E-K-U, 20-year
17 resident Lanier Heights.

18 CHAIRMAN HILL: Oh. All right. How do you say
19 it again? How do you say?

20 MR. OLOWOFOYEKU: Olowofoyeku. It means -- it's
21 got a meaning.

22 CHAIRMAN HILL: Sure, you can tell us.

23 MR. OLOWOFOYEKU: An uncrowned hero.

24 CHAIRMAN HILL: Oh.

25 (Laughter.)

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1 CHAIRMAN HILL: Okay.

2 (Laughter.)

3 CHAIRMAN HILL: An uncrowned hero, okay. That's
4 great. That's actually one I don't think I can pull off.
5 Okay. Your name, please?

6 MS. PETERS: My name is Ann Peters. I'm at 1836
7 Ontario Place.

8 CHAIRMAN HILL: Great. Peters I can say. Okay.

9 MS. BRYANT: My name is Pat Bryant, and I'm at
10 1888 Ontario Place.

11 CHAIRMAN HILL: Okay. Sir, what did the name mean
12 again? No, really, what did the name mean again?

13 MR. OLOWOFOYEKU: In Yoruba, uncrowned hero.

14 CHAIRMAN HILL: Uncrowned hero. Okay. All right.
15 So Mr. Uncrowned Hero --

16 MR. OLOWOFOYEKU: Yes.

17 CHAIRMAN HILL: -- you have three minutes, and you
18 can go ahead and give your testimony whenever you like.

19 MR. OLOWOFOYEKU: We residents of Lanier Heights
20 spent many years -- and it's even in the news we had a big
21 battle over pop-ups and pop-backs. We welcome all new owners
22 to Lanier Heights, but they need to follow the rules. 1834
23 proposed request goes against what the Lanier Heights
24 neighborhood fought for for several years to get our rezoning
25 to RF-1. 1834 pops back at least 10 feet, and if you go and

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1 look at it from the back, it's much higher than everybody
2 else, wants more and more and more all the time. Now they
3 want to take all the space in the -- additional space for the
4 garage. They want to go past the lot coverage by another 10
5 percent when the rest of us are living with 60 percent. They
6 even want the garage which they are proposing to be 13 feet
7 high. Everybody else, most of us have 10-foot garages.

8 Yes, it looks like by taking the front porch out,
9 the house will actually look like a four-story house if you
10 look from the basement. It's -- that's not what all of us,
11 including mine -- we actually look more like three-story
12 houses. The basement is hidden from the front.

13 We should not allow this Applicant to breach all
14 the new -- all the rules that residents, including myself,
15 have fought very hard for for several years. Their special
16 exception is being used to break not just one, more garage,
17 porch, the top. Goodness gracious, why don't you just build
18 over the whole -- I'm sorry to add that -- why don't you just
19 build over the whole lot and then we don't need to look at
20 you in the face? There are seven to eight current
21 conversions on my street. Three of them have stop work
22 orders. All of them come to the street and they want to bend
23 the rules. They want to go and break -- they're going to the
24 basement and break everything. Two doors from mine, they
25 were breaking into the back, disturbing us on Sunday. They

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1 had to go and get a stop -- luckily DCRA or whoever gave them
2 a stop work order.

3 The owners and the architects know the rules.
4 When they were applying for the building permits, that is the
5 time to put in I want so and so garage, not after you
6 pop-back and you are longer than everybody else. Now you
7 want to come add the garage after. It's too late. I mean
8 we don't -- you don't -- don't be greedy. Just stay with
9 your 60 percent, and we'll all be happy.

10 Now the garage demonstrations they have given us
11 are not actually true. They didn't show their own building
12 going further than everybody else. They just showed you they
13 were the same length. Their building is at least 10 feet --
14 in fact, from the actual boundary of the old property, it is
15 14 feet back. How much more do you want? I mean I'm one of
16 those who stay at the extreme end, which is the original
17 14-feet of the original end of your house.

18 Now this man, they've already added the 14 feet,
19 maybe 10 feet longer than theirs. That should be enough.
20 You have most -- you have enough space in there which you
21 could have used for your garage. It's too late now. It's
22 too late.

23 CHAIRMAN HILL: Okay. All right. Thank you, sir.

24 MR. OLOWOFOYEKU: Thank you.

25 CHAIRMAN HILL: Ma'am?

1 MS. PETERS: All right. Thank you. One quick
2 point. We did upload yesterday Exhibit 47. It is comments
3 in opposition from myself, Ann Peters, and my husband, David
4 Alexander. Just want to mention him there as well.

5 CHAIRMAN HILL: Yes, we got it.

6 MS. PETERS: And thank you for considering our
7 concerns and our opposition to the special exceptions
8 requested in this application. I do live right next door at
9 1836 Ontario Place. We have lived there in our home for
10 nearly 20 years.

11 I will not repeat everything that's in my comments
12 of opposition, but I do want to highlight a number of points
13 and in particular, starting from the back of our house and
14 the opposition to the special exceptions to exceed the lot
15 occupancy maximum and to build a larger than permitted
16 accessory structure in the rear yard.

17 As has been pointed out before, our new neighbors
18 have already substantially extended the original footprint
19 of the home. Before the new construction, we were four
20 houses in the back all in a row, all of fairly equivalent
21 length in the back as well. They decided to go back beyond
22 their rear walls, I think estimated by 14 feet or so, up
23 three stories given that it's two stories of an extended
24 internal living space and a third rear level with an
25 extensive roof deck with windows facing into our yard on

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1 those two levels.

2 I did want to point out, as my neighbor here has
3 said, when the photos -- if our colleagues over there want
4 to go back to the photos of the rear by the garages, those
5 are photos taken prior to any construction. It does not show
6 the extension of the current construction.

7 CHAIRMAN HILL: I'm sorry, we --

8 MS. PETERS: So I just put that there --

9 CHAIRMAN HILL: -- we do understand.

10 MS. PETERS: I should also say that in -- related
11 to the petition signed by the neighbors, it was signed.
12 Whatever concerns there are, it does -- with information on
13 there, it was signed by everyone on either side and then two
14 houses over, 1832, 1836, 1830, and 1838.

15 We also just wanted to point out beyond what we
16 were talking about that there is no special need here, no
17 special exception, and we do need to stick to that 60 percent
18 lot occupancy. In this particular situation, it's even more
19 important given the extension on the back and then pushing
20 in and the light and air flow. And we need that open space
21 within our neighborhood.

22 Regarding the porch, I do want to say that earlier
23 this afternoon while we were here waiting, a little before
24 1:00 -- and I did not see this till later -- we were advised
25 that demolition had begun on the porch. The porch has --

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1 while it was in somewhat disrepair when the new neighbors
2 purchased it, it has seriously declined even further under
3 their ownership, which has been a concern for us for quite
4 some time. But we believe that it is an integral part of our
5 neighborhood, the porch-scape; 1834 is actually in the middle
6 of a set of three full porches. The current configuration
7 on that is unusual by any stretch of the imagination.
8 There's nothing else like what they are proposing there, and
9 we firmly believe that it should remain a porch roofline
10 there.

11 CHAIRMAN HILL: Okay. Thanks, Ms. Peters. Ms.
12 Bryant?

13 MS. BRYANT: I only have a general comment because
14 all the details really have already been expressed, but that
15 is that as a layperson who doesn't necessarily aspire to
16 become an architect or a regulatory affairs person, or a
17 zoning attorney, there is a lot of time that residents are
18 being required to spend to what feels like protect their, you
19 know, their quality of life. And I really don't want to have
20 to go house-by-house and go through this process, and I also
21 have enough of a sense that this is sort of downstream from
22 everything, that it really starts at a different point, DCRA
23 being perhaps the starting point.

24 But I'm just expressing my sort of lack of comfort
25 with this process. Again, it has felt very adversarial and

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1 that's not where I want to be in life, and I don't think
2 anybody on our street wants to be there. So if there's
3 anything you can do to stop this --

4 CHAIRMAN HILL: Yes. That's -- okay --

5 MS. BRYANT: -- process, I'd appreciate it

6 CHAIRMAN HILL: Yes, I appreciate it. I mean --
7 yes, what was I going say. I mean this is the process, and
8 this is how it works, and this is -- and I think this is
9 about as efficient as it gets, believe it or not. I mean
10 there's -- you know, everyone gets a voice, everyone gets to
11 do what they do when we're in front of this Board. And we're
12 actually the -- we're at the end of the line, you know, and
13 it's either, you know, one way or the other.

14 Sir, you can go ahead and make a quick comment if
15 you --

16 MR. OLOWOFOYEKU: I will just ask --

17 CHAIRMAN HILL: Sure.

18 MR. OLOWOFOYEKU: -- just asking a question. Why
19 today is somebody destroying their porch because we're here
20 discussing about the issues to do with the --

21 CHAIRMAN HILL: I know. It's okay. I mean if --
22 I don't -- if they don't get the ruling, then they'd have to
23 rebuild the porch, so you don't have to worry about it.

24 MR. OLOWOFOYEKU: Okay.

25 CHAIRMAN HILL: So let's see -- okay, thank you

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1 all very much. Unless, Mr. Sullivan, you have something?

2 MR. SULLIVAN: No, thank you.

3 CHAIRMAN HILL: Okay. All right. So we're back
4 over here. I guess I don't have a lot of questions I
5 suppose. Does the Board have any questions they want to ask
6 of the Applicant, final questions? No? No.

7 Does the Applicant have anything else they'd like
8 to say in closing?

9 MR. SULLIVAN: Just a couple minor points in
10 rebuttal.

11 MR. FOTIU: Well, I would just -- I would say that
12 part of the reason this has been relatively contentious is
13 that there's some misinformation that was used to convince
14 everyone that there were nefarious reasons why things were
15 done in the sequence they were done or -- but even the
16 conditions of our requests, for example, our addition
17 projects 4 foot 6 beyond the neighboring property. I think
18 we heard 14 feet; we heard 10 feet. It projects 4 foot 6
19 beyond the neighbors.

20 The study -- the shadow study, I will admit I did
21 not survey every backyard or property so there are some
22 differences in, you know, reality versus the -- study, but
23 what it does show is in really stark -- starkly shows that
24 the difference between a 10-foot garage and a 13-foot garage
25 is negligible. Also, I would say that the ANC posited that

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1 the one house that has its porch removed stands out really
2 like an eyesore, but I would say that, honestly, it's barely
3 noticeable. As an architectural -- as an architect and
4 someone who studies this and does this professionally, I
5 think with the variety of different things that are going on
6 on that block, it's not really that noticeable.

7 Finally, I would say that there's a lot of
8 statements about that we are exceeding the amounts that we
9 should be, 69 percent, 66 percent. These are all within the
10 special exception amounts, and I know that you, the Board,
11 understands that, but it's just part of the way that it's
12 been used to foment opposition on the street is to claim that
13 we're asking for things we should not be allowed to even ask
14 for. So I'll leave that at that.

15 And then the last thing I want to say is that OP
16 has stated today almost categorically that they would not --
17 that they don't approve these kinds of porch alterations, but
18 I believe that you, as a Board, have already seen such cases
19 and have approved porch alteration cases in the past 12
20 months that that's been in existence. Thank you.

21 MR. HAITH: I'd like to say just a few, I guess,
22 rebuttal comments. We were so happy to move into this
23 neighborhood. We had no ill intentions and still do not.
24 We had no idea and had we have known, we would have chosen
25 a different street because it's been a hard process. It's

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1 interesting to hear people talk about time and money. This
2 is my time and my money that I'm spending to be here to do
3 something that was approved by the City. I mean it's
4 interesting that our neighbors can say that their property
5 rights are more important than my property rights when we
6 have clearly shown that there are no real impacts.

7 The open space and air, you can't come onto our
8 property if we had a fence there so how do you get to enjoy
9 the open space of our parking pad? I just think that it's
10 a bit overblown. We are not developers here, and I
11 understand some of the opposition to what's happened on the
12 street. But this is not we're doing -- this is not a profit
13 margin that's shrinking. It's a shrinking bank account
14 because of this porch issue.

15 So we want to do what we think is fair and right
16 for the neighborhood. We think that we are adding value and
17 people should be happy compared to what was sitting there for
18 years dilapidated. And we hope that the Board will consider
19 that we just want to be good neighbors going forward. We're
20 going to live here and hopefully be happy. Thank you.

21 CHAIRMAN HILL: Okay. Yes, I mean -- and I
22 appreciate, you know, that you guys are going through this
23 and this is a process that is very stressful for everybody.
24 And so, you know -- but one way or the other, this is
25 probably going to end today. So okay -- oh, yeah, just I did

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1 have a question for the Office of Planning real quick again.
2 So as far as, again, the garage, right, like the analysis
3 that you're providing for the garage, the light and the air,
4 I mean it's not that I want you to repeat what you just said,
5 but you didn't have any issue with the garage or the 13 feet
6 height?

7 MS. THOMAS: No. We don't have an issue with the
8 13 feet height because it doesn't exceed the height for
9 accessory structures of 20 feet that's permitted in the area.

10 CHAIRMAN HILL: Okay. All right, great. So I did
11 this already. Anybody have anything else they want to add?

12 (No response.)

13 CHAIRMAN HILL: All right. Mr. Sullivan, that's
14 it, right?

15 MR. SULLIVAN: Short closing.

16 CHAIRMAN HILL: Oh, sure. Okay.

17 MR. SULLIVAN: I would just like to sum. I think
18 regarding the garage and the accessory structure, it's been
19 shown clearly that we meet the special exception requirements
20 of light and air and privacy and that I haven't heard
21 anything from anybody else disputing that other than just the
22 general dissatisfaction with wanting more than 60 percent or
23 being greedy. We're within the 70 percent and it meets the
24 special exception tests.

25 Special exceptions are not special circumstances.

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1 Special exceptions are permitted under the zoning regulations
2 if you meet certain requirements, and we meet those
3 requirements. And I don't think I have ever seen a garage
4 like this ever have this much consideration let alone be
5 denied.

6 Regarding 206, the problem that I have with 206
7 as a non-design professional is I don't know what to tell
8 people since apparently there are standards but they're not
9 written in the regulations. And we hear them and I try to
10 understand what they are. What I think we have is I think
11 we have an expert architectural designer who has designed
12 this porch and has given exceptional testimony on the whole
13 block and shown that this alteration is a minor alteration
14 that doesn't have a material effect on the character of the
15 neighborhood.

16 There have been cases in the past and we submitted
17 12 cases in our prehearing statement. I think my point was
18 that the Office of Planning is changing. There's a case on
19 Gerard Street. It's in Exhibit 30-F. It's the first page
20 of 30-F where a porch was removed, and the Office of Planning
21 supported that, and the BZA approved that. And this was on
22 a street where there were all porches, covered porches. So
23 the standard has changed somewhat, and it's difficult to
24 predict what it is.

25 If -- in the absence of a written standard, what

1 I think, what I thought that the purpose of the architectural
2 element provisions were to stop the egregious effect of the
3 pop-up or wiping out the mansard roof to go straight up or
4 as the architect testified to, you have a row of 25 and you
5 just drop the porch right in the middle of a row of 25. The
6 Board has approved special exception relief from 206 many
7 times, so there is room in there. There's a range and I
8 think it's somewhere -- it's not the same range as an
9 historic district; otherwise, the RF-1 is now the largest
10 historic district in the City and decisions on that are being
11 made by non-design professionals for the most part or a
12 non-design Board, with all due respect to Mr. May, of course,
13 who is a design professional. And I'm not -- I don't think
14 that's what the Zoning Commission intended, to make it
15 exactly like the historic district. And so I think there's
16 room in there for reasonable alterations, and I think that's
17 what the architect was testifying to so.

18 CHAIRMAN HILL: Okay.

19 MR. SULLIVAN: One more thing. I would like the
20 Board to, if it was inclined, to rule separately on these
21 areas of relief, to bifurcate the areas of relief and not
22 deny the entire application --

23 CHAIRMAN HILL: Okay. We'll see what happens.

24 All right. Okay. So the -- yes, as far as the
25 -- as far as your circular argument thing, I mean this is now

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1 two weeks in a row and so I also am trying to figure it out.
2 And I mean I don't know, you know -- and again, back to even
3 the comment that I think I made last week, which is that like
4 I don't think it is -- everything is not crystal clear,
5 right. And so that's where -- you know, that's why we all
6 end up here. You know, if it was then crystal clear, then
7 we wouldn't need this process which wouldn't really be -- it
8 would be okay with me, you know.

9 (Laughter.)

10 CHAIRMAN HILL: So -- because this is not my job.
11 So -- okay, so thank you very much, going to close the
12 hearing. Is the Board ready to deliberate?

13 Okay. I'm ready to deliberate. I'm going to
14 start because I'm just going to -- I'm going to start.

15 So I think that I am in agreement with the Office
16 of Planning. I think that they have made an argument as to
17 why the removal of the porch should be denied. I also am in
18 agreement with the Office of Planning in terms of the garage
19 and that I don't think that -- and I understand the community
20 in terms of what they were saying in terms of the light and
21 air; however, I think that all those homes already have a
22 garage and they're already there and the garages are already
23 there, and that part of what we had gone through before was
24 that the regulations changed so that you could only go back
25 10 feet matter of right, and they're going back within their

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1 matter of right limits.

2 So I do feel a little bit -- even though it's not
3 -- I don't know, I guess it has some influence but it's not
4 within the regulations that there was this process that they
5 went through with getting a permit and they thought that they
6 were going to -- everything was taken care of and so they are
7 moving forward with their project, and then they get the stop
8 work order and they have to change their plan. So I just --
9 I am empathizing with that aspect of the discussion.
10 However, I'm with the Office of Planning and I would be in
11 approval of the exceptions that the relief that's been
12 granted to allow for the garage but not for the removal of
13 the porch. And who wants to go next? Commissioner May I
14 think wants to go next

15 COMMISSIONER MAY: Yes. So we'll do a little
16 point-counterpoint here. I will agree with the Chairman that
17 the Office of Planning is correct about the porch removal.
18 You know, the arguments that we've heard, that the loss of
19 a single porch is negligible, I disagree with that. That
20 it's hard to find the loss of a single porch costing the
21 integrity of a block, I disagree with that. I think that,
22 you know, the argument having to do with the uniformity of
23 the block and the fact that there are stretches of different
24 houses that are consistent and so creating a little bit of
25 non-conformity within a row when there's a lot of other

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1 variations, I also don't think that applies.

2 I think the ANC was correct in describing the
3 character of the neighborhood and having these stretches of
4 homes. I mean they typically built four, five, six at a
5 time. Sometimes things get built, you know, 10 and 12 at a
6 time. Certainly, that happened in one of the examples that
7 you cited that's around the corner from me where, you know,
8 the -- half the block was built at one time, and it was all
9 built with the same porch-front style house. That's
10 relatively unusual. Actually, what's happening on this block
11 is much more common in my experience.

12 So, you know, there's no question in my mind that
13 in this circumstance, the porch should not be removed. Now
14 is there room for reasonable alterations? Yes, I think there
15 is, and I think one of the things that was suggested by
16 someone who testified was that, you know, you could remove
17 the porch decking for a portion of that porch to get more
18 light to the entry point for the basement unit or whatever.
19 Things like that happen with some frequency, and I think
20 that's -- you know, that could be an acceptable alteration
21 because it preserves that appearance of the porch from the
22 street and gives you the light and air and access that you
23 would want to have. That's the kind of alteration that I
24 think is permissible in this circumstance.

25 There have been circumstances where removal of a

1 porch makes sense, and I have voted in favor of some of those
2 things in the past, but this is not one of those cases. And
3 I agree that there probably is room for greater clarity in
4 the way the Office of Planning interprets this and supports
5 or doesn't support and the guidance that we receive here, and
6 maybe that's something that should be taken up by the Zoning
7 Commission.

8 With regard -- now this is the counterpoint part.
9 So I disagree with the Office of Planning, and I disagree
10 with the Chairman on this, and I disagree with the Zoning
11 Administrator. I do not believe that the relief that is
12 required in this circumstance amounts to a special exception.
13 I don't care how they have tied these things together. They
14 have -- you know, they tie the regulations in knots on a
15 regular basis -- well, not that regular but an occasional
16 basis when -- you know, in trying to get certain projects
17 approved. And sometimes that's with the advice of counsel,
18 sometimes it's, you know, it's other people who manage to
19 make an argument and convince people that this is the way it
20 can be interpreted. This is not one of those cases. The
21 10-foot height limit and 100 square foot limit for an
22 accessory building in a required rear yard was intended to
23 deal with a backyard shed and nothing more. Now if it wound
24 up being 110 feet, okay, maybe there's a reason to grant a
25 special exception for that because you're on an existing, you

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1 know, foundation or some other reason why that makes sense
2 to do it. But it's not intended to permit garages.

3 And what went wrong here is -- and whether this
4 was an intentional strategy or not -- what went wrong here
5 is that the Applicant in this case filed their permit to
6 build their extension that went into the rear yard; it was
7 all matter of right because there was no garage and it was
8 perfectly acceptable. It was, you know, within the bounds
9 of the 10 feet, et cetera; you know, all that was fine at the
10 time. But what that does is it means that the required rear
11 yard brings it too close to the garage to have a garage
12 anymore. And that's the way the bed has been made, and I do
13 not see a route out of this short of a variance, and it's not
14 a variance that I would support.

15 So I think that the Applicant should go back and
16 think about getting one of those roll-up doors to have a
17 protected parking space and build a 100 square foot shed and
18 leave the porch on or build the porch back because that --
19 you know, they can spend the money from the garage. I mean
20 I think that the arguments that came from the ANC and from
21 the neighbors make a lot of sense, and it is more about the
22 integrity of the zoning regulations than the particular
23 circumstances. It is not about the impacts of that -- of
24 building a garage where there's a garage next to it and a
25 garage next to it here. I mean, you know, there is no garage

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1 in this circumstance. That is rear yard and the only way to
2 violate that rear yard is with a small shed. And that's, you
3 know, that's it from my perspective. So I'm not buying this
4 argument at all.

5 CHAIRMAN HILL: Okay.

6 COMMISSIONER MAY: Oh, and I --

7 CHAIRMAN HILL: Oh, sorry.

8 COMMISSIONER MAY: -- I would say that a 13-foot
9 garage is not a problem but in this case, a garage is a
10 problem.

11 CHAIRMAN HILL: Okay. So I'll remember when
12 Commissioner May is on to speak a little bit more firmly when
13 I'm expressing myself. So who would like to go next?

14 VICE CHAIR HART: Only just a question for
15 Commissioner May. If this were a -- if a former home -- or
16 property owner at this property had built this -- you know,
17 had built the -- what the Applicants have built, the
18 expansion and then the Applicants bought this and said, you
19 know, we want to put a garage in, you're just saying that
20 they should be going for a variance? I mean is the issue
21 because there that it's --

22 COMMISSIONER MAY: I don't know of a --

23 VICE CHAIR HART: -- that it's easier to --

24 COMMISSIONER MAY: -- I don't know of special
25 exception relief that would apply to the reduction of a rear

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1 yard in this circumstance and I mean --

2 VICE CHAIR HART: Yes. Maybe then it's a whole
3 but it's --

4 COMMISSIONER MAY: What's been proposed here
5 doesn't work for me. I don't believe that special exception
6 applies. So yes, I mean I think it would have to be a
7 variance. I mean there have been circumstances where -- and
8 this dates back a few years but people would have to, you
9 know, demolish the garage in order to build the addition, or
10 demolish the addition in order to build a garage. That used
11 to happen. And sometimes people would demolish the addition,
12 build the garage, and then come back for relief so that they
13 can rebuild the addition, you know, because, you know, I mean
14 all sorts of crazy things have happened in the past. But we
15 are where we are right now. We have new regulations that
16 guide these things and there's -- you know, we tried to make
17 it clear in the zoning regulations that you can build a shed
18 in the required rear yard and that was it. And that's all
19 that fits here. Doesn't work what's proposed.

20 VICE CHAIR HART: Thank you. I mean when I was
21 first reading through this and now hearing all the testimony
22 that we've gotten -- when I was first reading through it, I
23 was kind of like, oh, it's just a small accessory building,
24 you know, okay. But actually hearing a little bit more of
25 the kind of behind the scene or the this was the intent of

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1 the regulation, it makes me kind of wonder if the -- it makes
2 me wonder if the relief is really, as you said, Mr. May, the
3 -- a variance and not a special exception. I understand that
4 that's what DCRA said. I understand that's what the Office
5 of Planning said, but it does make me, you know, hesitate
6 about being an approval -- being -- supporting the relief for
7 accessory building size restrictions and lot occupancy.

8 So I guess what I'm saying is that I'm not sure
9 if I can support it myself given some of the conversation
10 that we've had today.

11 MEMBER JOHN: Mr. Chairman?

12 CHAIRMAN HILL: Sure.

13 MEMBER JOHN: So without repeating everything that
14 everyone has said concerning the porch, I agree that the
15 porch should not be removed because as I look at the picture
16 of the three houses together or four houses -- three houses,
17 I think, with a porch, there's a certain -- I'm not an
18 architect, but there seems to be a certain symmetry about
19 those houses and the rest of the block in that area. I don't
20 see a lot of houses that don't have porches. There are some,
21 but I wouldn't say that the majority don't have porches. So
22 for the reasons that OP has stated and for some of the other
23 -- for the reasons stated by my colleagues, I support not
24 removing the porch, and I'm very, very sympathetic to the
25 owners.

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1 You know, having said all of that, I agree also
2 that the special exception criteria is met only because we're
3 looking at Section 5007, which talks about an accessory
4 structure in an RF-1 zone and the availability of special
5 exception for that structure. And so if we apply the special
6 exception criteria, I don't think there's a basis for -- to
7 deny it as a special exception for some of the reasons that
8 OP has said.

9 I also agree with Commissioner May that this might
10 be an area that the Commission needs to address in the future
11 to remove some of the confusion about whether, in these
12 cases, we're really looking at a garage. So I see a split
13 -- well, for me, I would prefer a split decision so it's kind
14 of up to Ms. White.

15 MEMBER WHITE: Boy, I'm afraid to open my mouth
16 on this one. This case is -- this is really a mess, and I
17 am very sympathetic to the property owners. They're coming
18 into this neighborhood, buying this property, you know, that
19 may have been vacant for a number of years. So, you know,
20 I do hope that there can be some positive reinforcement
21 within the neighborhood to kind of get them back on track
22 with the neighbors so that things can be neighborly.

23 But with that said, I am in agreement, based upon
24 my reading of the regulations and giving weight to the report
25 that was submitted by Ms. Thomas, that I think that there is

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1 support that the porch has to remain on this particular block
2 in order to maintain the symmetry of the neighborhood. So
3 I would be supportive of that. But I do think that there can
4 be some bifurcated relief with respect to the garage. I see
5 that -- you know, just from a special exception perspective,
6 I don't see that there are any adverse impacts with respect
7 to allowing the property owners to be able to have a garage
8 structure in the rear of their property, especially given the
9 fact that there appears to be a lot of consistent parking
10 that's provided within that block within that neighborhood.
11 It seems as though everybody has the option to be able to pop
12 -- park in the rear of their properties. So I don't see that
13 that would have a negative impact on the neighborhood.

14 So my opinion, based on the application before me,
15 is that I think they have to maintain the porch, but I do
16 think that a case has been made for them to have bifurcated
17 relief in order to have the accessory structure, to be able
18 to have garage parking.

19 COMMISSIONER MAY: All right. What can I say?
20 I mean I understand that it's not -- that I'm arguing against
21 the Office of Planning and the Office of Planning is given
22 great weight in this circumstance, and I don't know what I'm
23 given on this.

24 (Laughter.)

25 COMMISSIONER MAY: But I -- you know, I do think

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1 that this does go back to the zoning regulations and the way
2 they were written and intended. And so depending -- well,
3 I think that regardless of what happens here, it's an issue
4 that the Office of Planning will need to bring back to the
5 Zoning Commission to clarify because, again, it was very
6 clear to me that the intent of the rules with regard to
7 allowing a structure in a required rear yard, right, not just
8 in a rear yard generally but a required rear yard, that 20
9 feet that's required in this zone, was limited to a 10-foot
10 tall 100-square foot structure, and it was intended to allow
11 for a shed in a required rear yard and nothing more. It was
12 not intended to be twisted somehow into a way of gaining
13 relief to build a garage structure where one would otherwise
14 not be allowed for whatever other reasons that might apply
15 to a given property. And in this circumstance, it happens
16 to be the fact that they used up some of that rear yard to
17 build an addition.

18 And so anyway, I don't think I'm going to win
19 anybody over on this, but I -- this is just the way I see it.

20 CHAIRMAN HILL: Okay. Well, Commissioner May, you
21 are a member of the Zoning Commission and so, you know, the
22 Office of Planning does have to -- I saw a lot of writing
23 down over there that the Office of Planning was doing and so,
24 you know, I'm sure you have a lot more weight than you think.
25 But I think --

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1 COMMISSIONER MAY: Well, maybe with the Office of
2 Planning but with you, I don't know.

3 CHAIRMAN HILL: Oh, yes. Hey, are you kidding?
4 This is -- you're -- you got a -- you're a strong voice. But
5 I still am where I was and with the analysis that we've had
6 and provided here in terms of discussion, so I'll go ahead
7 and make a motion and see where it goes. And I'm going to
8 make a motion that we deny the porch but approve the other
9 special exceptions, and we'll see what happens here. So --
10 sorry.

11 COMMISSIONER MAY: No. I mean could we handle
12 those two issues separately with separate motions --

13 CHAIRMAN HILL: Okay.

14 COMMISSIONER MAY: -- because I want to vote with
15 you on the porch removal but I want to vote against you on
16 the garage.

17 CHAIRMAN HILL: Do you want to make the motion
18 then for the porch?

19 COMMISSIONER MAY: All right. Yes, sure. Give
20 me a sec. I'm trying to find the exact citation here so.
21 I would move that the Zoning -- sorry -- the Board of Zoning
22 Adjustment disapprove the requested special exception relief
23 for -- let's see, where is it -- E 5203 regarding
24 architectural features, removal of the existing front porch,
25 and ask for a second.

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1 VICE CHAIR HART: Second.

2 CHAIRMAN HILL: The motion made and seconded. All
3 those in favor, aye.

4 (Chorus of ayes.)

5 CHAIRMAN HILL: All those opposed?

6 (No opposition voiced.)

7 CHAIRMAN HILL: Okay. So that motion passed, Mr.
8 Moy.

9 SECRETARY MOY: Very quickly, that would be on the
10 vote of five to zero to zero on the motion of Peter May,
11 seconded by Vice Chair Hart, also in support, Ms. White and
12 Ms. John.

13 CHAIRMAN HILL: Okay. And I don't remember, how
14 does this work now? So is that a summary order again or is
15 that now a full order? That's a full order?

16 MS. GLAZER: It's a -- both would be full orders.

17 CHAIRMAN HILL: All right. So that's a full
18 order. Okay. Then I'm going to make a motion to approve
19 Application Number 19771 for -- pursuant to 11 DCMR Subtitle
20 S, Special -- Chapter 9 for Special Exception under Subtitle
21 E 5201 from the lot occupancy provisions of Subtitle E 304.1
22 and the accessory building size restrictions of Subtitle E
23 504.4 for an accessory structure, building structure and ask
24 for a second.

25 MEMBER WHITE: Second.

1 CHAIRMAN HILL: The motion made and seconded. All
2 those in favor, aye. Aye.

3 MEMBER WHITE: Aye.

4 MEMBER JOHN: Aye.

5 CHAIRMAN HILL: All those opposed?

6 COMMISSIONER MAY: Oppose.

7 VICE CHAIR HART: Oppose.

8 CHAIRMAN HILL: Mr. Moy? I can tell you if it
9 wasn't loud enough.

10 SECRETARY MOY: Yes. Why don't you do that.

11 CHAIRMAN HILL: Okay. So I think Ms. John voted
12 in favor, aye; I voted in favor, aye; Ms. White voted in
13 favor, aye.

14 SECRETARY MOY: Okay. So that'd be --

15 CHAIRMAN HILL: The architects voted in favor,
16 nay.

17 SECRETARY MOY: I see then. So that would be
18 three to two to zero, and the motion would carry.

19 CHAIRMAN HILL: Okay. So that's also a full
20 order?

21 SECRETARY MOY: That's correct.

22 CHAIRMAN HILL: All right. So there you go. All
23 right. Thank you all very much.

24 MS. GLAZER: Mr. Chair?

25 CHAIRMAN HILL: Yes, sure.

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1 MS. GLAZER: For the part that was approved, we
2 need new plans then. If the Applicant wanted to bifurcate
3 it, I believe he did, and we would need new plans showing
4 that the porch was not removed.

5 MR. SULLIVAN: Yes. We could --

6 CHAIRMAN HILL: Okay.

7 MR. SULLIVAN: -- put -- a plat, I would think,
8 should do it since the porch design is no longer at issue

9 CHAIRMAN HILL: But we can just -- we have -- the
10 plans are already there. You're saying that are with the
11 porch?

12 MR. HAITH: When we went to DCRA.

13 CHAIRMAN HILL: You have to speak in the
14 microphone, sorry.

15 MR. HAITH: When we went to DCRA and had the
16 meeting, we bubbled the existing and said porch to remain but
17 they're not --

18 CHAIRMAN HILL: Okay. So actually, can we just
19 get plans? Can we just get plans. Just give us plans of
20 whatever it is that actually is going to be done there, okay?
21 And when can we get those plans?

22 MS. GLAZER: Does the Applicant want a full order
23 on the porch issue, or do you want to just withdraw that part
24 of the application and amend it?

25 MR. FOTIU: I believe what makes sense is to

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1 submit drawings that show the porch remaining and the garage
2 being added for the purpose of the second motion that you
3 guys voted on.

4 CHAIRMAN HILL: Right. Okay, that's fine. So
5 you're just going to keep it the way -- you're not going to
6 --

7 MR. FOTIU: Whether that means we're not
8 requesting or we're, you know --

9 MR. SULLIVAN: I don't think we can withdraw --

10 MR. FOTIU: -- pulling back the request for the
11 --

12 MR. SULLIVAN: -- after the vote anyway.

13 MR. FOTIU: -- porch.

14 CHAIRMAN HILL: All right. So that's -- okay, so
15 just go ahead. Thank you. That's okay. Just go ahead and
16 submit the plans for what we approved, and when can we get
17 those?

18 MR. FOTIU: Certainly less than a week.

19 CHAIRMAN HILL: Okay. All right. So get those
20 in in less than a week, okay.

21 No, sir, we're done. I'm sorry.

22 MR. OLOWOFOYEKU: I'm just requesting --

23 CHAIRMAN HILL: Wait, wait. I'm sorry, sir.
24 They're just -- I can't -- you can ask them stuff. I can't
25 -- we just closed the hearing so just wait for them. Just

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1 give them a second and then you can ask them whatever you're
2 looking for. Okay. So do -- are we clear?

3 MR. FOTIU: Yes.

4 CHAIRMAN HILL: All right. Okay. Thank you.
5 We're going to take a quick break or -- yeah, we'll take a
6 quick break and then we'll have our last case.

7 (Whereupon, the above-entitled matter went off the
8 record at 4:57 p.m. and resumed at 5:13 p.m.)

9 CHAIRMAN HILL: All right. Mr. Moy, you can call
10 it when you like.

11 SECRETARY MOY: Thank you, Mr. Chairman. This
12 would be Application Number 19772 of 1729 T Street, TF LLC,
13 captioned and advertised for variances from the closed court
14 requirements of Subtitle F Section 202.1, FAR -- or rather
15 floor area ratio requirements, Subtitle F Section 302.1, lot
16 occupancy requirements of Subtitle F Section 304.1. This
17 would construct a five-unit apartment house, RA-2 Zone. This
18 is at 1729 T Street N.W., Square 151, Lot 15.

19 CHAIRMAN HILL: Okay, great. Thank you. If you
20 could please introduce yourselves from my right to left?

21 MS. RODDY: Hi. My name is Christine Roddy with
22 Goulston & Storrs.

23 MR. LEWIS: Dave Lewis, Goulston & Storrs.

24 MR. TEASS: Will Teass, a principal with
25 Teass/Warren Architects.

1 MR. FLEISHER: Travis Fleisher. I'm the owner of
2 the subject property.

3 CHAIRMAN HILL: Okay, great. Well, thanks for
4 hanging out with us here until the end. It's so funny, if
5 I see people out in public, like it's so intense up here, I
6 never remember names, you know, because I have seen all you
7 people -- I've seen you two at least before. So what did
8 that have to do with anything? Nothing. So all right, I
9 wish this was going to be really super fast, but I don't
10 think it's going to. But who's going to present?

11 MR. LEWIS: I'll start.

12 CHAIRMAN HILL: Okay. So Mr. Lewis, I guess you
13 can just start with your presentation and tell us what it is
14 you're here to get or try to get and why we should give it
15 to you, how you're meeting the standards for us to grant the
16 relief requested. And I'm going to put 15 minutes on the
17 clock just so I kind of know where I am, and you can start
18 whenever you like.

19 MR. LEWIS: Thank you, Chairman. So we're here
20 requesting variance relief from the closed court FAR and lot
21 occupancy requirements of the RA-2 zone, as Mr. Moy
22 mentioned, for a property located at 1729 T Street. The
23 property is located in the Strivers' Section Historic
24 District and the Applicant has previously received concept
25 design approval for the project from the HPRB.

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1 As mentioned, the Applicant seeks to construct a
2 five-unit multi-family dwelling on the property. The new
3 building will contain units of varying bedroom counts, two
4 3-bedroom units; one 2-bedroom unit; and two studio units.
5 So we believe we meet the variance test for each of the items
6 of relief requested. Travis will take just a few minutes to
7 talk about his efforts to engage and interact with the
8 community as well as neighbors. We have a few neighbors with
9 us here today. We also come to you with unanimous support
10 from the ANC. And then we'll talk through the project and
11 how it satisfies the standards for variance relief for each
12 item of relief requested.

13 But before I get into the OP -- I'm sorry --
14 before I get into their presentation, I just wanted to
15 address the OP report. The OP report is at Exhibit 41. As
16 you read through OP's analysis, it's pretty clear that they
17 believe the application satisfies the variance test for
18 closed court and lot occupancy relief. But OP seems to have
19 some concerns and some suggestions about the requested FAR
20 relief. So I just wanted to give you all our thoughts on
21 that sort of at the outset.

22 So our view is that the project satisfies the
23 variance test with respect to FAR relief and that the opt-in
24 IZ program is not part -- not a requirement for obtaining FAR
25 relief via the variance standard. We've reviewed OP

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1 suggestion that we opt-in to the IZ program, obtain
2 additional FAR that way. The Applicant has studied that
3 approach from a financial perspective and has found it to be
4 unworkable for a couple of reasons. First, as I mentioned,
5 this is a five-unit development. The IZ regulations, by
6 their sort of -- by the standard, do not apply to units that
7 are fewer than -- or do not apply to developments that are
8 fewer than 10 units. There's good reason for that minimum
9 threshold. Smaller projects or projects with fewer units
10 simply cannot afford to cost subsidize the income-restrictive
11 unit and still be economically viable, and that's very much
12 the case here. So the Applicant has examined the financial
13 implications of providing IZ unit in this building. We just
14 found the project would not work.

15 The second reason is related to that. If the
16 Applicant were to opt-in to the IZ program, it would sort of
17 be -- it would be in the IZ program for its entirety. And
18 as the IZ regulations are applied to the project, the
19 Applicant would have to set aside 25 percent of the floor
20 area of the project for IZ and -- Will, if you could go to
21 the next slide -- and the reason for that is even though the
22 opt-in program is optional, the proportionality requirements
23 as to the unit that would have to be the income-restricted
24 unit are not optional.

25 So the IZ regulations proportionality rule affects

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1 unit sizes with one bedroom or studios. So under Subtitle
2 C Section 1005.1, the proportionality -- I'm sorry --
3 proportion of IZ units that are studios and one-bedrooms
4 cannot exceed the proportion of market rate units that are
5 studios and one-bedrooms. So if we had one IZ unit and it
6 was a studio or a one-bedroom, it would be 100 percent of the
7 IZ units would be a studio or a one-bedroom.

8 So the only way to satisfy the proportionality
9 rule is to provide a two-bedroom IZ unit and out of the five
10 IZ -- or out of the five total units in the building, a
11 two-bedroom unit, looking at the numbers on the screen, the
12 two bedrooms are 1300 square feet, we have 5700-something
13 square feet of total residential floor area. That's roughly
14 a quarter of the residential space.

15 I just want to pause here to note that even though
16 we're not opting into the IZ program, the program or the plan
17 or the unit mix for the building does affirmatively advance
18 District housing policy. One of the key policies in the
19 District is to provide family-sized units and so we have two
20 3-bedroom units that achieve that threshold. This was
21 something that the ANC was very excited about, frankly, and
22 it's actually expressly called out in the ANC report as a
23 positive feature of the project. So the project does provide
24 affordable -- I'm sorry -- it does provide a beneficial
25 housing component. It just cannot economically support an

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1 IZ unit. And unfortunately, the IZ program, as it's written,
2 as the regulations are written, there's no flexibility that
3 you all can grant on the proportionality short of a variance.

4 So fortunately, for the Applicant, our perspective
5 is the IZ opt-in program is entirely optional and, you know,
6 under the variance test set forth in Subtitle X and according
7 to the Board's rules and Subtitle Y, there's no requirement
8 that the Applicant opt-in to a program in order to obtain
9 variance relief. All that matters is the Applicant satisfy
10 the sort of the black and white standard for variance.

11 I just want to call your attention to one other
12 item in the OP report, and this is -- this kind of goes to
13 OP's analysis of the FAR variance test itself, sort of apart
14 from the IZ program. OP notes in its analysis regarding the
15 property's uniqueness, that the property size and location
16 between contributing buildings does not make it exceptional.
17 If you look back to our application, our prehearing
18 statement, our application lists numerous additional reasons
19 that their property is exceptional including it's immediately
20 adjacent to two structures that are both non-conforming with
21 respect to lot occupancy, rear yard, and FAR. There's a need
22 to provide a lightwell given the existing non-conforming
23 lightwell next door. There's an encroaching party wall onto
24 our property. The lot itself is very narrow. There are a
25 number of reasons that we give that are not addressed in the

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1 OP report.

2 And I would just note that the Court of Appeals
3 has long held that a property may satisfy the uniqueness
4 prong of the variance test by virtue of a confluence of a
5 number of factors that may not be unique in any one
6 particular area. It can achieve that standard or satisfy
7 that standard through uniqueness in a number of different
8 ways.

9 And I think with that, on that point, I will --
10 I'll turn things over to Travis to talk about the community
11 outreach part.

12 CHAIRMAN HILL: Okay. Mr. Lewis, just real quick.

13 MR. LEWIS: Sure, yes.

14 CHAIRMAN HILL: So the -- I know about the opting
15 into the program to get the increased FAR, but even the
16 increased FAR was just going to be -- take you to 2.16 and
17 what you guys have is 2.31; is that right?

18 MR. LEWIS: It's --

19 CHAIRMAN HILL: Even that wouldn't get you there.

20 MR. LEWIS: Correct.

21 CHAIRMAN HILL: Right. You would still have to
22 make some changes in order to get down to the 2.16?

23 MR. LEWIS: Or ask for a variance for the gap
24 between 2.16 and 2.3.

25 CHAIRMAN HILL: Okay. All right, great. And you

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1 can go ahead and tell us about the community outreach but
2 again, you know, drilling down to -- because I did even --
3 I got to say I was a little confused about all of the
4 different things that you were pointing out in terms of the
5 confluence of factors --

6 MR. LEWIS: Sure.

7 CHAIRMAN HILL: -- that were getting us to the
8 variance test. So if you could kind of walk through that and
9 then also the design, I just got a little lost. That's all.
10 So you can kind of like --

11 MR. LEWIS: I think it's probably best for me to
12 defer to the architect on that.

13 CHAIRMAN HILL: Okay. We can hear the community
14 outreach first then.

15 MR. FLEISHER: Yes. I was going to mention --
16 Will is going to run through the design elements you're
17 discussing, but I wanted to just briefly touch on the
18 community outreach because it kind of informs how we got to
19 where we are today. We made it a point early on to engage
20 with the neighbors both that are going to be directly
21 impacted to the east and the west. And after meeting with
22 them, one of the key takeaways was that that neighborhood to
23 the east, it's a cooperative building; 1725 T Street has a
24 significant lightwell that allows light to flow into a number
25 of their units, and preserving that was one of the most

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1 important takeaways from our meetings. So that kind of
2 became the guiding principle for our design which was
3 unanimously approved by the Dupont Circle Conservancy --

4 CHAIRMAN HILL: Preserving the lightwell --

5 MR. FLEISHER: Preserving the lightwell.

6 CHAIRMAN HILL: -- which you guys will point out
7 during the presentation.

8 MR. FLEISHER: Which --

9 CHAIRMAN HILL: Okay.

10 MR. FLEISHER: -- exactly. So we were unanimously
11 approved by the Dupont Circle Conservancy; the ZBT, which is
12 a subcommittee of the ANC; and twice by the ANC, both for the
13 historic concept and for the zoning relief that we're seeking
14 here today.

15 So I'll let Will just run through the presentation
16 so you guys can get a better sense for it.

17 CHAIRMAN HILL: Okay. And Mr. Lewis, I forget
18 now. I'm trying to remember. I thought every fourth unit
19 had to be an IZ unit? Is that -- or I'm mixing some
20 metaphors? So --

21 MR. LEWIS: It's in the RF Zone.

22 CHAIRMAN HILL: Oh, okay.

23 MR. LEWIS: We're in the RA-2.

24 CHAIRMAN HILL: Okay, there you go. Right.

25 That's right. Okay. Mr. Teass.

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1 MR. TEASS: Thank you very much and I appreciate
2 the opportunity to make this presentation today. One thing
3 I would like to point out, you're not seeing double right now
4 on the screen. There is a case from a few years ago that
5 you're seeing on the right-hand side of this image, which is
6 to the east of the subject property which, in a lot of ways,
7 is a very similar case that was approved by the Board with
8 very similar sets of issues. And we took a lot of our design
9 cues from that design in terms of an approach to historic
10 preservation.

11 So the subject property we're talking about here
12 today is at 1729. I'll give you a little bit of background.
13 It has, as was previously mentioned, is surrounded on both
14 sides by exceptionally large, exceptionally deep buildings.
15 Those buildings actually create a very much what we call a
16 cave-like effect. The property had been improved with a
17 single-family structure built in 1978. That structure does
18 not contribute to the historic district, and that is part of
19 a separate raze application that has been approved by HPRB.
20 In terms of the context of the street, here you're seeing the
21 exteriors from T Street.

22 I think the image in the upper right-hand corner
23 speaks to the context of the larger apartment buildings
24 flanking on either side. There are two Wardman buildings to
25 the east, and both of those Wardman buildings, as you can see

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1 in these previous images, there's a pattern of lightwells.
2 There's actually kind of a pronounced pattern of lightwells
3 up and down this particular block.

4 So again, you know, one of the emphases that we
5 did from a -- we took from a design perspective was really
6 to match the scale of street. And so while we're permitted
7 to go up to four stories, 50 feet, you know, presumably, HPRB
8 wouldn't let us exercise our full zoning envelope, we did set
9 the top floor back and we did that in a nod to also what's
10 happening on -- at 1719, which is the other building on the
11 block. And I think that this section here represents that
12 setback condition where the street is on the right-hand side
13 and we're showing the unit configurations; two studios in the
14 basement; a studio -- I'm sorry -- a one-bedroom plus den on
15 the ground floor, and then two 2-bedroom plus dens. And I
16 just wanted to clarify one point that was made earlier in
17 that we're providing not -- it's not a 3-bedroom unit
18 technically under the building code. It's a 2-bedroom unit
19 plus a den. It effectively functions as a 3-bedroom but I
20 think I just wanted to raise that point.

21 As we go around to the rear of the building, I
22 think the image on the right really conveys the exceptional
23 condition of the property in that you have these two very
24 long, very large buildings on either side. The building to
25 the east, which is in the left of that view, is where the

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1 light court occurs, and you can see a detail here where
2 you're seeing that -- the lightwell, the adjacent property
3 to the east.

4 The existing site plan, I think, also accentuates
5 the unique conditions. This is really one of the deeper
6 sections of -- one of the lots in this particular square that
7 has the deepest adjacent neighbors.

8 You know, in terms of building the case for
9 confluence, I think we wanted to just quickly run through
10 some of the points. The first is the party wall. So on
11 either side of the property, the party wall does come, as a
12 party wall should, encroaches on the subject property. In
13 this case, I think what's important to note is that the party
14 wall, while typically used for structural purposes, in our
15 case, we are not using it for structural purposes. There
16 were some concerns raised by neighbors on either side and so
17 we will be designing a structural wall inside of that party
18 wall. And so, therefore, we find that that's an encroachment
19 that has a contribution to the FAR.

20 And so in terms of listing those -- the confluence
21 of those factors, what we've done here is just sort of
22 bullet-point them in terms of the party wall representing
23 about .14 FAR. The idea that we would be providing a
24 lightwell has an impact on the -- even though we're not
25 counting that towards FAR, I think the idea is that that is

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1 part of the argument in terms of confluence, that by
2 providing that lightwell, we're having to displace FAR
3 elsewhere in the building.

4 Again, we talked about the setback and we have a
5 16-foot setback from the roof edge on the top most level.
6 And then the last thing is because we have the setback in the
7 upper level, we've got an interior stair. There is one typo
8 here in that the internal stair is .05, not .5. So the math
9 here gets us to about .5 which is the basis for our request.
10 I think that, you know, one point that we wanted to make in
11 this presentation is that the fourth floor of our project is
12 about 820 square feet, which translates to about .41. So
13 simply taking the top floor off the building doesn't quite
14 get us down to the required FAR.

15 COMMISSIONER MAY: Can you -- before you leave
16 that one, you want to explain that again? I mean only one
17 of these seems to actually impact the FAR. Only one of them
18 is an addition to the FAR --

19 MR. TEASS: Correct.

20 COMMISSIONER MAY: -- which is the party wall,
21 right?

22 MR. TEASS: And so I think we're positing the idea
23 of an effective FAR in that because we're providing that
24 lightwell, we're basically pushing mass around the building
25 envelope or around the building itself. And the same thing

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1 goes for the setback and for the internal stair.

2 COMMISSIONER MAY: Yes, nice try. Doesn't work.
3 I mean it's -- if you're talking about and expect something
4 that's unique about the circumstance that actually affects
5 the FAR, the only one that actually affects the FAR is the
6 party wall, right?

7 MR. TEASS: I would argue that it's both the party
8 wall and these other issues.

9 COMMISSIONER MAY: All right. I'll take that up
10 again later.

11 MR. TEASS: One of the other aspects to our
12 proposal today is that we're seeking lot occupancy relief,
13 and so here we're permitted a 60 percent lot occupancy. We
14 are -- which translates to a 1200-square-foot footprint.
15 We're asking for 70 percent lot occupancy, and that's really
16 related to the depth of the adjacent properties and we found
17 that it's a reasonable balance of a request and a massing
18 strategy. I think it's important to point out of that
19 additional 10 percent, about a little over half of that is
20 reflected in the building. The other four percent is
21 reflected in exterior balconies that are located on the rear
22 of the building.

23 Just as a point of comparison, the lightwell
24 itself is about 90 square feet or about 4.5 percent of that
25 lot occupancy. We are including that in our lot occupancy

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1 tabulation because we're occupying it at a lower level.

2 So we did -- you know, I think one of the
3 questions that came up during our review was the condition
4 of the really emphasizing the nature of the cave-like
5 condition at the rear. And so along the bottom here is a
6 study that shows the effect at the -- where you have the
7 existing context in the proposed building being shown and you
8 can see, obviously, that in the morning on the left and the
9 evening on the right where, you know, quite a large portion
10 of the rear facade is in shadow. If you were -- the row
11 across the top is, if you were to take a matter of right
12 scenario, and I will -- you know, I will concede that, you
13 know, HPRB might not have let us have done that, but I think
14 that, you know, what you're seeing is, you know, it going up
15 higher one where you'll end up eliminating the light well,
16 which I think is a negative impact to the neighbor. But I
17 think, you know, it further exacerbates that cave-like
18 condition.

19 I think that, you know, we had done a couple of
20 diagrams that we wanted to just quickly review in that, you
21 know, our matter of right option that would -- we would be
22 able to do and not have to make a trip before the Board
23 would, I think, block the lightwell and thus the impact --
24 or the access to natural light to the neighbor, I don't'
25 think that's a solution that the neighbors would be very

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1 happy with.

2 COMMISSIONER MAY: Can you go back one slide? One
3 more.

4 MR. TEASS: One more?

5 COMMISSIONER MAY: Right. So I'm sorry, this is
6 supposed to be the matter of right condition but that's a
7 four or five-story building as opposed to a three-story
8 building.

9 MR. TEASS: It's a -- it would be a four-story
10 building with a cellar.

11 COMMISSIONER MAY: Right. Okay. So this is not
12 really the matter of right?

13 MR. TEASS: Well, I mean it would be --

14 COMMISSIONER MAY: It's a matter of right in terms
15 of footprint?

16 MR. TEASS: It would be a zoning envelope matter
17 of right.

18 COMMISSIONER MAY: Except for FAR, it would not
19 be --

20 MR. TEASS: No. This would be -- I mean this
21 would be at 60 percent 1.8 FAR. We would have a smaller
22 footprint.

23 COMMISSIONER MAY: Sixty percent --

24 MR. TEASS: Sixty percent lot occupancy --

25 COMMISSIONER MAY: -- lot occupancy for four

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1 stories?

2 MR. TEASS: Well, we would not -- I'm sorry, it
3 would be adding 45 percent would be the true lot occupancy
4 because we would take the 1.8 and we'd divide that over the
5 four levels.

6 COMMISSIONER MAY: Right. So this is -- what
7 you're showing there in the, I guess, the upper pictures is
8 a 45 percent lot occupancy?

9 MR. TEASS: Correct. I'm sorry, yes.

10 COMMISSIONER MAY: Okay. All right. That's what
11 I was trying -- because when you went to the next one, I
12 thought it was going to be the same. Go to the next slide.
13 And that's showing a 60 percent lot occupancy.

14 MR. TEASS: So this would be a different matter
15 of right option where we only went three stories above grade
16 --

17 COMMISSIONER MAY: Right.

18 MR. TEASS: -- and I think here the issue we were
19 trying to articulate the impact that it would have on the
20 lightwell of the adjacent property.

21 COMMISSIONER MAY: Right.

22 MR. TEASS: And, you know, I think this is, again,
23 representing a theoretical context where if all the buildings
24 were at 60 percent, no more than 60 percent lot occupancy and
25 we were all at the same height, you would have what we

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1 consider a reasonable degree of access to light and air at
2 the rear of the property, and I think that differs from the
3 actual conditions because of the exceptional nature of the
4 site.

5 I think, you know, getting towards the end of our
6 presentation here, one of the things that we asked ourselves
7 was what did a conforming closed court -- what did that look
8 like. And I think here represents the -- what you would have
9 with a conforming closed court and so you end up with an
10 excessively narrow space. I think the other thing here is
11 that the -- putting the bedrooms side-by-side at the rear,
12 from an internal configuration perspective, leads to rooms
13 that at nine-foot are fairly challenging to furnish and use
14 as a bedroom.

15 COMMISSIONER MAY: On this one, you're saying that
16 your left with 3 feet 4 because it has to be 16 feet 8 based
17 on the height?

18 MR. TEASS: The height of the court.

19 COMMISSIONER MAY: What height?

20 MR. TEASS: That would be the 50-foot height.

21 COMMISSIONER MAY: The 50-foot height?

22 MR. TEASS: Correct.

23 COMMISSIONER MAY: But you're showing a
24 three-story plus cellar building there.

25 MR. TEASS: Well, I think here the idea was that

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1 that court would go all the way down to the cellar level to
2 maximize light and air to that lowest level.

3 COMMISSIONER MAY: I see.

4 MR. TEASS: And so I think I wanted to conclude
5 with just an image of the proposed building here where you're
6 seeing 1729, again, on the left and 1719, which had been
7 previously approved, on the right-hand side. I think one of
8 the things that we spent some time working with the community
9 with was the materials and the detailing of the fenestration
10 as it faces the street. We, obviously, went through the HPRB
11 process but we also took cues from the neighborhood in terms
12 of the brick selections and some of the material choices for
13 what is technically an oriel window because it does not go
14 all the way down to the ground. There is a separate entrance
15 for basement units.

16 And at that point, that concludes the presentation
17 that I wanted to make this afternoon.

18 MR. LEWIS: Thanks, Will. Happy at this point to
19 take questions recognizing there's probably more conversation
20 to be had about FAR and the requested relief. Thank you.

21 CHAIRMAN HILL: Okay. Does the Board have
22 questions?

23 MEMBER WHITE: Could you restate what you believe
24 to be the confluence of factors that allow you to meet the
25 variance criteria --

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1 MR. LEWIS: Sure -- sure. So I would say there's
2 probably five categories of factors --

3 MEMBER WHITE: -- and how they interrelate to each
4 other?

5 MR. LEWIS: Sure -- sure. So I'd say there are
6 probably five categories of factors and just listing them off
7 the top of my head, not in any particular order, I would say
8 the lot area and lot width are unique relative to the width
9 and area of the immediately adjacent lot.

10 The non-conforming nature of the two adjacent
11 buildings, both of them -- both the two adjacent --
12 immediately adjacent buildings occupy approximately 90
13 percent or more of their respective lots, have non-conforming
14 FAR, non-conforming rear yard, so the non-conforming nature
15 of the rear -- adjacent lots is probably the second factor.

16 The third factor that I would list is the
17 encroaching party wall that is an inherited condition but
18 because of certain circumstances with the neighbors, we can't
19 use for structural -- to benefit the project structurally as
20 it was designed.

21 Another category of limiting factors is the
22 presence or the -- by virtue of the fact that we're in a
23 historic district immediately adjacent to two
24 historically-contributing structures, we sort of inherit
25 those conditions as -- or those two buildings.

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1 MEMBER WHITE: Restate that one again? I'm sorry.
2 I didn't quite --

3 MR. LEWIS: Sure -- sure. So we're in a historic
4 district. Both buildings on either side of us, the non --
5 the two non-conforming buildings, they're also contributing
6 structures to the historic district and those are sort of --
7 they're effectively permanent. Because they're contributing
8 buildings, they're not going to go away, and they are built
9 to a height that is lower than the zoning envelope allows
10 today. And so effectively, because of the design guidelines
11 that HPRB would impose upon us, we can't build to the full
12 zoning height at the front of this property. We have to be
13 set back as shown.

14 So I think that's the full roster of factors that
15 make the property unique, but they do kind of work together.
16 They interact with each other in a way that creates the
17 hardship or that creates the practical difficulty in
18 complying with the zoning regulations. And just as a for
19 instance, given the width and the overall size of the lot,
20 we're very limited in terms of site configuration. There's
21 essentially only one layout on the lot that works. Likewise,
22 the party wall and the adjacent structures' non-conforming
23 features really inform the interior layouts of our building
24 in a way that occasionally we do efficiencies. And the
25 example there is -- if you could, Will, pull up just to kind

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1 -- site plan of what we're proposing; that's a good one --
2 so if you see the building on the screen to the right, the
3 existing non-conforming Wardman building has an existing
4 lightwell that we're trying to match. That lightwell is
5 itself non-conforming, a non-conforming closed court. We're
6 trying to match it not only in terms of size but also in
7 terms of the location sort of in a north-south orientation
8 to maximize the benefit to both property owners from that
9 lightwell. It wouldn't make sense for us to, say, partially
10 occlude that lightwell. So by inheriting that condition,
11 which we feel is a unique condition, it imposes some hardship
12 in terms of the interior efficiencies of how the units are
13 laid out. And I would say sort of the general thrust of all
14 these unique factors is to really limit the amount of light
15 that penetrates into this property. And all the design
16 gestures are intended to remedy that condition.

17 You know, one thing that we're doing is going to
18 a fourth story because at the rear, that would sort of pop
19 up above our neighbors. Whereas our neighbors pop back
20 behind us to access light, we sort of pop up above them a
21 little bit. So I hope that addresses your question.

22 MEMBER JOHN: Mr. Chairman, I have a question.
23 In the matter of right option, what happens to the lightwell?
24 So if you were to block the lightwell -- okay.

25 MR. LEWIS: It greatly diminishes its benefit.

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1 I mean it certainly eliminates the benefit of the lightwell
2 effectively for our property but it greatly diminishes its
3 value for our neighbors.

4 MEMBER JOHN: Right.

5 MR. LEWIS: And I think, you know, Travis's kind
6 of starting point in designing this property before, I think
7 -- or as Will was first putting pen to paper was how do we,
8 you know, effectively be good neighbors in this very tight
9 urban condition. A big part of that was, I think, the
10 historic context but, you know, our neighbors live there.
11 They have been there for a long time. Protecting their
12 access to light was a key component of -- a key design
13 driver.

14 MEMBER JOHN: I get that but if it's bumping
15 against, you know, your FAR ratio, then -- FAR ratio, then
16 you might -- you know, that might be something to consider.
17 Now could you also get light if you were to put in a sunroof
18 at the top; would you -- is it a sunroof -- skylight? It's
19 not a car -- skylight.

20 MR. LEWIS: That would benefit, really, only the
21 top story. The benefit of the lightwell is that it goes all
22 the way, I believe all the way to the ground or all the way
23 to top of the first floor. So it's -- instead of a skylight
24 benefitting only the top story, the lightwell brings light
25 --

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1 MEMBER JOHN: All the way down?

2 MR. LEWIS: All the way through the building which
3 is what the existing condition next door has, too. So it's
4 not just the top floor unit that's benefitting next door and
5 our design. It's the units, you know, from the top down.

6 MEMBER JOHN: Okay.

7 CHAIRMAN HILL: Anyone else?

8 (No response.)

9 CHAIRMAN HILL: All right, quick question. If you
10 didn't get the FAR relief, then what would you do? If you
11 got everything else, you'd keep the lightwell, you'd lose the
12 roof you were -- I'm sorry, you said you would lose the top
13 floor?

14 MR. TEASS: The top floor, I think, represents .41
15 FAR so we would still have to --

16 CHAIRMAN HILL: Where do you see the .41?

17 MR. LEWIS: Sorry, down here at the bottom --

18 CHAIRMAN HILL: All right. I got you.

19 MR. TEASS: So we would have to, you know, come
20 up with an additional .09 removal of space -- removal of area
21 from the building. That would be one approach. I think that
22 probably would require some study is my guess.

23 CHAIRMAN HILL: Okay. I mean I guess what I'm
24 just -- and maybe I'm -- I'll wait for the Office of
25 Planning. I'm just trying to see how you got to the 2.31

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1 with your design, meaning, you know, how come you didn't go
2 back farther? I mean how come -- you know, how are you
3 getting -- why did you stop from going back even farther than
4 that?

5 MR. LEWIS: I think there was a couple reasons for
6 that. One, it felt like an amount of FAR that we could
7 justify based on the hardship. We're trying not to -- we
8 could ask for more but we're kind of asking for an amount
9 that feels appropriate to make these units habitable, to have
10 an appropriate amount of light without being sort of as
11 grabby as the existing buildings are next door. I think it
12 was kind of a reasonableness amount -- reasonable aspect of
13 it. Another sort of factor was the project that Will
14 mentioned at 1719 T Street received a variance to go to 2.3
15 and so we sort of saw that as the Board having blessed that
16 amount as like -- as a reasonable amount of FAR.

17 CHAIRMAN HILL: Okay. Mr. Lewis, I appreciate the
18 real answer. That's nice. And I'm saying that because I
19 didn't get the real answer with somebody else last week.
20 Okay. Can we go to the Office of Planning?

21 MS. FOTHERGILL: Good evening. I'm Anne
22 Fothergill with the Office of Planning, and as the Applicant
23 mentioned, the Office of Planning did find that the proposal
24 -- well, let me start with the Office of Planning did not
25 find that it met the variance test for FAR relief and, in

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1 fact, the zoning regulations were recently changed for the
2 new provision that allows for a property in this zone to gain
3 bonus density by opting into the inclusionary zoning program.
4 And in this case, it would be 20 percent of FAR, and so that
5 is what the Office of Planning encourages the Applicant to
6 do and feels strongly that that provision is there to allow
7 for bonus density in this zone, because it is very hard to
8 make a variance case for FAR relief, and this is a way to
9 gain bonus density.

10 So the Office of Planning does not support the
11 variance relief that they have requested and instead
12 encourages the opt-in to IZ route. And we did discuss the
13 other variance relief that was requested and we can go
14 through that, but that was the -- we can go through that if
15 you want, the other two requests or I can stand on the
16 record.

17 CHAIRMAN HILL: Okay. Does the Board have
18 questions for the Office of Planning? Ms. White?

19 MEMBER WHITE: Just a quick question before I turn
20 it over to the expert here. What was your recommendation
21 with respect to the getting them to the point where they
22 could comply with the FAR?

23 MS. FOTHERGILL: Well, our recommendation was that
24 there is this new provision that did not exist when the
25 neighboring property that has been referred to that received

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1 Board relief, that provision didn't exist then so we couldn't
2 steer that Applicant to that route. In this specific case,
3 that provision exists to provide a property owner the
4 opportunity to gain bonus density and we encouraged them to
5 pursue that route. It may not get them to the 2.31 that they
6 are proposing and then, you know, that would be a different
7 discussion if they took the 20 percent and then what happens
8 after that.

9 CHAIRMAN HILL: So then just real quick before Mr.
10 May, just -- so you haven't done the analysis to where if
11 they did get the 2.16, you would still be in denial of
12 getting them the 2.31?

13 MS. FOTHERGILL: No. We have not done that
14 analysis.

15 CHAIRMAN HILL: Okay. Mr. May?

16 COMMISSIONER MAY: Yes. So in your report, it
17 says that for the property a few doors down, that initially,
18 OP did not support the FAR relief but eventually decided to
19 support it. Can you explain what the rationale was for
20 supporting it then?

21 MS. FOTHERGILL: I'm not sure I can. I was not
22 the case manager but I know that it -- I believe it had a
23 continued hearing and changes were made in response to the
24 discussion with the Board and I don't know exactly. It was
25 -- it also was a different case in the sense that it was

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1 in-fill construction. It was a vacant lot and there may have
2 been factors related to that.

3 COMMISSIONER MAY: Okay. Yes. It might be
4 helpful to understand that because of the problems that are
5 -- the complications that the Applicant is citing with regard
6 to opting into IZ which points out another thing that we
7 probably should look at at the Zoning Commission, because the
8 whole -- I mean that was one of the reasons why we created
9 that provision was to give some ability to get a little bit
10 more FAR. And if there are other provisions that sort of
11 make it really difficult, like having to convert the
12 two-bedroom unit into the -- I mean a bigger unit into the
13 IZ unit so that 25 percent of the project is -- as opposed
14 to 10 percent, would be IZ. I mean that's -- it's not going
15 to be a very popular thing to opt into. So anyway, thanks.

16 MEMBER JOHN: One more question, Mr. -- I am
17 preoccupied by this what lightwell. So on slide 9 -- so
18 where is the lightwell on this picture?

19 MR. TEASS: So this is when you're standing at the
20 alleyway looking at the rear of the subject property, you can
21 see a corner of the lightwell here on the adjacent property.
22 You see there's a chimney and then a chimney -- a chimney in
23 the foreground, a chimney in the background, and then there's
24 a lightwell here. You can see that in a little bit more
25 detail right here so you've got, again, the two chimneys that

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1 frame the view and then you've got the lightwell on the
2 adjacent property to the east.

3 MR. LEWIS: I think you can even see the window
4 in that picture.

5 MR. TEASS: Yes. And the window you're seeing
6 here is actually the window into one of the top units of the
7 adjacent property to the east.

8 MEMBER JOHN: Excuse me. And there was a slide
9 that showed all of the lightwells on that little block. Can
10 you go back to that one?

11 MR. TEASS: I think you can see it easiest in the
12 aerial view here. So the subject property is here. This is
13 the lightwell in question. There's a symmetrical lightwell
14 pairing here. There's another lightwell with a feature of
15 symmetrical pairing for the project at 1719. You can see a
16 lightwell further to the east, and if you move further to the
17 west, there is this pattern of large buildings and
18 lightwells. And then, you know, maybe a third of the way
19 down the block, it transitions to a more sort of rowhouse
20 fabric.

21 MEMBER JOHN: All right. And I think the point
22 I was trying to make was that not all of these buildings that
23 create the tunnel-like atmosphere have lightwells. Some
24 don't. So I don't know how much that would get you but they
25 don't all have lightwells.

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1 MR. LEWIS: I think the difference between those
2 buildings and ours -- Will, if you could go to the shadow
3 study, the second shadow study page? One more. Yes. So if
4 you look, this is just kind of conceptual but the upper left
5 and the upper right diagrams kind of speak to what you're
6 saying. When all the buildings extend to the same rear
7 distance, then they all have access to the light on that
8 facade. We can't go back that far because of the lot
9 occupancy limitation, and so we can never really access that
10 quality light at the rear of the building in a way that the
11 non-conforming neighbors that extend all the way to the
12 property line or nearly all the way to the property line can.

13 MEMBER JOHN: Thank you.

14 VICE CHAIR HART: Can you -- I know that you
15 described -- and anybody can answer this; I'm not really sure
16 who's the right person to respond to it -- but the number of
17 bedrooms per unit, that was a decision that you made because
18 you wanted to. I know you said that the community wanted --
19 the community was supportive of you having multiple bedroom
20 units, but if you had one-bedroom units, are we talking about
21 the need for the additional FAR? I mean it -- I understand
22 that -- I don't know -- I just -- I just think that -- I was
23 just wondering if there was a way that you -- that the number
24 of bedrooms were also contributing to some of this as well.

25 MR. LEWIS: I mean maybe this is really for Will

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1 to answer. I think there was discussion about efficiency in
2 terms of internal stairwells and that sort of thing that goes
3 to that point.

4 MR. TEASS: I think that, you know, one thing to
5 think about is, you know, in a building that we're showing
6 here in the upper row is that if you had a pure matter of
7 right development, even within the existing not only the
8 zoning envelope but within the HPRB envelope, the fact is we
9 do have a building to the left. And I want to call your
10 attention to the -- I'm sorry to the west here. That's a
11 four-story building that actually has a full cellar in it,
12 and I think that it's not inconceivable that we could have
13 gone to HPRB with a four-story building at 45 percent lot
14 occupancy that had five units and each of those units would
15 be a one-bedroom unit. And I think that that's something
16 that is a pattern of development that other folks have done,
17 and I think that that's something that we did not want to do
18 here. And I think that was something that -- the ANC, one
19 of the reasons I think they supported this was because of the
20 configuration that we adopted here, is that we had both a
21 diversity in terms of the unit types, but we also made
22 provisions for larger units with larger bedroom counts, which
23 has been a recurrent theme in that ANC in order to really
24 balance the different types of families that live in the
25 neighborhood.

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1 VICE CHAIR HART: So you're laying it on -- not
2 laying it. You're saying that it's because having to provide
3 internal stairs that connect one floor to the other, that
4 that is throwing your FAR calculations into the variance?

5 MR. TEASS: Correct. So I think that, you know,
6 our -- what we -- I would classify the upper levels as
7 triplex units where you have sort of a living level, you
8 know, one sleeping level and a sleeping level above that, and
9 we have one that faces the street and one that faces the
10 rear. And so I think part of that, there's an inefficiency
11 that David spoke to earlier that, you know, in order -- you
12 know, that the stairs, you're creating vertical circulation.
13 I think we tried to address this in one of the previous
14 slides as well, but there's an inefficiency in terms
15 vertically stacking those units that on one side provides
16 more bedrooms and more -- you know, a larger unit and larger
17 bedroom count that can facilitate larger families, but it
18 comes at the cost of having additional stairs within the unit
19 which then has an impact on the efficiency if that makes
20 sense.

21 VICE CHAIR HART: No, I understand that. I am
22 still thinking that it's also a choice that you made.

23 MR. TEASS: Yes. I would --

24 VICE CHAIR HART: I mean as opposed to that you
25 are being forced to do that, so -- not forced but you are

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1 being -- you know, you are kind of required to do that,
2 there's nothing in the zoning regs of that -- you were just
3 saying that your preference is that -- you as the --
4 representing the Applicant, your preference is to have the
5 various types of building -- of units that you're proposing?

6 MR. LEWIS: It's definitely a design choice.
7 There are policy, slash, community reasons behind it. Part
8 of it goes to the variance test, as well. There are these
9 conditions inherent in the property. You know, Will compared
10 our property to the four-story building immediately next door
11 which extends 95 percent -- it covers 95 percent of the lot,
12 and so it just has -- it has a much -- when it was designed
13 or constructed had a much wider range of development choices
14 than we have. We are -- the site is inherently constrained
15 in ways that pushed us to make the design decisions we made.
16 But you're right in terms of the bedroom count; it is a
17 design decision but it's a design decision that comes out of
18 the uniqueness of these multiple factors.

19 And I guess I would sort of point to the variance
20 test again as, you know, we have a practical difficulty in
21 complying with the regulations. It's not an impossibility
22 but the impractical difficulty standard, you know, if you
23 look at the case law, the term that is often used to describe
24 what practical difficulty really means is undue burden. And
25 we feel that given the context here, given the surrounding

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1 buildings, given the size of the lot, the zoning regulations
2 impose an undue burden in terms of some of the design choices
3 that we'd have to make in sort of the "but for" scenarios
4 that you're positing.

5 VICE CHAIR HART: Thank you.

6 CHAIRMAN HILL: Can you take me back to the slide
7 that talks about why the IZ thing is difficult again, the
8 numbers. It's been a long day.

9 MR. LEWIS: Sure.

10 CHAIRMAN HILL: And so --

11 MR. LEWIS: Sure, yes.

12 CHAIRMAN HILL: -- like really, I thought I
13 understood it and then I know Mr. May's getting it but like
14 can you explain this to me again, like --

15 MR. LEWIS: Sure -- sure.

16 CHAIRMAN HILL: Go ahead.

17 MR. LEWIS: So the IZ rules, we can opt into the
18 IZ program --

19 CHAIRMAN HILL: Yes.

20 MR. LEWIS: But once we're in, we have to follow
21 all the rules in the IZ program.

22 CHAIRMAN HILL: Yes.

23 MR. LEWIS: And one of those rules deals with the
24 proportion of the unit types. So it's -- the IZ rules
25 specifically call out that studios and -- the policy

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1 rationale here is that the Zoning Commission didn't want to
2 encourage people to provide only one bedroom or only studio
3 IZ units. They want to provide a mix effectively. In a much
4 larger building that's easier to accomplish -- in a five-unit
5 building, that's a very difficult task just because of the
6 absolute number of units, so few absolute. So the
7 proportionality rule is complex, I will grant you that but
8 basically, the proportion of studios and one-bedrooms cannot
9 exceed -- IZ units cannot exceed the proportion of studio and
10 one-bedroom market rate units.

11 So if we provide a studio or one-bedroom IZ unit,
12 100 percent of the IZ units are studios and one-bedrooms and
13 whatever the number is here, only 75 percent of the studios
14 and one-bedrooms are market rate units. So the 100 percent
15 is greater than the 75 percent; therefore, it violates the
16 proportionality rule in the IZ regs. I realize this is like
17 absurd math a little bit but it's because --

18 CHAIRMAN HILL: No, no, no. It's just --

19 MR. LEWIS: -- of the unit counts --

20 CHAIRMAN HILL: -- it's just because it's 6:00 and
21 I have been doing this since 9:00 --

22 MR. LEWIS: Sure.

23 CHAIRMAN HILL: -- 9:30 -- so in order to meet the
24 requirements -- and I can't read the little red box there
25 that well, but -- so in order to meet the requirements, you

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1 have to provide one of the two-bedroom units as an IZ unit?

2 MR. LEWIS: Assuming we're going to provide one
3 IZ unit. I mean I guess if we provided more than one, it's
4 a different -- but assuming we're going to provide one IZ
5 unit, it cannot be a one-bedroom or a studio. It has to be
6 a two-bedroom. And the mismatch, the --

7 CHAIRMAN HILL: And you have one 2-bed -- you only
8 have one 2-bedroom unit?

9 MR. LEWIS: We have two 2-bedrooms. I mean
10 they're effectively 3-bedrooms but for IZ purposes, they're
11 2-bedrooms because dens don't count.

12 CHAIRMAN HILL: So you'd have to give one -- you'd
13 have to turn over one of those IZ units -- I'm sorry -- one
14 of the 2-bedroom units to IZ?

15 MR. LEWIS: And the mismatch there is that by
16 opting into the IZ program, the amount of floor area that
17 we'd have to reserve to IZ is only something like 600 square
18 feet. But because of the sort of demising configuration and
19 because of this proportionality rule, essentially a quarter
20 of the building goes to the IZ program. I think the opt-in
21 program is a very good idea and there are many places in the
22 District where it can work. Christine and I were talking
23 about this just a few minutes ago. But this -- just a
24 five-unit building is not one of those places.

25 MEMBER JOHN: So following up on that, if this

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1 were in the RF-1 Zone and you had to make the fourth unit an
2 IZ unit, where would you put that unit? How would you --

3 MR. LEWIS: I mean, that's a --

4 MEMBER JOHN: I'm just -- you know, it seems --

5 MR. LEWIS: -- yes, that's a completely different

6 --

7 MEMBER JOHN: -- it seems kind of odd to me that

8 --

9 MR. LEWIS: It's a completely different context
10 and --

11 MEMBER JOHN: I know but I'm just curious to know
12 how that would work.

13 MR. LEWIS: And we've talked about it and our
14 thinking is that the market just won't provide those if
15 that's just an opt-in program, it's unlikely to -- that
16 people are very unlikely to opt into.

17 MS. RODDY: I would -- also, this is Christine
18 Roddy. I would just add in that RF-1 Zone is -- it permits
19 flats whereas we're in the RA Zone which is apartment
20 building. So I don't think that's really an apples to apples
21 comparison just because the uses are different, and five
22 units is a permitted use in the Zone.

23 MEMBER JOHN: I get all of that. I was just
24 wondering from a design perspective and in terms of economy,
25 because you're going to be renting it for the same amount of

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1 money if it were in the RF-1 zone, you wouldn't -- I mean you
2 wouldn't -- the units wouldn't cost more. I just wanted to
3 know from a design perspective, if this were in the RF-1
4 Zone, could the IZ unit be accommodated? That's all.

5 MR. FLEISHER: So this is a 2000-square-foot lot.
6 In the RF-1 Zone, by right, we'd only be allowed to do two
7 units. So in order to get to that fourth, we would already
8 have to get a special exemption or have a larger lot size.
9 So just the dimensions that we would be working with on that
10 lot would just be totally different than what we're working
11 with given the FAR and the lot size and everything like that.
12 So the design challenge wouldn't be apples to apples, if that
13 makes sense.

14 MEMBER WHITE: One quick -- did the ANC push at
15 all or ask or inquire about including an IZ unit at all
16 during this process?

17 MR. FLEISHER: It was never brought up at the ANC.
18 They were -- they strongly supported the project as we
19 presented it.

20 MEMBER WHITE: Okay.

21 CHAIRMAN HILL: Okay. Zoning Commission? Yes.

22 COMMISSIONER MAY: I don't have any other
23 questions.

24 CHAIRMAN HILL: Okay. All right.

25 COMMISSIONER MAY: I'm ready to move.

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1 CHAIRMAN HILL: All right. So I'm still just
2 thinking here. Is anybody here from the ANC?

3 (No response.)

4 CHAIRMAN HILL: Is there anybody here wishing to
5 speak in support? Is there anybody here -- okay, you're
6 welcome to come forward. Well, let me first -- does anyone
7 here wish to speak in opposition?

8 FEMALE SPEAKER: Nobody.

9 CHAIRMAN HILL: Okay. You can come on forward.
10 We'll figure out whether your in support or opposition or --

11 (Off-mic comments.)

12 CHAIRMAN HILL: That's okay. Were you sworn in?

13 MS. KEDEM: Yes, this morning.

14 CHAIRMAN HILL: Okay. Oh, good for you.

15 (Off-mic comments.)

16 CHAIRMAN HILL: You have to speak into the
17 microphone. I'm sorry. You have to introduce yourself and
18 then --

19 MS. KEDEM: Yes.

20 CHAIRMAN HILL: -- even your comments, we have to
21 get on the record.

22 MS. KEDEM: Sure. My name is Calanit Kedem.
23 Should I spell that for you?

24 CHAIRMAN HILL: Say it again, I'm sorry.

25 MS. KEDEM: Calanit, C-A-L-A-N-I-T, and the last

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1 name is Kedem, K-E-D-E-M.

2 CHAIRMAN HILL: Okay. So Ms. Kedem, who are you
3 with or who are you?

4 MS. KEDEM: I am the President of the 1725 T
5 Street Co-op Association, so I'm the building adjacent on the
6 east side.

7 CHAIRMAN HILL: Okay. Are you speaking on behalf
8 of the Association?

9 MS. KEDEM: On behalf of my -- personally and on
10 behalf of the Association, yes.

11 CHAIRMAN HILL: All right. So you'll get five
12 minutes as a member of an association and -- to speak, and
13 the clock -- well, I've missed the timer but it's kind of
14 moving there.

15 MS. KEDEM: Okay, sure.

16 CHAIRMAN HILL: So you just kind of -- to see, you
17 know, how much time five minutes goes. And you can present
18 your testimony whenever you like.

19 MS. KEDEM: Yes. In fact, if -- could I just get
20 my phone?

21 CHAIRMAN HILL: Sure, of course.

22 MS. KEDEM: Thank you. I'm so sorry.

23 CHAIRMAN HILL: That's all right. You're okay.

24 MS. KEDEM: So I just had a document in here that
25 I wanted to --

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1 CHAIRMAN HILL: Sure.

2 MS. KEDEM: -- to look at. In any event, I --
3 before I begin, I sense -- well, let me just preface my
4 remarks by saying that I have lived in my building since
5 1996, so many, many years. I was much younger back then.

6 CHAIRMAN HILL: We all were.

7 MS. KEDEM: All of my neighbors have been there
8 for a very long time. The last one moved in 2004 so she's
9 been there 14 years. So we're all long-term residents of the
10 street, the building, the neighborhood. We care about our
11 quality of life. We care about the streetscape and we care
12 about our quality of life in the building. We're not going
13 anywhere. We're not transient and so this is, you know, a
14 very big issue to us.

15 So the little card didn't really have an
16 appropriate box for me. I would have checked "other." I
17 sense opposition from Ms. John to the lightwell. We would
18 implore you not to oppose the lightwell because that was one
19 of our biggest concerns is that the neighbors, my neighbors
20 on the west side of our building had a lot of light because
21 that structure that's there now is very -- it's a very small
22 structure, so they have a lot of light.

23 This, you know, project is going to limit the
24 amount of light and even a lightwell doesn't really address
25 the issue adequately but without the lightwell, our living

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1 conditions are going to be greatly diminished. I mean, you
2 know, light is a very important thing in a densely populated
3 area and hard to come by.

4 So, you know, although I'm -- I have to say -- and
5 I've talked to Travis a lot; he's been very forthcoming and
6 we've met with him several times. I appreciate his openness
7 and willingness to work with us, so we're very grateful for
8 that. The design is not something I would have chosen but
9 it's adequate.

10 But what we are concerned about, there are several
11 issues; the light we thought was addressed but we hope -- the
12 process here, it's a bit of a -- it's kind of opaque. I've
13 never done this before. But if you opposed the lightwell,
14 please do not oppose it.

15 The other issue is noise and soundproofing.
16 They're using a party wall and we were told that we would get
17 information on the insulation they were intending to use so
18 that we could consult with other -- with professionals to see
19 if it's adequate, because Mr. Fleisher said that we -- you
20 know, we -- he assured us that we would use mutually
21 acceptable soundproofing materials and not necessarily the
22 minimum that the code requires but something that actually
23 works because, obviously, noise, you know, is not, I think,
24 for either property is not really a good thing to have. And
25 right now there are no neighbors, you know, on that side,

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1 really, to affect noise.

2 Another issue that we are concerned about is
3 runoff during construction -- or not run -- I mean the dust
4 and all that sort of thing during construction. We want to
5 have an agreement -- and just one second, please? I have my
6 remarks right here. Yes, mitigation of dust runoff and noise
7 during construction, we need to have an agreement on that.
8 And also, Mr. Fleisher had told us that -- or represented
9 that we -- and our letter, I think, is in your packet; it's
10 dated May 9th -- that we'd enter into a construction
11 agreement that addresses -- well, we thought light was
12 addressed but to address the noise issue, the dust runoff and
13 noise during construction and other matters before
14 construction begins.

15 So my concern is that -- and this is why I kind
16 of didn't know if I'm for or against -- I'm generally for the
17 project but we would like to have all of these matters ironed
18 out before construction begins. And we think that this is
19 premature to approve this project without us having, as
20 neighbors, an understanding of what's going to happen exactly
21 and not just, you know, these -- so we're -- but that's our
22 concern, that we don't know what they're intending. And
23 we're afraid that if -- that unless we have, you know,
24 assurances today that matters of concern will be taken care
25 of before construction, we're concerned that we might not get

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1 their cooperation later, if you see my point.

2 CHAIRMAN HILL: Sure.

3 MS. KEDEM: So that's it.

4 CHAIRMAN HILL: Okay. Great. Well, thank you.

5 What's the name of your association again?

6 MS. KEDEM: It's the 1725 T Street Co-op
7 Association.

8 CHAIRMAN HILL: 1725 T Street Co-op, okay.

9 MS. KEDEM: Yes, quite simple.

10 CHAIRMAN HILL: And you're --

11 MS. KEDEM: I'm the President of the Co-op
12 currently.

13 CHAIRMAN HILL: You're the President of the Co-op
14 and you've been there since '96?

15 MS. KEDEM: Ninety-six.

16 CHAIRMAN HILL: Ninety-six.

17 MS. KEDEM: Twenty-two years, yes.

18 CHAIRMAN HILL: I know. It's amazing, the time
19 flies.

20 MS. KEDEM: It does.

21 CHAIRMAN HILL: All right. Great. Thank you.

22 Does anybody have any questions for Ms. Kedem?

23 (No response.)

24 CHAIRMAN HILL: No?

25 (No response.)

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1 CHAIRMAN HILL: Okay. Great. Thank you. Let's
2 see, so back to just did someone -- oh, someone else wanted
3 to speak in support or opposition or -- okay, you can go
4 ahead and -- that's okay, you can sit down. And we need to
5 get another -- we need to have another box on our card I
6 guess. So if you could please introduce yourself again and
7 give your address?

8 MS. RANSOM: My name's Elizabeth Ransom and I'm
9 the -- representing the owners of the condominiums at 1731
10 T Street. We're on the west of the 1729 project.

11 CHAIRMAN HILL: The other side.

12 MS. RANSOM: The other side.

13 CHAIRMAN HILL: Okay. How do you spell your last
14 name?

15 MS. RANSOM: It's Ransom, like kidnap money.

16 CHAIRMAN HILL: I appreciate that. It's late in
17 the day. Okay.

18 MS. RANSOM: My parents are both diplomats by the
19 way, ambassadors, in case it counts.

20 CHAIRMAN HILL: Oh, wow.

21 MS. RANSOM: I'm just kidding.

22 CHAIRMAN HILL: Goodness. We had the ambassador
23 here earlier from the --

24 MS. RANSOM: Yes.

25 CHAIRMAN HILL: -- United Nations or something.

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1 MS. RANSOM: Our building was designed in --

2 CHAIRMAN HILL: Just you're going to get five
3 minutes as well because you're representing an association.
4 You can start whenever you like.

5 MS. RANSOM: Okay. Great. Our building was
6 designed in 1902. It's a contributing structure in the
7 Historic Strivers' District. I have lived in the building
8 for over 16 years and in DC for most of my life. First of
9 all, I want to thank the Board, the BZA Board. It's great
10 to see democracy in action and I really appreciate all the
11 careful consideration you've given to all these cases. We're
12 case eight and you're still listening and I appreciate that.

13 The owners of 1731 T Street are in support of this
14 development at 1729 T Street, and we wrote a letter of
15 support in favor the project. The developer decided against
16 submitting it to the case record but I have submitted it
17 along with a letter from a structural engineer who's
18 outlining some concerns that we have. So I want to review
19 our support and also our concerns.

20 So I really appreciate, like Calanit Keden said,
21 the engagement from the developer and his architect. We've
22 spoken with them before. They've come -- they've followed
23 up with us. We also appreciate the development of a property
24 that has been, for about a decade, kind of a blighted
25 property, so this is wonderful. The developer sent the plans

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1 to us, presented at ANC and Conservancy meetings. They met
2 with the condo owners. They've been open to taking
3 questions. On June 3rd, they even came down to our basement
4 to witness the flooding that we're having that is one of the
5 concerns that I'm going to mention and also went into the
6 backyard, and we showed them the things that we're worried
7 about. They have begun following up on the concerns we
8 expressed. They installed a tarp along the wall and they --
9 this morning, they began taking out the deck.

10 There are several concerns which remain which I'd
11 like to review. Our concerns are three-fold. There's a
12 long-time lack of maintenance of their side of the party
13 wall. Obviously, this predates them. There's improper
14 drainage in their backyard including a poorly-attached roof
15 drain pipe and possible blockage in the drain that we
16 discussed.

17 The yard is also graded towards our building so
18 water keeps -- every time it rains, all this rain we've had,
19 water is flooding into our basement. It's -- as we showed
20 them on June 3rd where we had standing water in the basement,
21 it's running into our storage units. We put flood barriers
22 and that sort of thing from Home Depot, but I don't know how
23 much longer we can keep it up. And it's our basement and the
24 lower level of Unit 1. We're also concerned that mold might
25 be developing at this point. In the lower-level unit, we've

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1 had to start renting industrial strength dehumidifiers to
2 keep the humidity down.

3 So these concerns aren't new. The predate this
4 owner. DCRA was actually very helpful to us in enforcing the
5 DC regulations with the previous owner, getting that owner
6 to take a few steps including taking out the old hot tub that
7 was broken and a few other little things, so there is
8 significant documentation of it.

9 We've also raised in several committee meetings
10 that we're concerned about the demolition process making sure
11 that our historic structure is preserved. And we're
12 concerned about how fragile our wall is given all the water
13 intrusion. We understand the developers will be assessing
14 the current state. Their structural engineer will be
15 monitoring over time. We just want to make sure that
16 precautions are taken to ensure our historic building is
17 safeguarded during the process.

18 So the bottom line is before you approve the
19 process, we just want the developers to take the necessary
20 steps to ensure that their portion of the party wall does not
21 allow leaks into our condominium building. And we want
22 assurances that repairs to the party wall will address further
23 water intrusion over the long-term, and we'd like assurances
24 that the demolition and construction won't adversely affect
25 our building. And other than that, we're in support.

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1 CHAIRMAN HILL: Okay. Great. Let's see, the --
2 yes, sure.

3 MS. KEDEM: May I -- and I echo what Ms. Ransom
4 said about -- and clearly, we wouldn't want the demolition
5 or construction to affect our building either, so that goes
6 without saying --

7 CHAIRMAN HILL: Okay.

8 MS. KEDEM: -- and I thought for the record --

9 CHAIRMAN HILL: Okay. I mean, Mr. Lewis, I don't
10 know where we're going to get from this, but it sounds like,
11 you know, if you guys had like a construction management
12 agreement or something like that with the two next door
13 neighbors, that's something that we might want to see. I
14 don't know what's going -- we can talk about it again later.
15 Just give me a second. And so -- and then, you know, it
16 sounds as though, you know, you're fortunate they're not here
17 opposing you. So just if you can allay their concerns in
18 some fashion, that be great.

19 Okay. Does anybody have any questions for the
20 witnesses?

21 (No response.)

22 CHAIRMAN HILL: No? Okay. All right. Thank you,
23 all. So back to this -- so can you throw that thing up with
24 all the numbers again. You guys can sit -- you guys can go
25 back. Thank you.

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1 (Off mic comments.)

2 CHAIRMAN HILL: No, no. The one with the IZ.
3 Yes, the IZ slide with the numbers. So Ms. Fothergill, just
4 as far as the Office of Planning, I mean do you understand
5 all this and do you agree with their argument? You don't
6 agree with their argument?

7 MS. FOTHERGILL: The proportionality rule --

8 CHAIRMAN HILL: Yes.

9 MS. FOTHERGILL: -- would be required?

10 CHAIRMAN HILL: Yes.

11 MS. FOTHERGILL: Yes. I --

12 CHAIRMAN HILL: The proportionality rule would be
13 required and so they would only need to -- if I understand
14 this correctly, they'd only have to come up with 587 square
15 feet for the IZ but they would actually be giving 1373
16 because you'd have to give up one of the units and you give
17 the smaller 2-bedroom unit. And so you don't -- from the
18 Office of Planning's perspective, do you think that that is
19 an economic hardship or you're still thinking that you
20 continue to encourage them to go through this IZ process to
21 possibly get the bonus density?

22 MS. FOTHERGILL: We don't generally consider
23 economic hardship. The Board might but Office of Planning
24 doesn't, and we see this as the property owner in this Zone's
25 way to gain bonus density for FAR.

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1 CHAIRMAN HILL: Okay. And then the other thing,
2 I guess -- and I don't know whether we're going to -- I can't
3 believe we might not actually make a decision on something
4 again, but if -- I'm a little confused on just -- and I know
5 that each property is unique and -- but they keep talking
6 about that one that's a couple down, and so I get a little
7 confused as to, you know, I guess maybe -- depending upon
8 what we end up doing here, I would be curious as to what it
9 was that the Office of Planning looked at during that period
10 and to how they got -- so I guess they were approved for the
11 increased FAR then?

12 MS. FOTHERGILL: Yes. As I mentioned, it was a
13 vacant lot. It was an in-fill project and it did have a
14 continued hearing. So -- and there were changes to the plans
15 and modifications made, but I do not know the exact --

16 CHAIRMAN HILL: Okay, because I'd just be -- look,
17 if you could give us a little insight as to that because
18 regardless of whether or not the IZ bonus density opt-in
19 program was available then or not, they were granted the
20 variance. And so, you know, that means -- and I can go back
21 and look at the case but that means that they made the case.
22 And again, I know that they're not comparable because each
23 one is different, but they are on the same street and it does
24 seem like there were similar instances. And it's also how
25 I assume the Applicant has already stated that -- how they

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1 got to kind of this level of FAR, because they looked at the
2 other project and they saw that one got 2.6 or 5 or whatever
3 it was, and they, you know, they're less greedy, and so
4 they're like, you know, trying to get the 2.16.

5 So -- and then -- and I'm just talking this out
6 with the Board because I, again, don't know where we're going
7 to get to, but I still then would be curious if -- I would
8 even want some analysis, I guess, from the Office of Planning
9 or insight. I don't know if you could give it, if they did
10 get to the -- if they did get into the IZ program and got
11 them to the 2.16, would then the Office of Planning be in
12 favor of the variance to get them to the 2.31?

13 MS. FOTHERGILL: We can provide that analysis but
14 -- and we're happy to, but the Applicant hadn't proposed
15 that, so that's why it's not provided at this point.

16 CHAIRMAN HILL: Okay.

17 MS. FOTHERGILL: We can provide that if you're
18 requesting it.

19 CHAIRMAN HILL: Okay. I don't know if I'm
20 requesting it. I'm just kind of talking it through a little
21 bit. Okay. So back to the Applicant and then I'll let the
22 Board have their questions. Going to wait for the discussion
23 to finish.

24 Okay. And so Mr. Lewis then, again, what I'm just
25 continuing to struggle with is how you're getting the

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1 increased FAR, because I mean I've been here long enough to
2 know that the Office of Planning doesn't usually approve
3 increased FAR. It's like really difficult. It's one that
4 they -- it's a really hard one for them to like get to.

5 MR. LEWIS: Yes.

6 CHAIRMAN HILL: And so I don't know -- I'd be
7 curious, I suppose, as to what, if you didn't get the FAR,
8 what it looks like; you know, what would happen to the
9 project, because then you just -- you'd have to lose, you
10 know, the first floor; you'd have to find whatever you needed
11 to to get to the 1.8, right, and you'd still be getting the
12 closed court and the lot occupancy, but you wouldn't get the
13 FAR. So I'd just be curious as to what you guys would do for
14 that?

15 And I don't know if we're doing this. I'm just
16 -- since it's late in the day and I'm going to forget
17 whatever I'm thinking about, that's kind of where I was.

18 So what does the Board think about anything?
19 Sure. Of course, Mr. May.

20 COMMISSIONER MAY: I'm just -- I mean are we going
21 to hear anything more from the Applicant and turn it back to
22 the Board; is that where we are or are we just -- we're
23 speculating in advance of closing? What are we --

24 CHAIRMAN HILL: I guess I was kind of just, again,
25 speaking extemporaneously out loud as to where I am with

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1 stuff, and I can go and ask them if they have any comments
2 to anything I mentioned and/or continue to --

3 COMMISSIONER MAY: I mean it doesn't sound like
4 we're going to bring this to a conclusion right now, right?

5 CHAIRMAN HILL: I don't know. Really, I'm just
6 kind of curious as to what -- I don't know what anybody else
7 is thinking. I mean I know I'm a little --

8 COMMISSIONER MAY: I'll let you know what I'm
9 thinking.

10 CHAIRMAN HILL: Okay. Yes. I know you will so
11 that's why you got the light on --

12 COMMISSIONER MAY: All right. I'll go ahead now.

13 CHAIRMAN HILL: Yes.

14 COMMISSIONER MAY: I just don't know whether I was
15 going to wait for --

16 CHAIRMAN HILL: You can go now. Just we're all
17 -- we're winging it at this point. You know, it's 6:00.

18 COMMISSIONER MAY: Okay. So I have the same
19 problem that you have. It's difficult to get to a FAR
20 variance in this circumstance. I think that there are some
21 very unique aspects to this property -- or unique is not the
22 right word but exceptional circumstances having to do with
23 the depth of the buildings that flank it on either side.

24 However, the particular design strategy which, you
25 know, I think looks great in the front. I think you're doing

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1 a good job there and I think the idea of trying to occupy the
2 full site and have an interior court as a way of getting
3 light into the middle of the building is -- you know, is
4 appropriate. And I think that that's how you can get to
5 things like a 70 percent lot occupancy, however -- or relief
6 that might be needed for the closed court.

7 However, it doesn't get you that extra floor of
8 bedrooms. You know, I mean, would it get you everything
9 except that with just a little tiny variance on FAR? I don't
10 know. I mean that kind of depends on what the design
11 solution would be.

12 I also think that some of the rationale that
13 you've given us in terms of the analysis of different
14 building configurations isn't really fully complete, and I
15 can't really buy some of it. I mean you do a little bit of
16 bait and switch, honestly. Where we talk about a matter of
17 right solution; you know, what would happen with a matter of
18 right closed court? Well, you know, a 50-foot tall closed
19 court has to be, I don't know, 16 feet wide or 17 feet wide,
20 which means that you have this little tiny passage going to
21 the back. Well, you know, the building you're proposing
22 doesn't have a 50-foot deep closed court. It has a 3-story
23 closed court and so you can get by with 15 feet; that leaves
24 you 5 feet which is still narrow but it's not so narrow that
25 you can't pass through it. And I have seen designs of

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1 buildings where they do exactly that. They essentially have
2 two kind of towers, a front and a rear. And you have a very
3 substantial closed court in the middle and, you know, maybe
4 you could do it in the matter of right. More likely, you
5 would still need some kind of relief to make it a reasonable
6 approach. But it's a reasonable approach and it's a way to
7 lay out the building. And, you know, we're not seeing that
8 here.

9 I mean I think the solution that you have is
10 really good. It's just -- you know, it's not consistent with
11 the allowed FAR. I think the only way that you can get to
12 the additional FAR would be to opt-in. I understand that's
13 a problem with the unit configuration that you have.

14 I also think that's a problem with the zoning
15 regulations that we should probably take a look at, because
16 it is exactly this kind of situation that that opt-in was
17 supposed to address. And typically, that means -- you know
18 -- I mean, I think maybe the Zoning Commission at the time
19 was thinking in terms of small buildings where you're
20 building, you know, four or five or six one-bedrooms or
21 studios as opposed to this particular mix.

22 We also appreciate the mix. I mean the Zoning
23 Commission has regulations that promote having larger units
24 and certainly that comes up a lot in public testimony. It's
25 certainly a desire of many neighborhoods to have larger units

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1 and not just have a whole bunch of little studios.

2 So I mean I understand that this -- it doesn't add
3 up to an easy solution in this circumstance and I think that,
4 you know, I am also not sympathetic to financial hardship
5 arguments as a way of justifying additional FAR because it's
6 just -- you know, it's too easy to manipulate the numbers and
7 we don't have a good way of evaluating what's correct in that
8 circumstance.

9 So I mean I think that the -- you know, unless
10 there is some truly viable rationale for increasing FAR, I'm
11 having a really hard time getting there. So I would -- I
12 mean I'm not inclined to just vote no today. If we think
13 that more information might be helpful, I'm happy to look at
14 more information later. But as it is right now, there's not
15 enough there to say yes.

16 CHAIRMAN HILL: Okay. All right. This is great.
17 This -- I like this new way we're doing this. This is good.
18 Okay. So has anybody else got anything else to say --

19 MEMBER WHITE: Yes.

20 CHAIRMAN HILL: -- before I turn it back to the
21 Applicant?

22 MEMBER WHITE: Well, I'm in total agreement with
23 Mr. May. I am -- that's why I was asking questions about the
24 confluence of factors to see whether or not there was a way
25 to frame the argument to meet the criteria for the FAR, but

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1 I'm not quite there yet, right. So obviously, I believe in
2 the whole aspect of IZ units. I'm not making any formal
3 recommendations, you know, that they do it in order to get
4 approval, but that might be one way to meet the parameters,
5 to meet the FAR criteria in order to get a variance. So I'm
6 still not ready to move forward with the application, because
7 I still don't think that they've met the criteria at this
8 point.

9 MEMBER JOHN: Mr. Chairman, I'm still struggling
10 with the criteria for the variance and whether the conditions
11 that have been described are truly exceptional conditions
12 that create a practical difficulty. And so I was asking
13 questions to try to probe that justification, not necessarily
14 because I disagree but sometimes you ask questions you think
15 you know the answer to and then you find out you're wrong.
16 So I am not ready to make a decision yet. I would like to
17 see what could be done without the FAR approval. Otherwise,
18 the design looks great.

19 CHAIRMAN HILL: Okay. Mr. Hart, do you have
20 anything to add?

21 VICE CHAIR HART: No.

22 CHAIRMAN HILL: Okay. All right.

23 (Laughter.)

24 MR. LEWIS: Can I just ask a --

25 CHAIRMAN HILL: Yes. You can ask everything.

1 Just give me a second.

2 MR. LEWIS: Sure.

3 CHAIRMAN HILL: So -- okay, sorry, Mr. Lewis. So
4 what did you want to ask?

5 MR. LEWIS: I just wanted to confirm from Ms.
6 White and Ms. John that your questions about satisfying the
7 variance test is pertaining only to the FAR relief, or are
8 you also asking about the court relief and the lot occupancy
9 relief, because it sounded like Mr. May had questions about
10 court relief in addition to the FAR, but most of the
11 discussion so far has been about the FAR. So I just kind of
12 -- is it all open or is it --

13 MEMBER WHITE: For me, it was primarily the FAR
14 question.

15 MR. LEWIS: Okay.

16 MEMBER JOHN: That's a heavier lift --

17 MR. LEWIS: Right -- right, sure.

18 MEMBER JOHN: -- and so I wanted to see what you
19 could do if you could not get that, because bear in mind,
20 just as you're citing the previous case as justification to
21 get over this difficulty, the person behind you is going to
22 come in and point to this case. So we have to be careful
23 about bending the rules and relaxing the standards and the
24 criteria so much that we don't know what the rule is anymore.

25 MR. LEWIS: Sure.

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1 MEMBER JOHN: And that's something that we
2 struggle with all the time; otherwise, you know, we -- you
3 know, we just can't justify our decisions if we are not clear
4 about the criteria and how we're applying them. And this
5 seems to be a very heavy lift. I mean I get the fact that
6 there are two very, you know, tall buildings that are
7 protected under the HPRB process and that there are some
8 difficulties, but I have not seen enough -- there's nothing
9 in the record that shows what other options, you know, could
10 be tried in terms of the design. Do you need five units?
11 These are not -- that's not really in our purview to make
12 those kinds of suggestions.

13 MR. LEWIS: I just -- I would say that in the
14 variance context, it's really not our burden to show that
15 this is the only option that works. I realize we do have
16 some work to do but I just want to clarify sort of the
17 parameters that we're working within.

18 MEMBER JOHN: If I could just respond? But the
19 variance is not to be -- the test is not satisfied because
20 of the choice that you have made so --

21 MR. LEWIS: Understood.

22 MEMBER JOHN: -- so you don't make the choice and
23 then say because I have this choice, I need a variance.

24 MR. LEWIS: Sure.

25 MEMBER JOHN: So that's the other point I was

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1 trying to make.

2 MR. LEWIS: I do, yes.

3 CHAIRMAN HILL: Okay. I don't want to forget what
4 I'm kind of -- I think we're kind of asking and then we can
5 clarify. So Mr. Lewis, first of all, I guess -- and if you
6 can do this before -- if we end up asking for all these
7 things, and if I understand what I think we're asking for,
8 we're going to be back here on the 25th, if you can pull that
9 off, because that's when Mr. May is back. And --

10 COMMISSIONER MAY: I was only going to be back for
11 one case originally.

12 CHAIRMAN HILL: We're apparently putting
13 everything off until the 25th and you're going to work with
14 the Office of Planning to fix all those three things that
15 happened today that seem to be unclear. And so first of all,
16 it would be like construction management agreement with your
17 two neighbors, okay, to allay their fears; and then I -- and
18 this is actually I don't even know -- and you can talk with
19 your client -- you know, maybe even going to the Office of
20 Planning first and trying to figure out you think you may or
21 may not be able to do with them, because if you wanted to
22 continue down this path, I think you do have a little bit of
23 a tough lift lit looks like, okay, in so much as the FAR.

24 I think that the other -- I think you made a good
25 argument for the variances for the other forms of relief but

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1 the FAR -- and obviously, that's the one that we've been
2 talking the most about -- and if you wanted to continue down
3 that road, then I'd like to see what does the 1.8 get you;
4 like, you know, how do you have to change the design to the
5 1.8. I mean to Mr. May's point, I don't think he was
6 necessarily arguing about the closed court as much as he was
7 saying you maybe could have figured out how to do that and
8 keep the closed court. I mean you wouldn't necessarily have
9 needed that relief. He's seen it done before and the design
10 and the programs still continued to work. So I would like
11 to see what you can do if you had kept the 1.8.

12 And the other reason behind that is that we need
13 to see plans that we actually approve. So when you come back
14 here again, you know, if you want it to be finished one way
15 or the other, we have to see whatever plans it is that we're
16 actually approving, right, so that's why I would say if you
17 can get to the Office of Planning and if you can even figure
18 out with the Office of Planning as to whether or not you are
19 going to opt-in and if you do opt-in, if they can give an
20 analysis as to whether they're going to give you the extra
21 whatever it is, you know, difference between the 2.16 versus
22 the 2.31. I don't know but you all can figure that out with
23 the Office of Planning. Whatever you come to us with next
24 -- and I guess do we need a continued hearing? I don't know,
25 we'll see at the end -- okay, everybody's saying "yes."

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1 Great. So Mr. May has -- you get a continued hearing as well
2 as decisions. This is great.

3 So we're going to have a continued hearing, I
4 guess, okay. And so there's a lot still to kind of get on
5 the table, and the reason why I'm just kind of -- it's the
6 end of the day and nobody's here so -- and if anybody's still
7 watching, I can't believe you're still watching -- the -- but
8 that we're having a discussion here that you're hearing from
9 the Board what we want to see so that you might become
10 successful, okay.

11 And again, the 1.8, see what that is; the
12 construction management agreement. I guess the Office of
13 Planning, if you could give us some analysis of how that
14 other project got to where it got to. And I guess what I
15 would like the Applicant to do is instead of making the
16 Office of Planning work a lot, if you met with them first and
17 this all kind of somehow gets worked out, then I don't need
18 the information from the Office of Planning, okay, about how,
19 why that other building is comparable. However, if you all
20 have a long thing with the Office of Planning and you're
21 still where you are and they're still where they are, then
22 please, Ms. Fothergill, if you could provide us with some
23 information as to how that other project to approved and why.

24 MS. FOTHERGILL: Yes.

25 CHAIRMAN HILL: Okay. Thank you. Yes, Mr. May?

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1 COMMISSIONER MAY: So I think there's an
2 unanswered question about what I was concerned about in terms
3 of the relief, and I would just agree with my colleagues that
4 it really is mostly about the FAR. I think the relief that's
5 related to the closed court and lot occupancy can be tied
6 more directly to the practical difficulties that you face on
7 this site. And so that's easier to do. I think the thing
8 that gets into your choice in the design strategy really is
9 that additional FAR and, you know, why is that necessary to
10 overcome the practical difficulties of this site. That's
11 what it boils down to.

12 CHAIRMAN HILL: And then obviously, I didn't think
13 about this. If you can somehow get together with the Office
14 of Planning and it all works out, everybody else is on board
15 so you get a summary order, you know. Otherwise, you're
16 getting a full order and that's a year, you know, and so, you
17 know, just to let you know; right, okay? We all understand
18 that? Okay.

19 All right. So then I don't have the person that helps
20 me with the dates. So if we're back here on the 25th again
21 of July -- 25th of July, so then you're going to get -- Ms.
22 Glazer, do you know the dates as to when everything has to
23 be to everybody, when you can submit everything? Like I'm
24 trying to remember. The Agency has to have enough time.
25 Maybe one of the attorneys can tell me again the time

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1 parameters. I'm trying to remember the -- there's the seven
2 days, so then when can you -- let's start this way. When can
3 you think you can talk to the Office of Planning and figure
4 out whatever you need to get to us?

5 MR. LEWIS: We'll have to file something with you
6 all by the 11th.

7 CHAIRMAN HILL: By the 11th, okay.

8 MR. LEWIS: Effectively, yes.

9 CHAIRMAN HILL: Okay.

10 MR. LEWIS: Two weeks before --

11 CHAIRMAN HILL: Okay, right.

12 MR. LEWIS: -- to give OP 10 days and --

13 CHAIRMAN HILL: Give OP the time to get to the --

14 MR. LEWIS: -- and that gives you seven days.

15 CHAIRMAN HILL: Right. So you -- why don't you
16 repeat again what you think we're asking for, Mr. Lewis?

17 MR. LEWIS: So the construction management
18 agreement with the neighbors in some fashion; and then
19 basically additional analysis on the FAR relief request; and
20 as a couple sort of constituent parts, one of them being what
21 is a "by right" FAR, 1.8 FAR, what does that get us --

22 CHAIRMAN HILL: With the other relief.

23 MR. LEWIS: -- with the other relief, right, in
24 the context of the other relief. The next item is sort of
25 communicating with OP in terms of what they would be willing

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1 to support in terms of the delta between 2.16 and the 2.3
2 that we're requesting. We'd kind of add to that conversation.
3 I think we'd be curious to know -- I'm just kind of throwing
4 this out there since we're kind of talking openly -- you
5 know, the big hurdle for us on IZ is the proportionality, so
6 whether they would support some kind of relief from the --

7 CHAIRMAN HILL: Yes. I don't know how that works.
8 You can talk --

9 MR. LEWIS: So -- so --

10 CHAIRMAN HILL: -- I don't think that's possible
11 the way it sounds.

12 MR. LEWIS: I don't -- I mean we'd need a variance
13 from --

14 CHAIRMAN HILL: Yes. That's like --

15 MR. LEWIS: It's a very -- that's a heavy lift is
16 what --

17 COMMISSIONER MAY: I mean it's a question for OP
18 whether they see a way to recommend a variance from the --

19 MR. LEWIS: -- for an optional --

20 COMMISSIONER MAY: -- from the proportionality.
21 I don't know.

22 CHAIRMAN HILL: Okay. So you can talk -- it looks
23 like the Office of Planning is willing to have that
24 discussion with you, which is more than I thought so okay,
25 keep going.

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1 MS. FOTHERGILL: That's all I have.

2 MR. LEWIS: That's -- I mean those are the two --

3 CHAIRMAN HILL: Okay. I think that's right. Did
4 he miss anything? Okay.

5 COMMISSIONER MAY: He didn't.

6 CHAIRMAN HILL: All right. So the 11th. Okay.
7 Go ahead.

8 MR. FLEISHER: Can I just say one thing on the
9 construction management agreement?

10 CHAIRMAN HILL: Sure.

11 MR. FLEISHER: Just in my experience, that's
12 something that would be extremely to have by the 25th
13 considering that we're working with two neighbors. There's
14 a total of 11 units. It's something that's time and cost
15 intensive. I mean we've committed --

16 CHAIRMAN HILL: I got it. I understand.

17 MR. FLEISHER: -- we met with them. It just --

18 CHAIRMAN HILL: We need --

19 MR. FLEISHER: -- it's --

20 CHAIRMAN HILL: -- it's okay.

21 MR. FLEISHER: -- it's impractical --

22 CHAIRMAN HILL: I'm just saying like -- I mean we
23 -- I understand and have -- we've done this a lot with
24 different people. And so I'm just saying by the 11th, you
25 get us whatever you can get us by the 11th, okay.

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1 MR. LEWIS: Because more realistically, we might
2 have like a memorandum of agreement or something --

3 CHAIRMAN HILL: Okay. Memorandum of understanding
4 or something --

5 MR. LEWIS: Agreement to agree.

6 CHAIRMAN HILL: -- agreement to agree.

7 MR. LEWIS: Well, I mean part of the rationale for
8 not having a construction agreement today is the design of
9 the building isn't fully baked and you heard from the
10 neighbors that they have very particularized concerns about
11 the party wall and the drainage, and some of those things
12 really do depend on how the building is designed. So some
13 of the specific items in the construction management
14 agreement would just necessarily have to -- are predicated
15 upon the decision that you all give us. So we can kind of
16 come to an agreement with the neighbors that we will reach
17 a construction agreement but the specifics of that
18 construction might not be --

19 CHAIRMAN HILL: Okay. I understand what you're
20 saying. So the thing that I would be looking for would be
21 something that provides some kind of -- I'm not going to use
22 that word again -- you know, calms the concerns of the two
23 next door people; right, okay? You know, I know that you
24 can't specifically address all the issues because you don't
25 know what you're -- they don't know what they're building

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1 yet, you know, and so they can't specifically get to what you
2 would want to be in a construction management agreement, but
3 you can show us something that shows that you guys are
4 committed to talking, you're committed to fixing all whatever
5 these concerns are because they're here to help you, okay.
6 And so just get us something by the 11th, okay. And so what
7 that means for, you know, again, the people are here, it
8 could be a memorandum of understanding perhaps to entering
9 into a construction management agreement once the final
10 design is met but addressing these issues, x, y, and z, and
11 how you're going to address those issues x, y, and z.

12 MR. LEWIS: A timeline.

13 CHAIRMAN HILL: Okay. Great.

14 MR. LEWIS: Yes.

15 CHAIRMAN HILL: All right. Are we done? Okay.
16 I want to be done. The -- now the owner, I'm just -- you
17 bought this property how long ago?

18 MR. FLEISHER: Mid-January.

19 CHAIRMAN HILL: Have you done properties like this
20 before?

21 MR. FLEISHER: This is our largest project in
22 terms of the unit mix and square footage.

23 CHAIRMAN HILL: All right.

24 MR. FLEISHER: But we're currently working on four
25 throughout the city similar so --

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1 CHAIRMAN HILL: Okay. All right. So that's it.
2 I mean I guess I really -- I really -- Mr. Lewis, I hope you
3 come back to me and you got Office of Planning on board,
4 okay. That's -- you know, let's just get right there; right,
5 okay? And if not, then you really have to figure out what
6 it is you think we're going to possibly pass and then show
7 us that so that we can just at least get to a decision,
8 right, and then you can figure out what's going on, because
9 if you come back and then we have to discuss it again and all
10 that stuff and then we have to go back again to see what the
11 design is that you're going to -- it's just going to --
12 you're going to be back here again and it's after August.
13 So it's September-October that you're back here again with
14 whatever the new design is, okay, so -- all right. See you
15 -- I'm going to see Mr. May on the 25th of July for the
16 continued hearing. All right. Thank you all very much. I
17 don't even know who to ask. Ms. Glazer, is there anything
18 more for the Board today?

19 (Laughter.)

20 CHAIRMAN HILL: No?

21 VICE CHAIR HART: Thank you, Ms. Glazer.

22 MS. GLAZER: No, Mr. Chair.

23 CHAIRMAN HILL: All right, we're adjourned.

24 (Whereupon, the above-entitled matter was
25 adjourned at 6:41 p.m.)

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: 06-13-18

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



Court Reporter

NEAL R. GROSS

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