

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

JULY 18, 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
CARLTON HART, Vice Chairperson (NCPC)
LORNA JOHN, Board Member

ZONING COMMISSION MEMBER PRESENT:

ANTHONY HOOD, Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

HILLARY LOVICK, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN
JONATHAN KIRSCHENBAUM
MATT JESICK
BRANDICE ELLIOTT
CRYSTAL MYERS
ANNE FOTHERGILL

The transcript constitutes the minutes from the
Public Hearing held on July 18, 2018.

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

10:24 a.m.

1
2
3 MR. MOY: Okay, the first case application in the
4 public hearing section is application number 19783 of Beyond
5 Light Incorporated. If we can have parties to the table
6 which includes the ANC if they're present.

7 This is captioned and advertised for a special
8 exception under the use requirements of Subtitle U section
9 420.1(a) to permit a community-based institutional facility
10 RA-1 zone. This is at premises 4212 Livingston Road SE
11 square 6119 lot 15.

12 And Mr. Chair, just to remind you yesterday there
13 was a filing of a report from ANC 8D.

14 BZA CHAIR HILL: Okay, is the applicant here? If
15 you could please come forward. Just right here in the table.
16 Right in front of us here. Just sit down and you can push
17 the microphone right there in front of you, the button. Any
18 of them. And if you could just go ahead and introduce
19 yourself for the record.

20 MS. FLETCHER-LANGLEY: Good morning to all. My
21 name is Tywania Fletcher-Langley. I am the executive
22 director and founder of Beyond Light Incorporation and we are
23 a behavioral health and freestanding mental health clinic.

24 BZA CHAIR HILL: Okay, great, thank you. Did you
25 get sworn in this morning?

1 MS. FLETCHER-LANGLEY: I did not.

2 BZA CHAIR HILL: Okay. If you could just stand.
3 And if anyone else came in after the first swearing in and
4 you want to testify if you could stand and take the oath
5 administered by the secretary here to my left.

6 (Whereupon, the witnesses were sworn.)

7 BZA CHAIR HILL: Okay, Ms. Fletcher, just a couple
8 of things. And I might turn to OAG to help me with one
9 issue.

10 The application wasn't signed. And so are you the
11 owner?

12 MS. FLETCHER-LANGLEY: Yes.

13 BZA CHAIR HILL: You are. Okay. So I guess then
14 I'm okay, right?

15 MS. LOVICK: So the application materials
16 indicated that Lois Fletcher was the owner. So it was
17 confusing.

18 MS. FLETCHER-LANGLEY: I'm also one of the owners
19 as well.

20 BZA CHAIR HILL: You need to speak into the
21 microphone there, Ms. Fletcher.

22 MS. FLETCHER-LANGLEY: I'm sorry. I'm also the
23 daughter of Lois and James Fletcher and I'm also one of the
24 owners of the property.

25 So I have a notarized letter here too from my mom.

1 So do that need to be submitted?

2 MS. LOVICK: Yes.

3 MS. FLETCHER-LANGLEY: Okay. So one other thing
4 while you're going through that, Ms. Fletcher. And I'm going
5 to look to OAG. So we didn't have an affidavit of posting.
6 Did that come in?

7 MS. LOVICK: I don't believe so.

8 BZA CHAIR HILL: So do you know that you have to
9 submit an affidavit of posting. You need to lean into the
10 microphone, I'm sorry.

11 MS. FLETCHER-LANGLEY: I'm sorry. We did. We
12 actually sent the photocopy of the sign listed on the
13 property along with the affidavit as well which was also
14 notarized.

15 BZA CHAIR HILL: Did you submit that into the
16 record?

17 MS. FLETCHER-LANGLEY: Well, it was submitted to
18 Stephen Mordfin and also a copy of it was sent to Ms.
19 Alexandria Cain.

20 BZA CHAIR HILL: So you didn't upload it into the
21 record. Do you have a copy of it here?

22 MS. FLETCHER-LANGLEY: I do.

23 BZA CHAIR HILL: Could you give that please to the
24 secretary as well as the notarized letter from your -- I
25 guess it was your sister or mother.

1 MS. FLETCHER-LANGLEY: Sure.

2 MS. LOVICK: Everything looks good.

3 BZA CHAIR HILL: Thanks, Ms. Lovick. That's
4 great. All right, Ms. Fletcher, so we weren't sure if we
5 were going to be able to move forward but now it looks like
6 we have all the proper paperwork.

7 So what I'm going to do here, you're going to be
8 testifying before us to tell us a little bit about the
9 project and how you're meeting the standards for which we are
10 supposed to be granting the request.

11 And so the Office of Planning has already gone
12 through their analysis and their report outlines kind of the
13 standards as to how we look through the application.

14 So I'm going to go ahead and put 15 minutes on the
15 clock when Mr. Moy has a chance and those are located there
16 in front of you and to the right and left up there on the
17 ceiling. And you can begin whenever you like.

18 MS. FLETCHER-LANGLEY: Good morning again. I'm
19 Tywania Fletcher, the executive and founder of Beyond Light
20 Incorporation.

21 Again we are a freestanding mental health and
22 behavioral health program which we also have a mentoring
23 program for children who also reside in foster care and
24 living with AIDS and/or are children of incarcerated parents
25 from the ages of 4 to 24.

1 This project here is -- we identified it as a 90-
2 day work therapy program for reentry. It's called a reentry
3 90-day work therapy program.

4 So the clients, the consumers, the offenders, same
5 process are actually referred through the court systems.
6 They are actually what they call sanctioned. They're already
7 employed but they're sanctioned for possibly alcohol,
8 marijuana use and/or other categories of substances.

9 They are actually screened, it's a screening
10 process that they go through. Some may be referred from
11 detox, detention on the sanction. Basically it's for non-
12 compliance.

13 The program is a 90-day work therapy program which
14 is designed to actually assist with stabilizing the consumer,
15 offender, or client meaning where they will continuously
16 work. We have identified community resources in the
17 neighborhood which are NAA meetings and Al-Anon.

18 Monumental Sports is one of our funders for our
19 mentoring program so that would be another part of increasing
20 their social functioning. They will be attending events,
21 sporting, things of that nature to help increase social
22 functioning.

23 Now, from the clinical standpoint what we'll do
24 is provide substance abuse, counseling, education. We also
25 have a care coordinator who will be working with the

1 offenders, consumers, offenders on stabilizing mental health
2 if those things are identified.

3 We also have LPC social workers who would actually
4 do a family therapy along with individual therapy.

5 Part of this is to assist with money management
6 skills. They have to be able to save at least \$3,000 prior
7 to transitioning into the next phase.

8 Again they have to attend NAA meetings at least
9 twice a week. They have the in-house meetings.

10 CSOSA has one of their facilities that's located
11 on South Capitol Street so they also will be doing drug and
12 alcohol testing there as well as in our facility.

13 We random test the clients so we don't have
14 particular days that say this is a urinalysis day, this is
15 a alcohol or drug test day, or this is a PCP day. It's
16 actually when the client enters the facility they may be
17 identified to submit urinalysis and/or take breathalyzers.

18 The other part of that as I stated is to increase
19 social functioning, assist with family reunification. Most
20 of the clients already have -- I'm a little nervous this
21 morning, excuse me.

22 BZA CHAIR HILL: That's all right.

23 MS. FLETCHER-LANGLEY: They already have housing.
24 But what happens is because of the positive urinalysis they
25 do CSOSA and/or the courts on the pre-trial do what they call

1 a sanction.

2 What we do is we provide the clinical services.
3 And we further assist with helping the consumer, the client
4 to stabilize.

5 Some of the things that we help them to deal with
6 is the internal conflict. We assist with problem solving
7 skills, communication skills.

8 The bigger picture here, they are children who's
9 been identified through the screening process or
10 grandchildren at some point is to engage them into that
11 process.

12 During the 90-day process family reunification is
13 a part of that process as well.

14 So that's about it.

15 BZA CHAIR HILL: Okay, I appreciate it. And we're
16 going to get to some of these things in terms of some of the
17 recommendations that the Office of Planning had kind of made
18 and whether or not the board thinks that they're able to be
19 enforced or if they're good conditions to mitigate adverse
20 impact.

21 Are you aware of some of the conditions that the
22 Office of Planning has suggested?

23 MS. FLETCHER-LANGLEY: No, I'm not.

24 BZA CHAIR HILL: Okay. We'll get back to that in
25 a second then. Do you have any questions for the applicant?

1 VICE CHAIRPERSON HART: Yes. Could you just talk
2 a little bit about the meeting that you had with the ANC?
3 I see that we had an ANC report and they voted against. Did
4 I read that correctly? But I wasn't exactly sure why. If
5 you could just describe that.

6 MS. FLETCHER-LANGLEY: Well, we initially
7 contacted the ANC board in 2017, December of 2017 to just
8 kind of put out what steps we needed to take prior to
9 arriving at this.

10 We didn't receive a response. I've had numerous
11 conversations with Mr. Jordan.

12 When the sign was actually posted on the property
13 he contacted me stating neighbors were complaining. I
14 referred him back to the emails along with the phone
15 conversations him and I had prior which I have the emails
16 here.

17 The ANC board stated that they too were not
18 contacted and I have the email correspondence here as well
19 which is 2017.

20 It was a little chaotic. People were hollering,
21 screaming, whooping and hollering. I'm a clinician. I'm a
22 social worker and a substance abuse counselor. So the way
23 that we view a situation is very different from maybe the
24 public. We know that.

25 Our approach is always treatment. However it

1 goes, whether it's mental health, substance abuse, trauma,
2 whatever the case may be.

3 It kind of went all over the place. And we also
4 received short notice, I think we got a letter from the ANC
5 board on a Tuesday and the meeting was on a Thursday.

6 We also have a mentoring program on D.C. housing
7 property. So we were in meetings all day long. I myself was
8 a little tired, out of energy. Because I've had a brain
9 aneurysm a few years ago so kind of around that time I need
10 to take the medication. But I understood the critical
11 importance of being able to show up for the meeting so I
12 attended and just went through the process.

13 VICE CHAIRPERSON HART: And they basically just
14 said that they were not in support of it because of what the
15 actual use was?

16 MS. FLETCHER-LANGLEY: Well, it was a multitude
17 of things. Actually the property was my deceased sister's
18 home. She died two years ago.

19 My stepbrother moved into the property. And so
20 that whole -- his living attention there kind of arise along
21 with a multitude of other things.

22 But again from a clinical perspective it wasn't
23 in the area of what our approach, initial approach is was to
24 actually move forward and turn it into a 90-day transitional
25 program.

1 So they were on behavioral issues. And again I'm
2 a clinician. So the way I view it is very different from as
3 I stated maybe 70 percent of the public may view a situation.

4 So it just kind of went back and forth. People
5 whooping and hollering and screaming. That whole nine yards.

6 So I kind of felt that there is a relationship
7 with the board because they need people to live in the
8 community and I understand that.

9 So I didn't want to kind of get caught up in what
10 I assessed as colluding. Well, I don't want this, I don't
11 want that. Well, let me hear what you have to say. So I
12 just listened. And when they excused me I left.

13 So I passed out flyers about our program,
14 brochures, things of that nature. Relevant information and
15 I left.

16 VICE CHAIRPERSON HART: Thank you.

17 ZC CHAIR HOOD: I see here that it's recorded and
18 this is actually -- I've never seen this done before, but you
19 turned in unless I'm misreading this you turned in 10 letters
20 from homes that I guess you passed. But all those letters
21 were in opposition.

22 MS. FLETCHER-LANGLEY: Correct. What it was,
23 again, I did state it earlier on in this process that I did
24 not know what I was doing.

25 We have a freestanding mental health clinic which

1 resides in ward 6 but I didn't initially go through the
2 entire process when they went through the ANC board and was
3 going through the zoning process. So this was actually new
4 for me.

5 ZC CHAIR HOOD: So I heard you the first time when
6 you explained. But let me just help you out. I think it's
7 very important that you mentioned, I was glad to hear you say
8 it was important that you made that meeting or somebody make
9 the meeting to be able to have the discussion with the
10 community.

11 It sounds to me, Mr. Chairman, I know we're moving
12 forward to the hearing but that needs to be done all over
13 again. Unless there's just no. But I haven't heard from the
14 ANC, haven't heard from them verbally, but I've seen their
15 report and I also see the letters.

16 So from what I'm saying there's actually no
17 support in that community for moving forward. So there's
18 obviously need to be having some more dialogue which
19 obviously has not been had properly. So that's one of the
20 things that I'm going to be insisting before I move even
21 further on this. But let's go through the hearing process
22 first. Thank you, Mr. Chairman.

23 BZA CHAIR HILL: Anyone else? Ms. John?

24 MEMBER JOHN: Yes. Can you clarify the age of the
25 clients that you will have in this particular facility?

1 MS. FLETCHER-LANGLEY: Sure. They will be
2 anywhere from probably 24 to they could be as old as 60.

3 MEMBER JOHN: And how many residents will you have
4 initially?

5 MS. FLETCHER-LANGLEY: Anywhere between 8 to 10
6 residents. Again the way we view this condition treatment
7 is not made for an individual to be comfortable. It's
8 actually designed to help stabilize clients and to help them
9 to be able to function in certain environments. And so
10 that's how that is designed.

11 MEMBER JOHN: Can you tell us a little about the
12 other facility that you operate in ward 6 and what is your
13 role there?

14 MS. FLETCHER-LANGLEY: Again my role there is that
15 is where I oversee the mentoring program and coordinate with
16 Monumental Sports to put in activities.

17 I also do trainings with the mentors who actually
18 mentor the children. I also do individual therapy as well.
19 Because there we have an outpatient, we're getting ready to
20 open up outpatient treatment and DUI. So we do DUI groups
21 and also substance abuse and mental health support groups.

22 MEMBER JOHN: Will this be the first facility that
23 you will manage?

24 MS. FLETCHER-LANGLEY: Well, yes. Yes.

25 MEMBER JOHN: And what is your management team

1 going to look like?

2 MS. FLETCHER-LANGLEY: All of the staffs are
3 actually clinicians. They are licensed practitioner
4 counselors. Substance abuse counselors. Then we have
5 monitors who will work in 12-hour shifts. So that means that
6 staff will be available 24 hours.

7 We also will have a cook that will come in to
8 prepare breakfast, lunch and dinner. Well, not a lunch
9 because the clients will be at work but those that are there
10 who has a sick slip from their doctor then a meal will be
11 prepared.

12 Social workers. And we also have case managers,
13 what we call care coordinators just to ensure that they are
14 in compliance with the services -- that they're in compliance
15 with the services. For instance, mental health services.
16 They're meeting all their mental health appointments, that
17 they are taking their medications, that they're not having
18 side effects of psychotropic medications. If so to initiate
19 appointments to have them reevaluated.

20 Also assist with the next steps meaning assisting
21 with enrolling into an outpatient treatment program that's
22 26 to 36 weeks.

23 And any other community resources that they may
24 need, them and/or their families.

25 BZA CHAIR HILL: Okay, great. Mr. Hood, you have

1 another.

2 ZC CHAIR HOOD: Where do your participants come
3 from? Are they from the area?

4 MS. FLETCHER-LANGLEY: No, they'll be referred
5 through either Department of Behavioral Health because they
6 have to go through initial screening.

7 ZC CHAIR HOOD: So I mean they come from Maryland,
8 Virginia, Pennsylvania, anywhere?

9 MS. FLETCHER-LANGLEY: They're under CSOSA.

10 ZC CHAIR HOOD: So this is tied in with CSOSA.

11 MS. FLETCHER-LANGLEY: Pre-trial, correct.

12 ZC CHAIR HOOD: All right, thank you.

13 BZA CHAIR HILL: Thank you. I'm going to turn to
14 the Office of Planning.

15 MR. MORDFIN: Good morning, I'm Stephen Mordfin
16 and the Office of Planning recommends approval of this
17 application finding that it's in conformance with the
18 criteria for a community-based institutional facility and
19 that it won't have more than 15 residents.

20 We did recommend four conditions for the general
21 special exception criteria. Those conditions come from the
22 applicant's application and I had discussed them with Ms.
23 Fletcher-Langley.

24 And they are to ensure that the application or
25 rather the use does not adversely affect the neighborhood we

1 put those four conditions in that there be no more than 10
2 on the property at any one time for no longer than 90 days.

3 Clients be monitored daily and not permitted to
4 loiter within the neighborhood or play loud music. That the
5 facility shall be monitored 24 hours a day 7 days a week.
6 And that the clients shall not be permitted to drive which
7 is also important because the subject property has no alley
8 access, has no off street parking.

9 So because we found it in conformance with the
10 criteria subject to these conditions the Office of Planning
11 recommends approval of the application.

12 BZA CHAIR HILL: Mr. Mordfin, when you say the
13 criteria what do you mean by the criteria?

14 MR. MORDFIN: For the specific use of community-
15 based institutional facility there are three criteria two of
16 which apply to this application which is the use shall serve
17 no more than 15 persons not including residents, supervisors,
18 or staff and their families.

19 The application indicates that no more than 10
20 would be housed at any one time.

21 The other ones, the general special exception
22 criteria is it in harmony with the general purpose and intent
23 of the zoning regulations. And as a short-term residential
24 facility, this is a residential neighborhood so it's
25 residential for no more than 10 clients in a neighborhood

1 that is a mixture of residential uses of small apartment
2 buildings, generally small apartment buildings and semi-
3 detached houses we found that this would be -- it would not
4 adversely affect the zoning regulations.

5 And also would it tend to adversely affect the use
6 of neighboring property. The applicant is not modifying the
7 structure. The residents of the program will live in the
8 facility, it's a residential facility. A semi-detached
9 structure. So it will continue to look like a semi-detached
10 residence with 10 clients living in it.

11 So therefore we found that this would be in
12 conformance with the criteria contained in the zoning
13 regulations.

14 BZA CHAIR HILL: Okay. Does the board have any
15 questions for the Office of Planning?

16 ZC CHAIR HOOD: Mr. Mordfin, who's going to help
17 enforce? She mentioned that this was a supplement of CSOSA
18 which I'm familiar with, but is the regulations that you're
19 putting in place in enforcement, who's going to do that? Are
20 you expecting the applicant to do it? Is it tied in with
21 CSOSA?

22 Because typically, I don't want to get into a
23 dissertation but typically when these things happen there's
24 never enforcement. So who -- Office of Planning when you all
25 come up with your analysis, who's going to enforce this?

1 MR. MORDFIN: The applicant is required to enforce
2 it. Should the applicant not enforce any of these then if
3 complaints are made to DCRA then DCRA would come out and find
4 whether or not the applicant is in violation or not.

5 ZC CHAIR HOOD: But do we know if CSOSA gets
6 involved at any time?

7 MR. MORDFIN: Not through the zoning process.

8 ZC CHAIR HOOD: Right, but I mean. Not through
9 the zoning process. But I'm just wondering when we were
10 doing this analysis of the things that we're putting in place
11 did we find out whether or not there are repercussions if
12 these things are not met because typically they are not. Not
13 saying that it's going to happen in this case but we know
14 what really really goes on.

15 So that's kind of where I am. I just wanted to
16 see. If we don't have an answer then I'll just move on.

17 MR. MORDFIN: Through DCRA what can happen is they
18 can have their certificate of occupancy pulled if they're not
19 in conformance.

20 ZC CHAIR HOOD: Okay.

21 BZA CHAIR HILL: Ms. Fletcher, if you want to turn
22 off your microphone also there. We get feedback sometimes.
23 Thank you.

24 ZC CHAIR HOOD: Thank you, Mr. Mordfin.

25 BZA CHAIR HILL: Anybody else for the Office of

1 Planning?

2 VICE CHAIRPERSON HART: Yes. Mr. Mordfin,
3 regarding the ANC report and actually you did note that there
4 were a number of folks that were not in support of this. How
5 did you take that into account with your review? And in
6 particular with regard to the special exception criteria
7 under Subtitle X 901. The general criteria.

8 MR. MORDFIN: Well, there were 10 people that were
9 listed as opposed to the application plus a letter that was
10 submitted into the application in opposition. Those are the
11 opinions of those individuals and as we note in all
12 applications those are not -- we don't review it against what
13 the opinions are of the individuals, we review it as whether
14 or not the application conforms and whether or not we believe
15 the application conforms.

16 If everybody submits something in opposition it
17 doesn't necessarily mean the Office of Planning will be in
18 opposition to it. What it results in is we note it in the
19 report but we analyze it separately ourselves and whether or
20 not we think, we being the Office of Planning, it's in
21 conformance with those criteria.

22 VICE CHAIRPERSON HART: I appreciate that and I
23 was not making -- I didn't want to make it seem that I didn't
24 understand why you're doing it. I wanted to make sure that
25 it was clear for everyone what you're using to understand the

1 case and what you based your decision on which was around
2 what the zoning criteria state with respect to the zoning
3 regulations and the zoning map, not necessarily what -- you
4 have to look at those specific criteria within the zoning
5 regs and you have to base it on that. So I appreciate it.

6 Thank you.

7 BZA CHAIR HILL: Okay. Does the applicant, do you
8 have any questions for the Office of Planning? You have to
9 speak in the microphone, I'm sorry.

10 MS. FLETCHER-LANGLEY: No.

11 BZA CHAIR HILL: Is there anyone here from the
12 ANC? Okay, please come forward. All right, sir if you just
13 want to give us your name for the record.

14 MR. JORDAN: My name is Absalom Jordan and I'm
15 representing the Advisory Neighborhood Commission 8D today.

16 BZA CHAIR HILL: All right, Commissioner Jordan,
17 thanks for coming down. And ma'am, are you also with the
18 ANC?

19 MS. CARMON: Yes, my name is Patricia Carmon. I'm
20 ANC 8D01.

21 BZA CHAIR HILL: All right, Commissioners, thank
22 you for coming down. Mr. Jordan, I'm going to go ahead and
23 start with you. The ANCs have five minutes to speak but
24 since you're both here we'll just go ahead and see how it
25 goes. But I'll put five minute on the clock right now in

1 terms of --

2 MR. JORDAN: I have a couple of procedural
3 questions.

4 BZA CHAIR HILL: Sure.

5 MR. JORDAN: One is don't we have an opportunity
6 to cross examine the Office of Planning.

7 BZA CHAIR HILL: You do.

8 MR. JORDAN: Well, then we want to exercise that
9 right and that shouldn't be within our five minute limit.

10 BZA CHAIR HILL: Okay, that's fine. Why don't we
11 do this. This is interesting because I'm getting further
12 clarification about how the ANCs do participate. So you are
13 an automatic party to the hearing and so you get the same
14 amount of time as the applicant.

15 So you can go ahead and present. You've got 15
16 minutes for your presentation. You can also go ahead and
17 cross examine the Office of Planning. You will also have an
18 opportunity to cross examine the applicant.

19 So we can go about that now. I suppose why don't
20 we go ahead and take your testimony first.

21 MR. JORDAN: I would rather cross examine. We
22 need to get some clarification.

23 BZA CHAIR HILL: Okay. You'd like to cross who
24 first?

25 MR. JORDAN: The Office of Planning.

1 BZA CHAIR HILL: Okay.

2 MR. JORDAN: First, is your name Mordfin?

3 MR. MORDFIN: Mordfin.

4 MR. JORDAN: How do you spell that?

5 MR. MORDFIN: M-O-R-D-F-I-N.

6 MR. JORDAN: Okay. As I understand it you're
7 saying that you used certain criteria for the Office of
8 Planning approval of this application. Am I correct?

9 MR. MORDFIN: Yes.

10 MR. JORDAN: Okay. Did you ever provide notice
11 to Advisory Neighborhood Commission 8D about your review of
12 this application?

13 MR. MORDFIN: We don't submit the applications to
14 the ANCs.

15 MR. JORDAN: So the answer to the question is no
16 you haven't given the ANC notice of your report on this.

17 MR. MORDFIN: No.

18 MR. JORDAN: Okay. And the second thing is you
19 said that there are criteria that you're using for approving.
20 In fact you listed four criteria, am I correct?

21 MR. MORDFIN: The zoning regulations contain three
22 specific ones for this use and then there are two general
23 ones for all special exception uses.

24 MR. JORDAN: These two general ones, what is the
25 basis for the two general ones? Are they the zoning

1 regulations or what?

2 MR. MORDFIN: I'm sorry, are they the zoning
3 regulations?

4 MR. JORDAN: You said there are three criteria
5 that are specifically within the zoning regulations.

6 MR. MORDFIN: Yes.

7 MR. JORDAN: Okay. And then you said there's two
8 other criteria that you've applied that are not in the zoning
9 regulations or what. I'm trying to get clarification on
10 that.

11 MR. MORDFIN: They are in the zoning regulations.
12 They're all in the zoning regulations. And the three that
13 I mentioned, those are specific to community-based
14 residential facilities two of which don't apply to this
15 application because of the zoning on the property.

16 The other two apply to all special exception
17 applications.

18 MR. JORDAN: Okay. I'm just trying to get some
19 clarification.

20 BZA CHAIR HILL: Commissioner Jordan, just to let
21 you know we're all here on the same side. I want to make
22 sure you get everything you need and get all the information.
23 And so I want to make sure you understand and are clear.

24 I know that in terms of just those particular
25 regulations that the Office of Planning provides our analysis

1 of, they're in their report in terms of those specific
2 places.

3 But yes, please ask anything you like.

4 MR. JORDAN: The question I have in terms of their
5 report, their requirements and there's an OAG letter from our
6 ANC from 2004 that said when they are making determinations
7 in terms of planning they're supposed to give notice to the
8 affected ANCs.

9 I'm raising that as an issue today because the
10 Office of Planning has not followed through with the
11 requirements that they give ANCs notice. That's something
12 that you can consider or not consider but I'm saying to you
13 that they have an obligation to let us know about planning
14 decisions.

15 BZA CHAIR HILL: I understand. So as far as the
16 Office of Planning goes they don't submit a report to the
17 ANCs.

18 MS. LOVICK: No. The notice requirements have to
19 do with the application and the Office of Zoning sends out
20 a notice that goes to the general public through the D.C.
21 Register and specific notice to the ANC.

22 MR. JORDAN: We're talking about zoning
23 regulations. I'm talking about the ANC law. So I'm raising
24 that as an issue because there's very few district agencies,
25 I mean zoning does, you flood us with notices we don't have

1 a problem with. You're one of the few agencies that do that.

2 BZA CHAIR HILL: Do you have any more questions
3 for the Office of Planning?

4 MR. JORDAN: No, I don't have any more. I just
5 wanted to raise that as an issue is that we didn't get notice
6 of it.

7 So when we come here we are asked to address for
8 the first time their considerations as opposed to being given
9 an opportunity.

10 BZA CHAIR HILL: Commissioner Jordan, as I
11 understand it and I'm just up here listening to this in the
12 same fashion as you are, that the Office of Planning, the
13 time that you get the opportunity to look at the Office of
14 Planning report is I guess when they submit it into the
15 record.

16 And so the notice that you get from the Office of
17 Zoning is about the applications that are going on in your
18 particular ANC or your SMD.

19 But we'll give you an opportunity to go through
20 this. I think there's other people here it looks like that
21 want to also speak. So you have no more questions for the
22 Office of Planning. Do you have any questions for the
23 applicant or cross questions I should say for the applicant?

24 MR. JORDAN: No, I'm going to make our statement
25 but I want to correct one thing that she said and then we'll

1 go into what our concern is.

2 First, the applicant has said that she contacted
3 me so I'm going to deal with this firstly on several
4 occasions. Sent emails to me asking me for information.

5 The information that she asked me for I wasn't
6 able to provide her. I suggested that because she was trying
7 to find out how would she go about getting the licenses for
8 the facility. And I instructed her to contact the Department
9 of Consumer Regulatory Affairs because I had no idea at that
10 point the specifics of what she was trying to do. I didn't
11 know what she was doing in terms of planning for zoning and
12 anything else.

13 BZA CHAIR HILL: Okay.

14 MR. JORDAN: Now, the ANC has considered her
15 application. And first of all they reviewed the application,
16 there's some discrepancies in it.

17 And I don't understand how we could process it
18 with the discrepancies.

19 One is that she uses an Office of Planning
20 approval letter for something that happened some years ago
21 and I don't know how that found its way into the application.

22 The second thing is that there was a requirement
23 that she have a parking space on the property. I think
24 that's from DDOT. At the rear of the facility in order to
25 meet the parking requirements. And there's no alley there.

1 So it would require that she construct an alley to get to the
2 parking space. So that's another consideration that we have
3 because that's not being considered at this particular point.

4 And the final thing is the adverse impact it would
5 have on this community. So in spite of what the Office of
6 Planning is saying it meets the regulations, what our
7 position is is that it has an adverse impact on the
8 community.

9 It's located within close proximity to several
10 schools and it's located within close proximity to families
11 who have children and grandchildren who are going to be
12 living there.

13 So that is the basis for our position that the
14 community sees this as having an adverse impact and we didn't
15 want to approve it for that reason.

16 BZA CHAIR HILL: Okay. Mr. Mordfin, I didn't
17 understand the parking issue with DDOT.

18 MR. MORDFIN: The applicant's statement, the
19 beginning part applies to this and it looks like it was typed
20 over something else so the end part of it is from some
21 application in 2007 and it indicates there in 2007 that the
22 applicant needed off street parking. But I think that was
23 part of something else.

24 Last I checked there were no comments from DDOT
25 on this application.

1 MR. JORDAN: See, this is what we're saying. The
2 application is defective. I don't know how it got to this
3 point.

4 If she's putting in here documents from 2007.

5 BZA CHAIR HILL: Commissioner Jordan, this is part
6 of the process. I'm just trying to understand. It sounds
7 as though parking is not -- I just want to understand from
8 the Office of Planning parking is not required for this
9 application.

10 MR. MORDFIN: Correct.

11 BZA CHAIR HILL: Okay. Does anyone have any
12 questions for Commissioner?

13 ZC CHAIR HOOD: Yes, I have a question for
14 Commissioner Jordan. Commissioner Jordan, help me understand
15 how the presentation went with your ANC when she presented
16 or when they presented.

17 MR. JORDAN: Ms. Fletcher-Langley was the only
18 person there. Commissioners had questions but first of all
19 we reviewed the application. And again we said we found some
20 discrepancies in it.

21 One is the reference to insertion in the record
22 was the report from Office of Planning from 2007 or something
23 like that. Then there was a reference to an apartment
24 building that's not even located -- you know when she starts
25 talking about the lots and squares and the building, they're

1 contiguous with -- referred to a place that was outside of
2 ward 8. So we raised questions about this.

3 In terms of answering the questions that both the
4 commission had and the community had she didn't do it
5 satisfactorily.

6 And so some of the fears that we have were not
7 allayed by her presentation to us.

8 ZC CHAIR HOOD: Which leads me to my next question
9 and this is something I was going to do on the end if it's
10 doable or if it may help. Is there a need for her to come
11 back out or somebody that's knowledgeable. I'm not saying
12 she's not. Knowledgeable to come back out and be able to
13 explain what exactly -- you think that would help.

14 MR. JORDAN: No. Let me just explain this. The
15 way she approached this initially was that she had as a
16 matter of right she could have this facility there.

17 And so what we're looking at is if we're asking
18 for an exception then there must be ways of imposing that
19 exception. And so the community's position is that based on
20 the type of facility it's going to be and the close proximity
21 to residents who are living there with children and
22 grandchildren and also the schools in close proximity to this
23 facility that it was not.

24 ZC CHAIR HOOD: So it's a no-starter regardless
25 of coming back out. It's a no-starter because of the adverse

1 impacts which the community feels that it brings.

2 MR. JORDAN: That's what our position is.

3 ZC CHAIR HOOD: Thank you.

4 BZA CHAIR HILL: Commissioner, you want some
5 water?

6 VICE CHAIRPERSON HART: Commissioner Jordan, you
7 stated that some of the opposition is basically you're not
8 really sure what's being put forward. But I was trying to
9 also figure out are you against the facility just in general.
10 Is it the number of people. I'd like to get a sense --

11 MR. JORDAN: It's the type of facility that's
12 being proposed. And that is to say I think Commissioner Hood
13 raised a good question that was who are going to be the
14 people who are coming to that facility.

15 We're not clear about where the people are coming
16 from and who the people are going to be. And so when we
17 start talking about putting a facility that's supposed to be
18 dealing with drug addiction in a community that's inundated
19 with drugs that's problematic.

20 And I don't know if you understand the crime
21 statistics and the problems we're having in our ANC in terms
22 of gunshots and drugs and what have you. It's been in the
23 press and everything about our problems in that area.

24 I don't know if you understand. In the nation
25 we're the 24th most dangerous community in the nation. We're

1 the first most dangerous community in the District of
2 Columbia in that area.

3 So those are the kind of things we're taking into
4 consideration when we're examining the appropriateness of
5 putting it there.

6 And so the community because they're trying to
7 protect the children and their property and what have you,
8 also looking out for the children who go to school. We have
9 three separate charter schools in close proximity to this
10 facility. It was felt that it was inappropriate.

11 VICE CHAIRPERSON HART: How close are the schools?
12 Just out of curiosity.

13 MR. JORDAN: They're a block away. Contiguous in
14 the sense that they're a part of Oxon Run Park.

15 One of the things that they're talking about is
16 having the access to Oxon Run Park in their explanation for
17 the residents of this facility. Again we have a school
18 that's right there, so we have three charter schools that are
19 located right there in what is known as the Patricia Roberts
20 Harris facility.

21 VICE CHAIRPERSON HART: Thank you.

22 BZA CHAIR HILL: Okay, Commissioner.

23 MS. CARMON: Hi. Good morning, everybody.

24 BZA CHAIR HILL: Commissioner Jordan, if you could
25 just turn off your microphone there. We get feedback

1 sometimes.

2 MS. CARMON: I would like to talk about Ms.
3 Fletcher-Langley's appearance at our ANC meeting. And
4 bringing her documents with her.

5 The documents that she had, everything she had
6 mostly in it she said had to be taken out and had to be
7 redone and everything. She didn't bring the renewed
8 application with her.

9 So I'm having problems with that because I don't
10 know what I'm looking at because everything she said on that
11 application that she brought had to be redone.

12 And she was supposed to have gone home that night
13 and emailed Commissioner Jordan the revised applications
14 which we never received.

15 So I honestly don't know what I'm supposed to --
16 I voted no because I didn't know what I was looking at. What
17 was she asking for. Because everything in her application
18 had to be redone.

19 And she was supposed to send us that night a
20 revised copy of what her applications were. And she did not
21 do that.

22 And as far as her appearance at the ANC meeting
23 it did get a little loud. We had to bang the gavel because
24 the community -- we gave her a chance to present herself.
25 We gave the community a chance to ask her questions. And she

1 was over talking the community. The community couldn't get
2 their questions in because she was over talking them.
3 Banging the gavel. We had to bang the gavel.

4 I'm going along with the constituents in that
5 community that are saying that they do not want that facility
6 there, especially the house that's right next door has had
7 some real problems with it when in the past when people or
8 somebody else was living there.

9 And I would like the Office of Planning. So you
10 get your application and you see the community concerns. You
11 don't give any weight to that?

12 MR. MORDFIN: We give the weight to the criteria.
13 We note in our report what the community has submitted, but
14 we do our own analysis of whether or not we think the
15 application conforms to those criteria and make our
16 recommendation based on that.

17 MS. CARMON: All right, thank you. That's
18 basically what I have to say.

19 BZA CHAIR HILL: All right, thanks, Commissioner.
20 We rarely bang the gavel. It doesn't do a whole lot of good
21 usually. But I've got a switch up here that can turn off the
22 microphones. That's really helpful.

23 Anybody have any questions for the commissioner?
24 Okay. All right is there anyone here wishing to speak in
25 support. Support. Is there anyone here wishing to speak in

1 opposition? If you could all raise your hands.

2 Commissioners, if you guys could step back and let
3 the three people come up and then we're going to bring you
4 back up anyway at the end.

5 MR. JORDAN: I was going to notice, Mr. Chairman,
6 we didn't use all of our time.

7 BZA CHAIR HILL: Thank you, sir. All right. So
8 could the three people in opposition come forward, please.
9 Okay, good morning. If you all could just introduce
10 yourselves from my right to left.

11 MR. REED: Michael Reed.

12 MR. JOHNSON: Ernest Johnson.

13 MS. REED: Annie Reed.

14 BZA CHAIR HILL: All right. Mr. Reed, I'm going
15 to start over here with you. The public gets three minutes
16 each to testify. So there's a clock right there on that side
17 and that side and you can begin whenever you like.

18 MR. REED: I want to ask Mr. Stephen Mordfin has
19 he ever been at his residence for over 30 years and when a
20 new resident come in has he ever had his house --

21 BZA CHAIR HILL: Mr. Reed, I just want to let you
22 know. The people providing testimony, they don't have the
23 opportunity to ask the Office of Planning any questions.
24 They're just providing their testimony. So you can start
25 whenever you like.

1 MR. REED: This idea is bad for the community
2 because where the residence is I live next door. I have
3 three daughters there. My mom and my sister are there. So
4 we've been there over 35 years in that residence and the
5 neighborhood has been cleaned up, people moving in and it's
6 not a good idea.

7 We had a residence before. Her brother. My mom's
8 house been broken in, things stolen. Cars set on fire. And
9 it's all come from her house.

10 Now if her brother was there and she can't control
11 one guy how can she control a residence of eight people
12 there. You tell me.

13 We have kids there. So it's not a good idea. Or
14 like you said you all consider it. How about you think if
15 it was next door to you and your house and your wife would
16 you want that there next door to you. I ain't got nothing
17 else to say.

18 BZA CHAIR HILL: All right, Mr. Reed. Thank you.
19 Mr. Johnson.

20 MR. JOHNSON: I grew up in the neighborhood. I've
21 lived there most of my life. And the neighborhood has been
22 getting better and better over the years. There are signs
23 of improvement all around. There's construction.

24 The neighborhood just seems to have a different
25 feel to it than it did when I was growing up.

1 The neighbors, we are very close. We know one
2 another. We've got each other's back. We look out for each
3 other. We know each other very, very well.

4 Once again there's a nice feel between the
5 neighbors and that will be disrupted by this facility.

6 This facility, some of the things that were said
7 is that the people who are there, they could be sanctioned
8 for non-compliance. They could be there due to court orders.

9 The counseling, education, stabilizing mental
10 health. Stabilizing mental health to me sort of means
11 they're not currently stable. Would you want that in your
12 neighborhood.

13 Also she mentioned that the drug counseling could
14 be for PCP, psychotropic drugs. These do not sound like
15 people that you want as your neighbors. I understand that
16 they need this type of counseling. But I have grandchildren
17 and I've lived there. This type of facility and the type of
18 people and activity that goes on there is not what is part
19 of a normal neighborhood.

20 It's not anything that my neighbors and I share
21 or that we talk about. That's not anything that we have to
22 worry about.

23 But this facility with 8 to 10 men, when is it
24 normal or a good idea for 10 grown men to live in one place
25 in a residential neighborhood. Even that alone sounds --

1 doesn't sound like a great idea.

2 There's no benefit at all to the neighborhood.
3 The owners of the facility will benefit. Perhaps the
4 residents there will benefit. There's no benefit to the
5 neighborhood for this facility. The people that have lived
6 there, the people who have planned to have their life there
7 with their children and the people who have an ongoing life,
8 a regular life, and this facility is counter to everything
9 that we have there at the moment.

10 It is definitely a step backwards. We want to
11 continue to move forward as we see how the rest of the
12 neighborhood seems to be. And this doesn't help with that.

13 As I've said there's no benefit to any of us by
14 having this facility there. In fact, we're going to be
15 worried and wondering what's going on there. Ten people
16 going in and out. And then they have families and possibly
17 friends. So it could easily go from 10 people to 20 people.
18 That's one household.

19 If anyone thinks this is a good idea based on that
20 because I listened to Mr. Mordfin and everything that he
21 talks about is according to the regulations but the feelings
22 of the people that live there that make up the neighborhood
23 seems to be secondary.

24 But guess what, this is our lives. This is
25 primary to us. And I don't understand why our feelings don't

1 get as much consideration as building codes or whatever the
2 criteria is.

3 The criteria is that there are people. We are
4 people and we deserve better. We deserve equal consideration
5 if not more. We haven't done the things that the people that
6 are going to be living there have done. They made decisions.
7 They put themselves in a situation where they need this type
8 of facility.

9 They are serving out their sentences but they're
10 forcing us to serve the sentence with them. We can't get
11 away from them. They're there. They're there because of
12 their own decisions and we have to endure this because of
13 their decisions. When do our decisions count.

14 BZA CHAIR HILL: Okay, Mr. Johnson. Thank you,
15 sir. Ms. Reed.

16 MS. REED: Hi, I'm Annie Reed. I'm at 4208 so I
17 am the home right next door. My house maybe from Ms. John
18 to Mr. Hood. That's how close we are. And a fence in the
19 front.

20 I can see through their window. They can see
21 through mine. But before all this home transition stuff
22 started her brother was living there. Drugs, alcohol and
23 prostitution.

24 BZA CHAIR HILL: And Ms. Reed, I'm sorry. I
25 appreciate what happened -- I'd rather we not talk about

1 things such as that. Just hear a little bit about just this
2 particular case and this particular application.

3 MS. REED: Fine. This is the same home that I'm
4 talking about. I have grandkids also. And by having a
5 transition home for ex-offenders or whoever, 10 men, is not
6 a good idea.

7 They can just look in my house and I can look in
8 theirs. And southeast, ward 8, we already counted as the low
9 area of southeast. Why do everything has to be dropped in
10 ward 8 southeast.

11 We've got transitional homes up at the corner,
12 shelters up at the corner. We've got shelters round the
13 corner. It's just so many. Why southeast. This is not a
14 good idea.

15 Across the street there's a beautiful park. I
16 make sure if the grass is coming too high I call because I
17 can't see the little kids going on the other side because the
18 grass is so high.

19 So if this transitional home is coming and they're
20 supposed -- they're coming over in the park doing what.
21 That's not that type of park. It's just not. It's a
22 beautiful park.

23 This area is not -- does not need any more
24 transitional homes of ex-offenders, drug addicts, or
25 whatever.

1 But I'm going to tell you something. If you had
2 went to D.C. General and got some of those families, those
3 mothers up there with children and put them there oh how
4 beautiful that would be that we can help with these children.

5 Those mothers need a home. Transitional them.
6 Is it about money? Is it more money with ex-offenders versus
7 the mother with the children?

8 I have petitioned. I have letters from our
9 residents. A lot of them had to work today. So I have
10 letters and I have a petition. We don't want it.

11 I have to look at these people come in and out of
12 the door because we have to face each other coming in and out
13 of the door. Not a good idea.

14 BZA CHAIR HILL: All right, thanks, Ms. Reed.
15 Ma'am, you came up. Could you give us your name, please?

16 MS. THOMAS: My name is Kimberly Thomas. I live
17 at 4218 Livingston Road. I'm two houses down from the
18 transitional house.

19 BZA CHAIR HILL: Okay. Ms. Thomas, did you get
20 sworn in earlier?

21 MS. THOMAS: Yes, sir.

22 BZA CHAIR HILL: Okay, great. So I'll go ahead
23 and put three minutes on the clock for you as well and you
24 can begin whenever you like.

25 MS. THOMAS: Thank you. I live with my mother-in-

1 law to be. She's a senior on the block. I can't remember
2 her name but she came by when she brought the first letters
3 by and she had stated to us this going to come whether we
4 approve or disapprove of it. That's what she stated to us.

5 And my mother-in-law was like no. We don't want
6 this here. We have grandchildren in the house. We have
7 children in the house. It's the street across the road.

8 And she also stated that whoever is supposed to
9 be coming in to this house, they have the access where they
10 can go to the park and they have access where they can come
11 down the street.

12 Well, we have children, they ride their little
13 bikes and stuff down the street. We don't need this in the
14 neighborhood. It shouldn't be there. Not in our
15 neighborhood. With the older people and all the children in
16 the neighborhood it's not safe for them. And that was my
17 main concern. Thank you.

18 BZA CHAIR HILL: Thank you, Ms. Thomas. Does
19 anyone have any questions for the witnesses?

20 ZC CHAIR HOOD: I want to say this to Mr. Reed.
21 Be careful what you ask for what we live next to. That's how
22 I ended up on the Zoning Commission. But anyway, I'm not
23 going to get into that today.

24 But let me go to I think Ms. Reed you mentioned
25 that there were more other facilities like this in the area.

1 What would you say the distance is? Is it 500 feet?

2 MS. REED: It's about a block. It's on the same
3 block but up the street.

4 ZC CHAIR HOOD: And what's the park across the
5 street?

6 MS. REED: Oxon Run Park.

7 ZC CHAIR HOOD: Oxon Run. That's where they have
8 a lot of events over there. They have them on the weekends.
9 They show movies. What's on the other side of Oxon,
10 Mississippi?

11 MS. REED: First Street.

12 ZC CHAIR HOOD: Okay. So it's a block away.
13 Thank you.

14 VICE CHAIRPERSON HART: Mr. Chairman, I'd like to
15 just point out that we've got brother and sister here and
16 mother also. I think it's wonderful that you all came out
17 to talk about something that concerns your neighborhood.

18 I think it's very helpful and it's telling about
19 your mother that has instilled this in you. So it's very
20 good to see that and I appreciate your comments and
21 understand that they are very much heartfelt and that you're
22 trying to protect the neighborhood that you grew up in and
23 that's all I wanted to say.

24 BZA CHAIR HILL: Thank you, Mr. Hart. Ms. John,
25 do you have anything?

1 MEMBER JOHN: I just wanted to note that the 500
2 foot limitation does not apply in this case because it's in
3 the RA zone. Unfortunately the regulations are written in
4 such a way that if the applicant meets the criteria in the
5 regulations then there is not a whole lot of discretion that
6 the board has.

7 However, I have to give consideration to the type
8 of -- to I guess the age and the mix of the residents in this
9 case and the impact and having little children around. I
10 don't know where we go with this, but I have heard you and
11 we'll just have to see where we go.

12 ZC CHAIR HOOD: Mr. Chairman, since my question
13 was responded to also by Board Member John. It's actually
14 1,000 foot.

15 And the reason I ask is because I'm one of the
16 ones who helped craft this regulation. If it's something we
17 need to go back and do. That was why I asked that question
18 because if we what we put in place is not working it needs
19 to be dealt with.

20 We've been dealing with CVRS down here as long as
21 I've been here, and I've been here 20 some odd years so if
22 things are not working and I'm hearing then that's what we
23 need to do. This is not the first time I've had a CVRS case.
24 So that was the nucleus and that was my rationale for asking
25 the question. Thank you.

1 BZA CHAIR HILL: Okay, great. Thank you, Chairman
2 Hood. You all, thank you very much. Could the ANC
3 commissioners come back up to the table, please.

4 All right, Commissioners, so how we wrap this up
5 here again is you'll have a chance here now to provide a
6 little bit of a conclusion. And then I guess either one of
7 you can give the conclusion if you like.

8 And then Ms. Fletcher will have a chance to rebut
9 any of the testimony that was given as well as give a
10 conclusion. And we'll see where we go or what happens here.
11 Which commissioner would like to provide a conclusion.
12 Commissioner Jordan?

13 MR. JORDAN: I'm the one speaking for the
14 commission so I'd like to make the conclusion.

15 First, I'd like to say that the applicant has not
16 presented a stratified plan for how these services will be
17 provided in the facility. Absent that it's difficult for the
18 commission or our community to get an appreciation of what
19 really is going to happen.

20 Ms. John raised the point, she said there's not
21 a whole lot of discretion, but this board does have some
22 discretion. And so the point I'd like to make is that first
23 it's not a matter of right otherwise there wouldn't be a
24 reason for having -- asking for a special exception.

25 And I think that the applicant for the special

1 exception would have the burden of proof of showing that she
2 overcomes any kind of objections to it. It's not just a
3 mechanical thing saying they meet the regulations. There
4 must be some other criteria that are taken into
5 consideration.

6 And I would ask that the ANC's great weight apply
7 in this particular situation. That each and every issue that
8 we've raised, that is the impact it has on the community, the
9 adverse impact it has on the community, the fact that the
10 application itself is defective. There are within the
11 application documents which cite -- which were incorrect,
12 let's put it that way. The one that deals with the need for
13 an Office of Planning report from 2007 or the DDOT
14 requirement for a parking space and on and on and on. So the
15 application is defective.

16 We would say based on that, those observations
17 that the Board of Zoning Adjustment deny this applicant.

18 BZA CHAIR HILL: Okay, thank you. Commissioner
19 Jordan, you've been a commissioner for a while?

20 MR. JORDAN: Long time.

21 BZA CHAIR HILL: You sound like you've been a
22 commissioner for a long time. How long, long time may I ask?

23 MR. JORDAN: I don't know, it's been off and on.
24 Maybe 20 some years.

25 BZA CHAIR HILL: Okay. Well, I appreciate you

1 coming down. So let's see. So to the applicant now, Ms.
2 Fletcher. It's been awhile since you spoke.

3 So Commissioner Jordan, just turn off that
4 microphone if you don't mind just because of the feedback.
5 So Ms. Fletcher, you can respond to the testimony that has
6 been provided to you and then also provide a conclusion. You
7 get the last word.

8 I think there's probably going to be some things
9 we're going to be asking of you. I don't think this is
10 necessarily going to happen today. We'll see what happens
11 with the board.

12 So if you would keep your comments or at least
13 your testimony to the zoning issues is what we're really
14 trying to focus on, your application. So you can go ahead
15 and begin.

16 MS. FLETCHER-LANGLEY: Yes. I want to refer to
17 exhibit 5. I think that was something that was discussed
18 during the ANC meeting.

19 I think what Mr. Jordan is referring to is exhibit
20 5 of the application. That was something that he brought up
21 in the ANC meeting. And what I was explaining to him, not
22 explaining but attempting to process with him is that the
23 application was actually sent back to us because there were
24 a lot or most of it was incorrect.

25 We had May something of 2007. We had dates wrong

1 and so forth. So we had to make the initial corrections to
2 the application.

3 We were off on some square footages and things of
4 that nature.

5 BZA CHAIR HILL: Ms. Fletcher, I don't know if
6 it's exhibit 5 you're talking about. I'm trying to see which
7 one you're talking about.

8 MS. FLETCHER-LANGLEY: Well, it was resubmitted
9 and the whole entire application had to be redone along with
10 the burden of proof and exhibit 5.

11 The other thing that I want to address is that we
12 are social workers, psychiatrists, psychologists and
13 certified addiction counselors. We are bound to the HIPAA
14 act and the codes of ethics meaning that for any sexual
15 abuse, any type of abuse we have to report it.

16 So again the facility is monitored 24 hours. It
17 will have security cameras as well. I can't confidentially
18 disclose DBH and court service supervision agency of how they
19 monitor the offenders in the community but they are actually
20 seen 24 hours. They know their whereabouts. If they're in
21 the store they actually know that they're there.

22 Two, again we stated that we are a transitional
23 program. We have transportation that will pick up the
24 consumers, clients, offenders up to take them to the NAA
25 meetings and/or Al-Anon meetings.

1 Also again they're residents of Washington, D.C.
2 so they can actually as long as they're in compliance with
3 our program and in compliance with CSOSA or whatever the
4 referral process is they are able to walk to the bus stop.
5 The park is open to anyone in the community. And I've seen
6 cars from Virginia goes over sit in the park.

7 They can walk over to the park and have a seat.
8 And for the most part they're not visible nor be a nuisance
9 to -- their schedules are so busy, they're working pretty
10 much from probably 7 to 3. They have a hour and a half to
11 actually return to the facility.

12 Again as I stated we have professional sports in
13 place for them so we into summer sports. We're hoping to be
14 open during the Wizards game, the Redskins. So there is
15 something for them to do seven days a week.

16 So we're not there to imprison the clients. We're
17 there to increase their social functioning, providing them
18 with skills to live. They have families too. They have
19 children. They have grandkids.

20 And so it would not become a family issue. You
21 may see a wife come in for a family therapy session. You may
22 see a child or children come in for a family session. So
23 that's based on the assessment of the clinician and that's
24 why it's called individualized treatment approach. And
25 that's how that whole process would actually occur.

1 So again, and part of the activities is what we
2 want them to do, reunification. So again we have
3 transportation to pick them up, take them to the Verizon
4 Center, take them to the Kennedy Center, or the Nationals,
5 Ravens, Georgetown, whatever. And the kids are welcome to
6 attend.

7 The clients are not allowed to drive while they're
8 in the program so mostly everything that they do is public
9 transportation.

10 And so we also have transportation that will pick
11 them up from the subway during the winter months at a certain
12 time, 6 o'clock. So it's a structural program.

13 BZA CHAIR HILL: Okay. All right. Does the board
14 have any questions for the applicant or the ANC?

15 VICE CHAIRPERSON HART: I was just looking at the
16 conditions but it kind of sparked a question. How are you
17 dealing with just monitoring? You said something that there
18 were other agencies that were monitoring the folks. How are
19 you -- or the organization held responsible for that?

20 MS. FLETCHER-LANGLEY: Well, actually the clients
21 have to sign in and out. Again that's part of the care
22 coordinator's role and the care coordinator is generally a
23 licensed practitioner counselor.

24 VICE CHAIRPERSON HART: I'm sorry, I'm not
25 familiar with a lot of terms. What is the care coordinator?

1 Is there one person --

2 MS. FLETCHER-LANGLEY: Well, the monitors actually
3 will monitor the facility. They do a security check
4 throughout the facility maybe every 15 minutes.

5 VICE CHAIRPERSON HART: How about we do this. How
6 many people outside of the people that you would like to have
7 as clients, how many other people as a number how many people
8 are we talking about that would be coming to this facility?

9 MS. FLETCHER-LANGLEY: We don't know that yet
10 because that is a process --

11 (Simultaneous speaking)

12 MS. FLETCHER-LANGLEY: -- that has to be screened
13 meaning that this is where we decide individual treatment
14 plans. So hypothetically once they come in we do our initial
15 assessment.

16 VICE CHAIRPERSON HART: What I'm saying is that
17 there's going to be somebody that's in charge of the facility
18 that says --

19 MS. FLETCHER-LANGLEY: Oh, you mean how many staff
20 people.

21 VICE CHAIRPERSON HART: Yes.

22 MS. FLETCHER-LANGLEY: Okay, so we have two
23 monitors, 12-hour shift monitors seven days a week.

24 VICE CHAIRPERSON HART: So you have one that stays
25 there every day.

1 MS. FLETCHER-LANGLEY: No, none of them are live
2 in.

3 VICE CHAIRPERSON HART: I'm sorry, I meant one
4 that stays there for 12 hours and then another one comes in
5 for another 12 hours.

6 MS. FLETCHER-LANGLEY: Correct.

7 VICE CHAIRPERSON HART: That's one person that is
8 there that will be there -- one person that will change off
9 but one person that's there. How many other staff are there?

10 MS. FLETCHER-LANGLEY: Well, you would have the
11 clinical care coordinator, and you would also have the
12 substance abuse counselor and the clinical director.

13 VICE CHAIRPERSON HART: So it's four people.

14 MS. FLETCHER-LANGLEY: Correct.

15 VICE CHAIRPERSON HART: And so the only person --

16 MS. FLETCHER-LANGLEY: But I mean they all won't
17 be there at the same time. Their time that they will
18 actually enter into the facility is different. The substance
19 abuse counselor may come into evenings to do groups, see
20 clients individually.

21 The care coordinator may be based on the client's
22 working schedule and other appointments may come in from
23 maybe say 10 to 12. They may do on a Saturday a family
24 therapy session or an individual session.

25 So all of the clinical staff are not there all at

1 one time. Everything is individualized and is based on the
2 client schedule.

3 VICE CHAIRPERSON HART: I understand that. What
4 I was trying to get to was how many folks are we actually
5 talking about in terms of staff. So what you said are four
6 different people. One person would be there all the time
7 being that there is one staff person, this monitor. There
8 would be a monitor on the site at all times.

9 MS. FLETCHER-LANGLEY: Correct.

10 VICE CHAIRPERSON HART: But the other people may
11 come and go depending on what the need is.

12 MS. FLETCHER-LANGLEY: Well, no they'll be there
13 as well anywhere four to eight hours. It's contingent on
14 their role.

15 Like say for instance the care coordinator will
16 probably just because hypothetically say we're housing 8
17 clients although the facility can house 10. She may meet
18 with four clients from say -- I'm just hypothetically
19 speaking, from 5 to 8 in the evening. Or she may meet with
20 them from 9 in the morning till 1 o'clock.

21 And again care coordination is just to ensure that
22 they are going to work daily, dealing with all the case
23 management issues. Their medical issues, things of that
24 nature. Making sure that appointments are made. So forth --

25 VICE CHAIRPERSON HART: I get that they're going

1 to be coming at different times. I get that. What I was
2 trying to get to was I wasn't really sure how many staff were
3 going to be coming here. I think you've given me information
4 for that.

5 The other question that I had was regarding how
6 do you -- I had a question now I can't think of it. It's
7 okay.

8 BZA CHAIR HILL: One second, Commissioner. So I
9 don't know where we are. We'll try to figure this out with
10 the board. You guys both turn off your microphones just for
11 one second. Thank you.

12 What I think, we're all up here as board members
13 so I'm just giving my kind of opinion here real quick and
14 Chairman Hood you seemed to be alluding to that the outreach
15 hasn't been the greatest and whether or not it is necessary
16 or worthwhile for the applicant to go back out within the
17 community I don't know.

18 But Ms. Fletcher I guess for me in terms of what
19 I've heard thus far it's really kind of making the community
20 feel confident that the facility would be run well and that
21 it's nothing that would create an adverse impact to the
22 community.

23 As far as the Office of Planning's report goes and
24 how they analyze things the Office of Planning very much and
25 thank God for the Office of Planning believe it or not, they

1 just look at things in a very black and white way. They're
2 like does it meet the regulation, does it not meet the
3 regulation in the Office of Planning's opinion. The whole
4 office. They try to have a consistent approach to the
5 standards.

6 And then the board can sit here and they have the
7 ability to give great weight to the Office of Planning, give
8 great weight to the ANC and kind of come up with what we
9 think is appropriate given the regulations.

10 The one that I again am kind of looking at here
11 is just the special exception general criteria where it's
12 will not tend to affect adversely the use of neighboring
13 property in accordance with the zoning regulations and zoning
14 maps.

15 So I don't feel comfortable in terms of enough
16 that we've been given to feel as though the facility has
17 tight -- how well it's going to be run.

18 And no offense to what you've brought forward to
19 us but just what I've heard thus far. Again you went to the
20 community saying that you're going to have a facility that
21 is something they don't really necessarily want. The
22 community doesn't want it.

23 And they're concerned about what effects the
24 facility might have on the community given the clients that
25 are going to be there. And I think that those people, the

1 clients do need a place to have treatment. Behavioral
2 treatment, therapeutic treatment, people need to get help.

3 And so if I were in the community and there was
4 a very detailed analysis that you provided as to how you're
5 going to monitor things, how any problems will be dealt with.
6 Things to make the community feel good and secure about the
7 application then maybe that's something that I would have
8 been able to get behind.

9 But if you come to the community and your
10 application is not really filled out properly or you're
11 supposed to return information to the commissioners at a
12 certain time it doesn't necessarily give them a lot of
13 confidence that the facility is going to be managed in a
14 certain way.

15 So I don't know what things you all might like to
16 see or what there could be to -- I'm in a little bit of a
17 loss and I'm going to look to the board as to what you all
18 think we should do next if anything, or we can go ahead and
19 have a discussion about this application.

20 Do you all have any comments?

21 ZC CHAIR HOOD: Yes, Mr. Chairman. I would say
22 no disrespect to the presentation given but it seems like the
23 presentation has been very fluid. And if that's what was
24 presented to the community.

25 And I understand about CVRS as I stated before.

1 I realize the history. What I've heard here today, there
2 needs to be a concrete plan, maybe if the information was
3 provided to the community.

4 And we know the bottom line of some of the
5 precautionary measures that are put in place to take care of
6 this type of facility. I think it might have been a little
7 more easement. Not to say they would be agreeable and come
8 in holding hands saying bring it on over.

9 But I think also Commissioner Jordan who's been
10 out there a long time, he's been out there as long as I've
11 been here if that helps him remember how long he's been an
12 ANC commissioner.

13 But I can just tell you that I think they bring
14 up a good point. Part of what the Zoning Commission, what
15 our charge is and I believe the board has the same charge is
16 to protect the health and safety of the residents of this
17 city.

18 And that's our charge. So even though it's not
19 always here in the regulations and I know how we look at the
20 regulations. We also have an additional charge when we're
21 sworn in that those are the things we have to do.

22 And I know what's going on in certain areas in our
23 city. I'm always wondering when we approve projects or
24 others such as this are we compounding the interests on top
25 of what's already there. Are we creating a problem what's

1 already there. That will be part of my evaluation as we move
2 forward.

3 Going back to the question I asked Commissioner
4 Jordan was about whether or not the applicant could come back
5 out with a proposal that's not so fluid, that moves around.
6 You ask questions you get a question this way this time, you
7 get an answer that way the next time.

8 Maybe that would give the community a little more
9 certainty. I'm not sure if they're open to that. I just put
10 that out there. I'm not saying that I would be approving of
11 this project. I don't know yet. I still want to hear from
12 the community because they're the ones who have to endure
13 regardless.

14 And yes we have these facilities all over the
15 city.

16 And one of the other issues that I've asked my
17 legal counsel, I'm trying to figure out why we left out RA
18 and maybe because of the Fair Housing Act. I'm not sure.
19 I can't remember. It's been a long time since we dealt with
20 some of this. But I'm trying to figure out why did we leave
21 this classification out of the 500 foot and even more or less
22 1,000 foot the way we interpret it now.

23 So that's why I asked that question initially
24 because we need to go back and fine tune. It took us nine
25 years to get the regulations in place and I was here for all

1 of it so maybe we need to go back and fine tune.

2 But that doesn't help with this case. So Mr.
3 Chairman, alluding to going back and trying to have a not so
4 fluid discussion with the community and give them some
5 questions and formality of what's going to be proposed with
6 a strict proposal and give them some certainty maybe that
7 will ease the tension.

8 I'm just speaking. I'm just saying this. I'm
9 thinking out loud and talking out loud. If not then we will
10 deal with the issues at hand in front of the board. Those
11 are my comments.

12 BZA CHAIR HILL: Okay. I'll let you all give me
13 your comments. I'm just going to quickly say where I am
14 right now.

15 I'd want Ms. Fletcher to go back and come up with
16 a list of conditions that would be something that would be
17 more concrete in terms of how you would be handling the
18 people at the facility.

19 To Mr. Hart's questions we were trying to figure
20 out how many people are there onsite monitoring. Like I'm
21 still even unclear. There's one monitor. I'm not asking a
22 question, I'm just letting you know it was even unclear in
23 that discussion as to how many people are going to be there,
24 how many staff people are going to be there, how you're going
25 to monitor the clients, and real particular conditions is

1 what I'd be looking for.

2 Just so I can hang onto something and say okay,
3 this sounds as though it's going to be handled properly.
4 This is how an incident will be taken care of. I mean just
5 something as a community member, as a next door neighbor how
6 do I know how the facility is going to be managed.

7 And I don't even know if that's going to get me
8 there by the way, I'm just saying. Because right now I'm not
9 voting in favor of it. But then let me know what you all
10 think over there.

11 VICE CHAIRPERSON HART: The questions I have were
12 really around looking at the -- listening to the ANC come and
13 give some -- their thoughts on why they have an issue with
14 this.

15 I understand that there are -- there's some
16 confusion it seems like from the ANC and I also have a little
17 bit of confusion as you were listening to some of the
18 questions that I had with regard to how many people are
19 actually going to be here.

20 And I understand that there was some question
21 about what DDOT was asking. This is exhibit 11. And it's --
22 this is the burden of proof exhibit. And it actually talks
23 about what DDOT said back in 2007. I'm not exactly sure why
24 that's relevant and what the Office of Planning said. I
25 don't know if some of this was actually just left over or if

1 it's actually really referencing that.

2 The information that we have is very difficult to
3 get to okay I understand it and this is how I can then
4 process and be able to approve or disapprove looking at the
5 information that's been provided to us.

6 I agree that the conditions are still, they're too
7 general. And what I mean by general is I think you should
8 be looking at things that say the applicant shall do this.
9 The applicant shall monitor clients and do this.

10 This is the applicant that is coming before us and
11 Ms. Fletcher, you're the one that is responsible for getting
12 information to us so that we can then be able to make this
13 determination one way or the other. But I don't feel like
14 we have the information yet.

15 And while I understand that one person would be
16 onsite that would be monitoring there are other personnel
17 that are coming onsite as staff and as guests. I understand
18 that you may not know who the guests are but for staff
19 purposes there should be a way to at least understand what
20 those numbers are. And right now I just don't have a good
21 understanding of that.

22 The reason I wanted to know the staff number is
23 really understanding how much monitoring might go on. Again
24 the overall plan for it is just hard to grasp reviewing the
25 information that's been provided so far.

1 I would like to see better conditions, or at least
2 more specific conditions that help to -- that might help to
3 address some of the comments and concerns that the neighbors
4 have.

5 I am not saying that the neighborhood is going to
6 be okay with it even when they get the information and it
7 seems as though there were -- do you have any community group
8 or individual that has said they are supporting of it?

9 MS. FLETCHER-LANGLEY: You mean from the community
10 where the property resides?

11 VICE CHAIRPERSON HART: Yes.

12 MS. FLETCHER-LANGLEY: Again initially when I
13 first started this process --

14 VICE CHAIRPERSON HART: I was just looking for a
15 yes or no.

16 MS. FLETCHER-LANGLEY: Can I just say one thing.
17 I actually worked with people individually, introducing
18 myself, telling them a little bit about the program. One of
19 the also partner owners of the transitional program Mr. Andre
20 Ruffilli had conversations with Ms. Reed who was very
21 embracing. Oh wow, we're glad to see you guys here, et
22 cetera, et cetera.

23 Well, it wasn't that he moved to another project
24 but he's still part of the process. It kind of changed
25 thereafter and it kind of went over into personalities.

1 (Simultaneous speaking)

2 MS. FLETCHER-LANGLEY: And we had conversation and
3 I kind of shared with him a lot about the programs and he
4 said he researched it. Again you asked about it, I do want
5 to address this.

6 VICE CHAIRPERSON HART: No, actually I was just
7 asking whether or not there was somebody that was in support.

8 MS. FLETCHER-LANGLEY: Well, I've had some yeses
9 and some nos and then some doubts.

10 (Simultaneous speaking)

11 VICE CHAIRPERSON HART: Ms. Fletcher, hold on a
12 second. It's not about trying to out talk me.

13 MS. FLETCHER-LANGLEY: No, I'm not.

14 VICE CHAIRPERSON HART: Well, I'm saying that you
15 are. So what I'm trying to get to is I was asking a
16 question, a very simple question did you have support,
17 written support that was submitted to us.

18 MS. FLETCHER-LANGLEY: No.

19 VICE CHAIRPERSON HART: And so we have not gotten
20 that. You did say that there were people that were
21 supportive, that gave you verbal support but we don't have
22 that and that's just hearsay from you. We have to go by what
23 we have in the record and we have in the record from a number
24 of people that they are not in support of it. So thank you
25 very much.

1 BZA CHAIR HILL: Okay. Ms. John.

2 MEMBER JOHN: Very briefly. So I'm not there yet.
3 I don't have enough information to say where I would like to
4 go on this.

5 I think that these facilities can be operated in
6 a community without adverse impact depending on how they're
7 managed and operated. And the type of clients that are
8 accepted based on the conditions available and the ages and
9 all of those considerations.

10 So the reason that you're here is that, and this
11 is to the applicant, the reason that you're here is that it's
12 not a matter of right. The board has to consider as the
13 chairman said the impact on the community, the adverse
14 impact.

15 So my suggestion would be, and I want to preface
16 everything by saying that we all feel that these facilities
17 should not be in our back yard because we all have the same
18 considerations. We have grandchildren, elderly, and so on.

19 But the community as a whole has to take care of
20 everyone because eventually it becomes our problem if we
21 don't have facilities that can house this type of population.

22 And I hear what the neighbors have said about the
23 glut, I want to say the word glut of facilities in certain
24 areas and that the burden is greater.

25 But as Chairman Hood said as the regulations are

1 now written there's the 500 foot limitation and the 1,000
2 foot limitation. And the commission I agree Chairman Hood
3 might need to take a look at that again to look at the
4 density of these facilities in certain neighborhoods. So
5 it's not a sure thing.

6 So my suggestion would be for the community, the
7 ANC and the applicant to go back and to see if there is
8 anything that can be agreed on in terms of the facility. It
9 might be changing the clientele. We can't tell you how to
10 use your property and what to do with it but there is the
11 fact that the neighborhood seems to be entirely opposed to
12 you, to the facility.

13 So maybe changing the clientele. I just throw
14 this out. I mean I once lived next to a facility and for
15 years I didn't know that the occupants were not residents,
16 well they were residents but this was not a homeowner. So
17 I had no idea. That's why I know these facilities can be
18 done well.

19 So I would just throw that out and I would just
20 ask the ANC to consider what conditions they could take a
21 favorable view since the regulations do technically allow
22 these facilities what conditions could they live with.

23 And I think that might get us somewhere because
24 right now I'm not inclined -- I don't have an opinion either
25 way.

1 BZA CHAIR HILL: Okay. All right, thanks, Ms.
2 John. All right, so Ms. Fletcher I guess what we're going
3 to try and do here is -- I guess what we'd like to see is you
4 go ahead and put together just a list of conditions or an
5 outline as to how the facility is going to be run and managed
6 in order to alleviate the board's concerns as far as the
7 adverse impact that the facility might have on the community.

8 And Ms. Fletcher, I know that this isn't your
9 profession and that you don't do zoning and everything but
10 I'm also just saying you're really going to have to come up
11 with something really concrete. Since I'm a voting person
12 up here. And I think that it's a pretty difficult hill for
13 you to climb for me.

14 I just want to be really clear because I don't
15 want you to waste your time, I don't want you to -- at least
16 for me. It would have to be very clear and understandable
17 as to how the facility would be run so that if I lived next
18 door to it I wouldn't be worried about how it's going to be
19 run.

20 And if you could come up with that list of outline
21 how the facility is going to be run and then you could submit
22 that to us.

23 And then the ANC would have an opportunity to
24 comment on that because they're a party. I don't know
25 whether there is any movement that you could possibly get

1 with the ANC meaning you might want to come up with all your
2 conditions, try to submit it to the ANC, see what they have
3 to say and see if you can get any kind of movement with them
4 in terms of them getting more comfortable with again the
5 facility, the management of that and so forth.

6 So given that we're going to ask that, Mr. Moy,
7 and we're on recess in August, it will probably be late
8 September.

9 MR. MOY: I was looking at the schedule, Mr.
10 Chairman, for late September as well. The earliest would be
11 September 26 and depending on when the applicant could make
12 a filing with information you're asking for and the time
13 period for when the ANC can respond to those filings.

14 BZA CHAIR HILL: So just let me work back for one
15 second. So the 26th. If the ANC -- they can submit whatever
16 they want whenever they want, but if they had a week before
17 we met in order to get something to us then when would the
18 applicant have to submit something to us.

19 MR. MOY: I think it might be desirable if the
20 applicant can prepare the additional information as soon as
21 she can so the ANC will have time to respond. So I would
22 look at -- the 26th is a suggested date for a continued
23 hearing or decision then I would suggest --

24 BZA CHAIR HILL: It would be a continued hearing.

25 MR. MOY: Okay, then I would suggest then that if

1 the applicant can submit by September 5 and that will give
2 at least two weeks for the ANC to respond which would be
3 September 19. If that was doable to the parties.

4 MR. JORDAN: Mr. Chairman, our ANC commission
5 doesn't meet until the fourth Thursday of September. We
6 don't meet in August at all. And so we'd like to have it
7 some date after the fourth Thursday in September.

8 BZA CHAIR HILL: You're the fourth Thursday.

9 MR. JORDAN: That's when we meet.

10 BZA CHAIR HILL: Okay.

11 MR. JORDAN: So we wouldn't be able to take
12 official action that this board could consider until that
13 particular date.

14 MR. MOY: Mr. Chairman, the fourth Thursday in
15 September would be September 27.

16 MR. JORDAN: So it would have to be after.

17 BZA CHAIR HILL: What's the next Wednesday after
18 that, Mr. Moy?

19 MR. MOY: It would be -- the earliest would be
20 October 3.

21 ZC CHAIR HOOD: When is the next time I'm here?
22 I know I'm here on the 26th and I think -- I would like to
23 continue to be involved with this discussion.

24 MR. MOY: We're looking at October 17 for the BZA.

25 ZC CHAIR HOOD: We do enough switching. That's

1 how I'm here today because we switched.

2 BZA CHAIR HILL: We like you being here today.
3 Twenty plus years of experience. It's just heavy on that
4 side.

5 ZC CHAIR HOOD: So we've already had a few
6 problems with switching. Sometimes we don't know who's
7 supposed to be here so we're not switching right now.

8 BZA CHAIR HILL: Okay. So what's happening again?
9 But I'm just saying that's now like, that's three months
10 away.

11 ZC CHAIR HOOD: If you all didn't go on vacation
12 in August.

13 BZA CHAIR HILL: You're on vacation too in August.

14 MS. FLETCHER-LANGLEY: Can I ask a question?

15 BZA CHAIR HILL: Sure, Ms. Fletcher.

16 MS. FLETCHER-LANGLEY: Because we contacted the
17 zoning board in 2017. They never responded until two weeks
18 -- the last week in June. Mr. Jordan and I, we went back and
19 forth.

20 BZA CHAIR HILL: Okay, Ms. Fletcher. That's okay.

21 MS. FLETCHER-LANGLEY: I'm saying aren't we in
22 consideration somewhere along the line.

23 BZA CHAIR HILL: Yes, I'm trying to get you there.

24 MS. FLETCHER-LANGLEY: Ways to making the
25 corrections. He already stated he wasn't really open to

1 meeting with Beyond Light again.

2 The only reason I don't have other connections or
3 representatives here because DBH is doing a walkthrough
4 through one of our properties today and so most of them are
5 there.

6 BZA CHAIR HILL: Ms. Fletcher, I understand.

7 (Simultaneous speaking)

8 BZA CHAIR HILL: I'm trying to get you there. I
9 understand what you're saying, let me try to get through the
10 middle of the thing.

11 MS. FLETCHER-LANGLEY: I emailed --

12 BZA CHAIR HILL: Ms. Fletcher, I'm letting you
13 know that if you vote today you're going to get a no.

14 MS. FLETCHER-LANGLEY: I've got you.

15 BZA CHAIR HILL: So do you want us to vote today?

16 MS. FLETCHER-LANGLEY: No, I don't.

17 BZA CHAIR HILL: All right. Okay. So Mr. Moy,
18 if you go on -- and I'm trying to work with Mr. Hood here as
19 well. So that first week of October, what is that?

20 MR. MOY: October 3.

21 BZA CHAIR HILL: So Mr. Hood.

22 ZC CHAIR HOOD: I can send a proxy.

23 BZA CHAIR HILL: Okay, there you go.

24 ZC CHAIR HOOD: Unless I get something totally
25 different I can get you a proxy today.

1 BZA CHAIR HILL: Okay, there you go. So we're
2 going to go with October 3 for a continued hearing. So
3 that's a week after the ANC. If there's any way you can get
4 in front of them and somehow get a different vote that would
5 be helpful.

6 But again I think that you're hearing from us we
7 don't have a whole lot of meat to really follow up as to how
8 the facility is going to be run.

9 So if you want to submit to us by when was the
10 date again, Mr. Moy?

11 MR. MOY: Since the ANC meeting is the 26th then
12 if the applicant can make her filings into the record and to
13 the ANC as well let's say by September 12.

14 BZA CHAIR HILL: Ms. Fletcher, does that work?

15 MS. FLETCHER-LANGLEY: Yes, that works.

16 BZA CHAIR HILL: Okay, all right. So September
17 12, submit anything to us that you like and then we'll be
18 back here again on October 4 for a continued hearing.
19 October 3. October 3 for the continued hearing.

20 And when is the submission again, Mr. Moy?

21 MR. MOY: If the board schedules a continued
22 hearing on Wednesday, October 3 then possibly if the ANC,
23 assuming they meet on the 26th of September can file your ANC
24 resolution and/or letter prior to that date so the board can
25 review your position by let's say Monday, October 1.

1 MR. JORDAN: Yes.

2 MR. MOY: That's not seven days. Okay, the ANC
3 is fine with that?

4 MR. JORDAN: Yes, sir.

5 MR. MOY: Usually I like to give you seven days.

6 (Simultaneous speaking)

7 MR. MOY: But if you're meeting --

8 MR. JORDAN: We can have something to you by the
9 first.

10 BZA CHAIR HILL: Okay. And then Commissioner
11 Jordan, are you the chair, Commissioner?

12 MR. JORDAN: No, sir. Our chair is Olivia
13 Henderson.

14 BZA CHAIR HILL: Okay. Well, Commissioner it is
15 a continued hearing so I would assume that unless all things
16 change you will be here probably. So then we'll see you.

17 So we're going to take a break. Gosh it's noon.
18 All right, so just so everybody knows we're going to take a
19 break and then we're going to come back and do as many cases
20 as we can before lunch which we're at least going to take
21 lunch at 1. One o'clock. We're going to try to make it to
22 1 o'clock.

23 We're going to take lunch. Lunch will be half an
24 hour and then we're going to come back. So you all can
25 figure out whatever you think that means.

1 (Whereupon, the above-entitled matter went off the
2 record at 12:04 p.m. and resumed at 12:20 p.m.)

3 BZA CHAIR HILL: All right, let's get started
4 again. All right, Mr. Moy. Okay. So just to let everybody
5 know what we're going to try to do is we're going to try --
6 all right we'll see how far we get. If we can do two before
7 lunch we will. If not we might just be doing one.

8 And this is our second to last hearing before we
9 adjourn for August. So lucky you guys, that means that
10 everybody is here trying to get in before the end of August.

11 And you can see for those of you who have been
12 here before this looks like a very long day. And so you can
13 start to plan accordingly. I don't know if dinner is going
14 to happen but there's a possibility that dinner is going to
15 happen. So you can just kind of see how that goes.

16 For the attorneys in the office it's more billable
17 time. Okay.

18 MR. MOY: Thank you, Mr. Chairman. So if we could
19 have parties to the table including the ANC. This is to case
20 application number 19789 of HIP E Street Partners LLC.

21 And I'm going to read into the record the amended
22 caption. And I'm asking that the applicant correct me if the
23 relief need further clarification.

24 This is for special exception from the
25 inclusionary zoning bonus density requirement Subtitle C

1 section 1001.2, lot width and area requirements Subtitle D
2 section 302.1, and pursuant to 11 DCMR Subtitle X Chapter 10
3 variances from the lot occupancy requirement Subtitle D
4 section 302.1, front setback requirements Subtitle D 305.1
5 and from the side yard requirements Subtitle D sections 307.4
6 and 307.5.

7 This would construct 10 attached principal
8 dwelling units R-3 zone. This is at 5101, 5103 and 5111 E
9 Street SE square 5316 lots 1 and 2 and 8 and 10.

10 BZA CHAIR HILL: Okay. If you could please
11 introduce yourselves from my right to left.

12 MR. DE MOTT: Hi, my name's Alex De Mott and I
13 work with Catarina Ferreira who's the architect.

14 BZA CHAIR HILL: Could you say your last name
15 again?

16 MR. DE MOTT: De Mott. D-E M-O-T-T.

17 MS. FERREIRA: Catarina Ferreira, principal at
18 Archi-Textual. We are the architect.

19 MR. YANCEY: Harvey Yancey, managing member for
20 HIP E Street phase 1 and phase 2 LLC.

21 BZA CHAIR HILL: And what's your last name again
22 sir, I'm sorry?

23 MR. YANCEY: Harvey Yancey.

24 MS. MCDONALD: O'Dette McDonald, project executive
25 for H2 Design Build.

1 BZA CHAIR HILL: Okay, great. Is the ANC here?

2 MS. MCDONALD: He's unable to be present but he
3 may be available by phone if needed.

4 BZA CHAIR HILL: Okay. Who's going to be
5 presenting to us? Ms. Ferreira? Okay, great. So Ms.
6 Ferreira I guess just right off the bat there was some issues
7 about actually whether or not we were going to postpone this
8 because of the postings. And what you guys actually have
9 advertised for.

10 So you have a front setback variance that even the
11 Office of Planning wasn't able to make a recommendation on
12 yet if I'm looking at the right one. And so did you
13 advertise for a variance for the front setback?

14 MS. FERREIRA: It was included in the original
15 paperwork. We have been coordinating very closely with the
16 Office of Planning and have made several revisions to both
17 the application and the architectural drawings submitted and
18 at the moment we have resubmitted the drawings showing --
19 providing a setback on the side that the Office of Planning
20 was not able to support. So we have been working through
21 those issues.

22 BZA CHAIR HILL: What I'm trying to get at is did
23 you advertise for the front setback relief.

24 MS. FERREIRA: That I would have to verify.

25 BZA CHAIR HILL: Okay. Because OAG is that the

1 case, they didn't advertise for the front setback relief?

2 MS. LOVICK: I believe that's correct. The
3 original self-certification didn't include it. The
4 application was revised so the public hearing notice made no
5 mention of the variance relief from front setback
6 requirements.

7 BZA CHAIR HILL: And so what you presented to the
8 ANC didn't include the front setback?

9 MS. FERREIRA: We have front setback relief
10 requests on two different sides so I am pretty certain that
11 it did include it because the only side that we did not
12 obtain the support from the Office of Planning was on the 560
13 wide lot side which is phase 2 of the project.

14 So I'm pretty certain it was in there. We can
15 verify. Actually we can go into the case records right now.

16 MS. LOVICK: Not in the public hearing notice but
17 I'm looking now at the posting.

18 MS. FERREIRA: So your statement is that it's not
19 in the placard itself, it's not in the posting.

20 MS. LOVICK: No, I'm saying it was not in the
21 notice. It was not in the actual notice that went out. But
22 I'm looking now at the posting. The computer is taking
23 forever, just give me a second.

24 There's no picture here to show what the posting
25 included.

1 MS. FERREIRA: There should be more than one page
2 to that file.

3 MS. LOVICK: Yes, but there's no picture to
4 actually show -- this is just an affidavit to indicate that
5 the posting happened, but I don't see a photograph actually
6 showing the posting so I don't know if it included the front
7 setback relief.

8 Is there something -- that's the only submission
9 that I see in the record. Is there something else that I'm
10 missing?

11 MS. FERREIRA: That submission does include
12 photographs as well. The file has several pages including
13 the affidavit.

14 BZA CHAIR HILL: Which exhibit are you looking at?

15 MS. LOVICK: I was looking at exhibit 38.

16 VICE CHAIRPERSON HART: All exhibit 38 has is two
17 pages. One page is the actual affidavit of posting and the
18 other one is affidavit of maintenance and that's it. There
19 are no other pages to that. I think that's what OAG is
20 saying.

21 MS. FERREIRA: We do have that file. Perhaps
22 there is something that did not load properly. Can we post
23 it now? Can we still add that posting to the record if it
24 is not showing up with the photos. If it does not include
25 all the information do we still have the opportunity to do

1 that now?

2 MS. LOVICK: Yes, you could. Do you have it?

3 MS. FERREIRA: I can access it. Would we have to
4 do it before the hearing?

5 BZA CHAIR HILL: Okay, Ms. Ferreira. There's this
6 one and are you the next one as well?

7 MS. FERREIRA: We are.

8 BZA CHAIR HILL: Okay. So there's also an issue
9 with that posting. And so what I'm going to recommend is
10 we're going to move you guys to the end of the day. And so
11 when we take lunch you can go ahead and talk with the OAG and
12 see if we can get through this.

13 Otherwise we're just going to have to have you
14 repost and we're going to have to postpone it. So go ahead
15 and talk with OAG at lunch. Okay.

16 MS. FERREIRA: Thank you.

17 BZA CHAIR HILL: Sure, of course. So, Mr. Moy,
18 we're going to skip this one. We're going to skip 19789 and
19 we're also going to skip 19790 and put those before the
20 appeal. Okay, Mr. Moy?

21 MR. MOY: I got it.

22 BZA CHAIR HILL: Okay. And then let's just keep
23 moving along.

24 MR. MOY: Okay, in that case if I can have
25 applicants and the ANC to the table. This is case

1 application number 19797 of the Community Three Grimke G-R-I-
2 M-K-E LLC.

3 Captioned and advertised for a special exception
4 under Subtitle K section 813 from the rear yard requirements
5 Subtitle K section 805.1 pursuant to Subtitle X Chapter 10
6 for variances from the parking access requirements of
7 Subtitle C section 711.3(b) and from the drive aisle width
8 requirements Subtitle C section 712.5.

9 This would renovate and expand the existing former
10 school building and convert it to a mixed use building. This
11 is in the ARTS-2 zone. This is at 1925 Vermont Avenue NW
12 square 361 lot 827.

13 And Mr. Chair, there is a request for an expert
14 witness under exhibit 32.

15 BZA CHAIR HILL: Okay, great, thanks. Just real
16 quick unless the board had any issues I did actually look at
17 Ms. Alexander's resume in exhibit 32 and I didn't have any
18 issues accepting her as an expert. Did anyone else? Okay,
19 all right. So we're going to go ahead and do that, Mr. Moy.

20 Is the ANC here? Okay. If you would like to
21 introduce yourselves please from my right to left.

22 MR. KADLECEK: Good afternoon, members of the
23 board, I'm Cary Kadlecek from the law firm of Goulston &
24 Storrs on behalf of the applicant.

25 MR. EPSTEIN: And I am Grant Epstein of Community

1 Three, the applicant.

2 MS. ALEXANDER: Sarah Alexander from Torti Gallas
3 Urban, the architect.

4 BZA CHAIR HILL: Okay. Mr. Kadlecek, are you
5 going to be presenting to us?

6 MR. KADLECEK: Mr. Epstein will be giving an
7 overview presentation just to set the stage a little bit for
8 you all. As you heard from Mr. Moy this is a renovation and
9 addition to an existing building that was formerly District
10 property that was disposed of through a competitive
11 disposition process.

12 The property is also simultaneously being rezoned
13 to the ARTS-2 district which is why the requirements that
14 we're seeking the relief from are under ARTS-2. That
15 rezoning was given proposed action by the Zoning Commission
16 on June 7. We expect and hope that at their public meeting
17 at the end of this month that they will take final action on
18 that rezoning.

19 BZA CHAIR HILL: Okay, so just to OAG again. So
20 when we were going through this I didn't realize they were
21 still waiting on a text amendment. And so what we've done
22 in the past is we couldn't vote on it until the text
23 amendment had been properly processed.

24 And so when would that -- I mean we can still hear
25 the case. I'm just letting you know. We did this once

1 before and after reconsideration some of the board members
2 had strong opinions in terms of being able to vote on
3 something that actually we shouldn't be able to vote on.

4 So when would that text amendment take action?

5 MR. KADLECEK: So the first vote was June 7. It's
6 already gone to the rulemaking notice period. It's also gone
7 to NCPC. The agenda for the Zoning Commission's next meeting
8 on July 30 hasn't been published yet but we're expecting that
9 it will be on that agenda.

10 BZA CHAIR HILL: Okay. And then there's something
11 else though that has to happen I thought after that. Didn't
12 it have to be published somewhere?

13 MS. LOVICK: No, no, that's happened. So the
14 commission took proposed action and I'm not sure where the
15 comment period is but Mr. Kadlecek, so I believe that it will
16 be on the July 30 agenda. But I can't say that definitively.
17 But I believe that it will be.

18 MR. KADLECEK: The notice period I believe began
19 around June 20 or so so it would be over by the Zoning
20 Commission's next public meeting on July 30.

21 BZA CHAIR HILL: Okay, so then we could vote after
22 that.

23 MEMBER JOHN: I have a question. So once the
24 notice period expires does it automatically become
25 regulatory? Isn't there a further step?

1 MS. LOVICK: No, the commission has to take final
2 action. They have to take final action for the map amendment
3 to become final.

4 MEMBER JOHN: And that will be at the end of July.

5 MS. LOVICK: Correct. And then the notice, the
6 final notice into the D.C. Register will have to happen.

7 MEMBER JOHN: Exactly. So that's the point.

8 MS. LOVICK: The final rulemaking.

9 MEMBER JOHN: I think that's what we need, the
10 final rulemaking.

11 BZA CHAIR HILL: So when does the final notice
12 happen?

13 MS. LOVICK: It'll happen after the meeting
14 happens and assuming that the commission takes final action
15 then OAG would prepare a notice of final rulemaking that
16 would then be published in the D.C. Register. So it should
17 happen in August.

18 BZA CHAIR HILL: Okay. Mr. Kadlecek, I'm just
19 trying to set this all up so I know where we are. So we can
20 go ahead and go through the hearing.

21 MR. KADLECEK: That's fine. And we understand
22 that the map amendment isn't final yet but we'd like to
23 proceed with the hearing.

24 BZA CHAIR HILL: As long as the board members
25 don't mind us having the hearing and then determining what

1 we want to do. We'll see what happens.

2 So, Mr. Epstein, you're going to present. And so
3 I didn't see, Mr. Kadlecek, an ANC report.

4 MR. KADLECEK: It came in late last night. I
5 believe it's exhibit 37, 38 I'm sorry.

6 BZA CHAIR HILL: Okay. Then I'll go ahead and
7 take a look at that while you're going through your
8 presentation, Mr. Epstein. So I'm going to put 15 minutes
9 on the clock. And basically we just want to hear about the
10 project as concisely as possible as well as the standards as
11 to how you're meeting the criteria for us to grant the
12 application. And you can begin whenever you like.

13 MR. EPSTEIN: Thank you very much. As Cary said
14 this is part of a disposition of District owned property that
15 houses the former Grimke School. It also as shown in this
16 plan the disposition includes a site that's on U Street.

17 The variances don't pertain to the U Street
18 parcel, they only pertain to the parcel that fronts on
19 Vermont Avenue shown here in the biggest red space.

20 The existing building is a building that was built
21 over several years in the late eighteen hundreds and then
22 added onto in the mid nineteen hundreds.

23 It operated as a schoolhouse for many decades.
24 Most recently it was the home to D.C. Fire and EMS which left
25 the building about seven or eight years ago. It has since

1 been vacant.

2 The property's only tenant right now is the
3 African-American Civil War Museum who operates out of the
4 gymnasium building, a small 5,000 square foot appendage on
5 the back of the building.

6 As you can see on this side this is kind of the
7 rear yard just showing the building around it. And this is
8 the gymnasium on the lefthand side which abuts a 30 foot wide
9 public alley also known as 9 1/2 Street.

10 Just to reorient you because the rest of the plans
11 are oriented this way the Metro station is directly beneath
12 the site across Vermont Avenue as shown here.

13 There are three areas of relief that we're asking
14 for. Two of them pertain to drive aisle width and one
15 pertains to a rear yard setback.

16 The first two are similar and in a similar
17 location on the site. You'll see the new redevelopment of
18 the site has certain cultural spaces, office spaces and a new
19 home for the African-American Civil War Museum within the
20 main building.

21 It also shows a new residential component that
22 fronts along 9 1/2 Street that renovates the existing
23 gymnasium building.

24 The two areas of relief that are being sought are
25 really to take the existing parking spaces that are on the

1 site and make them conforming. This site has been a District
2 owned property for all of its life and has had parking spaces
3 on them but never really brought into compliance.

4 The first one shows in the yellow area a drive
5 aisle that currently exists as a parking area. We've
6 reoriented the parking spaces to accommodate some of the
7 residents' requests for the townhouses to the south so that
8 they could have access to their rear yards.

9 In doing so, in making the parking spaces
10 conforming the amount of space --

11 BZA CHAIR HILL: Mr. Epstein, I appreciate your
12 presentation and what you're going through. I think the
13 record is pretty full and I think that we've all reviewed it.
14 I don't have any direct questions at this point so unless the
15 board has any I'm going to turn to the Office of Planning.
16 I'm going to turn to the Office of Planning.

17 MR. JESICK: Thank you, Mr. Chairman and members
18 of the board. The Office of Planning is happy to rest on the
19 record in support of the application. But I'd be happy to
20 take any questions.

21 BZA CHAIR HILL: Okay. Does anybody have any
22 questions for the Office of Planning? Okay. Does the
23 applicant have any questions for the Office of Planning?

24 MR. KADLECEK: No, thank you.

25 BZA CHAIR HILL: All right. I did ask if the ANC

1 was here. I don't know if they're here or not. Again is the
2 ANC here? Is there anyone here wishing to speak in support?
3 Is there anyone here wishing to speak in opposition? Oh,
4 please come forward. Did you get sworn in this morning?
5 Okay, great. So just push the microphone and introduce
6 yourself.

7 MR. DEWITT: Absolutely. My name is Brett DeWitt.
8 I'm a resident on the south side abutting the back alley
9 system.

10 BZA CHAIR HILL: Okay. Mr. Kadlecek, can you pull
11 up that photo, the first one that showed where maybe Mr.
12 DeWitt is. So Mr. DeWitt you're on the other side of that
13 alley.

14 MR. DEWITT: Correct, sir. So I'm on the back
15 side of the alley system on the very, very southern tip of
16 the alley system.

17 BZA CHAIR HILL: Mr. DeWitt, I'm just going to
18 interrupt you. So I'm going to give you three minutes as a
19 member of the public. I'm going to go ahead and time it up
20 here. So you can begin whenever you like.

21 MR. DEWITT: Sounds good. Overall I'm generally
22 supportive of the redevelopment of the site but I do have one
23 major concern especially with the relief that is being
24 requested here today.

25 I tried calling the developer several weeks ago

1 and several times and have yet to hear back from those
2 requests.

3 Today there are two points of egress for the back
4 alley system. There is an in and out of the alley system to
5 allow for traffic to flow currently from the north egress and
6 then currently on the south side that exits out to Vermont
7 Avenue.

8 Who uses the alley today in the back trash truck
9 collection for 9 1/2 Street as well as houses along the back
10 alley including myself. That is where our trash gets
11 collected. Additionally snow trucks for snow removal go back
12 there to remove snow. Large trucks making their way through
13 the alley system and then having to curve around to exit out
14 Vermont Avenue.

15 Additionally emergency vehicles use that alley
16 system as well. There have been times where ambulances and
17 fire trucks need to get behind Grimke School to get in and
18 out of the alley. There's no other place to turn in and out
19 of the alley system. So once a large truck gets in there has
20 to be a point of egress to exit.

21 There is a third narrow alley system that exits
22 directly to the south alongside my property but that is 9
23 feet wide and would not allow for these large city trucks to
24 access. I actually have video of large trucks actually
25 trying to squeeze between the two residences, both my

1 residence and the one next to us. I'm happy to show you the
2 video and show you exactly the damage that it does to both
3 our properties and why that is not a point of egress that
4 makes sense. It's only 9 feet wide.

5 And why it's important that the southern part of
6 Grimke School has an alley system for trucks to turn that
7 corner by that post and exit. Like I said it's a real
8 problem.

9 In the interim the city has painted parking spaces
10 to allow these two points of egress for large trucks. The
11 city's Department of Transportation in coordination with
12 Public Safety approved these lines for that exact same
13 reason, to not block the egress.

14 There is reason why the parking spaces were
15 designated the way they were. The current parking situation
16 works and of course there are other ways to draw the lines
17 to not prevent the blockage of this important critical point
18 of egress.

19 Unfortunately the plans as put forth that we've
20 seen here would entirely eliminate the critical second point
21 of egress for large trucks. No city emergency vehicles could
22 get through and not only would it shut off access to city
23 vehicles but it's a huge public safety issue. And God forbid
24 an ambulance does need to get back in the back alley for an
25 emergency. That would be a major issue.

1 I have worked several years now with fellow
2 neighbors to develop community goals for redevelopment and
3 this maintaining two points of egress has always been part
4 of the community goals.

5 The question I have for the developer is for its
6 services how will it expect to get its trash picked up, how
7 will it get snow removed, in the event there's an emergency
8 in the back if that section is blocked how would ambulances
9 get back.

10 Luckily there's a simple solution. The developer
11 could simply eliminate the two parking spaces in the back to
12 not block that alley egress to allow the dimensions large
13 enough for these vehicles and trucks to exit out.

14 I know I'm slightly over time but just to conclude
15 it's a very simple fix. I am supportive of the
16 redevelopment. Just eliminating the two spots would allow
17 the trucks to go around. It would allow services to everyone
18 along the alley, 9 1/2 Street, as well as for continued trash
19 pickup that we currently have at our back. And I'm happy to
20 show pictures of that as you like.

21 BZA CHAIR HILL: Okay. Thanks, Mr. DeWitt. Do
22 you have any questions?

23 VICE CHAIRPERSON HART: Yes. Actually, it's not
24 necessarily -- I appreciate the concern that you raised.
25 This is actually for Mr. Kadlecek. If you could pull up --

1 there's an image showing the proposed development. It's a
2 site plan. It is that one.

3 Can we just talk about this, because I think it's
4 a little helpful to actually understand this to be able to
5 then figure out what it is that you're requesting.

6 MR. DEWITT: Correct. And if it's helpful I'm
7 happy to go up here and show you exactly what I'm talking
8 about.

9 VICE CHAIRPERSON HART: Well, it may be helpful
10 just to show it -- we have the image, it's actually in front
11 of us as well.

12 What I'm trying to understand is you said that
13 there are two spaces. Are they the southernmost spaces that
14 are kind of perpendicular to the --

15 MR. DEWITT: Correct, sir. The two parking spaces
16 to the southwest corner of Grimke. There's also a tree
17 depicted in the picture that blocks the ability to come in
18 from Vermont from I guess that would be the west.

19 VICE CHAIRPERSON HART: And so you're looking --
20 it's a turning radius to be able to turn onto that 9 foot
21 alley. To turn left onto it.

22 MR. DEWITT: To turn left onto the back alley
23 system. There's the tree and two parking spaces that prevent
24 large trucks curving around. There's also a telephone pole
25 there that also would block it. It's not depicted in that

1 picture but trucks cannot make that corner to exit the back
2 alley system.

3 VICE CHAIRPERSON HART: And so what you're
4 suggesting is to remove those two parking spaces.

5 MR. DEWITT: And that tree would allow large
6 vehicles to get back there.

7 VICE CHAIRPERSON HART: That's a new tree, right?

8 MR. DEWITT: That is not there.

9 VICE CHAIRPERSON HART: That's not an existing
10 tree. You said there's a telephone pole that's there.

11 MR. DEWITT: Correct, sir. The way the parking
12 is depicted today and the way the city drew the lines on a
13 temporary basis the city has signs no parking where those two
14 proposed parking spaces are intentionally to allow large
15 trucks to get through.

16 So all I would suggest is just eliminate those two
17 parking spaces and that tree and then allow the large
18 vehicles and trash trucks and emergency vehicles access.
19 It's really simple.

20 VICE CHAIRPERSON HART: Thank you very much, Mr.
21 DeWitt. I appreciate the information. It's easier to see
22 it on a site plan than to kind of to go through it. We can
23 ask the applicant about that and actually Mr. Kadlecek or if
24 your architects have -- Mr. Epstein, if you could respond to
25 that that would be great.

1 MR. EPSTEIN: Sure. I apologize, the plan you're
2 looking at is a little bit of an older plan and it's more of
3 an illustrative plan. The next one would be a much more
4 accurate depiction of the condition there.

5 So the site -- the alley system on this property
6 is quite confusing. It is made up of private alleys, private
7 property and public alleys.

8 The area that we're asking for relief on is on
9 private property. The area in yellow there is all on private
10 property and it appears that the D.C. trash trucks go across
11 the private property right now in order to make their turn
12 which will not be possible.

13 VICE CHAIRPERSON HART: But at one point before
14 this was transferred to the private entity this was a public
15 facility. This was publicly owned land.

16 MR. EPSTEIN: That's correct.

17 VICE CHAIRPERSON HART: This was purchased by a
18 private entity.

19 MR. EPSTEIN: That's correct.

20 VICE CHAIRPERSON HART: At one point it was
21 public. It may have been on a particular lot but it was
22 actually -- I understand your point.

23 MR. EPSTEIN: The other component here I just want
24 to bring to light is that the area I would say that you can
25 see that says public alley, it kind of looks like a pipe if

1 you will, that's the 9.33 --

2 MEMBER JOHN: Do you have a pointer? I'm really
3 having a hard time.

4 MR. EPSTEIN: Maybe I can do it with this.
5 Perfect. Okay. So this piece of the alley right here, this
6 is public alley, and that public alley stops right there.

7 This right here is a private alley. These are
8 owned by these individual people.

9 The public alley is also along this side which is
10 9 1/2 Street.

11 So right now there is no way for trucks to come
12 onto this private space and come this way although they do.
13 But this is private property from here all the way to there.

14 The public property which is the alley system
15 comes in here and stops. And then the private property again
16 which is this entire space right there.

17 Each of these townhouses here have a small 4 foot
18 area way that comes here and connects so that these lots can
19 have access to the public right of way because this has
20 always been private.

21 BZA CHAIR HILL: Mr. Epstein, what do you think
22 of removing the two parking spaces?

23 MR. EPSTEIN: This site is severely underparked
24 as it is. We're putting about 100,000 square feet of space
25 and it's got 20 spaces in total. Removing the parking spaces

1 would be a big problem to the marketability of this building.

2 In addition, the utility pole that's there right
3 now is actually right here and it's in the middle of the
4 drive aisle that the trash trucks are using right now. So
5 we're actually putting the drive aisle in a place so that the
6 utility pole isn't in the middle of the route without moving
7 the utility pole.

8 Just one more piece of history to this. During
9 our dozens of meetings with the ANC over the last nine years
10 now the reason for this alley being here was recommended by
11 multiple residents on this side in order to now have access
12 to move in and out of their lots as when it was District
13 owned they didn't have that because the parking spaces were
14 on the other side.

15 So that's really the reason for this configuration
16 was a response to the neighborhood asking for it.

17 VICE CHAIRPERSON HART: And so the contention that
18 you also have is if any vehicles, trash truck, emergency
19 vehicles, whatever, need to get back here then the turning,
20 the getting back there is actually going to be on whatever
21 that street is to the south, T Street. So you're suggesting
22 that they're going on the public alley that's on T Street.
23 They cannot make a lefthand turn.

24 MR. EPSTEIN: That's correct.

25 VICE CHAIRPERSON HART: Okay. That's counter to

1 what this gentleman Mr. DeWitt has raised.

2 MR. DEWITT: Can I clarify, sir?

3 VICE CHAIRPERSON HART: Sure.

4 MR. DEWITT: So the small alley way is only 9 feet
5 wide today. Large trucks cannot get through there. And
6 there's a reason why those large trucks, the emergency
7 vehicles, trash truck pickups go south into the yellow zone
8 area to get out. It's the only way in and out.

9 I have videos showing you exactly why trash trucks
10 cannot get down a 9 foot alley that's larger because they
11 damage our homes. They cannot get in and out.

12 That is why today they use the yellow alley
13 system. I know there was two pictures back the current state
14 of what it looks like, back there there's a picture that
15 depicts this. And you can see exactly the way the parking
16 structure, the way the city has set up the parking spaces to
17 enable a truck to make that radius turn and make that corner.
18 It is totally doable. It's totally workable. And that's the
19 way it currently has today.

20 Even with cars getting in and out, how do you
21 expect large trucks to get in and out of the back. There's
22 no other way to do it.

23 And to the point that that white space is private
24 property in the back. If you go back there today that is the
25 way all cars and all through traffic is going. It's the way

1 that trash pickup has been -- I've lived in the neighborhood
2 for seven years. It's the way it's always been.

3 But purposely closing that off when there's an
4 opportunity not to close off the alley system I question why.
5 For two parking spaces to close off the entire --

6 BZA CHAIR HILL: Okay. So the two parking spots.
7 Mr. DeWitt did you go to the ANC meeting?

8 MR. DEWITT: I've been to many of them over the
9 course of three or four years.

10 BZA CHAIR HILL: No, I mean did you go to the one
11 for this project?

12 MR. DEWITT: Not specifically for this.

13 BZA CHAIR HILL: Okay, so you weren't there for
14 the vote. So the two parking spots that you're talking
15 about, Mr. Epstein, seven and eight. Is that right? Sorry,
16 six and seven. And then there's a utility pole where that
17 small circle is.

18 So the trucks drive to the left of that utility
19 pole?

20 MR. DEWITT: Correct, sir.

21 BZA CHAIR HILL: Okay. So I'm just talking
22 through this as quickly as I can. So you don't want to get
23 rid of two parking spots. Mr. DeWitt wasn't there at the ANC
24 meeting so you should have gone to the ANC meeting by the way
25 Mr. DeWitt.

1 And where do you live, Mr. DeWitt on the little
2 map?

3 MR. DEWITT: On this map I live right behind the
4 pole. So it's on the corner. So looking at the picture.
5 It's up one. Right there.

6 BZA CHAIR HILL: Okay.

7 MR. DEWITT: And like I said I've been part of the
8 community goal process for many years and this has always
9 been in the community goals through every ANC. So this issue
10 has been raised for years at every --

11 BZA CHAIR HILL: Sure. And I know the
12 neighborhood and I'm sure you'd love to see that thing get
13 developed also.

14 MR. DEWITT: Absolutely.

15 BZA CHAIR HILL: Does anybody have any questions?

16 MEMBER JOHN: Mr. Chairman, I also know the
17 neighborhood and I know that there's a parking issue. And
18 I know that it's great to have this development there.

19 I don't know if the developer could think
20 creatively about working on that particular issue.

21 MR. KADLECEK: One of the things I was thinking
22 about. Mr. DeWitt's point is well taken. I think the
23 problem is though it's private property. And so what's being
24 asked is to remove spaces on private property.

25 And I understand that that's what was happening

1 before but it is private property that these trash trucks are
2 driving over. And I think it's a lot to ask someone to allow
3 a private property owner to allow trucks that are servicing
4 the neighborhood to drive over their neighborhood.

5 I do think though that there's probably some
6 solution that can be discussed with the trash companies about
7 maybe backing in from 9 1/2 Street or maybe servicing these
8 neighbors with smaller trucks.

9 I imagine if there was a conversation to be had
10 with the trash company that maybe there could be a solution
11 worked out. It doesn't seem to me that the only solution has
12 to be removal of these two spaces.

13 BZA CHAIR HILL: Mr. Hart.

14 VICE CHAIRPERSON HART: Mr. Kadlecek, so you're
15 saying that there's going to be a gate at Vermont Avenue that
16 will block off this.

17 MR. KADLECEK: No, there won't. It will be open.

18 VICE CHAIRPERSON HART: So what my point is, it
19 will seem as though it is a public alley. It will function
20 as a public alley. I understand technically that it is your
21 client's alley but I think that the issue that you're running
22 into is that people will use it as a public alley and there
23 will be nothing that will be keeping them from doing that.

24 They will come in and then find out wow, as
25 they're turning, they're making that lefthand turn if it's

1 a truck they may take out a car or hit a car that's sitting
2 at the edge of that.

3 I understand that you're trying to deal with a
4 very difficult situation. I'm just saying that it may be in
5 your best interest or the client's best interest to find a
6 way to deal with that so that you're not having that, you're
7 not exacerbating a problem that's already going to be there.
8 So I'm just putting it out there. There should be some
9 possible solution to kind of deal with that.

10 MR. KADLECEK: And I agree. I guess what I'm
11 ultimately trying to say is I don't know that the issue is
12 necessarily germane to the relief being sought.

13 Because even if the relief being sought, if we
14 weren't seeking this relief the issue would still be there
15 you know what I'm saying. The idea of accessing that alley
16 system as it were through private property still exists. So
17 that's why I'm suggesting that there's probably a solution
18 that can be worked out to Mr. Hart's point in order to
19 protect not only the interests of the neighbors and making
20 sure that the trucks can get back there but also the interest
21 of the property owner so that people who are actually parking
22 their cars there or live on the site or work on the site that
23 their safety is protected as well.

24 I think that is separate from what the relief
25 being sought here is.

1 VICE CHAIRPERSON HART: I'm not sure if it's
2 necessarily separate. In Subtitle K 813.1 vehicular access
3 and egress are located and designed so as to minimize
4 conflict with principal ways, to function efficiently, and
5 to create no dangerous or otherwise objectionable traffic
6 conditions. So I think that that's kind of germane to this
7 and it may be something that you need to figure out how to
8 deal with it.

9 I understand the point that you're making, I just
10 think that you may need to look a little deeper into that
11 particular issue. That's all.

12 BZA CHAIR HILL: Ms. John.

13 MEMBER JOHN: So I'm having difficulty trying to
14 figure out what the traffic pattern would be. So if someone
15 could just use a pointer and show me what the traffic pattern
16 is and what is the exact condition being -- I think I know
17 what it is but in order to vote I really need to be certain.

18 MR. KADLECEK: Are you asking about currently or
19 what's proposed?

20 MEMBER JOHN: Both would be good.

21 MR. DEWITT: I do have a photo I'm happy to show.
22 I think it would be helpful.

23 BZA CHAIR HILL: I don't know how we're going to
24 put it into the record. Just let Mr. Epstein answer the
25 question. Thanks, Mr. DeWitt.

1 MR. EPSTEIN: So right now the -- I believe that
2 the trash truck comes in here and sweeps out and sneaks
3 between the pole and the side of the building right here.

4 And then when it gets to there it's stuck. It
5 continues to go on private property. If I were these people
6 I wouldn't allow that but that's not me.

7 So the fact that the truck is coming in there now
8 is creating an illegal condition as it is today.

9 In the future this will still be open. This truck
10 will still be able to turn around this way and go that way.

11 MR. DEWITT: That's incorrect. That's impossible.

12 VICE CHAIRPERSON HART: Mr. DeWitt, can you please
13 turn off the mike. You are here to provide testimony on what
14 your particular issue is. The applicant is here providing
15 their testimony as to what they are asking for, for the
16 relief they're asking for.

17 If you are a party in opposition then you have the
18 ability to give -- to provide comment and to provide some
19 discussion about their case. But you don't have the ability
20 to cross examine or any of that. You really just have the
21 ability to provide testimony and that's it.

22 I understand that you may have a difference of
23 opinion of it but unfortunately that's not the way in which
24 we have to operate.

25 BZA CHAIR HILL: Ms. John, you've got a question?

1 MEMBER JOHN: Yes. So as to existing conditions
2 where do the trash trucks now come for the people whose trash
3 is picked up in that private alley. How is the trash picked
4 up there, on the front of the street or at the rear?

5 MR. EPSTEIN: I believe in the rear in their
6 private alley.

7 MEMBER JOHN: Right. So this would be a city
8 truck driving through that private alley to pick up the
9 trash.

10 MR. EPSTEIN: That is correct.

11 MEMBER JOHN: Okay.

12 BZA CHAIR HILL: This is what I'd like to do. Mr.
13 Kadlecek, I would like to follow with your lead where go
14 ahead and if you could submit something to us as to how you
15 think this issue might be addressed. We're not going to be
16 able to take a vote today anyway because we talked about it
17 already.

18 So I'd like to see something from you that is how
19 this issue may be addressed one way or the other. And I'd
20 like to get that before we're going to be able to vote
21 anyway.

22 And also whatever board members would like to hear
23 or see. Chairman Hood?

24 ZC CHAIR HOOD: I actually Mr. Chairman wanted to
25 see what I want to see now. And I understand Mr. DeWitt was

1 cut off from what he was asking to do because that is in our
2 process.

3 But I think we need to operate on the correct
4 information and I don't know if you live in the neighborhood
5 and you know how things operate but I'd like for you all to
6 switch seats and I'd like for you to show us how this work.
7 Back to Board Member John's question. Because we need to
8 operate on the correct information. Or what we think may be
9 correct. Because I'm confused what he said, what you said.
10 And I don't see how we can get on one street and everybody
11 says it goes a different way.

12 I've seen it before. You're not the first time.

13 MR. DEWITT: Thank you for the opportunity to show
14 how it currently works today and what makes sense and the way
15 it always has operated in the seven years I've lived here.

16 Currently today trash trucks and ambulances and
17 public safety vehicles, they come -- well, for the trash
18 pickup it comes down 9 1/2 Street right here, makes this turn
19 right here. Everything right here are all parking garages
20 and so the homes along here don't use this space whatsoever.
21 These are all parking garages along this whole space.

22 So trucks come along here. For the trash pickup
23 they pick up all the trash here. They come down this
24 alleyway. They pick up our trash along here. And they go
25 through here and then out. There is a pole right here and

1 so these trash trucks they come through. They have to get
2 through between the building and the telephone pole in order
3 to exit out through the alley system.

4 Emergency vehicles, like I said ambulances have
5 come back here several times since I've lived in the
6 neighborhood. To access they come through here and they go
7 the same space between the building and the pole to get back
8 here in order to get out.

9 There's no place for trucks or emergency vehicles
10 to turn around in this entire system so if there's an in
11 point there has to be an out point and that's the way it
12 currently works today.

13 It's a very minor ask. I don't think it's a lot
14 to ask. Like I said right here, this is 9 feet and 0.3, just
15 over 9 feet. Vehicles can't get through there. Cars can but
16 these large trucks can never.

17 Also for snow removal, snow removal guy comes down
18 this street to clear 9 1/2 Street, he turns down here, he
19 clears this whole area, he clears the back alley system.
20 Same thing, he exits between the building and the telephone
21 pole, clean this out and this is all cleared out by snow
22 removal.

23 BZA CHAIR HILL: Okay. So what I find
24 interesting, Mr. DeWitt, I know you're asking for a small ask
25 and by the way you've gotten a tremendous amount of time with

1 us right now which is really great.

2 But it's private property. That's the other
3 thing. It's private property. I don't know why the city is
4 using that. It's private property, correct? Right.

5 So even with how the city is using the private
6 alley I don't know how -- obviously you're going to do it if
7 you can.

8 ZC CHAIR HOOD: Let me just ask is there an
9 easement or something set up. Because there are a number of
10 things that we probably don't know.

11 MR. KADLECEK: For this area where we're talking
12 about to the south there is no easement for public access.
13 I think what was happening before because the property was
14 vacant the city was just allowing it to happen when it was
15 a vacant building. But now you're going to have a lot of
16 uses in that building so it really changes the nature of how
17 that space is going to be used.

18 ZC CHAIR HOOD: Okay, thank you.

19 BZA CHAIR HILL: Okay, so I'm back to the original
20 thing unless you all got something else.

21 MEMBER JOHN: I didn't understand that comment.

22 BZA CHAIR HILL: Which one?

23 MEMBER JOHN: I mean I'm probably just not getting
24 it. So because the building was vacant the city was allowing
25 trucks to get back there. But I thought that the alley was

1 owned by the people, the owners to the right.

2 MR. KADLECEK: Sure, let me clarify. This alley
3 right here is owned by these people, these individual people
4 here, that part of the alley. This part of the alley is
5 public. This part of a drive aisle is private.

6 So this building for the last eight years has been
7 vacant, hasn't had normal occupants to it. And so when the
8 trash truck has come out it has come this way because there's
9 no occupants for the building. And so it's been used that
10 I believe the entire time that he's been living there.

11 That trash truck that's coming out is coming along
12 this 9.33 foot alley right here and is there a reason why
13 it's making a turn and not just going straight considering
14 it can fit on the 9.33 foot alley here. Why can't it fit on
15 the 9.33 alley here.

16 My assumption is that this trash truck is coming
17 here in order to go somewhere else. But there hasn't been
18 any use of this building for the last eight years and
19 therefore no cars there so it's the path of least resistance.
20 I'm sorry if that doesn't explain.

21 MEMBER JOHN: So one last question. Has anyone
22 inquired as to whether there's an easement on that private
23 alley?

24 MR. KADLECEK: On this private alley?

25 MEMBER JOHN: Yes.

1 MR. KADLECEK: There is no easement on that
2 private alley.

3 MEMBER JOHN: You've checked.

4 MR. KADLECEK: Yes.

5 BZA CHAIR HILL: Okay. All right, so I'm still
6 with my original suggestion which is that, Mr. Kadlecek if
7 you want to see -- my thing is it's private property. And
8 so whatever happens to make somebody turn it into a public
9 alley that's what you're basically doing. You take away the
10 two parking spaces now people are going to do it even more.

11 But Mr. Kadlecek if you want to offer to work with
12 Mr. DeWitt and see if there's some kind of suggestions. And
13 maybe you take away two spots, I don't know. Because we
14 can't vote on it today anyway, we've already established
15 that.

16 And so the earliest we'd be able to vote on it
17 probably -- I don't even know when it would be one way or the
18 other in terms of voting. You still have to get the text
19 amendment through Mr. Hood over here. And so that would be
20 the end of July.

21 And then it has to be published. And I don't know
22 how long that takes. That's the whole thing that you don't
23 know how long it takes for it to be published.

24 MS. LOVICK: If final action happens on July 30
25 it will be published in August.

1 BZA CHAIR HILL: In August, right, so we're on
2 holiday. So let's see. September. And I guess, Chairman
3 Hood, when are you back here again?

4 ZC CHAIR HOOD: This is one I can send a proxy.

5 BZA CHAIR HILL: I understand, but I'm still
6 saying --

7 ZC CHAIR HOOD: September 26.

8 BZA CHAIR HILL: Okay, so that's late September.
9 The only reason why is we're really packed in September. Is
10 there any time thing that your client has going on right now?

11 MR. KADLECEK: Yes, we're preparing to submit the
12 permit. Ideally we would like to have the decision --

13 BZA CHAIR HILL: All right, well wait for Mr. Moy
14 to come back.

15 ZC CHAIR HOOD: All this is under the assumption
16 that it's approved.

17 BZA CHAIR HILL: I'm just talking about a vote.

18 MR. KADLECEK: And to be clear we think that
19 there's something that we can hopefully come up with that
20 kind of satisfies all the interests.

21 VICE CHAIRPERSON HART: You're asking for some
22 document that we would be getting to say this is how we
23 expect to change --

24 MR. KADLECEK: So just so we're clear the document
25 would explain how trash and large vehicles needing to go back

1 there would operate. Is essentially what I'm understanding
2 that you're asking for.

3 BZA CHAIR HILL: Yes.

4 VICE CHAIRPERSON HART: Yes. And if there's
5 something that is a drawing we'd need to have something that
6 of course deals with that.

7 MR. KADLECEK: Sure.

8 BZA CHAIR HILL: So we'd need something submitted.
9 If we had a decision in early September, I know the docket
10 is crazy.

11 MR. MOY: I believe we're looking at September 26.

12 BZA CHAIR HILL: No, this is just decision.
13 Chairman Hood can submit.

14 MR. MOY: Okay.

15 BZA CHAIR HILL: What's the first one in
16 September?

17 MR. MOY: It is the 12th.

18 BZA CHAIR HILL: The 12th. We don't come back
19 until September 12.

20 MR. MOY: We're still working though.

21 BZA CHAIR HILL: Not me.

22 MR. MOY: Yes, you are. So the first hearing
23 after the recess is September 12.

24 BZA CHAIR HILL: We need submissions. Then the
25 ANC has to have time to respond. He can do it in August

1 apparently.

2 MR. MOY: Does the ANC meet in August?

3 MR. EPSTEIN: I don't believe so.

4 BZA CHAIR HILL: You don't know when that ANC is
5 going to meet, right? I don't think they're going to
6 necessarily comment on anything.

7 MR. KADLECEK: Mr. Epstein can testify more to
8 this. They've been quite supportive of this project
9 throughout the entire disposition zoning process, everything.
10 So I expect that they will have no interest in participating
11 in this discussion.

12 BZA CHAIR HILL: Right.

13 MS. LOVICK: You don't necessarily need to give
14 time for the ANC to respond in this situation. Just because
15 they've already submitted a letter recommending approval.
16 It's up to you if you want.

17 BZA CHAIR HILL: I understand. I was just trying
18 to follow what I thought we were supposed to follow.

19 MR. MOY: Okay, so that simplifies things. So the
20 applicant can file let's say two weeks prior to September 12
21 which would put us at August 29. Then the board can move
22 forward for its decision on September 12.

23 BZA CHAIR HILL: Okay.

24 MR. MOY: Do you need anything from OP?

25 BZA CHAIR HILL: I don't need anything from OP.

1 No.

2 ZC CHAIR HOOD: Mr. Chairman, you mentioned this.
3 I think Mr. Kadlecek said he would work with Mr. DeWitt and
4 they can try to figure some things out.

5 MR. KADLECEK: Yes, we can do that.

6 BZA CHAIR HILL: Yes. We should put you at the
7 end of the day, Mr. DeWitt. Hang out with us.

8 So I did support, opposition, ANC. Mr. Kadlecek,
9 do you have anything else you'd like to add?

10 MR. KADLECEK: I have nothing further. Thank you.

11 BZA CHAIR HILL: Okay, then I'm going to close the
12 hearing other than the requested information and we are going
13 to do one more case. So thank you all very much.

14 We're probably just going to do one more and then
15 we're going to break.

16 MR. MOY: So, if we can have parties to the table
17 including the ANC to case application number 19799. This is
18 5533-518 9th Street NW Washington LLC.

19 Captioned and advertised for a special exception
20 under Subtitle C section 305.1 from the subdivision
21 regulations of Subtitle C section 302.2 permitting two
22 existing primary buildings on a single lot in the RF-1 zone.
23 This is at 518 9th Street NE and 816 E Street NE square 914
24 lots 55 and 54.

25 There is a request for expert status under exhibit

1 12.

2 BZA CHAIR HILL: Thank you. Go ahead.

3 MS. BLOOMFIELD: Our expert is not here and we're
4 not calling them so if you don't want to opine on their
5 expert status I'll save you the time.

6 BZA CHAIR HILL: Okay, great, thanks. All right,
7 so if you could please introduce yourselves.

8 MR. S. GREGG: Stephen Gregg with Akelius, the
9 owner.

10 MS. BLOOMFIELD: Jessica Bloomfield with Holland
11 & Knight.

12 MS. STAHR: Jesse Stahr with Akelius.

13 BZA CHAIR HILL: Could you say your last name
14 again, sir?

15 MS. STAHR: Stahr.

16 BZA CHAIR HILL: Okay. So Ms. Bloomfield, will
17 you be presenting to us?

18 MS. BLOOMFIELD: Yes, absolutely.

19 BZA CHAIR HILL: Okay. So the one quick question
20 I had -- so there was a subdivision chart that was late.

21 MS. BLOOMFIELD: I can explain if it's helpful.

22 BZA CHAIR HILL: Sure, please.

23 MS. BLOOMFIELD: The Office of Planning, in their
24 report they requested one item that was not already in the
25 record which was a zoning tabulation chart. We had not

1 provided one in our architectural drawings because we have
2 two existing buildings and they are not changing. So we had
3 not provided a zoning chart.

4 The self-certification form that we submitted we
5 had written n/a because nothing was changing. So what we did
6 was in response to the Office of Planning report we submitted
7 a zoning table at exhibit 39 which was directly in response
8 to the Office of Planning report and we did request a waiver
9 in that letter asking for your approval for us to submit that
10 chart after the 21 day filing deadline.

11 BZA CHAIR HILL: Thank you. Okay, so Y300.15.
12 So unless the board has any problems with it I'm going to go
13 ahead and allow that into the record.

14 So I don't really have -- it's a big project and
15 I was really kind of interested in hearing more in terms of
16 the presentation but I don't have any specific questions on
17 this.

18 Is the board anything specifically they'd like to
19 hear because I just want to let them kind of give a summary
20 of the project. Okay.

21 So, Ms. Bloomfield, if you want to just I guess
22 give a little bit of a summary of the project and the relief
23 you're requesting and that would be helpful. Thank you.

24 MS. BLOOMFIELD: Absolutely. It's actually two
25 existing buildings. So we're not constructing anything new

1 here.

2 It's special exception relief from the subdivision
3 regulations to permit the two existing primary buildings on
4 a single record lot and create two theoretical lots.

5 The project is located in the RF-1 zone in the
6 northwest corner of 9th and E Streets NE. The two lots each
7 have an apartment house on it constructed in 1926. Those are
8 validly existing non-conforming structures and actually non-
9 conforming as to their use as well. And we've met with the
10 zoning administrator and the renovations that we are
11 proposing to upgrade both buildings are all matter of right.
12 The only item we're here for is the theoretical lot
13 subdivisions. And the reason we need that is in order to
14 comply with DOEE stormwater requirements.

15 One of the existing record lots cannot comply on
16 its own. And so if we combined the two lots into a single
17 record lot we can take advantage of the land area on both of
18 the current record lots to meet the DOEE stormwater
19 requirements.

20 We've met with DOEE on this and they've confirmed
21 that that would work.

22 So we're essentially asking for an invisible line
23 on the lot. We will submit a subdivision application if this
24 application is approved to create one single record lot and
25 we will have the two theoretical lots from the BZA which is

1 what we're asking for today.

2 We have Office of Planning support, DDOT support,
3 a unanimous vote in support from the ANC and last night the
4 Capitol Hill Restoration Society also submitted a report.

5 There's nothing in the record in any opposition
6 on this case. If you'd like more detail on the DOEE
7 requirements or on the matter of right renovations to the
8 buildings we're happy to talk about them but that's the BZA
9 relief that we're here for.

10 BZA CHAIR HILL: Okay, great. Thank you. I'm
11 going to go ahead and turn to the Office of Planning.

12 MS. ELLIOTT: Good afternoon, Mr. Chairman,
13 members of the board. I'm Brandice Elliott representing OP.

14 I'm going to go ahead and stand on the record of
15 our report. We are recommending approval of the special
16 exception that's been requested for the theoretical
17 subdivision. But if you have any questions I'm happy to
18 respond.

19 BZA CHAIR HILL: Okay. Does the board have any
20 questions for the Office of Planning? Does the applicant
21 have any questions for the Office of Planning?

22 MS. BLOOMFIELD: No, thank you.

23 BZA CHAIR HILL: Is the ANC here? Is there anyone
24 here wishing to speak in support? Is there anyone here
25 wishing to speak in opposition?

1 All right, Ms. Bloomfield, do you have anything
2 else you'd like to add?

3 MS. BLOOMFIELD: No. Thank you very much.

4 BZA CHAIR HILL: Okay. I'm going to close the
5 hearing. Is the board ready to deliberate? Okay. I can
6 start.

7 I didn't really have any questions. I thought the
8 project was pretty interesting but I didn't have any
9 questions or concerns concerning the application and I also
10 would agree with the analysis that the Office of Planning has
11 provided into the record as well as that the ANC 6A had no
12 issues or concerns and the vote was also 7-0 unanimous. And
13 so I'll be in favor of this application.

14 Does anyone else have anything else they'd like
15 to add? Okay, I'm going to make a motion to approve
16 application number 19799 as captioned and read by the
17 secretary and ask for a second.

18 MEMBER JOHN: Second.

19 BZA CHAIR HILL: Motion made and seconded. All
20 those in favor say aye.

21 (Chorus of ayes)

22 BZA CHAIR HILL: All those opposed? The motion
23 passes, Mr. Moy.

24 MR. MOY: Staff would record the vote as 4-0-1.
25 This is on the motion of Chairman Hill to approve the

1 application for the relief being requested. Seconding the
2 motion is Ms. John. Also in support Mr. Hood, Vice Chair
3 Hart, no other members present. Motion carries.

4 BZA CHAIR HILL: Thank you. Summary order.

5 MR. MOY: Thank you.

6 BZA CHAIR HILL: Thank you. Thank you very much.
7 Everybody we're going to take a lunch break until 2 o'clock.

8 (Whereupon, the above-entitled matter went off the
9 record at 1:21 p.m. and resumed at 2:09 p.m.)

10 BZA CHAIR HILL: Let's go.

11 MR. MOY: Thank you, Mr. Chairman. The hearing
12 is back in session and the clock reads 2:07.

13 If we can have parties to the table including the
14 ANC to case application number 19800 of Alexander Pitt and
15 Christine Qiang.

16 Captioned and advertised for special exception
17 under Subtitle F section 5201 from the lot occupancy
18 requirements of Subtitle F section 604.1. This would modify
19 an existing rear deck addition to an existing principal
20 dwelling unit RA-8 zone.

21 This is at premises 2131 N Street NW square 69 lot
22 1881.

23 BZA CHAIR HILL: All right, thank you, Mr. Moy.
24 If you could please introduce yourselves.

25 MR. M. GREGG: My name is Michael Gregg. I'm with

1 Soe Lin & Associates Architects.

2 BZA CHAIR HILL: Mr. Gregg, did you get sworn in
3 earlier?

4 MR. M. GREGG: Yes.

5 BZA CHAIR HILL: Okay. I actually didn't have a
6 lot of questions about this but if you could go ahead and
7 present to us in terms of what you're trying to do and how
8 you're meeting the criteria for us to approve the
9 application. I'm going to put 15 minutes up on the clock so
10 just we know where we are. And you can start whenever you
11 like.

12 MR. M. GREGG: Thank you. We're asking for the
13 special exception to bring the non-conforming lot coverage
14 into compliance. Currently the house with its deck is over
15 the 70 percent threshold for special exception bringing us
16 into variance.

17 We're proposing to reduce the size of the deck to
18 bring it to below 70 percent lot coverage. That would
19 qualify us for the special exception.

20 BZA CHAIR HILL: Does the board have any questions
21 for the applicant?

22 VICE CHAIRPERSON HART: Just trying to understand
23 this kind of fully. What was the lot occupancy before --
24 what was the existing lot occupancy. Before there was the
25 actual deck that you put on.

1 MR. M. GREGG: The deck was existing and we
2 repaired it. But the issue was the deck was too high off the
3 ground. So we were at 71.29.

4 VICE CHAIRPERSON HART: So you were at 71.29 and
5 then you repaired it and you were still over the lot
6 occupancy.

7 MR. M. GREGG: Because the deck is too high off
8 the ground yes, it counted towards lot occupancy. So we're
9 suggesting to reduce the deck in size to be below 70 percent.

10 VICE CHAIRPERSON HART: Thank you.

11 BZA CHAIR HILL: I'm going to go ahead and turn
12 to the Office of Planning.

13 MS. MYERS: Good afternoon, Crystal Myers for the
14 Office of Planning. The Office of Planning is recommending
15 approval of this case and is standing on the record of the
16 staff report.

17 BZA CHAIR HILL: Okay. Is it the Office of
18 Planning's opinion that the applicant need relief from C
19 202.2?

20 MS. MYERS: Yes, because the existing lot
21 occupancy is already over. We were recommending C 202.2 but
22 it wasn't originally requested by the applicant so it's
23 something we recommended and recommended approval of as well.

24 BZA CHAIR HILL: Okay, Mr. Gregg, were you adding
25 that to your application?

1 MR. M. GREGG: They informed us of that and we've
2 agreed.

3 BZA CHAIR HILL: Okay. Do I need anything --

4 MS. LOVICK: You do need a new self-certification
5 including that relief.

6 BZA CHAIR HILL: Okay.

7 MR. MOY: He can file that into the record after
8 this proceeding.

9 BZA CHAIR HILL: Okay. Mr. Gregg, do you
10 understand that?

11 MR. M. GREGG: Yes.

12 BZA CHAIR HILL: Okay. Does the board have any
13 questions for the Office of Planning? Does the applicant
14 have any questions for the Office of Planning?

15 MR. M. GREGG: No.

16 BZA CHAIR HILL: Is there anyone here from the
17 ANC? Is there anyone here wishing to speak in support? Is
18 there anyone here wishing to speak in opposition?

19 All right, Mr. Gregg, I'm going to go back to you.
20 Is there anything you'd like to add in conclusion?

21 MR. M. GREGG: No.

22 BZA CHAIR HILL: Okay.

23 VICE CHAIRPERSON HART: One quick question. Mr.
24 Gregg, did you have an opportunity to talk to the ANC about
25 this? I just wanted to make sure we got something on the

1 record about it.

2 MR. M. GREGG: Understood. The board might be
3 reminded that we were here for a full variance to have the
4 existing conditions accepted. That was denied.

5 At that hearing the ANC supported the full zoning
6 variance. So we filed as quickly as we could to get in
7 before the August deadline. So we're assuming that the
8 approval from before is still good now since we're making it
9 smaller.

10 VICE CHAIRPERSON HART: I understood, I just
11 wanted to make sure that we have that on the record, that we
12 had some -- because currently we have nothing on the record
13 from the ANC.

14 MR. M. GREGG: We did reach out to them but they
15 didn't reply.

16 VICE CHAIRPERSON HART: Thank you.

17 BZA CHAIR HILL: Mr. Hart, I appreciate that.
18 It's after lunch. I'm not even noticing. That's a miss.

19 Okay, so Mr. Gregg you don't have anything else
20 to add, correct? All right, I'm going to go ahead and close
21 the hearing.

22 Is the board ready to deliberate? I can start.
23 I guess I mentioned I didn't have any real questions about
24 it. This has been kind of before us in a different capacity
25 and I'm glad to see that the applicant was able to work

1 through this in a way that seems to be beneficial to both
2 them and in agreement with the regulations. So I'd be in
3 favor of this application. Does anyone else have anything
4 they'd like to add?

5 VICE CHAIRPERSON HART: No, Mr. Chair. I would
6 agree with your statement and think that the Office of
7 Planning provided sufficient information and I would be in
8 support of the application.

9 BZA CHAIR HILL: Okay. I'm going to make a motion
10 to approve application number 19800 as captioned and read by
11 the secretary including the relief from C 202.2 and ask for
12 a second.

13 VICE CHAIRPERSON HART: Second.

14 BZA CHAIR HILL: Motion made and seconded. All
15 those in favor aye.

16 (Chorus of ayes)

17 BZA CHAIR HILL: All those opposed? Motion
18 passes, Mr. Moy.

19 MR. MOY: Staff would record the vote as 4-0-1.
20 This on the motion of Chairman Hill to approve the amended
21 application for the relief being requested. Also seconding
22 the motion is Vice Chair Hart. Also in support of the motion
23 Mr. Anthony Hood, Ms. John, no other board member present.
24 Motion carries.

25 BZA CHAIR HILL: Summary order, Mr. Moy.

1 MR. MOY: Thank you.

2 BZA CHAIR HILL: Thank you.

3 MS. LOVICK: Sir, please submit the revised self-
4 cert today if possible.

5 BZA CHAIR HILL: Thank you.

6 MR. MOY: All right. Next up on the docket if we
7 can have parties to the table including the ANC to case
8 application number 19805 of Halcyon Georgetown LLC.

9 Captioned and advertised for special exception
10 under the use provisions of Subtitle U section 203.1(n).
11 This would permit a non-profit use in a residential building
12 in the R-20 zone. This is at 3400-3410 Prospect Street NW
13 square 1204 lot 63.

14 There is in the record for expert witness Erwin
15 Andres under exhibit 29 which is already in the book. Been
16 approved, granted.

17 BZA CHAIR HILL: Okay, great, thanks, Mr. Moy.
18 Could you please introduce yourselves from my right to left.

19 MR. CORSON: David Corson.

20 MS. HAASE: Alice Haase with CastroHaase.

21 MR. ROSS: Ryan Ross with Halcyon.

22 MR. ANDRES: Erwin Andres with Gorove Slade
23 Associates.

24 BZA CHAIR HILL: Okay. Who's going to be
25 presenting to us today?

1 MS. HAASE: I am.

2 BZA CHAIR HILL: Okay. I suppose you're kind of
3 going through the application. If you could again let the
4 board understand what you're asking for and how you're
5 meeting the criteria for us to approve the request.

6 And then I guess there's a lot of conditions but
7 maybe we'll just see how we kind of work through this. So
8 whenever you'd like. I'm going to put 15 minutes on the
9 clock just so I know where we are and you can start whenever
10 you like.

11 MS. HAASE: Thank you. We're really here today
12 because our term expired. We come to you with the full
13 support of our ANC 2E, our single member district
14 commissioner, I think I can safely say the Office of
15 Planning, Department of Transportation and probably the most
16 important our neighbors.

17 Five years ago I was here to introduce this
18 property as the headquarters for the S&R Foundation.
19 Previously the property had been used as an event venue but
20 it had no special exception or conditions against it.

21 So the exception was granted and five years later
22 here we are.

23 So this is a large house so it meets the criteria
24 under Subtitle U 203.1(n)(2). The building was built in
25 1789. It's listed in the D.C. inventory of historic sites.

1 It's located in Georgetown.

2 The gross floor area of the main building is
3 23,400 square feet and the adjacent townhouse which is
4 attached is an additional 3,000 so the total space is 26,300
5 square feet.

6 Section 203.1(n)(3) use of existing residential
7 buildings and land by non-profit organization shall not
8 adversely affect the use of neighboring properties.

9 In your packet are proposed conditions that have
10 been worked out initially five years ago with the ANC and our
11 neighbors. They've been refined by the Office of Planning,
12 DDOT and quite frankly ourselves because five years later we
13 know a little bit more about our program.

14 But they're restrictions on the number of events,
15 the times and days, number of employees, parking,
16 transportation management. And these have worked so
17 effectively that we have not had a complaint in the past five
18 years which I think is pretty stellar.

19 The amount and arrangement of parking spaces shall
20 be adequate. We do have 15 parking spaces onsite which is
21 fairly good for Georgetown. The owners installed a turntable
22 in the driveway so that cars and trucks literally can come
23 in, make the turn and come in and out on 34th Street which
24 is really very helpful.

25 And then of course no goods, chattels, wares, or

1 merchandise shall be created, sold, exchanged, except those
2 related to the purposes of the non-profit organization. We
3 don't sell goods or chattels but what we do are pitch
4 ventures that have social benefit on a local and
5 international level.

6 And there are no additions or modifications to the
7 property now.

8 So we feel that this is the exact type of property
9 that the provision to permit non-profit operations was
10 created for and hope that the board will agree with us.

11 I mentioned it's been five years. S&R Foundation
12 came in and asked for a special exception. We were going to
13 operate the Institute of International Global Resilience,
14 it's called IIGR.

15 Since then IIGR has moved on. We also talked
16 about a conceptual incubator that we were going to call
17 Illuminate. And I always say we because I work so much with
18 the client for so long, Dr. Sachiko Kuno who happens to not
19 be here today that we're kind of a family.

20 This conceptual incubator has just simply
21 flourished. And it's now called the Halcyon incubator. And
22 instead of S&R operating out of Halcyon House a new entity
23 was spun off called Halcyon House. So they now operate the
24 Halcyon incubator at Halcyon House.

25 They also have -- everything is Halcyon so just

1 trust me on this. And then they have the Halcyon art slab
2 on 34th Street. And you may have heard about By the People,
3 a festival that was held about two or three weeks ago
4 throughout the District. It was an international arts and
5 dialogue festival. Very, very successful.

6 The keystone of the program at Halcyon House is
7 the incubator and the primary feature of that is the
8 residential program. And if I could take a moment or two I
9 would love for Mr. Ross who is the chief innovation officer
10 at Halcyon to talk a little bit about the incubator.

11 BZA CHAIR HILL: Sure, that would be great. Thank
12 you.

13 MR. ROSS: Wonderful. Thank you, Alice. So I'll
14 try to keep it brief but basically what we have is one of the
15 premier programs now I would say in the country for early
16 stage social entrepreneurs.

17 So these are innovators with great ideas. They've
18 decided they're going to apply that not to making another
19 dating app but rather how are we making sure that people have
20 access to healthy and clean food, how are we making sure that
21 everybody can have affordable healthcare. Kind of some of
22 the big community issues that we see. And that's one of the
23 really exciting things is you're able to help innovators who
24 are really trying to have an impact on the world.

25 In the time that we've been running the incubator

1 since 2014 the ventures that have come through our program
2 have collectively raised -- the numbers are updating right
3 now but I believe we're going to be at around \$55 million in
4 additional follow-on capital invested into their ventures.

5 They've impacted the lives of over 600,000 people
6 around the world and a large percentage of that is actually
7 here in the District. And they've ended up creating over 500
8 jobs.

9 So we've seen tremendous impact. Some of them are
10 becoming a little bit more ubiquitous and they are kind of
11 ventures you may have heard of.

12 One of my favorites locally is Misfit Juicery.
13 They take fruits and veggies that would otherwise be thrown
14 away and they make them into cold pressed juice. And these
15 are two innovators, they started at Georgetown University but
16 being young founders they had a large gap in their skill sets
17 and so we ended up doing a lot of the education and guidance
18 and mentorship through both Halcyon and the community around
19 the program to help them really develop and grow. And now
20 they're having a large impact not only in D.C. but also
21 across the northeast.

22 So we see that on a local level. We also see it
23 on an international level. Another venture in that cohort
24 actually in cohort 3 basically is creating a new distribution
25 network for solar lamps in Uganda.

1 They saw the value of coming to Washington, D.C.
2 to really get that expertise and training that they're going
3 to need to have a drastic impact in their community and make
4 sure that people have access to energy and to light because
5 often in these more rural areas where the lack of supply can
6 be a big challenge to what they're doing.

7 And so there is an incredible expertise in this
8 community. We've been able I think build a really unique
9 program to help these aspiring entrepreneurs who are trying
10 to have impact do incredible things.

11 So we've been really fortunate to be a part of
12 their story and of course as we move on happy to answer any
13 questions about the program.

14 BZA CHAIR HILL: Okay. Thank you, Mr. Ross. Just
15 real quick for Ms. Haase. In terms of the conditions and I
16 guess they're over in exhibit 38 on page 2 I just didn't know
17 if it was a typo or not. Page 2 number 6(c)(2) it says noisy
18 vendor breakdown and loading shall occur before 10 p.m. It's
19 meant to be 10 a.m. correct?

20 MS. HAASE: Absolutely, yes. Thank you.

21 BZA CHAIR HILL: And Mr. Ross, it sounds like a
22 lovely program and congratulations and definitely best of
23 luck to you. Does anybody have any questions for the
24 applicant? Okay. The Office of Planning, please.

25 MS. FOTHERGILL: Good afternoon. I'm Anne

1 Fothergill with the Office of Planning. And the Office of
2 Planning recommends approval of this special exception which
3 is essentially a renewal of the BZA order 18604 which is the
4 previous special exception.

5 We find it does meet the specific review criteria
6 of Subtitle U section 203.1(n) and the applicant has proposed
7 conditions that are supported by the ANC and DDOT which will
8 mitigate potential impacts to the use of neighboring
9 properties and traffic which are part of the review criteria.

10 The Office of Planning rests on the record in
11 support of the application and I'm happy to take any
12 questions.

13 BZA CHAIR HILL: Okay. So there was conditions
14 from the different departments. One was in exhibit 34,
15 exhibit 36 and exhibit 37. Do you know, and I could ask the
16 applicant also, are they all listed then in exhibit 38?

17 MS. FOTHERGILL: I don't have the exhibits in
18 front of me but the DDOT recommended conditions have been
19 incorporated into the conditions.

20 BZA CHAIR HILL: Okay.

21 MS. HAASE: All of the recommendations are in
22 exhibit 38.

23 BZA CHAIR HILL: Okay, great, thank you. Does the
24 board have any questions for the Office of Planning? Does
25 the applicant have any questions for the Office of Planning?

1 MS. HAASE: No.

2 BZA CHAIR HILL: I forget. Is the ANC here? Is
3 there anyone here wishing to speak in support? Is there
4 anyone here wishing to speak in opposition? Okay, I'm going
5 to turn back to you, Ms. Haase. Anything you'd like to add
6 at the end?

7 MS. HAASE: No. We would like to thank you for
8 allowing this to happen five years ago because the impact
9 it's made has been really quite instrumental. So we thank
10 you.

11 BZA CHAIR HILL: Okay, great. Mr. Andres, but I
12 ran into you in the coffee shop but you didn't need to come
13 it looks like. All right, I'm going to close the hearing.
14 Is the board ready to deliberate? Does somebody else want
15 to start deliberating?

16 All right. So I didn't have any issues or
17 thoughts with the application after reviewing everything.
18 I also would agree with the Office of Planning and their
19 analysis. It is as the applicant had mentioned that ANC 2E
20 was unanimously in support 4-0-0 with conditions. DDOT
21 didn't have any objections but they also did have conditions
22 and the Office of Planning had also conditions.

23 All of those conditions have been incorporated
24 into exhibit 38 so I would recommend adding the conditions
25 that are in exhibit 38 as specified by all of the different

1 parties as well as those by the applicant to mitigate any
2 adverse impact with this application.

3 So I would be in support of the application. Does
4 anyone else have anything they'd like to add.

5 Okay, I'll go ahead and make --

6 MS. LOVICK: Excuse me, I just want to clarify
7 something. So the condition that you were asking about, it's
8 6(c)(2) I think it's -- the first 10 p.m. is correct. I
9 think that the issue is with the second 10 p.m. and I think
10 the second 10 p.m. is intended to be 10 a.m.

11 MS. HAASE: That's correct, it's the second line.

12 BZA CHAIR HILL: Okay, thank you. I appreciate
13 that. I circled the wrong p.m. So to clarify the language
14 of that particular condition which is 6(c)(2) noisy vendor
15 breakdown and loading shall occur before 10 p.m. or shall
16 take place on the following business day between the hours
17 of 10 a.m. until 4 p.m. A.m. from 7 p.m. until 10 p.m. And
18 the applicant has agreed with this language.

19 MS. HAASE: Yes.

20 ZC CHAIR HOOD: Mr. Chairman, let me ask a
21 question and I may have missed this. It was a term limit
22 first. You had a term limit previously. You mentioned you
23 were here five years ago.

24 MS. HAASE: Yes.

25 ZC CHAIR HOOD: And the recommendation now is no

1 term limit.

2 MS. HAASE: That's correct.

3 ZC CHAIR HOOD: Is Office of Planning?

4 MS. FOTHERGILL: In lieu of term limit they've
5 worked out an agreement to have a liaison committee. It's
6 part of condition 11(c). And that was agreed with the
7 community and the ANC in lieu of a term limit. And Office
8 of Planning supports that.

9 ZC CHAIR HOOD: I saw the liaison. I've dealt
10 with a lot of liaison committees. Some that work and some
11 that don't. But I saw that and I just, maybe I missed it.
12 I just didn't see how that was going to work. But everything
13 is going well, I'm not going to make a big deal over it. As
14 long as that liaison committee, we know exactly how that's
15 going to work. Is that laid out somewhere that I may have
16 missed?

17 MS. HAASE: May I answer that?

18 ZC CHAIR HOOD: Yes.

19 MS. HAASE: Actually Chairman Gibbons of the ANC
20 2E brought it up. We obviously to come here, it's not that
21 we don't like to come see you all but it's expensive and it's
22 time-consuming. And so we together devised a liaison
23 committee.

24 And I think it's going to be very effective
25 because this liaison committee will be composed of a member

1 of the applicant, a member of the existing tenant which in
2 this case will be Halcyon House, two members of the ANC 2E
3 which I presume will be our single member district
4 commissioner and there is another district immediately across
5 the street from us so right now that would be Lisa Palmer and
6 Rick Murphy.

7 And of course it could be the chairman. Then
8 there will be at least two representatives from the immediate
9 neighborhood.

10 We have agreed to send out notices of the semi-
11 annual meetings to all property owners within 200 feet, a 200
12 feet radius and they know how to do this because we've done
13 it for every special exception that we've done.

14 And I think each -- at those meetings we'll
15 address any issues that may arise. And address it then.

16 I think it's going to be much more effective than
17 doing a 5, 10, 15 year limit. Instead of waiting for 5 or
18 10 years we're going to be meeting twice a year.

19 And I think it's going to work quite well. And
20 as I said we have no complaints.

21 ZC CHAIR HOOD: Right, right, you have no
22 complaints now but anytime we do a structure I think it needs
23 to be memorialized in here. Maybe I missed it.

24 MS. HAASE: It's detailed. It is actually the
25 last condition.

1 ZC CHAIR HOOD: Okay, is it detailed.

2 VICE CHAIRPERSON HART: Commissioner Hood it's
3 number 11 outreach to neighbors shall occur as following.
4 And it says the applicant shall convene a liaison committee
5 and then what Ms. Haase just discussed it's laid out who
6 those representatives are. And how frequently and who the
7 mailings are going to, how much in advance the mailings have
8 to go out.

9 ZC CHAIR HOOD: Okay, just help me Vice Chair
10 since you're helping me because I missed this. Where does
11 it spell out what the makeup is.

12 VICE CHAIRPERSON HART: It says. I'll actually
13 read it. The applicant shall convene a liaison committee to
14 include one representative of the applicant or successor
15 owner if any, one representative of the Halcyon House or then
16 current primary tenant, a minimum of two representatives from
17 ANC 2E and two representatives from the proximate Georgetown
18 community at large.

19 The applicant shall convene this liaison committee
20 semiannually to discuss and address issues if any related to
21 the traffic and noise mitigation of the property.

22 Not less than 30 days in advance of a liaison
23 committee meeting notice of such meetings shall be mailed to
24 (1) mailed or delivered to all households within 200 feet of
25 the property and (2) published on the applicant's website.

1 ZC CHAIR HOOD: Okay. All right. As long as it's
2 memorialized. I actually missed that, but I am familiar with
3 -- I've never seen a liaison committee substitute a term.
4 We're getting very creative. But anyway, as long as it's
5 memorialized and you don't have any complaints from me. I
6 don't have any problems. Thank you.

7 BZA CHAIR HILL: No, thank you. Might as well
8 learn as well because we have had term limits before and so
9 to do this is an interesting way to do it. And you guys came
10 up with it obviously working with the ANC.

11 Okay. So once again I'll go ahead and make a
12 motion to approve application number 19805 as captioned and
13 read by the secretary including all of the conditions in
14 exhibit 38 as well as my correction to the typo in 6(c)(2)
15 and ask for a second.

16 ZC CHAIR HOOD: I'll second it.

17 BZA CHAIR HILL: Motion made and seconded. All
18 those in favor say aye.

19 (Chorus of ayes)

20 BZA CHAIR HILL: All those opposed? Motion
21 passes, Mr. Moy.

22 MR. MOY: Staff would record the vote as 4-0-1.
23 This is on the motion of Chairman Hood to approve the
24 application for the relief requested along with the
25 conditions as he cited and the reference. Seconding the

1 motion Mr. Anthony Hood. Also in support Ms. John, Vice
2 Chair Hart, no other member present. Motion carries.

3 BZA CHAIR HILL: Thank you. It was Chairman Hill
4 that did the motion, not Chairman Hood, just for the record.

5 ZC CHAIR HOOD: I don't rank enough to do motions
6 at the BZA.

7 BZA CHAIR HILL: You all can do motions all you
8 like now. Okay. All right, thank you all very much.

9 MR. MOY: That's a summary order, Mr. Chair?

10 BZA CHAIR HILL: Yes, I'm sorry, summary order
11 please.

12 MR. MOY: Thank you.

13 BZA CHAIR HILL: All right, Mr. Moy.

14 MR. MOY: Okay. So we're back to the two HIP
15 cases that were at the top of the table. So we're going to
16 call them back to the table.

17 The first is case application number 19789 of HIP
18 E Street Partners LLC. I don't think I need to reread the
19 relief caption. I'm good with that.

20 BZA CHAIR HILL: Okay. If you could re-introduce
21 yourself again for the record.

22 MS. FERREIRA: Catarina Ferreira, principal at
23 Archi-Textual PLLC. I am the architect.

24 MS. MCDONALD: O'Dette McDonald, the project
25 executive with H2 Design Build.

1 MR. YANCEY: Harvey Yancey, managing member for
2 HIP E Street and F Street phase 1, phase 2 and phase 3.

3 BZA CHAIR HILL: Okay, great. So Ms. Ferreira,
4 I know that there was some earlier conversation about
5 posting. And I've gotten some clarity from the OAG. And so
6 I'm not really clear what we're going to do here to be quite
7 honest.

8 I don't think -- you can tell me about the
9 posting. I don't think we have enough -- you didn't post on
10 the placard for the variance for the front setback. And so
11 I don't know what the rest of the board -- or what the board
12 thinks of but I don't think I'd be necessarily comfortable
13 that not being on the placard or proof that that's on the
14 placard of going forward with that today.

15 And so I would like to request that unless the
16 board, you can always let me know what you think. One part
17 of the argument that I could have possibly gotten to was that
18 they did apply -- they did on the placard have variance
19 relief, the higher standard.

20 I don't want to get into a precedent really where
21 if it's not posted properly particularly on the placard it's
22 difficult for me to get behind moving forward with this
23 today. Does the board have any other thoughts on that topic?

24 VICE CHAIRPERSON HART: Well, actually I know that
25 the applicant Ms. Ferreira has put in a notice of the actual

1 poster, the notice that's on the building. And did you think
2 that it had the variance for the front setback on there?

3 MS. FERREIRA: Well, let me start by saying we
4 don't prepare the placard. But we did submit application
5 materials that requested the front setback relief. And we
6 just --

7 BZA CHAIR HILL: If you could turn off your
8 microphones. We're getting feedback up here. Thanks.

9 MS. FERREIRA: We did in fact verify based on what
10 we found out today that the placard does not mention the
11 front setback relief explicitly. So you are absolutely
12 right.

13 However, we have reached out to the ANC
14 commissioner to get a statement from the ANC pertaining to
15 the relief that they approved because what was discussed with
16 them included the front setback relief.

17 So the issue is that the placard did not list it
18 and the notice also did not list it but it was presented to
19 the ANC and it was approved by the ANC.

20 VICE CHAIRPERSON HART: No, I understood that.
21 I appreciate that information. I guess the part that I was
22 grappling with is if the relief is not on -- if the relief
23 is only verbal when you are meeting with the ANC then folks
24 that may be interested in it may not know that if they're
25 going by what's on the placard.

1 I understand that you may not actually put that
2 up. That's fine. But it still means that somebody may be
3 looking at that and saying oh, I know that this is something
4 that doesn't bother me so I don't have an issue with it.

5 And so that's the issue. What we're trying to
6 figure out is what this means in terms of just the timing.
7 We have -- as you're probably well aware we have our next
8 meeting which is next week but then we don't meet again until
9 September. So that's where we are.

10 ZC CHAIR HOOD: Mr. Chairman, I always believe we
11 need to err on the side of caution. And I understand about
12 dialogue. I associate myself with your comments and the vice
13 chair's comments.

14 I know the ANC might know what all relief and they
15 may have based their decision on what was said to them but
16 as the vice chair was going into more people walk by and look
17 at these postings other than that in the community. And we
18 want to make sure we err on the side of caution.

19 But it's also the responsibility of the applicant
20 as well to make sure that what's posted even though they
21 don't post them, I understand that, but it's also to make
22 sure that what's posted is correct. That's why they do the
23 affidavit.

24 I believe we need to err on the side of caution.
25 Because even when we get into the case we have other things

1 that come into play and we don't want to start off with
2 having an issue which would be disadvantageous to the
3 applicant as well as to us and to our process. That's my
4 opinion, Mr. Chairman.

5 MEMBER JOHN: I have nothing further to add, Mr.
6 Chairman. I think what everybody else has said is fine. I
7 would prefer to have an accurate notice to maintain the
8 integrity of the process and so that anyone who did not
9 attend the ANC meeting would have been able to see the notice
10 and know that there was a pending application. So that would
11 be my recommendation.

12 BZA CHAIR HILL: Well, Ms. Ferreira, I'm sorry that
13 the notice is the way it was. I think it's one of the things
14 where I guess we could possibly deliberate on it in a certain
15 capacity, but I think that it not being on the placard and
16 it being a variance is really what we're kind of struggling
17 with. I mean, if it was a special exception, that might mean
18 a different situation but a variance is a higher bar for us
19 to go through and so I think we're going to postpone this
20 until you have an opportunity to advertise on the placard,
21 and I don't know when we could do that, bring it back.

22 MS. FERREIRA: Can I add something?

23 BZA CHAIR HILL: Sure, of course.

24 MS. FERREIRA: I'd just like to point out that this
25 project, unfortunately, given the circumstances, is a very

1 time-sensitive project because funding is actually being held
2 up until the relief is granted. As you probably know from the
3 paperwork, this is not just a standard development and there
4 are certain obligations that must be met and I'll let Mr.
5 Yancey speak to that some more.

6 MEMBER JOHN: Mr. Chairman, may I ask something?

7 BZA CHAIR HILL: Sure.

8 MEMBER JOHN: Just looking at the OP
9 recommendation, this is, let me make sure I have the right
10 case, 19789?

11 BZA CHAIR HILL: Yes.

12 MEMBER JOHN: OP did not make any recommendation
13 on the setback relief and I believe is requiring additional
14 information on that particular thing. So I'm not sure if we
15 could even decide today. Oh, maybe there's been a change.

16 MS. FERREIRA: There has been a change, and I have
17 been coordinating very closely both with the Office of Zoning
18 and the Office of Planning and we did revise the drawings to
19 provide a five-foot setback along the Phase 2 side of the
20 project per the request of the Office of Planning, as pointed
21 out in the report. That was the only part that they had not
22 fully supported so we went ahead and revised it, and I have
23 the revised drawings showing that with me today.

24 BZA CHAIR HILL: Okay, Ms. McDonald? You were going
25 to tell us about the timing? I thought it was Mr. Yancey who

1 was going to, so what's the timing situation?

2 MS. MCDONALD: Regarding the project?

3 BZA CHAIR HILL: Yes.

4 MS. MCDONALD: This project, the reason it's time-
5 sensitive is because it's a Workforce Development Project,
6 designed to reduce the exodus of residents from the city and
7 bring them back to the city. So it's geared, it's based on
8 funding from HIP and FHA, yeah, and the issue is that if this
9 doesn't proceed we possibly will lose the project altogether.

10 So whatever it is we need to do today, between now
11 and next week, but if we wait until September it's likely the
12 funding might not be there.

13 ZC CHAIR HOOD: Was that discussed when this was
14 being put on the schedule? Was all that discussed with the
15 Office of Zoning? Because I hear that a lot when it comes to
16 us, we got to hurry up and do something because of financing,
17 but the Commission, we understand it but we have to go
18 through our due diligence process and I'm just curious, and
19 not just in your case, I'm curious how do we handle other
20 cases that come in and typically we wait and do what we have
21 to do. But in your case, was that discussed with our staff?

22 MS. FERREIRA: It was discussed explicitly and I
23 was told there was really nothing that could be done about
24 it and this was the earliest hearing they could get, and we
25 accepted the answer. But it was very clearly discussed, yes.

1 BZA CHAIR HILL: Okay, so, and I guess, I mean the
2 project, it's all in the IZ units here and so, you know, and
3 we haven't even gotten into the merits of the application.
4 I don't want to, it's such a, I'm struggling with this now
5 a little bit. So to OAG there, how would, even if they
6 repost, we couldn't get them back here next week.

7 MS. LOVICK: Well, typically when you have done
8 repostings in the past, you do it for a minimum of 15 days,
9 but there's no requirement that it be 15 days. You could do
10 it for less time. And if you wanted to go that route this
11 could potentially be put onto the schedule next week. But
12 that's up to the Board to decide.

13 BZA CHAIR HILL: Mr. Moy, what does next week look
14 like? Actually I actually know what it looks like. So, I mean
15 the project seems to have a lot of value and community value
16 and so I would, speaking to the Board here, like them to go
17 ahead and post today, get the, fix the placard and then we
18 could bring them back next week.

19 I mean, it's not that it's a bit of a
20 technicality, but I mean you have posted. You have, the
21 community has been given notice that this is taking place.
22 You've gone before the ANC, you've presented this before the
23 ANC, you presented this before the ANC apparently twice, and
24 so I feel confident that the community has had an opportunity
25 to see that a project is taking place.

1 It's unfortunate, again, that there was an added
2 variance there that didn't change your project when you
3 presented to the ANC, and you just mentioned again that you
4 had something from the ANC, what did you say you got today?

5 MS. FERREIRA: I just added it to the record, when
6 you brought up the question earlier today, we reached out to
7 the ANC commissioner and he provided a statement stating that
8 the ANC supports the project with or without the front
9 setback. It's irrelevant to them.

10 BZA CHAIR HILL: Which exhibit did that come into?

11 MS. FERREIRA: It should be ----

12 VICE CHAIRPERSON HART: 40.

13 MS. FERREIRA: Yes.

14 BZA CHAIR HILL: Okay.

15 VICE CHAIRPERSON HART: And is there an ANC letter
16 for this as well?

17 MS. MCDONALD: Yes, it was submitted. And two of
18 the community residents they were present earlier, they had
19 to leave, to come and show their support. And they saw the
20 placard. They were here because they actually saw the
21 placard.

22 BZA CHAIR HILL: Okay. Well, I see the statement
23 here and it's from the chair of ANC 7E and he's the, is he
24 the SMD that the project's in?

25 MS. FERREIRA: Yes, and if I could just add that

1 the project was very closely and intentionally coordinated
2 with the ANC, so this was not a simple quick review. It's a
3 complex project and we did present it to the community and
4 it was very well received by the community.

5 BZA CHAIR HILL: Okay. What does the Board think?

6 ZC CHAIR HOOD: Mr. Chairman, I understand, I hear
7 what they're saying, but I can tell you this will come back
8 to haunt you in another way if you all would be able to do
9 this. I don't have a problem moving forward, but there's some
10 other things that will help you all if somebody was
11 eventually to come back and say something about this case.

12 That way you cover your bases and we've definitely
13 covered our bases. Not that I'm trying not to do this case,
14 because I'm here until 7 or 8:00 tonight if need be, no
15 problem, but I just think that we can go through with this,
16 but if it's challenged and we may have some problems.

17 BZA CHAIR HILL: Okay, but you're fine then, we're
18 going to go ahead and we're going to have them repost on the
19 placard.

20 ZC CHAIR HOOD: If you all can do this next ----

21 (Simultaneous speaking.)

22 ZC CHAIR HOOD: Let me just, I'm sure the lawyer
23 understands what I'm saying from a legal perspective.

24 BZA CHAIR HILL: Okay. Ms. John?

25 MEMBER JOHN: I was going to suggest that since

1 technically there's been some notice, that because there's
2 time today, we begin hearing the case and continue it for a
3 limited hearing, I'm looking at OAG, and continue it for a
4 limited hearing next week. So that they could post today, and
5 then we would set it down for a decision, I mean limited
6 hearing and possibly a decision next time.

7 MS. LOVICK: So your idea is that when they do the
8 reposting, if somebody wanted to come and testify in
9 opposition they would have the opportunity to do so next
10 week?

11 MEMBER JOHN: Yes.

12 MS. LOVICK: That's not something that the Board
13 has typically done, but I don't think that anything would
14 preclude you from doing it.

15 BZA CHAIR HILL: Okay. So Ms. John, thank you for
16 that. One of the other thing is, I guess Chairman Hood would
17 not necessarily be able to come back next week, so I think
18 we'll go ahead and rehear this. Go ahead and post the
19 placard. We'll hear this next week. So Mr. Moy?

20 MR. MOY: Yes, I was also going to suggest, Mr.
21 Chair, we were just looking at the case record and there's
22 really no official ANC letter in the record so if they could
23 provide that, assuming that they've met, that would be
24 helpful, help facilitate this for the continued hearing next
25 week.

1 BZA CHAIR HILL: Okay. Ms. Ferreira?

2 BZA CHAIR HILL: And I would also just add, the
3 Board may want to ask for a supplemental report from OP
4 potentially. I don't know if you want to hear from them but
5 you might want to.

6 BZA CHAIR HILL: I appreciate that. So the Office
7 of Planning, what we had was that you weren't able give
8 review for the front setback and so could you please
9 elaborate?

10 MR. KIRSCHENBAUM: Jonathan Kirschenbaum, for the
11 Office of Planning. So when this was first submitted, the row
12 houses that are part of Phase II were not set back at all
13 from the front property line. They needed a variance for
14 that. They still need a variance, they're only setting back
15 five feet now, but we felt that some setback relief from the
16 front yard would be appropriate given the existing build's
17 character of the square and also the surrounding blocks, but
18 we didn't feel that had to comply necessarily with the full
19 front setback requirement.

20 So with the revised plans, we can fully support
21 a variance from the front yard setback, just a degree of
22 variance from the front setback requirement has now been
23 decreased because they're providing some setback now.

24 BZA CHAIR HILL: Okay. So if you could write a
25 supplemental report that effect.

1 MR. KIRSCHENBAUM: Sure.

2 BZA CHAIR HILL: All right, so you're going to post
3 the placard, you're going to get us a letter from the ANC,
4 okay? We're going to get a supplemental report from the
5 Office of Planning which we could get, when do you think we
6 can get that, Office of Planning?

7 MR. KIRSCHENBAUM: As soon as you need it. End of
8 the week?

9 BZA CHAIR HILL: Okay, great. That would be great.
10 End of the week. That's fine.

11 MR. KIRSCHENBAUM: Or Monday?

12 MR. MOY: Monday would be fine.

13 BZA CHAIR HILL: Then Monday. And then, then we're
14 back here next week for this case. So, I know there's
15 actually questions on the next case, too, but we'll see how
16 that goes. I guess she doesn't have to get up. You can sit
17 right there. All right, so, we're closing the hearing on this
18 case. Thank you, and thank you very much.

19 MS. LOVICK: And can you please provide a photo to
20 show the posting, just so we can see that the front setback
21 relief is part of the posting notice? Thank you.

22 BZA CHAIR HILL: Well, Vice Chair Hart is saying
23 I didn't really close the hearing. I'm just saying, we're
24 done with this portion. Thank you. Mr. Moy, you can call the
25 next one.

1 MR. MOY: Yes, I'll call the next one as well as
2 the caption because I didn't read that this morning. This
3 would be case application number 19790 of HIP E Street
4 Partners, LLC, as amended for variances from the lot width
5 and area requirements, Subtitle D, Section 302.1 from the lot
6 occupancy requirements, Subtitle D, Section 304.1, side yard
7 requirements, Subtitle D, Section 307.5, to construct five
8 attached principle dwelling units in the R-3 zone. This is
9 at 827 F Street SE, Square 5316, Lot 35, and I would ask the
10 Applicant to confirm the relief that I've just read.

11 BZA CHAIR HILL: Okay. Thank you, Mr. Moy. If you
12 could introduce yourselves, please?

13 MS. FERREIRA: Catarina Ferreira, principal at
14 Archi-textural, PLLC. I'm the architect.

15 MS. MCDONALD: Odette McDonald, project executive
16 for H2.

17 MR. YANCEY: Harvey Yancey, manager-member for HIP
18 E Street Phase III.

19 BZA CHAIR HILL: Okay. Thank you. It happens each
20 and every time, because somebody clicks in. So, Ms. Ferreira,
21 you had a chance to talk to the Office of the Attorney
22 General in terms of posting. I think this might actually be
23 easier for us, but can you clarify what you learned at lunch?

24 MS. FERREIRA: I'm sorry, I ---

25 VICE CHAIRPERSON HART: What you submitted, just

1 to let us know what the actual posting was.

2 MS. FERREIRA: Yes. What we learned at lunch is
3 that the posting included relief from front setback
4 requirements, which we don't actually require in this case.
5 It appears that there was a mixup, perhaps, between the two
6 cases and the posting for one included relief that really
7 should have been listed for the previous case.

8 BZA CHAIR HILL: Okay. So I don't have any issues
9 with moving forward. Does the Board have any issues of moving
10 forward? Okay. So, Ms. Ferreira, we're going to go ahead and
11 hear you this case, so if you can go ahead and present it to
12 us, I don't want to put both on for next week even though
13 y'all got to come back next week as well, again.

14 So if you'll go ahead and just present to us, tell
15 us, tell us what exactly you're trying to do, and how you're
16 meeting the criteria for us to grant the application. I'm
17 going to put 15 minutes on the clock just so I know where we
18 are and if you take longer that's fine. And you can begin
19 whenever you like.

20 MS. FERREIRA: Okay, thank you. The project is
21 located at the corner of 53rd Street SE and F Street SE. It
22 is an 80x100 lot currently, and we are proposing subdividing
23 it into five equal 20 foot wide lots, which means they would
24 be a resultant 20 foot by 80 foot long, which is 1600 square
25 feet, and less than the required lot area of 2000 square

1 feet. So that is one relief that we require.

2 The other relief required is from the five-foot
3 setback, side setback requirement that was introduced in the
4 2016 regulations for a row house, let's call it an end-unit
5 row house, with no abutting row house on the other side of
6 the property line. That one is also listed correctly on the
7 placard.

8 There was originally on the placard, as I
9 mentioned, a five-foot setback relief required from the front
10 which we have eliminated because we actually determined in
11 conjunction with the Office of Planning that no setback from
12 the front exists at the adjacent building and therefore is
13 not required, so that's a revision that was made.

14 The townhouses are complying with the zoning
15 regulations as far as lot occupancy, height, and providing
16 the required number of parking spaces. So there is no further
17 relief that's required that's been identified by us or the
18 Office of Planning.

19 What predisposes this particular development for
20 the relief is the fact that there is a contractual obligation
21 on my client's side with the DCHFA to provide a certain
22 number of units and we cannot provide the number of units
23 required without the relief, given the inherent dimensions
24 of the lot and the required lot width. So we either need a
25 relief from one aspect of the zoning regulations or another.

1 This was found to be the most desirable
2 configuration and solution to this conundrum. We are trying
3 to comply with as many aspects of the zoning regulations as
4 possible with the exception of the two elements that I
5 mentioned.

6 In addition, it was also determined that the
7 project does not give any detrimental effects in the
8 neighborhood, and that the effect is the opposite as it is
9 providing workforce housing which is greatly needed in the
10 area and desirable. And in addition, the project complies
11 with the intent of the zoning regulations.

12 I could also add that the surrounding context is
13 varied. There are buildings of multiple types. There are row
14 houses, there are single-family detached, there are multi-
15 unit buildings, so there is quite a bit of variety, so there
16 is no uniformity to the block, currently.

17 BZA CHAIR HILL: There was some question, I guess
18 DDOT had some questions about there was grade issues, did
19 that get addressed?

20 MS. FERREIRA: I did speak with DDOT regarding the
21 project and their issues really had to do more with the need
22 to have potentially a driveway adjacent to an existing
23 driveway at a single-family house next door along F Street,
24 and we informed them that we would be coordinating with the
25 neighbor to find the right solution. But they had no greater

1 concerns at the time beyond basically the extension of that
2 existing curb cut to allow access to the rear of the units.

3 BZA CHAIR HILL: Okay. All right. Does the Board
4 have any questions for the Applicant?

5 MEMBER JOHN: Just one quick question. So does the
6 contract require a certain number of houses?

7 MS. FERREIRA: That is correct.

8 MR. YANCEY: Because of the demand, that's why
9 we're trying to reach the five units because it's a new
10 program that we wrote out and a pilot program that we wrote
11 out with FHA on this workforce housing, which allows DC
12 workers or firefighters, first responders, ability to stay
13 in the city and which there is a lack of. We're just trying
14 to take advantage of the opportunity of providing affordable
15 housing on some of these parcels.

16 MEMBER JOHN: I understand that, but was there a
17 number? Does the contract say four units, five units?

18 MR. YANCEY: Five units.

19 MEMBER JOHN: Thank you.

20 ZC CHAIR HOOD: Does it also, piggybacking on Board
21 Member Johns, does it also sit with FMIS? Is it 80 percent,
22 60 percent?

23 MR. YANCEY: It's 120 AMI.

24 ZC CHAIR HOOD: 120?

25 BZA CHAIR HILL: Introduce yourself, please.

1 MR. MILLER: I'm Chris Miller.

2 ZC CHAIR HOOD: Get below 120 ---

3 MR. MILLER: I'm Chris Miller, with the Housing
4 Finance Agency. The program is ---

5 MEMBER JOHN: Mr. Miller, did you get sworn in?

6 MR. MILLER: Yes. I was here right when the meeting
7 started.

8 BZA CHAIR HILL: All right. Please go ahead.

9 MR. MILLER: The program is trying to fill the gap
10 between 60 percent AMI and below, which is your traditional
11 affordable housing project. That is a lot of what is done
12 over in 7 and 8 already, and then 120 and above is what is
13 typically considered market where you can go out and you can
14 afford \$800,000.00 row home in Shaw, so you have this gap,
15 60 to 120 percent of AMI in the city that isn't really being
16 incentivized to be built.

17 VICE CHAIRPERSON HART: So you're calling this
18 workforce housing.

19 MR. MILLER: Yes, it is also been called the
20 'missing middle,' if you read through ULI papers and Urban
21 Institute papers.

22 VICE CHAIRPERSON HART: And Ms. Ferreira, you're
23 looking at this, when you were talking about the, you made
24 a statement that this was, there wasn't a predominant kind
25 of housing style. It's interesting because the other project

1 we looked at was actually across the street from some units
2 that were very, across 51st Street, that was similar, very
3 similar to it. This is a little bit of a mixed bag because
4 there's a lot, most of these are, looks like single-family
5 homes or kind of like apartment houses. I don't know. Can you
6 just talk about how you kind of got to the ---

7 MS. FERREIRA: Yeah, I think you're right that
8 immediately adjacent to this height there're mostly single-
9 family homes, and certainly along F Street heading to the
10 left on the site plan here, or I guess west.

11 But across the street there is, it's actually a
12 pretty hilly site, I mean there are quite a few different
13 building scale heights. There's really a lot of variety in
14 the surrounding blocks. So one could say that yes, if we look
15 at the properties immediately adjacent to this one that it
16 is in fact a single-family home immediately to look to the
17 west, but that is not necessarily the case for the larger
18 surrounding area. There's quite a bit of variety in that part
19 of the city in general, and that's certainly the case
20 surrounding this property as well.

21 VICE CHAIRPERSON HART: And you are thinking, I'm
22 assuming, looking at the design that you have used on the
23 same block on the other side of the block, you were thinking
24 of having the same kind of architectural style.

25 MS. FERREIRA: Absolutely.

1 VICE CHAIRPERSON HART: It's more of a modern look,
2 kind of a modern version of the row houses, and you're kind
3 of, you're playing with the planes of, you know, you're
4 pulling some pieces out, you're pushing some pieces in. I
5 just didn't know how you kind of got to that.

6 MS. FERREIRA: Sure. I actually have done a few of
7 these projects and I spent quite a bit of time looking at
8 traditional Washington row houses and how variety is achieved
9 in the row of townhomes by using bay windows and either
10 adding a tower or sliding them up or down in order to break
11 up the scale to give individuality to the individual row
12 houses and to break up the scale of the block.

13 I think most people don't notice this, but if you
14 look at a typical DC block of row houses, some people would
15 think they're all different but in reality the floor plans
16 inside are actually very much the same and the variations are
17 very subtle but through the use of different materials and
18 these architectural manipulations you actually get a very,
19 a great variety on the block.

20 So what we're trying to do here is absolutely
21 trying to reinterpret that playfulness in a more contemporary
22 aesthetic using contemporary materials. And you're absolutely
23 right, also, in the statement that we're trying to provide
24 continuity between this development and our development
25 really one block away on E Street, because they're really

1 going to significant parts of the block.

2 There are some row house developments already
3 around. As these get built they will help to support each
4 other because they won't be standing out alone.

5 VICE CHAIRPERSON HART: Can you talk a little bit
6 about the, I was just looking at kind of the street presence,
7 you have the front door that's there but there's really,
8 there's kind of a taller window, it looks like, on that first
9 floor. Is that because of what's going on on the rest of that
10 floor?

11 MS. FERREIRA: Yes. That is a circulation zone, so
12 it's an opportunity, before going up the next set of stairs
13 you can look out onto the street. It's also about engaging
14 the street visibility. It goes both ways, in and out.

15 Another aspect of the massing that I should
16 mention, and I think you were alluding to, is because these
17 were set up as bay windows, they are sort of set back as a
18 default. There's a three foot setback for the main building
19 wall, because it's really the bay window that's at the
20 property line and that's something that we really didn't get
21 into before.

22 VICE CHAIRPERSON HART: Yes, I was also trying to
23 talk about the, the first floor is, usually you have more of
24 a, it's a floor that people are engaging, people that are
25 walking by there are engaging the building. So I was just

1 wondering, I understand that you have a bedroom that's down
2 on the first floor next to where the parking garage is, but
3 I just didn't know if you had thought about having some other
4 type of room there that would, I mean, a bedroom is going to
5 be a, more of a private thing, so you don't want to have
6 people walking looking in, so you have to have the higher
7 windows. So I was just wondering if you'd thought about
8 having more engagement along the street.

9 MS. FERREIRA: Sure. The project has actually been
10 going through a few revisions for various reasons,
11 coordination with the Office of Planning and also feedback
12 from the community. One request that was recently made was
13 that we add garages, and we went ahead and did that on those
14 other drawings that you're looking at now, but in doing that
15 we eliminated a bedroom that was previously in the rear, and
16 there was sort of a rec room in the front, hence the moving
17 of the bedroom to the front.

18 There are some additional revisions that we need
19 to make here, and those windows are going to change because
20 now we also need to meet bedroom fire egress requirements,
21 so this is still, this is not the final version yet if I can
22 call it that.

23 VICE CHAIRPERSON HART: And it looks like, were you
24 required to have a certain number of bedrooms per, at least
25 three? Because I mean you have four, so I was just wondering,

1 I think that's four ---

2 MS. FERREIRA: There are two upstairs and one
3 downstairs.

4 VICE CHAIRPERSON HART: This looks like there are
5 actually three upstairs.

6 MS. FERREIRA: Which one is that?

7 VICE CHAIRPERSON HART: On the third floor, this
8 is Z102.

9 MS. FERREIRA: Oh, yes, because these are wider
10 lots, I'm thinking the E Street project is one and the two
11 upstairs but this one actually has three upstairs, you're
12 absolutely right.

13 VICE CHAIRPERSON HART: So this is a four-bedroom
14 unit, which is a larger family but still a family,
15 nonetheless. I just didn't know if you were looking at the,
16 what I was trying to get to was, and I understand the issue
17 about having to move the bedroom from the rear to the front,
18 then caused the window to be able to, had to be a little
19 higher because you don't want the direct view into the
20 bedroom.

21 But it seemed like that's also a place where
22 people like to, you know, they would like to interact with
23 what's going on on the street in front of them, eyes on the
24 street, that sort of thing. While you don't necessarily want
25 to have eyes looking in, you do want to have eyes looking

1 out. I just didn't know if you had thought about how to deal
2 with that.

3 MS. FERREIRA: Understood. And I agree with you,
4 it would be probably beneficial to have a more public use
5 there and the reality is in a lot of these townhomes the
6 lower floor is not necessarily going to be used as a bedroom
7 but they do have that option if they do need that additional
8 bedroom. It could very much be a rec room or a lower-level
9 family room.

10 We are working on revising the windows to enlarge
11 them to one, meet the bedroom fire egress requirements and
12 to be able at the same time to address your comments
13 regarding the visibility in and out.

14 VICE CHAIRPERSON HART: Yeah, I'm sorry to kind of
15 talk about this so much, but part of it is in a typical row
16 home, what you have is a porch and right behind the porch is
17 the foyer and you'll have a dining room or a family room or
18 a room that people can kind of sit and have people there in
19 a public part of the house to be able to then also have eyes
20 on the street, because they're actually towards the front of
21 the house.

22 This, you've kind of taken that element and you
23 put it on the second floor, and it's a little bit removed
24 from the, what you would think of as a traditional house, a
25 row home. Because you have that now on the second floor, and

1 now they're a little bit higher and it makes that connection
2 to the street a little more difficult. It's just something
3 to think about to, you know, how you engage the buildings
4 with the street frontage.

5 MS. FERREIRA: Sure. Point well taken. Part of the
6 reasoning behind that was also construction costs. The
7 decision was made that these row houses would not have
8 basements and we wouldn't have the typical cellar
9 configuration where you have a few steps up and a front porch
10 and then the living room's right there. Instead we have
11 what's really a slab on grade and then the main floor is
12 technically the second floor, as you stated.

13 VICE CHAIRPERSON HART: And I understood that too.
14 Again, it's just trying to kind of see how that works to,
15 while I kind of like the modern version of it, the modern
16 take you have on this, that one aspect of it kind of makes
17 it a little bit hard to as I said engage with the pedestrian
18 as they're kind of walking through here.

19 BZA CHAIR HILL: Okay. Mr. Yancey?

20 MR. YANCEY: Actually, we just finished our first
21 project on Elvans Road, which we did five townhouses and
22 something similar. Some of the feedback that we received on
23 the first floor if it could be an alternative office/bedroom
24 or TV area, so we took all that feedback into consideration
25 as well.

1 VICE CHAIRPERSON HART: Yeah, and I only raise it
2 because it's the, in any location it's providing some sort
3 of place where people can actually engage with the street.
4 Then they have the ability to, I mean it's not that you're
5 just always looking out the window, it is that you have the
6 ability to see people as they're coming to the house and
7 understand that oh, that's somebody that I know, or that's
8 Joe down the street, or whatever it is. You have the ability
9 to do that.

10 It's harder when you have somebody on the second
11 floor, because then they're looking out over people's heads
12 and they're looking out higher than what people are walking
13 by. So they don't notice things as much when they're on the
14 second floor than when they're on the first floor. I mean,
15 I know that the row houses kind of look like oh, they're row
16 houses, but there's a lot of ways in which they help to
17 facilitate community and that sort of thing. It's just, like
18 I said, it's just a comment to Ms. Ferreira as she's going
19 through this process. And to all of you.

20 BZA CHAIR HILL: Okay, great. Thank you. I'm going
21 to turn to the Office of Planning.

22 MR. KIRSCHENBAUM: Jonathan Kirschenbaum, for the
23 Office of Planning. We recommend approval of the variance
24 relief that was requested and we stand on our recommendation.
25 Please let me know if you have any questions.

1 BZA CHAIR HILL: Okay. Does the Board have any
2 questions for the Office of Planning? Please, you need to
3 turn on your microphone, Ms. John.

4 MEMBER JOHN: Just a quick question about the chart
5 on page 2 of your report. Is the variance relief there 1400
6 square feet?

7 MS. FERREIRA: I'm sorry, could you repeat that?

8 MEMBER JOHN: It's for the Office of Planning with
9 respect to the chart on page 2: Each lot will be 1600 square
10 feet. Okay. So it is 1400 square foot variance for each one?

11 MR. KIRSCHENBAUM: That's the degree of waiver
12 required, the grade variance requested.

13 MEMBER JOHN: Thank you.

14 BZA CHAIR HILL: Okay. Anyone else for the Office
15 of Planning? The Applicant have any questions for the Office
16 of Planning? Okay. Is there anyone here from the ANC? Is
17 there anyone here wishing to speak in support? Is there
18 anyone here wishing to speak in opposition? All right, Ms.
19 Ferreira?

20 MS. FERREIRA: Ferreira.

21 BZA CHAIR HILL: Where is the last name from?

22 MS. FERREIRA: Portugal.

23 BZA CHAIR HILL: Portugal. That's a tough one.
24 Okay. Nice though, it sounds very nice. Sorry I can't
25 pronounce it very well. Do you have anything else you'd like

1 to add?

2 MS. FERREIRA: No, thank you.

3 BZA CHAIR HILL: All right. I'm going to close the
4 hearing. Is the Board ready to deliberate?

5 VICE CHAIRPERSON HART: Sure, Mr. Chairman. Since
6 you want to rest. So I appreciate the Applicant providing
7 this information and the comments that they've provided
8 through their testimony. After reviewing the record,
9 listening to the Office of Planning and reviewing the Office
10 of Planning report, I would be in support of the application.
11 I believe that they've met the criteria for a variance
12 relief, I didn't have beyond the comments I've already made
13 I didn't have any other comments that I'd like to provide.

14 I would just encourage the Applicant to continue
15 looking at the design. It sounds like you're doing this
16 project and a similar project in other locations in the city.
17 Since you've already had one up and running, you may be able
18 to hopefully learn from that and be able to make some changes
19 or at least some tweaks to make improvements to it.

20 I understood that we did get, well, there was an
21 ANC letter in -- there was a letter from the SMD, I guess who
22 is also the chair of the ANC 7E, that they didn't have, that
23 they approved the case. We don't actually have the ANC report
24 itself in the record. I'm not exactly sure why that's not
25 here, but I would be in support of the application and that's

1 it.

2 BZA CHAIR HILL: Okay. Does anyone else have
3 anything else they'd like to add. All right. Going to make
4 a motion to approve application number 19790 as captioned and
5 read by the Secretary, and ask for a second?

6 ZC CHAIR HOOD: Second.

7 BZA CHAIR HILL: Motion made and seconded. All
8 those in favor say aye.

9 (Chorus of aye.)

10 All those opposed? Motion passes, Mr. Moy.

11 MR. MOY: I'm sorry, Mr. Chairman, who made and
12 seconded the motion?

13 BZA CHAIR HILL: I made the motion, Chairman Hood
14 seconded the motion.

15 MR. MOY: Before I read the book out, I just want
16 to state for the record that in my earlier reading of the
17 caption I misspoke on a typo. The side yard requirement is
18 actually Subtitle D, Section 307.4. If that was captured in
19 your motion then we're good, Mr. Chairman, so seconding the
20 motion is Mr. Anthony Hood, also in support are Vice Chair
21 Hart, Ms. John. No other Board members were participating or
22 present. Motion carries.

23 BZA CHAIR HILL: Thank you, Mr. Moy. And yes, it
24 is correct. What, your clarification is how I'm making the
25 motion. And so, summary order?

1 MR. MOY: Yes, sir, thank you.

2 BZA CHAIR HILL: Thank you all.

3 MS. FERREIRA: Thank you.

4 BZA CHAIR HILL: See you next week. All right, we
5 have one case left and it's going to take a little bit of
6 time to do, so we are going to take a quick ten minute break
7 before we get started.

8 (Whereupon the above-entitled matter went off the
9 record at 3:21 p.m. and back on at 3:36 p.m.)

10 BZA CHAIR HILL: All right, Mr. Moy, whenever
11 you're ready.

12 MR. MOY: Thank you, Mr. Chairman. If we can have
13 parties to the table to appeal number 19773 of John Stokes
14 and ANC 4C. This is the appeal of the decision made on
15 February 21, 2018, by the zoning administrator, Department
16 of Consumer and Regulatory Affairs, to issue building permit
17 number B, that's B as in Bravo, 1611940 to construct a new
18 three-story flat in RF-1 zone, previously R4 zone at premises
19 1523 Varnum Street NW, Square 20698, Lot 46.

20 BZA CHAIR HILL: Okay. Thank you, Mr. Moy.

21 (Pause.)

22 Okay, well, good afternoon and congratulations on
23 being the last thing of the day. Please introduce yourselves
24 from my right to left.

25 MS. LORD-SORENSEN: Good afternoon. Adrienne Lord-

1 Sorenson, Assistant General Counsel with the DC Department
2 of Consumer and Regulatory Affairs.

3 MR. LEGRANT: Good afternoon. Matthew LeGrant,
4 Zoning Administrator at DCRA.

5 MR. CAMPBELL: Ulysses Campbell, ANC 4C. I am the
6 single-member district commissioner for 03.

7 MR. STOKES: John Stokes, resident of 1519 Varnum
8 Street NW.

9 MR. SULLIVAN: Marty Sullivan from Sullivan and
10 Barros, on behalf of the property owner.

11 BZA CHAIR HILL: All right. Mr. Sullivan, so you
12 had a couple of cases with us today that kind of dropped off,
13 correct?

14 MR. SULLIVAN: Yes, I did.

15 BZA CHAIR HILL: I see.

16 MR. SULLIVAN: You're welcome.

17 BZA CHAIR HILL: It could have been dropped off
18 before you review the cases. That's the better way to go
19 about it, just to mention.

20 MS. LORD-SORENSEN: Excuse me, Chairman Hill.

21 BZA CHAIR HILL: Yes?

22 MS. LORD-SORENSEN: We weren't here this morning
23 to be sworn in.

24 BZA CHAIR HILL: Okay, sure. Thank you. If anybody
25 plans on testifying that hasn't been sworn in, if you would

1 please stand and get sworn in from the left here from Mr.
2 Moy.

3 (WITNESSES SWORN.)

4 MR. MOY: Do you solemnly swear or affirm that the
5 testimony you're about to present in this proceeding is the
6 whole truth and nothing but the truth? Thank you. You may be
7 seated.

8 BZA CHAIR HILL: But yes, Mr. Sullivan. A dropping
9 off is a nice thing. Thank you. All right, so, Mr. Stokes,
10 I assume you're going to be starting with us today? Okay,
11 great. I know that you were here not too long ago and so
12 we're very aware of what you're here before us, which makes
13 it a little helpful as well, I guess, the prospect.

14 Just for the process, you'll have a chance to go
15 ahead and present. Then the DCRA will have a chance to cross,
16 as well as the building owner, property owner, and then
17 everybody's going to have the same, it basically just goes
18 back and forth the same way. Like somebody will present,
19 you'll have an opportunity to cross, and we'll see where we
20 get to.

21 I'm going to go ahead, these usually take a little
22 bit of time in terms of appeals, that is, and so the
23 Commissioner, thanks for bearing with us as well, being here
24 this long. Sorry, the appeals tend to take a lot of time so
25 we just kind of do it here at the end of the day. Then we'll

1 go ahead and let you start. Ms. Sorenson, you have a
2 question?

3 MS. LORD-SORENSEN: Yes, Chairman Hill. There's a
4 preliminary matter. DCRA filed a motion to strike Appellant's
5 pre-hearing statement as untimely.

6 BZA CHAIR HILL: When did that happen?

7 MS. LORD-SORENSEN: That was filed on Monday.

8 BZA CHAIR HILL: Okay. One second.

9 All right, so I see your motion to strike the pre-
10 hearing statement, and Mr. Stokes, I guess this is your pre-
11 hearing statement they just handed out?

12 MR. STOKES: No. I had submitted one, they told me
13 it was due seven days before the hearing, so I submitted
14 seven days before the hearing a statement.

15 MS. LORD-SORENSEN: No, that's incorrect. It's
16 actually due at least 21 days prior to the hearing.

17 BZA CHAIR HILL: So you heard it was seven days
18 before?

19 MR. STOKES: Yes.

20 BZA CHAIR HILL: That's what you understood it to
21 be.

22 MR. STOKES: Yes.

23 BZA CHAIR HILL: Okay. And that's why you got it
24 seven days before?

25 MR. STOKES: Yes.

1 MR. CAMPBELL: Excuse me, Mr. Chair?

2 BZA CHAIR HILL: Yes.

3 MR. CAMPBELL: A quick question. My understanding
4 was that the motion would only stop Mr. Stokes' statement
5 from being entered into the official record but that he could
6 still give a statement here when he gets an opportunity to
7 speak.

8 BZA CHAIR HILL: Sure. He'll get his chance to
9 speak. I mean, I'm just trying to, and I guess I don't know.
10 I'm just trying to figure this out a little bit. So we're not
11 going to stop him from speaking but there's also a motion
12 here about, there was like raising three additional issues?

13 MS. LORD-SORENSEN: That's correct.

14 BZA CHAIR HILL: Does OAG have any thoughts on
15 this?

16 MS. LOVICK: Well, the decision is within the
17 Board's discretion as to both the motion to strike the pre-
18 hearing statement and to considering the merits of the
19 additional arguments that were raised in that statement.

20 BZA CHAIR HILL: Okay. So Ms. Lord-Sorenson, what
21 are the three additional items?

22 MS. LORD-SORENSEN: I'd like to direct your
23 attention to the bottom of page 1 and the top of page 2. The
24 first one ---

25 BZA CHAIR HILL: Give me one second. Which exhibit?

1 MR. CAMPBELL: 34.

2 BZA CHAIR HILL: All right, I see it. I'm sorry.

3 MS. LORD-SORENSEN: Okay. So the first one, and I
4 quote, The Board should review this appeal together with the
5 special exception request for 1521 Varnum Street NW because
6 there is a possible violation of Section 320(I). And if the
7 Board looks further into the next paragraph, DCRA dismisses
8 these new claims. So for example, with respect to any
9 possible violation of Section 320(I) we would like the Board
10 to note that this actual regulation does not exist in the
11 1958 Zoning Regulations so it should not even be part of this
12 conversation today.

13 Another new argument that was raised was that the
14 proposed construction violates 11 DCMR 101.6. Again, it's
15 another sweeping claim, broad claim, that the proposed
16 construction violates the general provisions of the 1958
17 Zoning Regulations. It's just broad and vague and is without
18 merit.

19 And the last claim that was raised in the most
20 recent filing is that the proposed construction may violate
21 Section 213.5 of the 1958 Zoning Regulations and as DCMR has
22 clearly laid out, this particular regulation doesn't have any
23 merit because it pertains to R1 zones and this particular
24 property is in the R4 zone. Because again, these plans are
25 governed by the 1958 zoning regs, not the 2016. So 213.5 is

1 inapplicable in this case.

2 BZA CHAIR HILL: Okay, so Mr. Stokes, I think
3 whatever you want to raise in terms of issues that you think
4 the Zoning Administrator aired is completely fair and
5 understandable. My only thought is that, having enough time
6 for DCRA to kind of respond back to that argument, and so I
7 don't know, I'm a little unclear, just even based upon having
8 a chance to look at this quickly.

9 MR. STOKES: So I will take out the things that
10 they want stricken, those new arguments. I have no problems.
11 I allude to one of the 213s in the page, but I will, I have
12 no problems not addressing those particular issues that
13 Counsel has brought up.

14 MR. CAMPBELL: Well, actually, Chairman, I hate to
15 interject. I think at least one of those other items is
16 included in the ANC report that was filed with the form 126,
17 and I would counter that the Board is in a position to
18 determine whether or not it's appropriate. Obviously if there
19 were something like the item that pertains to the R3 zone and
20 this an R1 zone, obviously the Board can make that
21 determination.

22 ZC CHAIR HOOD: Mr. Chairman, I know you're dealing
23 with another issue but I have a preliminary issue as well.

24 BZA CHAIR HILL: Okay. What's your preliminary
25 issue, Chairman Hood?

1 ZC CHAIR HOOD: As I was reviewing this appeal, I
2 had made, I think we had some similarities, I'm not sure
3 these are the same addresses that I dealt with previously,
4 the last time I was here when we voted on the case, but it
5 looks like the same addresses to me. And at that time the
6 Board voted. This was maybe two years ago, a year or so ago,
7 I'm not sure, somebody may be able help me.

8 And I know Mr. Stokes was one of the persons that
9 was involved in that case. My memory, as I read through this,
10 seems like it's deja vu because I made it clear then that I
11 was going to sua sponte and as a result of that, maybe Mr.
12 Sullivan, you can help me get on focus. As a result of that
13 is this the same Applicant that asked for my emails? Is this
14 the same case?

15 MR. SULLIVAN: It's not the same case. The appeal
16 that you are referring to was an appeal by Mr. Stokes that
17 involved a single lot that consisted of what's now 1521 and
18 1523 Varnum.

19 ZC CHAIR HOOD: So there's been some things that
20 have transpired since, because I never saw ----

21 MR. SULLIVAN: So the sua sponte is right now held
22 in abeyance pending the outcome of a Court of Appeals
23 decision on what we'll call the original case. So the
24 original case was a seven unit conversion done as a matter
25 of right under the old R4 regulations.

1 ZC CHAIR HOOD: How long ago was that?

2 MR. SULLIVAN: That would have been around the
3 winter of 2015, 2015.

4 ZC CHAIR HOOD: Okay. So I'm right, is what I'm
5 saying. I've dealt with this in some fashion previously, and
6 I made it clear then I was going to do a sua sponte, so I
7 guess I'm having some issues here because it seems like some
8 things have transpired that I've never had a chance to take
9 to the Commission -- and I know you're saying it's important.

10 MR. SULLIVAN: So the seven-unit configuration
11 which would be both 1521 and 1523, that was appealed by Mr.
12 Stokes. The Board denied the appeal, you voted against, and
13 then you sua sponte'd ---

14 ZC CHAIR HOOD: I never sua sponte'd, because it
15 never came to me. I made a point that I was going to sua
16 sponte.

17 MR. SULLIVAN: No, I think you actually ---

18 ZC CHAIR HOOD: Nope, nope.

19 MR. SULLIVAN: There was a procedure where the
20 Board officially said that they would hold your request in
21 abeyance. So the Zoning Commission did not take it up.

22 ZC CHAIR HOOD: We never got an order. We were
23 never, we never moved forward. This is why I knew something
24 was wrong here when I started looking at what I'm seeing.
25 Seems like it was deja vu again for me.

1 MR. SULLIVAN: There's something in the record
2 saying that your sua sponte request is held in abeyance
3 pending the Court of Appeals decision.

4 ZC CHAIR HOOD: So once the courts decide ---

5 MR. SULLIVAN: The Court of Appeals, if this
6 project goes forward, and we're talking about three units
7 that are subject to a 320 conversion special exception
8 request, which is up for decision next week. That's 1521.
9 This is the matter of right case that's 1523. So the lot was
10 subdivided, now we're talking about five units. So we're
11 talking about a three-unit conversion and a two-unit matter
12 of right building next door, so we're down to five units
13 instead of the seven units.

14 The seven units is currently at the Court of
15 Appeals because of an OAH case for a building code issue that
16 happened after the appeal. So the BZA absolutely did take
17 this up and we could find it in the record of the appeal.
18 Your sua sponte is right now pending the outcome of the Court
19 of Appeals, because if the Court of Appeals throws out the
20 seven units then there's no reason to sua sponte.

21 ZC CHAIR HOOD: Mr. Sullivan, so my sua sponte was
22 never, I never formalized a sua sponte, first of all. I do
23 remember this. I never formalized this with the Commission.
24 That's the first thing. So I'm just trying to figure out, if
25 we move forward with whatever's been done, then what happens

1 with the case in court?

2 MR. SULLIVAN: So, and the property owner's here
3 with me to talk about this, but the Zoning Administrator
4 allowed for two building permit applica ---- Right now that
5 permit is revoked. The seven unit permit, technically, is
6 revoked. That's what's being challenged.

7 ZC CHAIR HOOD: But meanwhile you have other
8 applications in, trying to move forward to do something else.

9 MR. SULLIVAN: Yes. Three units and two. So if this
10 gets approved, which it has been by the Zoning Administrator,
11 then the seven-unit building goes away.

12 ZC CHAIR HOOD: Okay. I'm going to --

13 MR. CAMPBELL: Excuse me. Mr. Hood may I just
14 interject? There is a settlement agreement in place between
15 the owner and DCRA that specifies that in the event that the
16 Appeals Court case is decided in the owner's favor, then they
17 have to withdraw these, I assume they have to reintegrate the
18 lot too, but they'd have to withdraw the permits that they
19 have pulled on that. And in the event that the Appeals Court
20 case goes against the owner, then he has these permits and
21 can move forward with the development of the subdivided lot.

22 ZC CHAIR HOOD: It's a lot of moving parts, Mr.
23 Chairman, and this is why I think people don't believe our
24 process is predictable, but I guess they have the right to
25 come forward anyway. But I just have problems with, because

1 I never got my hands on the sua sponte, in which I believe
2 this Applicant requested emails from me. Correct me if I'm
3 wrong, requested emails from me, which is fine. You can
4 always request, everybody else does so, but I'm just saying
5 I remember this case because specific emails were requested.

6 MR. SULLIVAN: I'm not aware of that and I didn't
7 handle the ----

8 ZC CHAIR HOOD: Well, not everybody looks for them
9 -- nobody ever found anything, so.

10 MR. SULLIVAN: If we could clear up -- There is a
11 sua sponte on the record, because I know that it was held in
12 abeyance.

13 ZC CHAIR HOOD: I made it publicly known that I was
14 going to do that. What I will do, Mr. Chairman, I will just
15 reserve my comments because I think that this muddying the
16 waters, I think this is showing that we're not predicable in
17 being able to apply for and do all these different things was
18 something that's germane in the courts, I have issues with.
19 I don't think that's the way that the city should move
20 forward with doing any of our business. But anyway, those are
21 just my opinions.

22 BZA CHAIR HILL: Okay. So, Mr. Sullivan, as far as
23 the motion to strike from DCRA, do you have any comments on
24 it, response on it?

25 MR. SULLIVAN: No, we don't really have a position

1 on it.

2 BZA CHAIR HILL: Okay. All right, then what I would
3 suggest if the Board is willing, we'll just hold this motion
4 in abeyance and hear whatever we want to hear, and then we
5 can decide at the end whether or not. Mr. Stokes, my, and
6 Commissioner Campbell, you mentioned something that they, I
7 guess, in their motion that you think that you are going to
8 bring up. Maybe just point that out to us if you bring up any
9 of that stuff. Mr. Stokes, again my whole thing is I think
10 you should have an opportunity to present your case and
11 present how you think that the Zoning Administrator erred.

12 My only thing about it is if it's something that
13 they didn't have enough time to kind of respond back to you,
14 I don't want to have to postpone this so that there could be
15 more time for DCRA to respond to whatever it is that you're
16 now bringing up if they haven't had a chance to respond to,
17 so if you don't think you're going to be hampered by just
18 sticking to your original arguments, I'd go ahead and do
19 that. But you can go ahead and present your case however
20 you'd like to. Okay?

21 MS. LOVICK: I'm sorry, I'm just going to
22 interject. I think you need to rule on the motion, because
23 it affects what you're considering. I mean, you can grant or
24 deny the motion to strike and you can do that in part, you
25 can grant and deny in part because there are two parts to it.

1 First is whether or not you're going to admit the pre-hearing
2 statement into the record, and then the second is those three
3 additional issues that were raised.

4 BZA CHAIR HILL: Okay. All right. Okay.

5 MS. LORD-SORENSEN: Chairman Hill, just to clarify.
6 So Mr. Stokes did agree to the motion a few moments ago, and
7 this doesn't impact the ANC statement. So the Chairman ---

8 BZA CHAIR HILL: Well, that's why I got confused
9 as to the Commissioner's statement in that it did impact what
10 you had written before. Is that not the case?

11 MR. CAMPBELL: We had, at the ANC we had a meeting
12 earlier this month and we voted, actually, on several areas
13 of law that we felt, based on that had been brought to our
14 attention by Mr. Stokes and other members of the community
15 that the Board needed to consider. And I know that some of
16 them, at least, are the same areas of law that Mr. Stokes has
17 referenced.

18 And that's why I said, and I'm getting ready to
19 reference the ANC report, which you should have as part of
20 the record uploaded in IZIS, but I wanted to make sure that
21 I was protecting what we had done and if it was just a
22 question of striking these particular areas of law, that the
23 Board at least considered those things.

24 BZA CHAIR HILL: I think it would be just the kinds
25 of things that Mr. Stokes would bring up in his argument, and

1 so what I would say then, or my thoughts, and please Board
2 members help me out, I want to have an opportunity for Mr.
3 Stokes to have his pre-hearing statement admitted. He thought
4 it was supposed to be seven days, and he's not an attorney,
5 and so if he thought it was going to be seven days I don't
6 think there's anything wrong with him pre-hearing statement.
7 However, I would strike the three new arguments, so we would
8 approve in part and deny in part the motion. Does anybody
9 have any thoughts?

10 MEMBER JOHN: That works for me, Mr. Chairman.

11 ZC CHAIR HOOD: I'm fine with that, Mr. Chairman.
12 I was going to deny the motion to strike altogether, but if
13 you all want to do it in part, that's fine.

14 BZA CHAIR HILL: Okay. So we're going to deny the
15 part of the motion that is to strike the pre-hearing
16 statement. We're going to allow the pre-hearing statement,
17 and we're going to approve, this is my motion, and approve
18 the motion to strike the three new arguments. Do I need a
19 second, or is that okay?

20 MR. STOKES: Can I get ---

21 BZA CHAIR HILL: Mr. Stokes, sure.

22 MR. STOKES: I'm going to muddy the waters here,
23 I'm sorry.

24 BZA CHAIR HILL: That's all right.

25 MR. STOKES: Can you repeat the three, because I

1 remember thinking that one of them, two of them are like ----

2 Can you repeat the three?

3 BZA CHAIR HILL: You need to press the microphone.

4 MS. LORD-SORENSEN: One was Section 320(I), the
5 other 11 DCMR 101.6 ---

6 BZA CHAIR HILL: Hold on a second. What was the
7 other?

8 MS. LORD-SORENSEN: 11 DCMR 101.6, and the last
9 one, 213.5. And all these are under the 1958 zoning regs.

10 MR. STOKES: So, okay, so the 101.6 I probably will
11 address that because that is in 101. The two, the 320 I think
12 is a special exception regulation, and the 213 I think. So,
13 can I do this?

14 Can I go ahead and make my pre-hearing statement
15 and if there is something in my statement that ----

16 BZA CHAIR HILL: Okay, Mr. Stokes, that's okay. I
17 think, and I appreciate the DCRA and what you're putting
18 forward. I think you can probably figure it out. So, Mr.
19 Hood, if you're going to strike this whole thing, then I'm
20 just going to strike the whole thing. So we're going to go
21 ahead, we're just going to allow you to have your pre-hearing
22 statement, we're going to allow you to put whatever you put
23 forward here, and then DCRA can kind of argue as we kind of
24 move forward. I just want to get to this hearing now, okay?

25 So we're going to deny this motion, okay? So there

1 we go with that. All right, so, Mr. Stokes, I'm going to put
2 30 minutes on the clock there, okay, and you can go ahead and
3 work this through however you like. Okay?

4 MR. STOKES: Okay. My name is John Stokes. I am the
5 owner/resident of the single-family attached row house
6 dwelling located at 1519 Varnum Street NW, in the
7 neighborhood of 16th Street Heights, a new RF-1 Residential
8 district, and located just adjacent to the subject site.

9 My personal and property interests, as well as
10 those of the surrounding ANC, SMD 4C neighbors, will be
11 directly and concretely affected by the final decision by
12 DCRA to issue a permit for the proposed project on February
13 21, 2018. This matter comes before the District of Columbia
14 Board of Zoning Adjustment on an appeal filed against the
15 DCRA Zoning Administrator's decision to issue permit number
16 B161194 on February 21, 2018, for 1523 Varnum Street NW.

17 I and other neighbors oppose this development
18 planned by AMT Varnum, LLC, AMT, for 1521 and 1523 Varnum
19 Street NW, formerly a single R-4 zoned lot with a habitable
20 row home that abuts a lower density R-1-B lot 2698-004.
21 Commissioners who are not familiar with the seven-unit
22 apartment building initially proposed several years ago by
23 the owner of 1521 Varnum Street, may want to review permit
24 B1150305 and its related case submissions, BZA number 18-991,
25 because many of the negative neighborhood impacts raised by

1 the neighbors in that case are similar to those in this
2 matter.

3 AMT's development plan for the original lot
4 involves 1), subdividing it into a front lot and a rear
5 alley-facing lot. 2), building a new three-story, two-unit
6 residence in the rear lot as a matter of right, which avoids
7 community review, and 3), converting the existing row home
8 on the front lot into a three-unit residence.

9 This project has been in various stages of
10 development for three years. I am thankful for the clever,
11 meticulous and common-sense minds of my community. They have
12 the patience that I hope that you have to look deeply at the
13 landmark situation. The neighbors believe that the Zoning
14 Administration was uninformed of the entire ANT development
15 project when he first approved the subdivision, and later
16 each individual permit application. The BZA should realize
17 that in this appeal case, it may be wise to holistically
18 review it in conjunction with this special exception request,
19 BZA 19762, for 1521 Varnum.

20 Construction work has yet to begin on either 1521
21 Varnum or 1523 Varnum Street. DCRA's final decision to
22 approve, sign and then issue permit B1611940, demonstrates
23 fundamental DC Municipal Regulations, including the DC zoning
24 regulations were ignored, which adversely impacts me and
25 other nearby neighbors.

1 Locale: The 16th Street Heights Neighborhood is
2 a quiet, established row house neighborhood with mature
3 trees, well-maintained front and back yards, and quiet
4 neighbors who have lived in the neighborhood for many years,
5 and many new neighbors who have moved into properties that
6 are consistent with the character of the neighborhood.

7 Properties in the immediate vicinity of this
8 subject property are located on small lots with improved two-
9 story with basements, attached single-family row homes. There
10 is a consistent 20th century design and size to each of the
11 houses that fit in with the character of the neighborhood.
12 The neighborhood has above-ground communication and utility
13 lines running along the streets and the alley between Varnum
14 and Webster streets NW.

15 The project in question is in the recently rezoned
16 RF-1 zone. It was previously an R-4 zone and AMT chose the
17 older ZR58 regulations in R-4 zones when applying for the
18 permit. Because the primary purpose of the R-4 zone shall be
19 the stabilization of the remaining one-family dwellings,
20 AMT's development plans are out of conformity with the ZR58
21 regulations.

22 As you may be aware, there has been a long history
23 of proposed development at 1521 Varnum Street dating back to
24 2015. The size of the lot is oversized and has made potential
25 irresponsible development a major concern for the 16th Street

1 Heights Community. This new proposed development is too
2 important to be granted without a full review of its
3 compliance with the ZR58 regulations.

4 I and my neighbors are not against responsible
5 development that is in keeping with the beautiful character
6 of the neighborhood that I have lived in for almost 25 years.
7 Indeed, the neighborhood has even seen wonderful renovations
8 and expansions that do not sacrifice the architectural
9 character of the neighborhood or impose significant cost on
10 the neighbors, including the reduction of nearby home values
11 and disruption to neighbors' quiet enjoyment of their homes.

12 The residents of 16th Street Heights are solidly
13 behind this appeal. Over 30 nearby neighbors recently signed
14 petitions opposing AMT's development at 1521 and 1523 Varnum
15 Street NW, which are in the record for BZA 19762 and this
16 record appeal. ANC 4C has voted on a resolution to support
17 this appeal. I submit that AMT has not complied with the ZR58
18 regulations in the following respects:

19 The subdivision of the original lot may violate
20 101.6, 405.2, 405.9, of DCMR 6-641.01, 641.15, which were
21 effective on August 10, 2016, when the Zoning Administrator
22 signed the new subdivided plot.

23 Specifically, Section 101.6 of ZR58 requires that
24 where a lot is divided the division shall be effected in the
25 manner that will not violate the provisions of this title for

1 yards, courts, other open space, minimum lot width, minimum
2 lot area, floor area ratio, percentage of lot occupancy,
3 parking spaces, or loading berths applicable to that lot or
4 any lot created.

5 Because the subdivision eliminated the side yard
6 of the habitable semi-detached row house at 1520 Varnum, the
7 subject of a special exception hearing, it violated Section
8 405.2 and 405.9 which require an eight foot side yard for
9 semi-detached row dwellings in the R4 zones. Before the
10 subdivision, the lot contained both the habitable semi-
11 detached row home and an eight foot wide yard on its western
12 side, making it compliant with these two zoning regulations.

13 Not only did the subdivision violate the side yard
14 requirement, it created two non-conforming oddly shaped lots,
15 namely 2698-004, which is 1523, and another lot at 1521 which
16 may have additional zoning irregularities under 401.3 of
17 ZR58. This revision specifies the minimal widths of R4 lots
18 as follows: One, an 18 foot minimum widths for a row dwelling
19 and a flat, two, a 30 foot minimum width for a one-family
20 detached dwelling and three, a 40 foot minimum width for all
21 other structures. Despite this clear language at the Varnum
22 Street side, a newly created 1523 lot is only 14 feet wide
23 and the 1521 lot is slightly over 22 feet wide and at the
24 back alley, the 1523 lot is slightly over 22 feet wide and
25 the 1521 lot is 14 feet wide.

1 As a result of this subdivision, the greatest
2 width of the 1523 lot where AMT proposes to build a two-unit
3 matter of right residence, abuts an existing church parking
4 lot. Under 213.5 as well as Section 3104.1 of ZR58, special
5 exceptions for parking lots require that it will not tend to
6 affect adversely the use of the neighboring property. Parking
7 lots are not supposed to create dangerous or otherwise
8 objectionable conditions.

9 Approving a subdivision that allows construction
10 of a new residence that abuts an existing parking lot
11 undermines the compliance of this past zoning decision with
12 these parking lot guidelines. The new residence may increase
13 safety risks, not only to its occupants but also the church
14 members using the parking lot. These safety risks may
15 increase the church's insurance and other liabilities
16 relating to the parking lot.

17 Finally, because the 1523 lot is too narrow for
18 developing a residence within 60 feet of Varnum Street, any
19 developed residence will be closer to the back alley and for
20 a practical matter, the residents will use the alley facing
21 doors as their main ingress and egress points. Apparently,
22 the Zoning Administrator did not carefully consider whether
23 the existing 18 foot wide alley is sufficient to support
24 safely this new usage.

25 I and other neighbors and residents in the

1 neighborhood are troubled that the Zoning Administrator would
2 subdivide a lot with an existing marketable semi-detached
3 residence in the middle of a block of row homes. The
4 subdivision facilitates developing two new residents in a
5 manner inconsistent with the purpose and development of
6 standards of Sections 101.1 to 101.4 of ZR58, which required
7 a preservation of existing single-family row homes, the yards
8 and open spaces in the neighborhood.

9 The plan to build a two-unit multi-unit
10 residences, one directly behind the other, does not preserve
11 the existing single-family row home, its side yard and its
12 long back yard which conforms with the back yards on the
13 adjacent lots facing east. West of the long back yard is the
14 church's parking lot. Additionally, because the planned
15 residence at 1523 will function as an alley residence, its
16 close proximity to the small back yards of the residences on
17 Webster Street will destroy the privacy and quiet enjoyment
18 of the neighbors living on Webster Street NW.

19 By its very nature, any new residence at 1523 will
20 be an eyesore and out of keeping with the neighborhood. BZA
21 has not previously permitted alley residents on the block.

22 Additionally, there is a dispute on the plat
23 itself. The dates on the subdivision plat are not consistent
24 with the way such applications are to be processed. The plat
25 drawings were signed by the owner on August 1, 2016, after

1 the approval dates from the required review agencies. I know
2 this is something not for the BZA to make a motion on, but
3 it's just another item that should be reviewed.

4 Point number two, the building plans for 1523 may
5 violate the side yard requirement under Section 405.3 of
6 ZR58. AMT has chosen ZR58 regulations for evaluating the
7 permit issued to 1523, because they do not contain Section
8 305.1, a new regulation requiring that the setback of
9 residences in R4 zones conforms closely to the setbacks of
10 the other residences on the block. Far out of line from the
11 neighboring residences, the planned 1523 building will be set
12 back about 60 feet from Varnum Street, and it will abut an
13 existing church parking lot on the west, the parking lot is
14 an R1-B zone, and the narrow 14 foot back yard at 1521 Varnum
15 on the east.

16 Consequently, any planned residence on the 1523
17 lot cannot be attached to a neighboring structure. As a free-
18 standing unattached residence, Section 405.3 should apply
19 when interpreted in conjunction with Sections 101.3 and
20 101.1, again in ZR58, which specifically direct BZA whenever
21 possible to interpret the regulations to require larger
22 yards, courts or other open spaces.

23 DZRA and the attorney for the AMT state that in
24 this case there is no side yard requirement and that the
25 specific rule of 405.6 applies over the general rule of 405.3

1 and the Zoning Administrator has consistently interpreted
2 405.6 as superseding the requirement of 405.3. However, in
3 1970, the zoning code order number 17, dated November 17,
4 1970, which I have copies if you guys are not already
5 familiar with it, the Zoning Commission added subsection
6 405.3 to the zoning regulations relating to the revisions of
7 side yards in residential districts. Subsection 405.3 states
8 that in R2, R3, R4 and R5 districts, when a one-family
9 dwelling, flat or multiple dwelling is erected that does not
10 share a common division wall with an existing building or a
11 building being constructed together with a new building, then
12 it shall have a side yard on each resulting standing side.

13 The 405.6 and 405.9 1958 regulations were in place
14 prior to the adoption of the 405.3 regulations in 1970. The
15 Zoning Administrator's argument fails, thus Section 405.3
16 gives BZA the authority to revoke the permit for the 1523
17 development due to its lack of side yards. There is also
18 precedence for recourse from the Pritchard case, BZA Order
19 16811.

20 For several other special facts or issues unique
21 to this case, the proposed 1523 residence creates public
22 safety hazards which justify BZA's action to revoke the
23 issued permit for its lack of side yards.

24 First, on the west side of the residence, which
25 abuts the existing church parking lot, a side yard would

1 protect the occupants from automobile exhaust fumes and the
2 residential building from cars using the church parking lot.
3 Given recent zoning regulations that require more protection
4 between residents and parking lots, allowing this matter of
5 right development is a step backwards.

6 Second, the occupants of the 1523 residents will
7 likely use the alley entrance near the church parking lot for
8 ingress and egress. This additional usage of the narrow 18
9 foot alley near the busy entrance to the church parking lot
10 may significantly increase public safety risk, because the
11 1523 lot abuts the alley at the point where it turns at a 90
12 degree angle. Note that Section 303 of the new regs require
13 that residences fronting an alley or sited next to alleys
14 that are at least 24 feet wide as opposed to this, which is
15 18.

16 Lots zoned RF-1 and RF-4 that cannot physically
17 support attached or unattached row dwellings due to their
18 unusual shape should not be treated as a row lot without
19 further analysis by the BZA or ZA. For Section 11.412
20 pervious surface calculation violations, I'm not going to
21 read through all this. What I would like to say for that
22 section is that we just need to see more specific drawings
23 so that we can properly calculate or see how the surface was
24 calculated. It seems like they say that the plat was the
25 thing that they used to show the exact pervious surface

1 calculations, but we can't really see that from the plat.

2 Four, the 1523 development does not conform to the
3 purpose of ZR1528 as described in Section 101.1 and 101.2.
4 Under the ZR58, BZA must interpret and apply the regulations
5 in this matter to uphold the minimum requirements for the
6 promotion of the public health, safety, morals, convenience,
7 order, prosperity and general welfare with respect to
8 adequate light and air, the prevention of undue concentration
9 of population and the overcrowding of land, and uses that
10 create conditions favorable to transportation, protection of
11 property and the supply of public services. Respectfully, the
12 Zoning Administrator did not apply the minimum requirements.

13 Air and Light. The close setting of two multi-
14 unit buildings at 1521 and 1523, one directly behind the
15 other, has negative impact on the light and air enjoyed by
16 future occupants at these buildings as well as nearby
17 neighbors, as shown by the channel studies submitted by AMT.
18 Transforming a single-family row home lot into two separate
19 lots with five apartments is a drastic increase in density,
20 particularly for a row home that is in the middle of the 1500
21 Varnum block. Is this the air and light of overcrowding of
22 land minimum?

23 Safety and Convenience. Constructing an alley
24 residence in a neighborhood with no residences on a narrow
25 alley does not create conditions favorable to safety,

1 transportation, and the efficient supply of public services.
2 As an example, if there is a fire at 1523, how would the fire
3 engines efficiently access the buildings without disrupting
4 nearby neighbors or going all the way through?

5 How will the heavy use of a church parking lot on
6 Sunday be impacted by new residents abutting the parking lot?
7 How will the 1523 residents be protected from cars using the
8 parking lot? How will the nearby neighbors on Webster Street
9 and Varnum Street be able to enjoy their back yards after a
10 two-unit residence with high, open balconies is sitting in
11 the back yard of 1521 Varnum Street? Is this the safety and
12 convenience minimum?

13 Morals. With balconies high above all the other
14 neighboring houses, people can peer into all neighboring
15 houses not only on Varnum Street but also Webster. What is
16 there to protect the neighbors' privacy? Are there screens,
17 as being considered for 1521 Varnum Street? Is this the moral
18 minimum?

19 If needed, I can continue with the other negative
20 impacts that are not in keeping with the minimum requirement
21 referred to in Section 101 of ZR58. However, I direct you to
22 review the petitions and submissions made by my neighbors in
23 BZA case number 19762 and also in this case.

24 Me and the community believe the development
25 standards. We believe in responsible development. To hear

1 that the purpose of 101 including open-air space lots is
2 being ignored is devastating, and in the realm of BZA to
3 change.

4 We want to believe that we and the public are not
5 naive in believing that this really matters, and that the
6 interpretations also really matter. The BZA has the power to
7 right the wrong, to interpret this case to mean that a
8 single-family row home zoned R4 in the middle of a block or
9 early 20th century row homes can't be developed into high-
10 density, two multi-unit buildings towering and overshadowing
11 the neighborhood.

12 The project just does not conform with the
13 regulations that were sold to the public as preserving
14 single-family row homes with open spaces and open yards.

15 In closing, because neighbors are concerned about
16 the impact of the new residences at 1521 and 1523 Varnum
17 Street, alley traffic, sewage, water services and other
18 infrastructure, I encourage BZA to request DDOT, DPW and
19 other municipal agencies who review new residential
20 developments to review the impacts of both developments on
21 the immediate neighborhood before BZA reaches its conclusions
22 on this appeal and the related special exception request.

23 I would like the Board to consider my appeal and
24 apply any appropriate relief. Thank you.

25 BZA CHAIR HILL: All right, Mr. Stokes. Thank you

1 so much. Does the Board have any questions for Mr. Stokes at
2 this time?

3 VICE CHAIRPERSON HART: Just a really quick
4 question regarding the pre-hearing statement that you
5 submitted, that you previously submitted here.

6 MR. STOKES: Yes.

7 VICE CHAIRPERSON HART: One that you had handed out
8 to us and the one that is in our record. They seem to be a
9 little different.

10 MR. STOKES: Right. There were some instances where
11 the attorneys had some argument. I did take a look at some
12 of those arguments and for some of those arguments I kind of
13 agreed. So some of those arguments came out from the pre-
14 hearing statement to this particular hearing statement now.
15 Everyone basically tells me that I shouldn't have done that,
16 because at the end of the day some of those arguments would
17 have been decided by you guys.

18 But I was frightened when I did it and I remember
19 the last time I was here you guys were like, it's too long,
20 it's too much, just go through certain ones, and so I kind
21 of changed some of those statements, the pre-hearing
22 statement, which was as you can tell was longer than this to
23 statements in this general statement that I gave today that
24 I believe to be shorter and maybe in keeping with time ---

25 VICE CHAIRPERSON HART: No, no, it wasn't, don't

1 get me wrong, I was not saying that it was a bad thing. I was
2 just trying to remark that what we have are two different
3 documents. One of them you have handed out to us, one of them
4 is in the record, and it's a little bit hard to have the two.
5 It may be helpful to have what you have handed out to us
6 submitted in the record so that if we are looking at
7 something, we at least have the ability to say oh yeah, it's
8 exhibit number whatever, and that's what we're reviewing.

9 Because if somebody says a pre-hearing statement,
10 they're going to look at this document and it's not what you
11 just read in and what we have. And so, it was just a little
12 bit confusing because what I was trying to do was to kind of
13 go through and say oh, yeah, let me at least highlight some
14 points or at least understand what that was. I just was
15 making it for consistency sake, that was the only point that
16 I was bringing up. That's all.

17 BZA CHAIR HILL: Okay. Anybody else for Mr. Stokes?

18 ZC CHAIR HOOD: Yeah, I just want to follow up a
19 few questions, so forgive me for going back. I just had staff
20 to pull up what I was talking to Mr. Sullivan about
21 previously and that was two years ago, so forgive me if my
22 memory is not as fresh as it should be.

23 Okay, so 1521 is next to your home, is that
24 correct?

25 MR. STOKES: That is correct.

1 ZC CHAIR HOOD: So 1523 is what's in question. So
2 what's going on with 1521 again?

3 MR. STOKES: 1521, again, it's in appeal, we have
4 an appeal for 1521 that's going to be heard for next week.
5 There's no, but that's a new, as well on 1521, there's a new
6 permit for 1521. I think Mr. Sullivan alluded to that a
7 little earlier, there is a permit for 1521 that would be a
8 three-unit building next to my house that would go back ten
9 feet past my house and so it's a different design than the
10 original 1521, which was a seven-unit, two bedroom units, so
11 since that was, I guess, they decided that since that was
12 under debate --

13 ZC CHAIR HOOD: Let me just say this. So
14 technically speaking, we have a number of 1521 and 1523
15 applications out there.

16 MR. STOKES: Definitely that I know, 1521 that's
17 in the Court of Appeals, and then we have the 1521 that is,
18 so absolutely. You have the original 1521 and then the 1521
19 that I'm appealing that the decision's going to be made on
20 that for next week.

21 ZC CHAIR HOOD: And you have an appeal on that for
22 next week.

23 MR. STOKES: That is correct.

24 MR. SULLIVAN: That is an application.

25 ZC CHAIR HOOD: Oh, that's an application for 1521.

1 MR. SULLIVAN: We have an application for 15-, to
2 do a three-unit conversion.

3 ZC CHAIR HOOD: So we have a lot of things going
4 on for one property, two sets of problems. I'm talking to Mr.
5 Stokes.

6 MR. STOKES: So, but, as you can tell, the lot was
7 subdivided so you're kind of correct in the fact that with
8 the 1521 and the 1523. So you do have, oh, what really helps
9 a lot, it was actually for the shadow study that was
10 submitted into the record, it kind of gives you a sample, a
11 design of what this thing actually looks like. What 1523
12 would look like, what 1521 ---

13 MR. CAMPBELL: I was just saying there's an outline
14 of the 1523 property, and I believe that was one of the
15 things that ---

16 BZA CHAIR HILL: Which one was the shadow study
17 again? I'm trying to remember which the exhibit was.

18 MR. STOKES: Actually, I don't have the, it's
19 exhibit ---

20 VICE CHAIRPERSON HART: 28D.

21 BZA CHAIR HILL: Thank you.

22 MR. STOKES: So to your point, to make a long story
23 short, to your answer, yes. There are a couple of things
24 going on on the lot.

25 ZC CHAIR HOOD: Okay. I will wait for further

1 questions, Mr. Chairman, as everyone that presents, thank
2 you.

3 BZA CHAIR HILL: Okay. Anybody else have questions
4 for Mr. Stokes? Okay. Mr. Stokes, what's your, you're 1519?

5 MR. STOKES: I am 1519.

6 BZA CHAIR HILL: And so, Mr. Sullivan, I'm sorry,
7 I can't remember, so 1521 is up for decision next week?

8 MR. SULLIVAN: Yes.

9 BZA CHAIR HILL: Okay. And I'm just trying to
10 remember, why was it, what was it we were asking, do you
11 recall why we did a decision next week?

12 MR. SULLIVAN: Because the ANC asked for additional
13 time to review some minor changes that were requested.

14 BZA CHAIR HILL: All right, so, Chairman Hood, are
15 you kind of, I mean, I remember this now. It is everything
16 that you recall, right? Like I mean, we heard a lot ---

17 ZC CHAIR HOOD: Don't remind me of that.

18 BZA CHAIR HILL: Okay. Well, we heard a lot of
19 history on this project, and actually I was here for the
20 first one, I think.

21 MR. STOKES: Yes, you were.

22 BZA CHAIR HILL: No, I mean for the original
23 application that is, and that might, no? Then I'm thinking
24 maybe another thing that was very similar. So okay, does DCRA
25 have any cross questions for the Appellant?

1 MS. LORD-SORENSEN: Yes, I have a few questions.
2 First, Mr. Stokes, can you just clarify a statement you
3 mentioned, you stated earlier. With respect to the hearing
4 statement you distributed today, you said that you eliminated
5 some of your other arguments, so are the arguments before the
6 Board just the four in the hearing statement you distributed
7 today?

8 MR. STOKES: Well, just because I had the pre-
9 hearing statement, so I knew that was already on the record,
10 and then for today I was going to cover some of the things,
11 you know, the higher things on the totem pole as it were, in
12 this particular hearing statement.

13 MS. LORD-SORENSEN: So you're still including the
14 other arguments as well? I just want to know what, I just
15 want to try to identify the scope of your argument today. I
16 thought you were minimizing it now just to the four that you
17 distributed today.

18 MR. STOKES: What I want to do is cover these
19 particular points, but the points that were in the pre-
20 hearing statement, if they come up they come up, if they
21 don't they don't, but I want to make sure that these
22 particular points were absolutely covered. That's the way I
23 was looking at it.

24 MS. LORD-SORENSEN: Just a few questions.

25 MR. STOKES: I'm sorry, I'm not an attorney. I'm

1 sorry I couldn't afford one. Marty, I might see if I can
2 afford you next time.

3 MS. LORD-SORENSEN: Mr. Stokes, just to clarify,
4 1958 zoning regulations control these plans, correct?

5 MR. STOKES: Yes, that is correct.

6 MS. LORD-SORENSEN: And the proposed construction
7 will occur at 1523 Varnum Street NW.

8 MR. STOKES: That is correct.

9 MS. LORD-SORENSEN: Not 1521 Varnum Street.

10 MR. STOKES: That is correct. But because this is
11 a whole, 1521, we look at this, you have to look at this
12 holistically.

13 MS. LORD-SORENSEN: No, no, no. I'm sorry, Mr.
14 Stokes. I just asked a specific question.

15 MR. STOKES: So this is about fifteen twenty ---

16 MS. LORD-SORENSEN: Three. Varnum Street.

17 MR. STOKES: But it impacts 1521.

18 MS. LORD-SORENSEN: No, Mr. Stokes.

19 BZA CHAIR HILL: No, that's okay, that's all right,
20 actually both of you, just one second. So I understand, she's
21 asking a question whether or not this is just about 1523, and
22 your answer is yes. I understand. We, the Board actually
23 understands everything you're talking about with 1521, but
24 the case before us is about 1523 and you've answered yes, the
25 case before us is about 1523. The answer's yes.

1 MR. STOKES: Yes.

2 MS. LORD-SORENSEN: I have no further questions of
3 Mr. Stokes.

4 BZA CHAIR HILL: Mr. Sullivan, do you have any
5 questions for Mr. Stokes?

6 MR. SULLIVAN: No. Thank you.

7 BZA CHAIR HILL: Okay. Does the ANC have any
8 questions for Mr. Stokes?

9 MR. CAMPBELL: No, I do not. Thank you.

10 BZA CHAIR HILL: Okay. All right. So we're going
11 to go ahead and turn to the Zoning Administrator, DCRA here,
12 I'll put 30 minutes on the clock as well for you, and you can
13 begin whenever you like,

14 MS. LORD-SORENSEN: Certainly. So, I'm going to
15 conduct direct examination of the Zoning Administrator and
16 we're going to walk through the arguments outlined by Mr.
17 Stokes in his pre-hearing statement. I'm going to start with
18 the general arguments and then we're going to move to the
19 specific and ask that you provide clear and succinct
20 responses.

21 So Appellant claims that the approved plans
22 violate the general provisions of the 1958 zoning
23 regulations, specifically 101.1, 101.2 and now the most
24 recent argument includes 101.6. What is your position on
25 that?

1 MR. LEGRANT: The general purposes of the zoning
2 regulations laid out in 058.101 set forth the general
3 purposes, and that's the key word, general, for the entire
4 zoning regulations. My office applies the specific
5 development standards as applied to specific projects. As we
6 get into the particulars in this case, the we looked at the
7 definitely development standards, height, lot occupancy,
8 yards, parking, pervious surface, etc.

9 Those are the standards by which I evaluate
10 particular projects against. I do not, and I don't believe
11 I can, apply discretionary, the general purposes to projects
12 that are before me that are being evaluated as a matter of
13 right. I believe the Board, of course, when it's looking at
14 discretionary projects, including special exceptions for
15 various applications, the Board has the authority to use that
16 discretion to take those purposes into account.

17 MS. LORD-SORENSEN: Appellant also asserts that you
18 should have used the DC Comprehensive Plan when reviewing the
19 plans for 1523 Varnum Street. Did you use the plan? If not
20 or if so, why?

21 MR. LEGRANT: I did not use the plan in this
22 instance. I am charged very specifically with administering,
23 enforcing and interpreting the zoning regulations. I believe,
24 as you may know and as the Board knows, in the comprehensive
25 plan which was drafted by the Office of Planning and

1 ultimately reviewed and approved and adopted by the City
2 Council, frames the general land use policies for the
3 District of Columbia. The Zoning Commission utilizes the plan
4 in looking at its enactment of the zoning regulations when
5 it writes its own regulations and enacts the zoning
6 districts.

7 On rare occasions where the regulations are vague,
8 I may consult with the comprehensive plan as to what might
9 be purposes for allowed uses in particular areas. Very rare
10 occurrence. But in this case, I did not see any such areas
11 that were unclear so I did not use the comprehensive plan in
12 this ruling.

13 MS. LORD-SORENSEN: Do these plans require any sort
14 of special exception from the BZA under 11 DCMR 223.2?

15 MR. LEGRANT: They do not.

16 MS. LORD-SORENSEN: And why not?

17 MR. LEGRANT: 223 is a section that sets forth
18 criteria for the Board of Zoning adjustments when considering
19 special exception applications, and that criteria is
20 evaluated by the Board in those considerations of those
21 discretionary applications. It does not apply to a matter of
22 right case.

23 MS. LORD-SORENSEN: Okay. Do the approved plans
24 comply with the setback rules?

25 MR. LEGRANT: They do.

1 MS. LORD-SORENSEN: Okay. And why do you believe
2 they comply?

3 MR. LEGRANT: Well, the rear yard for example, the
4 standard ---

5 MS. LORD-SORENSEN: Does the Board have a copy of
6 the plat? It was included as Exhibit 4 to the Agency's pre-
7 hearing statement. And I do have a blown-up version if the
8 Board would like a copy.

9 BZA CHAIR HILL: Which exhibit?

10 MS. LORD-SORENSEN: Exhibit 4.

11 MR. LEGRANT: So for the rear yard there's a 20
12 foot ---

13 MS. LORD-SORENSEN: Sorry, one second. Would the
14 Board like a blown-up copy of Exhibit 4?

15 VICE CHAIRPERSON HART: No, our Exhibit 4 is to
16 track a building permit status. That's what I have.

17 MS. LORD-SORENSEN: To our pre-hearing statement?

18 MEMBER JOHN: What exhibit is your pre-hearing
19 statement?

20 VICE CHAIRPERSON HART: 27?

21 MS. LOVICK: It's exhibit, well, I think that the,
22 well, 27 is the DCRA's pre-hearing statement, so ---

23 MS. LOVICK: It's Exhibit 28(b), I think.

24 VICE CHAIRPERSON HART: I think, Ms. Lord-Sorenson,
25 you were saying that it is in Exhibit 4 of the DCRA ---

1 MS. LORD-SORENSEN: Sorry, that's how we uploaded
2 it.

3 VICE CHAIRPERSON HART: No, no, it is, I
4 understand. The DCRA statement includes several exhibits, and
5 so we were getting confused. We were thinking that you were
6 saying exhibit in the record and that's not the case. But
7 you're just saying for the DCRA, which is, what did we say,
8 27? So it's Exhibit 27 is the one.

9 MS. LORD-SORENSEN: Okay. Does the Board need a
10 blown-up version, or are you okay?

11 BZA CHAIR HILL: We can see it.

12 MS. LORD-SORENSEN: I'm sorry, I interrupted.

13 MR. LEGRANT: So in terms of setbacks usually
14 there's a minimum required rear yard of 20 feet, the plans
15 show that the approved plan exceeds the 20 foot rear yard,
16 and as per sections 405.6 and 405.9, there is no side yard
17 requirement for the proposed flat.

18 BZA CHAIR HILL: Can you say that again, Mr.
19 LeGrant? 406 what?

20 MR. LEGRANT: Yes. 405.6 and 405.9, there is no
21 side yard required for the proposed flat building.

22 BZA CHAIR HILL: Okay.

23 MS. LORD-SORENSEN: Appellant also claims that the
24 special exception is needed because apartment houses require
25 a special exception. Is this regulation applicable to this

1 case?

2 MR. LEGRANT: Repeat that?

3 MS. LORD-SORENSEN: Appellant alleges that plans
4 violate 11 DCMR 336 and that a special exception is needed
5 because an apartment house or apartment homes require special
6 exceptions. Is this regulation applicable?

7 MR. LEGRANT: It is not. Apartment houses define
8 the zoning regulations as a building containing three or more
9 dwellings. The proposed project is a flat, which is a two-
10 unit dwelling, so that simply does not apply because it's not
11 an apartment house use.

12 MS. LORD-SORENSEN: Now do the plans comply with
13 the minimum lot width requirement?

14 MR. LEGRANT: They do.

15 MS. LORD-SORENSEN: And what minimum lot width
16 requirement?

17 MR. LEGRANT: The minimum lot width requirement is
18 18 feet. As the Board can see from the plat, the lot is
19 irregularly shaped. It's not a typical rectangle, so in the
20 instances where we have an irregularly shaped lot, again
21 under ZR58, we used an average amount that is called the ten
22 foot interval method which we, at ten foot intervals we take
23 the width of those, the lot is at each ten foot increment,
24 those are added up and divided up by the number of increments
25 to get the average lot width.

1 This instance, that calculation resulted in a lot
2 width of 20.75 feet, 20 and three quarters of a foot,
3 therefore it exceeded the 18 foot minimum requirement and is
4 compliant.

5 MS. LORD-SORENSEN: And I would like to mention
6 that DCRA does have examples of how the calculations were
7 performed to reach the minimum lot width requirement, if the
8 Board would like a copy. Yes?

9 BZA CHAIR HILL: Okay. Does the Board want a copy
10 of, all right, you can just hand that to the Secretary,
11 please.

12 MS. LORD-SORENSEN: So, Zoning Administrator, I've
13 just handed out a copy of a blown-up version of the plat for
14 1523 Varnum Street to the Board as well as other members
15 participating in today's hearing. Could you please, just
16 using the plat as an example, could you explain the ten foot
17 intervals and how the lot width was calculated?

18 MR. LEGRANT: Sure. As I generally described, this
19 is the application of the ten foot interval averaging method
20 to the subject case. As you can see, to the right of the lot
21 each ten foot interval in increasing into the depth of the
22 depth of the lot 160 feet was marked at ten foot intervals.

23 And then the depth of the different intervals was
24 established, how many of those were, for example, at 22 feet
25 or 16 feet and so forth, and then those were added up to the

1 332 and then it was divided by the number of intervals, in
2 this case 16, to get to the average lot width of 20.75 feet.

3 MS. LORD-SORENSEN: And again, this is how lot
4 width is calculated under the 1958 zoning regs, correct?

5 MR. LEGRANT: Correct.

6 MS. LORD-SORENSEN: And the 1958 zoning regs are
7 the controlling regs in this case.

8 MR. LEGRANT: That's correct.

9 MS. LORD-SORENSEN: Can you please explain to the
10 Board whether the plans meet the minimum pervious surface
11 area?

12 MR. LEGRANT: Yes. The plat, as it is indicated
13 with the shading of the plat that was just handed out,
14 indicates the area that is to be devoted to pervious surface.
15 The calculation was to equal 39 percent of the lot area.

16 MS. LORD-SORENSEN: And under the 1958 zoning
17 regulations, what's the minimum pervious surface area for
18 this particular R4 zone?

19 MR. LEGRANT: Twenty percent.

20 MS. LORD-SORENSEN: I'm sorry?

21 MR. LEGRANT: 30 percent, excuse me. I misread it.
22 So it's a 30 percent minimum and then there's a 39 percent
23 pervious surface as provided exceeded the minimum
24 requirement, therefore it is in compliance.

25 MS. LORD-SORENSEN: Okay. And Appellant alleges

1 that the proposed plans violate the green area ration
2 standards. What's your position on that?

3 MR. LEGRANT: The green area ratio standards is a
4 requirement that applies to districts other than this
5 district, for mainly primarily non-residential districts and
6 the higher-density residential districts, there's a GAR or
7 green area ration requirement in the ZR58 regulations, and
8 it was also carried forth in the 016. There is no green area
9 requirement applicable here in this particular zone. What we
10 just covered a moment ago, the pervious surface, is the
11 actual requirement that applies, and as I noted it was found
12 to be in compliance with the pervious surface requirements.

13 MS. LORD-SORENSEN: Zoning Administrator, in Mr.
14 Stokes' most recent pre-hearing statement, he alleges that
15 the plans for 1523 Varnum Street violate 320(i) of the 1958
16 zoning regulations. Could you speak to that, please?

17 MR. LEGRANT: Yes. Maybe there was a mistake in the
18 writing, but there is no section of the zoning regulations.
19 I looked also at 320.1 to see if it was a typo, but it's not
20 an actual provision in the 058 regulations.

21 MS. LORD-SORENSEN: Okay. And one of the final
22 arguments made is that the plans violate 11 DCMR 213.5.

23 BZA CHAIR HILL: Can you repeat that again?

24 MS. LORD-SORENSEN: Yes. Appellant alleges in the
25 most recent filing, the pre-hearing statement filed last

1 week, that the plans violate 213.5. And what is your position
2 on that?

3 MR. LEGRANT: Well, 213.5 applies to the R1 zone,
4 not the R4 zone.

5 MS. LORD-SORENSEN: And just to address a couple
6 of the statements made by Mr. Stokes during his statement,
7 he mentioned that this was an alley lot. Could you just
8 explain, is this really an alley lot?

9 MR. LEGRANT: It is not. The suggestion because the
10 proposed building is toward the back lot and close to the
11 alley that would then make the particular property an alley
12 lot is not the case. An alley lot is a lot that doesn't have
13 any frontage on a public street. This lot of course has
14 frontage on Varnum Street, therefore it's not an alley lot
15 and would not be subject to any of the standards applicable
16 to alley lots.

17 MS. LORD-SORENSEN: Okay. Mr. Stokes also mentions,
18 for example he mentions that there's a violation of ZR1958
19 but then he also mentions a violation of the 2016 zoning
20 regs. Can you mix both zoning regs when you're reviewing an
21 application?

22 MR. LEGRANT: You cannot. That's when in enactment
23 of ZR16, we're very clear as to what applications, if they
24 qualified for 058, as this one did, you could not apply any
25 ZR16 regulations and vice versa. You can't mix and match, so

1 therefore you're either one code or the other. This was
2 reviewed and found in compliance with the ZR58 regulations.

3 MS. LORD-SORENSEN: Mr. Stokes also stated that you
4 should have taken into consideration the existing 18 foot
5 wide alley. Does that play a role, if any, in the review
6 process?

7 MR. LEGRANT: No. The alley width is not a
8 criterion for any of the applicable zoning standards, and so
9 regardless of the alley width, there's no, I believe for
10 vehicle access has to be a minimum of ten feet in width,
11 which this exceeds, but otherwise there's no other basis that
12 I have authority to say, oh, because of an alley lot width
13 of 18 feet is a basis to deny a matter of right application.

14 MS. LORD-SORENSEN: And lastly, Mr. Stokes mentions
15 that there was an issue, possibly, with the subdivision of
16 the property. What's your position on that?

17 MR. LEGRANT: This is an appeal of the building
18 permit, not subdivision, so it would be up to the Board to
19 look at what subdivision --- Well, I think there would have
20 to be a sort of appeal of the subdivision decision to look
21 at what's wrong with the subdivision, not the building permit
22 that's before the Board here.

23 MS. LORD-SORENSEN: Chairman Hill and members of
24 the Board, I just want to articulate, I just want to
25 reiterate, excuse me, that the 1958 zoning regulations govern

1 the construction at 1523 Varnum Street NW, and as the Zoning
2 Administrator stated as well as Mr. Stokes, 1521 Varnum
3 Street is not at issue here so the Board should focus
4 specifically on 1523 and whether the proposed plans are
5 compliant with those regulations.

6 As the Zoning Administrator just articulated,
7 we've gone through all of Mr. Stokes' arguments and we've
8 proven, even though the Appellant has the burden of proof at
9 all times during this matter, we have proven that Appellant's
10 claims are without merit and should be denied, so we ask that
11 the Board upholds the Zoning Administrator's issuance of the
12 building permit at issue here.

13 BZA CHAIR HILL: Okay, great. Thank you. Does the
14 Board have questions of DCRA?

15 VICE CHAIRPERSON HART: Yes, the questions that I
16 had, Ms. Lord-Sorenson, actually, kind of two questions. One,
17 one of the statements that Mr. LeGrant gave, which was around
18 the appeal of the subdivision, is that, can they appeal the
19 subdivision? I thought that was a decision that was already
20 made, there would be no way to appeal it any more.

21 MR. LEGRANT: Well, any decision of my office is
22 appealable, so the subdivision, I would posit that it's way
23 beyond the timeliness, 60 days, to appeal such subdivision.

24 VICE CHAIRPERSON HART: That's the part that I was
25 getting to, that's all. Okay. And then, can you explain, I

1 was looking at something else and I heard you start talking
2 about it and then I just missed it, the description of why
3 this is not an alley lot? If you could just go over that
4 again.

5 MR. LEGRANT: Sure. An alley lot is a lot that does
6 not border a public street. In the District we have several
7 hundreds of alley lots that are behind or embedded deep in
8 the block that don't have any street frontage. Then the
9 zoning regulations set forth specific rules about alley lots
10 and criteria, but that's, in order to be an alley lot you
11 don't have frontage on the street.

12 This lot has frontage on Varnum Street so by
13 definition it's not an alley lot and none of the alley lot
14 standards would apply.

15 VICE CHAIRPERSON HART: Thank you.

16 MEMBER JOHN: So, is there an accessory dwelling
17 unit on this lot, and how would it be accessed? I don't know.
18 Is there one?

19 MR. LEGRANT: In my reading of the plans there's
20 not an accessory dwelling unit. The proposed building, which
21 is a principal building of two units is classified as a flat
22 and the suggestion that I would take the stance that there's
23 no accessory building, therefore there's no accessory
24 building standards that would apply to the proposed project.

25 BZA CHAIR HILL: I have a question, but I'm going

1 to wait until after all the crossing has gone on. Anybody
2 else for the crossing? Mr. Stokes, do you have any cross
3 questions for DCRA?

4 MR. STOKES: Yes, I do. Two questions. What is the
5 difference between an accessory building and, I guess, the
6 flat which this is? Because a couple of the neighbors, I'm
7 asking this because a couple of the neighbors, they kept on
8 saying we think it's an accessory, we think it's an
9 accessory, so what is the difference?

10 MR. LEGRANT: Okay. So the difference is, there's
11 definitions in the zoning regulations ---

12 BZA CHAIR HILL: Mr. Stokes, if you could turn off
13 your microphone, it just kind of feeds back. Thank you.

14 MR. LEGRANT: There's definitions in the zoning
15 regulations as to what constitutes an accessory building and
16 the definition of building, which is long interpreted to be
17 principal building. Here, the subject, the one building
18 proposed in this application contains two units, therefore
19 it is deemed a flat and therefore all the criteria
20 regulations which it was evaluated against was for that
21 principal building and does it meet the setbacks applicable
22 to principal buildings, does it meet the building height and
23 so forth.

24 There is no accessory building here but if there
25 was then accessory buildings have different standards that

1 usually have to be limitations on the size and height and so
2 forth, typically a shed or garage. So that's, in this
3 instance, that's how I would look at this particular
4 application.

5 MR. STOKES: What makes it the, could it be, could
6 this 1523 be a principal building? Who is to say that it's
7 not? Just because of the design, but could it be? Could it
8 be the principal building?

9 MR. LEGRANT: It's the principal building because
10 it contains dwelling units. Under the ZR58 regulations, an
11 accessory building does not contain dwelling units. In some
12 of the districts, it's a little difficult here because we're
13 talking about ZR58, but ZR58 you could normally not put a
14 dwelling unit in an accessory building.

15 There was some exceptions to that, subject to a
16 Board of Zoning adjustment consideration, special exception,
17 but here the two principal, since you have a dwelling that's
18 subject to the requirements of the principal building
19 standards.

20 BZA CHAIR HILL: Okay, excuse me, because again I'm
21 not an architect, engineer or any of those things, so you're
22 saying the two places in 1523 are not dwelling units, then
23 what are they?

24 MR. LEGRANT: I did not say that.

25 BZA CHAIR HILL: What did you say?

1 MR. LEGRANT: The project contains one building.
2 It contains two dwelling units. It's classified as a plat,
3 a flat. As such, then it's evaluated against the standards
4 applicable to principal buildings. The accessory building
5 standards do not come into play.

6 BZA CHAIR HILL: It's okay, Mr. Stokes. It's not
7 a, okay. Mr. Sullivan, do you have any questions for cross
8 of DCRA?

9 MR. SULLIVAN: Yes. Thank you. Mr. LeGrant, an
10 accessory building is defined in the 1958 regulations as a
11 subordinate building located on the same lot as the main
12 building, the use of which is incidental to the use of the
13 main building. In your opinion, is the building at 1523 a
14 main building because it's the only building on that lot?

15 MR. LEGRANT: That's correct.

16 MR. SULLIVAN: So it couldn't possibly have an
17 accessory building because there is no subordinate building
18 to that main building, correct?

19 MR. LEGRANT: That's correct.

20 MR. LEGRANT: Thank you. And then in regard to the
21 calculation of lot width that was illustrated by the average
22 lot size, and as you stated the regulations provide for
23 irregularly-shaped lots to be calculated using the average
24 lot width. Is this a terribly uncommon situation, or is this
25 something that was customary to do a calculation like this?

1 MR. LEGRANT: Although the vast majority of lots
2 in the District of Columbia are typically rectangular in
3 shape, there's many, many, if not hundreds of instances in
4 which there are lots that are irregularly shaped, that is the
5 side property lines are not parallel, therefore the ten-foot
6 interval method was used, has been used by this office for
7 years if not decades.

8 MR. SULLIVAN: Thank you. No further questions.

9 BZA CHAIR HILL: Okay. I've got some questions. So
10 Mr. LeGrant, I'm going to go back to this one for just, so
11 the way that you guys go about figuring out the average of
12 the lot width, I understand and the diagram was very helpful.
13 And I'm just curious. I know that this might not be what's
14 before us, so we'll have to see.

15 The subdivision, when you guys went ahead and when
16 they subdivided the lot, can you explain to me how you go
17 about approving a subdivision like that?

18 MR. LEGRANT: Yes. Generally the subdivision has
19 to be evaluated in a couple of different standards. First,
20 does the actual, because in this case a lot was being, the
21 existing lot was being divided had an existing building on
22 it. So each resulted lot had to meet the minimum size, width
23 and frontage requirements.

24 The second aspect is because there is an existing
25 building, existing use, it has to be evaluated as to that.

1 Would the splitting off of this area for the subject lot now,
2 which was vacant, does it result in any non-conformities for
3 the remaining building that is, in this case the 1521 lot.
4 Things like that lot occupancy, the yards, the parking space,
5 all have to be compliant.

6 My office cannot approve a subdivision that would
7 put the remainder lot into non-compliance. At the time the
8 subdivision was reviewed, it was found to be compliant at the
9 parking space for 15 --- both lots met the minimum size width
10 and frontage requirements and the existing building at 1521
11 was compliant with the yards, lot occupancy and parking that
12 would be applicable, and so it did not create any new non-
13 conformance.

14 BZA CHAIR HILL: Okay. So is it you that reviews
15 all the subdivisions? I mean, you approve the subdivisions
16 as well?

17 MR. LEGRANT: My staff under my authority.

18 BZA CHAIR HILL: Okay. And so this is kind of a
19 normal subdivision? I mean you don't, I guess it met all the
20 requirements, so there's nothing odd about this particular
21 subdivision.

22 MR. LEGRANT: That's correct.

23 BZA CHAIR HILL: Okay. Then the way that it, so,
24 and now I'm just again continuing to be curious, that this,
25 the way that this kind of gets figured, again the ten feet,

1 I guess it wouldn't matter where the Applicant, you know,
2 there's a little jog there so it goes down and jogs. It
3 wouldn't have mattered, and I don't know if you can even
4 speak about it, I'm going to just ask the question, it
5 wouldn't have mattered where that jog was, they would still
6 then probably have met the 20.75 requirement wherever the jog
7 was.

8 MR. LEGRANT: Well, the location of the jog could
9 have impacted the ultimate calculation where the ten-foot
10 interval fell, and changed that width for that particular
11 area. But in general, I don't believe it would have impacted,
12 the location of the jog in this case, would have affected the
13 ultimate calculation of the average lot width that was found
14 to be compliant.

15 BZA CHAIR HILL: Okay. So then, back to the matter
16 of right, I mean, you take a look at this and you're just
17 determining whether or not this is a matter of right
18 scenario. And it is, it's a flat, right, so there's the two
19 units there. And that's by right. And so, again, how you
20 evaluate that, I mean, the only thing I'm just trying to, not
21 even necessarily struggling with, I'm just trying to learn,
22 I suppose, how you went ahead and evaluated this, right?

23 So you look at the different regulations and
24 criteria, and I suppose if you'd kind of walk me through just
25 a little bit of that in terms of why there's no side yard

1 that was needed, and, I, it, and this is where we're getting
2 because if this is a matter of right then we all agree that
3 it's a matter of right. I'm just trying to understand the
4 process with which you went through to determine that this
5 was a matter of right project?

6 MR. LEGRANT: Okay. So briefly, the first thing we
7 look at is the use that is proposed compliant within the
8 subject zoning district. Is it an allowed use? In this case,
9 it was a flat, two units, yes, it was an allowed use.

10 Then we evaluate the building in terms of its
11 setbacks, height, lot occupancy and then the other things
12 that come into play is the parking and pervious surface.
13 Those are the key development standards that this and other
14 cases are evaluated against to ensure that the subject
15 application met the standards.

16 So as we go through and look at the subject case
17 and we test it against it standard. Does it meet the average
18 lot width? Yes. Does it meet the lot occupancy? It was found
19 to be compliant. Is there a parking space? Yes. Does it meet
20 the maximum width and height? Yes. Does it meet the rear
21 yard? Yes. And there was no front yard requirement applicable
22 in 058, so that didn't apply. 016, as we know, has some front
23 yard setback standards, but that's not applicable here.

24 And the side yard question that was raised in the
25 Appellant, is that there should be a side yard. My evaluation

1 in this case as well as in many other cases for 058 is for
2 the subject sections that were sited in my direct from my
3 counsel is the side yard standards for 5.6 or 5.9 are
4 applicable that allowed a building such as this to be built
5 with no side yards and that was ultimately approved in
6 accordance with those standards.

7 BZA CHAIR HILL: 405.6 and 405.9.

8 MR. LEGRANT: Yes.

9 BZA CHAIR HILL: Okay.

10 MR. LEGRANT: And so at the end of that analysis,
11 we concluded that since it met all the standards it qualified
12 as a matter of right project. My office does not have
13 discretion to deny a matter of right project. The Applicant
14 was then zoning approved. The building permit application
15 plans went through the rest of the disciplines of the DCRA,
16 the building code folks, DD, DOEE for storm water and so
17 forth. And then after it met all those municipal standards,
18 the building permit was issued to the Applicant.

19 BZA CHAIR HILL: Okay.

20 VICE CHAIRPERSON HART: I actually had a question,
21 kind of a followup question, on one of the things I think you
22 had brought up. I think we had a, there was some discussion
23 on it, was with the general, I'm trying to think of what this
24 is, I guess it's 101.6 of ZR58?

25 MR. LEGRANT: Yes.

1 VICE CHAIRPERSON HART: And it talks about when the
2 lot is divided, the division shall be effected in a manner
3 that will not violate the provisions of, and it keeps on
4 going. The part that I was trying to understand is the, if
5 it says it will not violate the provisions for this title for
6 yards, courts, and other open space, is the violation, does
7 that mean that it can't, that it shouldn't create a variance,
8 or that you shouldn't create a variance or a special
9 exception? Because a special exception, you see what I'm
10 saying? What does violation actually mean?

11 MR. LEGRANT: So, what it is is that provision sets
12 forth, and I loosely call those references as development
13 standards. Again, we've talked about it a little bit today.
14 Yards, courts, lot area, FAR does not apply here, lot
15 occupancy and so forth. The evaluation of a subdivision
16 application has to be that the result, the lots that are
17 created for a subdivision, in this case, a larger lot that
18 was divided into two lots, each lot has to meet those minimum
19 standards. You cannot create anything other than a matter of
20 right standard.

21 So for example, if we said a subdivision
22 application came in that would, oh, well, this is going to
23 make the lot with the existing building on it non-compliant
24 with lot occupancy, that would either need a special
25 exception or a variance relief from this body. My office

1 cannot approve it unless the Applicant went to the board and
2 secured that relief. Then they can come back and say, oh, I
3 got that relief. But otherwise to continue to fall under a
4 matter of right scenario, has to meet the minimum standards
5 set forth in the zoning regulations.

6 VICE CHAIRPERSON HART: And so, I appreciate that
7 explanation because it's very helpful for me. I know that,
8 and I'll bring this up because it, I think it's somewhat
9 relevant. We have had theoretical subdivisions come to us
10 because they are not meeting the subdivision, something about
11 the subdivision requirements.

12 So that's what you're saying. When someone comes
13 to us, an Applicant comes to us and says, we want to build
14 ten units on this particular property, the property's large
15 enough to build ten units, but if you break the, if you
16 subdivide it each of the widths of the property may be too
17 narrow or something, and so they need some relief.

18 So they'll come to us and if we give them that
19 relief then they can come to you and say that we've gotten
20 this approval from the BZA. I'm assuming that that's what
21 you're --

22 MR. LEGRANT: Well, let me distinguish a little
23 bit. A theoretical lot subdivision is a situation that's set
24 forth in the zoning regulations that an Applicant would have
25 to come to this body if the, and it's usually in cases where

1 they're creating lots without street frontage or on private
2 streets.

3 Some of the larger areas of the District most
4 recently, last couple decades, I guess, rather than DDOT
5 create new public streets, they create private streets. And
6 those lots that front on private streets don't, since they
7 don't have public street frontage, the theoretical lot
8 subdivision process is a way to allow those applications to
9 go forward and there's criteria in that.

10 So it's distinguishable from a case of a simple
11 regular subdivision such as this that has street frontage,
12 again, as I just noted to you, it meets the standards matter
13 of right. We were able to approve it. If it did not meet some
14 standard, like I noted, lot occupancy or some other standard,
15 then they'd have to get the specific release. It's not a
16 theoretical lot subdivision from this point.

17 VICE CHAIRPERSON HART: I got it. I appreciate it.
18 I'm sorry I went down that, but I was just trying to, I was
19 making sure that I understood that and I do understand it
20 now. I appreciate it.

21 ZC CHAIR HOOD: I do have some questions, but I
22 want to hear from everybody else. Once we complete, my
23 questions may be answered. Still unclear, but I want to hear
24 from the Chairman's testimony.

25 BZA CHAIR HILL: Okay.

1 MR. CAMPBELL: Excuse me, Mr. Chairman? Will the
2 ANC have the opportunity to ask Mr. LeGrant some questions?

3 BZA CHAIR HILL: Yes. Yes you will.

4 MR. CAMPBELL: Okay.

5 BZA CHAIR HILL: Just give me one second, I'm
6 sorry. Okay. Yeah, I'm sorry, Commissioner. Please go ahead.
7 Do you have any questions?

8 ZC CHAIR HOOD: Mr. Chairman, before we start with
9 the ANC, I looked at the submissions for the ANC. I don't
10 know if I, unless it was a handout given and I don't have it,
11 but my pages come up blank on my computer. Everything's
12 changed to the ANC, let me open it back up.

13 MR. CAMPBELL: Those are Exhibits 31 and 31.

14 ZC CHAIR HOOD: Okay, hold on one second.

15 MR. CAMPBELL: And I've only opened 32, but it
16 opened for me.

17 ZC CHAIR HOOD: It did? Okay, now I'm having
18 another problem. Hold on one second. Just give me a minute.
19 I know it's --- 31 and 32?

20 MR. CAMPBELL: Yes, sir.

21 ZC CHAIR HOOD: Okay, so it's just me. Okay, so I
22 kept looking, they're blank pages. So they must not have
23 wanted me to know what they were going to say. Okay. Thank
24 you.

25 BZA CHAIR HILL: All right, Commissioner, do you

1 have any cross questions? Again, cross is questions upon
2 testimony that was given by the Zoning Administrator. So do
3 you have any questions?

4 MR. CAMPBELL: I do. Let's see. And Mr. LeGrant,
5 you'll forgive me because I am a total lay person when it
6 comes to this. So this plat that I'm looking at here for
7 1523, and this shows the subdivided lot, is that correct?

8 MR. LEGRANT: That's correct. It shows the plat
9 that was accompanying the building permit application. The
10 result, the lot resulting from the subdivision including the
11 building that was the subject of the appeal.

12 MR. CAMPBELL: Okay. Now, of course at this time,
13 I mean, because the plat shows a structure and there is no
14 structure on this lot at this time, is that correct?

15 MR. LEGRANT: Correct.

16 MR. CAMPBELL: And, let me see, you had mentioned
17 frontage and it's not an alley lot because there's some
18 frontage. But I note, and obviously this isn't relevant, that
19 it's a lot closer to the alley than it is to the front.

20 MR. LEGRANT: Is there a question?

21 MR. CAMPBELL: Is it closer to the --

22 (Simultaneous speaking.)

23 MR. CAMPBELL: All right. Okay. And there's an
24 existing building that actually sort of, doesn't block the
25 whole thing but that is in the front between the street and

1 the proposed structure. Is that correct?

2 MR. LEGRANT: The property to the east?

3 MR. CAMPBELL: The property at 1521 Varnum Street.

4 MR. LEGRANT: I believe that would be to the east.

5 MR. CAMPBELL: Okay. I'm not exactly sure on that.

6 Okay. For the, your role with DCRA is to evaluate the zoning
7 questions in cases where construction permits and other
8 permits of that type are requested, or applied for?

9 MR. LEGRANT: It's to apply the zoning regulations
10 to building permit and other applications that come before
11 DCRA.

12 MR. CAMPBELL: Okay. All right. Do you also advise
13 the BZA?

14 MR. LEGRANT: I do not.

15 MR. CAMPBELL: Has the BZA ever disagreed with you?

16 MR. LEGRANT: It has.

17 MR. CAMPBELL: Okay. All right. That's all the
18 questions I have.

19 BZA CHAIR HILL: There's hope, Commissioner,
20 there's a possibility. All right. Did I already ask you, Mr.
21 Sullivan, if you had any questions for the Zoning
22 Administrator?

23 MR. SULLIVAN: You did. I don't.

24 BZA CHAIR HILL: Okay. What we're going to do is,
25 there's actually another Board member who's here who needs

1 to participate in a couple of decisions that are happening,
2 and since there's going to be at least another half hour for
3 you and a half hour for the ANC, depending upon how much you
4 guys actually use up, this is going to take a little longer.

5 So what we're going to do is we're going to break,
6 you guys don't have to come back, I mean, I'm sorry. We're
7 going to take a quick break for like five, ten minutes. We're
8 going to come back, we're going to do the two decision cases
9 and then we're going to come back and finish up with you
10 guys. So just to let y'all know.

11 (Whereupon, the above-entitled matter went off the
12 record at 5:17 p.m. and resumed at 5:25 p.m.)

13 VICE CHAIRPERSON HART: Ready when you are, Mr.
14 Moy.

15 MR. MOY: Thank you, Mr. Vice Chairman. The
16 hearing is reconvening as a -- to address two decision making
17 cases. The first is case application number 19768 of CDDC,
18 1735 through 1737 10th Street Northwest, LLC. And I'll read
19 the caption again for the record.

20 This is a request for special exceptions under
21 Subtitle C, Section 703.2 for minimum parking requirements
22 of Subtitle C, Section 701.5 and pursuant to Subtitle X,
23 Chapter 10 for variances from the lot occupancy requirements,
24 Subtitle E, Section 304.1, rear yard requirements of Subtitle
25 E, Section 306.1, and the side yard requirements of Subtitle

1 E, Section 307.1.

2 This would construct two new flats, RF-1 zone at
3 premises 1735 and 1737 10th Street Northwest, where 363 lots
4 105 and 106. Participating in the decision is Vice Chair
5 Hart, Ms. White, and Robert Miller.

6 VICE CHAIRPERSON HART: Thank you, Mr. Moy.

7 Is the Board ready to deliberate?

8 MS. WHITE: Yes, I can provide --

9 VICE CHAIRPERSON HART: Welcome --

10 MS. WHITE: -- some comments.

11 VICE CHAIRPERSON HART: Welcome, Ms. White.

12 MS. WHITE: Thank you.

13 VICE CHAIRPERSON HART: So the case that we have
14 is this project on -- at 1735-1737 10th Street. And we heard
15 this case, I guess, in July, and we did have a full hearing
16 on the case, and we did complete our hearing and set it for
17 decision for today.

18 We did ask for a few documents, renderings to
19 include the neighborhood context, the email from the fire
20 emergency medical services, confirming the no objection, some
21 information and reports from HPRB, the Historic Preservation
22 Review Board, the matter of right alternative, and then there
23 was a petition from the neighbors that we'd like, as well.

24 The applicant has submitted information for us,
25 and there are a number of exhibits -- exhibits, actually, 46,

1 47, 49; 49 had several parts to it. And after reviewing all
2 of the information that we've received to date, and reviewing
3 the rest of the record, I will say that I would be leaning
4 to and in support of the requested relief.

5 I believe that the applicant has met the criteria
6 for variance relief and special exception relief. And that
7 would be as it was outlined in the -- of the planning report,
8 which is Exhibit 35. And I would be in support of it. I
9 would say that I liked the renderings that the applicant
10 provided in Exhibit 40 -- give me a second -- 49D. And they
11 just showed a little bit more refinement in the design that's
12 moving forward.

13 They did provide us with some shadow study
14 information, as well. We did get -- that shows that there
15 is some impact, but also showed that the impact from the
16 matter of right design would be very similar to the -- what
17 is being proposed by the applicant.

18 And I also appreciate the information regarding
19 the fire and emergency medical services, FEMS, information
20 as well. That was an email that the applicant submitted in
21 Exhibit 40 -- excuse me, 49F that just stated that there
22 wasn't an issue with that. The rear access to the neighbor's
23 lot is not an issue as you -- once you've established a
24 record lot. That was the email from the FEMS, one of the
25 FEMS staff or personnel.

1 I didn't know if you had any other comments, if
2 you'd like to make it down, Ms. White.

3 MS. WHITE: Yes, Mr. Vice Chair. I might as well
4 since I'm really fresh from just showing up here today. I
5 apologize for not being here earlier. I actually had a board
6 meeting with my company, but I did view some of the exciting
7 cases that you heard today on the Webcast.

8 So this is a decision on a self-certification for
9 a special exception for parking in area variances to allow
10 two new flats, as my colleague said, on two unimproved lots
11 at -- located 1735 and 1737 10th Street Northwest.

12 After reviewing the record and listening to the
13 parties, the hearing was June 27th, including reviewing all
14 the information submitted by the applicant, as well as
15 parties that were opposed to the relief, the applicant is
16 requesting a special exception under C703.2 from the minimum
17 parking requirements of C705 point -- 701.5 where one space
18 is required on the lot due to alley access, which would --
19 in this particular case, they're proposing one compact
20 parking space.

21 Also, an area variance from the requirements is
22 being requested for lot occupancy under E304.1 where 70
23 percent is proposed, and 60 percent is actually the max under
24 that particular provision. They're requesting rear yard
25 under E306.1, proposing 18.29 feet, I believe, where the

1 minimum is 20 feet. And then, third, the side yard relief
2 under E307.1 is being proposed where the minimum is 5 feet,
3 but they're proposing zero feet in this particular case.

4 So at the June 27th hearing, we requested
5 supplemental filings, which my colleague just noted, from the
6 applicant. And in response to that request, HPRB submitted
7 concept submissions and staff reports, as well as a report
8 on their actions. They submitted, also, under Exhibit 49,
9 which I reviewed the revised rendering and massings, shadow
10 studies, and also there was an email submitted as a
11 supplemental filing regarding fire access.

12 So we received, and I reviewed carefully, all the
13 submissions from Mr. Timothy States who originally made a
14 request for party status. And we didn't decide the merits
15 of that based upon the untimeliness of that submission, but
16 that did not erase the fact that I did look at, very
17 carefully, all the information that he submitted and the
18 testimony that he gave during the hearing, which also
19 included the supplemental filings of petitions and photos
20 which he argues had a adverse impact on his property.

21 However, I did also give great weight to the ANC
22 6E's report where they continue to support the application
23 for the variance relief. The previous vote was 6 to 0 to 0.
24 And I carefully reviewed the Office of Planning's report, Mr.
25 Jesick submitted his report recommending approval of the

1 variance relied, as well as the special exception relief.

2 A couple of points. Variance relief, very high
3 standard, take it very seriously. It's a standard -- it's
4 much higher and harder to meet versus special exception, but
5 in reviewing the record, I found that the application did
6 support the variance, meaning that the criteria was met. I
7 think that based upon the information in the record, they did
8 provide information that supported the fact that this was an
9 exceptional situation resulting in a practical difficulty for
10 the applicant.

11 These lots were exceptionally small, so that was
12 one of the things that supported the argument. Second, you
13 have to show that there's no substantial detriment to the
14 public good in terms of granting this type of relief. This
15 was new -- this is new construction. It would result in some
16 shadows, obviously, on the lots, but I did not find that it
17 would result in undue impact -- substantial undue impact to
18 the light levels compared to the shadow studies that were
19 provided as a matter of right.

20 So the lot I can see relief resulting in 6 feet
21 of extra length is an impact, but I didn't find that it was
22 an undue impact. And also the relief to the side yard
23 requirements, I -- based upon the information in the record,
24 I didn't find that it would have a substantial impact on the
25 public good.

1 OP did ask the applicant to address some of the
2 privacy concerns, and I would be supportive of that in terms
3 of the north wall which faces the rear yard, and the rear
4 facade of the adjacent row houses. The applicant did make
5 some revisions regarding the windows in order -- to let in
6 some light, but not impair the privacy of the adjacent homes.

7 I didn't find evidence that the relief would
8 impair the intent of the zoning regulations. With respect
9 to the special exception relief, which is criteria that has
10 to be met as well, from the number of parking spaces under
11 C703.2, I believe that -- the applicant met the criteria.
12 Under that provision, the lot's only 17 feet wide, I believe.
13 And the minimum required depth of 18 feet can't be
14 accommodated here. And they would be able to accommodate as
15 they indicate, a compact space.

16 And I find that it would not have a negative
17 impact on the nearby properties, and there would be -- and
18 also in addition to that, you know, there were no concerns
19 that were voiced from the ANC. So based on that, Mr. Vice
20 Chair, I would be supportive of the relief. I don't know if
21 we can incorporate in conditions in terms of -- to alleviate
22 privacy concerns, but I would be in support of that.

23 VICE CHAIRPERSON HART: Okay. That was excellent.

24 MS. WHITE: Can you tell I'm just starting out
25 today? I have some extra energy here.

1 VICE CHAIRPERSON HART: You're fresh. You're ready to
2 go.

3 MS. WHITE: Yeah.

4 VICE CHAIRPERSON HART: Yeah. No, I appreciate
5 that. And that was a very thorough review of the project and
6 your determination of that, and I think we're -- got up on
7 the same page with that. With regard to the condition on the
8 screening, that, I think, is the part that you were raising
9 whether or not they should -- well, actually, but they
10 actually -- they -- the OP -- OP asked the applicant to
11 address the privacy concerns on the north wall.

12 And what the applicant did was to have windows
13 that were not full length windows. The windows were actually
14 higher, and so that it'll let light in, but it won't allow
15 you to really look out. So I think that they have addressed
16 that particular issue with respect to that north-facing
17 facade.

18 So I think that they've addressed that, the
19 concern. I don't think we need to have it as a --

20 (Simultaneous speaking)

21 MS. WHITE: As long as that was addressed, that
22 would be my primary concern. I recall that now, so --

23 VICE CHAIRPERSON HART: Yeah. Well, I'm actually
24 looking at Exhibit -- oh, gosh, I've got too many exhibits
25 open -- Exhibit 49D, and it's page 9 in that, and it shows

1 the north facade. And I can see that the windows are taller
2 than normal windows are, which would make it less --

3 PARTICIPANT: Mine's not popping up.

4 VICE CHAIRPERSON HART: So the windows themselves
5 are much, much higher in the -- along the wall. So I think
6 -- I'm comfortable with them being able to -- having had
7 addressed that particular concern.

8 Yeah, keep on going. No. No, up.

9 PARTICIPANT: This one?

10 VICE CHAIRPERSON HART: No. One. That one.

11 And so what we're looking at is just page 9 on the
12 applicant's submittal, updated drawings showing elevations.

13 MS. WHITE: Yeah. For Exhibit 49D?

14 VICE CHAIRPERSON HART: Yes.

15 MS. WHITE: Okay.

16 VICE CHAIRPERSON HART: So --

17 (Off mic comment)

18 MS. WHITE: Yeah, that address is my concern.

19 Yeah.

20 VICE CHAIRPERSON HART: Okay, so I'm going to make
21 a motion to approve application number 19768 of CDDC 1735-
22 1737 D -- 10th Street Northwest, LLC, as read and captioned
23 by the secretary.

24 Do I have second?

25 MS. WHITE: Second.

1 VICE CHAIRPERSON HART: All those in favor say
2 aye.

3 Aye.

4 MS. WHITE: Aye.

5 VICE CHAIRPERSON HART: Any opposed?

6 (No audible response.)

7 VICE CHAIRPERSON HART: Mr. Moy, I think we have
8 a --

9 MR. MOY: Yes, indeed we do, Mr. Vice Chair. We
10 have an absentee ballot from Robert Miller, Robert Miller who
11 participated on this case application, and his vote is to
12 approve with such conditions as the Board may impose. None
13 of course, in this case. So with that, that would give a
14 final vote of three to zero to two. This is on the motion
15 of Vice Chair Hart to approve the application for the relief
16 being requested. Second, the motion of Ms. White. And, of
17 course, supporting the motion is Mr. Miller.

18 The motion carries.

19 VICE CHAIRPERSON HART: Summary order?

20 MR. MOY: Yes, sir.

21 VICE CHAIRPERSON HART: Thank you.

22 MR. MOY: Cheers. Okay.

23 VICE CHAIRPERSON HART: I think we need to wait
24 for our other board member to come out --

25 MR. MOY: Oh, yes.

1 VICE CHAIRPERSON HART: -- for a second.

2 PARTICIPANT: I would be -- yes, Lorna.

3 VICE CHAIRPERSON HART: Okay, Mr. Moy.

4 MR. MOY: All right. So, this is the last case
5 application for a decision. Case application number 19764
6 of 4926 Wisconsin Avenue, LLC as amended for a special
7 exceptions under Subtitle C, Section 710.3 from the parking
8 location restrictions of Subtitle C, Section 710 from the use
9 requirements of Subtitle U, Section 601.1(b) to permit the
10 continued use of the property as a parking lot, which was
11 last approved under BZA Order Number 18207 in the R2 Zone at
12 premises 4926 Wisconsin Avenue Northwest. This is in the
13 rear, square 1671 Lot 30.

14 Participating on the decision is Vice Chair Hart,
15 Ms. White, Ms. John, and Mr. Robert Miller.

16 VICE CHAIRPERSON HART: Is the Board ready to
17 deliberate?

18 PARTICIPANT: Yes.

19 VICE CHAIRPERSON HART: Excellent.

20 So this case, as the -- Mr. Moy has described, is
21 really a parking lot that is existing and they need to
22 continue the use of this property as a parking lot. And it's
23 up Wisconsin Avenue.

24 So the case has -- it was an interesting
25 discussion, partially because there was a -- the existing lot

1 had kind of certain parameters and a certain size. And it
2 was kind of an odd shape, kind of a triangular shaped lot.
3 We had, of course, heard the case on -- in June 27th, and had
4 the -- closed the hearing.

5 The Office of Planning did provide a supplemental
6 report and -- let me get the exhibit number. Give me a sec.

7 PARTICIPANT: It's on 45.

8 VICE CHAIRPERSON HART: Forty -- thank you, 45.
9 It was here somewhere.

10 The Office of Planning is -- was in support of the
11 application, and we'd asked the Office of Planning if they
12 were in support of removing the time limit on the case from
13 the conditions. And this was really primarily because the
14 previous condition -- the previous order, had a condition
15 that was supposed to lapse after seven years. And the
16 applicant is requesting the elimination of that condition.

17 And I -- after listening to the applicant, as well
18 as OP, and having a -- somewhat of a short discussion
19 ourselves, I felt that the applicant had actually met the
20 criteria for approval for the -- this parking lot. And I
21 understand that there are a number of conditions that are
22 included in this regarding the RS operation, whether it not
23 it should be secured, how to deal with trash and debris on
24 the lot.

25 The -- there is a masonry wall that surrounds a

1 portion of the lot, as well as a guardrail. It should be
2 maintained. Regarding graffiti, there are, like, 14
3 different conditions. There are a number of them. I didn't
4 have a particular issue with any of them. I thought that
5 they would -- with regard to the seven year time frame, it
6 seems as though that we heard testimony that there wasn't --
7 there hadn't been any issues raised from the neighborhood
8 regarding the time frame or removal of the time frame.

9 And OP was in support of that, as well, in not
10 having a time frame. I thought that that was -- I could be
11 okay with not having a time frame, as well. I didn't know
12 what my other Board members had with regard to this
13 particular case.

14 MS. WHITE: I can just provide some comments. I
15 essentially agree with what you just said. You know, this
16 is a parking lot that was most recently approved, subject to
17 a seven year term that's now expired. So after reviewing the
18 record, listening to the testimony, especially with respect
19 to the term, I wanted to make sure that the neighbors didn't
20 provide reports of some substantial violation. It seems to
21 -- that the applicant's been a good neighbor.

22 So I did not have an issue with supporting the
23 elimination of the seven year term, but the other conditions,
24 the other, what, 14 conditions that were listed, I think that
25 those should remain, because they give the applicant and the

1 neighbors a good framework for understanding what the
2 applicant is required to do. And these are all things that
3 are in the best -- are in the best interest of the
4 neighborhood.

5 So, at the end of the hearing, we requested, you
6 know, that the applicant work with DDOT and make some
7 amendments to the application, which they did. And they're
8 requesting, you know, that that term be eliminated. And it
9 seems as though OP and DDOT don't have any objections with
10 doing that. So not to, kind of, regurgitate what you just
11 said, but I would -- especially because of the support from
12 the office of planning and DDOT, as well as the -- and so I
13 don't know if the ANC actually provided -- yeah, they did
14 provide a resolution.

15 But because of those documentations that were
16 filed, I would be in support of the special exception relief
17 that the applicant has filed for this parking lot.

18 VICE CHAIRPERSON HART: Ms. John?

19 MS. JOHN: Mr. Vice Chair, just to add to what has
20 been said, I also would be in a position to support the
21 application. Because of the additional information that was
22 submitted. The -- at the close of the last hearing, we had
23 requested the applicant to -- and OP to work with DDOT to
24 determine if the proposed screening requirements would be
25 compliant with the regulations and whether there was a need

1 for a request for a special exception under C71 -- Subtitle
2 C714 and 715.

3 DDOT then responded that the screening requirement
4 recommended, or that the applicant had agreed to make would
5 be sufficient. And so based on that representation, I would
6 consider that -- the screening requirements comply with the
7 criteria in the regulations, as requested by the applicant.

8 The applicant also noted that the owner -- the
9 operator would be in support of the OP's recommendation to
10 augment screening, landscaping, and pervious surface if and
11 when the parking lot is resurfaced or otherwise significantly
12 improved. So I believe that's to repair the existing
13 potholes. I believe there's some amount of work that's left
14 to be done. So the applicant is supportive of that request,
15 as noted in the applicant's response to OP's supplemental
16 report.

17 And beyond that, I have nothing further.

18 VICE CHAIRPERSON HART: Okay. So I guess I'll
19 make a motion to approve application number 19764 of 4926
20 Wisconsin Avenue, LLC, as read and captioned by the
21 secretary. Do I have a second.

22 MS. JOHN: Second.

23 PARTICIPANT: Second.

24 VICE CHAIRPERSON HART: Hearing a second, all
25 those in favor say aye.

1 (Chorus of aye.)

2 VICE CHAIRPERSON HART: Any opposed?

3 (No audible response.)

4 VICE CHAIRPERSON HART: Motion carries. Mr. Moy?

5 MR. MOY: Thank you, Mr. Vice Chair.

6 We're -- again, we have an absentee ballot from
7 another participant, Robert Miller. And his absentee vote
8 is to approve the application. And he --

9 VICE CHAIRPERSON HART: I -- actually -- I'm
10 sorry. One thing I need to --

11 MR. MOY: Please, please. I know this can be --

12 VICE CHAIRPERSON HART: I need to redo this. I'm
13 sorry. I just realized something.

14 MR. MOY: Yeah?

15 VICE CHAIRPERSON HART: So we voted, and I
16 realized that I didn't say that there were the conditions.

17 MR. MOY: I was going to mention that, yeah.

18 VICE CHAIRPERSON HART: So do we have to -- what?

19 MR. MOY: Well, I didn't call final vote count.
20 But one, you could withdraw your motion and --

21 VICE CHAIRPERSON HART: Okay. Let me withdraw the
22 motion and let's do this again the right way. So it's a
23 little late, so I guess I'm a little tired. Or maybe the
24 Chairman will -- he'll tell me how to do this better next
25 time.

1 So I'll make a motion to approve application
2 number 19764 or 4926 Wisconsin Avenue, LLC, as read and
3 captioned by the secretary, and with the conditions that I
4 mentioned earlier. And the conditions are -- what are they?
5 Which --

6 MS. LOVICK: So I don't think that the conditions
7 are in this record, but I looked at the 18207 record, and
8 they're in Exhibit 2 of that record. But you'll need to just
9 clarify that the seven year term is not going to be
10 applicable because that's in that.

11 VICE CHAIRPERSON HART: Yeah, I thought that they
12 were in the original OP report. Maybe --

13 MS. LOVICK: I don't see them, but I -- I don't
14 see them.

15 VICE CHAIRPERSON HART: They're actually --
16 they're in the OP report. So I will say that we'll use the
17 conditions that are included on page 2 and 3 of the OP
18 report, which is Exhibit -- I've got to find the right
19 exhibit number -- Exhibit number 39. And that does not
20 include the seven year -- there is no seven year time limit.
21 So the rest of the conditions will stay the same.

22 So I'm making the motion to approve this
23 application with those conditions. Do I have a second?

24 MS. WHITE: Second.

25 VICE CHAIRPERSON HART: Hearing a second, all

1 those in favor say, aye.

2 (Chorus of aye.)

3 VICE CHAIRPERSON HART: Any opposed?

4 (No audible response.)

5 VICE CHAIRPERSON HART: Motion carries. Mr. Moy?

6 MR. MOY: Okay. Once again, before I give a vote,
7 we have an absentee ballot vote from Mr. Robert Miller. His
8 vote is to approve with such conditions as the Board may
9 impose.

10 And in his remarks, he also adds that he would be
11 in favor of deleting any term period. So that's consistent
12 with your motion.

13 VICE CHAIRPERSON HART: Excellent. Summary order,
14 Mr. Moy?

15 MR. MOY: Yeah, thank you. So the vote count would
16 be four to zero to one. This is on the motion of Vice Chair
17 Hart, with conditions as to Exhibit number 39 minus the no
18 term period. Seconding the motion, Ms. White will support
19 Ms. John.

20 Of course, Mr. Miller, no other member
21 participating.

22 Motion carries. Summary order.

23 VICE CHAIRPERSON HART: Yes, summary order,
24 please.

25 We'll take a two minute -- oh, we don't need a --

1 they're coming out. Wow. So if we could have the parties
2 back up to the table. Okay, so we're going to take a two
3 minute break.

4 (Whereupon, the above-entitled matter went off the
5 record at 5:57 p.m. and resumed at 6:13 pm.)

6 BZA CHAIR HILL: Okay, Mr. Sullivan or Mr. Moy,
7 if you could call us back together, please.

8 MR. MOY: I think you just did, Mr. Chairman.

9 The time is 6:04, and the Board is reconvened for
10 appeal number 19773.

11 BZA CHAIR HILL: Okay, great, thank you.

12 All right, Mr. Sullivan, you're up. We're going
13 to put 30 minutes on the clock, and you can begin whenever
14 you like.

15 MR. SULLIVAN: Thank you, Mr. Chairman and members
16 of the Board.

17 I'm here on behalf of the property owner of 1523
18 Varnum. And I just -- I want to point out -- I want to talk
19 about the appellant's assertion that the general purpose
20 requirements or the general purpose provisions of the zoning
21 regulations under Section 101 somehow apply here to make --
22 to show that the zoning administrator erred in some way in
23 approving this project, even though it met the specific
24 requirements of the zoning regulations.

25 To say that -- first of all, the general purpose

1 of this provision is simply there to explain the rationale
2 behind the measurable and specific zoning regulations that
3 come later. And it's the zoning administrator's charge,
4 obligation, duty to evaluate a project and apply those
5 specific requirements to that particular project. To do
6 otherwise would be unfair, would be arbitrary.

7 So consider what the appellant is asserting here.
8 He's saying that the zoning administrator not only has the
9 ability, but he has the obligation, even. Once he's found
10 that a project meets all the measurable requirements, he then
11 must look past that strict compliance and make a
12 determination, if the spirit moves him, that he can deny a
13 permit application based on a arbitrary and ambiguous,
14 subjective criteria, meaning you might be the lot occupancy,
15 you might have 50 percent lot occupancy in a 60 percent zone,
16 but it just feels really big, so I'm going to deny the
17 permit.

18 The citizens, the applicants, have certain
19 expectations that when they apply for a permit, if they meet
20 the specific requirements, they're entitled to approval. And
21 also the -- otherwise you couldn't invest in a property. How
22 could you invest in a property when you have a project that
23 you want to do, and you know it meets certain requirements,
24 but there's this arbitrary thing in the background here that
25 gives the zoning administrator the duty to deny a permit

1 based on I'm not sure what. Based on a wide-open standard.

2 This whole appeal is a general complaint in search
3 of an actual violation. And it's a bit of a fishing
4 expedition. So let's look at the big picture a little bit.
5 We have two lots here. The subdivision created two lots,
6 which prior to the subdivision, totaled nearly 6300 square
7 feet. That's enough land area to do three lots if the lot
8 width was big enough.

9 The width of these two lots was actually 36 feet,
10 but in order to preserve the existing 20 foot wide townhouse,
11 you couldn't have street frontage of 18 feet on the other
12 lot. Thus, the irregular lot width.

13 So then beyond that, what we have is a two unit
14 flat, a permitted use, which the appellant admits, on a
15 fairly large lot, two doors away from the appellant's house.
16 1521 Varnum, next door, is a -- actually a three unit
17 conversion with a modest 10 foot addition, so there's nothing
18 towering, outrageous, immoral, or inappropriate about any of
19 this. This is actually a pretty typical development.

20 So the appellant's complaint just seems to be that
21 because it's next door to him, because it's close to him, he
22 doesn't want it here, and he's against it. But he needs to
23 show where the zoning administrator actually made an error
24 on a specific regulation, and he has not shown that at all.

25 A couple of the specifics that he's talked about

1 is side yard. And the zoning administrator's pointed out,
2 under 405.6 and 405.9, there is no side yard requirement in
3 the R-4 zone. There was no side yard requirement under the
4 1958 zoning regulations.

5 And this has two implications for this project.
6 One, when the zoning administrator approved the subdivision,
7 the, what was a semidetached house at 1521 then became a road
8 dwelling. It was lot line to lot line, which is permitted.
9 It's no longer a semidetached house because the yard went
10 away, and it no longer meets the definition of what a
11 semidetached building is.

12 The appellant brought up a Pritchard (phonetic).
13 Pritchard case applied to semidetached houses. So it no
14 longer applies because this is not a semidetached house. In
15 addition to that, Pritchard was overruled about six months
16 or a year after it was issued, 15 years ago.

17 Question on the -- regarding the subdivision
18 process, something I'd like to clarify is that there's two
19 issues, I think, here with subdivision. One, in his pre-
20 hearing statement, the appellant challenged the subdivision
21 process itself. I don't think that's a zoning issue. I
22 think that's an issue for Title 10(b) under the subdivision
23 regulations. And so that's not before the Board.

24 Then there's the substance of the subdivision.
25 Did the subdivision create any noncompliant situations? And

1 that's where we're talking about lot width and side yard.
2 And, I think, the zoning administrator has explained, very
3 clearly, that there is no side yard requirement, so there's
4 no violation of the side yard requirement. And, on the lot
5 width, he went through the calculation for the average lot
6 width. So the bottom line is the appellant has not proven --
7 has not met his burden of proof to show that the zoning
8 administrator erred in his evaluation of this project.

9 So I'm happy to answer any questions.

10 BZA CHAIR HILL: Okay. Does the Board have any
11 questions for the property owner?

12 (Off mic comment)

13 VICE CHAIRPERSON HART: Just one quick question.
14 The semidetached discussion, can you just describe that
15 again? And the part that I was trying to get to was -- the
16 assertion that you're making is that there -- since there was
17 a lot line at the, I guess, the western wall, facade, that
18 this would no longer be a semidetached-- that the existing
19 building would no longer be a semidetached building because
20 there is a -- there's now a lot line that is at the building
21 wall.

22 MR. SULLIVAN: Correct. The definition under the
23 2018 -- 20 -- I'm sorry -- 1958 regulations for a
24 semidetached is a building which the wall on one side of
25 which is either a party wall or a lot line wall having one

1 side yard. So what's left at 1521 no longer has a side yard.

2 VICE CHAIRPERSON HART: And that definition does
3 not include the fact that they're -- you wouldn't be able to
4 put a building there, but because there is a lot line there,
5 it would not be considered a semidetached building anymore.

6 MR. SULLIVAN: That's correct. Yes, under the
7 1958 regulations.

8 (Off mic comment)

9 MR. SULLIVAN: This is one of the things that
10 they're trying to correct that the 2016 regulations didn't
11 follow through on, but yes, it was the -- it -- because it
12 uses the language that it's on a lot line wall, so if the
13 building's on a lot line, it doesn't need to be attached to
14 a building.

15 VICE CHAIRPERSON HART: Okay.

16 ZC CHAIR HOOD: So you're talking about general
17 purpose and the general divisions. Are you aware -- and I
18 believe this goes down to the Board of Zoning Adjustment, as
19 well, a lot of things -- I've heard that -- which is not in
20 the purview of the commission or maybe even the board, but
21 some recent rulings from the DCCA has mentioned some of those
22 things that we need to start looking at. Are you aware of
23 that?

24 MR. SULLIVAN: I'm not aware specifically of what
25 you're referring to, no.

1 ZC CHAIR HOOD: I'm talking about the court cases
2 which have come back and said that our scope is much wider
3 than just the zoning regulation. When you mentioned about
4 the general provisions being so broad, some of the things
5 that we got hit on from the courts was that we didn't look
6 at those things that were broad, so it went right -- it
7 actually counteracts your argument to me today about things
8 that we should not be looking at, and what the zoning
9 administrator look at his purview.

10 Now, one of the things that I do not know, and I
11 will admit it, that I don't know whether or not that
12 jurisdiction goes down to the ZA, but I do know that that's
13 some of the things that the commission has been -- things
14 that have been kicked back to us for not looking at. Are you
15 aware of that?

16 MR. SULLIVAN: I'm not aware of specifically what
17 you're referring to. I would assume it related to a Zoning
18 Commission case, which where the Zoning Commission has a lot
19 more judgment on what they would approve or not. But in an
20 appeal case, and when somebody applies for a building permit,
21 they have an expectation that if they comply with the
22 specific requirements of the zoning regulations, that they
23 should be approved, and there shouldn't be an arbitrary and
24 capricious standard behind that that makes it a wide-open,
25 Wild West situation where, well, I've got an 18 foot wide

1 lot, and therefore I can get approved, and I'm going to buy
2 that lot. And I'm going to purchase that lot.

3 And then to find out later, well, you know what?
4 The neighbor doesn't like that, and the zoning administrator
5 has determined, well, it's just under the general purposes,
6 this is a crowded area. I'm going to say 18 is not good
7 enough in this situation.

8 ZC CHAIR HOOD: Well, some of the things that they
9 talk about are character and other things like that. So I
10 just -- you know, and while I appreciate your comments, I
11 just know that the court -- DC Court, but trust me, has given
12 a lot of things back because we did not look at some of those
13 things.

14 MR. SULLIVAN: Right.

15 ZC CHAIR HOOD: And so, anyway -- and I think --
16 I don't know if it's -- anyway that's --

17 MR. SULLIVAN: And I think --

18 ZC CHAIR HOOD: -- that's something I have to
19 investigate.

20 MR. SULLIVAN: Yeah. And I don't -- my position's
21 not so much that it's broad, it's that I think the
22 preliminary provisions or the general purpose provisions set
23 the tone for, here's why we made these requirements. Because
24 it uses the term, design. It says these -- the provisions
25 of this title were designed in order to meet these

1 objectives. So I think that the 18 foot lot width and the
2 no side yard, and the 60% lot occupancy is the manifestation
3 or it's the specific end describing the general statement.

4 And so, if in a certain situation that didn't work
5 out, then there would be cause to look at the zoning
6 regulations, and maybe change those specific requirements and
7 say, they're no longer meeting our general purposes. That's
8 my --

9 ZC CHAIR HOOD: Okay.

10 MR. SULLIVAN: -- look -- take on it.

11 ZC CHAIR HOOD: And I understand what you're
12 saying. It should be predictable. I agree. it should be -
13 you should know exactly what you're looking at, just like --
14 it goes both ways. You know? As far as being predictable,
15 but anyway, thank you, Mr. Sullivan.

16 MR. SULLIVAN: Mm hmm.

17 BZA CHAIR HILL: Anyone else for the property
18 owner?

19 (No audible response.)

20 BZA CHAIR HILL: Okay.

21 Mr. Stokes, do you have any questions for or
22 cross-exam for the property owner?

23 MR. STOKES: No.

24 BZA CHAIR HILL: Okay.

25 Does DCRA have any cross for the property owner?

1 MS. LORD-SORENSEN: No.

2 BZA CHAIR HILL: Okay. All right.

3 Does the ANC have any cross for the property
4 owner?

5 COMMISSIONER CAMPBELL: I do not, thank you.

6 BZA CHAIR HILL: Okay.

7 All right, Commissioner Campbell, so you've been
8 here a long time, and so you are one of the few people who
9 are not getting paid here today. And so why don't you go
10 ahead and we'll put 30 minutes on the clock for you. And you
11 can begin whenever you like.

12 COMMISSIONER CAMPBELL: Okay, thank you.

13 Mr. Chairman, I can tell you I'm going to use a
14 lot less than 30 minutes in observance of everybody's time.
15 You know, it's -- and I also appreciate your acknowledgment
16 that I am one of the few people here today who is not being
17 paid. But I tell you what, it's a privilege for me to be
18 able to come out.

19 And it's -- in some ways it's a terrible position
20 to be in because, you know, frankly, you know, Mr. Michael
21 Taylor is my constituent, also. And, you know, I feel for
22 that. But my wife and I -- and before I go any further, let
23 me just say that I feel in terms of the substantive issues
24 that the Board can look at, you know, we've got the ANC
25 reports. My colleagues and I deliberated and, you know, we

1 wrote these things up and, you know, you're in a better
2 position to consider the elements of law.

3 You know, I -- just a couple of things that I
4 wanted to mention because, you know, my wife and I have lived
5 in the neighborhood since 1995. We've raised two kids there,
6 you know, who are now 21 and 18. It has always been a single
7 family home neighborhood. You know? I don't have anything
8 against development, but I do have some questions about what
9 happens when you increase density.

10 You know, apparently the theory is that you
11 increase the housing supply and you drive down prices. I
12 haven't seen any evidence of that in Washington, D.C. And
13 what constituted -- and I'm not going to argue that we need
14 housing, but I would put the finer point on it, that what we
15 actually need is affordable housing. And unfortunately, what
16 constitutes affordable housing isn't particularly affordable
17 to people in Washington, D.C.

18 And I talk to a lot of folks. I mean, people who
19 work in neighborhoods that they can no longer afford to live
20 in. And, you know, I mean, I don't expect, you know, this
21 body to, you know, basically litigate that, but, you know,
22 I mean, it's something that, you know, we as elected
23 officials have to look at, as we are boots on the ground,
24 especially at the ANC level. And you're meeting with people,
25 you know, whose lives are directly impacted by some of the

1 decisions that we make and that, you know, other bodies make
2 here in the District of Columbia.

3 So, you know, in terms of that density, and this
4 particular property, and, you know, something else that has
5 been said is, you know, about the distinction in terms of,
6 well, we have to look at 1523 or we have to look at 1521.
7 And, you know, that's going to be for somebody wiser and more
8 learned in the rigs than I. You know?

9 But I just don't see how you can possibly separate
10 these things, especially when we've got this settlement
11 agreement with DCRA, and, you know, I'm looking at that. And
12 I'm, like, okay. I mean, why are we even here? On the one
13 hand, there's this case before the D.C. Court of Appeals, and
14 if they find for the owner, then he's going to go to develop
15 -- I mean, this lot is going to be reintegrated. He's going
16 to develop this seven unit thing that he was looking at three
17 years ago. You know?

18 So we could all be spinning our wheels here for
19 no particular reason. You know? I mean, I -- my -- well,
20 my impression had been, from conversations with counsel over
21 at DCRA, you know, who unfortunately is no longer there, was
22 that this settlement agreement was intended to address a
23 concern that they had about overlapping permits.

24 And yet, the settlement agreement itself reads
25 that, in the event the -- a court of appeals finds for the

1 owner, then within five days, he's supposed to withdraw these
2 other permits. I'm, like, okay. Well -- but nor can he
3 actually begin development on the subdivided lots without
4 withdrawing the Court of Appeals case.

5 So, you know, right now we're kind of splitting
6 the difference here, and, you know, we're all moving forward
7 as if, okay, we're looking at development on the subdivided
8 lots when, you know, none of that may actually happen.

9 In any case, in terms of the density increase, the
10 use of alleys, drain on services, I mean, I -- you know, in
11 this hot weather, I got my electricity that is blinking. You
12 know, I mean, I shudder to think what happens, you know, when
13 you get more places that have been traditionally single
14 family homes that all of a sudden have three, three bedroom
15 units and -- I mean, there's one going up two doors from me
16 over on Upshur Street right now.

17 In any case, it's going to be up to the BZA to
18 determine whether or not the appellate has met the burden of
19 proof in this case. And, you know, I basically have to leave
20 it to you. I mean, you know, the last time that I was before
21 this body, it was -- we didn't give you a whole lot of
22 substance. I think we've given you some substance to look
23 at this time around.

24 And, you know, I'm just grateful to be able to
25 play a part in all of this and, you know, let my -- at least

1 some of my opinions in this case be heard. And that's all
2 that I have. Thank you.

3 BZA CHAIR HILL: All right, Commissioner, thank
4 you. And, yeah, thanks for coming down and spending the time
5 with us. I mean, your constituents, I'm sure are thankful
6 that you're able to do so.

7 Does anybody have any questions for the
8 Commissioner?

9 ZC CHAIR HOOD: Yeah, I just want to ask --

10 BZA CHAIR HILL: Sure.

11 ZC CHAIR HOOD: Was -- I'm looking here at --
12 unfortunately mines was blank on my computer, but I have
13 copies of it now. Was the vote five one and four? Am I
14 reading that right?

15 COMMISSIONER CAMPBELL: Yes, you are.

16 ZC CHAIR HOOD: So four people abstained?

17 COMMISSIONER CAMPBELL: That is correct.

18 ZC CHAIR HOOD: Okay. There was another one.
19 Seven one to two? Okay.

20 COMMISSIONER CAMPBELL: Yes.

21 ZC CHAIR HOOD: All right. Hmm, interesting.
22 Okay.

23 COMMISSIONER CAMPBELL: Isn't it?

24 ZC CHAIR HOOD: Huh?

25 COMMISSIONER CAMPBELL: I said, isn't it?

1 ZC CHAIR HOOD: Yeah, it is. Okay, all right.
2 Thank you.

3 BZA CHAIR HILL: Well, actually, now I'll just
4 follow this up because I am just a little curious. So you
5 got the -- I mean, I understand as the abstention in terms
6 of, like, the technicalities as to -- or, I don't know, why
7 they went to -- you know, four people abstained.

8 But so one guy voted for the project, for -- or,
9 I'm sorry, voted to not join the appeal. One of your
10 commissioners, is that correct?

11 COMMISSIONER CAMPBELL: Yes.

12 BZA CHAIR HILL: And the reason why I'm curious,
13 so I mean, you know, it's seven to one, but I'm just curious,
14 why did the person not want to join the appeal?

15 COMMISSIONER CAMPBELL: Well, Mr. Chairman, I
16 could speculate on that. You know, I did not -- because --

17 BZA CHAIR HILL: You were there. They didn't give
18 you a reason. That's all I'm -- that's okay.

19 COMMISSIONER CAMPBELL: Yeah. And I didn't ask.
20 I mean --

21 BZA CHAIR HILL: Okay.

22 COMMISSIONER CAMPBELL: -- I have my suspicions,
23 but it's all --

24 BZA CHAIR HILL: That's okay.

25 COMMISSIONER CAMPBELL: -- speculation, so --

1 BZA CHAIR HILL: So they just voted. There wasn't
2 a discussion, though. Okay, all right.

3 COMMISSIONER CAMPBELL: No.

4 BZA CHAIR HILL: That's fine.

5 All right, anyone else?

6 (No audible response.)

7 BZA CHAIR HILL: Okay. Does the property owner
8 have any questions for the ANC?

9 MR. SULLIVAN: No, thank you.

10 BZA CHAIR HILL: Okay.

11 Does DCRA have any questions for ANC?

12 MS. LORD-SORENSEN: No.

13 BZA CHAIR HILL: All right.

14 Does the appellant have any questions for ANC?

15 MR. STOKES: No.

16 BZA CHAIR HILL: Okay.

17 Now I'm going to turn to OAG because -- yeah, now
18 I remember.

19 So now there is a conclusion from everybody. I
20 forget now. The end of the appeal, and it's 7:00, or 6:30.
21 I guess everybody can get a conclusion.

22 (Off mic comment)

23 BZA CHAIR HILL: You need a -- sorry?

24 MS. LOVICK: Excuse me. So there's a rebuttal
25 that can happen now from the appellant.

1 BZA CHAIR HILL: Right.

2 MS. LOVICK: And then rebuttal evidence from the
3 other parties. And then you would go to the closing
4 arguments.

5 BZA CHAIR HILL: Okay.

6 So, Mr. Stokes, so do you have any rebuttal in
7 terms of any of the testimony that's been given?

8 MR. STOKES: I would just like to say that, again,
9 I don't think, necessarily, that this is a case -- I think
10 this is a wide, broad, scope. I respect the zoning
11 administrator's work to really just look at some of the
12 zoning code regulations. I appreciate the fact that the BZA
13 has the opportunity to expand on --

14 BZA CHAIR HILL: Mr. Stokes, I'm just going to --
15 I want you to have the last word, so if you -- are you kind
16 of giving a conclusion right now?

17 MR. STOKES: Oh, do I get another statement after
18 --

19 BZA CHAIR HILL: I'm just giving a conclusion.
20 You don't have any rebuttal? Rebuttal, meaning, like -- I
21 don't know what the hell's --

22 VICE CHAIRPERSON HART: Rebuttal's basically
23 somebody says something, and you want to say, no, that -- you
24 know, this is what they, you know --

25 MR. STOKES: Oh, just one last --

1 VICE CHAIRPERSON HART: If you give --

2 MR. STOKES: Just one --

3 BZA CHAIR HILL: If you -- do you have any
4 rebuttal from any of the other people that provided
5 testimony?

6 MR. STOKES: The only thing I have to say is that
7 I definitely don't think this is arbitrary and capricious.

8 BZA CHAIR HILL: Okay, and I --

9 MR. STOKES: That's the only thing I have.

10 BZA CHAIR HILL: -- thought I -- now, the
11 Chairman's over here saying I've already done rebuttal, so
12 I -- so I'm still going to go through this.

13 So I'm going to read -- see -- tell me again?

14 MS. LOVICK: You've allowed everybody to have an
15 opportunity to cross, but now they could have an opportunity
16 to make rebuttal statements if they have rebuttal that they'd
17 like to make. Then closing statements.

18 BZA CHAIR HILL: Okay, okay. DCRA, do you have
19 any rebuttal statements?

20 ZC CHAIR HOOD: Can I just add something?

21 BZA CHAIR HILL: Sure.

22 ZC CHAIR HOOD: But they still get a -- anytime
23 you do rebuttal, they still get a chance to cross on that
24 rebuttal. Yeah.

25 MS. LOVICK: Yes.

1 ZC CHAIR HOOD: And then the closing.

2 MS. LOVICK: Yeah, yes. I think that's correct.

3 ZC CHAIR HOOD: I just want to make sure just
4 because --

5 MS. LOVICK: I'm sorry, I wasn't -- I didn't
6 understand what you were clarifying.

7 ZC CHAIR HOOD: Yeah, okay.

8 MS. LOVICK: Okay, I left that out. It doesn't --

9 COMMISSIONER CAMPBELL: One quick question. We
10 actually have some neighbors who have been here all day. Are
11 they going to get the opportunity to speak?

12 BZA CHAIR HILL: Do we take testimony from the
13 public?

14 PARTICIPANT: You did last time.

15 BZA CHAIR HILL: Oh, that's okay. That last --
16 well, last time we -- now I love how we're doing this.

17 MS. LOVICK: I don't believe so.

18 BZA CHAIR HILL: Right, so --

19 MS. LOVICK: Yeah, it would be something that's
20 with your --

21 BZA CHAIR HILL: -- so what --

22 MS. LOVICK: -- discretion.

23 BZA CHAIR HILL: That's okay, that's okay. So
24 during an application for a permit, there is -- during an
25 application for a permit -- not an application for a permit.

1 During an application for a special exception or variances,
2 there's public testimony. During an appeal, the appellant
3 would have called for witnesses during their portion of the
4 case, thank you. And so during their presentation. So --
5 and normally, I guess, witnesses are listed previously, and
6 ahead of time. However, if people are here that you'd like
7 to have come forward to testify as witnesses, then I would
8 think the Board would go ahead and give them three minutes
9 each, as we normally do to the public, unless the -- unless
10 there's a strong objection from anyone from DCRA or the
11 building owners.

12 MR. SULLIVAN: I would just ask them to restrict
13 it to their zoning expertise because this is a legal issue.
14 It's not about impacts. They're going to come up here and
15 talk about the impact --

16 BZA CHAIR HILL: Okay, well --

17 MR. SULLIVAN: -- which is not --

18 BZA CHAIR HILL: You're making that -- so well --
19 understood, understood. DCRA?

20 MS. LORD-SORENSEN: I'll defer to the Board.

21 BZA CHAIR HILL: Okay, all right.

22 So Mr. Stokes, so you're -- I would assume you're
23 going to have these people come forward and speak as
24 witnesses?

25 (Off mic comment)

1 BZA CHAIR HILL: That's okay. You don't -- you
2 have to talk into the microphone, sir. And also, you've been
3 here all day, so just give me a second here to kind of
4 process this. We're not unreasonable people here, so -- is
5 there anyone else who'd like to come forward as a witness?

6 (No audible response.)

7 BZA CHAIR HILL: Okay, all right.

8 PARTICIPANT: Have they been sworn in?

9 BZA CHAIR HILL: So, they -- now I do believe they
10 were sworn in, but thanks, I'll ask.

11 I assume you guys did get sworn in or no?

12 (No audible response.)

13 BZA CHAIR HILL: Okay, all right, that's fine.

14 So, Mr. Moy, if you could just -- sir, if you
15 could just stand, if you wouldn't mind, and then Mr. Moy's
16 going to give the oath, thank you.

17 MR. MOY: Yes. Do you solemnly swear or affirm
18 that the testimony you're about to present at this proceeding
19 is the truth, the whole truth, and nothing but the truth?

20 (No audible response.)

21 MR. MOY: Thank you. You may be seated.

22 BZA CHAIR HILL: Okay. If you could state your
23 names, please, for the record.

24 MS. KING: Hi, my name is Susie King, and I reside
25 at 1501 Varnum Street Northwest. I've been there for 24

1 years.

2 BZA CHAIR HILL: King?

3 MS. KING: King, K-I-N-G.

4 BZA CHAIR HILL: Okay, all right.

5 MS. KING: Yes, and I know that Mr. Solomon talked

6 about --

7 BZA CHAIR HILL: Well, it's okay, ma'am. Just one

8 second.

9 MS. KING: Okay.

10 BZA CHAIR HILL: And, sir, what's your name?

11 MR. SMITH: Charles --

12 BZA CHAIR HILL: If you could just push the
13 microphone button.

14 MR. SMITH: Thank you. Charles Smith, 4320 15th
15 Street Northwest.

16 BZA CHAIR HILL: Okay. So, Ms. King, and Mr.
17 Smith, I'm going to give you each -- well, normally what
18 happens, I guess, is the appellant might provide -- ask you
19 questions or you would testify in some kind of manner, right?
20 I'm going to go ahead and just put three minutes on the clock
21 just so you can go ahead and give us testimony because you've
22 been here all day.

23 And as far as your zoning expertise, that's okay.
24 You can -- I just -- I want to hear three minutes on whatever
25 you know. You can talk about the zoning. Just go ahead and

1 give me your three minutes. Okay? And ma'am, you can start
2 right now. Okay?

3 MS. KING: Yes. As I said, I'm not a zoning
4 expert, but I've been involved with this since 2015. I live
5 within the 200 yards of 1520 -- 1521 and the proposed 1523.
6 And I can only speak about impact as a resident, and how
7 currently our neighborhood is situated with the homes.

8 And the new structure that's proposed, it's going
9 to definitely have an impact on our parking. It's going to
10 have an impact on the structure and the character of our
11 neighborhood. And it's going to overall change how we look
12 as a community.

13 And it's easy for someone to sit and say they're
14 going to do this, but they don't live in the neighborhood.
15 I don't know what's going on in their neighborhood, but it
16 definitely -- our homes were built in 1924. Our homes are
17 considered to be Wardman homes. We are a tight community,
18 and it will have great impact on, as I said, the
19 neighborhood, the community, the parking, the density, and
20 the overall character of our neighborhood.

21 If you -- once you put that structure up and
22 you're on 16th Street, entering on Varnum, that's all you're
23 going to see is the 1523.

24 Now I also heard, just about 1521, that it's not
25 going to be that large. There are no three stories on the

1 current of 1500 block of Varnum Street. It is going to be
2 a change. The neighbors have never been asked or approached
3 about our feelings about the structures going up. So I guess
4 I have very great concerns, and I've been involved since the
5 very beginning in trying to follow this.

6 Now, I'm not an expert on DCRA or zoning, but I
7 have lived there for 24 years, and hope to have 24 years
8 there. Thank you for your attendance and time.

9 BZA CHAIR HILL: Thank you, Ms. King.

10 Mr. Smith?

11 MR. SMITH: Yes, thank you.

12 Like Susie, I've lived in my house --

13 BZA CHAIR HILL: You're going to lean forward just
14 a little bit into the microphone. Thank you, Mr. Smith.

15 MR. SMITH: I've lived in my house for 30 years,
16 paid off the mortgage. And I can tell you that nothing like
17 this proposal has ever been approached in our neighborhood.
18 And, as Susie said, this will absolutely change the character
19 of our community, and also what we see when we go up and down
20 the street, when I go out to empty my garbage, when I go to
21 bring the cat in from the back. I'm going to see two
22 towering buildings that don't look like anything else in the
23 neighborhood. Why?

24 Why is that necessary? It just is jarring to even
25 consider how big a change that's going to be for everyone who

1 lives inside of that -- those two new buildings that have
2 nothing to do with anything else in the neighborhood. That's
3 it. Thank you.

4 BZA CHAIR HILL: Okay, thank you, Mr. Smith.

5 Does the Board have any questions for Ms. King or
6 Mr. Smith?

7 (No audible response.)

8 BZA CHAIR HILL: Okay. All right. Well, thank
9 you.

10 Oh, hold on, sorry.

11 Mr. Sullivan, do you have any questions for Ms.
12 King or Mr. Smith?

13 MR. SULLIVAN: No, thank you.

14 BZA CHAIR HILL: Okay.

15 Does DCRA have any questions?

16 MS. LORD-SORENSEN: No.

17 BZA CHAIR HILL: Okay.

18 Mr. Stokes, do you have any questions?

19 MR. STOKES: No.

20 BZA CHAIR HILL: Okay.

21 Mr. Campbell?

22 COMMISSIONER CAMPBELL: I do not, thank you.

23 BZA CHAIR HILL: Okay.

24 You guys, thanks for staying here all day. And
25 thanks so much.

1 All right, so I'm just going to go with the
2 conclusions now. Mr. Sullivan, do you have anything you'd
3 like to add in conclusion?

4 MR. SULLIVAN: No, thank you.

5 BZA CHAIR HILL: Okay.

6 DCRA?

7 MS. LORD-SORENSEN: In sum, the proposed plans are
8 governed by the 1958 zoning regulations. The zoning
9 administrator testified, under oath, that the proposed plans
10 comply with the 1958 zoning regulations, so we ask that the
11 Board uphold the zoning administrator's decision to issue the
12 building permit for 1523 Varnum Street Northwest.

13 BZA CHAIR HILL: Okay.

14 Mr. Campbell, you got anything you'd like to --
15 I'm sorry. Yeah, Mr. Campbell, do you have -- Commissioner
16 Campbell, do you have anything you'd like to add in
17 conclusion?

18 COMMISSIONER CAMPBELL: I do not, but thank you
19 for the opportunity. I just feel like with the lateness of
20 the hour -- I mean, I could always talk you put a mic in
21 front of me. I think everything substantive has been said.

22 BZA CHAIR HILL: Okay, great.

23 Mr. Stokes?

24 MR. STOKES: This is a case of zoning. I think
25 we've heard the zoning. We are before the BZA. The BZA has

1 the power and the authority to take what was done at zoning,
2 expand upon that, and make a ruling based upon your decisions
3 about this particular case. That is your right. That is
4 your power. I'm asking that you exercise your power, as the
5 BZA, to not just have to look at just code 101.2 and this is
6 how it's going to be built and this is -- we ask you to
7 expound upon that and utilize the powers that you have.
8 Because if not, why are we here with you, asking for this?
9 Thank you.

10 BZA CHAIR HILL: Okay, thank you.

11 All right. I don't know if the Board needs
12 anything, or if the Board is ready to deliberate now. Why
13 don't you take a little bit of time to kind of, like, digest
14 some of this. I suppose I'd like a little bit of time to
15 digest some of this. I am going to make a couple of
16 statements, I suppose, before I do that, but I don't have
17 anything specific I think I need.

18 I want -- I'm going to go back and kind of look
19 at 405.6 a little bit more, 405.9 a little bit more.

20 But, does anybody need anything?

21 VICE CHAIRPERSON HART: No, I don't think I need
22 any additional information, but this was a lot of information
23 to take in, and I think I'm still kind of mulling it. And
24 I'm not sure how long that's going to take to mull, but I
25 think it would be hard for me to make a decision today on it.

1 I'd -- I'm -- like I said, it's just a lot of information to
2 kind of take in and then be able to say, well, what do I
3 think about what -- the testimony that has been presented.

4 I don't know how the other Board members feel, but
5 -- besides the Chairman, but that's where I am.

6 BZA CHAIR HILL: Okay.

7 Ms. John?

8 MS. JOHN: Well, Mr. Chairman, I think I have
9 enough information to make a decision, but I'm fine with
10 whatever the rest of the Board decides.

11 BZA CHAIR HILL: Okay.

12 Chairman Hood?

13 ZC CHAIR HOOD: Yeah, I don't think I need
14 anything additional. I'd like to -- I don't like to use the
15 word mull, but I'd like to digest a little bit of this and
16 bring some other things in place, and kind of figure out some
17 of the things that have been handed to, at least us, by the
18 BCCA. And I know that's not necessarily germane in this
19 case, but I want to see how far in my jurisdiction, which is
20 now, I guess, going to become case law.

21 So I'd just like to take my time and try to get
22 this one right.

23 BZA CHAIR HILL: Okay. All right. Then, I want
24 to talk just a little bit since -- and you all can join in
25 with me, since there's a lot of people here that came, and

1 they don't necessarily have to come back for the decision
2 process or what we're going to do, but I'm kind of -- I mean,
3 what we're charged with, again, is whether or not the zoning
4 administrator has erred in issuing the building permit for
5 this particular project. Okay?

6 And so I'm going to go back and I'm going to look
7 again, what those regulations were that -- whether or not
8 this is something that was done correctly by the zoning
9 administrator. And I suppose -- and I don't mean this in any
10 kind of a judgmental way in terms of kind of the applicant
11 and the property owner, I mean, the way this has kind of
12 progressed, I mean, I think it makes sense in terms of how
13 the property owner's kind of gotten here.

14 I mean, there was, you know, a seven unit project
15 at one point, and then you know, the lots. And then --
16 again, I'm going to go back and probably look at, you know,
17 the subdivision and how that kind of works out, right? And
18 so how subdivisions work out. And then so that seven units,
19 you know, the person -- property owners bought something.
20 They thought they could do something with it, and now that
21 is tied up in, you know, the courts. Right?

22 So this -- I'm going to just expand a little bit,
23 and please, again, everyone say what you think afterwards,
24 but you know, next week we're here to have a decision on the
25 property next door. And that property also was done within

1 the regulations, as they were put forth. I mean, so again,
2 it was, like, three units. They did a conversion, right?

3 And so you've got the three units on the front,
4 the -- there's the other now subdivided property that's going
5 to have another possible building on it that has two units
6 as a matter of rights. So you're going to get five units
7 versus the seven units that you're eventually going to have.

8 And I don't think that, again, that there's, you
9 know -- I don't -- I think it's a clever way -- I don't know
10 if clever's the right word. Just so, like, you know, you're
11 doing what you can do within the regulations and the rights
12 that you might have. Before you know, we're going to go back
13 and look and see whether or not, again, the zoning
14 administrator erred, but I guess I'm still kind of -- the
15 story, I think, is clear. You know?

16 Like there is a story to be told. There's
17 something that happened. If that's what within is the rights
18 of property owners and with -- that are within the
19 regulations, then that's just the way it is. You know? And
20 so -- but I guess I'm kind of saying all that out loud
21 because I know how we got here and why we're here. And
22 whether or not one agrees with it or not, there are
23 regulations as to why we're here.

24 And so -- but -- yeah. So, okay, so anybody got
25 anything they'd like to add?

1 VICE CHAIRPERSON HART: Just only that as I'm
2 looking through the case, the reason that I was talking about
3 mulling, I guess, it was really -- when you're reading
4 through the exhibits that are in the case file, you read
5 through it and you understand what that is. You also get a
6 little bit more information through the testimony that we
7 hear, and so it's hard sometimes to -- okay, so I heard this.
8 Where is that in the case file so that I could actually
9 understand, okay, this is how these things -- these are --
10 this is how these things fit together.

11 So I think that that's really what I'm trying to
12 get to is being able to look at the case file, listen to the
13 testimony again. These things are Webcast, so we get to hear
14 it as many times as you want. And I think that that's what
15 I'm -- I need to do a little bit to kind of get to a point
16 that I could actually make a decision on it.

17 And I think that we, quite frankly, just owe it
18 to you -- to the folks here to be able to do that so that we
19 understand, these are -- this is what has been presented to
20 us, and this is how we've -- this is how we come down on it.

21 And the reason that I bring that up is that, while
22 there are a lot of -- while there are various aspects of
23 this, there are some things that are somewhat extraneous in
24 that sifting through the extraneous pieces, and then the
25 pieces that are actually relevant, that's the aspect of this

1 that I want to make sure that we're -- we -- we're correctly,
2 kind of, coming down on it. So -- or at least I'm correctly
3 coming down on it as I'm looking through it.

4 So that's kind of why I needed a little bit more
5 time to be able to understand all of the pieces, listening
6 to the testimony that we've heard today, and then being able
7 to make a decision based on that.

8 BZA CHAIR HILL: Yeah, Vice Chair, I've a date and
9 time. There's no -- I wasn't mentioning anything about time.
10 I think that, you know, there's a lot of information to take
11 a look at. So -- but --

12 Anyone else?

13 (No audible response.)

14 BZA CHAIR HILL: So Mr. Hood, when are you back
15 with us again?

16 ZC CHAIR HOOD: I'm back September the 26th.

17 BZA CHAIR HILL: September the 26th.

18 ZC CHAIR HOOD: 26th.

19 BZA CHAIR HILL: So how does that work now?

20 ZC CHAIR HOOD: Works well for me.

21 BZA CHAIR HILL: So September 26th. Right,
22 September 26th. So I guess -- okay. Then I guess we'd be
23 back -- so you'll come back here and deliberate with us on
24 September 26th.

25 I am going to ask Mr. Sullivan, since I don't

1 really know how you're going to get it earlier than this, but
2 I mean -- because you already have the other thing going on
3 next door, meaning the other property that you're with us for
4 again next week. Then there's an appeal outstanding already,
5 so probably September 26th is still going to be okay, I
6 suppose. Correct?

7 MR. SULLIVAN: Sure. Yeah. It's not ideal, just
8 because it has a cloud over until then, but whatever --

9 BZA CHAIR HILL: Right, well --

10 MR. SULLIVAN: -- whatever the Board requires.

11 BZA CHAIR HILL: -- I can't figure out any way to
12 get it here any earlier. So, all right, then September 26th
13 with Chairman Hood for a decision.

14 Okay? All right. So do we have anything else?

15 Okay. Okay, you guys, thank you so much. And
16 congratulations on a very long day.

17 And, Mr. Moy, do we have anything else before the
18 Board?

19 MR. MOY: Not from this staff, sir.

20 BZA CHAIR HILL: Okay, great. Thank you.

21 We stand adjourned.

22 (Whereupon, the above-entitled matter went off the
23 record at 6:44 p.m.)

24

25

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC BZA

Date: 07-18-18

Place: Washington, DC

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