

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

FEBRUARY 27, 2019

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBERS PRESENT:

ROBERT MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MAXIMILIAN TONDRO, ESQ.
HILLARY LOVICK, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN
ELISA VITALE
JONATHAN KIRSCHENBAUM
KAREN THOMAS
MAXINE BROWN-ROBERTS

The transcript constitutes the minutes from the
Public Hearing held on February 27, 2019.

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10:10 a.m.

CHAIRPERSON HILL: All right, Commissioner Miller, welcome. And Mr. Moy, whenever you're ready.

MR. MOY: Okay, thank you, Mr. Chairman. So we've moved into the public hearing session of today's docket.

And the first case before the board is application number 19927 of Catholic Charities of the Archdiocese of Washington, Inc., pursuant to 11 DCMR Subtitle X Chapter 10.

This is a request for special exception under Subtitle U Section 203.1(p) to construct a solar array in the R-1-B zone. This is at 2800 Otis Street NE, square -- it's parcel, but PAR 167, lots 67 and 88.

As you're aware, Mr. Chairman, there's preliminary matters in this instance. One is for the board to address is a party status request in opposition from Joyce Chandler under exhibit 33 and 33A as well as a request for a postponement from ANC 5C under exhibit 36.

CHAIRPERSON HILL: Okay, great. Can everybody come forward, please, if you don't mind. Okay, good morning. If you could please introduce yourselves for the board from my left to right.

Just push the button right there and you can just give your name and address.

MS. CHANDLER: Joyce Chandler at 2870 Perry Street

1 NE, Washington, D.C., 20018.

2 CHAIRPERSON HILL: Okay. Thanks, Ms. Chandler.

3 MS. BATTIES: Good morning. Leila Batties with
4 the law firm of Holland & Knight on behalf of the applicant
5 Catholic Charities.

6 CHAIRPERSON HILL: Okay. So there's a couple of
7 things that are in front of us right now. Again, we have a
8 party status request from Ms. Chandler. And then we also
9 have a postponement request from the ANC.

10 So first let's do the party status request. So
11 Ms. Chandler, could you tell us again about your request for
12 party status and in particular again how you're more
13 significantly, distinctly, or uniquely affected by this
14 project.

15 MS. CHANDLER: My residence, my home is a long lot
16 and it is like 214 feet that's bordering the property and the
17 changes they're going to make.

18 The way that the field or the panel is going to
19 be sited, it is going to be next to -- that's my whole view,
20 that 200 feet of mine is going to be overlooking it.

21 And also because of the way the property is it's
22 like 15 acres on a hill. On top of the hill there is a
23 pervious surface because that's the building and there's
24 asphalt.

25 And because of the rain, when the rain water comes

1 down it comes -- I get hit by it first. And it also goes
2 down the hill to Eastern Avenue and it floods that area
3 whenever there's any rain or water incidents.

4 Because as a pedestrian I walk, I take the buses,
5 that area --

6 CHAIRPERSON HILL: Ms. Chandler, I'm sorry, I
7 didn't mean to interrupt you. Just in terms of us getting
8 to the case I think that you are the immediate next door
9 neighbor?

10 MS. CHANDLER: Yes.

11 CHAIRPERSON HILL: Okay. All right. Does the
12 board have any questions for Ms. Chandler? No? Okay.

13 Ms. Batties, is the applicant opposed to this
14 party status request?

15 MS. BATTIES: No.

16 CHAIRPERSON HILL: Okay. So Ms. Chandler, I think
17 you're significantly -- you are meeting the criteria as
18 you're the immediate next door neighbor, adjoining neighbor
19 to the property. So we're going to go ahead and grant party
20 status for you. Okay.

21 MS. CHANDLER: Thank you.

22 CHAIRPERSON HILL: You're welcome. And I can
23 explain what that means in a little bit. And then Ms.
24 Batties, in terms of the ANC request for postponement do you
25 have any comments?

1 MS. BATTIES: No. We have no objection to their
2 request.

3 CHAIRPERSON HILL: Okay. Well, I wish we could
4 have done this a little bit ahead of time, earlier, but just
5 the way the whole thing went down.

6 So we are going to postpone this so that the
7 applicant can work with the ANC. And then also, Ms.
8 Chandler, maybe you can get the number from the applicant and
9 see if you can kind of address your concerns as well since
10 there's a little bit more time here. Ms. Batties, you had
11 a question?

12 MS. BATTIES: I just wanted to know the next
13 available hearing date.

14 CHAIRPERSON HILL: Yes, I'm going to ask Mr. Moy.
15 Mr. Moy, the ANC is requesting until after their meeting,
16 correct?

17 MR. MOY: I'm sorry.

18 CHAIRPERSON HILL: I'm trying to figure out when
19 we can get back here again.

20 MR. MOY: Okay. My understanding is I believe
21 there was -- I can't remember from whom, but I think there
22 was a tentative request for March 27 I think. That's a heavy
23 docket for the board.

24 We have appeal cases for either the 27th of March
25 or April 3. But I think of the two dates I think the 3rd

1 would be more convenient for the board.

2 CHAIRPERSON HILL: Okay. Is there an appeal on
3 the 3rd as well?

4 MR. MOY: There is.

5 CHAIRPERSON HILL: Okay. So what is there after?
6 I'm not saying we're going to push it out past the 3rd but
7 I'm just trying to see where we are after the 3rd.

8 MR. MOY: April 10 we have nine applications but
9 no appeals. So that's an option.

10 CHAIRPERSON HILL: Okay. So would April 10 work
11 for your client? Sure.

12 MS. BATTIES: April 10 works for us.

13 CHAIRPERSON HILL: Okay, great. Perfect. Well,
14 we appreciate that because it's a very heavy day the other
15 days as well.

16 Ms. Chandler, does that day work for you? Can you
17 speak into the microphone?

18 MS. CHANDLER: Yes, that day works for me.

19 CHAIRPERSON HILL: Okay, great. So obviously if
20 you want to just get some information from each other then
21 we'll see you on April 10.

22 MS. CHANDLER: All right.

23 CHAIRPERSON HILL: Okay, thank you.

24 MS. BATTIES: I'm sorry, Chairman Hill.

25 CHAIRPERSON HILL: Sure.

1 MS. BATTIES: The applicant has a conflict on the
2 10th. Can we see the next available hearing date?

3 CHAIRPERSON HILL: Ms. Chandler, you want to come
4 back up here again?

5 MR. MOY: The next available date would be the
6 17th of April and that's very good for the board.

7 CHAIRPERSON HILL: We push it out till June I bet
8 it's really good for the board.

9 MS. BATTIES: Okay, April 17.

10 CHAIRPERSON HILL: Ms. Chandler, does that work
11 for you?

12 MS. CHANDLER: Yes, the 17th --

13 CHAIRPERSON HILL: Okay, great.

14 MS. CHANDLER: Thank you.

15 MR. MOY: Okay, Mr. Chairman, next up before the
16 board is application number 19913 of 57th Street Mews, Inc.

17 This is a request for special exception under the
18 inclusionary zoning lot dimension requirements Subtitle E
19 Section 201.1. This would subdivide the existing lot and
20 construct three new attached flats in the RF-1 zone.

21 This is at premises 1511-1515 A Street NE, square
22 1070, lot 94.

23 The preliminary matter here, Mr. Chairman, is that
24 there's a request for a postponement from ANC 6E and that is
25 under exhibit 48.

1 CHAIRPERSON HILL: Okay, great. If you could
2 please introduce yourselves for the record.

3 MR. BELLO: Toye Bello representing the applicant.

4 MR. ALI: Ramy Ali, RAM Design, the project
5 architect.

6 MR. ALCORN: And Brian Alcorn representing ANC 6A.

7 CHAIRPERSON HILL: Hey, Commissioner Alcorn, how
8 are you?

9 MR. ALCORN: Very well, thank you.

10 CHAIRPERSON HILL: Good. All right. So, Mr.
11 Bello as you know we've had a request now for a postponement.
12 Do you have any comment on this?

13 MR. BELLO: Yes, sir. We --

14 CHAIRPERSON HILL: Could you all do me a favor?
15 Could you just turn off your microphones? If there's more
16 than one we get feedback.

17 MR. BELLO: Well, we object to the request for
18 continuance. One, because the first continuance was at the
19 behest of the ANC.

20 And two, there's certain conditions that the ANC
21 wants to consider. Most of those we've satisfied already.

22 And finally, some one or two are not relevant to
23 the zoning case before you.

24 CHAIRPERSON HILL: All right. Commissioner, can
25 you tell us a little bit why you'd like to postpone?

1 MR. ALCORN: Certainly. Thank you, Mr. Chairman.
2 The applicant or rather Mr. Ali appeared at ANC 6A's February
3 14 meeting and among other things agreed to seek a
4 postponement so he could keep working toward getting the
5 ANC's support of his application.

6 He had told us that it was very important to him
7 to have the ANC 6A's support.

8 On January 16, 2019 our economic development and
9 zoning committee had asked the applicant to do a number of
10 things as a preliminary condition before ANC 6A's
11 commissioners could consider supporting the request for the
12 special exception.

13 On the occasion of our ANC meeting on February 14
14 the applicant's request was on the agenda and he appeared but
15 couldn't demonstrate substantial progress toward those
16 preliminary items that had been requested by the economic
17 development and zoning committee.

18 Therefore ANC 6A commissioners had asked the
19 applicant, or rather Mr. Ali to agree to postpone this BZA
20 hearing so he could complete those preliminary items
21 requested and then return to the next 6A meeting on March 15
22 to demonstrate that he had successfully completed those
23 requested tasks and at that time the ANC could review Mr. Ali
24 and the applicant's request for a letter of support.

25 CHAIRPERSON HILL: Okay, Commissioner. I'm sorry,

1 I was just noticing the most recent letter that you sent, the
2 one that's dated I guess today, I got this -- Mr. Moy, is
3 this already in the record? Yes? Okay. Okay, great, it's
4 in the record.

5 So, does anyone -- oh yes. So Commissioner, when
6 would they get back before you again?

7 MR. ALCORN: Sure. Our next meeting is March 14
8 so next month. We did inform Mr. Ali of that date when we
9 were speaking with him at our last meeting.

10 CHAIRPERSON HILL: Okay. And then -- I'm sorry,
11 March what? What did you say?

12 MR. ALCORN: March 14.

13 CHAIRPERSON HILL: March 14. Okay. Does the
14 board have any questions for the commissioner?

15 MEMBER WHITE: I guess I just wanted some
16 clarification because it seems -- Mr. Bello's statement seems
17 to contradict a little bit in terms of the fact that he
18 indicated that information was already provided.

19 So I was just trying to understand exactly what
20 you're looking for.

21 MR. ALCORN: Certainly. Thank you. In response
22 to Mr. Bello's comment that the first continuance was at the
23 behest of the ANC that is incorrect.

24 We had pointed out to Mr. Ali that the ANC's
25 February 14 meeting would fall one day after the scheduled

1 BZA hearing that they had previously had. The decision to
2 postpone the prior scheduled date for this matter was simply
3 at the decision of the applicant.

4 And then as for the items that had been requested
5 by our economic development and zoning committee and adopted
6 by our ANC it was our expectation that when Mr. Ali showed
7 at our February 14, 2019 ANC regularly scheduled meeting he
8 would be able at that time to demonstrate substantial
9 progress and achievement on the items that the economic
10 development and zoning committee had asked.

11 That was not demonstrated at the time. I will
12 acknowledge that in the interim there has been progress
13 toward those items.

14 However, the ANC presently and you will see it in
15 the case file has a letter with unanimous support from the
16 commissioners, one asking for the continuance understanding
17 that the applicant and Mr. Ali were in concurrence with that
18 request and two, for the interim period of time between our
19 last meeting on February 14 and the upcoming meeting on
20 February 13 -- sorry, March 14 that the ANC was in opposition
21 to this request, this application until that time when they
22 could reconvene and reconsider the progress that the
23 applicant had made.

24 CHAIRPERSON HILL: Okay. All right. Well, let's
25 talk here with the board just real quick.

1 I mean, I'm -- since this was something that was
2 part of an appeal at one point and that it sounds as though
3 they are getting closer to a decision one way or the other
4 in terms of the ANC I'd be in favor of the postponement. So,
5 what does the board have to say?

6 VICE CHAIR HART: Seeing that -- I was just
7 looking at the record while Commissioner Alcorn was talking
8 to understand kind of the process. Sometimes I remember
9 these a little easier than others.

10 But I did find that the first postponement was
11 exhibit 29. It was made by the applicant for the February
12 13, 2019 public hearing. And it was because they did want
13 to have a further conversation with the ANC. So I appreciate
14 that clarification.

15 I think that we would -- I would prefer to have
16 the ANC weigh in on this. And I don't know, maybe make it
17 far enough in advance so that we can have that -- be sure to
18 have some response from the ANC.

19 Commissioner Alcorn, you're saying that you would
20 be able to have something fairly shortly after your meeting
21 in March?

22 MR. ALCORN: I believe that to be true, yes. We
23 had intended to have this matter on our March agenda. And
24 as is presumably practiced with most ANCs once a vote is
25 taken and once that vote is memorialized in a letter that can

1 be immediately dispatched to the relevant agency.

2 VICE CHAIR HART: Okay. And so I would be -- I
3 appreciate that. I would be in favor of a postponement to
4 ensure that we have this information from the ANC.

5 CHAIRPERSON HILL: Okay. Anyone else?

6 MEMBER WHITE: Mr. Chair, I would be in favor of
7 it, but I just want to make sure that there's no disconnect
8 between the parties in terms of what the ANC is actually
9 looking for. So I think it would be a good opportunity for
10 them to begin having discussions now so that they're ready
11 to go when that ANC meeting starts so that they have
12 everything that they need in order to submit a timely report
13 into the record. So I would support it as well.

14 COMMISSIONER MILLER: I concur with my colleagues.

15 MEMBER JOHN: I concur.

16 CHAIRPERSON HILL: Okay.

17 MR. ALI: Can I have just one request?

18 CHAIRPERSON HILL: Sure.

19 MR. ALI: Prior to me attending the first ANC we
20 have over 10 attempts in trying to reach the neighbors. We
21 also requested from the ANC themselves to get some help from
22 them in order to organize a meeting with the neighbors.

23 Up till today nobody was able to get hold of the
24 neighbors so that we can get support letters. And I believe
25 this is the main item on that list, that even it's going to

1 be postponed, I'm not going to be able to get that letter of
2 support if I'm not going to be able to meet with those
3 neighbors.

4 Even -- their next door neighbors cannot get reach
5 of them. ANC I believe has tried to organize meetings and
6 they can't get hold of that neighbor.

7 So even if we postpone that hearing if I'm not
8 going to get help from the ANC to organize such a meeting
9 with the neighbors I'm not going to be able to meet that
10 point.

11 CHAIRPERSON HILL: Right. Well, as far as like
12 help I'm sure the ANC is happy to give you whatever help they
13 can give you. If they can't get in contact with people, they
14 can't get in contact with the people either.

15 The thing is we don't have a vote one way or the
16 other right now. And so at least we're going to get
17 something.

18 So you said it again was March?

19 MR. ALCORN: Our next meeting is March 14.

20 CHAIRPERSON HILL: So March 14. So March 14
21 you're going to put him on the agenda for March 14. You guys
22 are going to have a vote, correct? That's the plan.

23 MR. ALCORN: That is the plan.

24 CHAIRPERSON HILL: Okay. So we're going to get
25 a vote. And then you'll be back here with a yes or a no and

1 then we can just move forward. Okay? All right.

2 So, if you can help them get whatever it is that
3 you guys need to do. You're here and so go ahead and try to
4 work it out. It sounds like, Mr. Ali, it sounds like they're
5 kind of wanting to help you, so I would try to stay nice and
6 just hopefully that works out.

7 Mr. Moy, so after the 14th what days?

8 MR. MOY: Mr. Chairman, I would suggest one of two
9 dates accommodate your schedule the best. The first one
10 would be March 27 though we do have an appeal on that day.
11 But I haven't had a chance to review that appeal as to how
12 complicated that might be.

13 Other than that then I would suggest April 10.
14 There's no appeals on that day. We have 10 cases. This
15 would be the 10th one.

16 CHAIRPERSON HILL: All right. So March 27 would
17 be the soonest we could get back here. And you all will have
18 -- Commissioner, you think you can get us something back by
19 the 27th?

20 MR. ALCORN: March 27, yes.

21 CHAIRPERSON HILL: Okay. All right. Then if the
22 board's okay and I know we're just weighing down a heavier
23 load. Hopefully maybe the ANC will love this project and it
24 won't be as lengthy a case.

25 Nonetheless we're going to do our best which is

1 put you on the 27th. Okay? Does that work for you?

2 MR. BELLO: That's fine, Mr. Chairman.

3 CHAIRPERSON HILL: Okay. All right, good. Mr.
4 Moy, we'll postpone till the 27th?

5 MR. MOY: March 27, that's good.

6 CHAIRPERSON HILL: Okay, great.

7 VICE CHAIR HART: I just want to add if we could
8 have -- Commissioner Alcorn, if we could have anything from
9 the ANC something would be helpful. If you decide that you
10 couldn't take a vote for this reason then give us that
11 reason.

12 If you decided that you took the vote and the vote
13 was tied we'd like that too. We're just looking for some
14 input from the ANC on it and it would be helpful for us to
15 understand where your thinking is on it.

16 If you like portions of it, don't like portions
17 of it, that's what we're looking for. It's that type of
18 information that we're trying to -- that we'd prefer to have
19 so that we can weigh that with this case. That's it, thanks.

20 CHAIRPERSON HILL: Okay, great. Okay, thank you,
21 gentlemen. Mr. Ali, if you wouldn't mind turning off that
22 microphone. I'm sorry. Thank you.

23 MR. MOY: All right, Mr. Chairman, the next case
24 application before the board is number 19911 of LaTrell
25 Duncan-Fitchett, F-I-T-C-H-E-T-T.

1 This is a request for a special exception under
2 the home occupation uses requirements of Subtitle U Section
3 251.1(b)(3) and 251.6 to expand an existing child development
4 home from 9 to 12 children in the R-2 zone.

5 This is at 508 60th Street NE, square 5259, lot
6 809.

7 Mr. Chairman, there's a preliminary matter where
8 the ANC 7C is requesting a postponement under exhibit 39.
9 And there's also the applicant's opposition to that request
10 under exhibit 40.

11 CHAIRPERSON HILL: Okay, great. Thank you. If
12 you could please introduce yourselves for the record.

13 MS. DUNCAN-FITCHETT: Good morning. My name is
14 LaTrell Duncan-Fitchett.

15 CHAIRPERSON HILL: Is the ANC here? Okay. So Ms.
16 Duncan-Fitchett, you see that -- well, I know that you saw
17 that they've asked for a postponement again.

18 And you're opposed to that postponement. Do you
19 know why they -- could you explain to us what you guys have
20 done with the ANC? I thought you were supposed to meet with
21 them between the last time you were here and now.

22 MS. DUNCAN-FITCHETT: I actually met with them on
23 the 12th which is that Tuesday and then I had to -- that was
24 before the executive meeting. And then I was supposed to
25 meet before the ANC on the 14th which the whole board was

1 supposed to -- I was supposed to speak before the whole board
2 but only two of the members showed up.

3 So he said he was going to do an emergency
4 meeting, Chair Holmes. But I never received any information.

5 CHAIRPERSON HILL: Okay. And then as part of your
6 opposition, and I also remember when you were first here.
7 So you had people that are interested in those three slots
8 for the children, correct?

9 MS. DUNCAN-FITCHETT: Yes, sir.

10 CHAIRPERSON HILL: Okay. So I don't know the
11 board, we can talk about it, but I think that the ANC has had
12 an opportunity to go ahead and move through with this.

13 I'm disappointed that you weren't able to -- I
14 mean, I'm sorry for the fact that only two members showed up
15 for the ANC meeting so therefore you weren't able to present.
16 So I'd be ready to hear this today. Does anyone have any
17 thoughts?

18 MEMBER WHITE: I would be in favor of hearing it
19 today too, Mr. Chair. Obviously we prefer to have the ANC
20 weigh in, but I think we've allowed them the opportunity to
21 provide comments.

22 MEMBER JOHN: I am ready to move forward.

23 CHAIRPERSON HILL: All right. So then by
24 consensus it looks like we're all ready to move forward. Is
25 anybody opposed to that? Okay. Then, Mr. Moy we're going

1 to reject --

2 MR. MOY: Deny.

3 CHAIRPERSON HILL: Deny, thank you. Say no to the
4 request for a postponement. Although we would like -- if
5 there was a way we could have done it that's great, but it
6 sounds like you tried.

7 So Ms. Duncan-Fitchett, I'm going to go ahead and
8 put some time on the clock for you to present to us. And if
9 you want to go ahead and just walk us through what you're
10 trying to do and how you believe you've met the standard for
11 us to grant the relief.

12 I'm going to put 15 minutes up on the clock again
13 just so we know where we are and you can begin whenever you
14 like.

15 MS. DUNCAN-FITCHETT: Okay. First I would like
16 to say good morning to the board. Thank you for allowing me
17 this short space.

18 Basically I service ages 6 weeks infancy to 12
19 years of age. Right now we have just implemented the STEM
20 program into the program.

21 We have a large waiting list for parents to come
22 into the program. We also service before and after care
23 children and the summer camp school age children as well.

24 The impact that we have displayed to the program
25 and for the children that we serve, we call it our safe

1 haven. A lot of the children in Ward 7 and in the District
2 of Columbia have not been exposed to a lot of the activities
3 that we have exposed them to such as we have a partnership
4 with Microsoft where they teach them coding and can do --
5 teach them to be entrepreneurs.

6 We also have a partnership with Washington
7 Mystics. We are able to go to a lot of the games, taking the
8 children too. We do a lot of activities dealing with
9 science, technology, engineering and math.

10 So we definitely need the extra slots to provide
11 for the families that we serve. We serve hot meals every
12 day, breakfast and snack, lunch to all of the children.

13 And we just need more space. We are running out
14 of space.

15 I am nationally accredited through NAFCC. I'm in
16 a quality rating improvement system. I'm in a quality
17 improvement network which is that by me being in a
18 partnership with the quality improvement network I provide
19 diapers and wipes to the families that I serve.

20 We also, in the spring and summer we provide
21 nutritional fresh fruits and vegetables to the families that
22 we serve.

23 We take them to the National Opera, the Kennedy
24 Center. We go go-kart racing, skating, a lot of activities
25 with the children.

1 So it's very beneficial. As you can see on the
2 case a lot of the parents have provided feedback of trying
3 to have us get these additional slots.

4 CHAIRPERSON HILL: Okay, great. Does the board
5 have any questions for the applicant?

6 MEMBER JOHN: Just one question. Can you talk
7 about why you need more than two employees to be in the
8 facility?

9 MS. DUNCAN-FITCHETT: They actually last year
10 converted me to 23 hours. So therefore we need more job
11 opportunities which I partnered with Department of Employee
12 Service through the Mayor's summer -- Marion Barry Summer
13 Youth Program. And with the Department of Employee Service
14 Project Empowerment.

15 So a lot of the candidates that comes through
16 those programs will be able to get employment opportunities.
17 We'll be providing services from 7 a.m. to 6 a.m. so
18 basically if a parent needs childcare service from 3 p.m. to
19 11 p.m. at night we'll be able to provide that service. And
20 if they need service from 11 p.m. to 6 a.m. we'll be able to
21 provide that service for them as well.

22 MEMBER JOHN: Thank you.

23 CHAIRPERSON HILL: Okay. I'm going to turn to the
24 Office of Planning.

25 MR. MORDFIN: Good morning, I'm Stephen Mordfin

1 and the Office of Planning supports this application finding
2 that it is in conformance with the requirements with the
3 criteria for the approval of this and also for the increase
4 in the number of employees that are permitted to work within
5 this center. Thank you.

6 CHAIRPERSON HILL: Okay. Does anybody have any
7 questions for the Office of Planning? Okay. Sorry, go
8 ahead.

9 COMMISSIONER MILLER: Thank you, Mr. Chairman.
10 Thank you for your report. You did address the specific
11 standards, how the application meets the specific standards
12 for review for child development home relief.

13 But can you just make a quick statement if you can
14 about the general special exception requirement that the
15 proposed child development home would be in harmony with the
16 purpose and intent of the zoning regulations and maps and not
17 tend to adversely affect neighboring property in accordance
18 with the regulations?

19 MR. MORDFIN: Yes. First, this is a use, that is,
20 a permitted special exception within a residential zone. And
21 the use I don't believe would adversely affect the
22 neighborhood. It's care for children within the neighborhood
23 which is consistent with a residential neighborhood.

24 There would not be large amounts of traffic coming
25 to and from this as this is only for a maximum of 12

1 children. And it would be spread throughout the day.

2 The employees typically come and go by public
3 transportation and when the applicant does take the children
4 offsite to an activity they use Uber vehicles according to
5 the applicant and so there would not be extra vehicles also
6 parked on the street at the site during the day when those
7 vehicles are not in use.

8 So therefore we find that this would be consistent
9 with the neighborhood.

10 COMMISSIONER MILLER: Thank you.

11 CHAIRPERSON HILL: Okay. Does the applicant have
12 any questions for the Office of Planning?

13 MS. DUNCAN-FITCHETT: No, sir.

14 CHAIRPERSON HILL: Okay. Is there anyone here
15 wishing to speak in support? Is there anyone here wishing
16 to speak in opposition? Okay.

17 Ms. Duncan-Fitchett, again, is there anything
18 you'd like to add at the end?

19 MS. DUNCAN-FITCHETT: No, sir.

20 CHAIRPERSON HILL: Okay. All right, great. I'm
21 going to go ahead and close the hearing. Is the board ready
22 to deliberate? Okay.

23 I think that the applicant is meeting the
24 standards necessary for us to grant this application. I
25 would agree with the analysis that was provided by the Office

1 of Planning.

2 As we have mentioned earlier it is disappointing
3 that we don't have feedback from the ANC. However, I do
4 think that the applicant has made a good faith effort to
5 approach them and try to at least talk with them in terms of
6 this application.

7 I don't think that the additional three children
8 or the additional four staff people -- I'm sorry, or the
9 additional two staff people -- thank you -- would cause an
10 undue impact on the community. So I will be voting in favor.

11 Does anyone have anything else they'd like to add?

12 MEMBER WHITE: Yes, Mr. Chair. I agree with your
13 comments that the applicant has met the criteria for special
14 exception for the home occupation uses that you are seeking.

15 And I'd also like to just offer just positive
16 feedback in terms of the service that you're providing to
17 Ward 4. If there were some serious complaints going on with
18 your business I would imagine that we would have either had
19 someone here, or the ANC would have submitted something, or
20 there would have been something in the record regarding that.

21 But the programs that you're providing to the
22 children I'd just like to say that I think it's a wonderful
23 thing.

24 The most important thing is that you've met the
25 criteria with the support of the Office of Planning and your

1 testimony. I would be voting in support of this application.

2 MS. DUNCAN-FITCHETT: Thank you so much.

3 VICE CHAIR HART: Nothing major to add. Only that
4 I appreciate Commissioner Miller for asking about the general
5 zoning relief that isn't in the OP report just so that we
6 have that in the testimony from the Office of Planning.

7 But I would also be in support of the application.
8 I also believe that you meet the criteria after reviewing the
9 Office of Planning report and would wish you luck in the
10 future.

11 MS. DUNCAN-FITCHETT: Thank you so much.

12 CHAIRPERSON HILL: Okay, all right. I also wish
13 you luck in the future.

14 MS. DUNCAN-FITCHETT: Thank you.

15 CHAIRPERSON HILL: It sounds like a nice business
16 and I hope you're enjoying it and the children are continuing
17 to learn.

18 So I'm going to make a motion to approve
19 application number 19911 as captioned and read by the
20 secretary and ask for a second.

21 VICE CHAIR HART: Second.

22 CHAIRPERSON HILL: Motion made and seconded. All
23 those in favor say aye.

24 (Chorus of ayes)

25 CHAIRPERSON HILL: All those opposed? The motion

1 passes, Mr. Moy.

2 MR. MOY: Staff would record the vote as 5-0-0.
3 This is on the motion of Chairman Hill to approve the
4 application for the relief being requested. Seconding the
5 motion Vice Chair Hart. Also in support Ms. White, Ms. John
6 and Mr. Robert Miller. Motion carries.

7 CHAIRPERSON HILL: Okay, great. Thank you.

8 MS. DUNCAN-FITCHETT: Thank you. You have a great
9 day.

10 CHAIRPERSON HILL: You too.

11 MR. MOY: All right, Mr. Chairman, so next before
12 the board if I can have parties to the table to application
13 number 19610A of Granite LLC.

14 This is a request for a modification of
15 significance to the plans approved under BZA Order No. 19610,
16 and pursuant to 11 DCMR Subtitle X, Chapter 10 request for
17 a special exception from the penthouse regulations of
18 Subtitle C Section 1500.3(c).

19 This is to include a nightclub, bar, cocktail
20 lounge, or restaurant use in the penthouse of an existing 10-
21 story office building in the D-6 zone at 730 15th Street NW,
22 square 221, lots 800 and 809.

23 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
24 Moy. Could you please introduce yourselves for the record
25 from my right to left?

1 MR. GAON: Joe Gaon with the law firm Holland &
2 Knight.

3 MS. FERRARI: Patricia Ferrari with Shalom Baranes
4 Associates, the architect.

5 MR. DUNMIRE: Kevin Dunmire with Akridge
6 representing Granite LLC.

7 CHAIRPERSON HILL: Could you spell your last name
8 please for me?

9 MS. FERRARI: F-E-R-R-A-R-I. Ferrari.

10 CHAIRPERSON HILL: Okay. All right, Mr. Gaon, I
11 guess are you presenting to us?

12 MR. GAON: Just two things. Number one, Mr.
13 Dunmire wasn't sworn in so if we could have him sworn in.

14 And number two, we've proffered Ms. Ferrari as an
15 expert in architecture and design and we'd like that
16 addressed as a preliminary matter. Thank you.

17 CHAIRPERSON HILL: Okay. Mr. Moy, would you mind
18 swearing in -- Dunmire.

19 (Whereupon, the witness was sworn.)

20 CHAIRPERSON HILL: All right. And as far as Ms.
21 Ferrari the resume is in here in one of the exhibits,
22 correct, Mr. Gaon?

23 MR. GAON: It's the last exhibit. We submitted
24 it yesterday.

25 CHAIRPERSON HILL: Okay. I don't know that the

1 board has any questions for Ms. Ferrari. I know your
2 architecture firm and if you got a job there I'm sure you're
3 very well qualified.

4 But does anyone have any questions for the
5 applicant -- I mean, for the expert? Okay, so Ms. Ferrari
6 we're going to go ahead and add you to our book of experts.

7 All right, Mr. Gaon. So, I'm going to go ahead
8 and put 15 minutes on the clock again so I know where I am,
9 or Mr. Moy's going to do that in a moment.

10 And I don't actually have any specific questions.
11 I'm going to go ahead and let you run us through what you're
12 trying to do and how you're meeting the standards for us to
13 grant the relief. And I'm going to go ahead and let you
14 start whenever you like.

15 MR. GAON: Thank you. Good morning, members of
16 the board. My name is Joe Gaon with the law firm Holland &
17 Knight. I'm here on behalf of the applicant Granite LLC.

18 I'm joined today by Patricia Ferrari of Shalom
19 Baranes Associates, the architect for the project, and Kevin
20 Dunmire, representative of the applicant.

21 As you can see on the slide in front of you the
22 site is located at 730 15th Street NW. It's zone D-6. You
23 may be familiar with this project. In BZA Order No. 19610
24 the board granted an area variance from Subtitle C Section
25 1500.3(d) to permit penthouse habitable space on the second

1 floor of the existing two-story penthouse within a defined
2 area near the White House.

3 In the present application the applicant is
4 requesting a modification of significance to the plans
5 approved in that order to permit the use of a penthouse as
6 either a nightclub, bar, restaurant, or cocktail lounge which
7 requires special exception approval pursuant to Subtitle C
8 Section 1500.3.

9 The proposed use is permitted as a matter of right
10 in the D-6 zone. The reason we are here is because of its
11 location in the penthouse.

12 I would just like to point out that there are no
13 exterior modifications proposed for the building including
14 to the rooftop terrace.

15 As noted in the Office of Planning's report the
16 closest residential structure is actually the White House.

17 We are pleased to have support of the project from
18 the United States Secret Service, the Office of Planning,
19 DDOT and ANC 2B.

20 In the interest of brevity I'm going to turn it
21 over to Ms. Patricia Ferrari and she can just briefly orient
22 you and walk you through the project.

23 MR. DUNMIRE: Thank you and good morning. So, as
24 Mr. Gaon said the building is located on 15th Street, it's
25 730 15th Street. It's square 221 which is to the north, H

1 Street, south, Pennsylvania Avenue, 15th Street to the east
2 and Madison Place to the west.

3 The area here is primarily commercial. There are
4 a few hotels around it. One is the Hay-Adams on 16th and H
5 Street and the other one is the W Hotel on 15th and F Street.

6 As mentioned before the only residential use is
7 the White House.

8 The building was built in 1930 to host the offices
9 of the American Security & Trust Company. The building that
10 is located on the corner of 15th and Pennsylvania Avenue is
11 a contributing building to the financial historic district
12 and it's also within the area of the Shipstead-Luce Act and
13 as such it needs to be reviewed and it got approval from the
14 Commission of Fine Arts and the Historic Preservation Review
15 Board.

16 If now I can focus on the penthouse. The
17 penthouse is a nonconforming two-story structure. On the
18 lower level of that structure we are locating mechanical
19 equipment and elevator equipment.

20 And there is about 2,060 square feet of available
21 area on the upper floor of the penthouse which they have
22 magnificent views to the city and to the monuments.

23 And it's this area that it was the focus of our
24 previous approval here by the BZA. As you are very well
25 aware habitable space in this area in D-6 is a matter of

1 right in many locations, but because of the proximity of this
2 property to the White House it was a special exception.

3 So, I want to point out to the rendering in this
4 page and show that this is the penthouse and the terrace that
5 we would review with you in 2017 when this got approved.

6 And this is the exhibit for the proposed change.
7 So as you can see there's absolutely no change to the
8 exterior, to the extent of the terrace, to the envelope, to
9 the fenestration. The only request we are making today is
10 just to modify the use to permit a restaurant, a nightclub,
11 a bar/lounge area inside the penthouse. Thank you.

12 MR. GAON: And with that we're available for any
13 questions that you may have.

14 CHAIRPERSON HILL: Okay. Does the board have any
15 questions for the applicant? All right, I'm going to turn
16 to the Office of Planning. Sorry, sure.

17 VICE CHAIR HART: One quick question. Self-cert
18 form?

19 MR. GAON: We submitted that yesterday.

20 VICE CHAIR HART: Okay.

21 MR. COCHRAN: Thank you. Steve Cochran, Office
22 of Planning. Just one or two things.

23 Just for the record to correct what Ms. Ferrari
24 just said the occupation in this location is a variance, not
25 a special exception and you've already given that variance.

1 The special exception is just for this particular
2 use. The more important variance has already been granted
3 by the board.

4 And the Secret Service has given its approval for
5 this use also. Other than that OP stands on the record.

6 CHAIRPERSON HILL: Okay, great. Thank you. Does
7 the board have any questions for the Office of Planning?
8 Does the applicant have any questions for the Office of
9 Planning?

10 MR. GAON: No questions.

11 CHAIRPERSON HILL: Okay. Is there anyone here
12 wishing to speak in support of the application? Is there
13 anyone here wishing to speak in opposition to the
14 application?

15 Okay, Mr. Gaon, do you have anything else you'd
16 like in closing?

17 MR. GAON: Nothing further.

18 CHAIRPERSON HILL: Okay. Do they know what's
19 going to be there? Do they know what kind of restaurant?

20 MR. DUNMIRE: Not yet, no. We've been in
21 discussions with potential tenants but nothing has been
22 finalized.

23 CHAIRPERSON HILL: Is it going to be a public
24 restaurant?

25 MR. DUNMIRE: Not sure.

1 CHAIRPERSON HILL: Not a private club. You don't
2 know.

3 MR. DUNMIRE: I don't know.

4 CHAIRPERSON HILL: So it could be a private club.

5 MR. DUNMIRE: Could be private, could be public.

6 CHAIRPERSON HILL: Okay. Well, I'm voting for
7 public. Yes, sure.

8 VICE CHAIR HART: Just out of curiosity for that
9 question, the -- I was particularly interested in what the
10 Secret Service had to say and I noted that you all had an
11 email from them which I'm trying to find where that is now.
12 Is it 70?

13 MR. GAON: 2D.

14 VICE CHAIR HART: Okay. I thought it was earlier.
15 So in that they noted that it would be a -- I don't know,
16 there was a particular group I think they were talking about
17 and I can't remember the -- okay.

18 So the reason I was asking was that when I looked
19 at it, it was a members only city club which was -- they
20 named it.

21 But my question was, was there approval based on
22 that particular use. And I wasn't sure that that -- I wasn't
23 sure if they were thinking that it would be -- if it would
24 be a private club that they would then be able to have the
25 ability to -- that the people would actually have to go

1 through some sort of screening to get to the place as opposed
2 to a public space where anybody could go up there.

3 Again, I'm just looking at the email I guess that
4 you had sent to the Secret Service. And I just didn't know
5 if that was -- how you see that.

6 MR. DUNMIRE: At the time they -- we presented it
7 very open. So at the time we were dealing with this
8 potential tenant, the Ned, who we are still very much
9 discussing with. It is a private tenant, or a private
10 club/restaurant. There are others that we're in discussion
11 with.

12 They did not have any specific concerns or
13 questions or comments if it were a public restaurant. I
14 believe that's what you're getting at is in a private members
15 club they have the ability to screen those occupants or those
16 members. They did not say that was an issue if we were to
17 go to a public restaurant, public club. That was not a
18 concern.

19 VICE CHAIR HART: Okay. I just wanted to make
20 sure that that was clearly kind of stated.

21 MR. DUNMIRE: Correct.

22 VICE CHAIR HART: Because it seemed like they were
23 like -- you could insinuate through what it was that you sent
24 and their response was kind of like yes, we're okay with
25 that. But I wasn't sure if it was kind of like we're okay

1 with the idea of having that, or we're okay with that
2 particular use, that particular client.

3 MR. DUNMIRE: It was not predicated on the fact
4 that it was a private club.

5 VICE CHAIR HART: Okay. That's it. Thank you.

6 CHAIRPERSON HILL: Okay. All right. Then I'm
7 going to go ahead and close the hearing. Is the board ready
8 to deliberate? All right.

9 I would also be in agreement with the analysis
10 provided by the Office of Planning. I am also glad that the
11 ANC is in support 6-0-0, that DDOT didn't have any objections
12 to it, that there was in fact the email from the Secret
13 Service that Vice Chair Hart just kind of clarified.

14 But I think they meet the criteria and I'll be
15 voting to approve. Does anybody else have anything they'd
16 like to add?

17 VICE CHAIR HART: I would as I said, as you
18 probably know I represent the National Capitol Planning
19 Commission and I was just interested in how the U.S. Secret
20 Service was looking at this particular case.

21 And I appreciate the email exchange and understand
22 that they don't have any particular issues with this.

23 I also appreciate the testimony that you just
24 provided which is further clarification on that so that I'd
25 be able to support the application as well.

1 I didn't think it was a particularly difficult
2 decision to get to. Reading through the record and
3 understanding what has been -- what it is that you're
4 proposing I just wanted to understand how the Secret Service
5 was really looking at this. So I'd be in support of it as
6 well.

7 CHAIRPERSON HILL: Okay. I'm going to make a
8 motion to approve application number -- I'm going to make a
9 motion to approve application number 19610A as captioned and
10 read by the secretary and ask for a second.

11 MEMBER WHITE: Second.

12 CHAIRPERSON HILL: Motion made and seconded. All
13 those in favor say aye.

14 (Chorus of ayes)

15 CHAIRPERSON HILL: All those opposed? Motion
16 passes, Mr. Moy.

17 MR. MOY: Staff would record the vote as 5-0-0.
18 This is on the motion of Chairman Hill to approve the
19 application for the request as stated. Seconding the motion,
20 Ms. White. Also in support Ms. John, Vice Chair Hart, Mr.
21 Rob Miller. The motion carries.

22 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
23 Moy. We're just going to take a quick break and we'll be
24 back. We're just going to take a quick break. Thank you.

25 (Whereupon, the above-entitled matter went off the

1 record at 10:58 a.m. and resumed at 11:12 a.m.)

2 CHAIRPERSON HILL: All right, Mr. Moy. You can
3 start us whenever you like.

4 MR. MOY: Thank you, Mr. Chairman. The hearing
5 is resuming. It's at or about 11:10.

6 The next case application before the board is
7 19897 of Coloma, C-O-L-O-M-A, River Capital as amended for
8 special exceptions under Subtitle G Section 1200 from the
9 closed court requirements of Subtitle G Section 202.1, and
10 under Subtitle G 1201 from the rear yard requirements of
11 Subtitle G Section 405.2, to construct a new 46-unit
12 apartment house with ground floor retail.

13 This is in the MU-4 zone at premises 71 Kennedy
14 Street NW and 5505 1st Street NW, square 3389, lots 822 and
15 817.

16 And one more item, Mr. Chairman. I was just
17 handed what was submitted by email. Of course the rule is
18 any electronic submissions after 9 o'clock are not accepted
19 unless someone comes into the hearing room and hand carries
20 it.

21 But it's from the ANC 4B. So I have that in my
22 hand if the board wants to review it.

23 CHAIRPERSON HILL: Yes, I think the board will
24 want to take a look at that. I have -- someone gave me a
25 copy. Does everyone have a copy? Okay, so we can take a

1 look at that, Mr. Moy.

2 Since it's from the ANC obviously we want to put
3 it into the record. Unless anyone has any issues with that
4 we'll go ahead and allow that into the record, Mr. Moy.

5 Could you please introduce yourselves?

6 MR. PARET: I'm Charles Paret. I'm the owner of
7 the property.

8 MS. MOLDENHAUER: Good morning, Meredith
9 Moldenhauer from the law firm of Cozen O'Connor on behalf of
10 the applicant.

11 MR. WITMER: Chuck Witmer, architect with Coloma
12 River Capital.

13 CHAIRPERSON HILL: Okay, great. Ms. Moldenhauer,
14 I assume you're going to present to us.

15 MS. MOLDENHAUER: We will. Both my client and the
16 architect were not here so they probably both need to be
17 sworn in just as a preliminary matter.

18 CHAIRPERSON HILL: Okay, great. If you could turn
19 off your microphone for me, sir, if you wouldn't mind because
20 if more than one is on it feeds back.

21 If you could both please stand and take the oath
22 administered by Mr. Moy to my left. I'm sorry, Mr. Moy. And
23 if there's anyone else here in the room that hasn't been
24 sworn in that wants to say something please go ahead and
25 stand right now and get sworn in. For any case. Okay,

1 great, great. Over here to my left.

2 MR. MOY: Thank you, sir.

3 (Whereupon, the witnesses were sworn.)

4 CHAIRPERSON HILL: All right, Ms. Moldenhauer.
5 I don't have any specific questions so I'm going to go ahead
6 and let you just -- unless the board does, go ahead and let
7 you walk us through your presentation in terms of what you're
8 trying to accomplish and how you're meeting the standards for
9 us to grant the relief that's requested.

10 I'm going to put 15 minutes on the clock again
11 just so I know where I am. And you can begin whenever you
12 like.

13 MS. MOLDENHAUER: Absolutely. Well, just I'll
14 walk you through quickly. I'll turn quickly to my client to
15 just walk through the project and the property.

16 MR. PARET: Hi, how are you guys? So this
17 project, it's basically a proposed construction of a new
18 four-story, 46-unit ground up with commercial on the ground
19 level, a cellar level for storage and below grade parking
20 spaces for -- now it's going to be 22 spaces. The original
21 proposal was for 12 spaces, along with a penthouse on both
22 lots located at 5505 1st Street and 67-71 Kennedy Street.

23 Yes. So going on to page 6 and 7 of the
24 presentation you'll notice that the original plan had called
25 for -- it was 46 units with 12 parking spaces. We've changed

1 that to work with the ANC who expressed that having -- the
2 original plan did not call for many parking spaces. It
3 called for shared parking spaces. So we've added a second
4 level that will have 22 parking spaces.

5 We've reduced the number of units to a 44 units
6 and along with the ground floor commercial.

7 So currently right now the site sits on a corner
8 site. There's alley access that we've been going for relief
9 for along with the density and the height. That's it.

10 MS. MOLDENHAUER: I'll just introduce the project
11 architect and let him walk through the plans quickly.

12 MR. WITMER: Good morning, Chuck Witmer, project
13 architect. We'll walk through here. I came onto this
14 project. I have not prepared these plans, but I am now the
15 architect of the project.

16 CHAIRPERSON HILL: Mr. Witmer, I've never heard
17 anybody say that before. So you're here -- okay, anyway,
18 that's fine. Please continue.

19 MS. MOLDENHAUER: There was a changeover at the
20 company, that's all.

21 CHAIRPERSON HILL: No, I've got it, I've just
22 never heard somebody say I have nothing to do with these.
23 I'm just here to talk about them. But yes. So please, go
24 ahead.

25 There's another testimony going on up the road if

1 you want to move over there later. Okay, please go ahead.

2 MR. WITMER: I'd like to walk through the plans
3 and just point out a few of the things. Starting on page 9
4 is the site plan and what's important about this is that you
5 can see all the property lines and how our building adheres
6 to the property lines.

7 And then on the -- what is the south and the west
8 side there are 15 foot building restriction lines which we're
9 adhering to.

10 And then on the far right is the alley that
11 Charles spoke of. It's the new alley that cuts in and allows
12 access back to our site.

13 The next page is the parking level. This is the
14 level that is showing the 22 parking spaces that Charles
15 spoke of.

16 The next level up is P1. P1 consists of a gym and
17 a cidery or a cider brewery. And also on this level there's
18 18 parking spaces.

19 The next level up consists of two units which are
20 on the north side and they have light wells for both access
21 and light.

22 The next plan up is the ground floor. Again
23 you'll see on the right side the public alley which gives us
24 access to our garage entry. There's a total of right now
25 three retail spaces on ground floor along with a lobby

1 entrance for the residents.

2 CHAIRPERSON HILL: Mr. Witmer, can I just
3 interrupt one second? And someone might be asking about this
4 in a minute as well, but DDOT mentioned some potential public
5 space issues which may impact the project design. Do you
6 know and can you speak to those?

7 MR. PARET: I can speak on that. So, initially
8 what happened with DDOT is that we had proposed doing the
9 parking on the 1st Street side where we -- the first initial
10 design that didn't call for parking had access coming in
11 basically currently right where there's a curb cut on the
12 adjacent property. Yes, exactly. So right there. Which we
13 had to move. So we moved that to the alleyway side to open
14 up to resolve their initial complaints.

15 VICE CHAIR HART: So you're also saying that DDOT
16 looked at some other plans and so the comments that they're
17 providing are for those other plans? Is that what you're
18 saying?

19 MS. MOLDENHAUER: No, Board Member Hart, the
20 comments are for these plans. The alley has a very large
21 graded loop, it's about a 13 foot change in elevation in
22 grade. And we have some pictures of that current existing
23 condition.

24 And so what Public Space has indicated is that we
25 need to, and we'll continue to work with them during the

1 Public Space process to really understand how that grade will
2 be worked out, what sloping will occur in order to comply
3 with Public Space guidelines because we are actually -- this
4 is currently an unimproved alley. It's a dirt space right
5 now.

6 And so we will be building that out to DDOT
7 standards and part of that will obviously need to be refined
8 as we go through the Public Space process. And that's I
9 think more of the comments that they're discussing.

10 MR. PARET: Just to make a comment, years ago this
11 used to be an alleyway. So it was filled in. If you look
12 at the past history when the additions were added on to the
13 67-71 that dirt from the excavation was used to backfill on
14 over to the right.

15 So years ago there used to be an alleyway in this
16 area and it was filled in maybe like 30, 40 years ago.

17 But from I think some of the things that we've
18 done to address some of DDOT's concerns are building like a
19 retaining wall on that right side and addressing some of
20 their.

21 MEMBER WHITE: So the question I have is, is the
22 design going to change for this project? In terms of what's
23 filed right now.

24 MS. MOLDENHAUER: In a couple of slides we are
25 going to ask for some flexibility based on DDOT review. We

1 don't believe the design will change substantially. There
2 may be some changes to some of the -- looking right now
3 currently there are a couple of windows, potentially the
4 impact on window wells. Maybe exactly where this curb cut
5 is located based on where that grade is determined.

6 So we would ask the board for flexibility. But
7 we're not talking about a substantial amount of change to the
8 design. We're talking about small, minor tweaks as we go
9 through and finalize that with our civil.

10 VICE CHAIR HART: I think it would be helpful if
11 we understood all of the elements that might change because
12 right now I'm -- I don't know where I am with this, but I
13 know that it's hard for me to just say sure, you can kind of
14 do this and you know change it as you may.

15 I'd rather have flexibility to the eastern facade,
16 to have more specificity on what that is. If we were looking
17 to approve it. But I have a hard time with it. I think it
18 would be helpful to understand as you're walking through or
19 the architect is walking through it to understand what those
20 changes might be and how you might alter the design to
21 address the DDOT concerns.

22 MR. PARET: To answer your question we are not
23 planning on changing the building. We're planning on moving
24 forward with this design.

25 VICE CHAIR HART: No, I understood that. My issue

1 is that what Ms. Moldenhauer is saying is that -- what she
2 is bringing up is that when we look to address -- when we
3 look to approve a project we approve the elevations of the
4 project as well as the plans. And so when you make changes
5 to that then the ZA has to figure out whether or not -- if
6 the board was okay with that or if you all have to come back
7 to us.

8 And so that's what they're trying to kind of deal
9 with. And I just want to understand what changes are being
10 -- what changes would we be looking to be okay with. I just
11 don't know what those are and I think that we just have to
12 have more specificity on what changes we should be expecting
13 the ZA or the DDOT to think about.

14 We can move forward with it, I just wanted to --

15 MS. MOLDENHAUER: Let me see if I can't address
16 that since our office has been one of the ones engaging back
17 and forth with DDOT and with OP on these questions.

18 We believe the changes would be focused on the
19 eastern elevation which we have up now which is exhibit 30 --
20 page 32 on our PowerPoint.

21 And it would be potential modifications to this
22 elevation. As I said window wells probably more than
23 obviously these large windows based on the grade change,
24 potentially a modification to some of these aspects over here
25 on the northernmost portion of the eastern elevation.

1 So, that's really kind of what we're discussing
2 are modifications to the eastern elevation as impacted
3 potentially by the grade change.

4 There were comments as well from Public Space
5 regarding these two window wells, but I don't believe they
6 were fully understanding how those were being presented
7 because those are actually in private space, not in public
8 space. But those would be potentially the below grade
9 elevation as potentially approved or not approved by Public
10 Space.

11 So those are currently the comments that we have
12 received from DDOT.

13 VICE CHAIR HART: And if you could show the east
14 elevation again. So what you're saying is that this is the
15 grade currently?

16 MS. MOLDENHAUER: This is the grade currently.
17 You can see this right here. This is the grade currently.
18 That grade will need to change obviously in order to get
19 access to this parking.

20 We have had conversations with DDOT and they
21 understand that. They are supportive of that.

22 It's a question though of tweaking and hiring a
23 civil engineer, filing an application with Public Space,
24 having that back and forth to really understand what levels
25 of the grade ratio as that changes to finalize this image.

1 It does not impact any of our relief and we don't
2 believe that it would impact any of our relief and so we
3 would obviously indicate that.

4 But we would want obviously to move forward
5 hopefully today since we do have OP support, DDOT support and
6 ANC support. But we wanted to obviously be clear on that
7 limited issue that might need to be kind of revised.

8 VICE CHAIR HART: And so I appreciate the
9 clarification. So what you're saying is that there may be
10 some sort of -- the grade for getting down into the parking
11 garage, that grade may change depending -- it's going to have
12 to change, but how that changes is still being discussed.

13 And so this grade may actually move -- it's going
14 to have to move down, up to the north I guess. So where that
15 actually happens and how that actually happens is still being
16 kind of discussed, and that means -- it may not be that the
17 windows would change. It would be that you might have to
18 have as you said the light wells because there's now earth
19 to have to move away from that.

20 I don't know what this is though. What is this
21 again?

22 MS. MOLDENHAUER: That is currently -- and that's
23 a conversation we had had with the prior architect. That was
24 a loading door which we told him it would have to be removed.
25 So it will be removed.

1 And that's one of the things that would obviously
2 -- you can't have a loading door when there's going to be
3 dirt there.

4 VICE CHAIR HART: A little problem there.

5 MS. MOLDENHAUER: You are absolutely correct. So
6 obviously those are some of the things that we would ask for
7 flexibility to modify that portion of that facade.

8 VICE CHAIR HART: This would be an okay design if
9 it were a flat site.

10 MS. MOLDENHAUER: It would be. But it's not.

11 VICE CHAIR HART: But it's not. So I understand
12 why you have a new architect.

13 So I'm just trying to understand one last thing
14 and I'm sorry I'm taking up so much time with this, but
15 you're still working on this aspect of the design. Are you
16 -- how far along are you in that conversation?

17 Like do you think you're like 50 percent along the
18 conversation, or are you kind of like at 20 percent?

19 MS. MOLDENHAUER: My understanding, and Mr. Paret
20 can confirm, we have not hired a civil engineer so that would
21 obviously need to be -- so we are at I would say.

22 VICE CHAIR HART: You're early.

23 MS. MOLDENHAUER: We're early stages, but again
24 we don't believe it would be impacting the zoning relief.
25 And we would obviously -- we're here to apply as no

1 applicants can go through these procedures, whether it's HPRB
2 or Public Space at different stages. And so we would
3 respectfully request that we move forward with this today and
4 allow us then to follow up with Public Space.

5 Whether you wish to grant the flexibility or not,
6 obviously we'll determine that and we'll deal with that.
7 Even if you don't grant the flexibility.

8 VICE CHAIR HART: And I'm sorry, one last, last
9 question. What happens to the north of this? So on this
10 side way up here. So what happens when you go north on this
11 alley?

12 MS. MOLDENHAUER: So as I said there's about a 13
13 foot grade change. This is level at this point. So one of
14 the conversations we're going to have, we're working with
15 DDOT is at what level do we start raising the grade and at
16 what degree.

17 So that way eventually when we hit the other
18 public alley as it is currently today we are then leveling
19 out with the rest of the alley network.

20 VICE CHAIR HART: Is that alley paved? North of
21 your site.

22 MS. MOLDENHAUER: It's not well paved, but it's
23 paved.

24 VICE CHAIR HART: Okay.

25 MS. MOLDENHAUER: So paved.

1 VICE CHAIR HART: And the only part that you're
2 kind of dealing with is the part -- the only part of the
3 alley that you're dealing with is the part that's adjacent
4 to your --

5 MS. MOLDENHAUER: I have an image. Let me get
6 you an image.

7 VICE CHAIR HART: Sorry for all the questions.
8 I'm just trying to --

9 MS. MOLDENHAUER: No, not a problem. So this is
10 currently what the alley looks like right now. And you can
11 see kind of that change in that grade.

12 And obviously we're going to be -- that'll be part
13 of the aspect then.

14 VICE CHAIR HART: Okay.

15 MS. MOLDENHAUER: Sorry. Okay, so this is where
16 the -- my pointer came off. So this portion of the alley is
17 unimproved, but then as you curve this is actually improved
18 and it comes out here on 1st. There's another entrance or
19 exit to this alley here. The alley is all improved as it
20 goes this direction. There's another exit to the alley as
21 well in this direction.

22 VICE CHAIR HART: Okay. I think I've exhausted
23 this line of discussion, but I appreciate the information.
24 It helps me understand a little bit better kind of what's
25 happening with that. It does sound like a fairly odd

1 circumstance, but I appreciate you all kind of working
2 through that. And I understand that it might be, you know,
3 you'll figure out something to deal with that and we'll have
4 to understand how to address it as we deliberate later.

5 MS. MOLDENHAUER: I'll just kind of then jump
6 through the rest of the plans. They all stack on each floor.
7 The relief that we're seeking is for this closed court. The
8 penthouse is compliant.

9 We have language here for requested flexibility.
10 We can obviously modify that if the board wishes to discuss
11 that.

12 We have OP support. DDOT has submitted no
13 objection. And we do have ANC support of a 7-1 vote in
14 support that is now in the record.

15 We're seeking two areas of special exception
16 relief, closed court relief and the rear yard relief. And
17 we believe that we satisfy those requirements.

18 We believe the project will be in harmony with the
19 MU-4 zone and the intent. The 44 units will also include IZ
20 units complying with our requirement.

21 There will be no adverse effect on the neighboring
22 properties. The project will enliven existing three
23 structures bringing a small grocer to the community as well
24 as bringing housing and parking. We will be exceeding the
25 parking requirement and exceeding our bicycle requirement.

1 For the rear yard relief there are no windows
2 within 40 feet of the rear of our project. This is not --
3 there's no office building windows and in the building
4 there's a parallel to the adjacent building the angles and
5 the sight lines will also not be impacted.

6 In regards to the special exception standards we
7 believe that we are obviously providing the required parking
8 even though we are asking for rear yard relief and that the
9 board -- we're not asking for any waivers.

10 Again, there's flexibility requested but we
11 believe that we satisfy the special exception standard for
12 the two areas of relief that we're requesting. And we're
13 available for any questions.

14 CHAIRPERSON HILL: Okay. Does the board have any
15 questions for the applicant?

16 VICE CHAIR HART: What do you consider your rear
17 yard again? East or north? So north. Okay.

18 MS. MOLDENHAUER: I'm not on the microphone, I'm
19 sorry. North.

20 VICE CHAIR HART: Okay, thank you.

21 MEMBER WHITE: Question. What kind of retail are
22 you having on the first level? Is parking provided for that?

23 MR. PARET: The two retail, we're working with a
24 small Guatemalan coffee company that's locally based. And
25 then we -- it would be like a grocery small carry-out. So

1 like an under 2,000 square feet carry-out grocer. Like an
2 organic grocer.

3 MS. MOLDENHAUER: And to your question we are
4 providing the required parking for retail and residential.

5 MEMBER WHITE: Thank you.

6 CHAIRPERSON HILL: Anyone else?

7 COMMISSIONER MILLER: Thank you, Mr. Chairman.
8 This isn't really -- these questions aren't necessarily
9 related to the relief, but just about the project which I
10 think is very attractively designed and will be a benefit to
11 this neighborhood.

12 So I guess when you redesign the project to add
13 the -- to provide the 22 spaces which is what the ANC is most
14 concerned about. Their support was contingent upon that 22
15 spaces being provided.

16 You reduce the total housing unit count from 46
17 to 44. Is that correct?

18 MS. MOLDENHAUER: Yes, that is correct.

19 COMMISSIONER MILLER: And of that you say you're
20 compliant with the inclusionary zoning. So how many units
21 of the 44 will be inclusionary zoning?

22 MS. MOLDENHAUER: We have not completed our CIZC
23 form yet.

24 COMMISSIONER MILLER: It'll meet the --

25 MS. MOLDENHAUER: It'll meet the standard.

1 COMMISSIONER MILLER: -- the standard. Is this
2 proposed to be a rental project, or ownership, or do you
3 know?

4 MR. PARET: Right now it's being proposed for
5 ownership. So to be sold.

6 COMMISSIONER MILLER: So that would be the 80
7 percent MFI under the zoning regulations. It's lower for the
8 rental.

9 And the commercial space got reduced somewhat as
10 well. You originally had 4,000 square feet. Is it still
11 4,000 or is it less?

12 MR. PARET: I think it's a little less. I think
13 it's like 3,800 or something like that. We also had to add
14 the bike spaces. So we had the bike spaces which added --
15 initially we were looking at this as an apartment but because
16 -- by adding the parking spaces to make it a condo makes it
17 a viable project.

18 COMMISSIONER MILLER: And you're no longer going
19 to have the cider tasting, the cidery tasting bar?

20 MR. PARET: We're still looking at. There's a
21 little space for them where they could do, but they just
22 signed a lease across the street to do something. So that's
23 where they currently right now. Because this is still have
24 some time. It's about a year out. So they signed a lease
25 across the street.

1 COMMISSIONER MILLER: What's the name of that
2 cider?

3 MR. PARET: Anxo. So this could very well be an
4 option for them down the road, but the space requirements are
5 a little bit bigger than they initially required.

6 COMMISSIONER MILLER: What's the name of the
7 Guatemalan coffee?

8 MR. PARET: Le Coupe. They're good.

9 COMMISSIONER MILLER: Just want to be able to find
10 it. Thank you.

11 VICE CHAIR HART: Just one additional question.
12 How do you -- how are you looking at loading? I understand
13 that you were saying you weren't likely going to be able to
14 do it on the east side, but where does it happen?

15 MS. MOLDENHAUER: So, there would be no loading
16 onsite. And we are now at a point where there's no loading
17 requirement from a zoning perspective based on our square
18 footage for our retail and based on number of units.

19 So that will be something that we will work out.
20 There are onsite loading options as well as obviously kind
21 of working through the question of the alley network.

22 VICE CHAIR HART: And the ANC is -- they're okay
23 with that? Or do you know that they are aware of that?

24 MS. MOLDENHAUER: They are aware that we have no
25 loading and that we reduced our parking but provided more

1 parking -- sorry.

2 VICE CHAIR HART: No, I think it's good to be able
3 to do that. I understood. I'm just trying to understand --
4 it seems as though there are some -- that there's somewhat
5 of a moving target in some of this in terms of what is
6 actually being proposed.

7 And I think generally I understand what's going
8 on. It's the smaller things and particularly what's going
9 on along that alley that I'm just a little curious on.

10 And I was just trying to get clarity on whether
11 or not the ANC was kind of like sure yes, we heard this and
12 we're okay with it or not. And I just wasn't sure.

13 I understand that loading tends to be an issue
14 that the ANCs get somewhat concerned about and I just was
15 trying to understand where they were. Or at least where you
16 thought they were on it.

17 MS. MOLDENHAUER: So I just was confirming with
18 my colleague Mr. Varga who did confirm it. There was a
19 discussion and it was clearly stated at the ANC meeting that
20 there would be no loading.

21 VICE CHAIR HART: Okay, that's fine. I appreciate
22 it. I just was more, you know, as you're kind of working
23 through this it's well, we didn't know that that was going
24 to go on. And you know, there may be some issue that they
25 would have had with it.

1 But I appreciate your testimony and your response.
2 And I don't have any further questions.

3 CHAIRPERSON HILL: Okay. I'm going to turn to the
4 Office of Planning.

5 MR. MORDFIN: Good morning, I'm Stephen Mordfin
6 and the Office of Planning supports this application finding
7 that it's in conformance with the criteria for the reduced
8 size of a closed court on the north side of the building and
9 also for the reduction of the rear yard, also on the north
10 side of the building.

11 Just to note there is no parking required. There
12 is no lighting required. That has to do with the amount of
13 retail that's provided and the number of units neither of
14 which are of sufficient -- there's not enough of a -- there
15 are not enough apartments or square footage of the retail to
16 require loading so that none will be provided as the
17 applicant has proposed.

18 Also, OP understands that some of the facade may
19 change on the west side of the building against the alley
20 which the applicant proposes to improve.

21 However, there is no design review and there's no
22 relief requested in relation to that. And so therefore OP
23 does not see that there's an issue with any modifications
24 that may have to be made to adjust the building to the alley
25 as approved by DDOT.

1 So OP is in support of the application. Thank
2 you.

3 CHAIRPERSON HILL: And just as Mr. Hart -- it was
4 the eastern side, correct?

5 MR. MORDFIN: The eastern side is where the alley
6 is. Did I --

7 CHAIRPERSON HILL: You said west.

8 MR. MORDFIN: I apologize.

9 CHAIRPERSON HILL: Okay. Does anybody have any
10 questions for the Office of Planning? Does the applicant
11 have any questions for the Office of Planning?

12 MS. MOLDENHAUER: No questions. Thank you very
13 much.

14 CHAIRPERSON HILL: Is there anyone here wishing
15 to speak in support? Is there anyone here wishing to speak
16 in opposition? Okay.

17 Is there anything you'd like to add in conclusion,
18 Ms. Moldenhauer?

19 MS. MOLDENHAUER: No. We believe we satisfy the
20 standards and we're open to having discussions about any
21 condition if you'd like to engage in a conversation about
22 that.

23 CHAIRPERSON HILL: Okay.

24 MS. MOLDENHAUER: But otherwise, thank you.

25 CHAIRPERSON HILL: All right. So, the issue with

1 -- I mean, normally, and actually this is kind of even
2 somewhat recent, normally like flexibility is not something
3 -- and I'm kind of looking to my fellow colleagues -- that
4 we've done. I haven't closed the hearing yet. I'm just kind
5 of talking.

6 And then the -- but in this case I think that also
7 since the Office of Planning understands what they were
8 trying to do in terms of working with DDOT. I mean, I would
9 be fine with kind of flexibility specifically addressed in
10 a way that maybe Mr. Hart, you might be able to articulate
11 since you had kind of brought that up.

12 But what does the board say on the flexibility
13 issue?

14 VICE CHAIR HART: I actually wanted to -- I'm
15 trying to think of the terminology or the -- some language
16 to be able to use. I understand the language that you have.
17 I was trying to think of how to make this a little bit more
18 specific in terms of it being the east facade, it being the
19 loading area, or the non-loading area, whatever you want to
20 call that, the northeastern portion of the building.

21 And possibly allowing light wells on the eastern
22 side. I don't know. I'm just trying to think of how to be
23 more specific about it so that it's not just to vary the
24 plans. That seems a little bit loose. That seems very loose
25 to me. So I would be -- I'm struggling trying to get to that

1 language, but I think it should have at least some elements
2 that we are more comfortable with.

3 Regarding the rest of the -- and I don't know if
4 we're starting our --

5 CHAIRPERSON HILL: No, no, the reason why I didn't
6 close the hearing is I want to be able to discuss with the
7 applicant some of the things that we might ask about.

8 And as I understand what the applicant had just
9 said I mean, whether we approve or deny this today then if
10 you were approved -- and there was no flexibility and you
11 were approved with these plans then you'd have to come back
12 to us again to change the plans.

13 MS. MOLDENHAUER: Well, so let me just elaborate
14 on that because I know that this has been a conversation with
15 the board a lot about whether you do put conditions on
16 orders.

17 And this all has to do with the changes that
18 occurred under ZR 16. I think one of the reasons why we've
19 been asking for flexibility is really not even just for the
20 applicant, but it's to improve the process for the zoning
21 administrator as well.

22 Because the zoning administrator has now had an
23 additional burden put on him in regards to evaluating the
24 orders and what changes are permitted or not permitted, and
25 how they fall into three buckets.

1 The first bucket is it's a change that a condition
2 allows which is why we were asking for the specific
3 condition.

4 The second bucket would be a condition that would
5 not increase the relief by a certain amount. Changes. But
6 then that would require community notice, notice to any ANC
7 or opposition. Here we have no opposition so it would just
8 be notice to the ANC.

9 But then that of course opens up a door for the
10 ANC to potentially challenge or appeal. There was a recent
11 appeal that was resolved without having a decision on it that
12 were challenges to these types of modifications.

13 Or then the third bucket which would be an actual
14 change that had to come back to the board.

15 We think that obviously whether we have to go
16 through that process that's the process. We absolutely
17 understand it.

18 But by putting a specific condition it clarifies
19 it for the zoning administrator that they're allowed to
20 modify the plans, potentially as the plans were approved by
21 the Public Space Committee.

22 And so that would be -- it falls within one of
23 those three buckets that are permitted and it would just
24 simply allow for that flexibility.

25 CHAIRPERSON HILL: Okay, I actually had -- well,

1 hold on, I'm waiting.

2 (Simultaneous speaking)

3 CHAIRPERSON HILL: So, what the -- and this is
4 where -- I mean, I kind of know where some of the board
5 members are about this anyway. So I already know kind of
6 where some people stand.

7 But OAG, I'm looking at OAG. So what the
8 applicant has just gave us a little bit of a lesson on, so
9 you would agree with everything that was just said? I'm
10 trying to understand the three buckets.

11 MR. TONDRO: I think that the procedure that's
12 laid out is that if there are going to be -- with ZR 16, with
13 the new regulations that came in there was a tightening.

14 CHAIRPERSON HILL: Of the flexibility issue. The
15 ZA had --

16 MR. TONDRO: Well, of the plans, right, and the
17 fidelity to plans. And therefore I think due to concerns by
18 ANCs and others that plans were being changed after the fact
19 in accordance with the ZA that as a result there was this
20 idea -- it is I think a more complicated procedure as counsel
21 has indicated. There is a back and forth that has to go on
22 and notifying other folks, the ANCs and other parties.

23 There is a provision that allows the board to
24 grant flexibility in that if the board should want to do
25 that. But given the fact that the intent of that regulation

1 was to make sure that everybody was aware and had an
2 opportunity to participate if changes were made I would think
3 that that would be an intent that the board would want to
4 consider when considering granting flexibility.

5 CHAIRPERSON HILL: Okay. So, you had something
6 to say, Mr. Hart?

7 VICE CHAIR HART: I possibly have some language.
8 And I don't know if that -- I'll see whether or not. Well
9 I don't know, I'll see if the language is fine.

10 So, I'm adding in a few things into what you have
11 on the screen here. So it's that the applicant has
12 flexibility to vary the plans regarding the eastern facade
13 including removing the loading door, adding light wells,
14 changing or removing the windows and adjusting the parking
15 garage entrance location and size that would be approved by
16 the Public Space Committee so long as no change modifies an
17 area of relief or creates new relief.

18 So what I did was just add in a little bit more
19 specificity in terms of it's the eastern facade we're talking
20 about so the other facades -- if you make changes to them
21 that's not included in this. We're just -- I'm just trying
22 to focus on this because I think that the alley issue is what
23 we're more focused on than the rest of the things.

24 So it's removing that loading door. Now, if you
25 want to keep the loading door that's fine, but if you want

1 to remove that I think that's fine.

2 Adding light wells maybe for the windows.
3 Changing or removing those windows because you may end up
4 saying that this is just too difficult to try to figure out.
5 We don't need to keep these windows. That's up to you.

6 And adjusting the parking garage entrance location
7 and size. So where it's located and then how big it is. You
8 may end up saying well, we only need one lane instead of two
9 lanes to get in there.

10 Approved by the Public Space Committee. I don't
11 know, as approved by the Public Space Committee. I don't
12 know exactly the language. So long as no change modifies any
13 area of relief or creates new relief.

14 And I don't know if OAG wants to opine on that.

15 MR. TONDRO: I think that's fine. I think it
16 probably would be -- perhaps as approved by -- I think you
17 had said as approved by the Public Space?

18 VICE CHAIR HART: Yes.

19 MR. TONDRO: Yes.

20 MS. MOLDENHAUER: Commissioner Hart, we would be
21 fine with that. I just would like to provide a counterpoint
22 to your Office of Attorney General counsel in regards to the
23 Public Space. Public Space Committee is a public process.
24 They are noticed, the ANC. ANCs review Public Space
25 applications. They typically have a transportation committee

1 other than their zoning committee that discuss this.

2 So, I think when we're asking for flexibility
3 especially in other public procedures such as maybe a CFA
4 approval, or an HPRB approval, or a Public Space approval
5 that there should not be concern from this body about adding
6 those flexibility conditions because we are not doing it in
7 a way that would not be a public process is required and
8 public notice is required to the ANC, but rather it actually
9 does go through their review.

10 ANCs comment on Public Space applications. There
11 is back and forth. And so that's where I would -- we would
12 be okay with Commissioner Hart's comments, but we also
13 believe that it would be sufficient to allow us to have a
14 more broad capacity to vary it specifically as those plans
15 were approved by Public Space since it is a public process.

16 CHAIRPERSON HILL: Okay. So, my comment back to
17 that is that we seem to be as a board moving away -- not
18 moving away from. Yes. I guess so. Moving away from
19 flexibility as was pointed out by OAG in terms of the
20 regulations.

21 I in this particular case and given we've actually
22 taken a lot of time to craft language I would be in favor of
23 providing some flexibility.

24 I'm not necessarily saying I'm going back to where
25 we weren't -- in this particular case I'm talking about this

1 one issue of flexibility. In terms of public meetings and
2 things like that, I'm just trying to figure out what's most
3 efficient for the board also in terms of whether or not
4 they're going to come back here.

5 I don't think that, however, it is our -- and this
6 is just kind of for future cases that maybe would come before
7 us, Ms. Moldenhauer, that you represent. The flexibility
8 thing seems to be -- you can see it's stopping the record
9 right here. Meaning there's a scratch.

10 And so I'm trying to -- I don't know -- this is
11 going to happen each and every time flexibility is asked for.
12 So just throwing that out there as well.

13 So I'm fine moving forward with this particular
14 issue in this particular case. What does anybody else say?

15 COMMISSIONER MILLER: You mean fine with the
16 language that the applicant proposed?

17 CHAIRPERSON HILL: No, with Chairman Hart. I
18 mean, Vice Chair Hart.

19 COMMISSIONER MILLER: Vice Chair Hart. Okay. I
20 also am fine with that language. I'm thinking whether we
21 should add to it the 22 parking spaces since that was the
22 ANC's conditional support.

23 Is the 22 the minimum parking that's required?

24 MS. MOLDENHAUER: No, that's actually more than
25 what is total required. The total parking requirement is 14

1 spaces and we're providing 22.

2 COMMISSIONER MILLER: So I would think that --
3 since that was what the ANC support was contingent on I would
4 want that in there, the 22 parking spaces.

5 VICE CHAIR HART: I'm just making sure I get the
6 clarity on this. Did you want to -- okay.

7 COMMISSIONER MILLER: It's the language that you
8 read and subject to the plans not affecting the parking, the
9 amount of parking.

10 VICE CHAIR HART: Okay. I mean, I understand
11 that. I'm just not sure --

12 COMMISSIONER MILLER: Although, it may have less
13 housing units.

14 VICE CHAIR HART: I'm just not sure how they're
15 connected in terms of --

16 COMMISSIONER MILLER: The relief.

17 VICE CHAIR HART: Well, but the relief is -- I'm
18 just saying that I think it may be -- if you want to do one
19 that you have a separate one that kind of talks about this.
20 Because this I think really just is specific to the Public
21 Space Committee, their deliberation, or at least their, you
22 know, what they might decide as part of that.

23 I don't think the 22 spaces would necessarily
24 change -- that's what the applicant has put forward and those
25 are the plans that we have. So if they were to make changes

1 to that then they'd have to come back presumably to us
2 because they would be making changes to what we have already
3 approved.

4 But again I didn't think that the two things
5 necessarily connected. But I think if you want to have that
6 as a condition you can have that as a separate condition.

7 MEMBER JOHN: Mr. Chairman, I agree that in this
8 particular case because the flexibility is really not related
9 to the relief requested that we might consider granting the
10 request for flexibility in this case.

11 Because it's really very narrow and limited to the
12 east side.

13 But I'm also concerned that by even using Mr.
14 Hart's language that we could probably end up as Mr. Hart or
15 somebody's suggesting losing parking space or maybe number
16 of units. Or maybe changing the plans further from just some
17 modification to the east side.

18 I mean, I'm not sure what could possibly be
19 needed. I don't know if the applicant can perhaps dissuade
20 me from that notion that you could end up not just changing
21 the outside, the exterior of the building, fixing the loading
22 area and just making cosmetic changes that you would not have
23 to make any changes to the interior of the structure.

24 And then those plans, by changing those plans we
25 would not have final plans in front of us to approve.

1 MS. MOLDENHAUER: The zoning regulations right now
2 allow a board approval to be modified so long as they don't
3 increase the number of units. So if for some reason a unit
4 was reduced and went from 44 to 43 the zoning regulations
5 allow that.

6 So, I don't believe that any concerns that you're
7 worried about actually would be increased by this
8 flexibility. This flexibility would only be really to the
9 exterior elevation and that dialogue with Public Space about
10 potentially where the curb cut would go and how that grade
11 would be designed.

12 Which is something obviously within Public Space's
13 review and they're the one -- it's a public alley that we're
14 building. And that's obviously part of the uniqueness here.

15 We are building a public alley for the city. And
16 so it's a benefit that the city is getting in connection with
17 this development.

18 But we obviously need Public Space to approve all
19 of the parameters.

20 MEMBER JOHN: I understand that, but we would not
21 have final plans showing where the units would be or where
22 the parking would be if there's any change to any of that.

23 If we're just talking about the external
24 structure, modifying windows and closing off that loading
25 alley -- I'm sorry, loading door, then that's one thing.

1 If we're talking about modifying the interior of
2 the building, changing things around, reducing parking space,
3 changing a unit, we will not have those plans in the record.
4 It's my only concern.

5 MS. MOLDENHAUER: This flexibility does not talk
6 about that. It only talks about the elevation on the east
7 side.

8 MR. PARET: We're not changing the plans.

9 CHAIRPERSON HILL: Okay. So, let me think. Did
10 you have something?

11 MEMBER WHITE: Yes, I guess I should weigh in.
12 At this point I think -- I mean I raised a question because
13 I always have concerns about plans being in the record that
14 don't actually reflect what the project will ultimately look
15 like.

16 But I understand that there are Public Space
17 issues here so they may have to make some modifications. But
18 I feel more comfortable that if we incorporated some of the
19 comments that Vice Chair Hart specified with respect to the
20 issues on the east side, the window well and the loading door
21 because I think it does change the look and feel of the
22 project.

23 So that's just my two cents.

24 CHAIRPERSON HILL: Okay. All right. So the
25 applicant again is just good with the 22 parking spaces,

1 correct?

2 MS. MOLDENHAUER: That is what the current plans
3 show, yes.

4 CHAIRPERSON HILL: Okay. And so we would put that
5 in as a condition for Mr. Miller perhaps.

6 COMMISSIONER MILLER: I thought I understood the
7 dialogue to be that that wouldn't be part of the plans that
8 would have flexibility.

9 CHAIRPERSON HILL: Right. So I'm just confirming
10 with you that we would or wouldn't put a condition in there.
11 You're comfortable with the way that Mr. Hart was presenting
12 it which is to say if --

13 COMMISSIONER MILLER: Yes.

14 CHAIRPERSON HILL: Okay, there you go. All right.
15 So okay. Does anybody have any more questions for the
16 applicant?

17 MEMBER JOHN: Mr. Chairman, I would like somehow
18 to capture the dialogue and the applicant's representation
19 that the plans would not change, the internal structure of
20 the building, that there would be no change to the number of
21 parking spaces or the number of units.

22 CHAIRPERSON HILL: Okay. Okay, but that's within
23 the plans. The plans aren't going to change. Now, we're
24 approving the plans the way the plans are. So it's kind of
25 going back to Mr. Miller's comment.

1 Okay. So anyway, back to the question. Does
2 anybody have any more questions for the applicant? Okay.
3 All right, great. So I'm going to close the hearing.

4 All right. Is the board ready to deliberate?
5 Okay, would somebody else like to start deliberating first.

6 VICE CHAIR HART: Sure. After reviewing the
7 record and listening to the presentation and testimony from
8 the applicant and taking into account the Office of Planning
9 report which is recommending to approve this application.
10 That's exhibit 42. I would be in support of the application
11 added to that the condition that I read earlier. And I could
12 read it again if you'd like.

13 So I think that this is a project that has met the
14 standards for review. And I understand that there is some
15 concern about just what's going on on that eastern side with
16 respect to the alleyway.

17 And I would just provide that condition to address
18 that -- to provide some flexibility, but address the aspects
19 of the flexibility that we would be okay with making changes
20 to.

21 And that's it. I didn't have a lot to say about
22 it. I think that it's a nice project. Glad that they are
23 expanding the number of parking spaces and that they have as
24 many units as they do. And that's it.

25 CHAIRPERSON HILL: Okay. Anyone else? Okay. I

1 mean, I agree with Vice Chair Hart. Mr. Hart, would you like
2 to make a motion and include your condition?

3 VICE CHAIR HART: Sure. I'll make a motion to
4 approve application number 19897 of Coloma River Capital as
5 read and captioned by the secretary with one condition, that
6 the applicant has flexibility to vary the plans regarding the
7 eastern facade including removing the loading door, adding
8 light wells for the windows, changing or removing the windows
9 on the ground floor and adjusting the parking garage entrance
10 location and size as approved by the Public Space Committee
11 so long as no change modifies any area of relief or creates
12 new relief.

13 MEMBER WHITE: Second.

14 CHAIRPERSON HILL: Motion made and seconded. All
15 those in favor say aye.

16 (Chorus of ayes)

17 CHAIRPERSON HILL: All those opposed? Motion
18 passes, Mr. Moy.

19 MR. MOY: Staff would record the vote as 5-0-0.
20 This is on the motion of Vice Chairperson Hart to approve the
21 application for the relief requested along with the condition
22 as he cited into the record. Seconding the motion, Ms.
23 White. Also in support Ms. John, Chairman Hill and
24 Commissioner Miller. The motion carries.

25 CHAIRPERSON HILL: Okay, great. Thank you. Thank

1 you very much.

2 MR. MOY: All right, Mr. Chairman. I see the
3 parties have rushed to the table. This is case application
4 number 19912 of Stephen Lewis.

5 This is a request for a special exception under
6 the accessory apartment regulations of Subtitle U Section
7 253.4. This is to add an accessory apartment to an existing
8 attached principal dwelling unit in the R-20 zone at premises
9 1920 35th Street NW, square 1296E, lot 848.

10 And let me think. I think there may be a
11 preliminary involving a waiver but I'll leave that to the
12 applicant and the board.

13 CHAIRPERSON HILL: Okay. Could you please
14 introduce yourselves for the record?

15 MR. SOIFER: Yes, sir. My name's Jason Soifer.
16 I'm with Studio 3877, the architect for the client on behalf
17 of the owner.

18 MR. WALKER: Good morning, everyone. My name is
19 Ian Walker also with the architectural team and representing
20 the owner.

21 MR. LEWIS: Good morning, I'm Stephen Lewis. I'm
22 the owner of the property.

23 CHAIRPERSON HILL: Okay, great. Who's going to
24 be presenting to us? Okay, Mr. Walker. All right. So Mr.
25 Walker, I'm going to try to make this as efficient as

1 possible.

2 There's a preliminary matter. Were you aware of
3 this in terms of a modification waiver as allowed for U
4 253.10 from the requirements of U 253.9 that the accessory
5 apartment shall only be permitted on the second story of a
6 detached building.

7 So you need this waiver. Are you aware of this?

8 MR. WALKER: I am now aware of this.

9 CHAIRPERSON HILL: Okay. So I believe that the
10 Office of Planning is in favor of this waiver and we'll see
11 where we get to. Are you now modifying your application to
12 include this waiver?

13 MR. WALKER: Yes.

14 CHAIRPERSON HILL: Okay. OAG, is that sufficient?
15 Okay. All right. So that being the case, Mr. Walker, why
16 don't you go ahead and walk us through what the project is
17 and what you're trying to accomplish, and then also how
18 you're meeting the criteria for us to grant the application.

19 I'm going to put 15 minutes on the clock just so
20 I know where we are. And you can begin. You're not asking
21 for any flexibility of any kind, are you?

22 MR. WALKER: No. I all of a sudden don't like
23 that word.

24 CHAIRPERSON HILL: Okay, all right, great. Just
25 checking. Just checking. Please, start whenever you like.

1 MR. WALKER: Cool. I'll try to keep it smooth
2 here for you. We are proposing an accessory apartment within
3 the main dwelling at 1920 35th Street. The homeowners will
4 reside in the principal dwelling floors 1 and 2 and rent the
5 basement.

6 The proposal is only for an interior renovation
7 with no additional square footage added to the building. The
8 basement will be a one-bedroom unit. There will be no change
9 to the character of the home.

10 The existing rear entry will be maintained for
11 basement access. There will be no front access. There will
12 be no modifications whatsoever to the front facade. The rear
13 garage will be replaced with a wall and two windows.

14 The residence has parking in the rear access by
15 the common alley so no entries and parked vehicles will
16 occur.

17 CHAIRPERSON HILL: Okay. Does the board have any
18 questions for the applicant?

19 VICE CHAIR HART: I did have one question. I was
20 looking through this application and one of the things that
21 I was trying to understand.

22 For an accessory apartment under Subtitle U 253 --
23 it doesn't matter what subtitle it is, but U 253.7(b) I
24 guess.

25 It says an accessory apartment located in the

1 principal dwelling shall be subject to the following
2 conditions and one of the conditions is that the accessory
3 apartment unit not occupy more than 35 percent of the GFA.
4 And I don't know if it does or doesn't because I didn't see
5 any information that said that.

6 The one thing I did understand was that the house
7 had a GFA of 3,078. And so I was just trying to understand
8 what the GFA was for that bottom level and if it actually met
9 that.

10 MR. WALKER: Do you have the plans available? I
11 can pull them up on the screen. I can drag it over.

12 VICE CHAIR HART: I don't know how to --

13 MR. WALKER: I gotcha. One second. All right.
14 If you zoom in and see over here in the code information you
15 can see our gross floor areas. You said 35 percent, correct?

16 VICE CHAIR HART: Yes. It couldn't be more --

17 MR. WALKER: Couldn't be more. Sorry. Yes,
18 that's the big number. You see the existing -- again,
19 there's no additional square footage to be added so the
20 existing cellar is 671. The first floor is 671. The second
21 floor is 645. I believe that meets your criteria.

22 VICE CHAIR HART: Yes. No, yes, that's fine. I
23 just wanted to double check it. I didn't know what the
24 information was so I was like -- it's helpful for us to be
25 able to say okay, we found this information here. It was

1 actually there but I just didn't know where it was. So I
2 appreciate it.

3 MR. WALKER: Yes.

4 CHAIRPERSON HILL: Okay. Any other questions for
5 the applicant? I'm going to turn to the Office of Planning.

6 MS. VITALE: Good morning, Mr. Chair, members of
7 the board. Elisa Vitale with the Office of Planning.

8 The Office of Planning recommends approval of the
9 requested special exception relief as well as the waiver that
10 was requested today. This concludes my report and I'm happy
11 to answer any questions. Thank you.

12 CHAIRPERSON HILL: Does the board have any
13 questions for the Office of Planning?

14 COMMISSIONER MILLER: Thank you, Mr. Chairman.
15 Thank you, Ms. Vitale, for your report. I think between this
16 case and the previous case in R-20 we've realized that the
17 regulations may need some clarification and I just wanted to
18 confirm that OP is looking at that.

19 MS. VITALE: Yes, we --

20 COMMISSIONER MILLER: -- don't have to do the
21 waiver.

22 MS. VITALE: We appreciate that it appears that
23 there was a phrase that was probably left out that would
24 relate to accessory apartments and accessory buildings where
25 there was the restriction regarding it being located on the

1 second floor. So we have this correction on our list. Thank
2 you.

3 COMMISSIONER MILLER: Thank you.

4 CHAIRPERSON HILL: Anyone else for the Office of
5 Planning? Does the applicant have any questions for the
6 Office of Planning?

7 MR. WALKER: Not at this time. Thank you.

8 CHAIRPERSON HILL: Is there anyone here wishing
9 to speak in support? Is there anyone here wishing to speak
10 in opposition? Is there anything final you'd like to add?

11 MR. WALKER: No, I really do appreciate your time
12 and hope you guys have a great rest of your day.

13 CHAIRPERSON HILL: Great. Thank you. All right.
14 I'm going to close the hearing. Is the board ready to
15 deliberate?

16 Okay, I can start. I think that the analysis as
17 provided by the Office of Planning I would agree with. It's
18 actually I think kind of a simple project, so but the ANC 2E,
19 they were also in support 6-0-0. DDOT had no objection.
20 They did have letters in support for exhibit 13 and 28.

21 And so after reviewing the record and hearing the
22 testimony I would agree with the applicant that they meet the
23 standard for us to grant this application and I will be
24 voting to approve.

25 Does anyone have anything they'd like to add?

1 VICE CHAIR HART: Only that I appreciate Mr.
2 Walker's providing information on the size of that unit. It
3 looked like they could have had no more than 1,077 square
4 feet for that bottom unit. They're doing much less than
5 that. It's like 600 square feet which would meet the
6 Subtitle U 243.7(b).

7 And it was more just kind of a clarity. I just
8 didn't see it anywhere so I appreciate the clarification.

9 And I would be in support. I think that they meet
10 the requirements as well.

11 MEMBER WHITE: I agree with you, Mr. Chair and
12 Vice Chair. I think the criteria was met here. It's a
13 pretty clean case. And it was a good presentation.

14 And you've got the support from the community so
15 I'm comfortable with supporting the application.

16 CHAIRPERSON HILL: Okay, anyone else? All right,
17 I'm going to go ahead and make a motion to approve
18 application number 19912 as captioned and read by the
19 secretary including the waiver from the second floor
20 requirements and ask for a second.

21 VICE CHAIR HART: Second.

22 CHAIRPERSON HILL: Motion made and seconded. All
23 those in favor say aye.

24 (Chorus of ayes)

25 CHAIRPERSON HILL: All those opposed? Motion

1 passes, Mr. Moy.

2 MR. MOY: Staff would record the vote as 5-0-0.
3 This is on the motion of Chairman Hill to approve the
4 application for the relief requested. Seconding the motion,
5 Vice Chair Hart. Also in support Ms. White, Ms. John and
6 Commissioner Rob Miller. The motion carries.

7 CHAIRPERSON HILL: Okay, great. Thank you. Thank
8 you, gentlemen.

9 MR. MOY: All right, parties are at the table.
10 This is to case application number 19920 of the District of
11 Columbia Public Schools.

12 This is a request for a special exception under
13 Subtitle C Section 1504 from the penthouse setback
14 requirements of Subtitle C Section 1502.1(b) and (c).

15 This would renovate and expand an existing
16 elementary school in the RA-1 zone at 3375 Minnesota Avenue
17 SE, square 5441, lot 806.

18 And I believe, Mr. Chairman, under exhibit 30
19 there's a motion to waive the 21-day filing requirement for
20 supplemental information.

21 CHAIRPERSON HILL: Okay, great. Thank you. Let's
22 go ahead and start by introductions, please, from my right
23 to left. You need to push the button.

24 MR. DOYLE: Sorry about that. I'm Andrew Doyle,
25 project manager with MCM Build. I'm the person that's

1 ultimately responsible for building the school on time.

2 CHAIRPERSON HILL: Doyle, D-O-L?

3 MR. DOYLE: D-O-Y-L-E.

4 MR. LUND: I'm Paul Lund. I'm the architect for
5 the building with Hord Coplan Macht Architects.

6 MS. SHAND: Good afternoon, I'm Tania Shand, DCPS
7 project coordinator for Kimball Elementary.

8 CHAIRPERSON HILL: Okay, great. Who's going to
9 be presenting to us?

10 MR. LUND: I will be.

11 CHAIRPERSON HILL: Okay, great. All right, so Mr.
12 Lund, okay first of all can you explain why we should grant
13 the waivers? Like why did you have -- why were you guys late
14 anyway? Can you kind of walk me through that and tell us why
15 it's not going to be prejudicial to anyone?

16 MR. LUND: I assume you're referring to the
17 posting. Yes, okay. So the ANC at their meeting in I
18 believe it was November of last year approved the project in
19 that regard.

20 We also posted the sign recently. Let me just get
21 my notes. I apologize.

22 MR. UTZ: This is Jeff Utz with Goulston & Storrs.

23 CHAIRPERSON HILL: Mr. Utz you just decided to
24 join us?

25 MR. UTZ: I did.

1 CHAIRPERSON HILL: Interesting. Okay, all right,
2 Mr. Utz.

3 MR. UTZ: I've been working recently with the team
4 to kind of get everything in order. So we submitted the pre-
5 hearing submission six days before the hearing and then
6 posted the property eight days before the hearing.

7 In large part it was due to some turnover on the
8 folks that were kind of in charge of the BZA application.
9 The folks that submitted and were kind of shepherding that
10 through are no longer involved in the project, but then also
11 there was -- on the hearing notice sign it was a bit of an
12 oversight that resulted from that.

13 But there was the sending out of the hearing
14 notices to the 200 foot owners and actually the ANC meeting
15 happened long ago in November and resulted in support.
16 Although the letter just came in this week that was resultant
17 from that meeting in November.

18 And then with the pre-hearing statement much of
19 that material resulted from kind of helpful suggestions and
20 working with the Office of Planning. And realizing that we
21 kind of needed to put more on the record so that resulted in
22 a bit of shifting.

23 CHAIRPERSON HILL: Okay.

24 MR. UTZ: So rather than wait till today we wanted
25 to get it into the record.

1 CHAIRPERSON HILL: I got it. Okay. So I actually
2 -- okay. So I'm comfortable that everyone has been notified
3 and I don't have an issue with waiving the 21-day filing
4 requirement.

5 Does anyone else have any comments? All right,
6 so by consensus we're going to go ahead and waive that
7 requirement as well as the 14-day post-hearing requirement
8 for hearing notice. And the good cause, again, the
9 explanation of that was in exhibit 29B.

10 Okay, so we've done that. And then I guess Mr.
11 Lund, you have not been included in our book yet as an expert
12 witness. I'm just trying to see which -- do you know which
13 exhibit your resume is in?

14 MR. UTZ: So it is with the pre-hearing submission
15 as well. I'm not sure as to the exact exhibit number of
16 that. But it is in the filing that we submitted last
17 Thursday. I can pull it up quickly here.

18 CHAIRPERSON HILL: Mr. Lund, can you just tell us
19 a little bit about yourself?

20 MR. MOY: It's exhibit 29.

21 MR. UTZ: 29E 1 and 2.

22 CHAIRPERSON HILL: Okay, great. Well, go ahead
23 and tell us a little about yourself, please.

24 MR. LUND: Okay. I'm an architect. I'm the
25 principal in charge for the project with a firm called Hord

1 Coplan and Macht. We're a 270-person office based in
2 Alexandria for this particular project.

3 I've been doing educational projects within the
4 city since the early nineties.

5 CHAIRPERSON HILL: Okay. Does anybody have any
6 questions for Mr. Lund about his expertise? Okay, then I'm
7 comfortable including you as an expert and now you'll be in
8 our book. So we've done that.

9 And so now back to Mr. Lund, you're going to
10 present. Mr. Utz you normally do the presentation so you're
11 going to pop back again? I'm just -- so Mr. Lund, go ahead
12 and go through the presentation.

13 If you could tell us a little about what you're
14 trying to achieve again and how you're meeting the standard
15 for us to grant the application. I'm going to put 15 minutes
16 on the clock again so I know where I am. And you can begin
17 whenever you like.

18 MR. LUND: Okay. Again, Paul Lund with Hord
19 Coplan Macht Architects. We're here to request relief from
20 the roof structure setbacks of 1502.1.

21 The Office of Planning has weighed in in support
22 of this. We agree with their recommendations. We have also
23 had no objection from DDOT and we have also received the
24 support from ANC 7F.

25 CHAIRPERSON HILL: All right. So, does anyone

1 have any questions for the applicant? Okay. All right, Mr.
2 Lund. I'm going to turn to the Office of Planning.

3 MS. MYERS: Hello, Crystal Myers for the Office
4 of Planning. The Office of Planning is recommending approval
5 of the special exceptions requested and stands on the record
6 of the staff report.

7 CHAIRPERSON HILL: Okay. Does anybody have any
8 questions for the Office of Planning? Does the applicant
9 have any questions for the Office of Planning?

10 MR. LUND: No.

11 CHAIRPERSON HILL: Okay. Well, Mr. Lund the
12 reason why I was kind of smiling a little bit is I think that
13 there is a lot of information in the record that we have
14 looked at, but usually during the presentation the applicant
15 kind of defends its point as to how they've met the standards
16 and just doesn't rest on the Office of Planning record.

17 I'm just letting you know. I know Mr. Utz knows
18 that. And so, but I don't have any questions for you. I'm
19 just kind of pointing out.

20 MR. LUND: I'm sorry I wasn't following protocol.
21 I was letting Office of Planning go first. I thought that
22 that was the process. I'm happy to give the presentation.
23 We've fully prepared it.

24 CHAIRPERSON HILL: Sure. That's okay. So all
25 right. And I already asked this, I believe. You don't have

1 any questions for the Office of Planning, Mr. Lund, correct?

2 MR. LUND: No, we do not.

3 CHAIRPERSON HILL: Okay. Is there anybody here
4 wishing to speak in support? Is there anyone here wishing
5 to speak in opposition? Okay. Do you have anything else
6 you'd like to add, Mr. Lund, at the end?

7 MR. UTZ: I don't believe so. We do have a
8 representative of DCPS who could speak a bit more to the
9 project as well. We could walk through the reasons behind
10 the setbacks or lack of setbacks in some of these cases.
11 We're happy to do that. But it is all in the record. The
12 information that we would present wouldn't change from the
13 pre-hearing submission from last Thursday.

14 CHAIRPERSON HILL: I understand. Okay. So, does
15 the board have any final questions for the applicant?

16 MEMBER WHITE: Just one final question. If you
17 could give me some feedback on responses that you've gotten
18 back from the community overall. I mean, Kimball Elementary
19 has been there for some time, right? So I'm curious.

20 It's a school so this is important and I'm just
21 curious to see what kind of support you're getting from the
22 community with respect to this aspect of the project.

23 MS. SHAND: Yes. Thank you, Ms. White. The
24 Kimball community is very excited --

25 CHAIRPERSON HILL: Mr. Utz, could you just turn

1 off your microphone? Thanks.

2 MS. SHAND: The Kimball community is very excited
3 about this project. They had some concerns that they raised
4 with the design team initially in the design of the project
5 that they wanted addressed in the new building.

6 The Kimball school is a focal point of the
7 community and they wanted a design that reflected that focal
8 point. They wanted a design that ensured the kids would be
9 safe in the space and that was accessible.

10 And so the architects achieved that with an
11 interior courtyard and having a very big focal point in terms
12 of the building on Minnesota Avenue. And so Principal Lee,
13 the Kimball community submitted a letter of support and they
14 believe that the original building which they approved and
15 designed along with the architects should be what is
16 approved. And so that's what we're asking for.

17 And they're very excited to move into Kimball.

18 MEMBER WHITE: How many kids?

19 MS. SHAND: I think it's like 450.

20 MEMBER WHITE: Thank you.

21 MS. SHAND: You're welcome.

22 CHAIRPERSON HILL: Okay, anyone else? All right,
23 I'm going to go ahead and close the hearing. Is the board
24 ready to deliberate? Okay, I can start.

25 I would be in agreement with the analysis of the

1 Office of Planning as provided with their supplemental
2 report. I'm glad to see that in exhibit 34 the ANC 7F has
3 also voted unanimously to approve without any questions or
4 concerns.

5 And I think that the record is actually complete
6 in terms of the analysis that we had for why they are meeting
7 the criteria to grant this special exception. So I'll be
8 voting in favor. Does anyone else have anything they'd like
9 to add?

10 Okay, I'm going to make a motion to approve
11 application number 19920 as captioned and read by the
12 secretary and ask for a second.

13 VICE CHAIR HART: Second.

14 CHAIRPERSON HILL: Motion made and seconded. All
15 those in favor say aye.

16 (Chorus of ayes)

17 CHAIRPERSON HILL: All those opposed? The motion
18 passes, Mr. Moy.

19 MR. MOY: Staff would record the vote as 5-0-0.
20 This is on the motion of Chairman Hill to approve the
21 application for the relief requested. Seconding the motion,
22 Vice Chair Hart. Also in support Ms. White, Ms. John and
23 Commissioner Rob Miller. Motion carries.

24 CHAIRPERSON HILL: Okay, great, thank you. Thank
25 you all very much.

1 MR. UTZ: Thank you very much.

2 CHAIRPERSON HILL: We are actually going to take
3 a break for lunch as has been requested. And so we're going
4 to be back here probably at 1 o'clock.

5 (Whereupon, the above-entitled matter went off the
6 record at 12:27 p.m. and resumed at 1:20 p.m.)

7 CHAIRPERSON HILL: Okay, Mr. Moy, whenever you
8 like.

9 MR. MOY: Thank you, Mr. Chairman. The board is
10 resuming the hearing and it's at or about 1:20. So if we can
11 have parties to the table to case application number 19923
12 of John Hancock Life Insurance Company.

13 This is a request for relief for special exception
14 under Subtitle C Section 1504 from the penthouse enclosure
15 requirements of Subtitle C Section 1500.9(b).

16 This would construct new penthouse structures on
17 an existing 12-story office building in the D-6 zone at
18 premises 750 17th Street NW square 166, lot 182.

19 CHAIRPERSON HILL: Okay, great. Thank you. Good
20 afternoon. If you could please introduce yourselves for the
21 record.

22 MR. EPTING: John Epting with Goulston & Storrs.

23 MS. LOGAN: Jen Logan with Goulston & Storrs.

24 MR. WOERNER: Buddy Woerner with WDG Architecture.

25 CHAIRPERSON HILL: Okay, great, thank you. And

1 I'm sorry, Mr. Epting. Are you going to be presenting to us
2 or are you going to be presenting? What's your name again?
3 I'm sorry.

4 MS. LOGAN: Jennifer Logan.

5 CHAIRPERSON HILL: Logan, L-U- --

6 MS. LOGAN: L-O-G-A-N.

7 CHAIRPERSON HILL: Okay, great. Just before your
8 case we had lunch and so I was thinking it's just like the
9 presidential motorcade. You're just like I can make it, I
10 can make it, and then they block you off and then you're
11 stuck for like an hour and a half.

12 Okay. So, Ms. Logan, if you want to go ahead and
13 just tell us a little bit about your project, what you're
14 trying to accomplish and how you're meeting the standards for
15 us to grant the relief that you're requesting.

16 I'm going to put 15 minutes on the clock so I know
17 where we are. And you can begin whenever you like.

18 MS. LOGAN: Thank you. I'll speak briefly and
19 then I think Buddy will take us through some images.

20 So we're here today requesting a special exception
21 for a non-uniform penthouse height for the property at 750
22 17th Street NW.

23 The property is in the D-6 zone. It fronts on
24 17th Street between Pennsylvania Avenue and H Street NW.
25 It's currently improved with a 12-story commercial office

1 building which was combined with the building housing the
2 Metropolitan Club directly to the north for zoning purposes
3 in 1986. So the building is part of a D.C. historic landmark
4 and the property is subject to CFA review.

5 The property owner is proposing to add a rooftop
6 amenity space to the building. Part of that space will be
7 an exterior deck, a trellis, egress stairs, an elevator
8 override and a two-stall bathroom.

9 So we're seeking the special exception relief from
10 Subtitle C Section 1500.9(b) for penthouse enclosing walls
11 to be of non-uniform height.

12 The existing penthouse height is 18.5 feet and the
13 egress stairs will be approximately 10 feet 10 inches in
14 height and the two-stall bathroom will be approximately 10.5
15 feet in height.

16 Allowing the non-uniform height for these
17 penthouse structures will actually minimize the penthouse
18 appearance and visibility. This is of particular importance
19 in this case since the building is a historic landmark and
20 the property is subject to CFA review.

21 So in order to match the height of the existing
22 penthouse of 18.5 feet the proposed stairwell and bathroom
23 would either require special exception relief for the 1 to
24 1 setback requirements or they would be required to be taller
25 than is necessary for their function and use.

1 If we are able to have a lower non-uniform
2 penthouse heights the uses of these spaces will be
3 accommodated in a manner that's less visibly obtrusive.

4 And we have the support of OP and DDOT for our
5 project. And ANC 2B has submitted a resolution into the
6 record showing unanimous support for the project and our
7 requested relief.

8 And we have Buddy Woerner here with WDG
9 Architecture. We're offering him as an expert in
10 architecture and his resume was submitted into the record.

11 CHAIRPERSON HILL: Yes, I'm looking. Okay, Mr.
12 Woerner.

13 MR. WOERNER: Yes, Woerner.

14 CHAIRPERSON HILL: Okay, Mr. Woerner. Yes, I've
15 looked at your resume here. I don't have any question for
16 you in terms of being admitted as an expert witness. Does
17 the board have any questions for Mr. Woerner? Okay, so we'll
18 go ahead and admit you as an expert witness. And please
19 continue.

20 MR. WOERNER: Certainly. I'm not sure if Mr. Moy
21 is going to bring up the presentation. You have it there.

22 So, effectively we have a site plan just showing
23 the location of 750 17th there at 17th and H. I believe the
24 next sheet is a view from 17th that shows our building, the
25 step tower.

1 And then we have some views from the penthouse,
2 views from left to right on the first page looking north and
3 south from the west side of the penthouse. So the wall you
4 see there is the west side of the penthouse and then some
5 views from the south side of the penthouse.

6 This second page has views from the east side of
7 the penthouse. And the view to the south in the lower right-
8 hand corner is the primary view.

9 Prior to those images there was a diagram of the
10 rooftop which the dark grey expresses the existing penthouse
11 enclosure at a uniform height of 18'6 above the main roof
12 with a 1 to 1 setback in compliance.

13 The page after the images, the pictures is a
14 diagram, an architectural diagram that's showing the two
15 additions that we're making that are in variation from that
16 18'6 height.

17 The stair is 10 foot 6 inches above the main roof,
18 stepped down from 18'6 and the two-stall bathroom is 10 foot
19 10 inches above the main roof, again stepped down from the
20 18'6.

21 The stair is governed by the 1 to 1 setback.
22 That's what governs the 10 foot 6 inches in height. The two-
23 stall bathroom, if you go to the last sheet in elevation the
24 two-stall bathroom is somewhat elective and also governed by
25 the existing louver that is part of the operational penthouse

1 systems that we're not modifying.

2 So in essence as Jennifer described we are
3 electing to minimize the mass of the penthouse and the
4 overall design and minimize the scale and visual impact of
5 the two additions.

6 MS. LOGAN: We're happy to take any questions.

7 CHAIRPERSON HILL: Okay, great. Thank you. Does
8 the board have any questions for the applicant?

9 VICE CHAIR HART: Yes, just to make sure I
10 understand this. So the image that is the plan I guess that
11 shows the two areas in light blue, page A213, that is the --
12 these are the only places that you would have something
13 that's kind of habitable.

14 I mean, the rest of the penthouse is going to stay
15 as just for chiller space and the override for the elevator
16 and that sort of thing. It's just going to remain as that.
17 There's nothing that you're adding to that per se. It's only
18 the two light blue areas that we're talking about.

19 MR. WOERNER: Only the two light blue areas and
20 they're non-habitable space.

21 VICE CHAIR HART: Yes. You're doing the other
22 kind of whatever that is, the decking and then it looks like
23 --

24 MR. WOERNER: Correct.

25 VICE CHAIR HART: -- some sort of I don't know

1 shade structure or something that's on one side of it.

2 MR. WOERNER: That's correct.

3 VICE CHAIR HART: That's what you're adding, but
4 the pieces that you're talking about that you need the relief
5 from are those two light shaded pieces.

6 MR. WOERNER: Yes, sir.

7 VICE CHAIR HART: Okay. And on the south, it
8 looks like on the southern elevation -- no, not southern.
9 East elevation that the -- you don't have a 1 to 1 setback
10 for -- from the southern facade. Is that what I'm reading?
11 Am I reading that correctly?

12 But that's --

13 MR. EPTING: It's because we abut a building of
14 the same height to the south.

15 VICE CHAIR HART: Yes, yes. No, I'm just saying
16 that that's the -- I agree with you. I'm just saying that's
17 where we're really kind of looking at.

18 The other part that is where the stairs are, did
19 you say that they were at a 1 to 1?

20 MR. WOERNER: Yes.

21 VICE CHAIR HART: Okay. Okay. I think I
22 understand it so I don't have any further questions. Thank
23 you.

24 CHAIRPERSON HILL: Okay. Going to turn to the
25 Office of Planning.

1 MR. KIRSCHENBAUM: Good afternoon, Chair and
2 members of the board. Jonathan Kirschenbaum for the Office
3 of Planning.

4 We recommend approval of the special exception
5 request for the mechanical penthouse space and we stand on
6 the record. Please let me know if you have any further
7 questions.

8 CHAIRPERSON HILL: Does the board have any
9 questions for the Office of Planning? Does the applicant
10 have any questions for the Office of Planning?

11 MS. LOGAN: No.

12 CHAIRPERSON HILL: Okay. Is there anyone here
13 wishing to speak in support? Is there anyone here wishing
14 to speak in opposition? Is there anything you'd like to add
15 at the end?

16 MS. LOGAN: Thanks for your time.

17 CHAIRPERSON HILL: Okay, great. I'm going to go
18 ahead and close the hearing. Is the board ready to
19 deliberate? Okay, I can start.

20 As far as the relief requested I would be in
21 agreement with the analysis that's been provided by the
22 Office of Planning in terms of how the relief should be
23 approved.

24 I also am heartened to see again that the ANC 2B
25 was in support unanimously 9-0-0. I don't see how this is

1 going to -- I do see how this meets the standards with which
2 we're supposed to evaluate this relief and so I am going to
3 be voting in favor. Does anyone have anything they'd like
4 to add?

5 Okay, I'm going to make a motion to approve
6 application number 19923 as captioned and read by the
7 secretary and ask for a second.

8 VICE CHAIR HART: Second.

9 CHAIRPERSON HILL: Motion made and seconded. All
10 those in favor say aye.

11 (Chorus of ayes)

12 CHAIRPERSON HILL: All those opposed. The motion
13 passes, Mr. Moy.

14 MR. MOY: Staff would record the vote as 5-0-0.
15 This is on the motion of Chairman Hill to approve the
16 application for the relief requested. Seconding the motion
17 is Vice Chair Hart. Also in support Ms. John, Ms. White and
18 Commissioner Rob Miller. Motion carries.

19 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
20 Moy. Thank you very much.

21 MR. MOY: The next application for hearing is
22 application number 19926 of VBR Brewing Corporation. This
23 is requesting relief for special exception under the use
24 regulations of Subtitle U Section 802.1(b).

25 This would permit live performances in an eating

1 and drinking establishment in the PDR-1 zone at premises 209
2 M Street NE square 748, lot 81.

3 CHAIRPERSON HILL: Okay. Let's see. Could you
4 please introduce yourselves for the record?

5 MR. RASPET: Yes, my name is Cameron Raspet. Last
6 name is spelled R-A-S-P-E-T.

7 CHAIRPERSON HILL: R-A-S I'm sorry?

8 MR. RASPET: R-A-S-P-E-T. And I'm the owner of
9 Red Bear Brewing, the applicant.

10 MR. DOOLING: Hello, my name is Rob Dooling and
11 I'm the advisory neighborhood commissioner for this area.

12 CHAIRPERSON HILL: Oh, great. How do you spell
13 your last name, Commissioner?

14 MR. DOOLING: D-O-O-L-I-N-G.

15 CHAIRPERSON HILL: Okay, great, Commissioner.
16 Okay. So, Mr. Raspet, if you could go ahead and present your
17 presentation to us and tell us what you're trying to achieve
18 and how you think that you're meeting the standard for us to
19 grant the application.

20 I'm going to put 15 minutes on the clock again so
21 I know where I am. And you can begin whenever you like.

22 MR. RASPET: Okay. As I already said my name is
23 Cameron Raspet. I'm the owner. We are trying to -- or we
24 are opening a brewery and restaurant in the NoMA
25 neighborhood. We are hoping to open actually next week just

1 as an FYI there.

2 We are here to request relief from Subtitle U --

3 CHAIRPERSON HILL: So hopefully this goes well
4 then is what you're saying.

5 MR. RASPET: We can still open either way.

6 CHAIRPERSON HILL: Okay.

7 MR. RASPET: This is simply -- well, I'll get to
8 it in a second.

9 CHAIRPERSON HILL: That's all right.

10 MR. RASPET: We are here to request relief from
11 Subtitle U Section 802.1(b) which simply is to allow us to
12 do live performances in our space. Due to the zoning
13 restriction there, it's PDR-1 in the zoning requirements it
14 specifically says if this is an eatery of some kind we are
15 required to get a special exemption to allow for live
16 performances.

17 So what our whole purpose as a brewery is to be
18 kind of a community hub. We want to be able to allow people
19 to come in and have a good time. Obviously we're a bar.
20 We're also a brewery and a restaurant. We want to be an
21 essential meeting place for NoMA.

22 We reached out to the community many times, the
23 ANC as well and social media. The neighborhood is generally
24 excited for us. I'm not aware of many people that are not
25 excited for us.

1 And part of our concept is to provide
2 entertainment. And to do that -- and events. And to do that
3 of course we need to have bands and karaoke and the like like
4 that.

5 We currently are not able to unless we get the
6 special exemption. So that's why we're here today.

7 So, some examples. Karaoke, bands, comedy shows.
8 We want to do drag queen bingo, et cetera, et cetera.

9 As far as our use case and allowing for the burden
10 of proof the special exemption will be consistent with the
11 general intent and purpose of the zoning regulations and map
12 simply because it should not be impacting nearby residential
13 spaces.

14 Looking at the plat here just as a visual the site
15 that we are at is circled where it says Red Bear there. The
16 whole site is itself is the Uline Arena which I assume most
17 people are at least aware of it.

18 We have a very small section where the circle is.
19 To the north of us across M Street is the Armature facility.
20 It's industrial. And to the east of us is a residential row
21 house zone.

22 And so as far as how allowing the use will not
23 adversely affect the use of the neighboring properties,
24 traffic, noise, light, et cetera. Specific to our site and
25 key of note is we are in the basement so the walls to the

1 east and the walls to the south are soil. We are not at
2 street level on the 3rd Street side and on the M Street side
3 it's an incline. So we go from almost street level to not
4 street level as you progress to the east on M Street NE.

5 So, that's one of the key notes. We are not
6 anywhere close to the residential areas as far as potential
7 noise impacts as well as our space itself is insulated on
8 purpose to reduce noise issues.

9 Our entryway is to the west. Again, away from any
10 residential towards the Metro which is just past Delaware
11 Avenue.

12 And we have no outside speakers. And that's
13 pretty much it.

14 As far as traffic goes we are very focused on
15 Metro and biking. The NoMA station is literally one block
16 away. That's going to be our prime focus of trying to get
17 people to come to our space. Just take the Metro. All
18 you've got to do is get off one stop and you're there.

19 We're also right next to REI so we're very focused
20 on biking. There's traffic lanes that are biking lanes right
21 there on M Street and Delaware. So as far as parking impacts
22 it should be minimal.

23 The Uline Arena does have a parking garage as
24 needed but it shouldn't be a big issue. And there's no
25 lighting changes and our waste is handled by our building.

1 And I think that's all I have to say.

2 CHAIRPERSON HILL: Okay, great. And in terms of
3 I know that Commissioner Dooling is here from the ANC, but
4 they've requested a five-year time limit. You're aware of
5 this?

6 MR. RASPET: Yes, I'm aware.

7 CHAIRPERSON HILL: And you're in agreement with
8 that.

9 MR. RASPET: I don't disagree. I would obviously
10 prefer not to have the time limit, but I agree.

11 CHAIRPERSON HILL: All right. So Commissioner
12 Dooling, is there anything you'd like to add or tell us
13 about?

14 MR. DOOLING: Yes. Good afternoon, board. Like
15 mentioned we agree that the five-year exception is most
16 reasonable even though the Office of Planning recommended
17 that we have no limit on this exception.

18 We wanted to bring your attention to the Armature
19 Works new development across the street which would add
20 465,000 square feet of residential units at the north side
21 of M Street just across the street from Red Bear.

22 So, we think it's most reasonable to revisit the
23 site in five years and we discuss whether we might need more
24 soundproofing or different arrangement for the entrance of
25 the site.

1 CHAIRPERSON HILL: Okay. Does anybody have any
2 questions for the applicant or the commissioner?

3 MEMBER WHITE: Yes. Both. What are the concerns
4 with noise, soundproofing, insulation? Is that being
5 addressed and have community expressed concerns about it?

6 And that's actually part of the analysis that you
7 incorporate as part of the criteria as well. So just making
8 sure that there are no big issues with privacy and noise and
9 that kind of thing. I don't know who wants to take it but
10 I'm just curious what kind of feedback you've been getting.

11 MR. RASPET: I can start. In general there hasn't
12 been much of a concern. It's been brought up just because
13 it's part of the process.

14 And as I've already stated we are insulating the
15 inside area. Where we have the live performance area is back
16 against the wall. It's not near the entries.

17 And we also have a vestibule which is just as
18 another layer of insulation as far as noise goes.

19 Our only windows are to the west and the north,
20 and the north windows shrink as you go to the east. In
21 general it's a very insulated space.

22 We have -- as we operate our brewery we've
23 actually talked to our neighbors in La Colombe. They
24 actually can't hear our brewery running and they're literally
25 next door. They're one wall away. I'm pretty confident

1 noise shouldn't be an issue.

2 MEMBER WHITE: Okay. Thank you.

3 CHAIRPERSON HILL: Okay, great. Does anyone have
4 more questions for the applicant?

5 MEMBER JOHN: Mr. Chairman, I'm trying to
6 understand where Red Bear would be in relationship to REI.
7 So if you're entering REI through their front entrance coming
8 off the street where would Red Bear be?

9 MR. RASPET: Directly to the left. We are --

10 MEMBER JOHN: Facing REI you would be to the left.

11 MR. RASPET: Facing REI --

12 MEMBER JOHN: But the coffee shop -- isn't there
13 a coffee shop there now?

14 MR. RASPET: So REI, if you're looking at REI, La
15 Colombe, the coffee shop is to the left. And then further
16 to the left perpendicular, not the same entryway, that's
17 where Red Bear is.

18 If you look on this map here REI, the entryway for
19 REI is where the word enter is on the map. And then there's
20 La Colombe. And then there's Red Bear.

21 MEMBER JOHN: And what is the distance from Red
22 Bear to the residences across M Street?

23 MR. RASPET: The front entrance is 150 feet away
24 from those residences on M Street. Or on 3rd Street, sorry.
25 There is no residences on M Street.

1 MEMBER JOHN: On 3rd Street, yes.

2 MR. RASPET: Right now there's nothing on M Street
3 and then 3rd Street it's 150 feet. And that's as the bird
4 flies. It's a little further if you're talking walking
5 distance.

6 MEMBER JOHN: Okay, thank you.

7 CHAIRPERSON HILL: Okay. I'm going to turn to the
8 Office of Planning.

9 MS. THOMAS: Good afternoon, Mr. Chair. Karen
10 Thomas with the Office of Planning.

11 We are in support of the applicant's request to
12 allow a small portion of its eating and drinking
13 establishment to have a space assigned to a live performance,
14 or a karaoke machine, or as they explained it to us a single
15 performer at a time.

16 We don't see this as an issue. The space is
17 designed primarily as an entertainment venue so we have no
18 concerns with it. Its location within the basement of the
19 building is very helpful. It is buffered by entirely
20 concrete to the front on 3rd Street and you wouldn't even
21 know it's there until you actually turn onto M Street and see
22 a sign.

23 So, it's not discernible from 3rd Street at all.
24 I don't see any further impact with respect to traffic,
25 noise, or anything like that to adversely impact the

1 neighborhood.

2 And with that I'll rest on the record and I'll be
3 happy to take any questions.

4 CHAIRPERSON HILL: Okay, thank you. Just what do
5 you think of the time limit?

6 MS. THOMAS: I'm not so much in favor of the time
7 limit. If I had to put any types of limit it might be that
8 the brewery stay in that location of the building. If it
9 moves from that location to let's say expands somewhere else
10 I might have more concern.

11 So I might be more concerned with it being in that
12 location and remaining in that location.

13 I think the use is a use presumed to be within
14 that zone, but will meet any impacts. And I think it would
15 satisfy the impacts or mitigate the adverse impacts in the
16 neighborhood. So I don't see a time limit as being
17 necessary.

18 CHAIRPERSON HILL: Okay. Does anyone else have
19 any questions for the Office of Planning?

20 VICE CHAIR HART: And just to make sure that I
21 understood this too, there are no other similar types of uses
22 within 1,000 feet?

23 MS. THOMAS: Not that I'm aware of, no.

24 VICE CHAIR HART: Thank you.

25 CHAIRPERSON HILL: Does the applicant have any

1 questions for the Office of Planning?

2 MR. RASPET: No, just a comment that there is no
3 plans to move and it's a healthy amount of equipment. So
4 just that comment that expansion, we can't really expand
5 where we're at so we're pretty much limited to that space.

6 CHAIRPERSON HILL: Okay. Commissioner Dooling,
7 do you have any questions for the Office of Planning?

8 MR. DOOLING: No.

9 CHAIRPERSON HILL: Okay. All right. Is there
10 anyone here wishing to speak in support? Is there anyone
11 here wishing to speak in opposition? Is there anything you'd
12 like to add at the end?

13 MR. RASPET: I have stickers if somebody wants
14 one.

15 CHAIRPERSON HILL: Okay, great. Commissioner
16 Dooling.

17 MR. DOOLING: I just -- I want to applaud Red
18 Bear, the transparency and the outreach to the neighborhood.
19 They've been finding neighbors and meet inside the brewery
20 multiple times during construction.

21 And we really appreciate that. And we're
22 confident they will continue to be a great neighbor.

23 CHAIRPERSON HILL: Okay, great. Thank you. And
24 so Commissioner Dooling, I guess since you're here and you've
25 been here all day my hesitancy with the -- first of all, I

1 guess I do have a question for you.

2 Like I have a little bit of hesitancy with the
3 time limit only kind of given what this is and where it kind
4 of is. And that there's costs involved with like small
5 businesses coming back before us.

6 Do you know -- and I'm not saying that -- the
7 board here will have an opportunity to deliberate and see
8 what they think about the time limit. Do you know how --
9 since you're here representing your ANC how stringent they
10 were about the time limit?

11 Like if the time limit were not approved then you
12 think that the ANC would withdraw their approval?

13 MR. DOOLING: Well, our support is entirely
14 dependent on the five-year time limit because we get this
15 news so when we vote that the drastic changes at the site
16 with the new apartment deserve a new discussion of our views.

17 CHAIRPERSON HILL: Okay. All right. Okay,
18 anybody else?

19 VICE CHAIR HART: Just trying to make sure that
20 I understood this also. This is regarding the 1,000 foot
21 kind of distance.

22 You're not aware of any -- are you aware of any
23 property that has any live performances?

24 I bring this up because I'm wondering whether or
25 not the Wonder Garden is --

1 MR. RASPET: Wonder Garden is not -- it's outside
2 of 1,000 feet. I double checked that one.

3 VICE CHAIR HART: It's outside 1,000 feet of the
4 property? Because the property is not just your site, it's
5 the entire --

6 MR. RASPET: They also don't do live performances.

7 VICE CHAIR HART: I just know they have different
8 things going on there. So I don't know if that is a venue
9 per se or it is something that they may have on an occasional
10 basis.

11 Again, I don't know what -- maybe I should ask OP
12 why the 1,000 foot rule is there because I'm just trying to
13 kind of gather -- I don't know how many -- I don't know how
14 to look at -- there's a lot of development that's gone on
15 there and I don't know what's in each of the kind of floors
16 of these buildings. I don't know if you kind of looked at
17 that as well.

18 MR. RASPET: Wonder Garden is the only bar in the
19 area. To my understanding they don't do live performances.
20 They have events on occasion, yes, and they have the zoning
21 ability to do that at their leisure.

22 But other than that it's not something that I
23 thought was a conflict with the requirements of the 802.1(d),
24 I think that is, or one of those.

25 VICE CHAIR HART: Yes, it's -- well, I have it as

1 3.

2 MR. RASPET: Number 3, yes.

3 VICE CHAIR HART: And I'm just wanting to make
4 sure. I don't know if OP has or if our commissioner has any
5 idea about that, Commissioner Miller? If you have any ideas
6 of why the 1,000 foot rule is there?

7 COMMISSIONER MILLER: I'm happy you're asking that
8 question. I'm asking that question myself why we would have
9 done that.

10 VICE CHAIR HART: I just thought --

11 COMMISSIONER MILLER: Not like it's a trash
12 transfer station or anything.

13 VICE CHAIR HART: I didn't know if OP had any?

14 MS. THOMAS: Typically these radius requirements
15 are there not to preclude other businesses from coming in,
16 whatever it is, but to make sure that the businesses mitigate
17 against any adverse impact.

18 And in this case I wouldn't accrue any adverse
19 impact to Wonder Garden or impacting the applicant's
20 establishment.

21 MR. RASPET: If it helps any they actually want
22 us on tap. So we talk to them on occasion.

23 VICE CHAIR HART: Yes, no, like I said I didn't
24 particularly have an issue with this, with the -- with what
25 you are proposing.

1 It's just as we look through our criteria how does
2 it actually meet that. And I just wanted to understand that
3 a little bit further so I appreciate the information.

4 CHAIRPERSON HILL: Mr. Raspet, how long is your
5 lease?

6 MR. RASPET: Ten years. Ten years with a five-
7 year extension I should say.

8 CHAIRPERSON HILL: Okay. All right. Okay, does
9 the board have anything else? Okay, go ahead and close the
10 hearing.

11 Is the board ready to deliberate? Okay. I do
12 think that I'm in agreement with the application that the
13 applicant has put forward.

14 I'm also in agreement with the analysis the Office
15 of Planning has provided. I don't know where I am with the
16 ANC condition yet, but I want to talk about it a little bit
17 more with the board.

18 I do think that they make a good point in terms
19 of there's new neighbors coming around and people can come
20 back and we can revisit -- I've heard it from -- I guess when
21 we've put limitations on things such as this it's been 3
22 years, 5 years, 8 years, 10 years. I mean it seems as though
23 it's a little bit arbitrary sometimes.

24 I do respect the ANC and what they're coming
25 forward with us so I just want to talk about it a little bit

1 in terms of it does cost money to come here. And I think
2 that it doesn't sound like they're doing anything really
3 loud. It sounds like it's just -- but at the same time it
4 sounds like -- and I know that area a little bit in terms of
5 the brick insulation, how old those or solid those walls
6 probably should be.

7 So, in any case I'm in support of the application.
8 I'm trying to just kind of talk through the conditions with
9 you. But I also could be in support of the five-year
10 condition so I'm not -- I'm just trying to hear what the rest
11 of the board members have to say.

12 MEMBER JOHN: Mr. Chairman, I also can support
13 this application. And when I first looked at the five-year
14 requirement it made sense to me.

15 But in listening to the applicant's presentation
16 today -- so there are a couple of things. First -- well,
17 more than a couple.

18 First, it's located in the basement and it's 150
19 feet from the residential development. So that creates quite
20 a buffer.

21 And based on its location towards where -- if you
22 look at the entryway it's in a commercial area. So I think
23 I'm not as supportive of that five-year requirement,
24 particularly as you noted, Mr. Chairman, that it does create
25 a burden on a small business.

1 And the application is for a single -- was it
2 single performer.

3 MR. RASPET: Pretty much, yes. Single or double.

4 MEMBER JOHN: So we're not looking at big live
5 bands.

6 MR. RASPET: No.

7 MEMBER JOHN: A huge entertainment venue.

8 MR. RASPET: No night clubs --

9 CHAIRPERSON HILL: I'm sorry. The hearing is
10 closed. We're just having discussions. You can turn off the
11 mike. I know you want to talk, but thanks.

12 MEMBER JOHN: So based on that long-winded
13 explanation I would not support the five-year limit.

14 CHAIRPERSON HILL: We're going to go through this.
15 Like their lease is up in 10 years. You could do 10 years.
16 I don't know what you think about 10 years or what the Office
17 of Planning was more concerned about was it moving from that
18 location.

19 Like it could actually -- as long as it stayed
20 there then there wasn't going to be -- they the Office of
21 Planning didn't think there was an issue.

22 Does anyone else have a comment -- does anybody
23 have some more comments?

24 MEMBER WHITE: I would support the application,
25 number one. I think they've met the criteria for special

1 exception use provisions.

2 In terms of the 5 years, I mean they've got a 10-
3 year lease so I think they're pretty locked in to that
4 location.

5 I respect the opinion of the ANC. It seems as
6 though they've got support. It seems like they're going to
7 be a good community partner.

8 So I wouldn't necessarily think that that would
9 be a deal breaker to make sure that was incorporated. So I
10 don't see the need to do it since they're committed to being
11 in that location under a 10-year lease. And I don't know how
12 long they've been there exactly, but I imagine it's been --
13 they've got at least probably five years left.

14 CHAIRPERSON HILL: I'm back -- I'll see what you
15 guys -- I'm on the 10 years.

16 VICE CHAIR HART: My only -- I would agree with
17 my colleagues so far in terms of being in support of the
18 application with the caveat of I'm a little bit -- not wary.
19 A little bit unsure about the 1,000 foot rule.

20 One, I'm just not exactly sure -- I kind of
21 understand why you need it, but it doesn't seem that
22 necessarily relevant here. I don't know.

23 But anyhow, I would be in support of the
24 application.

25 Regarding the 5-year or more or no -- 5 years ago,

1 10 years ago this was a very different neighborhood. So you
2 didn't have most of NoMA -- that was 2009. Most of NoMA
3 wasn't built out at this point.

4 So there have been kind of some changes that are
5 going on and I could kind of foresee -- the ANC commissioner
6 said that there was a development happening north of this
7 too. North of M Street.

8 I could see having a five-year kind of look or
9 limit. I could probably be okay with 10-year. I don't know,
10 I just think that maybe there is some benefit in coming back
11 at some point and saying okay, this is what the issues were.
12 We have now a neighbor to the north and whatever it is, if
13 there are any issues. If no issues then they can kind of
14 continue on the way that they have been.

15 So I am loosely okay with the 5-year or 10-year
16 limit.

17 CHAIRPERSON HILL: Okay.

18 (Simultaneous speaking)

19 CHAIRPERSON HILL: I'm having a conversation. I
20 don't really have -- I'm not also opposed to the limit. I've
21 got to say that I can understand the argument and I
22 appreciate the fact that the commissioner has been here and
23 the ANC did take a vote.

24 And without the time limit they are -- actually
25 how does that work. So OAG. So if -- I have a question.

1 So let's say that we did this. Or I'm sorry, let's say this
2 was approved and we didn't put a time limit in which
3 therefore means that the ANC would -- that means that the ANC
4 would then be opposed.

5 Because the testimony that we just had was that
6 the ANC was in favor if the five-year was in place. So if
7 the five-year wasn't in place then the ANC would now be
8 opposed.

9 So, if they're now opposed we would have to write
10 a full order.

11 MR. TONDRO: I think first of all if you chose to
12 reopen the hearing and ask the ANC commissioner you could do
13 so to confirm what their stance would be. I think otherwise
14 -- what they have approved is they have approved it provided
15 there is a condition.

16 And so if the condition is not included then that
17 would mean -- that's part of the approval. So therefore I
18 think it would be a full order.

19 CHAIRPERSON HILL: We can reopen the record here
20 for a second, but I think I'm correct. And so if that's the
21 case then I'm back to like now -- I'm with the five years
22 then. Because a full order takes a long time.

23 And so you know -- anyway, okay. So let me --
24 okay. So I can reopen the record. That's what you're
25 saying?

1 VICE CHAIR HART: I don't know, I kind of see it
2 like this. The applicant is kind of agnostic about the five-
3 year. He's kind of like okay if we have it, but it's not a
4 --

5 CHAIRPERSON HILL: Okay.

6 VICE CHAIR HART: -- with them. So the ANC has
7 already said that they are -- that's what they wanted. I
8 think that none of us have said oh, we definitely should not
9 do a five-year. So I think that it's -- and I think that
10 it's fine to do it because there is a -- this is a changing
11 neighborhood that we're talking about. That's kind of where
12 I am with it.

13 CHAIRPERSON HILL: Okay. Then my whole thing is
14 that again, a full order takes like eight months. And so a
15 summary order takes a few weeks. So you're karaoking in a
16 couple of weeks, or you're waiting for eight months to go by.

17 Okay, so I'm -- reopen the record. I'm fine with
18 deliberations. I'm fine with the five years. Is everybody
19 kind of onboard there?

20 MEMBER WHITE: Yes, I'm onboard with it.

21 CHAIRPERSON HILL: Commissioner Miller?

22 COMMISSIONER MILLER: Well, I think you gave the
23 best reason for going with the time limitation which is the
24 distinction between a full order and a summary order.

25 I personally would prefer the 10-year going with

1 the lease if they're going to put in audio equipment or
2 whatever it is to facilitate these.

3 And so -- and I actually would prefer -- I
4 appreciate the ANC's respect for residents that don't even
5 live there yet.

6 There's something to say though about maybe the
7 residents shouldn't come with the expectation that they're
8 going to have some kind of veto in five years. Maybe they
9 should know they're moving into a neighborhood across from
10 live entertainment. And they make that calculation and the
11 400 residents that are there are people who like live
12 entertainment and don't mind hearing it maybe from their --
13 if they can hear it which I doubt they can, given all the
14 distance and the buffering and the basement use.

15 And this is use. It does have conditions.
16 Another body, another public body would be reviewing this
17 operation, the ABC board which I think every three years they
18 -- your license comes up for renewal, is that correct? Well,
19 you can't -- the record's not open.

20 Another body would review these types of issues.
21 I think when this came up, this type of issue came up at the
22 Zoning Commission I was unsuccessful in persuading my
23 colleagues that there was another body that was more
24 appropriately dealing with these types of issues and dealing
25 with the use issues as the Zoning Commission or BZA we didn't

1 really have to get into -- get into that because that body
2 can put in whatever conditions it wants on the ABC
3 establishment.

4 So, I will go along with whatever my colleagues --
5 the majority of my colleagues want. If they want to do a 5-
6 year, a 10-year. I prefer no time limit because I don't
7 think it's necessary.

8 It is necessary for the reason you said, Mr.
9 Chairman, though. If the ANC is going to oppose it without
10 a limit. So I'll go along with the majority of my
11 colleagues.

12 CHAIRPERSON HILL: Okay. So just to finish the
13 circle of discussion which I'm finding somewhat useful is
14 that -- right.

15 I think that -- I could have been fine also
16 without it, but I think that the ANC and to have their
17 support and to be able to write a summary order if we
18 determine to do that gets this thing moving along faster than
19 if it was the other way around.

20 As you said agnostic was I believe the word you
21 used which is a good word. All right. So I'm going to go
22 ahead and make a motion. So I make a motion to approve
23 application number 19926 as captioned and read by the
24 secretary with the condition that this order has a five-year
25 time limit on it and ask for a second.

1 VICE CHAIR HART: Second.

2 CHAIRPERSON HILL: Motion made and seconded. All
3 those in favor say aye.

4 (Chorus of ayes)

5 CHAIRPERSON HILL: All those opposed? Okay. Go
6 karaoke in a couple of weeks.

7 MR. MOY: Staff would record the vote as 5-0-0.
8 This is on the motion of Chairman Hill to approve the
9 application for the relief requested along with a condition
10 that this order is on a five-year term period. Seconding the
11 motion, Vice Chair Hart. Also in support Ms. John, Ms. White
12 and Commissioner Rob Miller.

13 CHAIRPERSON HILL: Okay, great, thank you. Thank
14 you, gentlemen. All right, Mr. Moy.

15 MR. MOY: Thank you, Mr. Chairman. So applicants
16 to the table. This is to case application number 19918 of
17 Solo Entertainment LLC.

18 This is a requested relief for a special exception
19 under the residential conversion requirements of Subtitle U
20 Section 320.2, to construct a third story and a three-story
21 rear addition to an existing, attached principal dwelling
22 unit and convert it to three-unit apartment house, RF-1 zone.

23 This is at 4521 Iowa Avenue NW square 2918, lot
24 78.

25 Mr. Chairman, I believe there's a couple of

1 preliminary matters, one being the motion to waive the 21-day
2 filing requirement which I believe is under exhibit 20. And
3 I believe also the waiver from Subtitle U Section 320.2(e)
4 which is the addition to extend more than 10 feet from the
5 rear walls of the adjacent buildings.

6 CHAIRPERSON HILL: Okay, Mr. Moy. The preliminary
7 matter for the waiver, you're saying we need to add the
8 waiver?

9 MR. MOY: Yes.

10 CHAIRPERSON HILL: Okay. All right. So first of
11 all, is there anybody here who's planning to testify who
12 hasn't been sworn in? Okay. If you haven't been sworn in
13 if you could please stand and take the oath administered by
14 Mr. Moy here to my left.

15 (Whereupon, the witnesses were sworn.)

16 CHAIRPERSON HILL: Okay, great. So let's take
17 care of a couple of things.

18 First, let's introduce ourselves please from right
19 to left.

20 MR. SULLIVAN: Good afternoon, Mr. Chairman,
21 members of the board. My name is Marty Sullivan with the law
22 firm of Sullivan & Barros on behalf of the applicant.

23 MR. BAGNOLI: Good afternoon. My name is David
24 Bagnoli. I'm with Studio MB Architects.

25 CHAIRPERSON HILL: Could you spell that last name

1 for me, please sir?

2 MR. BAGNOLI: Yes. B as in boy, A-G-N-O-L-I.
3 With Studio MB.

4 CHAIRPERSON HILL: Okay, great. Thank you.

5 MR. ABEBE: Good afternoon. My name is Siem
6 Abebe. I am the owner of the property.

7 CHAIRPERSON HILL: Could you spell your last name
8 for me?

9 MR. ABEBE: A-B-E-B-E.

10 CHAIRPERSON HILL: Okay. Mr. Sullivan, you're
11 going to be presenting?

12 MR. SULLIVAN: Yes, sir.

13 CHAIRPERSON HILL: Okay, great. Is the ANC here?
14 Is the ANC commissioner here? Okay. All right. Okay.

15 So, Mr. Sullivan, first of all the preliminary
16 matters. So you know about the waiver from the 10 foot rule
17 and so you're adding that to -- or that's within the request?

18 MR. SULLIVAN: That was in the original request.
19 I think the waiver was because we filed an additional
20 revision after the 21-day filing period.

21 CHAIRPERSON HILL: Okay. And then the waiving of
22 the 21-day filing, can you explain for the shadow studies and
23 the revised plans?

24 MR. SULLIVAN: We were just responding to comments
25 from the Office of Planning, interaction with them. And so

1 I think it was two days late.

2 CHAIRPERSON HILL: Okay. All right. I think that
3 all the parties have had an opportunity to look at the shadow
4 studies and the revised plans. I personally would want the
5 shadow studies and the revised plans so I'm comfortable
6 waiving the time limit as well as putting the waiver or the
7 application of the waiver for the 10 foot rule into the
8 application.

9 Unless the board says anything differently I'll
10 assume that's fine by consensus. Okay.

11 So Mr. Moy, we're going to go ahead and do that.

12 MR. MOY: Yes, sir.

13 CHAIRPERSON HILL: And the only reason why I'm
14 asking, there was an ANC commissioner here at one time, is
15 that what somebody was kind of nodding in the back. But
16 they're not here yet, or they're on their way.

17 If the ANC commissioner does come in if they could
18 just raise their hand that would be great. Thank you.

19 Okay, so Mr. Sullivan I'm going to go ahead and
20 put 15 minutes up on the clock just so I know where we are.
21 There's obviously people here and so there's going to be a
22 lot of stuff that we're probably going to end up talking
23 through.

24 But why don't you go ahead and walk us through.
25 This is the application from the previous thing that's on the

1 screen. I don't know if you're going to use a presentation
2 or not.

3 MR. SULLIVAN: I have one and I have it here. But
4 it's not showing up there so I have some technical
5 difficulty.

6 CHAIRPERSON HILL: I don't know if the technician
7 could come out please and help us with the presentation.

8 All right, Mr. Sullivan, you can begin whenever
9 you like.

10 MR. SULLIVAN: Thank you, Mr. Chair and members
11 of the board. This is for 4521 Iowa Avenue NW. We are
12 proposing a conversion to a three-unit apartment house with
13 an addition, a 20 foot addition including a waiver of the 10
14 foot rule to do the 20 foot addition.

15 And I'll turn it over to Mr. Bagnoli to explain
16 the project and go over the areas of relief and everything
17 else. Thank you.

18 MR. BAGNOLI: Thank you, Marty. Just to go over
19 a little bit of what you see on the screen in front of you.
20 We are not altering the front facade of the existing
21 structure although we're not within a historic district.
22 We're sitting back 4 feet off of that and I'll show you a
23 sight line image here in just a moment taken from across the
24 street.

25 We are looking to extend the existing property

1 back 20 feet. And our footprint once we do that still does
2 not exceed 50 percent lot occupancy at 60 -- but we're not
3 even at 50 when we do that.

4 We do have a recommendation of approval from the
5 Office of Planning and I'd just point out that we've been
6 back and forth with the ANC a number of times, two times and
7 that there were subsequent meetings and alternate schemes
8 proposed and discussed with the neighbors and the ANC.

9 In the end we could not come to an agreement in
10 terms of the overall scale of the property. I'm sure we'll
11 hear some of that conversation in a moment.

12 But the property itself as you can see from this
13 next image is a three-story property with a basement. We are
14 including three residential units, a three-bedroom and two
15 two-bedrooms.

16 And we believe the 20 foot addition allows those
17 to be not just marketable but family size units. And if we
18 were to reduce that overall pushback from the 20 feet we
19 would either have to go to three smaller units or lose a unit
20 and go to two units.

21 CHAIRPERSON HILL: Mr. Bagnoli, just hang on one
22 second. I'm writing something up also and the commissioner
23 just arrived. So just give me a second kind of to settle in
24 here.

25 Actually, if you could introduce yourself again,

1 Commissioner, real quick.

2 MR. CAMPBELL: Well, first let me apologize for
3 my tardy arrival. I was trying to gauge it based on when the
4 case might be called so my apologies. But Ulysses Campbell
5 for ANC 4C. And I represent 4C03.

6 CHAIRPERSON HILL: Okay. And Commissioner
7 Campbell, you haven't been sworn in yet so did you get sworn
8 in this morning?

9 MR. CAMPBELL: I was not.

10 CHAIRPERSON HILL: Okay. So Mr. Moy, if you could
11 swear in Commissioner Campbell.

12 (Whereupon, the witness was sworn.)

13 CHAIRPERSON HILL: Okay, Mr. Bagnoli. The reason
14 why I was also pausing was like you know, so with the ANC
15 being present the ANC will have an opportunity to also give
16 a presentation and then also ask you questions.

17 And so you might as well -- if you want to go to
18 the very beginning again you can start at the very beginning.
19 If there's anything that you think that the ANC commissioner
20 might need in terms of -- because you did mention that we
21 know that there are people also to talk about it, so you
22 might as well just have a nice quiet, calm discussion about
23 everything.

24 Okay. So go ahead and start when you like. And
25 Mr. Moy, if you could put 15 minutes back on the clock.

1 Thank you.

2 MR. BAGNOLI: Okay. So, just hopping back to this
3 brief overview. We are looking at a property on Iowa Avenue.
4 We are anticipating retaining the existing front facade.
5 We're not within a historic district. We are sitting back
6 4 feet from the front facade.

7 And we are looking for a 20 foot addition onto the
8 rear with a single story addition onto the top.

9 Our footprint is slightly below 50 percent of the
10 lot occupancy. We're within -- the zone allows up to 60
11 percent but we're only looking for the 50 percent with that
12 20 foot extension on the rear.

13 As you know, the Office of Planning is
14 recommending approval. And we have been back and forth with
15 a number of meetings with the neighbors as well as with the
16 ANC. We've been there twice.

17 We could not come to agreement with the neighbors
18 in terms of what was the appropriate approach to the project.

19 However, we did come back with alternative
20 approaches that none of which seemed to satisfy what their
21 concerns were and so we're here to talk about that and we'll
22 hear more from that later.

23 This line of sight drawing shows the setback from
24 the front particularly taken from across the street, that
25 curb from the viewer there on the right-hand side of the

1 image. And we've pushed back 4 feet and sloped the roof so
2 it's not visible from the front of the street.

3 These are three units that we're proposing, a
4 three-bedroom and two two-bedrooms. We believe the 20 foot
5 addition allows us to do nicely sized units, family sized
6 units that if we were pushed tighter to the 10 foot allowable
7 we do believe that we'd either have to lose a unit and go to
8 two units, or make three fairly small units in order to make
9 that work.

10 These are two views, one from the front from
11 across the street taken from the computer model from that
12 same curb looking at the front house. You can see it's one
13 of many houses that have this configuration.

14 You'll also notice the sun shadows, the deep
15 shadows on here. And I'm going to have some sun studies that
16 we'll talk about here in just a moment. Yes, sir.

17 VICE CHAIR HART: Just one quick question. Going
18 back to that other image, the previous image. What's the
19 width of this road? Iowa looks really wide here. I don't
20 know if it's just because the buildings are set back or
21 because there are -- I mean there are probably 15 foot
22 sidewalks and tree pits.

23 And then the street looks fairly wide too. So I
24 was trying to figure out if this was a -- it doesn't look
25 like it's a regular sized street with the parking and the

1 road right of way, one-way each way and parking on either
2 side.

3 And then the 15 foot sidewalks. It felt like it
4 was much wider. I was just trying to figure out if it is
5 wider then are you farther back in looking at this and is
6 there a visibility of this --

7 MR. BAGNOLI: So this is representative of the
8 street, what you're seeing in the section if I understand
9 your question.

10 VICE CHAIR HART: I just was -- I had just looked
11 at kind of Google Earth to figure out some of this. And the
12 sidewalk and where the street trees are, that looked really
13 wide. And it didn't look like it was represented here.

14 And so I was just trying to figure out how does
15 that fit into this. And you know, when that kind of threw
16 off then I was just like well, I don't know exactly if this
17 is the -- if this is as representative as it can be.

18 While it is kind of a normal street, this section
19 is, I just didn't know --

20 MR. BAGNOLI: So, I apologize if it's
21 misrepresenting where that site wall is in front of the
22 property. It could be that that site wall is drawn too close
23 to the curb.

24 And I'm happy -- Marty's trying to call up the
25 street width here on the computer so that we can come back

1 to that question.

2 VICE CHAIR HART: And the reason I bring it up now
3 is because in this one and in the next image that you show
4 it almost looks like you're a little close.

5 (Simultaneous speaking)

6 MR. BAGNOLI: I went back and double checked the
7 front view here as well and felt like it was represented very
8 close as well. I had the folks at the office look at that
9 on the computer and it's sitting back on the curb, but I'm
10 happy to go back and double check that.

11 VICE CHAIR HART: I think all this kind of really
12 hits on where the sidewalk is and how wide the sidewalk is
13 delineated. And once you do that on either side you have,
14 you know, whatever the -- 6 foot sidewalk plus I don't know,
15 10 foot --

16 MR. BAGNOLI: Tree band.

17 VICE CHAIR HART: Yes, tree band. That you're
18 maybe looking at 30 feet on both sides of the road. And then
19 you may be actually back farther than what you typically --
20 and I only bring this up because of some questions I had
21 regarding this street front is very uniform. And I didn't
22 know how this may affect that.

23 So I apologize for breaking in, but that was kind
24 of one point that I was just trying to get a better idea.

25 MR. BAGNOLI: Marty says it's 95 property line to

1 property line.

2 VICE CHAIR HART: And the property lines are from
3 the porch or from the --

4 MR. BAGNOLI: Well, oddly -- that's my next slide.
5 The porch actually is 18 -- the face of the building is 18
6 feet back from the property line on these. So you can see
7 that on the right-hand side of this drawing.

8 VICE CHAIR HART: Yes. So you said it's 95 feet?

9 MR. BAGNOLI: Ninety-five feet wide.

10 VICE CHAIR HART: So that's a pretty wide street
11 that you're talking about.

12 MR. BAGNOLI: But the street is 36, 35.

13 VICE CHAIR HART: Which means that the sidewalks
14 are very generous in this area. And I just wanted to make
15 sure that there was a kind of fairly accurate representation
16 that we were looking at so that I had a better idea that this
17 was.

18 And I wasn't sure how that actually panned out and
19 what that actually looked like. It's a question only because
20 I --

21 MR. BAGNOLI: It's fair enough.

22 VICE CHAIR HART: Yes.

23 MR. BAGNOLI: I guess what I would say is in the
24 event that the street and the viewer is further back on this
25 we would make an appropriate adjustment to the depth of that

1 setback on the front of the building so that that sight line
2 would not be disturbed when you're standing on that sidewalk.

3 So if this is in fact accurate we would propose
4 this. But if you have to move the person back we would make
5 that accommodation and make that 4 feet that you see there
6 may have to go to 5.

7 VICE CHAIR HART: Thank you. If you could have
8 the kind of full street -- I don't want to say the full
9 street, but having the --

10 MR. BAGNOLI: The whole street section.

11 VICE CHAIR HART: -- dimensions. So have an idea
12 about what that is.

13 MR. BAGNOLI: Sure.

14 VICE CHAIR HART: Again, I'll let you continue
15 with it. I just wanted to make sure I understood that.

16 MR. BAGNOLI: Okay. So that is the front view
17 that you see there on the left and that is consistent facades
18 on both sides of the street.

19 I do point out the shadow on that because this
20 facade faces due southwest and so when we get to the shadow
21 studies I'll show you what the impact is on the rear of the
22 house because it's predominantly in shadow because it's to
23 the north and the east.

24 The rear view here is from the alley that's behind
25 the property. And you can see here that it's an

1 exceptionally broad lot, it's 20 feet wide by 135. Of that
2 135, 18 feet is to the front of the main facade of the
3 building although the porches are within that and are
4 consistent up and down the block.

5 The existing structure is about 42 feet long. And
6 when we look at the next slide that's showing the additional
7 parking that we're adding, two cars on the left there and
8 then the 20 foot proposed addition and then the two adjacent
9 structures to the north -- well, to the east and the west,
10 but north and south on this page.

11 So, these are the unit plans just for reference.
12 Again, these are nicely sized family sized units we believe
13 that we're able to get within the 20 foot setback. And this
14 is just moving up the building.

15 There is a proposed roof deck that has a 3 foot
16 6 parapet on either side to prevent privacy issues from
17 occurring towards either the neighboring adjacent properties
18 or even further down the street.

19 We do have garbage accounted for in the rear near
20 the parking that you see there to take care of that. Trash
21 is always an issue and a concern that we're particularly
22 focused on.

23 And then this just shows a blowup section of how
24 the building could work. And again, the property line is 18
25 feet to the right of that main facade.

1 And then in terms of the light and air and the
2 shadow studies we did extensive shadow studies. And I'm
3 going to share with you.

4 And I think what we'll see is that the difference
5 between the proposed 20 foot addition and the by right 10
6 foot addition is almost insignificant except for one case
7 which I'll point out when we get to it.

8 I'm going to take you through a series of shadow
9 studies taken at four different times throughout the year and
10 different times throughout the day.

11 In the winter where there's the biggest difference
12 in the shadows it's really only at one time that we start to
13 block the views I think more than we would -- I'm sorry, the
14 sun more than we would with a 10 foot addition.

15 And so I want to orient you just very briefly to
16 those north arrows that you see on the plan. So while the
17 surveyors come in and they give us the plan that fits on the
18 sheet of paper north is actually down and to the left. And
19 so the sun angle that you see there on the top right of each
20 page is giving you a sense of what time these shadow studies
21 are taken.

22 And so this is taken at 9 a.m. on December.
23 That's where the sun is the lowest its point in the sky. You
24 can see that a 10 foot by right addition if you will versus
25 the 20 foot proposed addition has no impact on the neighbor

1 to the bottom of the page.

2 Similarly, at noon on that day there's really
3 minimal variation in the depth of the shadow, certainly no
4 change in the impact on the adjacent properties.

5 And then again at 3 o'clock in the afternoon
6 everything is in full shadow.

7 Moving to the equinox, March and September at 9
8 a.m. again the impact on the 10 foot by right addition versus
9 the bottom which shows the 20 foot addition, no significant
10 variation on the impact to the immediate neighbor.

11 Here it is at noon, a similar kind of degree of
12 impact on the immediate neighbor. And then here we are at
13 3 p.m. And again this is September and in March.

14 And so it's this next one that you see at 9 a.m.
15 there is a slight variation where the neighbor to the --
16 that's the neighbor to the west if you will even though it's
17 page south does have a bit more shadow cast on them from the
18 20 foot proposed addition versus the 10.

19 And this is taken in June at 9 a.m. By the time
20 you get to noon on the June -- 12 o'clock again no impact on
21 the neighbor to the south. And then the neighbor to the
22 north -- I'm sorry, north, page north when I say that. I
23 apologize. Page north here, no impact on the neighbor to the
24 north between the 20 foot and the 10 foot addition.

25 Finally, in terms of privacy we are not proposing

1 -- I showed you some sections, those side walls of the
2 addition we would have is solid with no at risk windows to
3 maintain privacy.

4 We have extended the parapet up 3 foot 6 so that
5 there's no guard rail that would allow people for views up
6 or views down.

7 And then we do have rear balconies but those are
8 as you know projected beyond the face of the adjacent
9 structures. And these are narrow so that they're limited in
10 terms of what could be happening out there on those
11 balconies. They're not 10 foot balconies.

12 When it comes to character I did mention the
13 setbacks. I'm happy to go back and re-verify that the street
14 section is taken properly. And if we are in fact incorrect
15 on where that view cone is taken we would make that
16 adjustment to the front, push that 4 foot addition to what
17 it would need to be to stay out of the view cone.

18 And we are 55 feet with a 20 foot addition to the
19 rear. Again, 50 percent lot occupancy. We're 55 feet from
20 the alley. So it's a fairly significant setback still to the
21 alley.

22 And then here is that line of sight drawing again
23 which again I'm happy to revisit if need be.

24 I know we have three minutes left. I'm going to
25 let Marty jump in real quick here.

1 MR. SULLIVAN: I'd like to go over the
2 requirements of U 320.2 in addition to the privacy, character
3 and light and air that Mr. Bagnoli talked about.

4 So, the addition of course is limited to 35 feet
5 in height. There's no fourth dwelling. It's just three
6 dwellings.

7 This is an existing residential building at the
8 time of filing. We do meet the minimum land area per unit
9 number.

10 We're asking for waiver of course of the 10 foot
11 rule. And the addition does not block an operable chimney
12 or vent, or interfere with solar panels. I apologize for a
13 typo in the PowerPoint. There is no solar panel agreement.
14 There's no solar panels on neighboring properties.

15 And of course the original rooftop architectural
16 elements are not to be altered because the addition is set
17 back 4 feet from the front facade.

18 I would point out last night one of the adjacent
19 neighbors submitted a letter in support. And the Office of
20 Planning of course is recommending approval.

21 And I believe that's it for our case. So if
22 there's any questions.

23 CHAIRPERSON HILL: Okay, great. Well, I've got
24 a couple of questions I suppose. So we'll see where we get
25 to in terms of today.

1 And I don't even know whether I'm going to request
2 this or not. I'm just kind of throwing this out for my
3 fellow colleagues.

4 As far as the shadow studies, Mr. Sullivan, like
5 if you go back to any of them, it doesn't matter. I guess
6 I might ask if there's a way to kind of see the by right
7 versus the 10 foot on maybe the same -- and I don't know if
8 I'm going to be asking this or not, but pardon me?

9 I understand there's a difference and I understand
10 it could be nominal, but if there was like a line or
11 something that showed on the larger shadow where the by right
12 shadow was.

13 MR. BAGNOLI: So the by right shadow is the 10
14 foot addition beyond what is current. And that's the one on
15 the top in each case.

16 If you're asking for an alignment, the houses are
17 aligned.

18 CHAIRPERSON HILL: It's okay. It doesn't matter.

19 MR. SULLIVAN: I think what you're looking for --
20 we'll highlight it.

21 CHAIRPERSON HILL: We'll see. Yes. We'll see if
22 we get to it or not, but I'm just saying it's a helpful
23 diagram, it's just a little bit difficult to see.

24 And I know that Mr. Bagnoli, anyway, you used the
25 word nominal. It's just difficult to understand what nominal

1 is sometimes.

2 So anyway. That was one thing. As far as the 20
3 feet versus the 10 feet, the -- how did you decide on 20?
4 Because you could have tried to go back 30 feet or 40 feet.
5 How did you decide on 20?

6 MR. BAGNOLI: I don't know that we thought about
7 going back 30 feet. I think -- it's interesting that you
8 bring that up. Now he's going to ask me why we didn't go
9 back 30 feet. I guess we just started at 20.

10 CHAIRPERSON HILL: Well, programmatically I'm
11 saying you thought that it worked this way.

12 MR. BAGNOLI: Yes, absolutely.

13 CHAIRPERSON HILL: And that's what I'm trying to
14 get to. Like why programmatically did you think it worked
15 this way.

16 MR. BAGNOLI: Again, I think the owner was looking
17 for three units to be able to maximize the potential of the
18 property. And the 20 feet allowed us to do that with units
19 that we felt were marketable.

20 We looked at what's been called a pop back scheme
21 where you didn't do an addition and you did a separate
22 standalone structure in the rear.

23 And then we ended up again speaking with the
24 neighbors about that, they weren't any more inclined to
25 consider a pop back unit than this.

1 So from a market standpoint going back 30 feet I
2 think would really start to make these units much bigger and
3 there's a question of whether you could sell those.

4 CHAIRPERSON HILL: No, yes, I was just curious.
5 I was just trying to figure out again -- and this is more to
6 you know, we see these a lot. And so like sometimes it's one
7 number. Sometimes it's another number. And I was just
8 trying to get at what you guys were doing.

9 MR. BAGNOLI: I think this is the right number for
10 the market.

11 CHAIRPERSON HILL: Okay. All right. Does anybody
12 have any questions for the applicant before I ask the ANC?

13 MEMBER WHITE: I guess perhaps the ANC will
14 probably get into this. I'm not -- I am having questions
15 about whether or not this is substantially changing the
16 character of this block with this 20 foot rear addition.

17 I see that maybe just from your slides it's
18 probably the only pop back on that block. Maybe there are
19 others. But it does seem like it would have -- it would
20 change the look and feel of that, the rear views for the
21 neighbors on that block.

22 And I just wondered whether or not that was taken
23 into consideration. I know you've got to make them
24 marketable, but in terms of looking at the criteria for the
25 special exception I'm still trying to see how that doesn't

1 impact things.

2 MR. BAGNOLI: Yes, there is -- it's at 4511
3 there's an addition that was done prior to the new zoning
4 rules on this. These are some photos that we put together
5 of the rear character of the immediate neighbors, adjacent
6 neighbors. And we can just flip through those.

7 This is looking from the property towards the
8 alley. There is a deck there that is on the property. You
9 can orient yourself. Where those handrails are is our
10 property, the subject property.

11 Full foliage so it's a little hard to see those
12 additions to the opposite side there.

13 MEMBER WHITE: With the 20 foot extension that
14 would basically kind of extend further out than any other
15 property in the rear, right?

16 MR. BAGNOLI: Yes. Well, the immediate one. But
17 there is one other one on the same side of the block as this
18 one.

19 MEMBER WHITE: Okay. All right. Thank you.

20 CHAIRPERSON HILL: Okay, great. Anybody else?
21 Yes, sure.

22 VICE CHAIR HART: So, I had the question earlier
23 about kind of understanding the perspective rendering. Also
24 trying to understand the section that you provided in that
25 I couldn't quite figure out where it was taken from.

1 And I think I would prefer to have some additional
2 drawing that kind of -- or maybe an updated drawing that
3 shows what that would be. If that is visible that may
4 actually make a change in what you're proposing and I don't
5 know what that change might be so it would be helpful to have
6 those images.

7 The reason that I was bringing it up was because
8 I was a bit unsure -- I often like taking a look at the
9 adjacent properties particularly because of the whole
10 character issue.

11 And I usually use Google Earth because it's harder
12 to get out to do that. But I can at least see what the
13 character is along. This particular block, it almost looks
14 like they are like soldier course of facades that are very
15 similar to one another.

16 I mean, I think it's just color may be the only
17 difference. Maybe the dormer on the window that's on the top
18 has some difference. But it seemed very similar.

19 And I wasn't sure -- it wasn't clear because I
20 didn't have any kind of perspective rendering looking down
21 the street, not toward it but kind of along the facade to
22 understand what is that going to be -- how is that going to
23 impact what the neighbors are going to kind of have to deal
24 with.

25 I think the neighbors have provided, at least one

1 of the neighbors, one of the adjacent neighbors as well as
2 some of the surrounding neighbors have provided some comments
3 about the character. There are a variety of issues, but the
4 character seemed to be one of the ones that kind of screamed
5 out at me.

6 So I think it would be -- I would prefer to have
7 some idea about what that view is along Iowa. And I
8 understand there are going to be trees there. I would
9 probably just take out trees just so we have an understanding
10 of what this looks like.

11 But I think we have some of the drawings already
12 and it may be just a different perspective view. So that's
13 one of the -- kind of two of the things I'm looking for.

14 The third one is what Board Member White just
15 raised which is along the alley I'm still not sure what the
16 other buildings are, how this might impact the other
17 buildings in the back.

18 I understand how it does with the shadows, but I
19 don't really understand what that view is about the character
20 along the rear.

21 Because it seems as though, again, like the front
22 there's a lot of consistency. I think there's also some
23 consistency in the back as well but I don't know that. And
24 so I need to kind of understand that a little bit better.

25 And I don't know if that's a rendering, or if it's

1 a plan that shows these are where these things are. I'm not
2 exactly sure what that looks like. But something that would
3 give me some idea about what that is.

4 And along the lines with the chairman, he had
5 requested to have and I think it would be helpful to
6 understand you used terms that were -- it didn't
7 substantially change, or didn't -- wasn't significant impact,
8 or whatever the terminology that you were using regarding the
9 shadows.

10 I'm not sure if I agree with that. I think part
11 of it is because there are impacts to not only the neighbors
12 next to you but also impacts to neighbors that are two houses
13 from you.

14 And I'm not saying that you have to be protective
15 of everybody, but I think that we at least need to understand
16 what those impacts are. And I don't know if I quite
17 understand where those lines are.

18 I can read plans, but it would be helpful to at
19 least kind of have you know, it would add 10 percent more
20 shade to this, or it's this line is what we're talking about
21 so that I have that idea.

22 And maybe for the -- you have the property lines
23 for your property, but the adjacent neighbors, it might be
24 helpful to at least show where those are. Again, I can kind
25 of draw a line in my head back, but it's helpful to kind of

1 say okay, I get where this is kind of ending and it's not --
2 or I don't know. I just think that that might be helpful to
3 show.

4 I know I've asked for a lot, but I think it's --
5 when you're making changes to a property that is in an area
6 that there is fairly consistent typology of buildings, of
7 residential housing that I think that we need to have a very
8 distinct set of information or drawings that help us kind of
9 get to where you are if we are going to get to where you are.

10 I'm not sure if I am or not. I'm just saying that
11 right now I don't have the ability to do that because I don't
12 have enough information to be able to kind of make that
13 assessment.

14 I think that it's helpful for us to be able to see
15 this so that we can then make those -- whatever that
16 determination is and saying okay, I can kind of see this is
17 along with the character, or no, I don't agree this is part
18 of the character. So I'll be quiet for the rest of the day.

19 CHAIRPERSON HILL: Okay, anybody else?

20 MEMBER JOHN: Mr. Chairman, I would like to echo
21 everything that's been said so far. I'm having a difficult
22 time trying to visualize what the alley, the view from the
23 alley is like.

24 And I am also fairly comfortable from Google Earth
25 that the view on the front is really quite uniform. And so

1 I would be concerned about changing that visually.

2 And I'm having difficulty with the alley because
3 using Google Earth again it looks as if there have not been
4 many additions. Certainly I haven't seen any that would be
5 20 feet.

6 So that's always a difficult hurdle for us as a
7 board. And so anything that you could do to help me get to
8 20 feet would be good.

9 COMMISSIONER MILLER: Thank you, Mr. Chairman.
10 I think I concur with my colleagues. I don't know if this
11 was one of the things that Vice Chair Hart asked for. I was
12 listening but I might have missed it.

13 What I'd like to see if you didn't ask for this
14 is an illustrative perspective rendering of the proposed 20
15 foot extension from the alley and from each of the adjacent
16 neighbors. Did you ask for that? Okay. I'd like to see
17 that.

18 I'm concerned that this does break up the visual
19 character, architectural character of this block as viewed
20 from the alley. Not so much the front. I don't think
21 there's -- I think that that setback, that isn't as much of
22 a concern.

23 But the rear addition, the 20 feet, I'd like to
24 see the perspective rendering if you're able to provide it,
25 illustrative rendering of what it looks like from the alley

1 and from each of the adjacent neighbors.

2 CHAIRPERSON HILL: Okay. Abebe, Mr. Abebe.

3 MR. ABEBE: Yes.

4 CHAIRPERSON HILL: I just realized we're just
5 spending more of your money, Mr. Abebe. Okay. So, let's
6 see.

7 So Commissioner Campbell, so first of all -- so
8 you've been here and you are a participant, a party to this
9 hearing. Do you have any questions on anything that was just
10 put forward and/or would you like to give your presentation?

11 MR. CAMPBELL: I do have a couple of questions
12 before I give my presentation.

13 CHAIRPERSON HILL: Sure.

14 MR. CAMPBELL: I was curious --

15 (Simultaneous speaking)

16 CHAIRPERSON HILL: I'm being clarified to make
17 sure I use the word cross. Yes, cross examine. Yes.

18 MR. CAMPBELL: All right. In that case I'd like
19 to call Solo Entertainment to the stand, please.

20 CHAIRPERSON HILL: Sure, exactly. There you go.

21 MR. CAMPBELL: All right. How much are the
22 various units to be sold for?

23 MR. ABEBE: Depending on the market, the timing,
24 when they're going to be finished and the type of finishings
25 and how the market's going to be, but maybe in the five

1 hundreds or maybe six hundred. Thousand dollars.

2 But one would be lower, the top unit would be
3 higher.

4 CHAIRPERSON HILL: Commissioner Campbell, the one
5 thing I just want to point out, we're only allowed to have
6 you ask cross questions on things that they testified about.
7 So just to let you know how to -- how I'm going to try to
8 keep this going. So please continue.

9 MR. CAMPBELL: I appreciate that. I wasn't aware
10 of that, Mr. Chair. I thought I could find out what I didn't
11 know, but I appreciate that.

12 All right, well in that case you brought up the
13 4511 property that has already been built out and popped back
14 and popped up. And it seemed to be raised from the
15 standpoint that that particular development has not had a
16 substantial impact on the neighborhood. Was that your
17 contention?

18 MR. BAGNOLI: I don't know that I can speak for
19 whether that has or hasn't.

20 MR. CAMPBELL: Okay. It's just that you were
21 using it as an example. And it seemed as if it was an effort
22 to say well, they did this and it worked out okay.

23 MR. BAGNOLI: No, I was just answering Ms. White's
24 question about if this was the first one on the block to have
25 done and my point is that it was not the first one.

1 MR. CAMPBELL: Okay. All right. Thank you. In
2 that case I have no more questions.

3 CHAIRPERSON HILL: Okay, great, Commissioner. So
4 I'm going to put 15 minutes on the clock for you as well.
5 And Mr. Moy, if you wouldn't mind doing that. And you can
6 begin whenever you like.

7 MR. CAMPBELL: Okay, thank you. First, I want to
8 apologize again for having been late. I had a lot of people
9 contacting me during the day and I was actually trying to
10 follow the proceeding via the webcast which was wonderful.

11 And in fact, if I could make one suggestion it
12 would be wonderful if you guys could overlay the case number
13 as far as what is being heard. I don't know if there's a way
14 to do that but that would have been very helpful in terms of
15 my ability to evaluate that and to pass along.

16 I believe everybody else who was coming to offer
17 testimony was here at the time that I suggested. It was only
18 I who was late in this case.

19 CHAIRPERSON HILL: No, that's great. I saw OAG
20 and the secretary nodding. That's a good suggestion. We'll
21 see what we can do about that.

22 MR. CAMPBELL: Thank you. Every time, and I
23 haven't appeared before this body as much as -- frequently
24 as some people.

25 I always find it very difficult because a lot of

1 -- I mean obviously you are tasked with looking at the zoning
2 regulations. And while there are any number of other issues
3 or factors that the neighbors or the ANC looks at as a matter
4 of law it's only what is in the zoning regulations by which
5 you can make a determination.

6 And yet a lot of what at least me as a lay person,
7 it seems a lot of what is in the regulations is somewhat
8 ambiguous and can be interpreted very subjectively.

9 And that -- I don't know exactly what is to be
10 done with that. I know that it seems when the whole issue
11 of solar panels and solar power in various adjacent
12 properties came up I noticed that it was necessary to be very
13 specific in terms of putting stuff into the zoning
14 regulations that allowed the BZA to be able to properly
15 interpret the degree of impact on adjacent properties.

16 And perhaps there's something similar that can be
17 done here. I mean, I can tell you that in terms of the items
18 that the ANC has raised as part of our concerns.

19 And some of those concerns in particular concern
20 the people in the community. Title 11 322(I)(1) as far as
21 the adverse impact of the -- maybe not so much the third
22 story in this case, but of the 20 foot -- the proposed 20
23 foot rear addition on what is described as the undue impact
24 on the light and air available to those neighboring
25 properties, and the use and enjoyment of the abutting or

1 adjacent dwellings or properties.

2 And obviously the community feels that there would
3 be, and again subjective term undue impact particularly in
4 terms of their use and enjoyment of their properties as
5 impacted by this 20 foot setback.

6 So also 320(I)(2) which details the -- this is the
7 one that talks about the appearance from the rear. And I am
8 appreciative of the fact that the BZA is taking some of these
9 things into consideration and trying to get enough
10 information to make an informed determination as far as all
11 of this again which I appreciate.

12 I'm sorry, that wasn't 2, that was 3. I misspoke.
13 It's 320(I)(3) in terms of the impact of the character, scale
14 and pattern as viewed from the subject street and alley.

15 And it was the 320(I)(2) in terms of the undue
16 compromise of privacy and use and enjoyment. So I'm sorry
17 I misspoke with regard to that.

18 I do want to commend the developer though on the
19 architectural drawings. I thought this was a very clever
20 design. A lot of the time what we see particularly in cases
21 where a third unit is requested is simply the addition of a
22 third floor and each unit being on a single floor.

23 I mean, you guys probably see more varied sorts
24 of architectural drawings. But I thought this was very
25 cleverly designed and I appreciate that. So just to give

1 credit where credit is due.

2 I also had a concern with regard to the shadow
3 studies. I did have occasion to speak with OP and Ms. Brown-
4 Roberts who provided me with a copy of the shadow studies in
5 advance. And I would tend to disagree with the applicant in
6 terms of the impact of the shadows on the adjacent
7 properties.

8 The other thing that sort of concerns me with
9 regard to the setback. And my wife talks about
10 neighborliness. And I think that there is an impact when all
11 of a sudden from the rear of your property you maybe can't
12 see your neighbor who is two doors down or three doors down
13 depending on which way you're looking at.

14 I happen to have had some popups on my block over
15 in 16th Street Heights and it makes a big difference in terms
16 of how well or how poorly one is able to interact with one's
17 neighbors and the overall character of the neighborhood. So
18 I think that is substantial.

19 I also want to comment on the fact that the
20 developer has made an effort to communicate with both the ANC
21 and with neighbors. In fact, this hearing originally had
22 been scheduled for the 13th and the developer graciously
23 agreed to a postponement to allow everybody to have the
24 opportunity to sit down and kind of kick this thing around.

25 I think that there were some issues in terms of

1 scheduling. I'm not entirely clear on everything that
2 happened, but ultimately the determination was made to oppose
3 this particular application. And it wasn't one that the
4 community made lightly because they take all of this very
5 seriously and recognize that there are issues in terms of
6 availability of housing in the District.

7 And nobody wants to be a naysayer for no good
8 reason. So I am convinced that there are some undue adverse
9 impacts potentially as a result of what has been proposed.

10 I can tell you that at least the ANC would be a
11 lot more comfortable if we weren't looking at a 20 foot
12 setback. You know, I mean as I listen to and certainly some
13 of the professionals who Mr. Abebe has hired have a very good
14 reputation and are known for being thorough.

15 And I was listening to the presentation I was
16 impressed. But I still think that the downside of this more
17 outweighs what is potentially to be gained.

18 So I can tell you that the community and the ANC
19 would look more favorably on all of this if we weren't
20 looking at a 20 foot setback.

21 The only other thing that I'm sort of concerned
22 about and I'm not sure exactly how to approach it so I am
23 going to broach it here is that the developer has indicated
24 a certain willingness to perform inspections of adjacent
25 property and to make repairs assuming that they are granted

1 the relief that they seek and the development goes forward
2 in the event that there is damage to adjacent properties.

3 And I'm not sure if there is some way to actually
4 memorialize this, or to document the developer's willingness
5 to do that in the event that the relief was granted.

6 But I would certainly like to see those residents
7 of the SMD that I represent not have to suffer loss and
8 damage as a potential result of any construction process.

9 And you know, since we weren't able to actually
10 sit down and make any agreements and there was the
11 possibility of tying such an agreement to the withdrawal of
12 opposition that did not take place. But I would love it if
13 there was some way that we could ultimately work something
14 out in the event that such relief was granted.

15 And I know I've sort of been all over the place,
16 but I take all of this very seriously and while I have my
17 personal feelings about development I also recognize that
18 it's necessary and desirable in some cases.

19 And I think everybody just wants to see
20 responsible development as opposed to something that could
21 be potentially detrimental to the community in service of
22 profit. So, that is my statement.

23 CHAIRPERSON HILL: Okay, great. Thanks,
24 Commissioner. We'll see if we have any questions for you.
25 I'm trying to figure out questions. I did want to just

1 respond to a couple of things I suppose.

2 The waiver in the 10 foot rule and how we've kind
3 of gotten to this place. I think you all were here before
4 for another one that we did, or that was in your ANC I think.

5 And I might have mentioned this at that time. But
6 what the Zoning Commission did at one point was you could
7 have gone up -- I forget now. Mr. Sullivan will remember
8 better than I, but it was like I think you can go up 40 feet
9 by right and they cut it down.

10 And then -- you could have been able to go all the
11 way out and fill out the lot occupancy. And so there was a
12 lot of discussion. I wasn't on the Zoning Commission when
13 that was going on. Mr. Miller was, Commissioner Miller was,
14 but I know that there was a lot of testimony taken in terms
15 of you're taking away somebody else's property right.

16 Like you know, they were allowed to do all this.
17 Now you're saying they can't. And then since we've been here
18 there's been a lot of discussion about the 10 feet versus
19 anything that comes after it.

20 After it was done by special exception so that you
21 could -- unfortunately it is a little nuanced, but undue is,
22 it's not a percentage or anything. So there is that and
23 that's why we go through this process.

24 But while I've been here people would -- they
25 would be upset about the 10 feet perhaps. People are saying

1 okay, I'm going to do the 10 feet because I have no other
2 choice.

3 If the person's here and they go back 10 feet they
4 don't have to be here. As long as they're doing it with
5 whatever they're allowed to do by right then they just aren't
6 necessarily going to be here.

7 I guess what I'm trying to get at is I've heard --
8 we've heard it both ways. People are going to complain about
9 the 10 feet. It just happens to be that the 10 feet is now
10 by right.

11 If it were 20 feet by right, and I don't remember
12 how the Zoning Commission got to whatever that number was
13 that they got to, then probably somebody would be here trying
14 to do 30 feet. I don't know. But they'd be doing 20 feet
15 by right.

16 So, I guess I'm just commenting with you. We take
17 this very seriously. And also it's not easy at all and so
18 that's why we go through this process.

19 So that being said does anybody have any questions
20 for the commissioner?

21 VICE CHAIR HART: Just one follow-up comment.
22 Commissioner Campbell, you do a very good job with kind of
23 presenting the issues. I thought it was fine.

24 You raised a question which I kind of always find
25 interesting that the -- that there are certain ways that the

1 zoning regulations are kind of prescriptive and they are kind
2 of you do this percentage, or you take this much and this
3 happens.

4 The zoning regs in all zoning regs, they tend to
5 be fairly -- they're not very precision documents all the
6 time, and in some ways they want there to be some flexibility
7 so that we can have the discussion about some of this stuff
8 because it makes it hard to then -- it may work in one case
9 but not in another case.

10 And so I think that the hard part is just trying
11 to figure out -- we have these meetings so that you can hear
12 this deliberation from us, you can hear it from the Office
13 of Planning. We can have a conversation with you and with
14 the applicants and the community members that come here so
15 that we can kind of get a better fit, or at least try to get
16 a better fit.

17 But it is not a -- as they say it's not a scalpel
18 that you're talking about. It's much more of a different
19 tool that you're cruder in some ways. And unfortunately
20 that's kind of where we are.

21 But it's with all zoning regs. It's not just this
22 one. They all have the same kind of general issues. You're
23 always dealing with well, what does this mean exactly. And
24 so we are just trying to work our way through that as we best
25 can.

1 So we appreciate the information that you've
2 provided to us because that helps us as we are making our --
3 going through our deliberations. And we listen to the
4 applicant as they present their information and the neighbors
5 as well.

6 We kind of try to use all of that together to come
7 out with a response after all of this. So that's it. No
8 questions. I appreciate your time.

9 CHAIRPERSON HILL: And just even for the board
10 here. If everybody did the 10 feet already and it was all,
11 you know, some people had done the 10 feet and some people
12 hadn't done the 10 feet then does that change the back of the
13 alleys as well.

14 Okay. Does the applicant have any questions for
15 the commissioner?

16 MR. SULLIVAN: No, thank you.

17 CHAIRPERSON HILL: Okay. I'm going to turn to the
18 Office of Planning.

19 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman
20 and members of the board. Maxine Brown-Roberts for the
21 record.

22 As outlined in our report we think that the
23 submission meets the requirements of Subtitle U 320.2 and
24 we're also in support of the waiver that was requested.

25 As you see outlined in our report our

1 recommendation I think was based on the shadow studies that
2 were submitted.

3 And we think that the difference between the 10
4 feet and the 20 feet are not significant. However, just from
5 listening to the conversation of the board asking for more
6 refined shadow studies I think we would be willing to take
7 a second look at that again if we get some more detail as
8 requested and see if we continue with that recommendation.
9 Thanks.

10 CHAIRPERSON HILL: Okay. Anybody have any
11 questions for the Office of Planning?

12 MEMBER WHITE: Just a comment. I'm happy to hear
13 you say that because I would like you to take another look
14 at the additional renderings that you asked for in terms of
15 how it impacts the character specifically in the rear for me.
16 That's where I'm having difficulty saying that this is
17 meeting the criteria.

18 Especially with the comments from the ANC I'm
19 inclined to give them great weight because he specifically
20 was talking about the provisions within the special exception
21 criteria, privacy of use, enjoyment, character, scale and
22 pattern of housing along the street or alley, and light and
23 air as well.

24 So yes, I would like to get your feedback on the
25 revisions.

1 VICE CHAIR HART: The only question I had was with
2 regard to if I can bring that up now. Too many things open
3 on my computer.

4 Was in the report you talk about the -- what is
5 this, 320(2)(I) I think. And this is regarding the
6 substantially adverse effect on the use or enjoyment of any
7 abutting or adjacent dwelling or property.

8 You talk about it being that it's kind of 20 feet
9 back and they did the shadow study. Do you -- one of the
10 next door neighbors is not in support of this. Do you take
11 that into account as well?

12 MS. BROWN-ROBERTS: I don't know why that neighbor
13 -- there was nothing to state why that neighbor was not in
14 support so that was not something that I could take into
15 account.

16 VICE CHAIR HART: Okay. Because I thought that
17 the -- I'm trying to remember if this was the case that they
18 had the ANC raise that -- they said they were in opposition.

19 The ANC said that the neighbors were in
20 opposition. I understand that we didn't have letters at that
21 point for at least one of them. I think there's one that is
22 in opposition now.

23 But they did raise issues that were in the ANC
24 report and that they're kind of the reasons why they were
25 concerned about it.

1 And I just was thinking that that was part of why
2 they were -- those folks were in opposition too were some of
3 the reasons that were raised in the ANC report.

4 MS. BROWN-ROBERTS: I think that we looked at it
5 independently. I did read the ANC report. Didn't quite
6 agree with everything.

7 But when I looked at the shadow studies which I
8 think was the main thing that I based the recommendation on
9 we didn't think that was -- it was a significant difference.

10 VICE CHAIR HART: And the last thing I'll say is
11 because this is a south facing -- this building, the
12 expansion is going or the addition is going to the north of
13 the building. That being said there's kind of longer shadows
14 that are kind of in the rear yard.

15 That seems like it's one of the things that always
16 kind of gives me pause because I understand that when you
17 have kind of the reverse where the building extension comes
18 down from the -- it goes down into the south that there is
19 kind of less -- the shadows are not as long just because of
20 where the sun hits the building.

21 So that's one of the things that kind of made me
22 a little bit more having an issue with the shadow impact.

23 MS. BROWN-ROBERTS: Well again, I think we looked
24 at what was the by right and what was -- and what's the --
25 and what's at 20 feet. And how significant was that

1 difference.

2 Again, there's nothing to say that there is a 10
3 percent or 50 percent difference. It's basically sort of
4 eyeing what's here.

5 I think that the request you made to show the
6 lines will make it even clearer. So that's why I said that
7 I'm willing to take a second look at that since we're going
8 to get more information that goes into a little bit more
9 detail as to what's the extent.

10 It seems to me it gives you a better measurement
11 of what the difference is.

12 VICE CHAIR HART: I would agree. I think the
13 chairman made a good -- he had a good kind of question about
14 that trying to get further information on that. So I think
15 it would be helpful to have that as well. So thank you very
16 much.

17 CHAIRPERSON HILL: Ms. Brown-Roberts, so the --
18 the back. So the extension I sometimes forget. How far back
19 could they have tried to go?

20 MS. BROWN-ROBERTS: I don't -- I'm not.

21 CHAIRPERSON HILL: It's a lot occupancy, right?

22 MS. BROWN-ROBERTS: I don't know how further back
23 60 percent would give you. I don't know.

24 CHAIRPERSON HILL: So 60 percent. Mr. Sullivan,
25 do you know?

1 MR. SULLIVAN: We're calculating.

2 CHAIRPERSON HILL: Okay, great.

3 MR. SULLIVAN: Another 13 feet.

4 CHAIRPERSON HILL: Another 13 feet. Okay. And
5 the reason why I'm just asking is because we do get these and
6 we're going to continue to get these for as long as all of
7 us are serving here.

8 And so it's been kind of -- we look at each
9 individual case. I know that, right. And so I'm just
10 sometimes trying to get a handle on it because sometimes it's
11 25 -- it really is, I know that's what everyone is always
12 saying, it really is on an individual basis.

13 It's like sometimes 23, sometimes 25, sometimes
14 15.

15 MS. BROWN-ROBERTS: I agree with you, but again
16 remember that we're also looking at buildings that are going
17 in different directions. So at 20 foot on here may give you
18 a certain amount of --

19 CHAIRPERSON HILL: I understand. I'm just trying
20 to --

21 MS. BROWN-ROBERTS: -- in a different direction
22 if the house is oriented in a different direction it gives
23 a totally different impact.

24 CHAIRPERSON HILL: Right. And I guess part of my
25 discussion about this even just to kind of have this out in

1 front of everybody here just to kind of have the discussion.
2 That's another reason that I'm trying to bring that up.

3 MS. BROWN-ROBERTS: The Office of Planning is also
4 looking at that, that section.

5 CHAIRPERSON HILL: Because I'm still of the
6 impression that there could have been an argument made that
7 you should have been able to go out and fill out -- they're
8 deep lots. You should go out and fill out maybe not
9 necessarily this one, but there were some that were very
10 deep, very wide and they've been restricted to 10 feet.

11 And so because of other things. I'm looking at
12 the commissioner just because -- I just wasn't there. I wish
13 I could have been there for the whole discussion and then I'd
14 be able to clearly say.

15 But right. So the character issue, right. Like
16 how you kind of look things -- and the term character is very
17 -- you talk about arbitrary. That's really kind of one that
18 I've had even more than undue is kind of like character.

19 So when you're looking at the back how did you
20 kind of determine that the back is fine with the 20 foot
21 extension?

22 MS. BROWN-ROBERTS: We look at the style that's
23 there, what's the style that is being proposed. And is it
24 completely different, you know, is it -- let's say most of
25 the existing ones may have a more wooden additions. Is this

1 coming in with pure glass or a different type of material and
2 that sort of thing.

3 Again it's --

4 CHAIRPERSON HILL: No, no, I understand and I'll
5 stop because I don't want to keep --

6 (Simultaneous speaking)

7 CHAIRPERSON HILL: But even that whole wedding
8 cake thing that we kind of talked about. That also to me
9 might be a lot different looking than even if it was flat,
10 flush all the -- that might be even more out of character,
11 the wedding cake. So, all right.

12 MR. BAGNOLI: Mr. Chair, if I could just correct
13 the 13 feet. I'm sorry. It's actually an additional 20 feet
14 on top of the 20 feet --

15 CHAIRPERSON HILL: You could have --

16 MR. BAGNOLI: Could have done 40.

17 CHAIRPERSON HILL: You could have tried to go 40
18 feet.

19 MR. BAGNOLI: Correct.

20 CHAIRPERSON HILL: Right. Now you definitely
21 wouldn't have gotten that approved. But you know.

22 (Simultaneous speaking)

23 CHAIRPERSON HILL: You don't know, you don't know.
24 But so, okay.

25 VICE CHAIR HART: Can I ask one final question?

1 I'm sorry. While you're up here, this image is on the
2 screen.

3 Right now you all are -- and it could be for Mr.
4 Bagnoli. Actually it probably is for you. The area that I
5 was circling here, that's a little kind of I'm not even sure
6 what it is because I'm looking at the photograph and it's a
7 little kind of half court or something.

8 And so you'd be filling that in as part of this
9 and then kind of extending the entire back 20 feet. So it's
10 not like you're including a new court, you're expanding an
11 area that was kind of open.

12 And I get it that this is a property line. You
13 have the ability to build on the property line. I'm just
14 also bringing up that it's not only going back but it's also
15 filling in an area that was not filled in before.

16 So it can make it feel like it is even much
17 longer, much deeper development than what you're nominally
18 kind of proposing. So I'm just bringing that up as kind of
19 like another issue to think about.

20 MEMBER JOHN: Mr. Chairman, so one quick question
21 for the applicant. So in the discussions with the ANC what
22 were some of the options you offered?

23 For example, did you consider the wedding cake
24 look which the chairman might not particularly like but
25 perhaps if the second floor were set back a little, maybe the

1 width of the balcony and bringing the balcony inside.

2 MR. BAGNOLI: You mean the third floor, ma'am?

3 MEMBER JOHN: Well, it's the second floor. Let's
4 look. This is second, yes. So if that could be pushed back
5 maybe the width of the balcony and then pushing back that
6 level as well. Was that considered?

7 MR. BAGNOLI: It was not discussed with the
8 neighbors. The options that we discussed with the neighbors
9 was the 20 feet option. And the pop back option which would
10 have a separate structure off of the alley with those
11 accommodating setbacks.

12 MEMBER JOHN: Because you could get 20 feet here
13 and maybe 15 or something at the top so it would reduce the
14 mass and the impact on the neighboring --

15 MR. BAGNOLI: Potentially, yes. We'd be happy to
16 look at that as well. I think that's something we would be
17 open for consideration.

18 MEMBER JOHN: Okay, thank you.

19 CHAIRPERSON HILL: All right. Does the applicant
20 have any questions for the Office of Planning?

21 MR. SULLIVAN: No, thank you.

22 CHAIRPERSON HILL: Okay. Does the ANC have any
23 questions of the Office of Planning?

24 MR. CAMPBELL: Actually I do. Thank you. Ms.
25 Brown-Roberts, it's really nice to meet you face to face.

1 Thank you so much for your time a couple of weeks ago when
2 we spoke.

3 MS. BROWN-ROBERTS: No problem. Anytime.

4 MR. CAMPBELL: The question I have is just with
5 regard to the analysis of the Office of Planning as far as
6 the impact of the rear setback.

7 And it looks from what you have written here that
8 you have based this on factors that you are trying to make
9 measurable. And my question was what my wife had said about
10 neighborliness. Did you take into account as you were
11 arriving at your determination the ability of the neighbor
12 on one side to see the house two doors down and to interact
13 with them which I would argue is the crux of what makes a
14 neighborhood a neighborhood.

15 MS. BROWN-ROBERTS: No.

16 MR. CAMPBELL: Okay. All right, thank you. No
17 more questions.

18 CHAIRPERSON HILL: I'm sorry. If you watch some
19 testimony today there's some stuff on TV that's going on.
20 Some of the answers you're getting on TV are no, yes, no.
21 So just letting you know. I'm going to go back and watch
22 tonight.

23 So, let's see. Okay. So we're going to take a
24 quick break before we take testimony from the audience. And
25 so we're going to take a quick break. Okay. Thank you.

1 (Whereupon, the above-entitled matter went off the
2 record at 3:13 p.m. and resumed at 3:27 p.m.)

3 CHAIRPERSON HILL: All right, Mr. Moy. Call this
4 again, please.

5 MR. MOY: I'm sorry, sir?

6 CHAIRPERSON HILL: Do we have to do anything? Are
7 we just back?

8 MR. MOY: No, no.

9 CHAIRPERSON HILL: I can't remember whether or not
10 you have to say something. Okay. All right. So is there
11 anyone here wishing to speak in support? Okay. Is there
12 anyone here wishing to speak in opposition? Okay.

13 If you all -- why don't we just switch out. If
14 the applicant and the ANC commissioner wouldn't mind just
15 moving away from the table or whatever you want to do. And
16 then I can just let everybody come on up who is presenting
17 in opposition. Sorry about that, Mr. Sullivan.

18 All right, everybody, welcome. Thanks for staying
19 with us here until late in the day. I assume everybody has
20 been sworn in. And then I'll go ahead and start from right
21 to left with name and address first if I could. You need to
22 push the button once.

23 MS. MITCHELL: My name is Antoinette Mitchell.
24 I live at 4523 Iowa Avenue NW, Washington, D.C. It's the
25 property adjacent to the one being discussed today.

1 CHAIRPERSON HILL: Okay. One second, please. All
2 right, sir.

3 MR. JOHNSON: I'm Brandon Johnson. I'm at 4509
4 Iowa Avenue.

5 CHAIRPERSON HILL: Okay. Ms. Mitchell and Mr.
6 Johnson, if you could turn off the microphone once you turn
7 it on because if more than one is on at a time it feeds back.
8 Ma'am.

9 MS. GRIGSBY: Good afternoon. My name is Donna
10 Grigsby. I live at 1142 Buchanan directly behind the subject
11 property.

12 CHAIRPERSON HILL: Okay. Could you spell your
13 name for me, please?

14 MS. GRIGSBY: Sure. G-R-I-G-S-B-Y.

15 CHAIRPERSON HILL: Thank you.

16 MS. PRATHER: My name is Cynthia Prather. I live
17 at 7832 12th Street NW.

18 CHAIRPERSON HILL: Okay.

19 MS. WILLIAMS JACKSON: Sharon Williams Jackson,
20 4507 Iowa Avenue NW.

21 CHAIRPERSON HILL: So Ms. Jackson, you're on the
22 same street as the property, correct?

23 MS. WILLIAMS JACKSON: Correct.

24 CHAIRPERSON HILL: Okay. And then Mr. Johnson,
25 I forget. You weren't on the street, correct?

1 MR. JOHNSON: Yes, I am.

2 CHAIRPERSON HILL: You're on the same street.
3 Okay, great. So Ms. Mitchell we'll start with you if that's
4 okay. And everybody will get three minutes to provide their
5 testimony. And the clocks are up on the top and left. I
6 think there's even one right in front of you there. And you
7 can begin whenever you like.

8 MS. MITCHELL: Sure. Thank you very much. I have
9 submitted a letter. I'm going to trust that it stands on its
10 own.

11 I would just like to say that I do believe that
12 this is an issue of neighborhood character. I think that we
13 have a very quaint community of houses that look very much
14 alike. We are a tight-knit community. And I think many of
15 my neighbors feel the same as I do and that is that I very
16 much appreciate the view that I have from my bedroom and my
17 dining room as I look out the back of my house.

18 I can see three or four houses down. I get up in
19 the morning and stretch and do exercises facing outside my
20 bedroom window which would be directly -- right next to the
21 wall that we are talking about.

22 I am not an expert on shadow studies, but I do
23 believe that there are some technicalities that could change
24 the length of the shadows based on what you want them to say.

25 And I don't know what the criteria are that you

1 look at, Ms. Brown-Roberts, but I know that a wall right next
2 door to my home would affect the sunlight and the view that
3 I have.

4 When I go downstairs to have breakfast every
5 morning I sit at my dining room table. I look out my back
6 window. I do have sunlight. If there's a big wall there
7 that's going to affect the quality of my enjoyment of my
8 property.

9 If I stand on my back porch I love being able to
10 look to my left and to my right and seeing all of my
11 neighbors and their back yards. That disappears if a wall
12 is put up.

13 I just feel that though I believe in one's ability
14 to do whatever you want to do with your property when you are
15 doing things that impact my enjoyment of my home then I would
16 hope that you guys would take that into very serious
17 consideration.

18 I think that's all I have to say. What Mr. Abebe
19 wants to do with the property is up to him. But again when
20 what he wants to do impacts my enjoyment, my ability to look
21 out on my back yard, my ability to see my neighbors across
22 the way, my ability to have a little garden in my back yard
23 which would definitely be adversely affected all sort of
24 makes me feel that this is not good for the neighborhood, not
25 good for the community and certainly not good for me in terms

1 of my ability to enjoy my property.

2 CHAIRPERSON HILL: Okay, great. Thank you. And
3 I'll come back around with questions from the board. Maybe
4 we'll just go through it first and hear from everybody. You
5 can give that to the secretary.

6 MR. JOHNSON: What I've given you are pictures
7 from my residence. I'm at 4509. When I look out my back
8 windows or the porch or back door that's 4511. That's all
9 I see.

10 I cannot look down the street or down the way to
11 see anyone to my left. All I see is people on the right.
12 That has blocked the view of everything.

13 Not only that. Because of that structure you'll
14 see there's a tree there. That's a Japanese Maple that's
15 been there for probably 30 years. I had to have it cut so
16 that they could construct, put up their construction there.
17 Which means that it probably messed with the life of the
18 tree.

19 It's also -- as far as that blockage I can't
20 account for what's going on on the street in the alley. They
21 tore up the fence and they tore up my walk. They had to
22 repair that or build another fence there.

23 But as far as looking down and being able to check
24 on the safety of anybody else in the neighborhood I can't.

25 There are other things. Because of the

1 construction of that structure they had to what they call
2 underpin. They dug deep. It has disturbed the drainage for
3 my house.

4 So I've had flooding. I've had to take extra
5 measures to try and keep my place from being flooded.

6 It is also because of that structure my roof has
7 been damaged. So I'm getting leakage, roof leakage.

8 I don't know if Mr. Abebe's construction folks are
9 going to be better at doing this, but I know that I've been
10 impacted by it. I know that my neighbor on the other side
11 of the -- of 4511 was greatly damaged. They actually went
12 through her wall.

13 So these are reasons that I would oppose this
14 being visited upon anybody else there on the street.

15 And it's the character. These are folks that I
16 don't really know. I've gotten to know after living on Iowa
17 Avenue for almost 19 years now, I've gotten to know my
18 neighbors.

19 But when you've got places that are going to be
20 apartments really where people don't plan on living there for
21 any length of time, great length of time it changes the
22 character of the neighborhood.

23 And I know that this is not something that is --
24 parking has just been affected greatly. I know my time is
25 limited. But parking has been affected greatly. If you

1 don't get parked by a certain time you're not going to find
2 a spot on the street.

3 CHAIRPERSON HILL: Okay. All right, thank you,
4 Mr. Johnson. Ms. Grigsby.

5 MS. GRIGSBY: Again, good afternoon. As I noted
6 my address is 1142 Buchanan Street. It is directly behind
7 the 4521 Iowa property.

8 And the way -- my house is cut at a diagonal so
9 I'm actually closer to the property than you would see on the
10 streets or in other locations versus going up the alley.
11 There's definitely the alley and the back yard. So I am very
12 close.

13 With that I just would like to say that this is
14 my second time here in front of you today. Probably in the
15 last 120 days. It's probably likely not going to be the last
16 time that you'll see me because our neighborhood is a great
17 neighborhood.

18 It's due to the appearance, stability and the
19 desirable appearance of the neighborhood, the human quality
20 that's there and its surrounding communities.

21 Thus the reason for this second testimony which
22 I oppose the development of 4521 Iowa at a three-level rear
23 edifice will impact me personally directly but also impact
24 the neighbors as you've heard today.

25 The building if approved is right in the line of

1 sight of my 16-year-old daughter's bedroom which is eye
2 level. There will be visible opportunities for the new
3 neighbors to see what's going on, balconies on the first and
4 second floor, opportunities to see the bathroom and the
5 stairwell because I'm a semi-detached if you didn't get that.
6 I'm not in a row house. So I'm semi-detached with the
7 exposure of the new proposed property.

8 This creates -- and I did this kind of just from
9 my observations of walking around the house considering how
10 this would impact me.

11 This would create a loss of sunlight during the
12 dinner hour. I'm in the kitchen pretty much right now. I
13 didn't take an annual review of this, but I know now at this
14 wintertime with the hour I would lose sunlight where I'm most
15 likely in the kitchen is between 4 and 5.

16 I would lose the opportunity of the western sky.
17 I've already lost -- with the development of this property
18 I can no longer see the bell tower for the high school that's
19 right on 13th, between 13th and Iowa.

20 I just want to know how much does one have to lose
21 for the profit of others. The shadowing, the impact of this
22 development will clearly go to devaluing the property that
23 I have.

24 It is my understanding that the floor or the cost
25 of the new development would basically be the cost of my

1 house standing alone which is somewhere around four or five
2 hundred thousand dollars thank goodness.

3 But I also want to note that I took the time to
4 walk from Missouri to Buchanan, Buchanan to Euclid north and
5 south and there's actually a development of over 75
6 multifamily units just along Georgia Avenue quarter which
7 many of them still need to have the brick facades on them.

8 So there's plenty of opportunity to address the
9 needs of multifamily in this neighborhood along the Georgia
10 Avenue corridor. I just question the morality of the act of
11 destructing a lovely neighborhood, harmonious neighborhood
12 where residents will lose the aspect of their environment,
13 their privacy, you know, for what.

14 Where development of commercial property is
15 clearly being designed to deal and address the needs of many
16 people who are influxing into the Washington area. Thank
17 you.

18 CHAIRPERSON HILL: Great, thank you. Ma'am.
19 Sorry. Prather, that's right, Ms. Prather.

20 MS. PRATHER: My name is Cynthia Prather. I have
21 been here before. I do not live within 200 feet of this
22 property, but I was involved in one on Buchanan Street.

23 I'm here to speak in general about my concern of
24 granting exemptions to change single-family houses into
25 three-unit apartments and condos even in areas that are zoned

1 RF-1 which means for one or two units. And this one follows
2 that I think.

3 The granting exceptions that can encroach on other
4 people's properties, the property owners, existing property
5 owners blocking the light, impacting the air quality,
6 blocking your back yard so your ability to grow things,
7 flowers, grass, to have your barbecue where you're blocked
8 in, changing the character.

9 I invite you if you haven't to ride through the
10 alleys and see how some of these 20 -- I guess they're 20
11 feet units what they look like. And what I'm trying to
12 picture what a person in the middle of two of these must feel
13 like, like they're in a cave. It looks to me. But I don't
14 know for sure.

15 But I invite you to go through and look and see
16 if you would like that for your house wherever you are living
17 now.

18 I'm concerned that it seems to be being approved
19 over and over again. And so I'm here to speak on behalf of
20 our neighbors. They were formerly my neighbors and for
21 people all throughout the city, Ward 4 that you would
22 reconsider this.

23 And my husband said this before I said it in a
24 previous testimony. Why have these rules, why have these
25 regulations if you're not going to follow them. So if it's

1 zoned RF-1 then the exception should really be convincing.
2 And I just don't see, especially a 20 foot exemption is fair.
3 Thank you.

4 CHAIRPERSON HILL: Okay, thank you, Ms. Prather.
5 Please.

6 MS. WILLIAMS JACKSON: Okay. The development of
7 popup units is changing the look and character of the
8 neighborhood from single-family homes to multiple units.
9 It's invading privacy. It's compromising the structural
10 integrity of common walls and it's crowding neighboring yards
11 and houses.

12 Also, the popups -- and I know you don't care
13 about this, it does not include parking spaces resulting in
14 more cars on already packed streets which are already at its
15 capacity.

16 So my grounds for opposition is totally based
17 around U 320.2(I). When we look at whether or not there's
18 going to be an adverse effect on the use and enjoyment of our
19 property absolutely it is.

20 And I can speak from experience because I'm one
21 house over from the current popup on the block which is at
22 4511.

23 And so when you talk about shadowing and the
24 effect of it, and I'm no shadow expert but I know a house
25 over from the existing popup, pop-out, whatever you want to

1 call it, and my back yard is totally darkened since it's been
2 there.

3 The other concern is that we look at the building
4 all throughout the District, but we're not taking into
5 consideration the infrastructure around building, the sewage,
6 the drainage.

7 Since the popup that's been put on the block
8 several of the neighbors including myself has had backup of
9 sewage in the house and we're in the process of having that
10 looked at. That's been since the popup has been out there
11 so I can only conclude that adding an additional one would
12 again impact the infrastructure of the city.

13 We look at currently we have a privacy fence in
14 the back yard of your house which gives you privacy if you
15 want to sit down in your yard. That no longer has a purpose
16 with the popups because even though you don't have windows
17 going down the side of the buildings you have balconies in
18 which they can look over and they're towering over us.

19 I look at my neighbors who will be between the
20 existing popup and if this one is approved. They're caged
21 in. Their space basically becomes useless to them. And I
22 know one of those neighbors is a gardener. He has a
23 fantastic garden back there. It's going to be affected by
24 this.

25 When we go through and we talk about like the

1 solar panels. And I'm in the process of trying to take
2 advantage of the District's plan, discount on the solar
3 panel. And what I've been told is the closer you are to the
4 popups the less effective these panels would be.

5 And I'm in the process of having them come out to
6 give me a total analysis on whether or not it would be
7 beneficial for me to go with solar panels on top of my house.
8 And so these are all things that you need to take into
9 consideration as you decide on whether or not to approve
10 this.

11 I am a proponent of development, but development
12 when it's not impacting or infringing on someone else.

13 And so it's like you come in, you're coming into
14 the city and it's about profit. If you were going to live
15 in this dwelling and you were building up on the top and you
16 were trying to push it back out and you were going to be the
17 resident I could understand that a little bit more with the
18 10 foot out.

19 I agree with what she said about you put rules in
20 place. Why give exceptions. Because I'm sure that you put
21 the time and the effort into determining this is the maximum
22 amount of space back. Why open up the door to all of the
23 exceptions. And the addition of additional space is only for
24 profit, to add in an extra unit to maximize the amount of
25 money that we can get back from it.

1 In closing I'd just like to say right now we can
2 look -- well, before the popup that's there now we could
3 stand in our back yard and we neighborhood watch each other's
4 property.

5 When we look out our back yards now what we see
6 is this structure and that's all we see from the existing
7 popup. So that would be the case on the neighbors on the
8 other side.

9 And so from our perspective our security is also
10 being impacted because our security cameras no longer can
11 look up and down and get the full view of the alley. What
12 it's looking into is the side of these pop-outs. And that's
13 what they're seeing. So our safety is important to us. And
14 so that's a concern for us as well.

15 And so all we're trying to do is maintain our
16 neighborhood, the look, the feel, the character. We all want
17 enhancements because it all increases our property value, but
18 not at the benefit of losing privacy and losing our enjoyment
19 of our back yards and the areas around our homes. Thank you.

20 CHAIRPERSON HILL: Okay, thank you. Does the
21 board have any questions for any of the witnesses?

22 VICE CHAIR HART: Just I'm trying to understand.
23 One of you lives next to -- Mr. Johnson, you live next to the
24 4511?

25 MR. JOHNSON: That's correct.

1 VICE CHAIR HART: Okay. So you're on the east I
2 guess of it.

3 MR. JOHNSON: Yes.

4 VICE CHAIR HART: So it's you and then 4511 then
5 a couple of buildings down is 4521.

6 MR. JOHNSON: Yes.

7 VICE CHAIR HART: And you said that there were
8 some impacts to -- and I know that that's not the case that's
9 before us. 4511 is not before us. But I was just wondering
10 had you tried to put a solar on your roof?

11 MR. JOHNSON: No.

12 VICE CHAIR HART: Okay. You're not looking at
13 doing that?

14 MR. JOHNSON: Not at the moment.

15 VICE CHAIR HART: Just curious. I know that Ms.
16 Williams Jackson, she was just raising that she's thinking
17 about doing it and that's maybe an issue, and I just didn't
18 know how that might impact others along that same --

19 MR. JOHNSON: Right now I'm dealing with leakage
20 though. The roof being damaged from the construction.

21 One of the things they had to do as well is get
22 my permission to come onto my yard in order to put that
23 siding that you see there on.

24 VICE CHAIR HART: Yes --

25 MR. JOHNSON: -- actually come onto my property

1 to do that.

2 VICE CHAIR HART: Yes. And I understood that.
3 I was just trying to understand just the impacts of solar.
4 And that's one of the things that kind of comes up on these
5 cases. I didn't have any other questions. Thank you.

6 COMMISSIONER MILLER: This isn't really related,
7 but just curious. Is there zone 4 residential parking in
8 your -- is there zone 4 RPP on your street? Okay, I just was
9 curious about that. Thank you. Thank you for your
10 testimony.

11 MR. JOHNSON: Could I add one other thing?

12 CHAIRPERSON HILL: Sure.

13 MR. JOHNSON: When the construction begins they
14 start with a dumpster. They have to gut the place. They put
15 a dumpster there. One, we're talking about parking. It
16 takes up like three or four parking spots.

17 The other part of it is that when that happens
18 they're dumping into this, but also people who are not --
19 don't live in the neighborhood, construction from someplace
20 else, they come by and they drop their debris into that same
21 dumpster.

22 The dumpster will be there for at least half of
23 a year. And that's what happened with 4511. That dumpster
24 was there. They didn't have barriers around it at first.
25 And then when there was enough complaining there was a

1 barrier, but there was still people dumping things in.

2 Also, because of all the gutting and all of that
3 it causes the houses next to it to not be insulated. All the
4 houses help with insulation. When that house was empty
5 during the wintertime it radiated cold air -- cold into our
6 house.

7 So our heating bills went up because of that.

8 CHAIRPERSON HILL: Okay. All right. Just give
9 me one second. All right. Mr. Sullivan and the ANC chair,
10 I guess if you can -- first, I'm trying to figure out if you
11 guys have any questions of the witnesses or any cross
12 questions. But I've got to get it on microphone one way or
13 another. So Mr. Sullivan, can you come up and just tell me
14 whether or not you have any questions on cross?

15 MR. SULLIVAN: No, thank you.

16 CHAIRPERSON HILL: Okay. Commissioner Campbell,
17 do you have any questions on cross?

18 MR. CAMPBELL: I do not, Mr. Chair.

19 CHAIRPERSON HILL: All right, great. Okay, well
20 you guys thanks so much for coming down and you'll see what
21 happens. Thanks.

22 If we can get the applicant and the ANC
23 commissioner to come back to the table, please. Okay. So
24 I think there's a bunch of things that we kind of started to
25 ask for from the applicant.

1 And I'm going to remember what mine were and then
2 you all can remember what you all had. So I just -- the
3 shadow study. The difference between the by right, the 10
4 feet, and the proposed 20.

5 And just like again, put a line somewhere that
6 shows where the distance is. You understand.

7 And then the other is I don't know -- the
8 commissioner had asked about like, I don't know, in the past
9 I've heard about insurance riders or things like that for the
10 people next door.

11 Like I don't know, do you --

12 MR. ABEBE: I actually made an agreement with the
13 other adjacent neighbor that we -- I'm going to insure her
14 property in the event that anything happens. I'm going to
15 have inspection come, look at her walls before, during and
16 after. So we have an agreement.

17 CHAIRPERSON HILL: Okay. And that's an agreement
18 that you did with the neighbor who is no longer in
19 opposition.

20 MR. ABEBE: Correct. Is in support. They're in
21 support.

22 CHAIRPERSON HILL: Okay. So, if you can reach out
23 to the neighbor who's still in opposition and at least make
24 that offer. I want to hear --

25 MR. ABEBE: I've done that.

1 CHAIRPERSON HILL: Okay, well please do it again,
2 or put something in the record for me that says that the
3 person doesn't want to be on the insurance even if this does
4 go forward. And so that would surprise me if they would say
5 no to that.

6 All right. What else does everybody got?

7 VICE CHAIR HART: So, I know I was looking for a
8 site section. This was from kind of the front of the
9 building. Just to have a very -- one that is just I think
10 more accurate. That would be helpful looking from across the
11 street over to the building itself. And that's with
12 dimensions.

13 I was looking for a perspective rendering along
14 Iowa Street. I agree with the chairman about the shadow
15 study with the by right option identified on the same -- in
16 the same drawing itself, not you know kind of side by side
17 but literally one on top of the other, overlaid on the other.

18 And then I didn't ask for this, but I think
19 Commissioner Miller asked for it which was a perspective
20 rendering of the rear alley. And that was just looking at
21 trying to understand what the view was along that alley.

22 Because currently I was looking for kind of plans
23 or something to kind of understand it, and I know he can of
24 course speak for himself, but that was the only other thing
25 that I think that we had requested.

1 MEMBER WHITE: I don't know if the parties would
2 be interested in this, but obviously there's a lot of
3 pushback on this 20 foot pop-back. And I don't know if the
4 commissioner or the parties have discussed options.

5 But if the parties are so inclined I would be
6 interested in seeing maybe an alternative plan maybe with a
7 rear extension that was not as far, maybe presenting another
8 alternative that might be more acceptable to the neighbors.

9 So I don't know if that's something that you've
10 communicated to the developers about, Commissioner. I'm very
11 sensitive to the pop-backs, but certainly if there was an
12 option B to consider.

13 You all know that they have the right to go 10
14 feet by right. So that's -- they have that right. If there
15 is any willingness to present an option I would actually like
16 to see that as well.

17 MR. CAMPBELL: Well, Ms. White, that is actually
18 something that the ANC had inquired with the developer about.
19 And at least at the time there was no interest on the part
20 of the developer in exploring other options.

21 I'm certainly willing to find out if perhaps after
22 these proceedings there might be such an interest in
23 exploring some other options. So that is certainly something
24 that I will ask about.

25 MR. BAGNOLI: If I may we have explored at least

1 the option of the 10 foot minimal addition with a pop-back
2 if you will, the separate structure appropriately set off of
3 the alley.

4 So we've been exploring options. I do believe
5 there was some communication about anything between 10 and
6 20 from certain neighbors saying they wouldn't be in support
7 of that regardless.

8 So we chose to look at the pop-back option rather
9 than try to go with something that somebody had already
10 communicated they were inclined to not be supportive of.

11 VICE CHAIR HART: I don't think we're asking for
12 the pop-back or whatever you want to call that, but having
13 a separate structure that's kind of in the back, I don't
14 think we're -- I know we're not asking for that.

15 It really is trying to understand -- Board Member
16 John also kind of said maybe there is an issue of some way
17 of not having each floor go out back to 20 feet. So that
18 there is a way of having a kind of gradation so that you may
19 go 10, 15, 20, I don't know.

20 But there may be some way of kind of thinking
21 about that so that --

22 MR. BAGNOLI: Sure, happy to look at that.

23 VICE CHAIR HART: That may actually help to
24 alleviate or at least reduce some of the shadows on the rear
25 of the property.

1 And again, I only bring this up because when
2 you're looking at properties that are facing the south you
3 have shadows in the back. They tend to be much longer.

4 When you have properties that are facing -- that
5 have northern facing and the back is to the south then those
6 shadows are really kind of contained within the building.
7 They're in the front of the building or on the street, but
8 the alley itself where people can spend some time, whatever,
9 they want to grow something or whatever, there may be less
10 impacts in that case.

11 I think Ms. Brown-Roberts brought up -- OP brought
12 up the issue of depending on where the building is facing you
13 may have the shadow impact. I think that that may be helpful
14 for us to see that.

15 I would love to see an option that looked at
16 something that wasn't 20 that had less of an impact on the
17 rear of the buildings.

18 CHAIRPERSON HILL: And just to follow up on that
19 before Commissioner Miller. I don't know again if there was
20 like -- I mean I'm going to give my opinion about a couple
21 of things before we end here as well.

22 So I don't know in terms of like -- so the
23 different options I guess that have been kind of floated are
24 you're matter of right on the third floor, you're 15 on the
25 second floor and then you're 20 on the third floor.

1 Or you're 20 on the third floor and the second --
2 I'm sorry, on the first floor and the second floor and then
3 you're matter of right on the first floor.

4 And that just kind of gets me back to again a
5 discussion with the Office of Planning as to how things kind
6 of -- and not even a discussion with the Office of Planning,
7 but just how this is starting to evolve in terms of -- maybe
8 I'll do my little speech now and then Commissioner Miller you
9 can ask.

10 Because like for the people that are coming here
11 and provided testimony also, like you know I feel bad. We
12 have the standards in front of us and these are things that
13 people can come before us and apply for and try to get
14 approval of.

15 And then we take different testimony from
16 different people. So like the ANC. And we look at each
17 individual case.

18 Sometimes the neighbors on either side are in
19 agreement, or they're not worried about anything and
20 therefore the person, the applicant has an easier time
21 accomplishing what they're trying to do.

22 And I guess that again turns to the point that the
23 commissioners make which is it's just not exact. It's not
24 exact even if you tried to make it exact. That's the thing
25 that I think we as a board struggle with.

1 And I'm trying to share that with people that are
2 here as well which is that again this kind of came from a
3 place where everyone had -- this was -- and I don't want to
4 use the word down zone or property rights taken away, but
5 what people were able to do before was much bigger than this.

6 So the Zoning Commission came to a point where
7 they're like okay, 10 feet by right and then we've had people
8 before who they don't even want the 10 feet.

9 So then you kind of get to what is again an undue
10 impact. What is again light and air. What is again privacy.

11 Then since I've been here before it's been argued
12 to me again like you have more privacy sometimes if somebody
13 does this. You might have a wall next to you but you're more
14 private than when you did have your neighbors looking up and
15 down.

16 I'm just trying to throw out there's a lot of
17 things that we look at when we talk about this. And we're
18 just put forth with the regulations that are in front of us
19 and determining whether those regulations are met.

20 But I can completely understand and empathize what
21 everyone's opinion is about things. And this is my last
22 thing.

23 I've mentioned this before to people on the board,
24 but I live in a condominium and so right next door to me
25 they're redoing a hotel and so my whole sidewalk has been

1 gone for two years. I'm just saying that's just the way it
2 is.

3 And so when the development is taking place. But
4 maybe and again the last point I guess is in terms of you can
5 write something to -- for the dumpster. How would you plan
6 on -- how does the dumpster function or work in past projects
7 that you've done?

8 MR. ABEBE: In the alley in the back, that's where
9 we put the dumpster. And not on the front. If we have space
10 in the back. So that's what we're planning to do here as
11 well.

12 CHAIRPERSON HILL: Okay. And do you know if you
13 can do that or not? You don't know? Okay.

14 Well anyway, regardless you're going to do your
15 best to make sure that other people don't put stuff in the
16 dumpster, right?

17 MR. ABEBE: Right.

18 CHAIRPERSON HILL: Okay. All right, Commissioner
19 Miller.

20 COMMISSIONER MILLER: Thank you, Mr. Chairman.
21 And Vice Chair Hart reiterated my previous request for an
22 illustrative perspective rendering of the addition from the
23 alley.

24 I had also requested if possible an illustrative
25 perspective rendering from I guess the back, the backs of the

1 adjacent homes if that's possible to provide. I'd be
2 interested in seeing that.

3 CHAIRPERSON HILL: Okay. Can you repeat back for
4 me, Mr. Sullivan, everything so we know we're all covered.

5 MR. CAMPBELL: Excuse me, Mr. Chair.

6 CHAIRPERSON HILL: Sure.

7 MR. CAMPBELL: One thing that I wanted to add.

8 CHAIRPERSON HILL: Sure, and I apologize. There's
9 going to be a conclusion you're going to be able to give, but
10 go ahead.

11 MR. CAMPBELL: Okay. No, this could be relevant
12 to this particular issue.

13 Based on the location of Ms. Grigsby's property
14 on Buchanan. It's directly behind here and it's sort of at
15 a triangle. And there could potentially be impact in terms
16 of the construction as various construction materials and
17 equipment are brought on.

18 Could we include her in the same way that we've
19 included Ms. Williams Jones in any sort of agreement as far
20 as if a fence has to come down to bring something in or
21 anything of that nature.

22 CHAIRPERSON HILL: Would the property owner be
23 willing to put that person on there as well?

24 MR. ABEBE: I'm not sure where exactly. We're a
25 little bit farther.

1 CHAIRPERSON HILL: Okay. Well, you can get the
2 address afterwards. I mean just add her onto the insurance
3 or whatever you guys had determined to do for the next door
4 neighbor. Or at least take a look at it, let me know, okay.
5 Let us know.

6 So what was on the table again is what you had
7 proposed to do for the two next door neighbors, or at least
8 one of them, if you could please approach Ms. Grigsby and
9 find out if a similar thing could be done to alleviate her
10 concerns. Okay.

11 So, I'm sorry, Commissioner Campbell, do you have
12 anything in conclusion?

13 MR. CAMPBELL: Only that I appreciate the
14 thoroughness with which the board is going about getting
15 information to be able to deliberate.

16 In conversation with the neighbors I can tell you
17 that they're also very appreciative and impressed in terms
18 of the sensitivity that the board has to the various issues
19 that are involved and trying to make a responsible decision.
20 So I'm grateful for that and also to the Office of Planning
21 as well. Thank you.

22 CHAIRPERSON HILL: Thank you for saying so. Mr.
23 Sullivan, do you have anything to add in conclusion?

24 MR. SULLIVAN: Just to get a clarification I guess
25 on first, will it be just a decision or will it be additional

1 hearing? Because I'm not so sure that we wouldn't mind
2 another -- an additional hearing.

3 If there's going to be changes to the plans.

4 CHAIRPERSON HILL: Right, right, right. Okay.
5 That's true.

6 MR. SULLIVAN: It goes back to -- so the board has
7 approved a lot of these and you've got an impossible job
8 sometimes when there's neighbor opposition. It's easy when
9 the neighbors support it and the ANC supports it. It's a lot
10 easier.

11 But you've approved 20 or 30 foot additions and
12 the character or view from the alley has not been mentioned
13 or it's been slightly mentioned.

14 And so that's a really hard thing for us to judge
15 how to respond to I think.

16 CHAIRPERSON HILL: Oh, that's fine. All right.

17 MR. SULLIVAN: It would be helpful if we could do
18 it in a more interactive way.

19 CHAIRPERSON HILL: I mean, I -- yes. I mean these
20 are also -- this is somewhat new. Mr. Sullivan, we haven't
21 approved a lot of these. We've approved some, right.

22 And we look at them each on an individual basis.
23 And even if -- and even if the ANC and I'm not just merely
24 saying this, but even if the ANC and the neighbors are all
25 in support as well as the Office of Planning we still have

1 to go through the same analysis that we do even if they're
2 not.

3 It's not that those boxes all get checked and then
4 we move through. So it has been I think difficult for the
5 board to try to figure this out.

6 I will agree with you that I think that there is
7 more now discussion about the character from the alley that
8 there wasn't as much the first few times these came up.

9 And so, but to answer -- I forgot that we had
10 asked for like different drawings and everything. So we can
11 have a continued hearing I suppose if we're going to try to
12 have a discussion about this.

13 So, we will have a continued hearing. I suppose
14 again the different types of options. I'm still not
15 necessarily opposed to the way the design is now. And so I'm
16 just trying to vent all this out.

17 Because I still think that we're struggling with
18 the whole concept of this which is that you know. And so if
19 we wanted to just stop struggling with it then either -- and
20 I keep looking at the Zoning Commission -- the Zoning
21 Commission could have just made it 25 feet or 20 feet or 10
22 feet and then made it a variance then we'd be finished.
23 Nobody's going to get a variance.

24 Okay, now I've kind of gone into a little more of
25 a discussion here with the board.

1 Do you have anything to add in conclusion?

2 MR. SULLIVAN: No, I was just -- I just think it
3 needs to be more interactive since the standard is difficult
4 to determine.

5 And just one note about the shadow study because
6 when I first -- normally you would think a 20 foot variation
7 would have a little more impact on the shadow study.

8 The property is at a 45 degree angle. It's facing
9 southwest. The rear faces northeast. And I think that's the
10 reason for the difference or the lesser impact of the shadow
11 study.

12 And the shadow study is the principal thing that
13 we've used for these cases. That's just one twist that makes
14 this a little more unique than some of the straight on --

15 CHAIRPERSON HILL: Okay. You had a comment, Mr.
16 Hart?

17 VICE CHAIR HART: Yes, the only question that I
18 had was actually for Commissioner Campbell.

19 Okay, so kind of playing out. The applicant may
20 or may not have a different design. That may or may not need
21 to go before the ANC to have them kind of think about what
22 that is.

23 And I don't know if you had thought about that,
24 but it may be helpful to at least have that discussion with
25 the applicant to see whether or not they could get on an

1 upcoming -- I don't know when your ANC meeting is, but that
2 may be helpful for us to have as well because they may find
3 that there is an alternative that's not before the board at
4 the moment that may be more amenable to the ANC. And right
5 now we just don't know that.

6 So it may be that you all kind of continue to work
7 together to see if there's some I don't know, some place that
8 is an agreement place that you can get to. So I would just
9 encourage you to do that.

10 It's possible we may get a new ANC report. We may
11 get an ANC report that says the same thing as the first one
12 regardless if the change happened.

13 So I think it may be necessary for us to get an
14 ANC report as well if there is a change in the design.

15 MR. CAMPBELL: Vice Chair Hart, I appreciate that.
16 And that isn't something that I had considered. And so
17 obviously that's important now.

18 In terms of keeping the lines of communication
19 open I think we've done a pretty good job with that in terms
20 of my communication with both Mr. Abebe and to a slightly
21 higher degree with Mr. Sullivan and his office.

22 And I would hope that everybody feels that I am
23 accessible and responsive. And particularly so I can tell
24 you that -- because I'm self-employed, a contract person.
25 I had to turn down paying work to be here today and I was a

1 little salty about it, but I take my responsibility very
2 seriously.

3 And so absolutely want to keep the lines of
4 communication open.

5 I can tell you we meet on the second Wednesday of
6 each month. Our next ANC meeting would be the 13th of March.
7 So if -- I don't know how long it's going to take Mr.
8 Sullivan's office and the office of the architect to put
9 these various additional documents together, but certainly
10 if it is something that can be ready in time for the ANC
11 meeting and assuming that the next scheduled appearance
12 before this body is after that it's certainly something that
13 I can guarantee you will be on the agenda and that we can
14 consider with the full ANC.

15 VICE CHAIR HART: I just wanted to make sure that
16 there was -- I appreciate that. I just wanted to make sure
17 that there was an opportunity for that to actually occur.

18 And so we would have to kind of plan for it in our
19 -- when we look to schedule it. It's helpful to understand
20 when that meeting is. And if it's March 13 that's great.
21 Fairly close around the corner.

22 I don't know if the architect is looking to have
23 something before then, or if it's going to be the same
24 design. That's up to them. But at least that would be an
25 opportunity to be able to do that.

1 And then we could hear back.

2 MR. CAMPBELL: Exactly.

3 CHAIRPERSON HILL: So, Mr. Sullivan, you're done.
4 You've got your directions and everything. Okay.

5 And so we're not going to close this hearing. But
6 I just want to have a little bit of discussion with us for
7 one second, the board that is.

8 So, I do find this very challenging. And I guess
9 I also just wanted to -- I don't know what this is worth
10 other than we're together for a little bit longer.

11 And this comes up, or these come up a lot. And
12 we're trying to figure out in each individual case as the
13 Office of Planning likes to continue to remind us is that
14 they're all different.

15 But still we seem to be kind of struggling to try
16 to get somewhere. And what I'm just trying to express is
17 that I also don't -- I'm finding it very difficult to be like
18 there are neighbors, or there's people that are upset about
19 it, upset about their homes.

20 And then there's people that are trying to develop
21 a place where more people from the city -- people are moving
22 into the city and we need housing. And so this is a way that
23 we can expand housing. And these are things that are within
24 the regulations to be able to do.

25 Now again, I'm not saying that this is the way

1 that -- or we should approve this or not. But I'm just
2 trying to say that the person who is now going forward with
3 this application, they're also trying to figure out what they
4 can or can't do.

5 And so it just seems like it's a lengthy -- it's
6 taking longer than I thought that this process should take.
7 This is not -- to the Commissioner's question if there was
8 a percentage, if there was a much more exact science, or to
9 Mr. Hart who's saying that you know, zoning is not exact.
10 I think you said it was a blunt instrument at one time.

11 And so I guess all I'm trying to say is we're
12 going to look at everything again when we get back here. But
13 I'm very sensitive to the neighborhood, the ANC and the
14 applicants that are here before us. And so just to let you
15 know. And this whole board is.

16 And so I just want to -- we're aware that this
17 costs money. We're aware that the neighbors are in this
18 particular case not happy with the outcome. In other
19 particular cases they have been happy with the outcome. So
20 it's just very individual.

21 Okay. Does anybody have anything else to add
22 after my little speech?

23 COMMISSIONER MILLER: I'll just say, Mr. Chairman,
24 the Zoning Commission is represented here by one of us and
25 so each of us has experienced the frustration and the

1 challenge of these types of cases.

2 And we've asked the Office of Planning. The
3 Office of Planning is aware of the challenges with these
4 cases and is looking at the body of cases that this board has
5 had to consider and is looking at possible changes. It won't
6 affect this case or the past cases but is looking at possible
7 changes that may be proposed in the future that would be
8 subject to a public hearing and everybody can come down here.

9 And the board can come down here. But I'm sure
10 OP is going to consult with the body that has had to deal
11 with these issues all along.

12 But I just wanted to put on the record that at a
13 public meeting the Zoning Commission asked the Office of
14 Planning and the Office of Planning stated or maybe they
15 initiated the conversation that they are looking at this
16 whole regulation and seeing how to make it work more smoothly
17 than it has.

18 CHAIRPERSON HILL: Okay. So what seems to be on
19 the table now is going back and determining what you guys
20 want to do, or present, or not present and come back to us.

21 And whether or not during that discussion you
22 either think there's something to go back to the ANC or not
23 to go back to the ANC with.

24 If there is something to go back to the ANC with
25 then you would be doing so with the hopes that you would get

1 the ANC's support. Otherwise there's no point, right.

2 So, I guess the ANC's meeting is -- when did you
3 say, Commissioner?

4 MR. CAMPBELL: March 13.

5 CHAIRPERSON HILL: March 13. So March 13. So
6 that means -- I don't know -- if you all can come up with
7 whatever decision you think you might come up with before
8 that March 13 deadline, do you think that's possible?

9 MR. SULLIVAN: Yes.

10 CHAIRPERSON HILL: Okay. So then you'll know one
11 way or the other what you're going to do with the ANC, if
12 you're going to go there or not.

13 And then we could get a report from the ANC if
14 they came back and presented something to you soon
15 thereafter, correct?

16 MR. CAMPBELL: Absolutely.

17 CHAIRPERSON HILL: Okay. So after March 13, Mr.
18 Moy. And this seems like it's flashing back all the way to
19 the beginning of the day. Is that where there was an appeal,
20 the 27th?

21 MR. MOY: After the March 13th date which is the
22 ANC meeting that I'm hearing the next BZA hearing is on the
23 20th which I would not recommend.

24 So then I'm looking at March 27 which is the
25 following week. We have an appeal but it's not as bad as the

1 one on the 20th. Or into the next month of April, the 3rd
2 where Mr. Miller would be back with us.

3 CHAIRPERSON HILL: Okay. So I just want to know,
4 and I'm really sensitive to the property owner in terms of
5 like this has been on a long process.

6 In terms of financing and everything you're trying
7 to go through and stuff. You were here in the beginning of
8 the day, right, so I mean we're really jammed up on a lot of
9 cases.

10 Will April 3 work for you?

11 MR. SULLIVAN: Yes.

12 CHAIRPERSON HILL: Okay.

13 MR. CAMPBELL: Excuse me. Let me just throw
14 something into the mix here.

15 CHAIRPERSON HILL: Sure.

16 MR. CAMPBELL: I serve as the trustee for an
17 elderly aunt who lives in the Bay Area of San Francisco. I
18 am actually going to be installed as the conservator of
19 person and of estate.

20 That hearing happens to be on April 4th and I need
21 to be in San Francisco. I'm going to be out of town most
22 likely on the 3rd.

23 Now, while one of my esteemed colleagues certainly
24 could come and fill in, my preference would be --

25 CHAIRPERSON HILL: We'll do it the week before.

1 We'll do it the week before. Okay. So what's the week
2 before, Mr. Moy again?

3 MR. MOY: That would be March 27.

4 CHAIRPERSON HILL: So March 27. Okay? March 27.

5 MR. CAMPBELL: Thank you. I can do that. Thank
6 you.

7 CHAIRPERSON HILL: And then if the Office of
8 Planning would like to submit a supplemental after the shadow
9 study you're welcome to. If you don't think it's necessary
10 then that's also fine. Okay.

11 And then we'll be back here on March -- oh, Mr.
12 Miller, is there a chance you might want to join us?

13 COMMISSIONER MILLER: I think -- yes, I'll be
14 there. There's another case that we've postponed to the 27th
15 earlier today.

16 CHAIRPERSON HILL: How convenient.

17 COMMISSIONER MILLER: How convenient. I'm almost
18 here every week.

19 CHAIRPERSON HILL: That's great. You'll be able
20 to testify on all of this then. You'll be able to tell
21 everybody about it at the Zoning Commission. Mr. Moy?

22 MR. MOY: I have one question, Mr. Chairman. So
23 if we reconvene or rather continue the hearing on the 27th
24 does the board wish to see any of the materials from the
25 applicant prior to the 27th or you just want them to bring

1 it all on the 27th?

2 CHAIRPERSON HILL: No, prior to the 27th.
3 Whatever that Friday is.

4 MR. MOY: That would be March 22. March 22nd
5 which is that Friday.

6 CHAIRPERSON HILL: We need it before that so we
7 can get OAG to weigh in. So when do you need the stuff by
8 the time that we could get something?

9 MR. MOY: How about that Monday the 18th. That
10 would give OAG time to analyze the materials that's being
11 filed for the continued hearing on the 27th.

12 CHAIRPERSON HILL: Okay. So filings on Monday the
13 18th. And other than that just so everybody knows this is
14 only a continued hearing for the things we're talking about.
15 We're not going to take any more public testimony. We're not
16 going to take anything. This is just about the things that
17 we're talking about here today in terms of the additional
18 documentation.

19 And that's also for the continued hearing. Just
20 to let you know, Commissioner. We're just going to be
21 talking about the new stuff. Okay. Do I need to say
22 anything else?

23 MR. MOY: I didn't give a date for the ANC to file
24 their letter, but the good ANC said that he would submit it
25 as soon as possible for the record.

1 MR. CAMPBELL: If we need an actual date for that,
2 let me see here. I am sure -- well, let me see. We had said
3 the 18th for Sullivan & Barros. Could I submit on that same
4 day?

5 MR. MOY: I think so. If the board --

6 CHAIRPERSON HILL: Okay, great. No, that's great.
7 Okay, great. All right. Okay, well thank you all very much.
8 We'll see you when we see you.

9 Mr. Moy, is there anything left for the board?

10 MR. MOY: Nothing from the staff, Mr. Chair.

11 CHAIRPERSON HILL: Okay, great. We stand
12 adjourned. Thank you.

13 (Whereupon, the above-entitled matter went off the
14 record at 4:23 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC BZA

Date: 02-27-19

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



Court Reporter

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