

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

MAY 1, 2019

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER[S] PRESENT:

ROBERT MILLER, Zoning Commission Vice Chair

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN J. MORDFIN
MAXINE BROWN-ROBERTS
ELISA VITALE

The transcript constitutes the minutes from the
Public Hearing held on May 1, 2019.

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

(9:57:15 a.m.)

1
2
3 BZA CHAIR HILL: All right, Mr. Moy, you can call
4 our first hearing case, if you'd like.

5 SECRETARY MOY: Thank you, Mr. Chairman. If we
6 can have parties to the table. This to case application
7 number 19960 of MCF Montana LLC, MC -- I can't read my
8 handwriting -- FILP or is it FLLP. Anyways, this is caption
9 advertiser of special exceptions under the zone boundary line
10 requirements of Subtitle A, Section 207.2 under the new
11 residential development requirements of Subtitle U, Section
12 421.1 and Subtitle C, 714.3 from the surface, parking
13 screening requirements of Subtitle C, Section 714.2, to
14 permit the construction of a new 108 unit apartment house in
15 the MU-4/RA-1 zone at 1400 Montana Avenue, Northeast, Square
16 4023, Lot 1.

17 BZA CHAIR HILL: Okay, great. Thank you, Mr. Moy.
18 Good morning everyone. Is the ANC here? Okay. All right,
19 if you could please introduce yourself from my right to left,
20 please?

21 MR. VAN PELT: Good morning, Dan Van Pelt with
22 Gorove/Slade Associates.

23 MR. WEINBAUM: Jamie Weinbaum with MidCity.

24 MS. MOLDENHAUER: Good morning. Meridith
25 Moldenhauer, the law firm of Cozen O'Connor for the

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1 applicant.

2 MR. WALTERS: Maurice Walters with Maurice Walters
3 Architect.

4 MR. MOODY: Good morning. Ryan Moody with Moody
5 Graham.

6 MR. VARGA: Stephen Varga, planning services
7 director, Cozen O'Connor on behalf of the applicant.

8 BZA CHAIR HILL: Okay. Ms. Moldenhauer, are you
9 going to be presenting to us today?

10 MS. MOLDENHAUER: Yes, I will be.

11 BZA CHAIR HILL: Are you sure you don't need any
12 more people? There's two more seats over here.

13 MS. MOLDENHAUER: We have our full presentation
14 here.

15 BZA CHAIR HILL: Okay. Okay. Great. All right.
16 So there was the last time some discussion about the ANC and
17 what happened there. I guess rather than start with that,
18 why don't you just go ahead and go through your presentation.

19 Tell us again how, what you're trying to
20 accomplish and how you're meeting the standard for us to
21 grant the relief. And as you kind of go through that maybe
22 just touch upon again community outreach including what has
23 been going on with the ANC.

24 I'm going to put 15 minutes on the clock just so
25 I know where we are. If we go over that, that's fine because

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1 there's more people at the table. There usually is 15
2 minutes for but you can start whenever you like.

3 MS. MOLDENHAUER: Thank you. We believe we'll
4 need about 35 minutes. But we'll want to make sure it's the
5 full and comprehensive record, given the fact that there were
6 attorneys on the other side in the beginning.

7 So I will first just indicate that we have
8 presenters today as already identified in the introduction
9 and --

10 BZA CHAIR HILL: Oh, one second. Then Mr. Moy,
11 why don't you go ahead and turn 25 minutes up on the clock?
12 Right. What'd you say, 35 minutes?

13 MS. MOLDENHAUER: Thirty-five.

14 BZA CHAIR HILL: Thirty-five minutes. Okay. Why
15 don't you just go ahead and throw 35 minutes up on the clock,
16 Mr. Moy and we'll see where we get to. Okay. All right.
17 Thank you.

18 MS. MOLDENHAUER: Thank you very much. Well I
19 will start over with our presentation. I'll introduce Mr.
20 Weinbaum from MidCity and then he'll be able to present.

21 MR. WEINBAUM: Okay. Good morning, Chairman Hill,
22 members of the board. My name is Jamie Weinbaum. I'm here
23 today on behalf of the applicant, MCF Montana LLC and MCFI
24 Limited Partnership.

25 I'm an executive vice president of MidCity, a 50-

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1 year-old local company that owns, develops and manages mixed
2 income housing in the region.

3 Since our inception, we've developed more than
4 15,000 units across the country and our current portfolio is
5 primarily centered in and around the District of Columbia.
6 We're proud to be housing providers focused on delivering
7 quality housing for District residents.

8 The property that's the subject of our application
9 is 1400 Montana Ave Northeast, a triangular parcel bounded
10 by three streets, Montana Avenue, Evarts Street and Saratoga
11 Avenue.

12 The under-utilized lot contains only a one, only
13 a small one-story commercial building and a surface parking
14 lot. It's important to note that there are no current
15 residential uses on the site.

16 The building that's there was originally
17 constructed as a drive through bank branch. It was purchased
18 years ago by the Historic Berean Baptist Church, who operates
19 from the site today.

20 Last year the church determined to sell the
21 property and engaged a broker and put the site out for sale
22 on the open market. We were the highest bidder and we
23 purchased the site.

24 Throughout this time, the church has been an
25 incredible partner to us. They continue to lease the

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1 building back from us through the remainder of this year and
2 they filed a letter in support of our application, which is
3 contained in the record.

4 The zoning map for the site, which you'll see up
5 on the screen indicates that the triangular site is a split
6 zone site. A portion of the site is within the MU-4 zone
7 district. And a portion is within the RA-1 zone district.
8 You can see the distinction noted by the line across the
9 site.

10 As part of our application, we're proposing to
11 construct a new three and four story, 108-unit multifamily
12 residential apartment building. Of the 108 units, 11 will
13 be designated as inclusionary zoning units for those earning
14 up to 60 percent of median income.

15 The building itself is designed by Maurice
16 Walters, a best in class architect along with a top tier of
17 consultants sitting around me. The building will include
18 high quality materials and will fit in with the character of
19 this wonderful neighborhood.

20 The main entrance will be off of Montana Avenue
21 and the ground floor will include a lobby space with a
22 leasing office, a mailroom, fitness center and long-term
23 bicycle storage.

24 From an aerial view, you can see again on the
25 screen that the building is oriented towards Montana Avenue

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1 with a surface lot to the rear. It's worth noting that this
2 surface lot is smaller than the surface lot that exists today
3 at the property.

4 We believe that with its orientation and
5 incredible landscaping, the building will enhance the
6 pedestrian experience and provide some more eyes on the
7 street to help with public safety, which is a challenge
8 there.

9 As part of our work on this exciting project,
10 we've been eager to present before our ANC, ANC-5C as you
11 know, we've reached out numerous times by phone, by text, by
12 email, seeking to be placed on the ANC agenda and we attended
13 the last two ANC meetings.

14 We did present at an SMD meeting on April 10th,
15 after we were last here and we hosted a community meeting
16 that we spoke about last time, we hosted that meeting on
17 March 14th.

18 Both meetings were well attended and led to great
19 discussions. We've also met numerous times with groups of
20 neighbors about the project.

21 We're committed to continuing to work with the
22 company, to address any concerns related to area parking or
23 traffic. We're very pleased that we have more than, I
24 believe now 23 letters in support, which are also included
25 in the record.

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1 Now I'll turn it over to Maurice Walters, who will
2 provide more details about the project. I do want to thank
3 you and take a second to do that for your consideration and
4 for the opportunity to testify today.

5 I'm sorry? Sure. I also want to say,
6 specifically on the community outreach portion that we did
7 attend the April 17th ANC meeting. I mentioned we attended
8 the last two, that includes the one after we were last here.

9 We were ready to present at that meeting, but we
10 were denied the opportunity despite requests by the applicant
11 and community members including some who are here today, who
12 I believe will speak about that. So we were not able to
13 present. Thank you.

14 BZA VICE-CHAIR HART: Did they say why?

15 MR. WEINBAUM: I'll let Ms. Moldenhauer speak on
16 that.

17 MS. MOLDENHAUER: There was no specific
18 information as to why. So we have other individuals that
19 were present that evening that can provide more information.
20 But we were not permitted to present.

21 BZA VICE-CHAIR HART: Were you on the agenda?

22 MS. MOLDENHAUER: We were not put on the agenda,
23 and we had emailed requesting to be put on the agenda
24 multiple times.

25 BZA VICE-CHAIR HART: All right. Thank you.

1 MR. WALTERS: Good morning. Maurice Walters,
2 Maurice Walters Architect, the architects for the project.
3 Yeah, the site plan here, as Jamie had mentioned. The site
4 is triangular shaped, so it is kind of an island onto itself.

5 So one thing that's important is that there are
6 no immediate adjacent buildings. They're all separated by
7 streets. So that helps to mitigate any impact.

8 The project, the massing is on Montana Avenue,
9 with a little bit on Everts, so it's, the bulk of the massing
10 is pulled up towards Rhode Island Avenue.

11 That's where we have our four-story massing and
12 then as we go towards the south and the east, towards
13 Montana, the building steps down to three stories to
14 transition to the residential.

15 There is a, all the parking and bi-retention areas
16 are being provided on site. We have a 34-space parking court
17 on the backside of the site. As Mr. Weinbaum mentioned, the
18 main entrance to the building is off of Montana.

19 There's also a secondary entrance off the parking
20 court and then you're able to enter the parking court off of
21 Saratoga Avenue through a single curb cut. We're also
22 providing all the zoning required landscaping and screening
23 for the parking court.

24 Here's a view of the building from Montana, and
25 the intersection of Montana and Saratoga. Looking across you

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1 can see again towards the left, going towards Rhode Island,
2 the building is the four-story massing in the MU-4, near the
3 Rhodes Island corridor. And then as it transitions down to
4 Saratoga, the RA-1 zone, it steps down to three stories.

5 The building will be LEED certified and the
6 facades are brick, predominantly brick with an articulation
7 of bay windows and some minor balconies to give it a nice
8 pedestrian presence on the street.

9 This diagram represents the zoning line extension.
10 So you can see in light gray where we have the 35-foot
11 extension of the MU-4 zoning line to create the larger MU-4
12 lot. And then the darker gray is the remaining RA-1. Also
13 additionally, the measuring point for the building is the
14 midpoint of the exposure on Montana Avenue.

15 Ground floorplan of the building units at ground
16 level, predominantly on Montana and Evarts. When we get down
17 to the three-story portion at Saratoga, we do have some of
18 our amenity spaces and lobby at the entrance of the building.
19 And then also you can see where there's a back entrance to
20 the parking courts for the residents.

21 Also facing the parking court we have some of our
22 kind of service things. We have our bicycle storage room
23 that will be accessible on grade.

24 We have our loading spaces, our 30-foot truck and
25 our 10 by 20 service delivery, which will be able to access

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1 directly into the building for service and then our trash
2 comes out in that area, too, and then we have our 34 parking
3 spaces in that court.

4 Moving up a level to a typical floorplan, the
5 second and third floor. You can see it's a basically a
6 double-loaded building with units on both sides, 108 units.
7 A nice mix of studios/junior one bedroom, one bedroom, one
8 dens and twos. It's a pretty typical mix from what we see
9 in the marketplace.

10 We will have 18 two-bedroom units in the building.
11 And again, it will have 11 IZ units that will be at 60
12 percent of the AMI.

13 Moving up to the fourth floor, you can see kind
14 of on the lower right where the building is stopped in the
15 RA-1 zone. That's -- the three-story portion will have a
16 roof terrace with green roofs.

17 We will have a small terrace as well as a small
18 amenity space that complies with the regulations for a
19 penthouse in that area and then the remainder of the building
20 remains the same.

21 And then we go up above of the fourth floor to our
22 penthouse level of the MU-4 portion. So we'll have ten units
23 up there. I'm sorry -- yeah, ten units up there.

24 They will comply with all the zoning setbacks,
25 one-to-one setback, 12 feet, and then we go up and they'll

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1 have a green roof, areas of green roof for storm water, as
2 well as a few of their own individual terraces.

3 And then moving up one level to the roof of that,
4 again, more green roof, everything complying with the zoning
5 for setbacks. Our elevator override will even, will be 15
6 feet high that will setback about 19 feet. So it exceeds the
7 requirements for setbacks.

8 The next diagram is of the parking court. You can
9 see there that we have the 34 spaces. There was a little
10 change recently from the previous submission. We were able
11 to omit one transformer and pick up another parking space,
12 which was a nice development.

13 Again, all of the zoning required landscaping and
14 screening for the parking court is being provided. The one
15 area of relief we're seeking there is for the 24-foot curb
16 cut on Saratoga Avenue, and that has received conceptual
17 approval from DDOT.

18 And as Mr. Weinbaum mentioned, we went back and
19 analyzed the existing amount of paving area and we found that
20 we're actually reducing the paving by about 1,300 square feet
21 from the current conditions on the site.

22 At the upper kind of right portion of that will
23 be our storm water area, bioretention area that -- and now
24 we'll turn it over to Ryan Moody with Moody Graham Landscape
25 Architects and he'll talk more about the landscape

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1 components.

2 MR. MOODY: Thank you, Maurice. Good morning
3 Chairman Hill and members of the Board. My name is Ryan
4 Moody, principal at Moody Graham Landscape Architecture. A
5 copy of my resume has been entered into the record.

6 I'm pleased to be here today to review our most
7 current landscape plan of the site for BZA Application 19960
8 at 1400 Montana Avenue Northeast. Today I'd like to briefly
9 describe three landscape areas, the public space or referred
10 to as parking space landscape outside the property line.

11 The private space landscape and the parking court
12 area previously discussed by Maurice within the private
13 property.

14 For the public space area, this is three sides of
15 the project as mentioned, approximately 25 feet of space
16 between the sidewalk and property line along Montana Avenue
17 Northeast. Much of this area will be planted with native low
18 perennials and deciduous and evergreen shrubs.

19 New street trees will be added to complement the
20 existing sycamore trees evaluated by the Ward 5 arborist.
21 Approximately 19 feet of space between the new sidewalk along
22 Saratoga Avenue and Evarts Street and the property line will
23 also be planted with low perennials and shrubs to beautify
24 the landscape.

25 A small area of lawn will be included at the

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1 northeast corner of the site. There's a paved desire line
2 through the corner as shown in the landscape plan.

3 On March 19th, 2019, we met with Jabbari Brew, the
4 Ward 5 Urban Forester, to review the existing canopy trees
5 onsite and decide about a path forward for maintaining as
6 many of the trees as possible. The new trees will be spaced
7 approximately 20 to 25 feet along the Evarts Street Northeast
8 as well as Saratoga Avenue.

9 Within the private space the landscape is
10 primarily composed of new green roof plantings at the third,
11 fourth and penthouse roofs, as well as bioretention planting
12 at grade as mentioned by Maurice.

13 The proposed landscape design meets all
14 requirements under the zoning regulations and will comply
15 with all DDOT and DOEE requirements.

16 A combination of planting strategies will allow
17 us to meet the storm water, green area ratio and landscape
18 zoning regulations for service lots.

19 Just a few overall landscape notes. The existing
20 and previous parking surface is 12,759 square feet. The
21 proposed is 11,429 with a net reduction of 1,330 square feet
22 of paving.

23 We're also proposing connecting the sidewalk path
24 along the perimeter of the property, which will increase
25 pedestrian safety and walkability of the site. The new

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1 sidewalk as well as the broader transportation connectivity
2 will be discussed in greater detail by our transportation
3 engineer later in the presentation.

4 There will be a overall net addition of trees to
5 the site. We are currently proposing adding numerous street
6 trees per DDOT standards to infill the urban canopy and
7 minimize the need for further aggressive pruning to the
8 existing trees in poor health and currently proposing adding
9 17 trees to private space.

10 The expansion of the tree canopy on site and the
11 decrease of impervious surfaces should reduce the urban heat
12 island effect. According to the EPA, planting trees and
13 other vegetation such as green roofs lowers surface and air
14 temperature by providing shade and cooling through
15 evapotranspiration.

16 Furthermore, the proposed project will create a
17 substantial reduction in lawn area. This should reduce the
18 need for lawn mower operations, which adds additional air
19 pollutants to the air.

20 According to the Union for Concerned Scientists,
21 one gas mower running for an hour emits the same amount of
22 pollutants as eight new cars driving 55 miles per hour for
23 the same amount of time.

24 The addition of trees, shrubs and perennials will
25 soak up rainwater and slow runoff to minimize negative storm

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1 water effects.

2 The only area of relief requested in the landscape
3 is for the 24-foot opening in the parking lot screening.
4 Twenty foot is currently allowed by right. The 24-foot gap
5 in parking screening will not increase noise, pollution or
6 negative heat island effects.

7 In comparison to two 20-foot openings as
8 previously studied and allowed by right, the proposed opening
9 minimizes the quantity and overall length of curb cuts on the
10 site.

11 At this point I'd like to hand it off to Mr. Van
12 Pelt who will discuss transportation issues. Thank you.

13 BZA VICE-CHAIR HART: Just one quick question.
14 That 20 feet is, can you just show that, where that is?
15 You're just saying, is it, is it there?

16 MR. MOODY: Yeah. So that's, we're currently
17 proposing a 24-foot curb cut. Twenty foot would be allowed
18 by right. In previous design studies we had a secondary curb
19 cut proposed on Evarts Street Northeast, so we had an in and
20 out for the parking lot, which would have created 40 feet of
21 curb cut as opposed to the 24 currently proposed.

22 BZA VICE-CHAIR HART: I understand. I just wanted
23 to make sure that we were, I was talking about this look at
24 this right now.

25 MR. VAN PELT: Good morning, again, members of the

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1 Board. For the record, I'm Dan Van Pelt with Gorove/Slade
2 Associates.

3 I'm going to touch upon the transportation
4 elements of the project and our coordination with DDOT. The
5 1400 Montana Avenue Northeast site has frontage on Montana
6 Avenue, Saratoga Avenue and Evarts Street and is immediately
7 south of the Rhode Island Avenue corridor as shown the figure
8 here.

9 The nearest Metrorail station is the Red Line,
10 just under a mile away at Rhode Island Avenue, Brentwood and
11 there are 14 Metro bus lines that service the site
12 immediately north along Rhode Island Avenue. These lines
13 connect to Metrorail and other parts of the city and the
14 region.

15 The low volume streets, either side of Rhode
16 Island Avenue are conducive to biking and these are, and
17 there are bike lanes on 18th Street to the east providing
18 north/south connectivity, along with shared lanes and signed
19 routes in the vicinity.

20 Metropolitan Branch Trail is located less than a
21 mile west of the site and connects to Union Station to the
22 south and Maryland to the north. DDOT's Move D.C. Plan has
23 future dedicated bicycle lanes and cycle tracks along Rhode
24 Island Avenue.

25 In addition to the bike facilities, there is a

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1 Capital Bikeshare Station a short distance away at Rhode
2 Island Avenue and 18th Street, and seven additional stations
3 within one mile.

4 Now zooming into the site, the zoning regulations
5 require a residential development of this size to provide a
6 minimum of 35 vehicular parking spaces.

7 The development will meet this requirement by
8 providing the 34 vehicular spaces and one of these spaces
9 will be dedicated as a carshare parking space. The carshare
10 space satisfies the requirement for three zoning spaces.

11 The parking will be located within a screened
12 surface parking lot accessed from Saratoga Avenue as has
13 already been described. There'll be 36 secure, long-term
14 bicycle spaces that will be supplied on the ground floor of
15 the building. I think Marie's pointed those out earlier.

16 There will also be five short-term bicycle spaces
17 added near the building entrance on Montana Avenue. These
18 accommodations meet zoning requirements and serve the needs
19 of the site.

20 So currently as the site exists today, there are
21 two curb cuts along Evarts Street and there's one very wide
22 curb cut, 34 feet on Montana Avenue. In total when you add
23 it all up, these driveways together, there's 71 feet of curb
24 cuts serving this site in its current configuration.

25 There's also, there are missing sidewalks along

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1 Saratoga Avenue and Evarts Street. The existing site
2 configuration is not consistent with current DDOT policies
3 for access and pedestrian connectivity.

4 In the lower right portion of the slide there's
5 a street view image of Saratoga Avenue facing east. Because
6 there's not an existing sidewalk on the north side of the
7 street, which is the left side of that image, pedestrians
8 often end up in the street as is this individual in the
9 wheelchair that you can see him there in the yellow next to
10 the car.

11 With this project, the three existing curb cuts
12 will be removed, greatly reducing pedestrian/vehicular
13 conflict while enhancing the walking experience and
14 connectivity for pedestrians by stitching this parcel into
15 the larger sidewalk network.

16 New sidewalks will be constructed along Evarts and
17 Saratoga Avenue frontages where they're currently missing,
18 as well as a new crosswalk will be installed at the
19 intersection of Saratoga Avenue and Evarts street, complete
20 with curb ramps and detectable warning strips.

21 Only one new curb cut will be required to access
22 vehicular parking and loading, and this curb cut will be 24
23 feet in width as already been described. This is consistent
24 with DDOT's standards for curb cuts and was determined to be
25 the appropriate size to accommodate the head in, head out

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1 service vehicle maneuvering for the site.

2 We met with DDOT early in the design of the site
3 plan and as was, I guess discussed a little bit earlier,
4 originally the project had an additional curb cut on Evarts
5 Street. But in working with DDOT it was determined that the
6 driveway on Saratoga would be sufficient.

7 Truck routing to and from the site is expected to
8 be mainly along Rhode Island Avenue, which is a designated
9 truck route and then trucks will then use Montana to access
10 the site via Saratoga.

11 The zoning regulations require one 30-foot loading
12 berth and one 20-foot service delivery space for the project.
13 The proposed loading facilities are consistent with these
14 requirements and are sufficient for the needs of the project.

15 Loading facilities will be located, I think as
16 described earlier adjacent to the surface parking lot and the
17 turning maneuvers into and out of the facilities will be head
18 in, head out from the site with no backing maneuvers in the
19 public route.

20 A multiple modal transportation review was
21 completed for this project following DDOT's comprehensive
22 transportation review requirements. The scope of this ETR
23 transportation review was signed off my DDOT before we
24 proceeded.

25 The project is expected to general minimal

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1 vehicular trips during both the morning and evening periods,
2 peak periods. For this reason no vehicular capacity analysis
3 was required.

4 Our review did identify the missing pedestrian
5 accommodations that will be addressed with the redevelopment
6 of the site. A transportation demand management plan was
7 also developed for the project, although it's not technically
8 required.

9 And with these considerations, it was determined
10 that the project will not have a detrimental transportation
11 impact. We're pleased to have DDOT's concurrence of no
12 adverse impacts per their March 22nd report and we will
13 continue to work with DDOT on the conditions that they
14 outlined in the staff report.

15 Additionally, as also mentioned earlier, the
16 proposed 24-foot curb cut on Saratoga Avenue received
17 conceptual approval from the public space committee at their
18 March 28th hearing.

19 And lastly, I'll conclude by summarizing the
20 transportation demand management plan elements for this
21 project. A TDM leader will be identified and the contact
22 information for that person will be communicated to DDOT.
23 That leader will make residents aware of the options and
24 amenities that are afforded the site.

25 TDM materials will be included in the residential

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1 welcome package provided to new residents, long-term and
2 short-term bicycle parking will be provided that meets zoning
3 requirements and the demands of the development. And the
4 long-term spaces will be on the ground floor bike room, so
5 that the cyclists can just easily roll in at the ground
6 level.

7 And the bike room will also have a repair station
8 for convenience of the residents and finally the cost of the
9 residential parking will be unbundled from the cost of each
10 unit.

11 And so with that, I'll turn it over to Steve
12 Varga.

13 MR. VARGA: Thank you, Daniel. Good morning
14 Chairman Hill and members of the Board. Again, my name is
15 Stephen Varga, director of planning services at Cozen
16 O'Connor. You have a copy of my resume entered into the
17 record.

18 In preparation of the land use report and this
19 testimony, I have reviewed the application, performed a site
20 visit, reviewed planning and zoning research for the property
21 and surrounding neighborhood, as well as legislative research
22 on the current and past zoning regulations and past Board
23 cases.

24 This case seeks to add a new apartment building
25 to an under-utilized site adjacent to Rhode Island Avenue

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1 Northeast. Notable the project seeks no relief relating to
2 height, lot occupancy and area requirements.

3 However, due to the unique nature of the split
4 zone triangular shaped lot, special exception relief is
5 requested by the applicant to ensure the high quality of the
6 project design.

7 Counter to the opposition's assertions, it is
8 reasonable to find that the project is in harmony with the
9 purposes, general provisions, objectives and use permissions
10 of the zone plans. Next slide.

11 In the opposition's filing at Exhibit 42, on Page
12 2, it argues that relief would violate Subtitle A, 101.2 even
13 though it misquotes the section of Subtitle A, 101.1. The
14 general provisions and purpose and intent sections of each
15 zone, the zone plan, incorporate the considerations outlined
16 in Subtitle A, 101.2.

17 The character, suitability and stability of land
18 values referenced in Subtitle A, 101.2 are implicitly
19 reflected in each zone's zone plan.

20 Therefore, as the development standards and use
21 permissions emanate from the general provisions and purpose
22 and intent sections, a project satisfaction of the
23 development standards of the applicable zone and it's harmony
24 with the general purpose and intent sections of that zone
25 mean that a development including any associated special

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1 exception relief requested inherently satisfies Subtitle A,
2 101.2.

3 So here we have a project built to a height and
4 lot occupancy less than that permitted. Accordingly
5 consideration of Subtitle A, 101.2 in evaluating a special
6 exception given that special exceptions are deemed to be
7 consistent with the zone plan is not appropriate. Next
8 slide.

9 The MU-4 zone permits the construction of an
10 apartment as a matter of right and the RA-1 zone permits it
11 by special exception. The general provisions promote a
12 walkable living environment and encourage compatibility
13 between the location of new buildings in the existing
14 neighborhood.

15 When planners evaluate compatibility between new
16 buildings and the existing neighborhood, we consult the
17 purpose statements of the RA-1 zone, in this case, which
18 state that flexibility of design for all types of urban
19 residential development including apartments the project are
20 supported if they conform to the height, lot occupancy and
21 area requirements established for these districts.

22 The project, in fact, does conform to the bulk
23 requirements of the zone and so flexibility to develop a new
24 apartment building in the RA-1 zone is appropriate.

25 The project is respectful of neighboring

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1 development as the building steps down from four stories in
2 the MU-4 zone, western portion of the site to three stories
3 in the RA-1 zone portion of the site to the east where it
4 abuts Saratoga Avenue Northeast, approximately 100 feet from
5 existing one family dwellings.

6 In this way, it serves as a buffer to the RA-1B
7 zone property to the east. Notable only approximately one-
8 third of the Saratoga Avenue Northeast frontage will be
9 developed, and a wide swath of screening is proposed to the
10 northeastern extent of the site.

11 For these reasons, it is reasonable that OP
12 supports the relief given that the project and requested
13 relief are compatible with the prevailing development pattern
14 of the surrounding area. Next slide.

15 The MU-4 zone general provisions and purpose
16 statements include many of the same themes as those contained
17 in the RA-1 and introduce the encouragement of safe and
18 efficient conditions for pedestrian and motor vehicle
19 movement and supporting active use of public transportation.
20 Next slide.

21 Here the project proposes to complete the sidewalk
22 around the perimeter of the property and include a single
23 curb cut so as to limit the impacts to pedestrians and public
24 space.

25 Additionally, the property's close proximity to

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1 Rhode Island Avenue Northeast and a bus stop featuring
2 several Metrobus routes ensures that the residents of the
3 building can make active use of public transportation. Next
4 slide. Sorry, and this shows where the sidewalks will be
5 improved. The next slide.

6 The well thought out design of the project helps
7 to ensure that neighboring properties will suffer no adverse
8 impacts. As noted, the property is an island surrounded by
9 public space.

10 The mass of the building is oriented away from the
11 low-density development to the east and the property proposes
12 extensive screening around its perimeter. In this way, the
13 light and air to neighboring properties will not be affected.

14 Additionally the project will displace zero D.C.
15 residents as there are no dwellings in its currently under-
16 utilized commercial site. Instead the project will add 108
17 new units to the supply, including a number of IZ units.

18 Importantly, increasing housing options means that
19 existing housing stock is less likely to be threatened by new
20 prospective tenants. For these reasons, it is appropriate
21 that OP concluded that the neighboring properties would not
22 be adversely affected. Next slide.

23 Relief allowing the extension of a less
24 restrictive zone boundary on a split zone lot has been
25 permitted by special exceptions since 1958. Notably the

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1 relief relating to Subtitle A, 207.2 does not constitute a
2 zone change and is not an "up zoning." If demolished, a
3 portion of the lot developed to the MU-4 bulk would revert
4 back to the RA-1 controls.

5 As the Board is aware, zoning map amendments of
6 the purview of the zoning commission and special exception
7 requests are reviewed by the BZA. The construction of a new
8 multifamily residential apartment building in the RA-1 zone
9 district has also been permitted by special exceptions since
10 1958. It too does not constitute a zone change or increase
11 in permitted unit density.

12 The provision of 108 dwelling units on the lot
13 will not result in an undue concentration of population and
14 overcrowding of land as there is no limit on the number of
15 dwellings and is permitted in the MU-4 and RA-1 zones.

16 Nearby schools and roads have sufficient capacity
17 and the requisite data has been submitted to the to the
18 appropriate agencies for review as required.

19 I'm aware that OP very carefully reviews the site
20 plan, arrangement of buildings and structures, provisions of
21 light, air, parking, recreation, landscaping and grading as
22 they relate to the surrounding neighborhood and the
23 relationship of the proposed project to public plans and
24 projects.

25 And I would note that OP recommends support for

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1 the project and that the standard is met. Finally, relieve
2 under Subtitle C, 714.3 is requested to permit a 24-foot-wide
3 gap in the screening of the proposed surface parking lot in
4 excess of the maximum of the 20-foot-wide break permitted.

5 The additional four feet would allow the applicant
6 to consolidate all vehicular ingress and egress to the site
7 to one entrance instead of two, which would otherwise result
8 in a total 40 foot gap, thereby increasing the total
9 screening around the site by 16 feet, increasing the number
10 of trees and quality of lot shading and decreasing the amount
11 of impervious space.

12 The parking lot landscaping requirements are met
13 with native species and the consolidation down to one curb
14 cut minimizes the number of conflicts with adjacent streets
15 and sidewalks.

16 Relief relating to the screening requirements for
17 surface parking lots has been permitted by special exceptions
18 since 2013.

19 Upon review and research, the legislative intent
20 of the text amendment included combating the heat island
21 effect. This project provides extensive green features, such
22 as a green roof and will seek LEED certification. In this
23 way, the project will help to mitigate the heat island
24 effect.

25 High quality design and a goal of enhancing the

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1 pedestrian experience come together for a successful project
2 that will be in harmony with the purpose and intent of the
3 zone plans and not adversely affect neighboring properties
4 and satisfy the applicable special conditions. Next slide.

5 Though the Board is not directed to consider the
6 recommendations of the comprehensive plan when evaluating a
7 case, it can provide context regarding the project and
8 neighborhood in relation to the relief being sought.

9 I believe this context is necessary given the
10 opposition's claim that the project and related relief are
11 inconsistent with the comprehensive plan.

12 The comprehensive plan housing element, as well
13 as the upper northeast element call for the expansion to the
14 housing supply as a key part of the District's vision to
15 create successful neighborhoods.

16 More specifically the project and associated
17 relief are supported by the text of the Rhode Island Avenue
18 Diamond in the District, Small Area Plan, which states quote,
19 "The successful realization of this plan depends heavily upon
20 the ability to construct new housing at greater densities."

21 While the existing neighborhoods are generally
22 stable and well positioned for a variety of improvements,
23 building new housing at higher density, multifamily
24 apartments/condominium buildings and stacked townhomes along
25 the Avenue is very important to generating the foot traffic

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1 to make the retail viable.

2 In summary, the project is harmonious with the
3 general purpose and intent of zoning regulations in general
4 in the MU-4 and RA-1 zone plans in particular. Additionally
5 the request for relief will not serve to adversely impact
6 neighboring properties, but instead will fulfill the crucial
7 objective of providing additional housing to District
8 residents including several IZ units.

9 Therefore, in my professional opinion, I concur
10 with OP and urge the Board to approve the case. Thank you
11 very much.

12 MS. MOLDENHAUER: Thank you, Mr. Varga. We are
13 here today seeking three areas of special exception relief.
14 Special exception relief in Subtitle A 207.2, to allow an
15 extension of 35 feet in a split zone lot; section Subtitle
16 U 421.1, to allow a new residential apartment building in the
17 RA-1 portion of the lot; and to allow an additional four feet
18 under Subtitle C 714.3 for a gap in the screening on the
19 surface parking lot.

20 The zoning regulations in connection with D.C.
21 Court of Appeals cases state in the First Baptist Church
22 versus the BZA that special exception relief is presumed to
23 be appropriate, reasonable, and compatible with other uses
24 in the same zone classification provided the special
25 requirements of the relief are met. We believe here that,

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1 based on the submissions in the record, as well as what
2 you've heard today, that we have provided substantial
3 evidence in the record that we do satisfy both the general
4 special exception standard, as well as the sub-conditions of
5 each of the reliefs requested.

6 We believe that the relief requested is in harmony
7 with the general purpose and intent of the zoning plan
8 regulations, as outlined in detail both in Mr. Varga's
9 written report, as well in his testimony, as well as his
10 supporting testimony from the Office of Planning in their
11 support of the case, and that the relief requested would not
12 tend to adversely affect the use of neighboring properties
13 in accordance with the zoning regulations and zoning map.
14 As we have testified, one, the unique conditions, that any
15 of the abutting uses and neighboring properties are actually
16 substantially far away from the site, thus decreasing and
17 having no adverse effect on those properties.

18 I will then go into the special conditions of each
19 of the standards. One, the special conditions for the
20 special exception relief under 207 is that the extension
21 shall be limited to 35 feet, as shown in the images in the
22 architectural plans in the record. We are only asking to go
23 35 feet. In authorizing an extension, the BZA shall require
24 compliance with Sub 207.1(d), extension shall have no adverse
25 effect on the present character and future development of the

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1 neighborhood. As testified by Mr. Maurice Walters, there is
2 substantial evidence that the design is consistent and
3 compatible with the neighboring communities. The design also
4 provides an enhanced development for the future of the
5 neighborhood by providing pedestrian access, enhancing the
6 green space along the property, and many other factors.

7 The BZA under (d) may impose requirements
8 pertaining to design, appearance, screening, location,
9 lighting, or other requirements deemed necessary. Currently,
10 the Office of Planning has not recommended any conditions or
11 additional requirements, but, obviously, we'd be open for the
12 Board if they have any.

13 Under the sub-conditions for A, sorry, for RA-1
14 zone for new apartments under 421.1, the Board can receive
15 comments and recommendations from different agencies. 1(a),
16 existing plan in area schools to accompany the number of
17 students may be deemed appropriate. In the record, we've had
18 testimony and information about the current school capacities
19 in the record, and Mr. Varga identified that would be more
20 than adequate to maintain and service the new project.

21 Public streets and recreation. We also have
22 information in the record regarding the proximity to
23 recreation centers and access to public streets, as was
24 testified by Mr. Dan Van Pelt. Additionally, under 2, the
25 BZA may refer the application, as they did, to different

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1 agencies and review the site plan, arrangement of the
2 building structures, provisions of light and air, parking,
3 recreation, landscaping, and grading. We have identified our
4 landscaping. Mr. Moody testified in detail about the quality
5 of the landscaping here. The light and air was testified to
6 by Mr. Walters in regards to the size of the structure and
7 how it steps down towards some of the lower density. And we
8 also have substantial information regarding the parking and
9 how we actually are satisfied in the parking and we're not
10 asking for parking relief.

11 In addition to the other filing requirements, the
12 developer shall submit to the BZA all of our floor plans,
13 which we have done, and is fully complete in the record.
14 Additionally, under the parking and the screening
15 requirement, here is where we're asking for that additional
16 four feet. We believe that we've satisfied the subconditions
17 of C 714.3(a), that the impact on the pedestrian environment
18 within the adjacent street and sidewalks in the other area
19 would not be impacted. We believe here, as we've said, is
20 actually reducing the overall openings on the site, as well
21 as not providing two separate openings and only providing
22 one. Existing vegetation and protection of the screening
23 walls located on the adjacent properties, we have obviously
24 had substantial evidence from Mr. Moody, and existing
25 topography conditions are that we would have an opportunity

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1 to provide green spaces surrounding the property, improved
2 traffic conditions, and, in granting the modification, or
3 waiver the Board may require any treatments. Again, there
4 have been none recommended so far by Office of Planning, but
5 we would be open for any conversations.

6 Based on that, I will end our case-in-chief, but
7 I will be open potentially and reserve time for rebuttal, as
8 well as reserve time for a closing argument.

9 BZA CHAIR HILL: Okay. Let's see. So real quick,
10 DDOT had a couple of conditions, right? One of them was the
11 modification of the building entrance to comply with public
12 space regulations or something like that. And so I'm trying
13 to look here. So the complying with public space
14 requirements, the ramp and step projections exceed ten feet
15 and the entrance will need to be revised before public space
16 to comply with relief. So do you know, do you intend to
17 revise that building entrance?

18 MS. MOLDENHAUER: I'll turn to Mr. Weinbaum to
19 answer that, but I also just want to note that there were
20 some individuals that may have come in while we were
21 presenting late.

22 BZA CHAIR HILL: That's fine. But I just want to
23 hit these DDOT things real quick. So that one --

24 MR. WEINBAUM: So we believe right now that what
25 we've shown in the design is a real enhancement to the

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1 experience of entering the building. So we haven't made a
2 final determination of whether we will try to propose that
3 argument at the Public Space Committee, but we do think it
4 will make for a better experience to have those projections
5 come out a little further from the building to have that
6 stair entrance and the ramp the way it is. If the Public
7 Space Committee is not amenable to our arguments there, then
8 we'll revise it accordingly.

9 BZA CHAIR HILL: Right. But then you'd be back
10 before us perhaps if that provision or unless we grant some
11 kind of flexibility for that provision.

12 MS. MOLDENHAUER: Chairman Hill, that's all in
13 public space, so actually it wouldn't be, it's not really
14 part of the property lot and the design. These are, I'll
15 just point it out to you, these are the stairs that are
16 actually not within our property line, so they're actually,
17 the question is whether the Board will deem that they're
18 actually not within your purview because they're not actually
19 within the property lot themselves.

20 BZA VICE-CHAIR HART: So we're only talking about
21 the stairs?

22 MS. MOLDENHAUER: We're talking about the stairs
23 and the ramp.

24 BZA CHAIR HILL: Okay. So I saw that the
25 commissioner came walking in. I think the ANC commissioner;

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1 is that correct? Okay. Is anybody else who has been here --
2 well, actually, let me do this: who plans on testifying for
3 this case? One, two, three. Okay. And so, Commissioner,
4 you haven't been sworn in yet, I don't think. Is there
5 anybody else who came in late who has not been sworn? If you
6 could please stand and take the oath administered by the
7 Secretary over here to my left. Yes, if you missed the oath,
8 go ahead and stand at some point.

9 SECRETARY MOY: It's not going to hurt. Do you
10 solemnly swear or affirm that the testimony you're about to
11 present in this proceeding is the truth, the whole truth, and
12 nothing but the truth?

13 (Witnesses sworn.)

14 SECRETARY MOY: Thank you. You may be seated.

15 BZA CHAIR HILL: Okay, great. Commissioner, if
16 you can come on forward, if you don't mind. And if you could
17 just push the microphone there and introduce yourself for the
18 record.

19 MS. WILLIAMS: Yes, I'm Commissioner of 5C06,
20 Kirsten Williams.

21 BZA CHAIR HILL: Okay, all right. So,
22 Commissioner Williams, so I guess a couple of questions I
23 have for you, you know. So let's see. So thanks for coming
24 down. And then we had put you guys first because the last
25 time you were here there was a gentleman, and I can't

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1 remember his name now, who also requested to go first so that
2 there was people in the audience I think that were kind of,
3 that had health issues. And so I'm just letting you know why
4 you were first.

5 MS. WILLIAMS: Okay.

6 BZA CHAIR HILL: And so, unfortunately, you missed
7 kind of the first half of the presentation --

8 MS. WILLIAMS: Yes, I know.

9 BZA CHAIR HILL: -- in terms of being able to
10 cross-examine the presentation, right?

11 MS. WILLIAMS: Yes.

12 BZA CHAIR HILL: So I guess you are a party to the
13 hearing here, and so I'm going to just let you sit here and
14 ask questions as we continue moving through.

15 MS. WILLIAMS: Okay. That will be fine.

16 BZA CHAIR HILL: Okay. Yes?

17 MS. MOLDENHAUER: Chair Hill, I would object on
18 the record. Under Section Y 406.3, an ANC can participate
19 if they've identified and authorized a representative through
20 a resolution. As an authorized individual, there's no
21 resolution in the record to authorize Ms. Williams as a
22 representative for the ANC to speak on their behalf today.

23 MS. WILLIAMS: But this is my single-member
24 district.

25 BZA CHAIR HILL: Okay. Hold on one second, Ms.

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1 Williams. So I love this. I shouldn't say love this. So
2 does OAG have any thoughts on that comment that was just made
3 by the attorney?

4 MS. NAGELHOUT: Well, she's right. The
5 regulations do say that, but I do believe it's one that you
6 could waive if the ANC wanted to request a waiver and maybe
7 provide something later authorizing. The ANC representative
8 is supposed to be authorized by the ANC.

9 BZA CHAIR HILL: Okay, all right. So unless the
10 Board has any other objections, I appreciate your comment and
11 your objection. So you're the ANC representative. You're
12 the SMD representative, and you're a party to the case. And
13 so does the Board have any issues with anything that's been
14 put forward now both from the attorney and the ANC
15 commissioner? Okay.

16 BZA VICE-CHAIR HART: So we should be getting
17 something from the ANC.

18 BZA CHAIR HILL: So if we can get something from
19 you, Commissioner, into the record that states that you're
20 the authorized representative for the ANC.

21 MS. WILLIAMS: Okay.

22 BZA CHAIR HILL: After the fact. You can talk
23 with the Office of Zoning across the hall, and they can tell
24 you what you need to do, okay?

25 MS. WILLIAMS: Okay.

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1 BZA CHAIR HILL: All right. So yes?

2 MS. MOLDENHAUER: Just for the record again, I
3 would object since Y 406.3 says that if they wish to
4 participate in the hearing it must be filed in writing at
5 least seven days in advance of the public hearing and provide
6 the name of the person who is authorized by the ANC to
7 represent at the hearing. So I'll just put that in the
8 record.

9 BZA CHAIR HILL: I understand. That's fine. And
10 I listened to what the Office of the Attorney General had me
11 state, and you can go ahead and put more stuff into the
12 record if you'd like. And the ANC commissioner is here, and
13 so I'm not going to really turn down the ANC commissioner
14 from being, to participate in the case.

15 So let's see. All right. So you missed the
16 presentation unfortunately, and you'll have an opportunity
17 to give your presentation. I'm going to first allow the
18 Board to ask any questions of the applicant based on their
19 presentation.

20 All right. Does the Board have any questions of
21 the applicant?

22 BZA VICE-CHAIR HART: Just some clarifying points.
23 One, I think I know the answer to this, but, Mr. Walters, the
24 elevator override is 15 feet above the roof and that it's set
25 back accordingly more than 15 feet. I think you said 19

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1 feet. I just wanted to make sure because it was actually the
2 edge of the building, but I think I understand that so that's
3 fine.

4 Mr. Moody, regarding the number of trees on the
5 property, how many are being removed?

6 MR. MOODY: I believe there's currently 15 trees
7 removed.

8 BZA VICE-CHAIR HART: And you said the net
9 increase on the amount of trees?

10 MR. MOODY: There will be a net increase after the
11 proposed planting of trees.

12 BZA VICE-CHAIR HART: Do you have an idea of what,
13 just a --

14 MR. MOODY: I do, yes.

15 BZA VICE-CHAIR HART: --- general idea.

16 MR. MOODY: I believe the net increase is, so on
17 private property I believe the net increase will be two or
18 three trees.

19 BZA VICE-CHAIR HART: And on public property?

20 MR. MOODY: On public property, it will be
21 significant because we are adding --

22 BZA VICE-CHAIR HART: You're filling in the stuff
23 that's not --

24 MR. MOODY: Correct. And the existing street
25 trees were not planted per DDOT standards, and so we are

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1 proposing, per the recommendation of the Ward 5 arborist,
2 planting new understory trees because there are existing
3 power lines overhead, so the tree spacing will be between 20
4 and 25 feet, which will be substantially closer than what's
5 currently there.

6 BZA VICE-CHAIR HART: Okay. And, finally, this
7 is also for you, Mr. Moody. Okay. So when I just look at
8 the image, when I look at a plan of the existing site, you've
9 noted that there is an impervious surface of over 12,000
10 square feet.

11 MR. MOODY: Correct.

12 BZA VICE-CHAIR HART: I think it's 12,500 or
13 thereabouts.

14 MR. MOODY: 12,759 per our calculations.

15 BZA VICE-CHAIR HART: Okay. And that there's a
16 proposed impervious surface amount that's about 11,400?

17 MR. MOODY: Correct.

18 BZA VICE-CHAIR HART: Okay. So if I just look at
19 the plans themselves, that doesn't seem to make sense because
20 there is a smaller building parking lot, you know, still
21 there, but there's a smaller building on the site and there's
22 a portion of the site that's actually not even kind of built
23 out. So what I think what you're doing is you are including
24 the green roofs as part of the impervious surface, or explain
25 how you're --

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1 MR. MOODY: That number only relates to the
2 surface parking area, not the total impervious surface. So
3 we are calculating the amount of asphalt on site for the
4 current parking lot versus the new proposed surface parking
5 lot.

6 BZA VICE-CHAIR HART: And you're not supposed to
7 include the building itself?

8 MR. MOODY: Oh, we could. We could provide that
9 calculation.

10 BZA VICE-CHAIR HART: I mean, I'd like to
11 understand what the net change is for the entire site,
12 regardless just of the -- because I think that there may be
13 a net increase, and I just don't know what that is.

14 MR. MOODY: Sure.

15 BZA VICE-CHAIR HART: And I was thinking that you
16 were saying that it was one thing, but, evidently, that's not
17 what I was, I was hearing something incorrectly. I
18 appreciate the clarification, though.

19 MR. MOODY: Yes, we'd be happy to provide that.
20 As noted, there are green roofs on most of the roofs, so
21 those will be permeable surfaces. But you're correct. There
22 are some small terraces.

23 BZA VICE-CHAIR HART: Well, and they're
24 impervious, but they have a different character because they
25 are trying to deal with storm water in a different way, as

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1 opposed to just being a regular kind of black asphalt roof,
2 which I appreciate. I'm just saying that it's still an
3 impervious surface because it's a building. You have some
4 ability to deal with some storm water, but you're not dealing
5 with all the storm water on the building itself. That's just
6 not how it will work, unless you have some sort of cistern
7 that I don't --

8 MR. MOODY: Well, we do have bioretention areas
9 which will be collecting a significant amount of water, and
10 this is all per the stormwater regulations.

11 BZA VICE-CHAIR HART: I understand. I was just
12 trying to understand what that was in more detail.

13 MR. MOODY: Absolutely.

14 BZA VICE-CHAIR HART: Thank you very much. Mr.
15 Varga, one of the things that I think I heard you say but I
16 wasn't sure if I heard that correctly that, with regard to
17 how the project meets the general criteria for special
18 exceptions, since the project meets the particular zoning
19 regs, that it then would, in essence, meet the general
20 criteria? Is that what you said? I know I'm paraphrasing,
21 but I wanted to make sure I had that correct.

22 BZA VICE-CHAIR HART: You had that correct?

23 MR. VARGA: Yeah, that's right, Vice Chairman
24 Hart.

25 BZA VICE-CHAIR HART: Because, I mean, then why

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1 would we have the general ones in -- I mean, I think that
2 there needs to be -- and I think you provided quite a bit of
3 information for us. What I was trying to get to was just
4 making sure that we've kind of addressed that. And it seems
5 like you somewhat sidestepped it. But I wanted to hear from
6 you.

7 MR. VARGA: Absolutely. Meridith, could you put
8 the slide with the arrows that show the -- thank you. Okay.
9 So as you can see on the slide, Subtitle A 101.2 has very
10 general, as you noted, Vice-Chair Hart, considerations
11 they're called included, and those are the character,
12 suitability, and stability of land values. Those all filter
13 down into the zone -- the individual zone plans. And they're
14 expressed in different ways. But for each one of those
15 zones, and in particular here, the MU-4 and the RA-1, are
16 contained in the general provisions and purpose and intent
17 statement.

18 So among the different zone plans, those express
19 those more general considerations in more specific ways that
20 are applicable to that zone plan. So -- and then, of course,
21 we have the special exception test which takes that zone
22 plan, the purpose and intent statements into consideration.
23 So by satisfying those, we, by default, satisfy Subtitle A
24 101.2, the general considerations that inform those
25 individual zone plans. Hopefully I'm explaining that

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1 correct.

2 BZA VICE-CHAIR HART: You're clear on that.

3 MR. VARGA: I know it's --

4 BZA VICE-CHAIR HART: I'm just not sure if I agree
5 with it.

6 MR. VARGA: Yeah.

7 BZA VICE-CHAIR HART: That's all.

8 MR. VARGA: Okay.

9 BZA VICE-CHAIR HART: So --

10 MR. VARGA: Well --

11 BZA VICE-CHAIR HART: Okay. So that's fine. The
12 other question that I had was in Subtitle A 207.2(c), that
13 the extension or your project should have no adverse effect
14 upon the present character and future development of the
15 neighborhood. I know that you actually talked about the
16 future development part of it and I think that you talked
17 about the present character in terms of that it's not going
18 to shade thing, it's not going to affect the light and air.

19 And I just want to make sure that I understood
20 that's what you were talking about in terms of the -- how it
21 is having no adverse effect on the present character of the
22 neighborhood. Because it does say, neighborhood. It doesn't
23 say the adjoining or adjacent properties.

24 MR. VARGA: Correct. So the relief from the A
25 207.2 wouldn't have any adverse impact on the neighboring

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1 development. As we noted, the majority of the bulk of the
2 structure is located in the MU-4 portion to the western part
3 of the site. And so that boundary extension wouldn't have
4 any impact on the existing neighborhood, especially in
5 consideration of the extensive landscaping that improvements
6 that are going to be made on the site as well.

7 BZA VICE-CHAIR HART: But this could bring -- this
8 will bring more people to the area. So you may have more
9 cars that are driving to this area than were presently
10 driving. I'm just saying that there could be some impacts
11 that are not necessarily building -- the physical building
12 related. They could be that they are affecting the
13 transportation network that Mr. Van Pelt was talking about
14 a little earlier.

15 MR. VARGA: I would just say --

16 BZA VICE-CHAIR HART: That's why I'm asking about
17 the neighborhood, not just the adjoining properties.

18 MR. VARGA: There certainly will be a change over
19 the existing condition. That's for sure. I would just
20 mention that the bulk requirements of the various zones are
21 met and all of the requirements in terms of parking are met
22 and all the other regulations outside, of course, than what
23 we're asking the slight relief from, from the various areas.

24 BZA VICE-CHAIR HART: Thank you.

25 MEMBER JOHN: Mr. Chairman, I have a question for

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1 Mr. Walters, I think. Can you point out where the IZ units
2 will be located and describe whether they are one or two
3 bedroom units or studios and what's the proportion to the
4 other units?

5 MR. WALTERS: We have not specifically located
6 those at this time. But per the regulations, they will occur
7 at the same proportion as the unit type occurs in the
8 building. So -- and usually we scatter them throughout the
9 building.

10 MEMBER JOHN: So they just won't be in the
11 basement or --

12 (Simultaneous speaking.)

13 MR. WALTERS: No, Office of Planning wouldn't let
14 us do that, and we wouldn't do it.

15 BZA CHAIR HILL: We wouldn't want to do that.

16 MEMBER JOHN: I just want to clarify that for the
17 record.

18 MEMBER WHITE: They actually asked my questions,
19 but I just wanted to drill down just a little bit more
20 because I know there's a little bit of tension in that we
21 don't have an ANC report and you didn't present to the ANC.
22 I know you've got some supporters for the project. It's an
23 attractive building from what I can see. I've seen thousands
24 of these kinds of designs.

25 But can you just kind of address your perspective

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1 on what kind of community feedback that you've gotten
2 regarding this building? Because I'm still not clear that
3 this building is going to have -- whether or not it's going
4 to have a dramatic adverse impact on the character of the
5 neighborhood. You just haven't addressed it. Maybe you have
6 a response to it. But obviously it's a very attractive
7 design. But can you just kind of address the community
8 feedback that you've gotten and also address your perspective
9 on how well this building fits within this neighborhood?

10 MS. MOLDENHAUER: Commissioner White, sorry, I'll
11 have Mr. Weinbaum who was present at the March meeting as
12 well as the SMD meeting after the April hearing discuss what
13 comments we heard at those meetings as well as obviously --
14 you know, I'm sure the ANC and individuals in the audience
15 will also supplement that.

16 MR. WEINBAUM: Sure. I'll firsts say thank you
17 for the question. The first meeting we actually had was with
18 the church who's there now. And we had all the congregants
19 of the church who came out and we showed them these initial
20 plans. And they were quite pleased. I mean, they're --
21 they're leaving the site and they have a new home identified.
22 But they're quite pleased to know that the site is going to
23 be enhanced in this way and excited about it. And they have
24 been there a long period of time.

25 We then had a community meeting in March as Ms.

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1 Moldenhauer mentioned. We had, I would say, around 25 people
2 at that meeting, and we had a lot of positive encouragement.
3 There'll be a few folks who were -- who were at that meeting
4 who can testify today.

5 A couple of questions about parking and about is
6 the loading happening within the site. Questions about
7 traffic and the different -- the different streets and -- and
8 the impact of a residential building on the neighborhood.
9 But excitement around the design, feeling like it was of a
10 good character.

11 I think a general appreciation was expressed for
12 the orientation along Montana Avenue with the feeling that
13 we were creating a nice corridor there, especially with
14 further development to come across the street. So they felt
15 that that was the right set up. So those were some of the
16 comments that we heard.

17 MEMBER WHITE: What was their comment about the
18 IZ units?

19 MR. WEINBAUM: Always questions about how much
20 affordable you're doing. I mean, we've had that question at
21 a number of meetings as well as the SMD meeting. And the
22 thing that I think a lot of people came back to is that, how
23 many affordable units are there now? Zero. And so there was
24 an appreciation for 11 new units of affordable housing. I
25 mean, no one project is going to solve the affordable housing

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1 crisis. But the idea of adding those 11 units was something
2 people were pleased with, you know, in recognition overall
3 of the size of the project of 108 total units.

4 MEMBER WHITE: And those IZ units will be what?
5 You said 60 percent --

6 MR. WEINBAUM: They'll be between --

7 MEMBER WHITE: -- AMI?

8 MR. WEINBAUM: -- zero, up to 60 percent of AMI.

9 MEMBER WHITE: Up to 60?

10 MR. WEINBAUM: Yeah, between zero and 60 percent
11 of AMI, and they'll be spread, again on the record,
12 throughout the building in proportion to the unit mix that
13 we have overall for the building.

14 MEMBER WHITE: And offered to the neighbors
15 obviously?

16 MR. WEINBAUM: Offered, yeah, as per -- it's
17 administered through the DHCD's IZ program.

18 MEMBER WHITE: Okay.

19 ZC VICE-CHAIR MILLER: Thank you, Mr. Chairman.
20 And thank you for your presentation. We need housing in this
21 city. We need affordable housing in this city. And so it's
22 always good to see housing development in this city. So I
23 had a few questions, though. And it's following up maybe on
24 Board Member White's question which I'm not sure was
25 addressed -- was answered.

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1 So there are number of -- in this special
2 exception criteria, both the general special exception
3 criteria and the special exception criteria for a new
4 residential development in an RA-1 zone and a residential and
5 special exception criteria for when you're extending a less
6 restrictive zone in a split-zoned property like this, there
7 is mentioned in each of those special exception relief
8 provisions compatibility, suitability in the neighborhood.

9 And Board Member White asked about that. But I'm
10 not sure we really got a response, and I'm not sure we have
11 any rendering which shows -- but maybe I missed and then you
12 can point me to it -- that shows -- and I realize that you
13 had this stepped down to the three stories across the street
14 from the two-story small single family homes that are there
15 on Saratoga. But do we have any rendering which shows that
16 relationship -- illustrative rendering which shows the
17 relationship of this 108-unit apartment building to the
18 Saratoga homes across the street?

19 I saw the photograph of the Saratoga homes. I see
20 the lovely rendering the building. I don't know if I see any
21 relationship between the new and the existing which is cited
22 in each of those special exception provisions as needing to
23 be -- as not needing to be. But there's a suitability, a
24 compatibility provision there. So if somebody can address
25 that.

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1 MS. MOLDENHAUER: I'll just turn to Mr. Walters
2 to just address the site plan that we have pulled up that
3 kind of shows the context, Commissioner Miller, and walk you
4 through that.

5 ZC VICE-CHAIR MILLER: Okay, thanks.

6 MR. WALTERS: Thanks. If you look at the
7 southeast corner of the building there where it steps down
8 to the three stories. So as you mentioned, that's kind of
9 the main move is the massing steps down to three stories to
10 relate to the two stories plus the sloped roof massing across
11 the street. The building only has about 83 feet -- linear
12 feet of frontage on Saratoga. So it's not like we've got a
13 lot of building there. It's fairly small. You can see, you
14 know, about a little -- you know, wider than the house but,
15 you know, not much -- much bigger.

16 Also, there's a pretty big bit of distance between
17 the houses and the structure there. If you look, it's about
18 120 feet. So they're fairly far separated. So that kind of
19 -- you know, just a one-story step up, even with a sloped
20 roof, it should be a fairly, you know, comfortable
21 relationship between the buildings.

22 Also, we do have a series of the bay projections
23 which also help to give the building just a little bit more
24 scale and texture. You know, it'll scale it down so it feels
25 more compatible with the single family homes.

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1 MS. MOLDENHAUER: And Mr. Vargas, can you also
2 kind of address what the surrounding community is like in
3 regards to the character and the current condition?

4 MR. VARGA: Yeah. So in terms of looking at the
5 compatibility to the neighborhood, it also helps to look at
6 the -- the northwestern portion of the site and the proximity
7 there is there to Rhode Island Avenue, Northeast which
8 features a lot of retail. As noted in the Diamond District
9 Plan, at the time that that was conducted, supporting that
10 retail and having enough residents in the area to support the
11 retail is a priority. And so the provision of 108 dwelling
12 units would do that.

13 I would just also mention that the current
14 character is compliant with the design. And the standard
15 says, no adverse impact. And so here we have a project that,
16 as stated with the various improvements that are being made
17 on site, the screening, the fact that the -- the property
18 itself is an island on all sides insulates a lot of -- any
19 impacts that may exit on site that would not adversely affect
20 the neighboring properties. And for that reason, I believe
21 that the project satisfies the standard.

22 MEMBER JOHN: Mr. Chairman? Part of the test also
23 looks at the impact on future development. And someone
24 mentioned a project across the street. Can you enlarge on
25 that bit and show us where this project is supposed to be?

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1 MR. WEINBAUM: Sure. So thanks for the question.
2 We have a PUD that was approved that MidCity brought forth
3 which is for the 20-acre site across Montana Avenue, bounded
4 by Rhode Island Avenue, Montana, Brentwood Road, and Saratoga
5 and Douglas Street. So it's -- I don't know that we have
6 exactly that map. But you can see it's everything across
7 Montana Avenue to the left on the screen there. And we're
8 approved for approximately 1,760 residential units and
9 180,000 feet of retail. And that PUD was approved in 2015.

10 And so that development will create an opportunity
11 on Montana Avenue to have that corridor I was speaking about,
12 sort of the character of -- of an established corridor that
13 development will bring. So that'll be across the street.

14 MEMBER JOHN: And what's the zone designation for
15 that area currently?

16 MR. WEINBAUM: Per the PUD, I'm trying to think
17 if we -- I can -- do you know? Give me just one second.
18 Okay. I believe it's -- yeah, it's MU-4 across the street.

19 MEMBER JOHN: Okay.

20 MR. WEINBAUM: And I believe we're approved in
21 that corner across Montana Avenue for 65 feet -- 65 feet
22 across the street.

23 BZA VICE-CHAIR HART: Just one. I guess it's a --
24 maybe this actually is a request. I think it would be
25 helpful to actually -- following up on Commissioner Miller's

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1 question about kind of the kind of character issue, I don't
2 know if it's an elevation that I would be looking along
3 Montana Avenue that starts where the single family homes are.
4 Maybe one or two of the homes just to get an understanding
5 what the scale difference is between those homes and the
6 building that you're proposing.

7 It may also be helpful to understand what the
8 height limit is on the existing zone and to actually see what
9 that connection -- I don't know. What I'm trying to get to
10 is, what would be allowed under the actual zone itself?
11 What's the kind of by right and then matter of right? And
12 then what is that you're proposing in context along Montana
13 Avenue? And I don't know if you have that drawing or if you
14 -- actually, I would like that drawing because I think it
15 would help to deal with the effect on the present character
16 issue that I'm still -- this is part of Subtitle A 207.2(c).

17 And I'm not sure if I have an understanding of
18 what that is. I am a little bit more comfortable, I guess,
19 about Evarts Street only because the building is much farther
20 away from where the single family homes are on Evarts Street.
21 They're not really close to Saratoga. Mr. Moody -- excuse
22 me, Mr. Walters noted that the buildings are about 100 feet
23 away. I think it would be helpful to understand what that
24 distance actually is and between the building that you are
25 proposing and the single family homes that are to the

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1 southeast of the site.

2 And just as a curiosity, Mr. Walters, why did you
3 have the entrance to the building as far away from -- well,
4 far away from Rhode Island Avenue? It just seems like -- I
5 don't know. People would be walking to Rhode Island Avenue.
6 Just it's very far back on Montana Avenue. I just didn't
7 know the rationale for putting it at that location or why it
8 was sited there versus siting closer to the more prominent
9 street which I would think would be Rhode Island Avenue.

10 MR. WALTERS: And to answer that question, the --
11 if we got too far north on Montana, it would be hard to do
12 the thru entrance because we like having the lobby kind of
13 go through to the parking court. That works well. You know,
14 it gives it a nice -- nice layout to the building.

15 The other piece of it is that the site has a lot
16 of slope on it from Rhode Island. It's got about 12 to 13
17 feet of slope on Montana, and we're having to kind of
18 reconcile that. So when we get down to the -- the RA-1
19 portion, we're actually having to step on the ground floor.
20 And that gives us some extra height on the ground floor which
21 you always want in the lobby. So we're utilizing that for
22 the public space too. That's kind of the primary reasons why
23 we arrange it that way.

24 BZA VICE-CHAIR HART: No, I just didn't know if
25 it would be helpful. I mean, you're dealing with the whole

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1 DDOT issue about with the stairs or ramp. You might be able
2 to reconcile it if you had the entrance at a different point
3 along the elevation that would allow an at-grade connection
4 as opposed to one that was somewhat elevated which is what
5 you're kind of dealing with here because you have the
6 entrance so far along Montana that it is -- I wouldn't say
7 it's causing it. But you're having to kind of finagle the
8 design to deal with that elevation, the topography change.

9 It was just curiosity. I know that you've kind
10 of spent time kind of doing this. But actually in the
11 elevations that I've seen that you've provided, it would be
12 helpful to have that, what the buildings are along Montana.
13 And I'm not saying 20 of the buildings. I'm saying two or
14 three of the buildings so that we have at least the context
15 as to the scale --

16 MR. WALTERS: Okay.

17 BZA VICE-CHAIR HART: -- that you're dealing with.
18 Because right now, I don't really have that understanding.
19 I can see it in the plan here. But when you see plans, you
20 see plans. When you see elevations, you get a different
21 sense of what that is. And I think the elevation would be
22 helpful in this case.

23 MS. MOLDENHAUER: And we can definitely provide
24 that, Commissioner Hart. I just want to point out that that
25 substandard -- that condition is part of the relief to move

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1 the 35-foot line. And here as you're looking at the site
2 plan, we're talking about moving the line from what was about
3 here on the site to moving it about here.

4 When you're looking at that typically like the
5 Board did in 17013 and 17399, a lot of times these split lots
6 are actually abutting or touching other low density sites.
7 Like in 17013, it actually was abutting an R-2 site. And in
8 17399, it was actually abutting other lower density R zones.

9 Here uniquely when we're talking about moving this
10 35-foot line, we're talking about moving it all in the
11 context of our own site and not abutting any other abutting
12 character, abutting property or --

13 BZA VICE-CHAIR HART: Yes, but you've --

14 MS. MOLDENHAUER: -- abutting density.

15 BZA VICE-CHAIR HART: -- said abutting several
16 times. My issue is not with just the abutting properties.
17 You're not abutting anything. I understand that, fully
18 understand that. What I'm trying to get to is it doesn't say
19 abutting. It says neighborhood. So neighborhood to me means
20 more than just the adjacent property. That's all I'm asking
21 for and I'd like to have a drawing that dealt with that.
22 Thank you.

23 MS. MOLDENHAUER: And we'll provide that.

24 ZC VICE-CHAIR MILLER: So in addition to what
25 Vice-Chair Hart has requested, if it's possible to provide

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1 a perspective rendering from the three sides of this
2 triangular property, including the perspective rendering from
3 the new development that's going to be MidCity across
4 Montana, it would just show the context within the
5 neighborhood. And I think that would be helpful to us and
6 helpful to you actually and for my understanding of the
7 Saratoga Avenue situation.

8 One other question I had -- well, one other
9 question I had which I'll provide publically is I realize
10 that surface parking is permitted and you're doing surface
11 parking. But it's unusual in the city for surface parking
12 in a large residential development -- new residential
13 development to be provided instead of underground parking.
14 And Office of Planning report mentions that they certainly
15 discourage that, and I think we should look at the zoning
16 regulations to further discourage that generally.

17 But obviously there's a cost factor. Why -- it's
18 30-some-odd parking spaces to meet the requirement which
19 you're meeting. I don't have a problem with the screening
20 at all. I think that makes total sense that you needed to
21 have a gap and just one entrance and exit for that -- for all
22 the parking and loading. But why are you doing surface
23 parking? Is it just a cost issue instead of an underground,
24 more environmentally friendly, aesthetically pleasing to
25 everybody going by not have to see surface parking, and more

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1 efficient use of land -- limited land in the city?

2 MR. WEINBAUM: Sure. Yeah, I think economically
3 the project -- we couldn't make the project work with below-
4 grade parking here quite simply. So we did our best to
5 figure out how we could mitigate it. So not trying to get
6 more parking than -- than the minimum, trying to screen it
7 appropriately, measuring it against what's there today which
8 is a surface parking lot that's larger. So we just did our
9 best to fit that in to the character and enhance to the
10 extent we could and still be able to bring the 108 units and
11 the 11 affordable. That was the only way we could figure out
12 to do it.

13 ZC VICE-CHAIR MILLER: And back to the IZ question
14 or the unit mix. You don't have -- you haven't settled on
15 the size of the overall units or have you?

16 MR. WEINBAUM: We have. Yeah, we have our mix of
17 studios -- as Mr. Walters mentioned, I think we do have our
18 mix of studios, ones, and twos.

19 ZC VICE-CHAIR MILLER: Do you have that number?

20 MR. WEINBAUM: Yes.

21 ZC VICE-CHAIR MILLER: I'm sorry I missed that
22 number. So the IZ will be in proportion to that --

23 MR. WEINBAUM: Exactly.

24 ZC VICE-CHAIR MILLER: -- pursuant to the
25 regulations? So what is that mix in unit size for the 108?

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1 MR. WALTERS: So 48 percent will be the junior one
2 bedrooms/studios. And they will range from 484 square feet
3 to 631 square feet. Twenty-two percent will be one bedrooms,
4 and they will range from -- we have one that's 480, then more
5 typical, 519, all the way up to -- we have one at 717 square
6 feet. The bulk of them will be in the 600 square foot range.
7 We have 13 percent one-bedroom dens, and they're 780, 795,
8 and 808 square feet. And then the remaining 17 percent will
9 be two bedrooms, and they will range from -- we have one at
10 835, the smallest, and they go one at 900, and the remainder
11 in the thousand from 1,027 up to 1,135 is our biggest.

12 ZC VICE-CHAIR MILLER: Okay. Thank you for that
13 information. I appreciate having it and glad to see a range
14 of units. We need all kinds of housing in the city, and we
15 especially need family-size units. So I'm glad there are
16 some, 17 percent two bedrooms. And as we noted, the
17 proportion of the IZ units will match that proportion of the
18 overall units. So that's a good thing too.

19 But in terms of the IZ, I assume it's the -- it
20 was 11 IZ units. I assume that's the minimum that you're
21 meeting. You're not doing --

22 MR. WALTERS: Yes.

23 ZC VICE-CHAIR MILLER: -- beyond the minimum
24 that's required under the inclusionary zoning?

25 MR. WALTERS: We're doing what's required per IZ.

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1 ZC VICE-CHAIR MILLER: We always love to see a
2 little bit more than the minimum. So I just have to say that
3 because I always say that. Okay. Well, thank you for your
4 presentation. I appreciate it.

5 BZA CHAIR HILL: Okay. All right. So
6 Commissioner Williams, so how long have you been a
7 commissioner now?

8 MS. WILLIAMS: This is my first year.

9 BZA CHAIR HILL: Oh, okay. Well, welcome.

10 MS. WILLIAMS: Thank you.

11 BZA CHAIR HILL: So normally what we would have
12 done is that you would've had an opportunity to ask questions
13 of the applicant in terms of the presentation. And then you
14 would get a chance to do a presentation. You can go ahead
15 and ask any kinds of -- you can only ask questions about the
16 presentation itself.

17 MS. WILLIAMS: Yeah, yeah.

18 BZA CHAIR HILL: And so you kind of missed the
19 first part of the presentation. And you'll have an
20 opportunity to present as much as you'd like in terms of you
21 have the same amount of time that the applicant would have.
22 I'm just kind of walking through how this works --

23 MS. WILLIAMS: Yeah.

24 BZA CHAIR HILL: -- because it also reminds me.
25 And then the Office of Planning is going to go ahead and give

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1 their report. Then the applicant will have an opportunity
2 to ask questions of the Office of Planning as will you have
3 an opportunity to ask questions of Office of Planning.
4 Everybody is going to ask questions. The attorney will have
5 an opportunity to -- or the applicant, I should say, will
6 have an opportunity to rebut everything at the end. I like
7 to have a conclusion from the ANC as well, and then we'll
8 have a conclusion from the applicant. So that's kind of how
9 it's going to go.

10 MS. WILLIAMS: Okay.

11 BZA CHAIR HILL: Do you have any questions of the
12 applicant --

13 MS. WILLIAMS: Okay.

14 BZA CHAIR HILL: -- concerning what you've heard
15 thus far?

16 MS. WILLIAMS: Only concern is about the traffic.

17 BZA CHAIR HILL: Okay. And what was your
18 question?

19 MS. WILLIAMS: Like, the traffic on Montana
20 Avenue.

21 BZA CHAIR HILL: Okay. And what was your question
22 about that traffic?

23 MS. WILLIAMS: How will you all be able to come
24 in with the traffic being so bad on Montana Avenue? How will
25 you all work around the construction around there?

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1 BZA CHAIR HILL: So I guess the question is the
2 traffic and construction on Montana Avenue. During the
3 building process --

4 MS. WILLIAMS: Yes.

5 BZA CHAIR HILL: -- or even after the project is
6 finished? Just during the building process?

7 MS. WILLIAMS: Mm-hmm.

8 BZA CHAIR HILL: So how do you plan on handling
9 the traffic and construction on Montana Avenue during the
10 construction process?

11 MR. WEINBAUM: Thanks for the question. With
12 respect to construction, there won't be --

13 BZA CHAIR HILL: Can you throw up that map again
14 just for us so I can see the Montana Avenue thing? Yeah,
15 that just has the building on it. Was Montana Avenue on
16 that? That's fine. I just want to see Montana Avenue in
17 relationship to the project. Okay. Go ahead. Okay. That's
18 great. Thank you.

19 MR. WEINBAUM: Sure. There -- with respect to the
20 period of construction, there -- the curb cut will be -- on
21 Montana -- will be closed, the existing one. And there won't
22 be -- and there'll be fencing around the site. So when it
23 comes to Montana's accessibility and the cars that go there,
24 they shouldn't be impacted by the construction. So the idea
25 is that, you know, Montana continues -- both lanes remain

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1 open or all the lanes that are there remain open during
2 construction. The construction is fencing -- is fenced, I
3 should say.

4 And we'll also have arrangements set in advance
5 with the general contractor to ensure that there's a truck
6 path that they all follow and they follow the hours of
7 construction, the noise requirements, ensure the --

8 BZA CHAIR HILL: So the construction entrance --

9 MR. WEINBAUM: -- trucks are clean and all that.

10 BZA CHAIR HILL: -- is going to be where?

11 MR. WEINBAUM: I don't know that we've specified.
12 I imagine it'll be off of Saratoga. But Montana will remain
13 open, all the lanes of Montana during construction.

14 BZA CHAIR HILL: Okay. Commissioner Williams, do
15 you have another question?

16 MS. WILLIAMS: Yes.

17 BZA CHAIR HILL: You need to push the button on
18 the microphone. Thank you.

19 MS. WILLIAMS: Yes. And my other question is the
20 pathway through Saratoga Avenue, is that going to be fenced
21 up as well or no?

22 BZA CHAIR HILL: During construction, I guess --

23 MS. WILLIAMS: Yeah, during construction.

24 BZA CHAIR HILL: -- is that going to be fenced up
25 as well? The whole site is going to be fenced.

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1 MR. WEINBAUM: The whole site will be fenced
2 during construction.

3 BZA CHAIR HILL: Okay. So the whole site will be
4 fenced during construction.

5 MS. WILLIAMS: Okay. And my second question would
6 be, will you all leave any room for people to walk through
7 the pathway of, you know, the sidewalk? Because I heard you
8 all saying that it was going to be a little bit over, if --
9 if I'm maybe mistaken.

10 MR. WEINBAUM: Is the question with respect to
11 during construction?

12 MS. WILLIAMS: Mm-hmm.

13 MR. WEINBAUM: So during construction, there will
14 be times where we'll need to close off parts of the sidewalk
15 to enhance the sidewalk and to build trees. We haven't
16 determined at this point the phasing plan for that
17 construction, but we'll work to ensure we can minimize time
18 where any sidewalks around the site are closed. But there
19 are going to be times where we're going to need to actually
20 do the work to enhance the sidewalk.

21 BZA CHAIR HILL: During construction?

22 MR. WEINBAUM: During construction. And then once
23 construction is done, there'll be sidewalks around the
24 entirety of the site which, as has been noted, there are not
25 today.

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1 BZA CHAIR HILL: Okay. Commissioner?

2 MS. WILLIAMS: Okay. And the noise requirement,
3 because as you can see on Saratoga where the curb cut is, a
4 lot of the neighbors, especially the house that lives right
5 directly across, mentioned about the noise. Not that one,
6 per se, but the --

7 BZA VICE-CHAIR HART: Is it that one?

8 MS. WILLIAMS: Uh-uh, it's the first one, yes.
9 They're concerned about the noise, per se.

10 BZA CHAIR HILL: The noise during construction?

11 MS. WILLIAMS: Yes.

12 BZA CHAIR HILL: Okay. And so you'll be working
13 during the normal construction hours which is from 7:00 a.m.
14 till I forget when they end?

15 MR. WEINBAUM: 7:00 to 7:00 Monday through
16 Saturday will be within that time frame as allowed by DDOT
17 or as allowed by the District. As well, there are specific
18 noise limitations as to the construction work, and we'll
19 ensure we comply with those as well.

20 BZA CHAIR HILL: Okay.

21 BZA VICE-CHAIR HART: Is there -- Ms. Williams,
22 is there an issue or have you heard an issue about the alley
23 being used. Because right now, that alley is -- there's
24 nothing the across the street from it. But there will be an
25 entrance after the project is --

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1 MS. WILLIAMS: So the alleys --

2 BZA VICE-CHAIR HART: -- developed.

3 MS. WILLIAMS: -- will be blocked out?

4 BZA VICE-CHAIR HART: Well, the alley will be
5 open, but --

6 MS. WILLIAMS: Okay.

7 BZA VICE-CHAIR HART: -- it still will be almost
8 across the street from where their entrance for their project
9 will be. Have you heard any particular concerns about --

10 MS. WILLIAMS: Yeah.

11 BZA VICE-CHAIR HART: -- where that --

12 MS. WILLIAMS: They wanted -- just, like, the
13 noise in the back too. Like, some of the houses wanted to
14 know about the noise in the back as well.

15 BZA VICE-CHAIR HART: Okay. Thank you.

16 MS. WILLIAMS: But, like, as far as the project,
17 there's really nothing wrong, per se. But other than the
18 traffic flow, I wish there were more units for affordable
19 housing. But they did the minimum requirement.

20 BZA CHAIR HILL: Okay. You'll have a chance to
21 give testimony as well, Commissioner. Do you have any
22 further questions for the applicant?

23 MS. WILLIAMS: No, that'll be all.

24 BZA CHAIR HILL: Okay. All right. So then I know
25 that there was again an attorney that was going to be with

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1 you at some point, but that person isn't apparently here.
2 No, the other attorney was. We will take public testimony
3 in a minute. But Commissioner, since you are now going to
4 have an opportunity to provide testimony for the Board here.
5 And since you kind of came in, we're going to take a quick
6 break and then you can kind of just get yourself kind of
7 ready. And then we'll go ahead and hear your testimony.
8 Okay?

9 MS. WILLIAMS: Okay. That'll be fine.

10 BZA CHAIR HILL: All right.

11 (Whereupon, the above-entitled matter went off the
12 record at 11:21 a.m. and resumed at 11:33 a.m.)

13 BZA CHAIR HILL: All right, Mr. Moy. I forget.
14 Do you got to call us back, or is that it?

15 SECRETARY MOY: I think you just did, Mr.
16 Chairman.

17 BZA CHAIR HILL: Okay, great. So just to let
18 everybody know, we're going to, at some point, have lunch
19 because this is taking longer than I thought. But no less,
20 we are going to have lunch. And so after this, we're
21 probably going to go through the -- there's a lot of
22 preliminary matters in terms of, like, there's a bunch of
23 cases that are asking for postponement. And so we're
24 probably going to go through all the postponement requests.
25 And so just kind of letting you know where we may end up

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1 after this.

2 So Commissioner Williams, again, is it Williams,
3 plural? I forget. William or Williams?

4 MS. WILLIAMS: Williams.

5 BZA CHAIR HILL: Williams?

6 MS. WILLIAMS: Yes.

7 BZA CHAIR HILL: So Commissioner Williams, so you
8 can go ahead and give your presentation, and you have plenty
9 of time. I'm going to -- I mean, they had 35 minutes. If
10 you end up with 35 minutes, great. But if not, that's also
11 good. So begin whenever you like.

12 MS. WILLIAMS: Okay. So we would like a traffic
13 study, also a construction type of study. And to note on the
14 April 17th agenda, we'd all agreed -- MidCity -- we'd all
15 agreed that they will be rescheduled for 5-15, May 15th,
16 scheduled. Prior to that would've been a single member
17 district follow-up meeting. We all agreed and were trying
18 to have it at the church, but they said they would
19 reschedule.

20 Secondly, we wanted a -- the side would be -- will
21 be closed during construction. So we want to be presented
22 on that. And the Commissioner wants to see the planning, the
23 illustration.

24 And lastly, we want the -- no, not lastly. But
25 we wanted a height regulation for the zoning in that area.

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1 And it will be two major construction sites, one for RIA and
2 the second one would be for Montana -- 1400 Montana. And it
3 will be a great impact on the neighborhood as far as
4 construction. So that was my position.

5 BZA CHAIR HILL: Okay. After you said
6 construction management, you said something. I didn't
7 understand that. What was that one? It was about the
8 sidewalks maybe during construction?

9 MS. WILLIAMS: Yeah, the sidewalk was going to be
10 closed because a lot of people do walk there.

11 BZA VICE-CHAIR HART: Okay. So you want to know
12 about the sidewalks?

13 MS. WILLIAMS: Yes.

14 BZA CHAIR HILL: Okay. Let's see. Is that all
15 of your testimony?

16 MS. WILLIAMS: Yes.

17 BZA CHAIR HILL: Okay. Does the Board have any
18 questions of the Commissioner?

19 BZA VICE-CHAIR HART: Just so I understand, you'd
20 like some more information about the traffic as it relates
21 to the construction of the building. And you're asking for
22 this because you all understand that there is another
23 development happening that is across the street --

24 MS. WILLIAMS: Yes.

25 BZA VICE-CHAIR HART: -- that is not part of this,

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1 what's before us today. But it is something that is going
2 to be in the neighborhood.

3 MS. WILLIAMS: Yes.

4 BZA VICE-CHAIR HART: And you're just trying to
5 figure out, okay, we've got a lot of stuff that's coming
6 through here and we just need to understand this better.

7 MS. WILLIAMS: Yes.

8 BZA VICE-CHAIR HART: You're also looking for
9 information about -- and I was looking in the -- if the
10 applicant can put up an image. I don't know what -- the
11 second -- what page this is. Give me a second. I think it's
12 the 82A-1 -- Exhibit 82A-1 which is your updated official
13 plans. I think it's part 1, and it is page 4 of that. And
14 I want to say that's -- not page 4. I'm sorry. The one that
15 has the -- it's page 8 that has the existing conditions.
16 It's a plat or a site survey showing the existing conditions.
17 I don't know what page that is. A05B, yeah.

18 So this one shows -- Ms. Williams, so what I'm
19 understanding is there are pathways. Like, there's a path
20 that's here. I guess it's along Saratoga. It looks like
21 it's a social path. It's not a sidewalk, but it's something
22 that people use frequently. You're saying that there are
23 people that are trying to get through this -- go through the
24 site and --

25 MS. MOLDENHAUER: I would object.

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1 BZA VICE-CHAIR HART: Just --

2 MS. WILLIAMS: No, we're walking up the sidewalk.

3 BZA VICE-CHAIR HART: -- can you let me ask the
4 question? That's what I'm just trying to get to. So I
5 understand that the applicant has said that they're going to
6 be having this area closed off because they can't have people
7 walking through as they're doing construction. That's just
8 unsafe.

9 MS. WILLIAMS: Mm-hmm.

10 BZA VICE-CHAIR HART: So the people would have --
11 the neighborhood, the neighbors would have to walk around
12 this. Maybe you'll walk this way. I mean, they're walking
13 -- still walking around here. It's just not walking along
14 this pathway. You're just trying to understand if any of the
15 pathways are going to be open in the block?

16 MS. WILLIAMS: Yes, because as I notice on Montana
17 Avenue, cars go really fast, and there's a lot of kids that
18 go to school. And if they have to -- you know, where the
19 houses are at. If they have to cross the street, it's like
20 even though have the sign saying passenger walk, it's really
21 not safe.

22 BZA VICE-CHAIR HART: Okay. So I think that what
23 the applicant has said is that they're having to cordon off
24 a portion of the site. And I don't exactly understand where
25 that is going to be, but that's fine. They're not going to

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1 allow -- I mean, just as part of construction, you just can't
2 have somebody walking through a construction site because of
3 liability and some other issues.

4 MS. WILLIAMS: Yeah.

5 BZA VICE-CHAIR HART: So I'm not trying to answer
6 for them. I'm just saying that I --

7 MS. WILLIAMS: Yeah, I get it.

8 BZA VICE-CHAIR HART: -- know that that's an
9 issue. So --

10 MS. WILLIAMS: Yeah.

11 BZA VICE-CHAIR HART: -- while I understand that
12 there may be some concerns about getting through the site,
13 you will be able to walk around the site. But you're just
14 trying to figure out some way to be able to do that safely?

15 MS. WILLIAMS: Yes, that's all.

16 BZA VICE-CHAIR HART: So your objection was?

17 MS. MOLDENHAUER: My objection noted is just to
18 relevance and that the construction is obviously not part of
19 the zoning process. So I just put that on record.

20 BZA VICE-CHAIR HART: I was just trying to
21 understand her concern, so I had to ask questions to figure
22 out what that was.

23 BZA CHAIR HILL: I learned what a social path is.
24 Okay. Let's see. Right. Any other questions for the
25 Commissioner? Okay. Let's see. So I think I'm going to go

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1 over at some point again what the Commissioner was just
2 talking about in terms of information that they were kind of
3 interested in.

4 However, Ms. Moldenhauer, do you have any
5 questions for the applicant based on the limited testimony
6 that they just gave? I'm sorry, the ANC commissioner?

7 MS. MOLDENHAUER: Yes. I would ask Commissioner
8 Williams if she received the emails and was present at the
9 meeting that we had on March -- March -- sorry, April 10th.
10 Thank you.

11 BZA CHAIR HILL: I'm sorry. Your question was
12 whether she was present at the meeting on April 10th?

13 MS. MOLDENHAUER: Yes.

14 BZA CHAIR HILL: Okay. Commissioner, were you
15 present at the meeting on April 10th?

16 MS. WILLIAMS: The April 10th meeting? I wasn't
17 aware there was an April 10th meeting.

18 BZA CHAIR HILL: Was it an ANC meeting or was it
19 an SMD meeting? I'm asking you --

20 MS. WILLIAMS: Oh, yeah, my single --

21 BZA CHAIR HILL: -- actually, Ms. Moldenhauer.

22 MS. WILLIAMS: -- member district meeting.

23 BZA CHAIR HILL: Okay. So you were there?

24 MS. WILLIAMS: Yeah.

25 BZA CHAIR HILL: Okay.

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1 MS. MOLDENHAUER: And so was that -- can you --
2 sorry. What was the meeting that was your meeting? Can you
3 just describe that?

4 MS. WILLIAMS: Yeah, that was my meeting, April
5 10th. That was before the 17th of April.

6 MS. MOLDENHAUER: And -- and you were responsible
7 as a single member district representative to provide notice
8 of that meeting?

9 MS. WILLIAMS: Yes, and I did pass out flyers.

10 MS. MOLDENHAUER: And how many people were present
11 at that meeting approximately?

12 MS. WILLIAMS: About 25.

13 MS. MOLDENHAUER: And what was the conversation?
14 Will you describe in your opinion what the conversation was
15 focused on during that presentation?

16 MS. WILLIAMS: It was focused on how many units.
17 It was -- I had talked about the concern of the traffic. So
18 it was, like, some -- half of them wanted to know about more
19 the affordable housing. And half was saying, well, it's 11
20 units. So it was a direct half number where people --

21 MS. MOLDENHAUER: Were the other half supportive
22 of the project?

23 MS. WILLIAMS: Yes, and the other half wasn't.

24 MS. MOLDENHAUER: And did you take a -- did you
25 ask for a verbal vote at that meeting?

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1 MS. WILLIAMS: Yes, I did and I wrote it down.

2 MS. MOLDENHAUER: And what was it?

3 MS. WILLIAMS: It was five to five.

4 MS. MOLDENHAUER: You're saying it was five to
5 five?

6 MS. WILLIAMS: Yes.

7 BZA CHAIR HILL: Ms. Moldenhauer, I'm just trying
8 to get -- what are you asking all these questions for about
9 the April 15th meeting?

10 MS. MOLDENHAUER: I was present at the April 15th
11 meeting, and I was just trying to get a sense of the fact
12 that there was a single member district meeting that had been
13 conducted by the ANC commissioner which was something that
14 the ANC indicated it was something that they would do prior
15 to having us on the meeting in April. So I'm just trying to
16 make sure I understand what Ms. Williams' understanding of
17 what occurred at that meeting. I believe that there may be
18 a different understanding of what happened from other members
19 from the community that were also present there.

20 BZA CHAIR HILL: Okay. And I'm just trying to cut
21 to chase here just a little bit. Like, I mean, so as far as
22 you guys were -- I mean, I read everything that was in the
23 record. I read all the emails. I read how you've been
24 trying to get on the docket. Even last time that we were
25 here, Commissioner, the whole point was so that they could

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1 get on the docket again --

2 MS. WILLIAMS: Yes.

3 BZA CHAIR HILL: -- before this meeting, right?

4 MS. WILLIAMS: Yes.

5 BZA CHAIR HILL: And so you guys weren't able to
6 get on the docket. You actually haven't presented yet to the
7 ANC.

8 MS. WILLIAMS: No, because it was a full April
9 agenda. That's why I was trying to say that I couldn't
10 really know if they was going to be on. It was already full.
11 But we agreed that they will be put on May agenda. And prior
12 to that was supposed to be a nice follow-up, a single member
13 district meeting to go over.

14 BZA CHAIR HILL: Okay. I mean, I'm going to let
15 you ask all your questions because I'm not trying to -- I
16 don't want to get in the way of anybody asking their
17 questions. I'm just trying to get to what I'm trying to
18 understand is the process here. I mean, everything in the
19 record says that you guys tried all your best to get to the
20 ANC meeting, and they have not allowed you on the docket.
21 They came down here. We said you guys have to get on the
22 docket. You still didn't get on the docket.

23 There now is information that I think we, the
24 Board, are going to be asking for, right? And now there's
25 also, I guess, what I seem to be understanding is that

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1 there's now an SMD follow-up meeting that possibly could
2 happen. And this is where I'm just a little confused, and
3 you're going to be able to ask all your questions, is that
4 then supposedly you're going to be on the agenda for 5-15.
5 They are on the agenda for 5-15.

6 Well, Commissioner, we'll see whether or not they
7 get on the agenda and stay on the agenda for 5-15. Because
8 the last time you all were here, you said they'd be on the
9 agenda for this next month. But I'll believe you that
10 they're on the agenda now --

11 MS. WILLIAMS: Yes.

12 BZA CHAIR HILL: -- for 5-15. Okay.

13 MS. WILLIAMS: Yes, definitely.

14 BZA CHAIR HILL: And that there are a variety of
15 pretty basic things that they seem to be asking for in terms
16 of a presentation. And I'm still kind of confused as to
17 whether or not the ANC seems to be possibly in support. I
18 mean, you seem to have a split -- you haven't had the meeting
19 yet. You haven't take a vote, and there's kind of a split --
20 the community is a little spit at this point?

21 MS. WILLIAMS: Yeah, yes.

22 BZA CHAIR HILL: Okay. So I think I know where
23 we might get, but you can keep asking your questions.

24 MS. MOLDENHAUER: Thank you. I'd like to.

25 BZA CHAIR HILL: Sure.

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1 MS. MOLDENHAUER: So -- sorry. On the last
2 meeting that was the public meeting on April 17th, you stated
3 that the agenda was full. Is it true that the agenda did add
4 two agenda items to the meeting that were not publically
5 identified?

6 MS. WILLIAMS: No.

7 MS. MOLDENHAUER: You did not add two agenda items
8 that were not on the public agenda?

9 MS. WILLIAMS: Uh-uh.

10 MS. MOLDENHAUER: Sorry. Can you repeat that on
11 the record?

12 MS. WILLIAMS: On the record, no. It was already
13 publically on the agenda.

14 BZA CHAIR HILL: It's okay. So she said no.

15 MS. MOLDENHAUER: And so then you also indicated
16 that the applicant had agreed to attend the May 15th agenda
17 -- or the May 15th meeting. Was that -- was that clearly
18 stated to you that that would only be obviously out of an
19 abundance of caution but that we have been trying to get on
20 the agenda?

21 MS. WILLIAMS: It was agreed.

22 MS. MOLDENHAUER: By who?

23 MS. WILLIAMS: By Stephanie.

24 BZA CHAIR HILL: Who's Stephanie? Oh, okay.

25 MS. MOLDENHAUER: Stephanie can testify --

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1 BZA CHAIR HILL: Okay.

2 MS. MOLDENHAUER: -- in rebuttal.

3 BZA CHAIR HILL: That's okay. Okay, great. Okay.
4 So all right. Okay. Do you have any more questions?

5 MS. MOLDENHAUER: One moment. Has the ANC taken
6 any resolution to authorize you to take any positions in
7 regards to the comments that you provided already during your
8 testimony?

9 MS. WILLIAMS: Yes.

10 MS. MOLDENHAUER: The ANC voted on a resolution
11 that provided these comments?

12 MS. WILLIAMS: Yes.

13 MS. MOLDENHAUER: Was that at a publically held
14 meeting?

15 MS. WILLIAMS: Yes.

16 BZA CHAIR HILL: Okay. I don't know. This is
17 where I'm just kind of confused. That's okay. So Ms.
18 Williams hasn't testified to any of the things that you're
19 now asking about. Okay? And so I understand what you're
20 trying to get to. But --

21 MS. WILLIAMS: Yeah, I'm a little bit confused on
22 how she's --

23 BZA CHAIR HILL: -- at the same time, I'm just a
24 little bit -- she's been here a year now as a commissioner.
25 And so I've been already told by OHE that we can waive the

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1 seven days in terms of the ANC commissioner presenting.
2 We'll go ahead and find out or get a resolution that they can
3 present or -- I'm sorry -- testify or be represented-- thank
4 you so much -- by the ANC. So you're saying again -- you're
5 back to that we don't have a resolution that she's able to
6 speak?

7 MS. MOLDENHAUER: I am asking that -- you
8 obviously, as the Board, have the zoning regulations.
9 There's also the Zoning Act. The Zoning Act obviously
10 requires that a meeting be held in the public based on the
11 sunshine rules in order to have public meetings. My question
12 is, is that the Commissioner has presented comment in the
13 record at this hearing. Those comments are not based on a
14 formal public resolution or a public hearing that we're able
15 to identify what those comments are.

16 I am trying to confirm based on questions of
17 Commissioner Williams as to whether the comments that she
18 provided were based on a public meeting or a discussion of
19 the commissioners. She said that they were, but I am
20 confused because I have not been aware of any public meeting
21 that the ANC has taken on this case.

22 MS. WILLIAMS: We had a town meeting.

23 BZA CHAIR HILL: Okay. One second. Give me one
24 second. Give me one second. That's right.

25 MS. MOLDENHAUER: And that's what I'm trying to --

1 BZA CHAIR HILL: Give me one second. So I also
2 don't want to get in a situation where the Commissioner is
3 not clear as to what the question is. And so again, I'm just
4 kind of -- you're six people, she's one. And so I'm just
5 trying to understand, again making sure that she understands
6 what she's being asked. And so I want to turn it over to the
7 OAG again just to understand what we, as a Board, are allowed
8 to do, right? There's an ANC commissioner here. The ANC
9 commissioner says that they're able to testify. The Board,
10 I believe, wants to hear from the ANC commissioner. And so
11 we are able to hear from the ANC commissioner; is that
12 correct?

13 MS. NAGELHOUT: You are able to hear from the ANC
14 commissioner. However, the great weight requirement goes to
15 the written report adopted by the full ANC. And the
16 testimony does not get great weight unless the ANC ratifies
17 it within seven days.

18 BZA CHAIR HILL: Okay. So that would then mean,
19 again, the written documents after the meeting that may or
20 may not happen in terms of the full ANC meeting. So
21 currently, we're not giving great weight to this testimony.
22 Okay. So it's just the ANC commissioner giving testimony.
23 Okay, okay. All right. So I'm continuing to learn. So all
24 right. I'm sorry. What's your next question, Ms.
25 Moldenhauer?

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1 MS. MOLDENHAUER: I'd like to just ask
2 Commissioner Williams to clarify that question so I can make
3 sure it's on the record. So Ms. Williams, the concerns that
4 you've raised today, were they addressed and voted on at a
5 public ANC meeting with a quorum present?

6 BZA CHAIR HILL: I think the answer is no.

7 MS. MOLDENHAUER: But I'd like on the record Ms.
8 Williams to answer my question.

9 BZA CHAIR HILL: Go ahead.

10 MS. WILLIAMS: Okay. On the record, no. We did
11 have a private meeting. But on the record, like a public
12 hearing meeting, no.

13 BZA CHAIR HILL: Okay. I'm really -- that's okay.
14 I understand. But I mean, like, we're so going to get to
15 somebody else in a little bit. And I think that I already
16 know where we're going to end up. Okay? So you didn't get
17 a chance to speak. I understand that. It seems like you're
18 going to get a chance to speak. There's some questions that
19 we have. The information that they seem to be presenting and
20 also it seems like you might even get a positive vote. I'm
21 still not clear on that. I don't know. And do you have any
22 more questions for the applicant?

23 MS. MOLDENHAUER: For the ANC.

24 BZA CHAIR HILL: I'm sorry, for the ANC?

25 MS. MOLDENHAUER: Yes, just -- sorry. I'm just

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1 trying to --

2 BZA CHAIR HILL: One more?

3 MS. MOLDENHAUER: -- clarify the traffic study.
4 I think Commissioner Hart asked if that's a traffic study
5 regarding construction and you said yes. And I just want to
6 confirm.

7 MS. WILLIAMS: Yes.

8 MS. MOLDENHAUER: Thank you. No other questions.

9 BZA CHAIR HILL: Okay, great. Thanks. Okay. All
10 right. I'm going to go ahead and turn to the Office of
11 Planning.

12 MR. MORDFIN: Good morning. I'm Stephen Mordfin,
13 and the Office of Planning supports this application because
14 it finds it in conformance with the criteria for the three
15 sections of relief that they requested. They requested
16 relief to move the zoning line 35 feet. And as is outlined
17 in my report or the OP report that it's moving no more than
18 35 feet which is permitted.

19 And that also the RA-1, which is the lesser
20 intense zone, will remain along the Saratoga Avenue frontage.
21 So the MU-4, which is on the Rhode Island Avenue side, so it
22 will still step down as you go toward the single family
23 houses to the east. So the intensity of the development will
24 step down as does the development to the east of the site.

25 The screening requirements for the surface

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1 parking, although they have requested that it be increased
2 from 20 to 24 feet, what this does is it also eliminates the
3 need for a second 20-foot entrance. And the cumulative
4 effect of that is that there will only be one entrance. It
5 will have less asphalt paving than if you had two. And it
6 will also allow for all of the entrance -- vehicle entrance
7 just on Saratoga, minimizing any impacts with pedestrians
8 that might be walking along Evarts Street which was the
9 applicant's original intention to have a second entrance
10 there.

11 And finally, for new residential developments
12 which is for the RA-1 portion for the site, OP finds that
13 it's also in conformance with the criteria for that. Because
14 we did get something from the D.C. Public Schools indicating
15 the capacities of the schools that would service the site
16 that are below 100 percent, 71 percent for the elementary,
17 74 for the middle school, and the high school at 59 percent.

18 So the Office of Planning finds that this
19 application is in conformance with the requirements of those
20 three special exceptions and recommends approval of the
21 application.

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

24 BZA VICE-CHAIR HART: Just one quick question
25 regarding the general special exception criteria.

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1 MR. MORDFIN: Yes.

2 BZA VICE-CHAIR HART: If you could go through
3 those, please.

4 MR. MORDFIN: So the general special exception
5 criteria for --

6 BZA VICE-CHAIR HART: Just how you feel that this
7 project meets it. That's all.

8 MR. MORDFIN: How this conforms to the zoning?
9 Well, the zoning for the site, it does permit apartments.
10 What this does is it will allow for the RA-1 portion which
11 has a special exception. It's consistent with the zoning.
12 And so because it's consistent with the zoning, it's
13 consistent with the zone plan which has recommended apartment
14 use for the site. It should have no adverse impact. The
15 zone plan anticipates that this type of use could be placed
16 on the site subject to certain criteria as contained in the
17 zoning regulations. And so therefore, OP recommends approval
18 of the application.

19 BZA VICE-CHAIR HART: I was asking only because
20 it wasn't necessarily in the OP report. So I just wanted to
21 --

22 MR. MORDFIN: Correct. It's --

23 BZA VICE-CHAIR HART: What I'm asking for is there
24 are specific criteria that are required under zoning.
25 There's also the general special exception criteria.

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1 MR. MORDFIN: Correct.

2 BZA VICE-CHAIR HART: And that's what I was just
3 trying to get to.

4 MR. MORDFIN: Right. And --

5 BZA VICE-CHAIR HART: That was all.

6 MR. MORDFIN: -- typically, the way we review it
7 is if you're in conformance with the specific criteria, then
8 as a result of that, you're in conformance with the general
9 criteria because the specific criteria narrows in more as to
10 what it is that the applicant has requested.

11 BZA VICE-CHAIR HART: No, I fully understand that.
12 What I get to is that if the general criteria didn't say that
13 these -- there are three criteria, right? So the third
14 criteria is anything else that's specified as to the specific
15 criteria, right? So the first two also have to be met. And
16 I just want to make sure that we've heard that. And I
17 appreciate your response.

18 MEMBER WHITE: Let me just ask it another way.
19 Will this project have any adverse effect to any of the
20 neighboring property in this general immediate area where the
21 applicant is building this property in OP's opinion?

22 MR. MORDFIN: Well, OP finds that it fits in.
23 Across Montana Avenue, you have apartments of similar height
24 to this application. To the north across Evarts Start, you
25 have a -- it's a Rite Aid drugstore for which this would be

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1 compatible. And as I stated, the building itself does step
2 down from four stories to three stories as you go towards
3 Saratoga Avenue.

4 Across Saratoga Avenue are two two-and-a-half-
5 story houses. This is three stories. So it does step down.
6 Acknowledging those houses and the design of the site, then
7 it does provide for a transition as you go towards the lower
8 density. And it's also across a street, so that provides
9 further separation as you go from more intense uses to lesser
10 intense uses.

11 MEMBER WHITE: Thank you.

12 ZC VICE-CHAIR MILLER: Thank you, Mr. Chairman.
13 Thank you, Mr. Mordfin, for the report of the Office of
14 Planning which has a lot of helpful, useful information. My
15 question is about Subtitle U, Section 421.2 which I wasn't
16 aware of until this case which says that the Board -- this
17 Board, I guess, shall refer the -- this is pertaining to
18 residential developments in apartment buildings in the RA-1
19 zone. This property includes that split zoning.

20 The Board shall refer -- the 421.2 reads, the
21 Board shall refer the application to the relevant D.C.
22 agencies for comment and recommendation. As to the adequacy,
23 the following -- and it goes on. Existing and planned area
24 schools to accommodate the numbers of students that could be
25 expected to reside in the project. And public streets,

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1 recreation, and other services to accommodate the residents
2 that can be expected to reside in the project.

3 And so we have some information in the record
4 about the school capacity and the DPR facilities that are in
5 the area. I'm not sure if -- and I'm not sure who, whether
6 the Office of Zoning or the Board or if anyone made a
7 referral to District agencies. Did your office make a
8 referral to Department Mayor for Education and DPR?

9 Well, we obviously got something from DDOT. We
10 have that report in the record, and there's been a lot of
11 back and forth with the applicant on the transportation and
12 traffic concerns. But was there a referral to other District
13 agencies, and did you all make -- I know in PUD cases, I
14 think it actually says, the Office of Planning shall refer,
15 and they usually do. And there's no requirement that they
16 report back. We always try to encourage you -- try to
17 encourage to get those reports from the other agencies. We
18 do always get one from DDOT.

19 In this case, with that particular provision in
20 the regulations, was there a referral, do you know, to other
21 District agencies?

22 MR. MORDFIN: Well, when they file the
23 application, the Office of Zoning does make those referrals
24 and it's part of the record. And also then OP will request
25 -- if no information comes in, Office of Planning will

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1 request information from those agencies if they have not
2 responded. However, we have no power to make them respond.
3 We can just request it. And as is often the case, we don't
4 get anything but we made the request and hope to get
5 something back.

6 ZC VICE-CHAIR MILLER: So I was just trying to
7 understand which agencies were referred to this application.
8 And maybe this is a question to our Office of Zoning staff.
9 Was there a referral?

10 MS. MOLDENHAUER: Commissioner Miller, I can also
11 address that --

12 ZC VICE-CHAIR MILLER: Okay.

13 MS. MOLDENHAUER: -- at a later point or now if
14 you'd like.

15 ZC VICE-CHAIR MILLER: Yes, why don't you.

16 MS. MOLDENHAUER: Sure, right now. Okay. At
17 Exhibit 21, this was referred to the office of the ANC and
18 sent to the ANC. At Exhibit 22, it was obviously referred
19 to OP. At Exhibit 23, it was referred to DDOT. At Exhibit
20 24, it was referred to DME. And at Exhibit 25, it was
21 referred to the DCPR. So the DCPR is then Exhibit 25 is the
22 representative from the recreation center that would've
23 reviewed it and provided any comments obviously to OP. The
24 Department of the Mayor of Education is Exhibit 24 which is
25 DME. And they reviewed it, and we can also provide

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1 additional testimony during our rebuttal on that.

2 ZC VICE-CHAIR MILLER: Thank you for that
3 information. Was that referral made by you or by --

4 MS. MOLDENHAUER: By the --

5 ZC VICE-CHAIR MILLER: -- Office of Zoning?

6 MS. MOLDENHAUER: By the Office of Zoning.

7 ZC VICE-CHAIR MILLER: By the Office of Zoning?

8 MS. MOLDENHAUER: Those are the exhibits that I
9 just referenced, Exhibits 21 through 25.

10 ZC VICE-CHAIR MILLER: Okay.

11 SECRETARY MOY: Mr. Miller, I confirmed that.
12 It's in the record.

13 ZC VICE-CHAIR MILLER: Okay. So I missed that in
14 the record. Okay. There's typically -- so there wasn't any
15 referral to Metropolitan Police Department, Fire and EMS or
16 DC Water in this particular case. Not that they are called
17 out in this provision of the regulation. It just says, very
18 broadly, other services of the District government. But if
19 we don't decide this today, it might be useful to make a
20 referral -- not that we can require them to respond -- to
21 have -- it might be useful to make a referral to MPD, FEMS,
22 and DC Water just to get -- just so that we are compliant
23 with this provision. This provision says, the Board shall
24 refer.

25 BZA CHAIR HILL: I don't have any problem with

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1 what you just said. Okay. I only have one quick question.
2 So Mr. Mordfin, in terms of the PUD that's going up across
3 the street, like, you don't have any thoughts or concerns
4 about the PUD that's going up across the street in
5 relationship to this project?

6 MR. MORDFIN: No, I think that they would be
7 compatible with each other. I think they would work well
8 together. They're similar type developments, residential
9 multistory buildings.

10 BZA CHAIR HILL: Okay.

11 MR. MORDFIN: Multifamily.

12 BZA CHAIR HILL: Okay. And I appreciate that.
13 I appreciate that it wasn't just a no. Okay. All right.
14 Let's see. Anybody else? Okay. Does the applicant have any
15 questions for the Office of Planning?

16 MS. MOLDENHAUER: Thank you, Chairman Hill. Just
17 one or two. Mr. Mordfin, in your reviewing of the project
18 and the requested relief, can you just confirm that under
19 Subtitle X 901.2 you found that the requested relief was in
20 harmony with the general purpose and intent of the zoning
21 regulations and the zoning map?

22 MR. MORDFIN: Yes. It says, permitted by the
23 zoning regulations. Although there is some relief requested,
24 OP finds that they proposal is in concert with those criteria
25 and meets them and therefore would be in harmony.

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1 MS. MOLDENHAUER: Thank you. And in evaluating
2 the standard to extend the boundary line under A 207.2, we
3 had some conversations earlier you may have heard with board
4 members regarding Subtitle C that talks about the extension
5 shall have no adverse effect on the present character and
6 future development of the neighborhood. I think you've
7 already talked about it a little bit. But can you talk a
8 little bit about what you looked at for confirming that --
9 OP's opinion that there would be no adverse effect upon the
10 present character?

11 MR. MORDFIN: We looked at -- well, we looked at
12 the location of the building, the height of the building.
13 The building is primarily situated closer towards Montana
14 Avenue. So for most of it, it is away from the single family
15 residences. And the part that is across from the single
16 family residences includes a surface parking lot that will
17 be screened with the exception of the driveway entrance, a
18 bioretention area at the corner of Evarts and Saratoga.

19 So I think that those things soften the impact of
20 this building from those single family residences. And then
21 I don't see any issue with this building as it faces either
22 commercial development across Evarts and Rhode Island or
23 across any residential or mixed type uses that might be
24 across Montana. So therefore I find that it is in harmony.

25 MS. MOLDENHAUER: Thank you. And then just a

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1 couple other questions. Under the other special exception
2 standard for an apartment building in the R-1-A zone, the BZA
3 refers to OP for comments on a couple -- the list a whole
4 bunch of different things. So I'm just going to kind of ask
5 you a couple of questions. What was OP or how did OP review
6 the provision in regard to any impact of light that may occur
7 by developing apartments on the R-1-A site portion?

8 MR. MORDFIN: For light? Oh, you mean for
9 sunlight?

10 MS. MOLDENHAUER: For -- yeah, for light and air.

11 MR. MORDFIN: Well, there is a large separation
12 between the two buildings. And I believe the applicant has
13 about approximately 100 feet between buildings. And I think
14 that that has an impact, that separation, to allow for light
15 and air to continue to flow through.

16 Also to the north of the property is the Rite Aid,
17 and that's where you have most of your shadowing as the sun
18 goes across the southern sky. So therefore I believe that
19 would have minimal impact on the other surrounding uses.
20 Mostly just I think it would be most towards the Rite Aid
21 building.

22 MS. MOLDENHAUER: Thank you. Was there any
23 concerns that you had regarding the special exceptions and
24 regarding landscaping? Or did you look through the
25 landscaping plan that was filed in the record?

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1 MR. MORDFIN: We found the landscaping plan
2 acceptable in that it conformed with the requirements of the
3 zoning regulations. And so therefore we were in support of
4 the proposal.

5 MS. MOLDENHAUER: Thank you. And then there was
6 a comment in your initial report that talked about the
7 grading plan. The applicant did subsequently file an
8 existing grading plan. The proposed grading plan was
9 identified in the submissions. Can you confirm that you
10 reviewed that and any comments that you might have on your
11 assessment of how we satisfied the standard?

12 MR. MORDFIN: We did receive that from the
13 applicant and it's one of the requirements for the special
14 exception. I think it conforms to the intent of that to
15 document just what is on the site in evaluating the site for
16 the proposed development.

17 MS. MOLDENHAUER: Thank you. Thank you very much.

18 BZA CHAIR HILL: Okay, great. Thanks.
19 Commissioner Williams, do you have any questions for the
20 Office of Planning?

21 MS. WILLIAMS: So do you actually think that
22 across the street it wouldn't impact? Because they -- it
23 directly is across, like, 100 feet. So it is sort of
24 blocking sunlight and air.

25 MR. MORDFIN: Well, I think it's set back far

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1 enough away that it's not going to block sunlight and air.
2 Anything you build is going to cause shadowing. I don't know
3 how much shadowing this is going to cause at certain times
4 of the day. But I think that with the width of the street
5 and the side yards of both the proposed building and the
6 existing single family homes across Saratoga Avenue, I don't
7 see that this would have an adverse effect on the use and
8 enjoyment of those properties.

9 MS. WILLIAMS: Okay. I kind of think it would,
10 but it's just in my opinion. But -- because a lot of
11 residents does live there, it gets cold if -- you know, if
12 the -- if -- if it's blocking the sunlight, it will get cold
13 right there, per se, in that specific spot.

14 MR. MORDFIN: I'm sorry.

15 BZA CHAIR HILL: So you're in disagreement? You
16 don't have a question, though? You're just saying --

17 MS. WILLIAMS: Yeah, disagreement.

18 BZA CHAIR HILL: -- you're in disagreement? Okay.
19 That's all right. Do you have any other questions for him?

20 MS. WILLIAMS: No, that was my only question.

21 BZA CHAIR HILL: Okay. All right, great. Thank
22 you. All right. So just everybody else in the audience here
23 so you all know what's going to happen next. We're going to
24 take public testimony. We're then going to do a rebuttal and
25 we're going to do a conclusion. Hopefully it goes relatively

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1 quickly because I can already tell I'm getting cranky from
2 lunch. Okay?

3 And so we're going to then, after this -- who's
4 here for Application 19983? Okay. That's interesting.
5 Who's here for Application 19985? Okay. Who's here for
6 Application 19988? Okay. And then also Application 19990?
7 Okay. So we're going to try to do those. Those are all
8 requests for a postponement or we'll see what happens. We're
9 going to try to do those before lunch. Everybody else, we're
10 going to do after lunch. So just to let you know and I don't
11 know what after lunch means at this point. But that's just
12 to get you all kind of -- get your head around what's going
13 to happen next.

14 And so that being the case, let's see. Is there
15 anybody here who would like to speak in support of the
16 application? Okay, please. Why don't you all just make some
17 space, and then we'll let the people wishing to speak in
18 support come forward. Actually, Commissioner, you can stay
19 there now that I think about because you'll have an
20 opportunity to ask any questions if you wanted to as well.
21 Just have a seat wherever you like, yeah. Yeah, you can give
22 them to the transcriber after you're done with your
23 testimony. Okay.

24 So as members of the public, you'll each get three
25 minutes. But first, why don't you go ahead and introduce

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1 yourselves for the record, please.

2 MR. PHILLIPS: How you doing, Board? D'Andre
3 Phillips. I'm a resident at 2240 16th Street, Northeast.

4 BZA CHAIR HILL: You, sir?

5 MR. RIDENOUR: My name is Ross Ridenour. I live
6 at the corner of Saratoga and Evarts right across the street.

7 BZA CHAIR HILL: Can you spell your last name for
8 me?

9 MR. RIDENOUR: R-I-D-E-N-O-U-R.

10 BZA CHAIR HILL: Okay, great. So Mr. Phillips,
11 again, each member of the public will get three minutes to
12 testify. The clocks are up on either side there, and you can
13 begin whenever you like.

14 MR. PHILLIPS: Okay. I wanted to thank you, Mr.
15 Chairman Hill and the members of the Board for taking the
16 time out today to hear the case and invite us back. I have
17 spoken with representatives of MCF for the 1400 Montana
18 Avenue project. And I understand that they're seeking a
19 zoning relief for a 108-unit apartment building.

20 I am here to show and share my support for this
21 application. The proposed project would serve as an ideal
22 location for additional housing being a resident there but
23 also believe that it will help bring life to that corner at
24 the Montana and Rhode Island Avenue location.

25 I have reviewed the traffic and parking plans and

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1 for the site and I believe that they are adequate and
2 accommodate the increased density and serve the community's
3 interest. Therefore, I strongly recommend the Board approve
4 the zoning relief and allow the building process to proceed.
5 Thank you very much for your time and for your service to the
6 city.

7 BZA CHAIR HILL: Okay, great. Thanks, Mr.
8 Phillips. Mr. Ridenour?

9 MR. RIDENOUR: Ridenour, but yeah.

10 BZA CHAIR HILL: Ridenour.

11 MR. RIDENOUR: Sorry for being so informal, but
12 literally everything he just said. I live right across the
13 street from the proposed development. And I've talked with
14 pretty much everyone up here about concerns and they have
15 addressed them more than once. And yeah, I'm here to be on
16 the record just to be in support of it.

17 BZA CHAIR HILL: Okay. All right, great. Let's
18 see. Does the Board have any questions for the witnesses?

19 MEMBER WHITE: One question for both of you. Do
20 you live in single family homes or you live in the apartment
21 across the street? Or I'm just trying to get a --

22 MR. RIDENOUR: Single family home.

23 MEMBER WHITE: Single family?

24 MR. PHILLIPS: Yeah, single family.

25 MEMBER WHITE: So the mass of the building is not

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1 an issue for you whatsoever?

2 MR. RIDENOUR: For me, no. But that's mostly
3 because of where it's -- it's away from me. I live right
4 across from where the -- like, the northeast corner over
5 here. That's my house. So I honestly might have different
6 feelings if it was -- or feel differently because of these --
7 those houses right there on Saratoga. It just doesn't make
8 sense with that. The way that they put it on Montana, I can
9 get behind.

10 MEMBER WHITE: Okay. And are you in the same
11 vicinity as well, Mr. Phillips?

12 MR. PHILLIPS: No, actually I'm on 16th Street,
13 so down maybe two or three blocks.

14 MEMBER WHITE: Okay.

15 MR. PHILLIPS: Yeah.

16 MEMBER WHITE: Okay.

17 MR. PHILLIPS: Yeah, but I walk that way
18 frequently. I don't use the social path. I use the
19 sidewalks, and it would be great to have a completed
20 sidewalk.

21 MEMBER WHITE: You think it's a good location?

22 MR. PHILLIPS: Yeah.

23 MEMBER WHITE: Thank you.

24 BZA CHAIR HILL: Did both you guys go to the ANC
25 meeting?

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1 MR. PHILLIPS: Yes, we were there.

2 MR. RIDENOUR: Yes. The one that was the
3 Brentwood Community Center.

4 BZA CHAIR HILL: Okay.

5 MR. RIDENOUR: We were present there.

6 BZA CHAIR HILL: Okay. Mr. Phillips, before
7 today, did you know what a social path was?

8 MR. PHILLIPS: No, I didn't, so thank you.

9 BZA CHAIR HILL: Okay, very good. Good use of
10 that word. All right. Okay. Does the applicant have any
11 questions for the witnesses?

12 MS. MOLDENHAUER: Yes, just, sorry, a few. Mr.
13 Phillips, you attended the SMD meeting at the recreation
14 center?

15 MR. PHILLIPS: Yes.

16 MS. MOLDENHAUER: Did you also attend the ANC
17 meeting?

18 MR. PHILLIPS: Which one?

19 MS. MOLDENHAUER: The --

20 MR. PHILLIPS: Yes, the April meeting.

21 MS. MOLDENHAUER: The April one?

22 MR. PHILLIPS: Yeah.

23 MS. MOLDENHAUER: And did you hear community
24 members voice a request of the ANC commissioners to put this
25 case on the agenda?

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1 MR. PHILLIPS: Yes, I did. I was actually one of
2 those.

3 MS. MOLDENHAUER: Can you describe for the Board
4 what your request was and what the response was?

5 MR. PHILLIPS: During that single member district
6 meeting, there was a request to have MidCity be on the agenda
7 for the full ANC meeting. That was not -- I guess to my
8 understanding, that was not the case. I showed up early for
9 that ANC meeting to be notified that they were not hearing
10 their project at this -- at this meeting. And to my dismay,
11 that was frustrating being at the last BZA hearing meeting
12 where it was requested by Chairman Hill to have MidCity on
13 the agenda, so --

14 MS. MOLDENHAUER: Thank you. There were some
15 comments today, and obviously being someone who lives a
16 couple blocks from the site, you said that you walk by the
17 site. You've seen the design that's proposed. Do you
18 believe the design proposed would be in character with the
19 current community and neighborhood?

20 MR. PHILLIPS: Yes, I agree.

21 MS. MOLDENHAUER: Mr. Ridenhouse -- Ridenour,
22 sorry, Ridenour. I'm going to get that right. So given that
23 you live in close proximity to the property, do you believe
24 that the proposed project would have any adverse impact on
25 your use or any of your neighbors' use of their site?

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1 MR. RIDENOUR: There's no use of the site right
2 now at all really, so no is the answer on record.

3 MS. MOLDENHAUER: And you attended both prior the
4 March single community meeting presented or prepared by the
5 applicant, the one that was at the church?

6 MR. RIDENOUR: Yes.

7 MS. MOLDENHAUER: And how many community members
8 approximately were there?

9 MR. RIDENOUR: Twenty-plus, maybe up to 30. It
10 was pretty packed, it seemed, felt like at least.

11 MS. MOLDENHAUER: And did you feel as though the
12 questions from the community members were answered at that
13 meeting?

14 MR. RIDENOUR: Yes.

15 MS. MOLDENHAUER: Thank you. No other questions.

16 BZA CHAIR HILL: Okay. Commissioner, do you have
17 any questions for the witnesses?

18 MS. WILLIAMS: No, no. I have no questions --

19 BZA CHAIR HILL: Okay.

20 MS. WILLIAMS: -- for them.

21 BZA CHAIR HILL: Great. I got one more question.
22 So I kind of don't even want to know the answer. But you
23 guys don't have any financial connection to the project, do
24 you?

25 MR. PHILLIPS: No.

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1 MR. RIDENOUR: No.

2 BZA CHAIR HILL: Okay. So you're just here just
3 because you really want to see the site get developed?

4 MR. PHILLIPS: Yes.

5 MR. RIDENOUR: Yes.

6 BZA CHAIR HILL: I'm just curious. It's a long
7 day. You all came the last time. People don't wait to speak
8 in support. Okay? So I'm just trying to get my head around
9 that. Okay. All right. Okay. Anybody here wishing to
10 speak in opposition? Oh, I'm sorry. Does anybody got any
11 more questions? Okay. Anybody here wishing to speak in
12 opposition? Come on forward, please.

13 And you guys can go ahead and -- oh, you haven't
14 been sworn in? Okay, great. Thank you. If you gentlemen
15 would just give your witness cards to the transcriber. Mr.
16 Moy, if you could please swear in the witness. If there's
17 anybody else that missed getting sworn in, if you could
18 please stand and get sworn in now.

19 (Witnesses sworn.)

20 BZA CHAIR HILL: Okay, great. Thank you. If you
21 could please state your name for the record. Oh, and your
22 address as well.

23 MS. DAVIS: My name is Dorothy Davis, and my
24 address is 1416 Saratoga Avenue, Northeast, Washington, D.C.

25 BZA CHAIR HILL: Okay, Ms. Davis. Thank you so

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1 much for coming down. You have three minutes to speak, and
2 you can begin whenever you like.

3 MS. DAVIS: Okay. First of all, I'm speaking on
4 that apartment, just for that apartment. And I don't know
5 why anyone can't see that it's very high in front of those
6 houses that's behind it. Now I understand what Mr. Mordfin
7 was saying. But Mr. Mordfin -- can I ask Mr. Mordfin a
8 question?

9 BZA CHAIR HILL: No, you just have to give
10 testimony, sorry.

11 MS. DAVIS: I just have to give testimony?

12 BZA CHAIR HILL: Yeah.

13 MS. DAVIS: Well, anyway, I'm going to say maybe
14 some of the people might need to go out to the place instead
15 of just going by the paperwork. Because a lot of times the
16 paperwork won't be down like it's supposed to be. And from
17 what I'm seeing -- and I'm not an architect. But I think
18 that building is a little bit too high for those houses that
19 live behind there, and it shouldn't be that high. And I am
20 across the street, and our building is not that high.

21 So I don't understand why no one don't see that
22 the traffic is going be messed up over there and it's going
23 to be a part of Saratoga traffic messed up over there. So
24 I don't understand why RIA is sitting up here saying those
25 things and know it's not true. You all need to go -- they

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1 need to go back and take another look.

2 See, I'm going to be here to support this, but I'm
3 also going to be here to support the right way of doing it.
4 And those two gentlemen that was up here, I understand what
5 they're saying. But they don't really live there 24-7. So
6 what I'm saying is when you ask that question about what you
7 asked, I'm just a little skeptical how many people is in on
8 -- on this besides the right way.

9 So what we need to do is have somebody to go out
10 there actually check that building and check those houses
11 that is behind there and see how high that building is.
12 Because if I'm not an architect, I can see it from what I'm
13 looking at the picture here that it's blocking those people's
14 homes back there. Now maybe those people don't come out and
15 say nothing. But in the long run, they're going to have to
16 come out and say something.

17 BZA CHAIR HILL: Okay, Ms. Davis. Thanks so much.
18 Does the Board have any questions for the witness?

19 MEMBER JOHN: Just one --

20 BZA CHAIR HILL: Sure.

21 MEMBER JOHN: -- quick question. So are you
22 talking about these homes over here that I just circled?

23 BZA CHAIR HILL: If you look at the screen, they
24 should be --

25 MS. DAVIS: Yes, I'm talking about --

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1 BZA CHAIR HILL: -- it should be, like, the little
2 --

3 MS. DAVIS: -- those houses that's in back of that
4 church that's going to be those units that's coming up.

5 MEMBER JOHN: Okay. Did you have an opinion about
6 the traffic on Montana Avenue?

7 MS. DAVIS: Yes, because we can't even go across
8 the street now with the traffic that we have. And they look
9 at those signs over there like it's nothing. So we need more
10 support. Because after all, the school we're closing and
11 those kids are going to be using that street a lot.

12 We've got a lot of seniors over there and disabled
13 people that walks that street going to the Rite Aid or the
14 7-Eleven. And that traffic is pretty bad even just for us
15 going across the street. It should be some other things
16 going on over there and checking that traffic before they
17 build those houses up over there.

18 MEMBER JOHN: Thank you.

19 ZC VICE-CHAIR MILLER: Thank you, Mr. Chairman.
20 Ms. Davis, thank you for your testimony. I just wanted --
21 I don't know if you were here earlier. But in terms of what
22 you testified to, Vice-Chair Hart and I and I think the other
23 board members were interested in seeing perspective
24 renderings and elevations that would show the context of the
25 building in relationship to the existing neighborhood. And

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1 we look forward to getting that, and it's probably be useful
2 for you to see too.

3 BZA CHAIR HILL: Anybody else? Okay. Ms. Davis,
4 did you go to the ANC meetings? You have to speak in the
5 microphone. I'm sorry.

6 MS. DAVIS: Oh, I'm sorry. Yes, I have.

7 BZA CHAIR HILL: Okay, okay, great. All right.
8 Does the applicant have any questions for the witness?

9 MS. MOLDENHAUER: I'm sorry, Ms. Davis. Could you
10 just state your address for the record?

11 MS. DAVIS: 1416 Saratoga Avenue, right there
12 across from where you all are building your apartments at.

13 MS. MOLDENHAUER: Okay. But I just want to make
14 sure that you don't live in any of these four houses that
15 were circled?

16 MS. DAVIS: No, but just because I don't, it's not
17 that I'm concerned, you know, yeah.

18 BZA CHAIR HILL: That's fair, whatever. She was
19 just asking a question.

20 MS. DAVIS: Yeah, yeah.

21 BZA CHAIR HILL: So you're not in the -- that's
22 fine.

23 MS. DAVIS: I don't mind her --

24 BZA CHAIR HILL: That's fine.

25 MS. DAVIS: -- asking me a question. I don't get

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1 intimidated too quick.

2 BZA CHAIR HILL: That's fine. Okay. That's okay.
3 You're making my morning feel a little better because even
4 though I'm hungry. All right. Ms. Moldenhauer, any more
5 questions?

6 MS. MOLDENHAUER: No more questions.

7 BZA CHAIR HILL: Okay, great. Commissioner
8 Williams, do you have any questions for the witness?

9 MS. WILLIAMS: Okay. And you live on the
10 apartment side, right?

11 MS. DAVIS: Yes, yes, I do.

12 MS. WILLIAMS: Okay. And you know most of your
13 neighbors and how the building looks compared to the plans?

14 MS. DAVIS: Yes, I do.

15 MS. WILLIAMS: Okay. No further questions.

16 BZA CHAIR HILL: Okay, great. Ms. Davis, thank
17 you for coming down. Thank you for waiting and taking your
18 time to be here. And okay, you're excused. Thank you. All
19 right. Let's see. So now Ms. Moldenhauer, you can go ahead
20 and do rebuttal. I'm going to give you ten minutes. Okay,
21 right? And then after -- I'm sorry. Hold on. Oh, wait.
22 There's a question from -- before you ask your questions, let
23 me finish my thought if it's okay.

24 That we'll go ahead and do rebuttal for ten
25 minutes. Then Commissioner Williams, you're going to have

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1 an opportunity to give, like, a brief conclusion, hopefully
2 three minutes. Ms. Moldenhauer, three minutes on conclusion.
3 And we'll see where we get because I can already tell that
4 the Board's going to want some things. And I think part of
5 that is going to involve the ANC and a presentation to them.
6 And so you can go ahead and do your rebuttal whenever you
7 like. Mr. Moy, I'm putting ten minutes on the clock there.

8 And I explained to everybody we're going to lunch
9 after the thing, right? Okay. Because there's still a lot
10 of people in the audience. But okay, I guess it's
11 entertaining. All right. So Ms. Moldenhauer, whenever you
12 like. I'm sorry. A board member had a question. I
13 apologize.

14 MEMBER JOHN: So just to clarify the record and
15 you probably answered it before. So the neighbors might
16 understand, this sidewalk here will remain open during
17 construction; is that correct?

18 MR. WEINBAUM: We will -- what I can tell you
19 because we're only so far down the road in this project, no
20 pun intended, is we will do everything we can to maximize
21 keeping that open the entire time. I believe there is a time
22 when you're physically doing construction on that sidewalk
23 and on the trees that are being planted around there that
24 there could have some minimal impact. But it's our goal to
25 keep a passageway open for pedestrians through that part of

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1 the site the entire time.

2 MEMBER JOHN: And so during construction, what
3 type of communication do you anticipate having with the
4 neighbors and with the community so they can be fully
5 informed about what's going on? And will there be a point
6 of contact that someone can reach somebody from the
7 construction site? Typically, we see some kind of agreement
8 with the ANCs. I don't know if you're all hoping to do
9 something like that.

10 MR. WEINBAUM: Yeah.

11 MEMBER JOHN: But the neighbors seem to be awfully
12 concerned about what's going to happen in construction. And
13 I know it's not part of what you're -- the relief you're
14 requesting. But there is a lot of concern, from what I'm
15 hearing, about the whole construction process.

16 MR. WEINBAUM: Sure. No, as a best practice in
17 our company, before we start construction, we will come out
18 and host a meeting as well as visit the ANC before
19 construction explaining everything that I -- that I spoke
20 about earlier, from the hours construction, any, you know,
21 sidewalk closure of any kind that'll impact folks, noise,
22 truck paths.

23 All those factors will be talked through with the
24 community and we'll have another opportunity to understand
25 further concerns again at a construction meeting that we host

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1 as well as by visiting the ANC. And then we'll give periodic
2 updates to the ANC during construction, and we'll also have
3 a website where we'll post construction-related information.
4 We'll have a point of contact. We'll have a phone number and
5 an email that'll be provided to everybody so they have
6 someone to contact at all times if there are concerns.

7 MEMBER JOHN: Okay. And you would address in
8 particular the neighbors even if they don't come to an ANC
9 meetings.

10 MR. WEINBAUM: Yes, flyers under doors tend to be
11 --

12 MEMBER JOHN: Okay.

13 MR. WEINBAUM: -- the best things we can do. So
14 we will do that.

15 MEMBER JOHN: I agree.

16 MR. WEINBAUM: And we've done that before, and
17 we'll continue to do that.

18 MEMBER JOHN: Thank you so much.

19 MR. WEINBAUM: Thank you.

20 MEMBER JOHN: Thank you.

21 BZA CHAIR HILL: Okay. Ms. Moldenhauer?

22 MS. MOLDENHAUER: I believe Board Member John may
23 have asked my first questions on rebuttal. So I will just
24 ask Mr. Weinbaum to talk briefly. I think you already talked
25 about the sidewalk from concerns and --

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1 BZA CHAIR HILL: Mr. Moy, can you start my clock?
2 Thanks.

3 MS. MOLDENHAUER: -- any general concerns
4 regarding traffic and construction.

5 MR. WEINBAUM: Yes. As I've said, we will have
6 a plan that deals with noise, hours of construction, truck
7 traffic, any debris, fencing around the site, all those
8 particulars. And we'll ensure that we have a construction
9 meeting in advance that we host and flyer around the
10 neighborhood.

11 We'll also visit the ANC if they'll hear from us
12 to talk about construction plans and then come back and ask
13 to be on ANC agendas during construction to update them --
14 update them periodically about the construction. We'll have
15 a website where we'll have information related to
16 construction, and we'll have a point of contact with a name,
17 phone number, and email address. So that person will also
18 be present at a meeting so they know who they can reach out
19 to if they have any concerns.

20 MS. MOLDENHAUER: And then I will just ask, Mr.
21 Walters, there was a comment made by the Commissioner about
22 height regulations. Does the project comply with the MU-4
23 height, or does it go above the MU-4 height?

24 MR. WALTERS: It complies with the height.

25 MS. MOLDENHAUER: And does the RA-1 portion of the

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1 structure go above or is it below the permitted height for
2 the RA-1 portion?

3 MR. WALTERS: It's actually below the height.

4 MS. MOLDENHAUER: And there was a concern raised
5 by the SMD commissioner and one of the witnesses in
6 opposition about the concern of shadows. We heard testimony
7 from Mr. Mordfin regarding his understanding of how the
8 shadows would be affected. Can you maybe just provide your
9 professional and expert opinion on how potentially shadows
10 would be impacted by this project?

11 MR. WALTERS: Actually you can see on the screen
12 that site plan is taken -- taken from the three dimensional
13 model. So those are accurate shadows. They're not having
14 a tremendous impact. And really most of it will -- the
15 shadowing will occur in the parking court and along Evarts.
16 We -- yeah, we don't think it's going to have a tremendous
17 impact. There's a lot of dimension between this building and
18 the -- the adjacent houses.

19 MS. MOLDENHAUER: Talking about that, given the
20 fact that we are asking to move the MU-4 line 35 feet, what
21 is the distance then from even where that new MU-4 line would
22 be to any other nearby neighbor?

23 MR. WALTERS: So that would be -- so that portion
24 of the building is 65 feet wide along Montana. And then the
25 gap to the nearest house on Saratoga is about 100 -- maybe

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1 a little bit more than 100. Let's call -- call it 100. It'd
2 be about 165 feet between where that building steps up and
3 that first house to the south on -- on Saratoga. Oh, I'm
4 sorry. Well, Saratoga and Montana.

5 MS. MOLDENHAUER: Thank you. And then I'm going
6 to see if I can pull up our landscaping plan. Sorry. Either
7 -- Mr. Walters, can you just point out where there would be
8 a retaining wall kind of providing some -- around the
9 property -- around the parking, the screening?

10 MR. WALTERS: You mean screening wall?

11 MS. MOLDENHAUER: Yes, yes.

12 MR. WALTERS: Yes. Let's see. How do I do this?
13 It's right here? Okay, okay. So there will be a little
14 screen -- the zoning-required screen wall between the
15 building and the opening right there. And then it'll skip
16 over the cut and then it'll come back along the parking lot.
17 And then it'll cut in there, and then it'll go all the way
18 back to the building. There actually will be a taller wall
19 for the transformer. So the parking is completely screened.

20 MS. MOLDENHAUER: In between the screening and
21 then the trees and the landscaping, do you believe that will
22 have -- and the distance from the abutting residential homes,
23 do you think that that would have a mitigation on any
24 potential concern about noise or impacts on this site?

25 MR. WALTERS: I think so. I mean, noise can do

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1 funny things. But I think it will definitely help to screen
2 and contain things within the parking lot.

3 MS. MOLDENHAUER: Is there currently any wall or
4 any existing condition that would provide any mitigation to
5 noise or, as Mr. Moody testified, lawnmowers or anything to
6 that effect?

7 MR. WALTERS: No, the existing parking lot is
8 completely open and not screened.

9 MS. MOLDENHAUER: Thank you. Mr. Van Pelt, can
10 you just confirm that in regards to traffic conditions that
11 are we meeting the traffic requirements? And what, in
12 addition to that, are we doing in regards to what DDOT --
13 your conversation with DDOT?

14 MR. VAN PELT: Yes, we are. I mean, as I
15 testified earlier, we completed a comprehensive
16 transportation review. That review was scoped with DDOT.
17 DDOT reviewed the CTR and -- and reflected on that in their
18 staff report. We -- and there's been a consultation with
19 DDOT in terms of the design of the site and the access. We
20 are providing a transportation management plan although it's
21 not even required as an additional enhancement to the overall
22 transportation plan for this -- for this project.

23 MS. MOLDENHAUER: And can you just confirm that
24 there's -- the traffic report that you prepared is actually
25 at Exhibit 34 in the record?

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1 MR. VAN PELT: That's correct.

2 MS. MOLDENHAUER: Mr. Van Pelt, in your expert
3 opinion, would you believe that there'd be any adverse impact
4 on traffic conditions based on the relief being requested
5 here?

6 MR. VAN PELT: No, our -- our -- no, there
7 wouldn't be. Our study concluded there'd be no detrimental
8 impact.

9 MS. MOLDENHAUER: And then there was, sorry, some
10 questions raised regarding the timing and potential questions
11 of construction. Mr. Weinbaum, can you just kind of
12 elaborate on that just for the record?

13 MR. WEINBAUM: Yeah. Just to be clear, with
14 respect to the RIA project that's across the street, the
15 particular phase of that project that abuts or that faces
16 Montana Avenue, we don't anticipate that that construction
17 will start for at least four years but likely more than that.
18 So I don't think there'll be a period of time in which you'll
19 have construction of the 1400 Montana building at the same
20 time you have construction of RIA across the street. The
21 phasing just doesn't work that way.

22 MS. MOLDENHAUER: Thank you. And then Mr. Moody,
23 can you just clarify for the record the trees both on the
24 property and in the public space?

25 MR. MOODY: Yeah. This is in response to a

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1 question I believe from Commissioner Hart. There are 12
2 trees currently being removed or planned for removal on the
3 site. There are 17 being proposed. As far as street trees,
4 there are currently 8 street trees being planned for removal
5 and 27 proposed.

6 MS. MOLDENHAUER: Thank you. That concludes our
7 rebuttal.

8 BZA CHAIR HILL: Okay, great. So Commissioner,
9 now normally -- and I sometimes forget whether it's in the
10 regulation or not in terms of a conclusion from anyone else
11 who is in opposition or testified in support, what have you.
12 But I usually like to have a little bit of a conclusion from
13 everybody. It's not necessarily something that you're now
14 going to cross examine the rebuttal that just happened. The
15 rebuttal is there so that the applicant can rebut anything
16 that was brought up during the testimony.

17 This is just now a conclusion in terms of anything
18 that you'd like to add at the end of the discussion here.
19 Is there anything you'd like to add at the end? And you can
20 just turn on your microphone there, and I'm also going to put
21 three minutes on the clock just so I know where I am, Mr.
22 Moy.

23 MS. WILLIAMS: My conclusion is that we still --
24 the 5C board maybe will need -- need an illustration and --
25 and the impact of construction. And I think that's about it.

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1 BZA CHAIR HILL: Okay. And now OAG just whispered
2 in my ear that you are allowed to ask question after. That
3 in terms of the rebuttal that was just presented, do you have
4 any questions for the applicant concerning the rebuttal?

5 MS. WILLIAMS: I kind of don't understand it to
6 a full understand -- to a full --

7 BZA CHAIR HILL: Sure. I understand. So you
8 don't particularly have any questions at this point?

9 MS. WILLIAMS: Yeah.

10 BZA CHAIR HILL: Okay, okay. I don't think we're
11 done today, so I think you'll have -- so go ahead.

12 BZA VICE-CHAIR HART: Yeah, just one second. The
13 rebuttal is just for the applicant to basically explain any
14 issues that they thought may be unclear or that may need some
15 clarification. And the chairman is just asking you if you
16 have any questions regarding the clarifications that they
17 just made. So you're just trying to focus on just the things
18 that they were -- that Ms. Moldenhauer was talking about.
19 And she was just trying to give more clarity around some of
20 the issues that were raised during the hearing so far. You
21 don't have to have any questions. But if you do, you have
22 a chance to be able to ask them.

23 MS. WILLIAMS: Yeah, okay. So we do need a
24 perspective rendering from all point of views. We do need
25 the construction project as a whole. And I still think --

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1 I still think as a commissioner that it's still impacting
2 with the two major constructions. So that's my primary goal.

3 BZA CHAIR HILL: Okay. All right. Thank you,
4 Commissioner. Okay. Ms. Moldenhauer, do you have anything
5 you'd like to add in conclusion?

6 MS. MOLDENHAUER: Yes. Good morning, Board
7 members, or actually I think we're now in the afternoon.

8 BZA CHAIR HILL: I'm going to put five minutes up
9 on the -- I'm sorry, three --

10 MS. MOLDENHAUER: Sure.

11 BZA CHAIR HILL: -- minutes up on the clock,
12 right? Okay.

13 MS. MOLDENHAUER: Sure.

14 BZA CHAIR HILL: All right, great.

15 MS. MOLDENHAUER: So we believe that we satisfy
16 the special exception standards. We believe that in regard
17 to the overall special exception standard is in harmony with
18 the general purpose and intent of the zoning regulations and
19 zoning map, that the testimony from Mr. Varga as well as
20 testimony from Mr. Stephen Mordfin confirm that Office of
21 Planning has evaluated this comprehensively, has looked at
22 the site and believes it's in harmony with the zoning
23 regulations.

24 We've heard testimony that the massing, the
25 height, the lot occupancy, the FAR are all compliant with the

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1 zoning requirements. It will not tend to affect adversely
2 the use of neighboring properties. We heard personally from
3 people who literally live right across the street from the
4 site and that they are looking forward to seeing a
5 development.

6 We have testimony in the record from Matthew Foust
7 at Exhibit 68 who could not be here who was in attendance at
8 the last meeting that he's looking forward to seeing more
9 eyes on the street, that this will be an advantageous
10 improvement to the community. We have 21 letters from
11 individuals in the neighborhood. As you heard from
12 Commissioner Williams, there may be some level of mix of
13 concerns. But that mix of concern is really questions about
14 affordability that we heard during those meetings, not a
15 question of the relief specifically being requested today
16 before this Board.

17 There were concerns brought up regarding
18 construction. As this Board is aware, construction issues
19 are not issues that are germane to the zoning standards,
20 zoning regulations, or the relief that are being requested
21 today. We have heard that the applicant is going to continue
22 to work with the community, and we'll address those outside
23 the scope of this proceeding. And we believe that we have
24 satisfied the general special conditions.

25 We also believe that the record is robust in

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1 regards to our outreach. The application provided notice to
2 the ANC on January 15th, 2019. The Zoning Commission then
3 also provided notice on February 13th, 2019 all prior to the
4 April 3rd ANC agenda. There is a reference in the record
5 that the ANC was going to place us on the agenda and that
6 they then failed to do so. You heard testimony from
7 individuals in the community that wanted to present.

8 I'm going to reference Shiflett v. D.C. Board of
9 Appeals and Review which is an appeal case at -- I just want
10 to make sure I get the right cite -- 431 A.2d 9 which has to
11 do with a challenge to a permitting process and ANC
12 notification. In that case, there was a debate back and
13 forth as to whether the ANC was properly noticed. The Court
14 of Appeals said in the record on the facts that so far as we
15 can determine, the ANC took no other action before any
16 government agency directing at the building proposed. And
17 then they said that any aspect was a harmless error because
18 the ANC had actual notice of the impending construction and
19 therefore had an opportunity to present its views.

20 Here we believe that the ANC has obviously had an
21 opportunity to present their views. They have not availed
22 themselves of that in the record. And we believe that the
23 Board has all the information before them to address the
24 case.

25 We do believe that there are the specific

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1 subconditions of Subtitle A 207.2 which based on the
2 architectural expertise and testimony of the 35 feet and any
3 screening or impact that it may have on the present
4 character, that we have satisfied both the present character
5 and the future character. And we also be more than willing
6 to provide any supplemental images if the Board believes that
7 those are necessary. And then in regard to the RA-1 new
8 apartment use, there are multiple subconditions.

9 To Commissioner Miller's comment, we believe that
10 the agencies that are specifically spelled out in the
11 regulations, under U 421.1 and 421.2 have been all properly
12 noticed and informed and that OP has in their comprehensive
13 evaluation and support of the case has evaluated all of those
14 and has either received comments and if they had not received
15 comments and there were no comments to be received by those
16 agencies, there's also documentation in the record regarding
17 recreation centers, capacity of schools as well as parking
18 and public plans for the neighborhood and the community in
19 regard to other agency comments.

20 And we believe that in regard to the specific
21 question of the screening requirement, we believe that both
22 the testimony from Mr. Moody as well as from Mr. Walters.
23 In regard to that, they were talking about four feet and that
24 that four feet is actually greatly reduced from the current
25 opening to the screening and that that will actually have --

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1 the overall project will have an overall enhancement of the
2 pedestrian experience, sidewalks and public areas and
3 vegetation and screening and trees.

4 And so we believe that we do satisfy -- we know
5 adverse impact on the traffic condition. The traffic
6 condition on that part only has to do with that four feet.
7 And we believe that that is obviously not a factor for
8 additional concern, and that we do believe that we satisfy
9 the standard. Based on that, we would obviously ask the
10 Board to support the relief. Thank you.

11 BZA CHAIR HILL: Okay, great. Thank you. Okay.
12 So I guess I have a bunch of kind of, like, summary questions
13 or comments. And I guess now our board members can have an
14 opportunity to kind of figure out what we want to do next.
15 Commissioner, when was the SMD follow-up meeting supposedly
16 going to happen?

17 MS. WILLIAMS: It's happening May 9th.

18 BZA CHAIR HILL: It's happening May 9th. And then
19 they're on the agenda for 5-15?

20 MS. WILLIAMS: 15, yes.

21 BZA CHAIR HILL: Okay. So I know that we have --
22 there was some renderings that I know that was mentioned from
23 Commissioner Miller and Mr. Hart. And I'd like you guys, if
24 you wouldn't mind, to kind of, like, go over those in terms
25 of, again, what you might be interested in seeing. Because

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1 I'd like to see those as well from the applicant.

2 I would also like to kind of now ask the
3 applicant, I guess, like, see a construction management plan.
4 I just want to see what it is that you're -- well, I mean,
5 I think that I'd like to see you go ahead and present to the
6 ANC. I understand that you had an -- or you were supposed
7 to have an opportunity the last time. I know that there are
8 some things that the Board now has asked to see. And so I
9 know they want to see those things. And since it's only now
10 two weeks from now, that is the 15th, then you can go ahead
11 and present to the ANC.

12 I'm still a little confused as to whether or not
13 you're going to get a positive vote or not. Obviously a
14 positive vote would be more helpful for an applicant. It
15 seemed as though what I got from -- and the ANC commissioner
16 is here. So you can find out afterwards what there was in
17 terms of, like, however you can make the traffic management
18 plan as accessible as possible, then that would be helpful.
19 I know that there was a lot of concern, it sounds like, for
20 the construction management plan as well as the traffic that
21 was going on during the construction.

22 There was -- you have already kind of spoken to
23 the height. But I guess the Commissioner might've been
24 interested. And I guess I've kind of heard again in terms
25 of the sidewalks, how those things would be kept open as long

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1 as possible except for the times that the trees and things
2 are going on.

3 I guess we here -- and I know you guys come before
4 us or at least the attorney comes before us often enough that
5 it is nice to hear people say, we will do our best and we'll
6 try to do this. We'd like to see something in the record
7 that says specifically what you plan on doing and how you're
8 going to do it, right? There is -- and this is not, again,
9 necessarily the zoning relief, so it's not something that's
10 going to be a condition or such. But it's just something I'd
11 be interested in seeing as to what your construction
12 management plan is.

13 So we've often seen -- in terms of, like, people
14 having a contact name and whoever that is, like, actually
15 specified. Not necessarily the person but how you're
16 actually going to make contact with whoever it is you're
17 going to make contact with. Construction management person
18 will be available, X, Y, Z, right? Whatever you can do to
19 try to mitigate some of these concerns, it's just something
20 I'm interested in hearing from, right, or getting from you
21 guys. And I guess you would also then be presenting that to
22 the ANC.

23 Commissioner Williams, in terms of if you want to
24 go check in with the Office of Zoning perhaps across the all,
25 and they can help clarify. Because even I, myself, get kind

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1 of confused as to what the process is in terms of, like, how
2 you get to -- I want to make sure that you're authorized to
3 be --

4 MS. WILLIAMS: Yeah.

5 BZA CHAIR HILL: -- the representative. And so --

6 MS. WILLIAMS: Yes, okay.

7 BZA CHAIR HILL: But today, in any case, this will
8 have to be -- it's a little confusing in that -- anyway, I'll
9 let the Office of Zoning hopefully help straighten out
10 whatever you need to do --

11 MS. WILLIAMS: Okay.

12 BZA CHAIR HILL: -- so that we, the Board, can get
13 something to give great weight to. Okay?

14 MS. WILLIAMS: Okay.

15 BZA CHAIR HILL: Now in order to give something --
16 in order for the Board to receive great weight, you actually
17 have to have the meeting with the applicant. Okay? And then
18 there has to be something written by your ANC that we can
19 give great weight to. That much --

20 MS. WILLIAMS: Okay.

21 BZA CHAIR HILL: -- at least I'm clear on.

22 MS. WILLIAMS: Okay.

23 BZA CHAIR HILL: Okay.

24 MS. WILLIAMS: That's fine.

25 BZA CHAIR HILL: So just --

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1 BZA VICE-CHAIR HART: Just one --

2 BZA CHAIR HILL: Sure. No, I'm not done.

3 BZA VICE-CHAIR HART: Oh, okay. I'm sorry.

4 BZA CHAIR HILL: So just as far as, like, my
5 little spiel, I just want to make sure. So you understand
6 everything that I'm talking about in terms of the applicant,
7 correct?

8 MS. MOLDENHAUER: Yes. I have some questions and
9 comments.

10 BZA CHAIR HILL: Okay, great. Sure. And then so
11 now Mr. Hart, if you could help clarify whatever it is that
12 you guys wanted before and then whatever you want to say.

13 BZA VICE-CHAIR HART: Yeah, just I think you've
14 hit it. I mean, I think the applicant knows what -- Mr.
15 Walters heard what we were looking for, so I think he
16 understands what that is.

17 The one thing that I also asked for from Mr. --
18 I think it was Mr. Moody just regarding just the impervious
19 surface. I know that's not necessarily something you're
20 asking for. I just am -- I just was -- I was trying to
21 understand what that change is. And I know that you were --
22 the information that you provided was regarding the parking
23 area. And I was just looking for the entire site. And I
24 don't think it's that difficult to do. But I think it's
25 helpful for me to understand. That's all.

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1 MR. MOODY: Yeah, we're happy to provide. I would
2 just like to note that the calculation does get a bit complex
3 because we are taking runoff from impervious surfaces and
4 transferring to bioretention pervious surfaces. So I will
5 give you a total overall impervious surface but also note the
6 bioretention square feet.

7 BZA VICE-CHAIR HART: I appreciate that. Thank
8 you very much. I don't think there was anything else.

9 ZC VICE-CHAIR MILLER: So I think Mr. Walters does
10 know what -- what I stated previous was an illustrative
11 rendering which just showed the proposed development in
12 context with the existing neighborhood and the proposed new
13 development that's going to be across Montana Avenue just so
14 you can see that relationship. I think that would be useful
15 to have for the record.

16 BZA CHAIR HILL: Okay. All right. Oh, and just
17 so I'm clear on this so I don't have to do this again. So
18 you guys are implementing the TDM plan that DDOT is
19 requesting in terms of the condition. You've already stated
20 that, correct?

21 MR. VAN PELT: Yes, it was one of their conditions
22 that are agreeing to.

23 BZA CHAIR HILL: Okay. Yeah, I just want to get
24 that on the record. And then as far as the Board's
25 concerned, this whole thing about the modification of the

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1 entrance to comply with public space regulations, does the
2 Board have a thought in terms of -- and I don't even know if
3 we need to allow flexibility or what happens in terms of the
4 public space addendum.

5 BZA VICE-CHAIR HART: I think my kind of view on
6 it is as long as we're talking about the stairs and the ramp,
7 I think I'm okay with it. If it starts talking about the
8 actual building itself, I think I'm a little bit less okay
9 with that. But that's just my opinion.

10 BZA CHAIR HILL: Okay. So sure, go ahead.

11 MR. WEINBAUM: Our understanding, the issue
12 related to DDOT and the comments on the stairs and the
13 railing pertain only to that in the public space. So those
14 issues will be dealt with in Public Space Committee but are
15 not stuff that within the property line.

16 BZA CHAIR HILL: Okay. As long -- I mean,
17 obviously, as long as that's the case, again, your attorney
18 who's been here many times will know that the drawings that
19 we get are the drawings that we want to see. And so if
20 you're going to have to change those drawings, you're going
21 to have to come back. And so just to let you know, right?
22 So that's the end of that condition that DDOT had in there.

23 And then their third condition, I think that that
24 is something that is actually not within our purview which
25 was implement the proposed new crosswalk across Evarts

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1 Street, Northeast where it connects to Saratoga Avenue. I
2 mean, you guys are doing that anyway, correct? That's all
3 right. I'll repeat because it's been a long morning.
4 Implement the proposed new crosswalk in Evarts Street,
5 Northeast where it connects to Saratoga Avenue, Northeast,
6 you guys already said you were doing that, correct?

7 MR. WEINBAUM: Correct.

8 BZA CHAIR HILL: Okay. So we won't be putting it
9 in as a condition. Okay. You had a question, Ms.
10 Moldenhauer, about all the stuff that I said?

11 MS. MOLDENHAUER: Yes. Thank you, Commissioner
12 Hill. You said it and I believe Commissioner Williams said
13 that there was going to be an SMD meeting on May 9th.
14 Stephanie from the applicant has actually informed Ms.
15 Williams that that day does not work for us. We've already
16 had an SMD meeting. We're obviously more than happy to go
17 to the May 15th meeting. But this has been communicated back
18 and forth. So we are more than happy to go to the May 15th
19 meeting. But the May 9th SMD meeting does not work for us,
20 and that's been communicated.

21 BZA CHAIR HILL: Okay.

22 MS. WILLIAMS: To a put a note in there, I did
23 state that there was supposed to be a change of date as far
24 as location but never said they wasn't going to do a follow-
25 up SMD meeting.

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1 BZA CHAIR HILL: Okay. Commissioner Williams, I
2 want to ask you a question now. Okay? So we have -- there
3 is information in the record in terms of, like, what they've
4 been trying to do in terms of present to you guys, right?
5 Then we did have a meeting -- we were all here again a month
6 ago when there was other people trying to do party status.
7 Thank you, party status.

8 And so I would be in favor -- if they've already
9 presented once to the SMD and they can't come back to that
10 SMD, then they just don't present to that SMD again. And I
11 want to see them on the agenda for the 15th. Is that -- you
12 don't know, I supposed, because you can't speak for
13 everybody. But will they still be allowed to be on the
14 agenda on the 15th if they're not at that SMD meeting?

15 MS. WILLIAMS: Well, it was just a follow-up, so,
16 like --

17 BZA CHAIR HILL: So would you do me a favor and
18 just -- I shouldn't say that. They're saying they can't go
19 on the 9th. Okay? And so are they going to be on the 15th
20 if they don't come on the 9th?

21 MS. WILLIAMS: Well, it was actually a change of
22 date because as far as location. Because we were trying to
23 host it at 1400 Montana. They never said they wasn't going
24 to -- they didn't want to do the follow-up single member
25 district meeting. I'm going by what they said --

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1 BZA CHAIR HILL: Okay.

2 MS. WILLIAMS: -- and what we had a meeting about.

3 BZA CHAIR HILL: So I'm just trying to get to even
4 kind of a compromise here just to get to where they're
5 presenting, so --

6 MS. WILLIAMS: Yeah, the compromise was to have
7 a follow-up SMD meeting, and that was the compromisation.

8 BZA CHAIR HILL: Okay.

9 MS. WILLIAMS: So this is new from what I'm
10 hearing.

11 BZA CHAIR HILL: Okay. So you can't present at
12 a follow-up SMD meeting is what you're saying?

13 MS. MOLDENHAUER: On the 9th.

14 BZA CHAIR HILL: On the 9th. So you could
15 possibly do it on another day?

16 MS. MOLDENHAUER: We've asked for the 7th.

17 BZA CHAIR HILL: Okay. So I'll do this. Okay?
18 Why don't -- I just need to know that they're going to be
19 presenting on the 15th. Okay? Because we're not going to
20 wait anymore. I mean, I'm just being -- we're going to move
21 forward with this, right? And so I want the ANC to have an
22 opportunity to get everything they need here from and then
23 us get something written that we can give great weight to,
24 right? And so I will let you, Commissioner, work out with
25 the applicant to see if you can get a follow-up meeting. But

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1 regardless of if you get a follow-up meeting or not, this is
2 kind of the last shot that I think the ANC is going to have
3 in terms of getting a presentation from these guys before we
4 deliberate one way or the other.

5 MS. WILLIAMS: Okay. That's fine.

6 BZA CHAIR HILL: Okay. So all right. So any
7 other questions?

8 MS. MOLDENHAUER: Yes. Sorry, Commissioner Hill.
9 So if they are confirming that we'll be on the 15th, we will
10 be there, be ready to present on the 15th. I would just then
11 ask kind of what would be the deadlines for them filing a
12 resolution that we could then obviously reply and file any
13 response into comments for that resolution since we haven't
14 seen anything. I mean, obviously legally we'd be permitted
15 typically time to respond to an ANC's comments. We obviously
16 would be fine --

17 BZA CHAIR HILL: Okay, okay.

18 MS. MOLDENHAUER: -- reducing that time.

19 BZA CHAIR HILL: Commissioner, do you have any
20 idea how long it might take you guys to get us something
21 after you have your meeting?

22 MS. WILLIAMS: No, but it shouldn't be that long.

23 BZA CHAIR HILL: So, like, a week?

24 MS. WILLIAMS: Yeah.

25 BZA CHAIR HILL: Okay. So I mean, I'm going to

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1 turn to Mr. Moy then. So could you do it in a couple of
2 days?

3 MS. WILLIAMS: I can -- like I said, I can try.

4 BZA CHAIR HILL: You can try? Okay. What's the
5 15th? The 15th is --

6 SECRETARY MOY: That's a Wednesday, sir.

7 BZA CHAIR HILL: -- two weeks from today which is
8 a Wednesday. Oh, great. So I'm going to be here, right?
9 And then, yeah, we're all going to be here. So if you have
10 your meeting on the 15th, the following Monday is the 20th.
11 Okay? So can we get something by the 20th from you?

12 MS. WILLIAMS: Okay. I can -- I can try.

13 BZA CHAIR HILL: Okay. So then Mr. Moy, can you
14 -- so then when are we going to get all our stuff? And does
15 the Board think we need to have a limited scope hearing?
16 Okay. I got a no over there. I'm a no. Okay. All right.
17 So there was some discussion that might not have been a no.
18 So we can do a meeting hearing -- a meeting hearing? We can
19 do a decision meeting. So can you work me, Mr. Moy, from the
20 ANC's stuff giving us stuff on the 20th?

21 SECRETARY MOY: Okay. I'm going to start with
22 that, Mr. Chairman, then we'll see what date you come up with
23 and if I have any comments about that. So if, again, the ANC
24 can make their filing, the ANC resolution, by Monday, May
25 20th. And then the applicant can make their response to the

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1 ANC resolution as well as the additional information, the
2 submittals as discussed by the Board -- requested by the
3 Board by -- can you do that in a week's time?

4 MS. MOLDENHAUER: I mean, Commissioner -- I'm
5 sorry, Secretary Moy, I would actually be more than happy to
6 file any of the submittals before the ANC meeting. So we
7 would actually prefer to get those in the record maybe even
8 by the 10th. That way, they're in the record, publically
9 available in advance of the May 15th ANC meeting. Anybody
10 in the public can review them and they can be part of the
11 dialogue and discussion with the community on May 15th. If
12 the ANC is then required to file their resolution by the
13 20th, we could file any responses on the 21st for this to
14 come back to the BZA on the 22nd.

15 SECRETARY MOY: Okay. So let's work with these
16 two dates then. The applicant makes their filing for
17 supplemental information May 10th which is a Friday. The ANC
18 files their letter resolution Monday, May 20th. Would the
19 Board care for the ANC to provide any responses or rather --
20 wait a minute.

21 BZA CHAIR HILL: So I guess, Mr. Moy, if we get
22 all the information by the applicant by the 10th, okay, then
23 the ANC can file anything they want in terms of response to
24 those filings, right, that they see as well as the
25 resolution, right, by the 20th. Okay? So you'll have a

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1 chance to see everything and then you'll file by the 20th.
2 But we won't be able to get back to you on the 22nd because
3 I have to be able to read everything. And so that means
4 we're back here for a decision on the 29th.

5 SECRETARY MOY: Well, there's no hearing on the
6 29th. So I was going to suggest either a decision date of
7 June 5th or June 12th.

8 BZA CHAIR HILL: Okay. If the Board's willing to,
9 and I'm also willing to, I'll read and figure it out by the
10 22nd. Okay? What's that? Is the 22nd really busy, Mr. Moy?
11 I mean, yes is the answer. But still it's a decision. I
12 mean, other than it's going to push -- I mean, you know.

13 SECRETARY MOY: It's possible.

14 (Simultaneous speaking.)

15 BZA CHAIR HILL: Okay. My vote's the 22nd just
16 because then it's another two weeks. Okay. All right.
17 Okay, okay.

18 SECRETARY MOY: Decision, May 22?

19 BZA CHAIR HILL: Yeah, yeah. So as far as the
20 Commissioner is concerned, as far as everybody is concerned,
21 so we're going to get the renderings. We're going to get the
22 construction management plan. We're going to get everything
23 that the ANC had already asked about trying to see by the
24 10th. You guys can present to them on the 15th.
25 Commissioner, please let them present on the 15th. And then

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1 we'll go ahead and get something from the ANC on the 20th for
2 the resolution as well as any comments you might have on any
3 of the stuff they had submitted on the 10th. And then we'll
4 be able to deliberate hopefully on the 22nd. And if we can't
5 deliberate on the 22nd, like, we just think we need more
6 time, then we'll just put it off until we have enough time
7 to look at everything. So that's my proposal. Does the
8 Board have any issues with any of that?

9 ZC VICE-CHAIR MILLER: No, I think that's all
10 good, Mr. Chairman. I understand what Ms. Moldenhauer said
11 about the referrals to agencies. But as long as we have this
12 time, I would appreciate if somebody, Board, the Office of
13 Zoning staff or OP or the applicant or all of you, makes a
14 referral to the three agencies I called out. Even though
15 they're not called in that provision of the new residential
16 development in RA-1 zone, it says, other services referencing
17 a referral to District agencies to accommodate residents in
18 the project. So I think if somebody can just make a referral
19 to MPD, Fire and EMS, and DC Water which is typically done
20 in PUD cases as well. So just so that we have that done.
21 We might not get anything, but just so that we get that done.

22 SECRETARY MOY: Mr. Chairman, in the past
23 circumstances or cases, the BZA or the Office of Zoning has
24 sent those additional referral letters. So we can have that
25 sent out tomorrow.

1 ZC VICE-CHAIR MILLER: Thank you, Mr. Moy.

2 BZA CHAIR HILL: Okay, great. Okay. So anything
3 else? Okay. I'd like to thank you all for -- oh, sure. You
4 have a question?

5 MS. MOLDENHAUER: I just wanted to make sure that
6 it was on the record that the applicant could file something
7 on the 21st just in response to the formal resolution that's
8 filed on the 20th. I think you said it, but I just --

9 (Simultaneous speaking.)

10 BZA CHAIR HILL: I didn't say it out loud. Or if
11 I did, then I didn't understand it either because then I
12 don't forget -- I forget how this circle ends. So then OAG
13 or Mr. Moy, I can't remember. So, like, if they file
14 something on the 21st after the ANC files something, does the
15 ANC then get time to file something after they've filed
16 something?

17 MS. NAGELHOUT: No, every party gets an
18 opportunity to respond to post-hearing submissions. So the
19 applicant is asking for an opportunity to respond to the
20 ANC's post-hearing submission. So the ANC would file
21 something on the 20th and the applicant wants to respond to
22 that on the 21st and that would be it.

23 BZA CHAIR HILL: But I thought there was -- there
24 wasn't?

25 MS. NAGELHOUT: The applicant is filing the

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1 applicant submission on May 10th, and the ANC will have --

2 BZA CHAIR HILL: Okay. That's fine.

3 MS. NAGELHOUT: -- an opportunity to respond to
4 that one, so --

5 BZA CHAIR HILL: Okay. So then you'll have the
6 21st. Okay. And then all right. That's it. And then so
7 we're going to try to hear through. So Commissioner, thank
8 you for coming down. Witnesses, thank you for coming down.
9 I thought I would've been a lot more nervous than you were.
10 I got to tell you. So okay.

11 So we're going to try to go through the
12 postponement stuff, and I appreciate everybody's patience.
13 And Mr. Moy, as soon as they've cleared out, we can try to
14 get through the postponements before lunch.

15 (Pause.)

16 SECRETARY MOY: All right, Mr. Chairman. I want
17 to begin with two applications that were requests for
18 postponements from ANC 7C. And that first one would be
19 Application No. 19985 with DistrictProperties.com. And let
20 me just read the caption very quickly for the record.

21 This is a request for area variances from the --
22 again, this is Case Application No. 19985 of
23 DistrictProperties.com. Request for area variances from the
24 lot dimension and lot width requirements of Subtitle D,
25 Section 302.1, the side yard requirement, Subtitle D, Section

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1 307.1 to construct a new detached principal dwelling unit,
2 R-2 zone, 419 57th Street, Northeast, Square 5228, Lot 14.
3 And the request was filed by ANC 7C this morning. So if we
4 can have the -- I see the Commissioner in the audience, if
5 you can come to the table. But I don't see the applicant.

6 BZA CHAIR HILL: Okay. Is the applicant here for
7 19985? Is the Commissioner here for 19985? Okay.
8 Commissioner, if you can come forward first. And then
9 somebody can -- Mr. Secretary can tell me. Are you here for
10 19985? Oh, please come forward. You guys have both been
11 sworn in, correct? Okay, okay. All right. Let's see. If
12 you could please both introduce yourselves for the record.
13 I'm sorry, Commissioner. You have to speak into the
14 microphone.

15 MS. GAFFNEY: Sorry.

16 BZA CHAIR HILL: That's all right.

17 MS. GAFFNEY: Mary Gaffney, ANC 7C.

18 MR. DANIELS: Marvin Daniels.

19 BZA CHAIR HILL: You need to keep the button
20 pushed.

21 MR. DANIELS: Yeah, my name is Marvin Daniels.

22 BZA CHAIR HILL: And who are you with, Mr.
23 Daniels? You need to keep the button -- just push it once.

24 MR. DANIELS: I see. I got it now. I'm here
25 representing actually my mom who lives next door to the

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1 proposed property that's been built at 420 --

2 BZA CHAIR HILL: Okay. So you're not with the
3 applicant? You're not with -- just keep the -- you're not
4 with DistrictProperties?

5 MR. DANIELS: No, no.

6 BZA CHAIR HILL: Okay. You're just someone -- a
7 member of the public --

8 MR. DANIELS: Yes.

9 BZA CHAIR HILL: -- wishing to speak?

10 MR. DANIELS: Yes, I'm in opposition.

11 BZA CHAIR HILL: Okay. All right. And so
12 Commissioner Gaffney, you guys had requested a postponement
13 of this case, correct?

14 MS. GAFFNEY: Yes.

15 BZA CHAIR HILL: Okay. And so I actually don't
16 know what to do, Mr. Moy. And I can look to OAG because the
17 applicant is not here. I mean, also the Board. And I don't
18 know. I'll let OAG and the secretary kind of talk amongst
19 themselves for a second. But I'm fine with the postponement
20 if that's something we can do at this point because the
21 Commissioner is here.

22 SECRETARY MOY: Mr. Chairman, sorry to interrupt.
23 So we have two requests to postpone from ANC 7C and as well
24 as from the applicant which is under Exhibit 33. And the
25 applicant was asking to postpone scheduled for another week

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1 or two which he's asking May 15th -- to reschedule to May
2 15th. I don't know if that's --

3 (Simultaneous speaking.)

4 BZA CHAIR HILL: Okay. Commissioner, when are you
5 guys going to be having the hearing with them? Do you know
6 or you don't know yet?

7 MS. GAFFNEY: It's the second Thursday. I forgot
8 the date, but it's --

9 BZA CHAIR HILL: Okay. There's somebody else --
10 is there somebody else who's here for this case that just
11 kind of put up their hands? Oh, okay. So you're not talking
12 about this case? Okay. All right. But you're with
13 DistrictProperties? Okay. Oh, that's okay. That's right.
14 I'm sorry. So okay. Commissioner, when was the date again?

15 BZA VICE-CHAIR HART: May 9th.

16 BZA CHAIR HILL: May 9th? Okay.

17 MS. GAFFNEY: May 9th. They have not had the
18 opportunity to meet with us to discuss the proposal of --

19 BZA CHAIR HILL: Okay. So --

20 MS. GAFFNEY: -- the applicant. That's why we
21 asked for --

22 BZA CHAIR HILL: I got you.

23 MS. GAFFNEY: Yeah.

24 BZA CHAIR HILL: So Mr. Moy, what date is it that
25 the applicant was hoping for?

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1 SECRETARY MOY: May 15th. I don't think that's
2 doable --

3 BZA CHAIR HILL: Right. That's only --

4 SECRETARY MOY: -- considering --

5 BZA CHAIR HILL: -- four days after the --

6 SECRETARY MOY: Right, right. I would suggest
7 June 5th at the earliest, Mr. Chairman. We have nine cases
8 already, but we can add another case.

9 BZA CHAIR HILL: Okay. So June 5th we're going
10 to redo this.

11 MS. GAFFNEY: June 5th?

12 BZA CHAIR HILL: Yes.

13 MS. GAFFNEY: Okay.

14 BZA CHAIR HILL: Okay. We're granting the
15 postponement. We're granting a postponement to June 5th.
16 And so sir, I'm sorry that you had to come down here at this
17 point. You can come back down again. June, what was the
18 day, the 5th?

19 SECRETARY MOY: June 5.

20 BZA CHAIR HILL: June 5th? June 5th. And you can
21 come back down on June 5th to give you testimony, or you can
22 also submit written testimony as well. So that's up to you.
23 Okay. So if the Board's okay, we're going to go ahead and
24 postpone this to June 5th. I see everyone nodding. So I'm
25 going to go ahead and postpone this to June 5th. Okay. Mr.

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1 Moy, what's our next one?

2 SECRETARY MOY: The next one, if the Commissioner
3 could stay at the table, this would be to Case Application
4 19990 of Thomas Houston. This is captioned for area
5 variances from the lot dimension and lot width requirements,
6 Subtitle D, Section 302.1, and the side yard requirements of
7 Subtitle D, Section 307.1, to construct a two new semi-
8 detached principal dwelling units in the R-2 zone. This is
9 at 919 47th Place, Northeast, Square 5151, Lot 105.

10 And again, the ANC 7C has requested a
11 postponement. And as the Board is well aware, there are two
12 submissions from the application that's in the record which
13 includes a revised self-certification and I believe a burden
14 of proof statement.

15 BZA CHAIR HILL: Okay. If you could please
16 introduce yourselves for the record.

17 MR. HOUSTON: My name is Thomas Houston, and I'm
18 the owner of the property.

19 MR. CLARK: I'm Sheldon Clark with the Fine Design
20 Group, the architect of record for the project.

21 BZA CHAIR HILL: Great, thank you. Commissioner,
22 could you introduce yourself again, please.

23 MS. GAFFNEY: Mary Gaffney, ANC 7C.

24 BZA CHAIR HILL: Okay. Could you all turn off
25 your microphones? Unless you speak one at a time, it feeds

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1 back. So the ANC commissioner is asking again for a
2 postponement, correct?

3 MS. GAFFNEY: Yes.

4 BZA CHAIR HILL: Okay. And the applicant is
5 agreeing to this postponement?

6 MR. HOUSTON: If we can do the 15th, I spoke with
7 ANC chair on the 18th, and he asked if we could postpone to
8 the 15th. I think it's actually more of a formality. I've
9 been meeting with the ANC for about a year, and we've
10 actually met. We haven't had a chance to meet publically,
11 but we've met in executive committee. They've seen the
12 project. They support the project, but they haven't -- we
13 haven't done it publically yet. And so the May 9th meeting,
14 we'll have to do it publically. So they will have time to
15 turn it around for the May 15th meeting.

16 BZA CHAIR HILL: Okay. Commissioner, are you
17 comfortable with that timeline?

18 MS. GAFFNEY: Yes, yes, that's what we ask.

19 BZA CHAIR HILL: Okay. Mr. Moy, can you see --
20 does the 15th work?

21 SECRETARY MOY: May 15th? We have an appeal that
22 day, but we can slip this in if you -- because May 15th and
23 May 22nd, we have appeals. June 5th, there are no appeals.

24 BZA CHAIR HILL: Okay. All right. Let's do May
25 15th. Okay.

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1 SECRETARY MOY: Okay.

2 BZA CHAIR HILL: So we'll come back here May 15th.
3 But before I do that, there was somebody here who was
4 requesting party status. Is that person here? Okay. So
5 that person is not here. So since that person is not here,
6 I would say that we would go ahead and deny that party status
7 request unless the Board has any issues with that. So I'm
8 going to go ahead and deny that party status request since
9 they are not here. Okay. So we will see you guys on May
10 15th. Okay?

11 MS. GAFFNEY: All right.

12 BZA CHAIR HILL: All right. Thank you,
13 Commissioner.

14 MR. HOUSTON: Thank you.

15 SECRETARY MOY: All right. The last two
16 applications requesting postponements, the first one is 19983
17 of DistrictProperties.com. Area variances from the lot
18 occupancy and lot width requirements, Subtitle D, Section
19 302.1, side yard requirements of Subtitle D, Section 307.1,
20 to construct a new detached principal dwelling unit, R-2 zone
21 at 2028 Jasper Street, Southeast, Square 5849, Lot 4. And
22 the applicant requested a postponement on Exhibit 29.

23 BZA CHAIR HILL: Okay. Is Application 19983 --
24 is the applicant here for 19983? No? All right. Okay, Mr.
25 Moy. So the applicant is not here. I mean, I think that

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1 somebody should reach out to this applicant and clarify our
2 entire process because this applicant seems to have one thing
3 happen and then another thing happens and another thing
4 happens. And so if the Board is willing to do so, and I
5 guess I'm willing to do so as well, we'll go ahead and
6 postpone this. And the date that was kind of open, you said
7 June 5th was the -- we already postponed one of theirs to
8 June 5th, I think, correct?

9 SECRETARY MOY: That's correct, sir.

10 BZA CHAIR HILL: And so how is June 5th looking?

11 SECRETARY MOY: Let's add it.

12 BZA CHAIR HILL: Pardon me. I'm sorry?

13 SECRETARY MOY: Yeah, let's add it.

14 BZA CHAIR HILL: Okay. All right. So June 5th
15 unless the Board has any other things to say. I mean, Mr.
16 Moy, maybe you should go hire somebody and staff their firm.
17 Do they have anybody? Okay. All right. So I think there's
18 another one, correct, Mr. Moy?

19 SECRETARY MOY: That's right, sir. This is 19998
20 of Rupsha 2011 LLC that's, again, for area variances from a
21 lot dimension and lot width requirements, Subtitle D, Section
22 302.1, side yard requirements, Subtitle, Section 307.1, to
23 construct a new detached principal dwelling unit, R-2 zone
24 at 4417 Foote, F-O-O-T-E, Street, Northeast, Square 5131, Lot
25 40.

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1 BZA CHAIR HILL: Okay. Mr. Moy, you did say
2 Application No. 19998, correct?

3 SECRETARY MOY: That's correct.

4 BZA CHAIR HILL: 19 --

5 SECRETARY MOY: 19988. And I would suggest if the
6 Board is willing to set it for the same date of June 5th.

7 MS. NAGELHOUT: It's 19998 of Rupsha.

8 BZA CHAIR HILL: Well, somebody has 19988 and
9 somebody else has 19998. So I'm just trying to figure out
10 which one it is.

11 MS. NAGELHOUT: Three 9s, one 8.

12 BZA VICE-CHAIR HART: The only reason I'm asking
13 is because in the case file, it actually has it as 19988.
14 And that's on our --

15 SECRETARY MOY: Let me double check on that.

16 BZA VICE-CHAIR HART: I just want to make sure
17 we're calling the right number. That's all.

18 SECRETARY MOY: I've got 988. What do you think?
19 Can you get it to the case worker? Okay. We believe, Mr.
20 Chair, that it's 19998. No?

21 BZA VICE-CHAIR HART: So you think it is three 9s
22 and one 8?

23 MS. NAGELHOUT: No, two 9s, two 8s, 19988.

24 BZA VICE-CHAIR HART: Okay. That's right. Sorry.
25 I know this is really, like, crazy listening in the audience.

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1 But if we call wrong numbers, then it becomes a little bit
2 confusing.

3 MS. NAGELHOUT: They're both Rupsha cases too.

4 BZA VICE-CHAIR HART: And maybe this one also --

5 MS. NAGELHOUT: 19988 is the Foote Street one so

6 I think --

7 BZA VICE-CHAIR HART: Okay.

8 MS. NAGELHOUT: -- that's what we're talking
9 about.

10 BZA VICE-CHAIR HART: Yes.

11 BZA CHAIR HILL: Yeah, the 441 Foote Street,
12 Northeast.

13 MS. NAGELHOUT: 4417 Foote Street --

14 BZA CHAIR HILL: Yes.

15 MS. NAGELHOUT: -- Northeast.

16 BZA CHAIR HILL: What did I -- did I --

17 MS. NAGELHOUT: Yes.

18 BZA CHAIR HILL: Okay. All right. So that is now
19 to June 5th again, Mr. Moy?

20 SECRETARY MOY: I would suggest that because it's
21 the same applicant.

22 BZA CHAIR HILL: Okay. All right. Unless the
23 Board has any questions with that, then we're going to go
24 ahead and do that. Let's go ahead and take a lunch break.
25 Hopefully 2:15 we're back here, and there you go.

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1 (Whereupon, the above-entitled matter went off the
2 record at 1:20 p.m. and resumed at 2:19 p.m.)

3 SECRETARY MOY: Thank you, Mr. Chairman. The
4 hearing is back in recess, and I believe the next case
5 application before the Board is No. 19914 of 3110 Monroe
6 Street Associates, LLC.

7 This is a caption advertised for area variance
8 from the lot dimension requirements, Subtitle D, Section
9 302.1 to subdivide the existing lot and construct a new
10 detached principal dwelling unit, R-1-B Zone. This is at
11 3110 Monroe Street, N.E., Square 4310, Lot 2.

12 BZA CHAIR HILL: Okay. Good afternoon. If you'll
13 please introduce yourselves for the record.

14 MS. BREVARD: Hi. I'm Gail Brevard. I am the
15 ANC5C01.

16 BZA CHAIR HILL: Okay, welcome Commissioner.

17 MR. CASU: Good afternoon. My name is Bruno Casu.
18 I'm the owner of the property.

19 MS. FERREIRA: Good afternoon. My name's Caterina
20 Ferreira. I am the principal at archi-TEXTUAL. We are the
21 architect.

22 BZA CHAIR HILL: Okay, Ms. Ferreira. Are you
23 going to be presenting to us? Okay. Commissioner, you're
24 here also as a party member, and so you'll have the same
25 opportunity as the applicant in terms of, you know,

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1 questions. I think you saw some of that, I think, what we've
2 done before today that is.

3 And so but Ms. Ferreira, I'm going to go ahead and
4 let you start and give your presentation to us. I mean we've
5 -- I can't remember whether you were here before for
6 something, right? Was it a postponement or -- but it was
7 just all postponements; correct?

8 MS. FERREIRA: Correct, correct.

9 BZA CHAIR HILL: Yeah. So we've read or at least
10 I know the Board has read the additional burden of proof and
11 preliminary statements that you've put forward. And so, you
12 know, I can see the arguments that you're making in terms of
13 how you're meeting the standard for us to approve the
14 application.

15 You do realize that again, you're kind of going
16 against the Office of Planning's report, in terms of
17 convincing us that you're meeting the standard of the
18 variance, in order for us to make -- agree with your
19 argument. But I'll go head and put 15 minutes up on the
20 clock, just so I know where we are, and you can begin
21 whenever you like.

22 MS. FERREIRA: Thank you. So the property in
23 question is located at 3110 Monroe Street, N.E., and the lot
24 is currently almost twice the size as what is normally
25 required in the R-1-B zoning district, which is 5,000 square

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1 feet per lot. The owner requests an area variance pursuant
2 to Subtitle X, Section 1001 from the lot dimension
3 requirements of Subtitle D, 302.1, to subdivide the property
4 and construct a new one family detached dwelling on a second
5 lot.

6 So the intent is to divide the lot into two equal
7 lots, as shown on the site plan that I've put forth in front
8 of you. It is a corner lot that has access to two streets,
9 Monroe Street, N.E. and Clinton Street, N.E. There is a
10 house currently on the lot towards the front of the property
11 which faces Monroe Street.

12 What we are proposing is to locate a second house
13 on the rear of the lot, closer to where there's a public
14 alley. The project proposed does comply with the zoning
15 regulations in terms of the lot occupancy requirements,
16 height, number of stories. So there's no other relief
17 required other than the nine percent relief that's needed in
18 order to be able to subdivide the lot into two.

19 There's extensive information in the record. I'm
20 not going to go through it all. I will get to the questions
21 that were asked by Board members at the previous hearing in
22 a minute. But before I do that, I would just like to get
23 into how we meet the variance test.

24 And as you know, this is a request for an area
25 variance, not a use variance and the test for an area

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1 variance is that we must show that there's a practical
2 difficulty that is the result of specific conditions on this
3 site, and therefore the relief is required.

4 And the specific conditions impacting this site
5 have to do with a number of factors, one of which being its
6 size, which is twice as much almost, nine percent short,
7 twice as much as the norm. As a result, the rear of the lot
8 is often a dumping ground, to put it plainly. It's
9 neglected. The whole intersection is neglected because there
10 are other lots that converge in that area along Clinton
11 Street.

12 There are four lots that are similar, and I will
13 go into the full set of drawings. As you can see on the
14 image in front of you, there are four lots that create that
15 intersection between Clinton Street and I'll call it the
16 alley, and the rear of those lots is equally neglected as the
17 rear of our lot, with the exception that ours happens to be
18 also the lowest point topographically for blocks.

19 And as a result of that, and what appears to be
20 a deficiency in the drainage system currently in the alley,
21 the lot is also the recipient of an overflow of storm water.
22 That has been a problem for many, many years, and this is
23 something that was brought to light when we first started
24 talking to the community. That's how we initially found out
25 about it.

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1 That in combination with the debris dumping
2 creates a far from desirable situation to say the least, but
3 it's also very difficult to maintain. My client has had to
4 pay fines repeatedly as a result of the dumping. It's also
5 unsanitary and in addition, you know, this lot and the home
6 on it were purchased with the intention of renovating and
7 placing it on the market. This was an investment property
8 and it is difficult to place a house on the market under
9 these conditions.

10 But in addition and the main point is that this
11 creates a practical difficulty, and it's really a series of
12 site conditions. It's not just one. It's really the
13 convergence of all of these factors. The practical
14 difficulty is that this issue must be addressed. The storm
15 water, the convergence of storm water onto the rear of this
16 property is something that must be addressed, in order for
17 my client to be able to finish the project and put the house
18 on the market.

19 Doing so requires a significant investment, and
20 doing so in a way that will be let's say not detrimental to
21 the public infrastructure and to neighboring properties is
22 even more expensive. So we have consulted with a civil
23 engineering firm in order to advise us on this matter.

24 We've also discussed it with the OEE, and we have
25 explored different options for addressing the storm water

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1 management issues, and the option that has been put forth by
2 our team is to install a system of pervious pavers in the
3 parking areas and also partially along the perimeter of the
4 property, and to be able to retain a lot of the storm water
5 runoff, therefore relieving the public system that is clearly
6 deficient and creating a basin basically that would collect
7 the storm water and release it slowly back into the public
8 system and therefore helping to prevent flooding.

9 So addressing that flooding issue, the cost of it
10 has been estimated to be somewhere between 35 to 52 thousand
11 dollars, depending on which solution is implemented. That
12 is a cost that is difficult for my client to bear given that
13 this was an investment property, and this was not a known
14 condition at the time that he purchased the property and
15 undertook the development.

16 That is the practical difficulty, is that
17 addressing this issue basically makes this development not
18 viable from a financial standpoint, and you know, I want to
19 be very clear that this is not a claim of financial hardship.
20 It is a practical difficulty.

21 And it would basically negate any profit and
22 that's not even taking into account my client's time in
23 developing this property. That's just, you know, basic, a
24 basic accounting of the cost incurred.

25 How do we meet the variance test beyond proving

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1 that we have a practical difficulty? We do believe that
2 there is no known adverse impact on the zoning regulations
3 or the intent of the zoning regulations, as we do comply with
4 the zoning regulations in every other way except for the nine
5 percent smaller lot size. We also believe that there is no
6 detrimental impact to the public as what we are offering
7 actually would greatly improve the situation.

8 It would alleviate the fact that this is now a
9 very neglected section of the street. It would alleviate the
10 dumping concern. It would, you know, bring life to that
11 section of the street. It would help to alleviate the storm
12 water issue in public space, not just in our property. So
13 that is something that is above and beyond what is normally
14 required by the OEE in terms of storm water management.

15 That is something that my client is willing to
16 undertake, and therefore we feel quite strongly, as I'm sure
17 you've seen from the documentation in the record, that we
18 have a valid case. We understand that the Office of Planning
19 disagrees, and we have had extensive discussions with the
20 Office of Planning on this topic, and I'm sure they will
21 speak more about their position.

22 We have also been coordinating with the ANC for
23 several months, and that is a process has been a bit stop and
24 go, and there have been a series of misunderstandings along
25 the way that we've made attempts to clarify. The last

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1 hearing that I attended, we requested a postponement in order
2 to have the opportunity to have additional dialogue with the
3 ANC.

4 That dialogue has only partially occurred, as we
5 were not granted a place on the agenda for the public
6 hearing. So even though we postponed the hearing by a month,
7 we have not gone in front of the full ANC again. However,
8 we have received in the record as you've seen a statement
9 from the Single Member District Commissioner, reiterating her
10 support for the project and the neighborhood's support for
11 the project, even though we do not have the full support from
12 the ANC.

13 As you might recall there was a split vote, and
14 I believe that the factors influencing that vote were not
15 entirely accurate. We can get into that in more detail if
16 needed or later on during this discussion. But it appeared
17 to me quite clearly that there was a predisposition to not
18 support the project and, you know, there wasn't really much
19 we could do about it.

20 I think that also helps to explain the
21 frustrating, lengthy efforts we've made to reconnect with ANC
22 as a whole, and to try to obtain fuller support and it just
23 has not happened, I'm sad to say.

24 I would like now to address the questions that
25 were put before me at the last hearing by Board members.

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1 The first question that was made by Vice Chair Hart was why
2 is regrading the site not sufficient? As you might recall,
3 the Office of Planning's report had suggested regrading as
4 a possible solution, in order to avoid the costlier solution
5 of the pervious paver and retention system.

6 Regrading is not sufficient because given the size
7 of the lot as a whole, it would, one, not meet DOEE's
8 requirements for providing a retention system as part of
9 storm water management for this amount of disturbance. So
10 that is one reason it would not be sufficient. The other
11 reason it would not be sufficient is that it would actually
12 just alleviate the problem within our lot, but it would
13 actually divert the water to the public alley and onto
14 neighboring lots.

15 So while it would be, you know, convenient for my
16 client to divert the storm water from his lot, it would in
17 fact create a bigger problem for surrounding properties, and
18 we prefer to avoid to do that.

19 The other thing that was proposed or listed in the
20 Office of Planning's report was a bioretention pond, and that
21 is a solution that we also did not feel was appropriate,
22 given the history of illegal dumping that takes place at this
23 location, combined with storm water surges.

24 That would be a very high maintenance proposition
25 potentially, and there are additional issues surrounding

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1 bioretention ponds that were elaborated on by our civil
2 engineers in their statement, which is also in the case
3 records. There are ongoing maintenance responsibilities and
4 potential costs associated with those. So that solution also
5 for all of those reasons did not seem to us like a desirable
6 or viable solution.

7 The second question that was asked is how is this
8 lot different from other, the other three lots at that
9 intersection, and in my prehearing statement, I provided a
10 pretty detailed analysis of each lot and its specific
11 conditions. Notably, and I'll just summarize, the biggest
12 differences are in terms of topography.

13 While the lots are similar in dimensions, there's
14 really only one other lot that is exactly the same width as
15 ours. The other lots are under 50 feet, so for those lots
16 to seek similar relief would require also relief from the lot
17 width dimension.

18 But more significantly, the topography in our lot
19 is different from all the other lots. The lot that is the
20 same width, which is immediately to the north, has a 20 foot
21 different in elevation between the alley and its main, let's
22 call it backyard area. So it effectively creates a wall at
23 the rear of our lot, or at the edge of the alley, pushing the
24 water into our lot. So that's something that only occurs at
25 this particular lot.

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1 The other two lots across Clinton Street have --
2 the lot to the north has a gradual slope towards the alley.
3 So again, it's not being impacted by the storm water issues
4 that we're experiencing, and the lot to the east has a
5 similar topography to ours, except that it sits two feet
6 higher. So it is not the bottom of the bowl as ours is.

7 So again, it is not -- it is different in that
8 sense. It also does not have the hill immediately adjacent
9 to the alley pushing storm water into it. We have heard
10 reports that when flooding occurs it impacts more than just
11 our lot. It spreads along that intersection. But it is this
12 particular lot at 3110 Monroe Street that gets the majority
13 of it.

14 So the site is in fact basically the storm water
15 collection basin for all the water from several blocks. This
16 is further aggravated by the fact that the soil is clay, so
17 there's a very slow rate of absorption. We have provided a
18 geotech testing report and an infiltration testing report to
19 illustrate what we mean.

20 There are locations for the drilling that place
21 shown as part of those reports, and basically those reports
22 illustrate that there are certain areas on our site that do
23 have better infiltration rates, and that's part of the reason
24 why we were proposing the storm water retention system where
25 we are.

1 So I think I've just answered question number
2 three perhaps, or at least partially. Why was the geotech
3 report necessary, or why is it relevant? In addition to
4 telling us what the soil type is and what the absorption
5 rates might be, it also was relevant because in this
6 particular case, historically there was a stream running
7 across this block, and we felt that there was a need to
8 evaluate the water content in the soil in order to even to
9 evaluate whether it was feasible to build a house on there,
10 and what the related costs might be.

11 That stream ran basically diagonally across that
12 block, and I don't have that illustration here. But it is
13 in the case records in my prehearing statement. It basically
14 follows the topography with, you know, again there was a
15 convergence of two streams that basically converged at this
16 particular lot historically and still do today effectively.

17 We have heard testimony from ANC Commissioner, the
18 Single Member District Commissioner, stating that there is
19 continuous water running through the alley presently. So
20 this stream is in fact still there. It was buried when the
21 block was developed, but the presence of water is constant,
22 not just during storms, not just during heavy rainfall but
23 it's been an ongoing issue. So for all of those reasons,
24 we felt it was important to evaluate the soil conditions.

25 Now the other question that was asked is can you

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1 address the OP's statements regarding the variance tests,
2 specifically the practical difficulty prong. As stated in
3 our previous statement regarding the Office of Planning's
4 position, Exhibit 59 in the case records, we respectfully
5 disagree with the Office of Planning's assessment, and we do
6 not feel that the Office of Planning has to do thoroughly
7 evaluated the merits of this case.

8 I have discussed this with the Office of Planning,
9 who have informed us that given the environmental nature of
10 this case, that this is a bit outside of their territory and
11 they deferred to DOEE for additional case support.

12 Again, just to fully answer that question, getting
13 back to the practical difficulty argument, our practical
14 difficulty results from the convergence of the several site
15 conditions specific to this lot, the topographic relationship
16 of this lot to the alley at its rear, surrounding streets and
17 lots make it the de facto storm water collector for a large
18 swath of surrounding land.

19 Different soil types have different rates of
20 infiltration. The semi-clay soil type does not allow that
21 storm water to infiltrate into the ground without significant
22 accumulation. The convergence of the rear of three other
23 deep lots at that intersection results in a lack of
24 supervision, adding to the problem due to the frequent
25 dumping of various types of debris, as reported by ANC5C01

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1 in Exhibit 35 in the case record.

2 Accumulation of storm water already occurs as the
3 topography and soil type, the debris that obstructs the
4 already deficient drainage system in the public alley,
5 worsening the storm water accumulation issue by adding
6 unsanitary storm water to the mix.

7 Regarding the practical difficulty in the Office
8 of Planning's position, in their initial report, Exhibit No.
9 33 in the case records, they state the following: "The
10 applicant has provided that the physical characteristics of
11 the lot create an exceptional situation resulting in a
12 practical difficulty.

13 "However, the rectangular lot complies with
14 minimum lot width and area requirements in the R-1-B zone.
15 It's consistent with the size and configuration of other
16 nearby lots, and does not exhibit any uniqueness that would
17 make development of the lot practically difficult, as it is
18 during developed with a detached dwelling.

19 "As a result, there is not an exceptional
20 situation resulting in a practical difficulty that would be
21 resolved by subdividing the lot into to non-conforming lots."
22 Our premise is that the convergence of unfavorable conditions
23 listed previously has an adverse impact on my client's
24 ability to sell the property, purchased as an investment and
25 renovated with the intention to sell.

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1 Therefore, the development of the property without
2 relief is not viable. As a single dwelling, it has proven
3 to not be viable economically. Our proposed solution is the
4 installation of pervious pavers in proposed shared driveway
5 and parking areas, and I've already touched upon that, so I
6 will skip over that part.

7 Moving on to DOEE's statement, Exhibit 66 in the
8 case records provided by DOEE in response to a draft of this
9 statement states that a system of retaining walls could be
10 proposed as an alternative to their previously recommended
11 solution of regrading and a bioretention pond, quoted in the
12 OP Report No. 2, Exhibit 53:

13 "This solution would avoid the land disturbance
14 that regrading would cause, and the requirement for an onsite
15 storm water retention system, and it would divert 100 percent
16 of storm water runoff onto public space. Its implementation
17 would likely be as detrimental to the public as the initially
18 proposed regrading solution.

19 "Simply put, the public infrastructure is
20 currently so inadequate that the rear of 3110 Monroe Street,
21 N.E. acts as the storm water overflow area for neighboring
22 streets and lots. If the drainage system in the alley were
23 adequate, this would not occur, as the lot is not at a
24 significantly lower elevation compared to the alley. It's
25 approximately six inches to twelve inches lower at the lowest

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1 point.

2 "Diverting 100 percent of storm water runoff from
3 3110 Monroe onto public space, in addition to eliminating its
4 ability to collect the storm water runoff from neighboring
5 lots and streets as it currently does, and diverting that
6 entirely in public space as well is not likely to yield a
7 favorable outcome to the neighborhood," and this is something
8 that was very strongly expressed by the ANC and by the
9 community when we did meet with them and in subsequent
10 discussion, and in correspondence that is also in the case
11 records. The ability of the alley to handle storm water is
12 one of their primary concerns, and ours as well.

13 "Any of the solutions proposed for addressing the
14 unfavorable conditions impacting the site requires
15 significant expenditures, listed below. The regrading and
16 bioretention pond solution has been estimated to cost
17 approximately \$35,000 to construct.

18 "The pervious paver solution has been estimated
19 to cost approximately \$52,000 to construct. Please note that
20 the surface area of pervious pavers required in order to
21 address the amount of storm water runoff is the same, whether
22 the lot is subdivided and a new house constructed or not.
23 The newly proposed retaining wall solution is currently being
24 evaluated."

25 This was then; we do have an update on that. The

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1 cost of that has been estimated to be approximately \$25,000,
2 including civil engineering design fees. So while it is a
3 cheaper solution for the reasons I mentioned previously, it
4 is not considered to be a desirable solution for the
5 neighborhood, the way that we see it, as it would completely
6 divert storm water from our property onto neighboring
7 properties and the deficient public infrastructure system.

8 The anticipate profit from the renovation and sale
9 of the existing house at 3110 Monroe Street, N.E. is
10 \$50,301.81. Please refer to Exhibits 51 and 59 for
11 additional information regarding the cost listed above. We
12 did provide a more complete financial breakdown illustrating
13 those costs.

14 Subdividing the lot into two separate lots and
15 building a second house would eliminate the practical
16 difficulty. My client would have the ability to secure a new
17 construction loan that could include sufficient funds to
18 address this storm water accumulation issue in a way that is
19 not undesirable, and in a way that will not detract future
20 buyers. But more importantly, would also not adversely
21 impact the public at large, and would in fact provide a
22 benefit.

23 As initially suggested by DOEE, my client has
24 offered to pay for additional improvements to the public
25 alley area immediately behind his property, the installation

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1 of a storm water retention system in public space in the form
2 of pervious pavers, as is being proposed within the lot. The
3 cost of improvements to the alley has been estimated to be
4 approximately \$15,000, in addition to the \$52,000 for pavers
5 within the limits of the lot.

6 So this is simply an option, but it's something
7 that has been offered that we would have been very happy to
8 discuss with the ANC, because we thought they might have been
9 receptive to that idea. Unfortunately, we did not have that
10 opportunity.

11 BZA CHAIR HILL: Ms. Ferreira, do you know how
12 much more you still have? I think it looks like your client
13 also is interested in saying some things as well, and we're
14 --

15 MS. FERREIRA: I have two paragraphs, very short.

16 BZA CHAIR HILL: Okay, sure.

17 MS. FERREIRA: Thank you.

18 BZA CHAIR HILL: Sure, of course.

19 MS. FERREIRA: So I will just skip my
20 clarification of the ANC's position, since the Commissioner
21 is here. We will hear from the Commissioner and I look
22 forward to that.

23 In conclusion, given the seriousness of the
24 environmental issues impacting the site, the resultant
25 practical difficulty and the fact that the amount of relief

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1 being requested by my client is a mere nine percent from law
2 area requirements, we respectfully request that the Board of
3 Zoning Adjustments approve this application. Thank you.

4 BZA CHAIR HILL: Thank you. Mr. Casu, you looked
5 like you had something to say.

6 MR. CASU: Thank you, Commissioner Hill. I would
7 like to read a quick, brief statement where I stand.

8 BZA CHAIR HILL: Certainly.

9 MR. CASU: It's two small paragraphs. First of
10 all thank you to all BZA Board members for reviewing the
11 case. Now that you have heard the facts, I want to make a
12 statement. I'm a small-scale developer. One thing that
13 keeps me motivated is providing homes and contributing to the
14 improvement of D.C. communities.

15 However, I have never encountered this type of
16 challenges that could nearly crush my small business
17 overnight. In order to be successful with this project on
18 a small scale and provide a sound property to potential D.C.
19 residents, fixing the storm water management system is
20 paramount and unavoidable.

21 However, without the grant of relief to complete
22 the project, not only will my small business suffer and
23 experience major financial setback, but my growing family
24 will as well. I have gone door to door and spoke to the
25 neighbors about the storm water issue and the stretch of

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1 Clinton Street in the area in questions.

2 Neighbors have described how troublesome this part
3 has been over the year. 3110 Monroe Street is on the corner
4 of Monroe and Clinton, and the backyard of 3110 Monroe
5 stretches along Clinton. Along that stretch of Clinton in
6 that particular spot, there's no deterrent from trash
7 dumping, abandoned cars and suspicious activity, all of which
8 are currently regular occurrences.

9 I have received violations for trash dumped in the
10 backyard near the alley, done by random people. I have
11 witnessed abandoned cars as recent as April 9th, 2019.
12 However, a property facing Clinton Street with residents will
13 provide the solution needed to deter the undesirable activity
14 that area has been experiencing.

15 In closing, receiving relief necessary to complete
16 this project will impact the neighborhood in several positive
17 ways. Improve the storm water management, clean up the
18 stretch along Clinton and Monroe, add one additional family
19 size dwelling and Woodridge neighborhood will welcome one
20 additional growing family.

21 I realize the courage within you all to make this
22 happen. So I express my sincere gratitude for your time and
23 considerations. I'm looking forward to receiving your
24 approval of the small nine percent waiver requested. Thank
25 you.

1 BZA CHAIR HILL: Thank you. Let's see. So before
2 I move on to questions from the Board, I just wanted to
3 clarify something with the Commissioner. So Commissioner you
4 are here. Do you have authorization -- I'm trying to
5 understand exactly you're here -- in which capacity you're
6 here in terms of your testimony.

7 Like you were here --- do you have kind of a
8 letter of authorization to represent the ANC, or are you here
9 kind of as your independent SMD Commissioner?

10 MS. BREVARD: I'm here as my SMD.

11 BZA CHAIR HILL: Okay, great. So the reason why
12 I'm asking is that that in that case, you will have time to
13 testify just like the normal SMD Commissioner would. I think
14 you get five minutes, and so we'll have -- and you're welcome
15 to sit there. But we will have some questions for you after
16 your testimony.

17 The reason why I'm clarifying that is that you're
18 not necessarily a party right now to this hearing.
19 Otherwise, we'd go through like questions and answers and all
20 this stuff. So I'm just providing clarification. So we'll
21 come to you as well at some point during the testimony.

22 So does the Board have any questions for the
23 applicant?

24 BZA VICE-CHAIR HART: I appreciate the responses,
25 Ms. Ferreira, that you've provided. I understand where it

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1 is that you're coming from and your client's coming from.
2 I do have a -- I guess it's a clarification, and this is I
3 guess for Ms. Ferreira.

4 You're telling us that the reason for having --
5 the reason for the request for the variance is because there
6 are storm water management issues on the rear of the
7 property, and that to solve that, you're proposing to add a
8 building to the area that there are already storm water
9 management issues, as well as adding some porous pavement
10 that will -- or pavers that will help to alleviate some of
11 the -- some of the problems. Am I understanding that
12 correctly?

13 MS. FERREIRA: Yes, although maybe I could
14 clarify. We are proposing adding a building because
15 addressing the cost associated or the cost associated with
16 addressing the issues on the site, which are not just storm
17 water. It's dumping of debris. It's ongoing maintenance
18 issues --

19 BZA VICE-CHAIR HART: But that, but that could
20 happen anywhere. I mean the dumping stuff is like -- I mean
21 that's kind of, okay, you're in a city and you're having to
22 deal with that.

23 What I'm trying to get to is that there is
24 something special about this particular site, and the special
25 nature of the site is your testimony and in the information

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1 that you provided, is that since this was a former, what do
2 you call it creek that was -- or historic creek that was
3 running through there, that there is some of that remnant
4 topography that is causing some, you know, these topographic
5 changes.

6 Sorry, the topography is a result of the creek,
7 and it is causing water to be ponding or whatever on the, on
8 your site. But the part that is, that is not connecting is
9 that I understand that it is costly to do that. I get that.
10 But you're asking for a variance to be able to subdivide a
11 lot to allow you to build another building, that would then
12 provide you with money to be able to actually deal with the
13 storm water management issues.

14 MS. FERREIRA: Yes. We're asking for the
15 opportunity to subdivide the lot, so that an adequate
16 solution to the storm water issues can be provided.

17 BZA VICE-CHAIR HART: But one could be provided
18 without so dividing the lot. You're just saying that it's
19 too costly to do that?

20 MS. FERREIRA: Correct.

21 BZA VICE-CHAIR HART: Okay. That is, thank you.

22 BZA CHAIR HILL: Okay. Anyone else?

23 Okay. Go ahead and turn to the Office of
24 Planning.

25 MR. MORDFIN: Good afternoon. I'm Stephen

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1 Mordfin, and the Office of Planning recommends denial of this
2 application, primarily because in meeting the three part
3 test, first what is unique about this site, in that it can't
4 be used as is intending by the zoning.

5 The zoning intends for it to be developed with one
6 single family detached dwelling. It is developed that way
7 and has been used that way for many years. Dividing the site
8 into two lots that are smaller than what is -- what is -- not
9 proposed, what is stated in the zoning also has other
10 effects.

11 It increases the density in the neighborhood
12 beyond that which anyone would expect in an R-1-B
13 neighborhood, and it doesn't make it so that the -- so that
14 the lot can be used as is intended by the zoning. It's
15 already being used that way.

16 So it doesn't correct something unusual about the
17 property, like if you have unusually shaped property, maybe
18 you can't design a building to fit on there without violating
19 the yards or something like that, or maybe you need a
20 variance to parking because maybe there is no alley, there's
21 no way to access it.

22 In this case, the property's already developed as
23 intended by the zoning. So subdividing it into two
24 substandard lots does not further the intent that this be
25 used as a one family dwelling on one lot. It's not

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1 necessary. It's already been proven that the lot can be used
2 as intended by the R-1-B.

3 BZA CHAIR HILL: Does the Board have any questions
4 for the Office of Planning?

5 MEMBER WHITE: Just one question. I mean were
6 there any other options proposed to the applicant to make
7 better use of that property or it's just basically you did
8 the analysis and it's not meeting, you know, the variance
9 criteria so it's been denied. But were there any alternative
10 solutions that could be helpful to the applicant?

11 MR. MORDFIN: Well, first, this was worked on by
12 Brandice Elliott, who's not here today. So I did not prepare
13 the reports.

14 However, if the applicant, I believe she had
15 talked about, you know, presenting some kind of financial
16 hardship in making use of this property, that perhaps that
17 would be an argument, although primarily any variance
18 argument should relate to the property itself and what is
19 unique about that property that then is going to result in
20 a practical difficulty. Because the property's in use as it
21 is intended, that makes it a difficult argument.

22 BZA CHAIR HILL: So just in terms of the argument
23 that they're making, and bottom line as you stated, it is
24 being used now as the zone had intended. However, the
25 argument that to -- I guess maybe DOEE can also help us with

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1 this, but the argument that it would be costly to fix the --
2 I mean it's an interesting argument.

3 I mean like, you know, they're saying like in
4 order to pay for the cost of fixing the yard, you need to
5 have another house, right. So that's kind of the argument.
6 So what does the Office of Planning or what does DOEE think
7 about how much it costs to fix the issue?

8 MS. BAUTISTA: So this is -- good afternoon,
9 Julienne Bautista with the Department of Energy and
10 Environment. So the cost, the potential in repairing the
11 yard in relation to putting a building is kind of an
12 interesting question for us. Currently, our storm water regs
13 are under update right now. We're updating the guidance on
14 our storm water regulations.

15 So we're allowing certain features of landscaping
16 to be permitting without triggering storm water requirements.
17 So if they were to regrade the lot and do some sort of
18 landscape improvement to the rear end, it wouldn't trigger
19 major storm water requirements.

20 They would have to regrade the lot anyways,
21 because they need to meet Plumbing Code requirements. D.C.
22 Plumbing Code says that any storm water from adjacent
23 properties running into, crossing property lines must go into
24 a shared best management practice, which is a storm water
25 practice.

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1 If there is storm water coming from the alley or
2 from adjacent lots, that is a violation of that Plumbing
3 Code. So it is up to the -- it is -- it behooves the
4 property owner to regrade it, to discourage storm water from
5 coming onto its lot. But it also has to treat the lot, the
6 storm water that falls on its lot itself. Landscaping will
7 help that.

8 So adding another building in DOEE's perspective
9 would actually increase even more requirements on the
10 property. So in addition to the home that's already being
11 improved, if you put another house there, you would trigger
12 our major substantial improvement regulations, which is a 0.8
13 storm water requirement for that existing home.

14 Then you would trigger the 1.2 inch storm
15 requirement for the new building, plus whatever improvements
16 were on the site. So you would actually incur a greater cost
17 by putting a new building on the site.

18 BZA CHAIR HILL: Ms. Bautista, thank you for
19 providing that information. Do you -- so would other, and
20 I'm trying to kind of get -- one of the things that you
21 raised was about having to deal with other people's storm
22 water. So I understand that any owner would have to deal
23 with storm water that falls on their property in a way that
24 is, that will help to reduce the flow, reduce the speed.

25 So kind of percolate, so retain as much and then

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1 be able to more slowly release that storm water in a way that
2 would be less taxing on the system, the system at whole. So
3 the applicant and their architect have described that there
4 is a lot of storm water that's coming onto the site.

5 So would other owners in this, along this alley,
6 along this street have to deal with that issue, like the
7 storm water that's coming from their property onto this
8 applicant's property?

9 MS. BAUTISTA: Yes.

10 BZA CHAIR HILL: Do they, would they have to do
11 when -- is that when they are -- what would trigger that?
12 I mean if right now like DOEE understands or at least you're
13 here. You understand that there is storm water that's coming
14 onto this property, is there any trigger that would mandate
15 a next door neighbor or any of the other people on the block
16 to be able to kind of deal with their own?

17 MS. BAUTISTA: So DOEE does not regulate the D.C.
18 Plumbing Code. That would be under the guidance of DCRA.
19 So the property owner would have to inform DCRA of the
20 violations under the Plumbing Code and DCRA would take
21 action.

22 BZA CHAIR HILL: So I'm still -- I had not heard
23 of the Plumbing Code, so I guess there is one. It wouldn't
24 connection -- I guess it does connect to me now, but it
25 wouldn't connect to me in my mind that they would be the ones

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1 that would be administering, you know, overseeing that, but
2 that's fine.

3 So the owner would just kind of say oh by the way,
4 this is some issue. This is a storm water management issue
5 having to deal with somebody else's, and then some sort of
6 action would go on the other neighbors on the block?

7 MS. BAUTISTA: Yes.

8 BZA CHAIR HILL: Okay. So one of the things that
9 I read was a, I guess it was a report that you filed? I
10 can't recall where I saw it now, but it basically describes
11 some options that the applicant could kind of move forward
12 with. One of them was retaining walls, which seemed a little
13 bit harsh to me.

14 But is there a not a mandate, I don't know what
15 the term would be, to keep other storm water from coming onto
16 your property? I mean is there a policy that is in place
17 that would say oh well, I have a right to keep storm water
18 from coming onto my property, other people's storm water?

19 MS. BAUTISTA: Other than the D.C. Plumbing Code,
20 no.

21 BZA CHAIR HILL: Yeah, okay.

22 MS. BAUTISTA: It's only stated in the Plumbing
23 Code.

24 BZA CHAIR HILL: Okay, and so if they were --
25 let's say they were to put in a retaining wall or something

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1 along the alley would divert the water coming down the alley.
2 I'm not exactly sure where all of it's coming from, but let's
3 say some of it's coming from there, it would then go into the
4 street and that is acceptable?

5 MS. BAUTISTA: So there's -- it's unclear to me
6 through the documents how much of the drainage area is coming
7 from the public right-of-way from the public alley itself,
8 or the neighboring properties. So I didn't see a drainage
9 delineation provided.

10 That would be interesting to understand, because
11 certain BMPs have limitations on the area that contributes,
12 you know, water to that storm water B&B practice like a
13 pervious paver practice. So I can't say that --

14 BZA CHAIR HILL: You don't have to speculate. I
15 was just, I was just wondering, you know, what. I was just
16 wondering something, and I think you've responded.

17 MS. BAUTISTA: And I'm not going to -- in my
18 discussions with DDOT, they sometimes over-estimate the
19 amount of storm water that runs to their facilities, and
20 sometimes they do include private property owners, right.
21 So some of the building restriction line areas, they will
22 take that into account going into their storm water catch
23 basins.

24 BZA CHAIR HILL: Okay. I think that's it.
25 There's one other question I wanted to ask you and I can't

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1 recall that now. Yes, and I do recall it. So do you -- the
2 applicant has also stated that they would -- well, I guess
3 they were saying that they would be spending a similar amount
4 of money if they had kind of one building with a large lot
5 or two buildings with two smaller lots, if they wanted to put
6 in the porous pavement.

7 So the requirement would be a similar thing for --
8 a similar thing for both lots? I don't know. Do you
9 understand the question that I'm getting to?

10 MS. BAUTISTA: I think you're trying to ask me how
11 does this project in its entirety trigger a storm water
12 regulation?

13 BZA CHAIR HILL: Yes.

14 MS. BAUTISTA: So as I mentioned earlier, we would
15 actually consider this project a common plan of development.
16 So that first home, the current existing home would be a
17 major substantial improvement, which would trigger a
18 different set of storm water regulations, which is a lower
19 degree, 0.8 inch rainfall event.

20 And then the new building and land disturbances
21 associated with that, and for the entire lot would be 1.2
22 inch storm requirement. So that's a higher degree. They did
23 not provide like preliminary calculations of what that
24 retention requirement would be, but it would be higher than
25 what it currently is.

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1 BZA CHAIR HILL: Okay. I kind of thought it
2 would. I don't know. I mean I -- as I think you probably
3 heard, I was kind of looking at this like you're having two
4 buildings that have more -- that have more impervious
5 surface, so you would have to kind of deal with that, as
6 opposed to the one building. But I appreciate your
7 responses, and thank you.

8 Okay. I'll turn to my fellow Board members in a
9 minute again, but Ms. Ferreira, just a couple of questions
10 for you as you're kind of pulling out some stuff. What is
11 there now? Is the one existing, because I'm looking at --
12 I don't know. I'm looking at one of your plans here and it
13 says, you know, the existing single family detached dwelling
14 and then the new single family detached dwelling, and then
15 the four parking spaces. So there is an existing curb cut
16 there now; correct?

17 MS. FERREIRA: That is correct and -- yes.

18 BZA CHAIR HILL: I'm trying to get my head around
19 this a little bit, and the one that is the existing single
20 family detached home, that's currently being developed;
21 correct?

22 MS. FERREIRA: That is correct.

23 BZA CHAIR HILL: Okay. This would actually go
24 just to Mr. Casu. So you had purchased this lot thinking
25 that that backyard was just going to be what?

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1 MR. CASU: Just a backyard for kids to run around.

2 BZA CHAIR HILL: Okay, and the existing -- and Ms.
3 Ferreira, if you'd turn off your mic? More than one mic
4 gives us feedback. The curb cut then, what were you going
5 to do with the curb cut? You'd just have parking behind the
6 --

7 MR. CASU: That's correct.

8 BZA CHAIR HILL: You'd just have parking behind
9 the new home. So you're here now for, and I'm asking you
10 actually. I want to preface this. I'm asking you honest
11 questions, and so you know -- so you just thought that it was
12 going to be a backyard when you purchased it, and so now the
13 --

14 What I'm trying to get my head around is what the
15 exceptional condition is and how you're getting to the
16 variance test, and that the reason why you're here is because
17 the solution that you've tried to figure out from the storm
18 water management problem is again developing another home?

19 MR. CASU: That based on my -- people that I hire,
20 engineers and architect. That is the answer.

21 BZA CHAIR HILL: Okay. No, because I'm just
22 trying to get to, because originally you started to develop
23 this house already. You were going to have I guess, I don't
24 know, a big parking lot behind that house, and they were
25 going to have just a big play area. I don't know what you

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1 were going to do. That's what was the original plan?

2 MR. CASU: That's correct.

3 BZA CHAIR HILL: Okay, all right. So does anybody
4 have any questions for the Office of Planning or DOEE?

5 Okay. Do you guys have any -- so you just
6 disagree with DOEE. I mean do you have any questions for
7 DOEE, Ms. Ferreira, or that there's a way that you can do
8 this with it not being so cost prohibitive that you need to
9 build another building?

10 MS. FERREIRA: I don't disagree with DOEE per se.
11 I think there are many possible solutions to address the
12 storm water, the convergence of storm water onto the site.
13 But that is not the only unique situation that we have
14 described. It's also the fact that this is a large swath of
15 land with no houses on it. There are 400 feet between the
16 front of each house along Clinton Street.

17 It's a largely neglected part of the street and
18 there are many, many issues that go along with that. So the
19 storm water is just one issue. It's really a convergence of
20 various issues on this site that could be alleviated by the
21 construction of a new house.

22 BZA CHAIR HILL: Okay. I mean we're -- I mean to
23 be quite honest, I think the design looks nice. I'd love if
24 you were able to go ahead and do that, you know. It's just
25 that a variance is not an easy thing for us to go ahead and

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1 approve. I know that you've already gone through this over
2 and over again with the Office of Planning, and I don't want
3 to waste you guys' time any more after this.

4 So we're going to figure it out, right. And so
5 the reason why I'm just kind of getting to this, Mr. Casu,
6 is again you kind of told me about like, you know, I mean I'm
7 a small business owner also, right. So like, you know, it
8 sucks when things go bad and you planned on doing whatever
9 you were going to do, right.

10 So I'm just -- your hardship case that you are
11 giving me that I'm trying to understand is that you've
12 already started to build the house the way that you're going
13 to build it, and so you weren't planning on doing anything
14 other than it being a big backyard anyway. So that's what
15 I'm trying to kind of get my head around.

16 But regardless, you still have to meet the
17 variance test. The Office of Planning is saying the lot is
18 being used the way the lot is supposed to be used, right?
19 So they're saying it's already being used that way, right.
20 Just because you have a big backyard that's just the way it
21 is, right. So I don't know if you're going to get to that
22 variance test, so I'm just trying to figure out and
23 understand.

24 So I don't know what exactly that led to, other
25 than I'm going to move on to the next thing. Yeah. Go

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1 ahead, sure.

2 MS. FERREIRA: Could I --

3 BZA CHAIR HILL: It was just a statement, but
4 you'll have time to talk again. But there's a question, I
5 guess, over here to my left.

6 ZC VICE-CHAIR MILLER: Thank you, Mr. Chairman.
7 Your talking prompted a question in my mind, which is not
8 necessarily related to what you're talking about. But it's
9 a question for Mr. Mordfin, and perhaps the architect. This
10 is a large lot, and it is just nine percent short of the lot
11 area size to subdivide it into two as a matter of right
12 development.

13 But what -- with the existing size, what kind of
14 accessory structure would be permitted as a matter of right
15 in that backyard, and was that explored or discussed at all
16 with the applicant? Is there any structure that would be
17 permitted as a matter of right in that, under our existing
18 zoning regulation?

19 MR. MORDFIN: They could -- I mean they could put
20 a detached garage in there.

21 ZC VICE-CHAIR MILLER: A detached garage with a
22 dwelling unit above it or in the R-1-B zone?

23 MR. MORDFIN: I don't believe that's in the R-1-B.
24 I'd have to look that up right now. I don't think the R-1-Bs
25 get a second unit. The RF zones, you know, you get the flats

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1 and you get a second unit.

2 ZC VICE-CHAIR MILLER: I thought --

3 MR. MORDFIN: I have to look that up. Right now,
4 I cannot recall if you get a second unit or not.

5 ZC VICE-CHAIR MILLER: Does the architect know if
6 --

7 MS. FERREIRA: Yes, and that is something that we
8 verified, because we are proposing an EDU in the lower level
9 or part of the lower level.

10 ZC VICE-CHAIR MILLER: Yeah, I saw that. But did
11 you explore --

12 MS. FERREIRA: Yes.

13 ZC VICE-CHAIR MILLER: And what is your opinion
14 about what you could do as a separate structure in the
15 backyard?

16 MS. FERREIRA: Well, the issue is that this is a
17 for-sale property and, you know, building a tiny house on the
18 rear is feasible per the zoning regulations. It is allowable
19 to have an accessory dwelling on the property in all zones
20 except 19 and 20. So in R-1-B it is allowable as well I'm
21 quite certain.

22 ZC VICE-CHAIR MILLER: That's what I thought.

23 MS. FERREIRA: So that is something, that is
24 something that could have been proposed. It is not how we
25 started this case. Quite honestly and, you know, speaking

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1 earnestly, as you might have seen from the documents in the
2 case records, this was always a bit of a risky development.
3 Financially, it is not the highest profit-generating
4 development, and we started this process with the desire to
5 subdivide the lot.

6 We found out in that process that there are some
7 serious conditions impacting the site that quite honestly we
8 did not know about in all honesty, and they were brought to
9 our attention by the community, by the ANC as we started the
10 process --

11 BZA CHAIR HILL: Ms. Ferreira, I'm just going to
12 interrupt you. That's your argument, is that you have the
13 problem. Otherwise, just because --

14 MS. FERREIRA: Correct.

15 BZA CHAIR HILL: Just because you're short, you're
16 short to subdivide the lot. So the argument is the storm
17 water management. That's your argument you're having, right?
18 Otherwise, you don't get it, you know. Okay, meaning you
19 don't get to subdivide the lot.

20 MS. FERREIRA: And we're grateful.

21 BZA CHAIR HILL: Yeah, well I mean well we'll see
22 what happens. But so sorry, Commissioner Miller.

23 ZC VICE-CHAIR MILLER: Yeah. So what was the
24 largest size accessory structure that you could have built,
25 you could build in that backyard?

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1 MS. FERREIRA: I believe it's 450 square feet.
2 Just from memory, dealing with similar --

3 ZC VICE-CHAIR MILLER: With one dwelling.

4 MS. FERREIRA: One dwelling, uh-huh.

5 ZC VICE-CHAIR MILLER: Okay. Did you consider
6 that, Mr. Casu? I guess that could be income-producing for
7 whoever owns it.

8 MR. CASU: That's true. It could certainly be.
9 Then it goes to the extent of considering the market value
10 of the property, what you can sell it and that the cost of
11 building the lot could be, factoring in the sales price.
12 Whether you can then eventually find a buyer that's willing
13 to pay a certain amount to cover all your expenses, and
14 that's something that I haven't really paid much attention.

15 But I believe, since it's not comparable in the
16 market in the area, it will be not a wise action, kind of
17 action.

18 ZC VICE-CHAIR MILLER: And you've renovated the
19 existing house that you've bought there?

20 MR. CASU: That's correct.

21 ZC VICE-CHAIR MILLER: Does it have more than one
22 bathroom now?

23 MR. CASU: It has total of three bathrooms.

24 ZC VICE-CHAIR MILLER: Three bathrooms.

25 MR. CASU: Correct.

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1 ZC VICE-CHAIR MILLER: Well that's a good purpose
2 of a renovation. I think it made it more marketable. Thank
3 you.

4 MR. CASU: You're welcome, very much.

5 BZA CHAIR HILL: Okay, anyone else? Okay. Do you
6 --

7 MEMBER WHITE: I'm just assuming the main thing
8 is that I'm just having difficulty with the whole argument
9 that they're meeting the variance test. So you know, between
10 Office of Planning, I'm kind of interested to hear what the
11 ANC has to say. But yeah, I'm just struggling with being
12 able to get over the test for variance, because that's
13 basically making a change in the regulation so --

14 BZA CHAIR HILL: Okay. Before I get to the ANC,
15 just is there anybody else who wishes to speak in support?
16 Is anybody here that wishes to speak in opposition?

17 Okay. So Commissioner, I'm going to go ahead and
18 give you five minutes to provide your testimony, and you can
19 begin whenever you like.

20 MS. BREVARD: On back in October, I held a Single
21 Member District meeting to address this project. If I
22 remember correctly, there was about 19 people in attendance,
23 and they were within 200 feet of the property. Most of the
24 neighbors in attendance were for this project.

25 As stated earlier, the location is a dumping site

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1 and I've been dealing with DPW and DCRA as far as getting
2 cameras in the area to capture whoever's dumping. But they
3 were in favor of the project for that main reason, but their
4 main concern was the water management system. They did not
5 want that disturbed.

6 It hasn't been there very long. But since the
7 City installed it, there's been less flooding in the
8 basements of the neighbors' homes. I have no reason to be
9 against the project, and I do stand with my neighbors in
10 support of the project. However, the ANC5C, the vote was
11 split, 3-3. So that took away the great weight that would
12 be given, and they had indicated -- three of colleagues
13 indicated that --

14 Well, their concern was the Foster family who
15 lives next door, and they're not involved in this for
16 whatever reason. I've made contact with the, what the
17 concern was, if there's any digging at 3110 Monroe, then it
18 would surely cause damage to the Fosters' home, and
19 inadequate parking spaces. It was indicated that there would
20 be enough parking spaces for four cars, if I remember --
21 okay, all right.

22 And they felt that that wasn't enough, and curb
23 cut would have to be made wider and said it would take up a
24 lot of street parking space. But as I said before, I stand
25 with my neighbors in this matter. Thank you.

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1 BZA CHAIR HILL: Okay, great. Thank you. Does
2 the Board have any questions for the Commissioner?

3 BZA VICE-CHAIR HART: Not a question. I just was
4 -- I'm glad that you continued talking about the Foster
5 family, because I thought you meant they were a foster
6 family, and then I realized oh, you mean their names are
7 Foster.

8 MS. BREVARD: Oh, I'm sorry.

9 BZA VICE-CHAIR HART: But anyhow, I appreciate
10 your coming down and I thank you very much for that comment
11 you made.

12 BZA CHAIR HILL: Okay great. All right. All
13 right, let's see. I don't know. Does anybody have any
14 questions for the applicant?

15 Does the applicant want to say anything at the
16 end?

17 MS. FERREIRA: Yes. I didn't actually have the
18 opportunity to ask questions of the Office of Planning. So
19 I would like to --

20 BZA CHAIR HILL: Oh sure, I'm sorry. I apologize.
21 You're correct. Would you like to ask any questions of the
22 Office of Planning, or DOEE for that matter?

23 MS. FERREIRA: Yes.

24 BZA CHAIR HILL: Please go ahead. Sorry.

25 MS. FERREIRA: Thank you. I would just like to

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1 ask the Office of Planning if they concur with the portion
2 of the argument having to do with the exceptional conditions
3 on the site? Do you agree that there are in fact exceptional
4 conditions impacting this site that -- and I've pulled up an
5 image here on the screen -- that shows you, you know, with
6 some elevation markers on there.

7 This is from civil engineering software, shows you
8 the difference in grade between our property, which is at --
9 basically it's at zero, right, because that's the starting
10 point, and up 20, 25 feet, 30 feet within, you know, less
11 than a block distance in all directions.

12 Would you concur that that, in addition to the
13 facts that we have, clay soil as the soil type, most likely
14 just in our property but as most people know in the city it's
15 quite common in this part of Washington, D.C., that all of
16 this is resulting in an unusual situation that is impacting
17 the site in a way that it is not impacting other sites near
18 it or nearly as much? Is that something that you would agree
19 with?

20 MR. MORDFIN: Well, I would agree that there is
21 something unique about this site, but I don't see the
22 connection where that goes to its resulting in a practical
23 difficulty that prevents you from being able to utilize the
24 site.

25 MS. FERREIRA: Would you consider that the ongoing

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1 maintenance costs associated with such an unusually large
2 lot, and I will just state it again, just for emphasis, it
3 is almost twice as much as a normal-sized lot in this zoning
4 district, nine percent short of being large enough for two
5 lots. The ongoing maintenance costs given the storm water
6 issues that result from both the soil conditions and
7 topography, and the frequent dumping of debris that occurs,
8 that then blocks the public drainage system in the alley,
9 impacting this lot even more. Would you agree that that's
10 above and beyond the norm?

11 MR. MORDFIN: I would not because I don't see how
12 -- I mean people may be dumping there. I don't see how
13 that's -- that's something -- that's another issue that you
14 would correct in other ways. Maybe you need to fence off the
15 property, I don't know. Maybe you need to install lighting
16 on there to keep --

17 But I don't see where subdividing the property
18 into two substandard lots is going to correct the dumping
19 problem. I don't see where the nexus is between those two.

20 MS. FERREIRA: It would correct the dumping
21 problem because it would add a house along basically a
22 stretch that's a block long, that has no other houses facing
23 it and it would then place eyes on the street. That just
24 wouldn't deter dumping, but it would defer other types of
25 illegal activity that would take place.

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1 We did consider other options. However, you know,
2 options such as building a tiny house would not make this the
3 most marketable property. In addition to the cost of storm
4 water management intervention that's required might not be
5 easily absorbed by building a tiny house, just to get back
6 to Commissioner Miller's point.

7 So the construction of a new house on this site
8 is not a crazy idea. I mean this is a lot that is nine
9 percent smaller than it needs to be in order to be able to
10 accommodate two houses by right. We are trying to address
11 the storm water issues, surveillance issues, quality of life
12 issues in this particular block in an efficient manner in
13 proposing a new house be constructed on the slot, with a
14 sufficient budget to address the storm water management
15 issues etcetera in a way that not only takes care of our lot,
16 but also provides a benefit to the public at large.

17 Would you agree with that portion, that building
18 a house here and implementing let's say the bells and
19 whistles storm water management system, if you want to call
20 it that, would provide a public benefit to this intersection,
21 to surrounding properties, more specifically the Fosters'
22 home next door which also gets flooded because it is also at
23 an almost as low point in the alley. Would you agree with
24 that?

25 MR. MORDFIN: You don't have to -- no, I would

1 not, because you do not have to subdivide the property in
2 order to do any of those improvements that you have
3 mentioned.

4 MS. FERREIRA: My client is not required --

5 BZA CHAIR HILL: All right, Ms. Ferreira. That's
6 okay. I mean you keep -- you keep asking the same question
7 three different ways, and it's all right. He's just not --
8 they have the report. They're giving you their opinion and
9 so, you know, I mean -- so do you have any more -- you kind
10 of gave the way that I'm actually asking questions today.
11 You gave a long speech, and at the end there was a question.
12 So do you have any more questions for the Office of Planning?

13 MS. FERREIRA: I do not, thank you.

14 BZA CHAIR HILL: Okay, all right. So okay. So
15 now's the time for closing. So you know, does the Board have
16 any final questions of the applicant?

17 Okay. So Ms. Ferreira, you can go ahead and give
18 us your closing.

19 MS. FERREIRA: I will try to keep it brief. I
20 would simply reiterate that the amount of relief being
21 requested is less than nine percent. Nine percent is
22 rounding up. But constructing a new home in this location
23 would allow us to address all of these specific issues
24 impacting the site that create a practical difficulty for my
25 client to be able to successfully complete the renovation of

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1 the home that's currently there, and place it on the market,
2 and to make it desirable to future buyers.

3 I would also like to add that this location is
4 within walking distance of Rhode Island Avenue, which is
5 something we didn't really talk about too much. But it is
6 in the location where adding a new dwelling would be a
7 favorable thing. It is close to a commercial corridor and
8 transportation corridor, and again the relief being requested
9 is less than nine percent.

10 I understand that it's an unusual case. I
11 appreciate everyone's feedback and involvement. I appreciate
12 the Office of Planning's feedback, even if it is a
13 recommendation for denial. I understand they're doing their
14 job and it's an unusual case for them, so I didn't mean to
15 push anybody's buttons, and I appreciate ANC Commissioner
16 being present here to reiterate her support for the project.

17 I know that she shares a lot of the same concerns
18 that we do, and I would also like to reiterate that we do
19 have the support of several of neighboring properties. They
20 know what the issues are. They are concerned about them too.
21 So I kindly request that you take this request as seriously
22 as we do, and I respectfully request that you grant us
23 approval. Thank you.

24 BZA CHAIR HILL: Okay, great. All right. I'm
25 going to go ahead and close the hearing. Is the Board ready

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1 to deliberate? Would someone like to start?

2 BZA VICE-CHAIR HART: Why you looking at me? I
3 know. You always look at me, Mr. Chairman. So we had before
4 us a question, which was a very interesting question I'd have
5 to say, which is how do we -- how do we look at the variance
6 in this case, which is the applicant wanted to subdivide a
7 lot, and in the subdivision of that lot in an R-1-B zone, it
8 caused the applicant to have kind of two substandard lots
9 that would be created.

10 The original lot was meeting the requirements in
11 the zone, but the two lots were -- would not. The need for
12 that subdivision was because the owner of the property was
13 trying to deal with a storm water -- well, this is what
14 they've provided -- that the owner was dealing with a storm
15 water, trying to deal with a storm water issue in an area
16 that was a lower area in topography than the surrounding
17 neighborhood, and an area that had -- for some reason it was
18 some sort of trash magnet or just dumping ground for the
19 area.

20 I understand that, you know, these houses are far
21 apart from each other. I mean I get where there -- where the
22 applicant was going, and I will say I can understand there
23 being a -- the topography being a particular concern because
24 the runoff from other properties are causing issues with the
25 drainage for the applicant's site in that they are at the

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1 area that is kind of one of the lower areas in this
2 neighborhood.

3 However, while I understand that there are some
4 particular concerns about this property, I don't think that
5 there is a connection between those particular problems and
6 the need to -- and the need to grant the request to separate
7 these two, or excuse me, separate this one lot into two
8 substandard lots that would require a variance.

9 I mean and I understand that the applicant is a,
10 you know, is a small business trying to, you know, kind of
11 make some money in doing this, and you know unfortunately
12 sometimes when you're dealing with properties and dealing
13 with real estate, you have to deal with some -- a lot of
14 unknown things. This seemed like it may have been an unknown
15 thing.

16 So I guess the way -- where I'm coming down on
17 this is I don't believe that I would be able to approve this
18 application, because I don't believe that the applicant has
19 provided a -- I don't think that there is a connection
20 between the topographic change and the need to subdivide a
21 lot into a substandard lot for this particular zone.

22 I understand the Office of Planning's point and
23 I agree with their point. There may be a unique, not unique.
24 There may be some situation that's happening at this
25 particular lot. But there is not a connection between that

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1 and then the need to subdivide it that I can -- that I can
2 agree with.

3 I understand that the applicant has made those --
4 has made quite a number of -- provided quite a number of
5 information in the record about it, but I just simply don't
6 agree with it. I don't think there is a connection between
7 the topographic issue and the need to build a house. I think
8 I raised the question, which was the solving of the problem
9 of trying to deal with the storm water is by adding more
10 impervious surface to the, you know, to the neighborhood.

11 You know, I think there may be some other -- there
12 may be some other solutions for this. I don't know what
13 those are, but I think that there could be a possibility, and
14 Commissioner Miller brought up an issue about, you know,
15 maybe it is an accessory building and they add to the lot
16 that wouldn't require this zoning relief.

17 I just don't see this as a connection, so I
18 couldn't be able -- I couldn't support the variance request.
19 So I know I was kind of going around about these particular
20 issues, but I think that the particular issue with trying to
21 connect the exceptional situation that would result in a
22 practical difficulty, I just -- I can't make that connection.
23 I don't agree with the applicant's reasoning on it. I
24 understand it; I just don't agree with it. So I would be
25 voting to not support the application.

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1 MEMBER WHITE: I'll just add some thoughts. I
2 think I agree with Vice Chair Hart, and I was looking for
3 alternative solutions, to figure out what other options would
4 be available for this. But you know, with the variance
5 standard, I mean it's a very serious and it's a very high
6 bar.

7 So you know, this is a rectangular lot that's very
8 deep as you've argued, and you're seeking an area variance
9 from the lot dimension requirements of D302.1, to subdivide
10 the existing lot and construct a new detached principal
11 dwelling unit in the R-1-B zone.

12 As you stated, it's 3110 Monroe Street, N.W. The
13 minimum required is 5,000 feet, and you wanted to subdivide
14 the lot into two identically-sized lots at 4,584 square feet.
15 The lot currently has a one family detached dwelling, as
16 you've stated now, and it's closer to the front of the lot,
17 and you wanted to build another house, which is now -- that
18 is now the rear yard.

19 So you need that lot area variance relief, so that
20 they can split the lot into two lots, which as Office of
21 Planning indicated, it was really not the purpose of that
22 lot. The purpose was for it to be a lot for one residential
23 unit. So they denied, recommended denial here and I tend to
24 agree with them, and also agree with some of the comments
25 that we heard from the testimony from the SMD representative,

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1 so thank you for coming.

2 But you know, but we do have limits in terms of
3 what we can give great weight to, but obviously I think your
4 testimony was helpful as well. But the problem here for me
5 was that there seemed to be a lack of meeting the criteria
6 for the variance, exceptional circumstance resulting in a
7 practical difficulty, that would be resolved by subdividing
8 the lot into two non-conforming lots.

9 I do think that there could be some harm to the
10 zoning regulations as well, because the proposed subdivision
11 would result in harm to the zoning regulation by creating
12 lots smaller than anticipated by the R-1-B zone, you know,
13 we're always trying to brush up on our training in terms of
14 these variance standards, and we did it as recent as
15 yesterday.

16 But when you talk about topography features, you
17 know, you could consider that. But in terms of the
18 topography for this particular lot to me did not justify the
19 request for being able to grant the area variance in this
20 particular case.

21 So that's all to say that at this point I don't
22 think I can support the request for the variance for this
23 particular application. But I do have a lot of empathy for
24 what the applicant and the architect were trying to achieve.

25 BZA CHAIR HILL: I mean I can go next. I mean as

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1 I was kind of staying as we went through this process, I mean
2 I just -- I think the project's an interesting project. I
3 mean I look. Unless Mr. Miller has something different, than
4 we can -- even if we -- I'm interested to hear what Mr.
5 Miller has to say in that it is a big lot and I do like the
6 project and I think that it would be interesting.

7 But I still don't think that I can get past the
8 analysis that the Office of Planning has provided, that the
9 lot's being used the way it's supposed to be used. I'm a
10 little confused as to why there, you know, why if you read --
11 I mean I don't know how they got to the house, where the
12 house is now.

13 I mean they could move the house more to the
14 middle of the lot or done something with it so that they
15 could kind of have a more use of the entire lot, as opposed
16 to where the first house was, unless the whole intent was
17 that there would be a second home there.

18 And so -- and I would agree that, you know, some
19 of the discussion that came from Mr. Miller, that unless you
20 know again Mr. Miller has something different, I'm going to
21 agree with my colleagues, that I don't think they're meeting
22 the variance test.

23 I even like the design of the second home. But
24 it -- I do think that it would change the density as well of
25 the zone there. But if Mr. Miller can convince me otherwise,

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1 I like the house, but I'm not going to be able to vote at
2 this point for the variance.

3 ZC VICE-CHAIR MILLER: No, I can't convince you.
4 I concur with my colleagues.

5 MS. FERREIRA: Okay. We would --

6 BZA CHAIR HILL: Okay. Well then I'm sorry.
7 We're just having deliberation. We don't take any more
8 testimony from anybody, and so I mean we --

9 MS. FERREIRA: Can we withdraw?

10 BZA CHAIR HILL: This is interesting. I don't
11 know. Wait a minute now.

12 MS. FERREIRA: I'd just like to clarify one thing
13 if I may just for one second. The house that's at the front
14 is an existing house --

15 BZA CHAIR HILL: No, no, no, no. I'm grunting up
16 here. That's okay. I always get a look. I mean it's hard.
17 From now on I should make everybody just go away from the
18 table when we deliberate, because it's just too tempting to
19 touch the microphones. But so I've never had this happen
20 before, so now I'm just kind of curious because it's been
21 four years. So, so can somebody withdraw all of the sudden?
22 I don't think you can, right?

23 MS. NAGELHOUT: It's happened before. It has to
24 be in writing, but if they wanted to follow up an oral
25 request with writing, you could continue, you know, put this

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1 -- reschedule this for a decision say next week, with the
2 expectation that they'll withdraw in the meantime.

3 BZA CHAIR HILL: But why would people do that?

4 MS. NAGELHOUT: Because it affects when you can
5 come back with an alternative application.

6 BZA CHAIR HILL: Oh God right, that little caveat.
7 So this is interesting, and I'm making a point this is
8 interesting, because I don't want this to start happening a
9 lot, because it's painful to get through this process, to all
10 of the sudden have this thrown at me. So you're interested
11 in withdrawing the application?

12 MS. FERREIRA: Well, it appears that we do not
13 have the support.

14 BZA CHAIR HILL: Oh yeah that's clear. You don't
15 have to worry about that, yeah. So, so you're interested in
16 withdrawing the application. So then we could continue, if
17 the Board wanted to do this and I actually don't mind doing
18 this. I don't know what's happening. I don't know what the
19 Office of Planning does there.

20 So the -- so we would continue this hearing. You
21 would submit by writing that you're withdrawing the
22 application, and then next week as a preliminary matter, the
23 application would be withdrawn?

24 MS. NAGELHOUT: Assuming a written request comes
25 in, yes.

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1 BZA CHAIR HILL: Assuming written, yeah.

2 ZC VICE-CHAIR MILLER: We're not necessarily
3 continuing the hearing. We're just setting a decision date
4 for next week.

5 BZA CHAIR HILL: Thank you, okay. We're setting
6 a decision date for next week.

7 ZC VICE-CHAIR MILLER: With the expectation that
8 we're going to get a withdrawal from the applicant.

9 BZA CHAIR HILL: Okay, all right. So in the
10 future, so in the future we're going to -- okay, okay, all
11 right. So we're going to set this for decision next week,
12 okay, and we'll see what happens, okay. So we'll set this
13 decision that week. Is that okay with everybody?

14 BZA VICE-CHAIR HART: Yeah. I was just curious
15 as to what does it mean to -- for the applicant to withdraw?
16 I mean they can -- they can do it up until the time that we
17 literally have like literally voted on it. I mean we just
18 hadn't -- we hadn't like --

19 BZA CHAIR HILL: We haven't made the motion.

20 BZA VICE-CHAIR HART: We hadn't made a motion
21 yet.

22 MS. NAGELHOUT: Yeah, you can withdraw at any time
23 and different rules apply for whether you withdraw before or
24 after -- I don't remember if it's the vote or the order, or
25 no you can't withdraw after the order comes out. But you can

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1 withdraw before or after a vote, and different rules apply
2 about when you can come back, depending on when you withdraw.

3 BZA CHAIR HILL: Okay. I mean I don't know
4 either, but I'm -- I'm fine doing it.

5 BZA VICE-CHAIR HART: No, I mean it's fine. I
6 just was trying to understand if it was -- if it was before,
7 because we've closed the record, right? So we've got to
8 reopen the record to get any information in?

9 MS. NAGELHOUT: No. The only thing that will be
10 filed will be a letter saying we withdraw this application.

11 BZA CHAIR HILL: We're putting off a vote for next
12 -- I'm sorry. We're putting off a decision for next week.

13 BZA VICE-CHAIR HART: I understood that. I was
14 just asking just for clarification, that we would have to
15 reopen the record for that?

16 MS. NAGELHOUT: No. It's the applicant's choice
17 to withdraw or not. So if the applicant puts in a letter
18 saying we're withdrawing, then it just comes off the agenda.
19 It's done.

20 BZA CHAIR HILL: So hypothetically, hypothetically
21 if we said --

22 BZA VICE-CHAIR HART: Look. It doesn't matter
23 to me one way or the other. I just wanted to understand it,
24 so that if we have to deal with this again that kind of how
25 we were dealing with it. So if we want to do it for next

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1 week, that's fine. I'm not standing in the way of that. I
2 just was curious, that's all.

3 BZA CHAIR HILL: No, no, no. I'm talking this
4 through a little bit more, because now this is something that
5 might happen again. So I just want to understand how we are
6 going to treat this if this happens again. And so that's why
7 I'm taking a little bit of the pause, and that you know, so
8 again right.

9 Hypothetically it would be like we're going to
10 have a decision next week right. The applicant thinks
11 they're going to lose, so they go ahead and automatically
12 withdraw. That would have been the hypothetical, right? But
13 what actually happened is a little different. And so I'm
14 going to go ahead and do what we were planning on doing right
15 now, which is go ahead, unless somebody -- and then think
16 about this at another time.

17 Maybe we can talk with OAG about how we might
18 handle this in the future. But since this is a new
19 experiment for me and that if you do come back again, I hope
20 it's completely clean and tied up so you don't take up an
21 hour of our time again, okay, because that's basically all
22 you're leaving the door open for, whatever the next thing is
23 you might be thinking about that we don't know about.

24 So I'll go ahead and put it on for decision next
25 week, okay. Mr. Moy. We're going to put it on decision next

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1 week. Okay. Thanks you guys.

2 MS. FERREIRA: Thank you.

3 MR. CASU: Thank you again.

4 BZA CHAIR HILL: We're going to take a quick
5 break.

6 (Whereupon, the above-entitled matter went off the
7 record at 3:42 p.m. and resumed at 3:54 p.m.)

8 BZA CHAIR HILL: Okay, Mr. Moy.

9 SECRETARY MOY: Okay. It's about 3:55. The
10 hearing is back in session. I believe the next application
11 before the Board is No. 19992 of 3520 10th Street, N.W., LLC.
12 Caption advertised for a special exception from the
13 residential conversion requirements, Subtitle U, Section
14 320.2, to convert an existing semi-detached principal
15 dwelling unit to a three unit apartment house, RF-1 zone.
16 This is at 3520 10th Street, N.W., Square 2832, Lot 833.

17 BZA CHAIR HILL: Okay great. Thanks Mr. Moy.
18 Could you please introduce yourself for the record?

19 MR. TEASS: Good afternoon members of the Board.
20 My name is Will Teass, a principal with Teass \ Warren
21 Architects. I would also like to point out that I wasn't
22 here earlier for being sworn in, so I --

23 BZA CHAIR HILL: That's all right, Mr. Teass. I
24 kind of notice. We didn't see your shiny face earlier today.
25 So you can go ahead and stand and take the oath if you

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1 wouldn't mind by Mr. Moy, and anybody else who's missed the
2 oath. If you want to stand and take the oath. Oh great,
3 excellent. Mr. Moy is right up here and he'll give you the
4 oath right there.

5 (Whereupon, the witnesses were sworn in.)

6 SECRETARY MOY: Thank you. You may be seated.

7 BZA CHAIR HILL: All right, Mr. Teass. So if you
8 want to go ahead and tell us about your project, and how
9 you're meeting the standard of relief for us to grant this,
10 and I'm going to put 15 minutes on the clock just so I know
11 where I am, and you can start whenever you'd like.

12 MR. TEASS: Thank you very much. We will keep
13 this relatively short in terms of providing an executive
14 summary for the project. The picture that you see in front
15 of you I think sums up the project best, in that we have an
16 existing semi-attached single family dwelling.

17 It's currently abandoned. We are proposing to
18 convert that to a three unit development. We are not
19 proposing any significant exterior work. The building is --
20 the structure is already three stories. We're not proposing
21 another story. We're not proposing a rear addition. We are
22 proposing some minor alterations at the rear to add some
23 porches. We are proposing an exterior entrance.

24 We are also excavating the cellar to achieve a
25 legal ceiling height for our dwelling unit in the cellar.

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1 We've gone through and met with the ANC. We've gone through
2 and met with neighbors. We've reviewed the project with the
3 Office of Planning. We're happy to report that we have a
4 letter of ANC support in the file.

5 We also have, I think, seven letters of support
6 from adjacent neighbors in and around the neighborhood. I
7 think that the ANC, there is a request which is the basis for
8 the revised plans. They wanted some clarification on the
9 parking configuration, the trash and how we were achieving
10 our pervious paving.

11 So with that, I think that the application stands
12 on what's been submitted. I'd be happy to address any
13 questions from the Board at this time.

14 BZA CHAIR HILL: The revised -- are the revised
15 plans in Exhibit 6?

16 MR. TEASS: The revised plans are Exhibit 29 I
17 believe.

18 BZA CHAIR HILL: Oh, I see. Okay, great. Okay.
19 Does the Board have any questions for the applicant?

20 BZA VICE-CHAIR HART: Just one clarification.
21 I think this is the -- yeah. And Mr. Teass, you are
22 requesting a waiver; is that correct?

23 MR. TEASS: We are not requesting a waiver. I
24 think there was an error in the original application. We are
25 seeking the special exception for the ability to convert an

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1 existing residential structure into an apartment house, that
2 we are meeting all of the criteria that are set forth as part
3 of that special exception 320.2. And so we're not requesting
4 a waiver from any of those conditions.

5 BZA VICE-CHAIR HART: I just wanted to make sure.
6 I think there was some -- a little bit of confusion there.
7 I wanted to make sure that we were looking at the correct
8 plans and everything. But thank you for clarifying.

9 BZA CHAIR HILL: Okay. Anybody else for Mr.
10 Teass?

11 Okay. I will think about it as we kind of go
12 through this. So I'm going to turn to the Office of Planning
13 please.

14 MR. MORDFIN: Good afternoon. I'm Stephen
15 Mordfin, and the Office of Planning is in support of this
16 application and stands on the record and is available for any
17 questions. Thank you.

18 BZA CHAIR HILL: Does the applicant have any --
19 I'm sorry. Does the Board have any questions for the Office
20 of Planning?

21 Does the applicant have any questions for the
22 Office of Planning?

23 MR. TEASS: Not at this time.

24 BZA CHAIR HILL: Okay. All right. Is there
25 anyone here who wishes to speak in support of the

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1 application?

2 Is there anyone here wishing to speak in
3 opposition to the application?

4 Okay. Mr. Teass, do you have anything you'd like
5 to add at the end?

6 MR. TEASS: Not at this time, thank you.

7 BZA CHAIR HILL: Okay, all right. I'm going to
8 go ahead and close the hearing. Is the Board ready to
9 deliberate, or do you have any questions? Hold on one
10 second. I'm sorry. I'm going to reopen the record here,
11 reopen the record. That's all right, and a Board member has
12 --

13 MEMBER JOHN: I was trying to get your attention.
14 I was trying to get your attention, but I was speaking
15 softly. So I wanted to ask Mr. Mordfin, there is no rear or
16 third floor addition, right? I think the report in the
17 description of the proposed development mentions a rear and
18 third floor addition; is that correct? Do I have the right
19 case? Oh, I have the wrong case. I was late. Okay.

20 BZA CHAIR HILL: Okay, all right. I'm going to
21 close the record again. Is the Board ready to deliberate?
22 Okay. I can go ahead and start. I actually am in agreement
23 with the Office of Planning and their analysis. I didn't
24 have any real issues with this particular project. I think
25 that they're meeting the criteria for us to grant the -- I

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1 mean the standard for us to grant the application.

2 And so I will be voting in favor of the
3 application. Does anyone have anything else they'd like to
4 add?

5 Okay. I'm going to go ahead and make -- wow. Is
6 this our first motion today? I'm going to go ahead and make
7 a motion to approve Application No. 19992 as captioned and
8 read by the Secretary. I'm going to make a motion to approve
9 Application No. 19992 as captioned and read by the Secretary
10 and ask for a second.

11 BZA VICE-CHAIR HART: Second.

12 BZA CHAIR HILL: Motion made and seconded. All
13 those in favor say aye?

14 (Chorus of ayes.)

15 BZA CHAIR HILL: All those opposed?

16 Motion passes. Mr. Moy?

17 SECRETARY MOY: Staff would record the vote as 5
18 to 0 to 0. This is on the motion of Chairman Hill to approve
19 the application for the relief being requested. Seconding
20 the motion is Vice Chair Hart. Also in support Ms. White,
21 Ms. John and Mr. Robert Miller. The motion carries.

22 BZA CHAIR HILL: Okay great. Thank you, Mr. Moy.
23 Thank you very much.

24 MR. TEASS: Thank you.

25 SECRETARY MOY: All right. I'd like to call

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1 parties to the table to Case Application No. 19993 of Maury
2 Elementary School.

3 This is captioned advertised for special
4 exceptions under Subtitle C, Section 1504 from the penthouse
5 setback requirements of Subtitle C, Section 1502.1 to allow
6 a parapet screen for penthouse mechanical equipment on an
7 existing building, and under Subtitle C, Section 7.4.3 from
8 the surface parking screening requirements under Subtitle C,
9 Section 714.2 to replace the existing surface parking lot at
10 an existing public school, RF-1 zone. This is at 1250
11 Constitution Avenue, N.E., Square 1010, Lot 849.

12 BZA CHAIR HILL: Okay, great. Thank you. Would
13 you please introduce yourselves for the record? You need to
14 push the button there.

15 MS. SZYMANSKI: Yes. My name is Janice Szymanski.
16 I'm with D.C. Public Schools Facilities.

17 MS. PIERCE: Hi. My name is Megan Pierce. I'm
18 with DGS, representing the project management team for the
19 Maury Elementary School modernization.

20 MR. JOERDENS: Good afternoon. My name's Eric
21 Joerdens, project architect with the DLR Group.

22 BZA CHAIR HILL: Can you spell your last name for
23 me?

24 MR. JOERDENS: Joerdens.

25 BZA CHAIR HILL: You need to push the button

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1 again.

2 MR. JOERDENS: J-O-E-R-D as in David, E-N-S.

3 BZA CHAIR HILL: Okay, great. Thank you.

4 MR. CONKEY: Good afternoon. My name is Bill
5 Conkey. It's C-O-N-K-E-Y. I am project manager with DLR
6 Group, project architects.

7 BZA CHAIR HILL: Okay, great. All right. Who's
8 going to be presenting to us?

9 MS. PIERCE: I'm going to provide an introduction
10 for the group.

11 BZA CHAIR HILL: Okay.

12 MS. PIERCE: And then I'll turn it over ---

13 BZA CHAIR HILL: Okay. So you'll start us off.

14 MS. PIERCE: Yes.

15 BZA CHAIR HILL: Okay. Sure. I'm going to --- so
16 I think I saw you all get sworn in, so you all got sworn in.
17 And then so I'm going to go ahead and put 15 minutes on the
18 clock. Mr. Moy, if you wouldn't mind, if you could go ahead
19 and walk us through together the project in which you're
20 trying to achieve, and then also how you're meeting the
21 standards for us to grant the application.

22 One question I did have, again, I guess though is
23 the depiction of the parking area. The screening required
24 by C714.2? Just clarification in terms of the revised plans
25 of those conditions when you get to them. Could you just

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1 kind of, you know, just kind of talk a little bit to that.
2 And then also the DDOT seemed as though it was in support of
3 a 42 inch high fence --- thank you. But in some drawings or
4 updated plans it didn't seem like it was 42, so if you can
5 kind of clarify that as you kind of go through that as well.
6 So you can begin whenever you like.

7 MS. PIERCE: Thank you. So for the record, I'm
8 just going to read a quick introduction, and then turn it
9 over. There are two issues related to the design of the new
10 Maury Elementary School modernization for which we are
11 seeking relief from the zoning requirement. The first is
12 regarding the extended parapet at the single-story kitchen
13 wing on the west side of the building. The second is the
14 design for the fence that separates the parking lot from the
15 sidewalk on 12th Place, Northeast. Both of these cases we
16 believe the proposed design complies with the intent of the
17 zoning requirements. And I'm going to have our architect CLR
18 explain those in more detail, and how they relate to the
19 zoning requirements.

20 MR. CONKEY: Thank you. I'm going to very briefly
21 introduce you to the project. I'm not going to spend a lot
22 of time on overview of the project other than just to try to
23 orient what we're looking for here. Those not familiar with
24 the project, it is 13th and Constitution Avenue, Capitol
25 Hill. It's shown here on this. We don't need to linger here

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1 very long. Next one, please. This slide is really just to
2 demonstrate what is surrounding us. On our site it's a
3 fairly typical Capitol Hill neighborhood. One thing that is
4 important, which we will bring up later on is the context.
5 Thirteenth Street is a fairly large street, I think wider
6 street than some of the neighborhood streets there. That's
7 on our east side. On our west side, which is where the
8 parking lot is, that's 12th Place, that's --- so those are
9 typically small two-story row houses, and you can see those
10 in these photographs here.

11 BZA VICE-CHAIR HART: And just want to make sure
12 I orient correctly.

13 MR. CONKEY: Yes.

14 BZA VICE-CHAIR HART: So Constitution, which is on
15 the left hand side of the slide ---

16 MR. CONKEY: That's correct.

17 BZA VICE-CHAIR HART: --- is actually south.

18 MR. CONKEY: That is correct.

19 BZA VICE-CHAIR HART: Okay.

20 MR. CONKEY: North is to the right on these plans
21 ---

22 BZA VICE-CHAIR HART: Okay.

23 MR. CONKEY: --- just because of the shape of the
24 building.

25 BZA VICE-CHAIR HART: That's fine. Thank you.

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1 MR. CONKEY: So it's just important to understand,
2 and like I said, you'll probably get those when we get a
3 little further along, but that the 13th Street side is the
4 more major street, larger buildings, 12th Place, small
5 buildings. Next one please. I want to turn this over to
6 DCPS here. This is site plan. Before we get into the
7 specifics of the parking lot, do you just want to overall
8 kind of make you understand the layout of the site, and
9 layout of the building on the site? In the upper left corner
10 here, the square building there, that's the existing 1886
11 Historic --- not historic. Existing 1886 school building
12 that was there. The rest of the building is our addition.
13 So I'll turn it over the DCPS to talk about it.

14 BZA VICE-CHAIR HART: So that's just old, not
15 historic?

16 MR. CONKEY: It's not technically historic, that's
17 correct.

18 BZA VICE-CHAIR HART: It's not --
19 (simultaneous speaking).

20 MR. CONKEY: It's not on the register. It's not
21 an historic district.

22 BZA VICE-CHAIR HART: It's not in a historic
23 district.

24 MR. CONKEY: Correct. It's not an historic
25 district, it's not on the historic register.

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1 BZA CHAIR HILL: So that's the 42 inch high fence
2 that DDOT was speaking about?

3 MR. CONKEY: That is correct.

4 BZA CHAIR HILL: So it is 42 inches high?

5 MR. CONKEY: Yes, it is 42 inches high.

6 BZA CHAIR HILL: Okay, where is it that it was
7 referenced somewhere --- okay, but anyway, you're on the
8 record saying it's 42 inches high, correct?

9 MR. CONKEY: Yes, absolutely, 42 inches --- what
10 we're proposing is a 42 inch high picket fence.

11 BZA CHAIR HILLS: Okay. All right. Please
12 continue.

13 MS. SZYMANSKI: Great. So I just wanted to speak
14 on behalf of D.C. Public Schools, because as a client agent
15 this was something that we had directed the design team do
16 specifically. While we have no problem creating a screen
17 here, as you can see in the rendering, our hope is to have
18 it have a level of transparency. For us having the opaque
19 wall is a matter of student security and safety. We're
20 looking to have visibility along our school perimeter and,
21 you know, when we say school safety and security, we mean a
22 wide variety of things. Of course, wanting to have passive
23 visuals to unfortunate instances involving persons that could
24 provide danger to our students, but also just the fact that,
25 you know, twice a day during pick up and drop off we're going

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1 to see a lot of young students walking along this sidewalk,
2 so I think we're going to want to have that visibility from
3 the school.

4 We also recognize here there is curb cuts, so
5 there's going to be cars coming in and out of the site
6 approximately at the same time as these students arrive to
7 and from their class. So we're hoping to have this picket
8 fence as depicted in the rendering to have that visibility.

9 MR. CONKEY: Thank you. Again, I'm not going to
10 waste a lot of time right now going through the plans for
11 building, because what we're looking for is two very specific
12 relief, but it does help to orient you. I'm going to go
13 through these plans very quickly. In the upper left hand
14 corner that's the old building that's the old building. So
15 the way that the massing of the building breaks down is such
16 that the largest portion of the building, the three-story
17 portion of the building, is on the east side facing 13th
18 street. As I said that's the larger --- that's the larger
19 street, larger houses, and that was the response to community
20 input back in the concept design phase, along with some input
21 from CFA. Lots of people, and it seem to make sense.

22 So the way that the building is organized is that
23 you've got a three-story portion along 13th street, and
24 that's where the academic wing is. Then you've got a two-
25 story portion, which is shown as the most purpose room here,

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1 you'll see right down the middle. So that's a two-story open
2 space. And then you've got a single-story wing, which is on
3 the 12th Street side of the building, on the west side of the
4 building, and that houses the kitchen. That's the kitchen
5 element there. And that's where we're looking for the relief
6 on the roof.

7 Next one. Again, I'm just showing you here this
8 is the roof plan, so you can see the part that we are
9 referring to is really is just that first one story part to
10 the building on the west side of the project. Again here's
11 the third story. So these are the elevations of that side
12 of the building. As you can see we've got --- so the west
13 side of the site is --- we're in the parking lot here, and
14 the mechanical units for the kitchen wing are on top of that
15 portion of the building, that single portion of the building,
16 and we have concealed those mechanical units behind this
17 parapet. This sort of bumps up this center section of this
18 wing of the building. I'm going to turn it over to my
19 colleague, Mr. Joerdens, to describe the design a little
20 further.

21 MR. JOERDENS: Sure. So we go back to the
22 elevation. Along the west side it's a 150 feet long facade
23 from the edge of the glass door close to the 1886 building
24 all the way to the far north end of the site where there is
25 play space for recess and after school and weekend

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1 activities. The kitchen bay that projects up is also
2 adjacent to the parking spaces on the 12th side, or 12th
3 Place side of the street. So this massing helps break down
4 that long facade, and then also happens to screen the
5 necessary mechanical equipment to run a commercial kitchen.

6 If we go to the next slide we can see a section
7 of that equipment along with a dotted line of clearances for
8 routine maintenance as well. And then going to the next
9 slide with the depressed roof slab in order to minimize the
10 impact of this mechanical screen. The setback is at the red
11 line. Per DCRA requirements what we are looking to do is
12 integrate that with the extended architectural parapet, which
13 helps reduce the overall impact of a mechanical screen at
14 such a low elevation. And here we are in plan --- with the
15 roof plan, and then going to the next slide. Similar to this
16 section, the area of red is the area of requested relief
17 behind architecturally raised parapet with mechanical
18 equipment.

19 BZA VICE-CHAIR HART: So, Mr. Joerdens, if I can
20 interrupt you for a second, go back to this section. So ---
21 no, no, this section. Yes, so what you're talking about is
22 that you wanting to do --- you want to move the wall out here
23 to have a --- to have basically a wall, a single wall, that
24 goes up to where --- that covers --- that includes the
25 screening for the mechanical equipment in that wall,

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1 integrated into it, as opposed to having them two different
2 volumes.

3 MR. JOERDENS: That is correct.

4 BZA VICE-CHAIR HART: Okay. And that makes sense
5 to me. And so this is where they would have been if you had
6 to set it back at a one to one ratio to the edge of the
7 building.

8 MR. JOERDENS: To the roof height, yes.

9 BZA VICE-CHAIR HART: Yes, yes, to the edge of the
10 roof, yes.

11 MR. JOERDENS: Correct.

12 BZA VICE-CHAIR HART: Okay. I understand.

13 MR. CONKEY: If I could just jump in here for just
14 one minute. It is important to note that because this is a
15 single-story, that's why I was trying to make a point about
16 this being a single-story portion of the building, next to
17 a two story, next to a three story, we're many, many, many
18 feet, 30 something feet away from our maximum height at this
19 point of the building, it's a very low portion of the
20 building, that this form, the building form that we're
21 talking about here, is perfectly allowable under all zoning
22 regulations except for the fact that there's mechanical
23 equipment behind that.

24 BZA VICE-CHAIR HART: No, I understand. I just
25 wanted to understand where that --

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1 (Simultaneous speaking).

2 BZA VICE-CHAIR HART: --- kind of the rationale for why you
3 were doing it. You're doing it to as an architectural
4 response to make sure that you had a basically kind of a
5 vertical wall as opposed to kind of a broken vertical plain--

6 (Simultaneous speaking).

7 MR. CONKEY: Right. And we're trying to make a ---
8 really trying to make an elegant thing where it's really
9 doing two things at once, where it's --- it really is
10 breaking up that horizontal --- long horizontal line, and
11 happens to have some --- behind there, but that's really ---
12 like I said, the building forum meets all the code
13 requirements.

14 BZA VICE-CHAIR HART: Yes.

15 MR. CONKEY: Okay.

16 BZA VICE-CHAIR HART: Thank you.

17 MR. JOERDENS: If we continue on, here's a
18 rendering from the back view of the play space with parking
19 and volume of the mechanical enclosure.

20 BZA VICE-CHAIR HART: So that volume is right here?

21 MR. JOERDENS: That is correct.

22 BZA VICE-CHAIR HART: Okay.

23 MR. JOERDENS: And if we go to the next slide, here
24 it is also from the street view with continuous parapet
25 condition with a mechanical screen and the area of relief

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1 requested highlighted in red.

2 MS. PIERCE: This completes our presentation.

3 BZA CHAIR HILL: Sure, does anyone have any
4 questions for the Applicant?

5 MEMBER WHITE: I just want to make sure I was
6 clear. Was there --- in the plans shows the fencing around
7 the entire perimeter of the school. I see one --- a couple
8 of slides where you've had it there, but that's part of the
9 requirement, right?

10 MR. JOERDENS: The site plan will have that, yes.
11 There's fencing around the back edge of the school, and then
12 along Constitution Avenue there's not fencing as the building
13 serves as the barrier from the public space to the entryway.

14 BZA CHAIR HILL: Okay. Anyone else? Okay. I'm
15 going to turn to the Office of Planning.

16 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman,
17 and Members of the Board. I'm Maxine Brown-Roberts for the
18 record. The Office of Planning is supportive and recommends
19 approval of the Subtitle 3714 for the wall around the --- for
20 the picket fence, and pursuant to 1504.1 for the screen wall.
21 In both cases, we believe that what is recommended by the
22 Applicant meets the requirements. And in the case of the
23 screen wall I think it is the solution that the Applicant has
24 provided, maybe even better than what is required. And,
25 therefore, we recommend approval. Thank you, Mr. Chairman.

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1 BZA CHAIR HILL: Thank you. Does anyone have any
2 questions for the Office of Planning?

3 (No audible response.)

4 Does the Applicant have any questions for the
5 Office of Planning?

6 (No audible response.)

7 Just somebody say no.

8 MR. CONKEY: Not at this time, Thank you.

9 BZA CHAIR HILL: Okay. Thank you. Is there anyone
10 here who wish to speak in support?

11 (No audible response.)

12 Is there anyone here who wish to speak in
13 opposition?

14 (No audible response.)

15 Is there anything any of you would like to add at
16 the end?

17 (No audible response.)

18 MS. PIERCE: I would just also like to add that we
19 have met with the community, the ANC, the CSA, and we have
20 gotten a unanimous approval on both, yes.

21 BZA CHAIR HILL: Okay. Thank you. Now we do see
22 that all in the record. Okay. All right. Does the Board
23 have any final questions?

24 (No audible response.)

25 All right. I'm going to go ahead and close the

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1 hearing. Is the Board ready to deliberate?

2 (No audible response.)

3 Okay. I mean, I'm fine to start. I didn't have
4 any particular issues with this application. There was a
5 couple of questions that I had at the beginning, and I had
6 them clarified. I do think that they are meeting the
7 standard for which we should grant the application. I agree
8 with the recommendations of the Office of Planning and their
9 assessment of the application, and I will be voting in favor.
10 Would anyone like to add anything?

11 BZA VICE-CHAIR HART: Only I will be also voting
12 in favor. I think that the Applicant has provided sufficient
13 information for me to be able to approve the application, and
14 to show how they meet the criteria, and the zoning regs. I
15 would only just mention that I --- not only do I sit on this
16 Board, but I'm also actually sitting on this Board because
17 I'm representing an agency, the National Capitol Planning
18 Commission. Well, I know that DGS has gone to CFA, I would
19 just remind them that projects that are district projects
20 should also be submitted to NCPC for review. And I don't
21 recall seeing this one, but I could be mistaken. And in the
22 future that they submit projects --- school projects,
23 libraries, whatever they are, they should be submitted to
24 both CFA and NCPC. CFA typically will look at the
25 architectural issues, NCPC will typically look at planning

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1 issues. They're not exclusive, but I'm just making sure that
2 you're aware of that, and I guess I was just speaking to Ms.
3 Pierce about that. But for this case I do not have a
4 particular issue with it. I think that, as I said earlier,
5 that they've met the criteria, and I'd be voting in support.

6 BZA CHAIR HILL: Okay. I actually am going to
7 reopen the record here just for a minute so I can take some
8 more testimony. I was a little confused, like, can you
9 explain again the ANC, because I don't see the ANC report in
10 the record?

11 MS. PIERCE: I can provide that.

12 BZA CHAIR HILL: No, no, that's okay. Okay, well,
13 I mean, that would be good. But so you have --- can you ---
14 you went to the ANC, and you presented at the ANC, and they
15 took a vote, and what was their vote?

16 MS. PIERCE: They unanimously agreed with the
17 design. They agreed especially with the fence and the
18 parapet. They ---

19 BZA CHAIR HILL: And when did you guys present to
20 the ANC?

21 MS. PIERCE: That must have been in February, I
22 believe.

23 BZA CHAIR HILL: Okay. So how come they haven't
24 submitted it yet? You don't know?

25 MS. PIERCE: I have the letter. I can add that to

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1 the record if you'd like.

2 BZA CHAIR HILL: Okay, yes, if you could please go
3 ahead and add that to the record. And then if you could also
4 submit the site drawings here, or the site plan here that you
5 have on the deck, because we don't have them in the record.

6 MS. PIERCE: Yes.

7 BZA CHAIR HILL: Okay. So you can do that today?

8 MS. PIERCE: Yes, I will.

9 BZA CHAIR HILL: Okay. All right. All right, I'm
10 going to go ahead and close the record, I mean, sorry, close
11 the hearing again, but leave the record open for those two
12 items that we asked for from the Applicant. Does anyone else
13 have anything they'd like to add concerning our
14 deliberations?

15 (No audible response.)

16 Okay. I'm going to make a motion then to approve
17 Application Number 19993 as captioned and read by the
18 Secretary and ask for a second.

19 BZA VICE-CHAIR HART: Second.

20 BZA CHAIR HILL: Motion made and seconded. All
21 those in favor say aye.

22 (Chorus of aye.)

23 BZA CHAIR HILL: All those opposed?

24 (No audible response.)

25 The motion passes. Mr. Moy.

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

6 BZA CHAIR HILL: Okay, great. Thank you, Mr. Moy.
7 Thank you all very much.

8 SECRETARY MOY: The next application before the
9 Board is Case Number 19997 of Kathryn Mitchell, and this is
10 Kathryn advertised for special exceptions under Subtitle E,
11 Section 5201 from the last occupancy requirements of Subtitle
12 E, Section 304.1, and from the non-conforming structure
13 requirements of Subtitle C, Section 202.2 to construct a rare
14 addition to an existing attached principal dwelling unit RF1
15 zone. This is at 1348 Constitution Avenue, Northeast, Square
16 1033, Lot 802.

17 BZA CHAIR HILL: Okay, I don't know if you want to
18 pull up a different deck there. Have you guys both been
19 sworn in?

20 (No audible response.)

21 Okay. If you could please go ahead and stand and
22 take the oath administered by the Secretary to my left.

23 (Witness sworn.)

24 BZA CHAIR HILL: Okay. If you could please
25 introduce yourself for the record.

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1 MS. MITCHELL: Kathryn Mitchell.

2 BZA CHAIR HILL: And, Ms. Mitchell, where do you
3 live? You need to push, sorry.

4 MS. MITCHELL: 1348 Constitution Avenue.

5 BZA CHAIR HILL: Okay.

6 MS. BRITTINGHAM: Lacy Brittingham, Brittingham
7 Architecture. My address is 1134 C Street, Northeast.

8 BZA CHAIR HILL: Okay, Ms. Brittingham, I assume
9 you're going to be presenting to us.

10 MS. BRITTINGHAM: Correct.

11 BZA CHAIR HILL: Okay. So you could go ahead and
12 walk us through your proposal, and in particular, again, how
13 you're meeting the criteria for us to grant the relief
14 requested. I'm going to put 15 minutes on the clock so I
15 know where we are. I didn't see whether there was an ANC
16 report, or maybe it came in after I reviewed the record last,
17 but if you could speak to that one way or the other. And you
18 can begin whenever you like.

19 MS. BRITTINGHAM: Okay. Thank you. So this
20 project is, as mentioned, 1348 Constitution Avenue,
21 Northeast. I think it's a fairly simple case. We are
22 requesting relief for lot occupancy, and also from Section
23 202.2 as an existing non-conforming structure. The existing
24 house has a lot occupancy of 67.4 percent on the first floor.
25 A previous owner filled in the dog-leg with a single-story

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1 addition, I can show you so flip to the photographs, as you
2 can see on the right, and we are proposing to extend the
3 second floor to about half the length of the existing dog-
4 leg. So the new second floor lot coverage that is proposed
5 would be 64.5 percent.

6 As for the criteria, for a special exception the
7 first is light and air available to neighboring properties
8 shall not be unduly affected. As mentioned we are proposing
9 to fill in the existing dog-leg. And as such, because of the
10 massing of the building, and the neighbor next to it, it will
11 actually not have any impact on the neighbor's light and air.
12 The second is that the privacy, use and enjoyment shall not
13 be unduly compromised. Similarly, we are not --- what we are
14 proposing will not alter the existing experience of the
15 neighbor's backyards. And then the third is as viewed from
16 the street and other public way shall not substantially
17 visually intrude upon the character, scale and pattern. This
18 is not visible from the street, or --- there's an alley on
19 this block.

20 So we have letters of support entered into the
21 record from all three neighboring property owners that share
22 property lines with the project. We visited the ANC, they
23 voted in favor unanimously to support the project. I don't
24 have the record pulled up here to know if they entered their
25 letter.

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1 BZA CHAIR HILL: I don't see it yet. When did you
2 guys go before the ANC?

3 MS. BRITTINGHAM: I'd have to look at my calendar.
4 Twentieth.

5 BZA CHAIR HILL: Pardon.

6 MS. BRITTINGHAM: The 20th of April.

7 BZA CHAIR HILL: Okay. And so --- and your
8 testimony is that you presented your plans here and they
9 voted in support.

10 MS. BRITTINGHAM: That is correct.

11 BZA CHAIR HILL: Okay. Can you submit something
12 into the record ---

13 MS. BRITTINGHAM: Sure.

14 BZA CHAIR HILL: --- that states that? If you can
15 --- I mean, I'm trying to figure out if you can get something
16 from the ANC. But okay, we'll see where the Board stands on
17 that. Okay. Were there any questions of the Applicant?

18 (No audible response.)

19 BZA CHAIR HILL: Okay. All right. I'm going to
20 turn to the Office of Planning.

21 MS. VITALE: Good afternoon, Mr. Chair, Members of
22 the Board. Elisa Vitale with the Office of Planning, and we
23 will rest on the record in support of the requested relief.
24 I'm happy to answer any questions. Thank you.

25 BZA CHAIR HILL: Okay. Does the Board have any

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1 questions for the Office of Planning?

2 MEMBER WHITE: Just one question. You're not
3 increasing the second floor at all, is that correct?

4 MS. VITALE: They would. The reason for the relief
5 is a small increase where they would be filling in. I
6 haven't tried drawing on these screens yet. We'll see if
7 this works. No, it's not. I don't ---

8 MEMBER WHITE: It should work.

9 MS. VITALE: If someone can just --- I was going
10 to say if someone else can plan on the --- it is --- so that
11 small area that's got the hash marks that you see circled in
12 green, that would be the proposed area of the addition. And
13 the Applicant had pulled up a photo. Right now that dog-leg
14 is filled in completely on the first floor, so this would
15 fill in about half of that dog-leg at the second floor.

16 MEMBER WHITE: But the first floor would stay the
17 same.

18 MS. VITALE: That's correct. The existing
19 footprint of the building at the first floor would remain
20 unchanged.

21 MEMBER WHITE: Okay. And that's currently at 67.4
22 percent.

23 MS. VITALE: That's correct.

24 MEMBER WHITE: Thank you. One other question.
25 Just community feedback, adjacent owners, how they're feeling

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1 about what you're doing, you know, we don't have the ANC
2 report, but you're going to put it in, but I just wondered
3 if there was positive feedback, or not so positive feedback
4 regarding the change.

5 MS. VITALE: We do have letters of support signed
6 by all three abutting neighbors, and can speak to other
7 neighbors that she spoke to.

8 MS. MITCHELL: Only positive feedback from those
9 that haven't already written letters.

10 MEMBER WHITE: Okay. That's fine.

11 MS. MITCHELL: Yes, thanks.

12 BZA CHAIR HILL: Okay. Does the Applicant have any
13 questions for the Office of Planning?

14 MS. BRITTINGHAM: No.

15 BZA CHAIR HILL: Okay. Does anyone here wish to
16 speak in support?

17 (No audible response.)

18 Does anyone here wish to speak in opposition?

19 Is there any questions the Board still has for the
20 Applicants?

21 (No audible response.)

22 Okay. Is there anything you'd like to add in
23 conclusion?

24 MS. BRITTINGHAM: No, thank you.

25 BZA CHAIR HILL: Okay. Let's see. All right. I'm

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1 going to go ahead and close the hearing. Is the Board ready
2 to deliberate?

3 (No audible response.)

4 I can go ahead and start. I didn't have any
5 questions. I mean, there was some issues that I was kind of
6 concerned about. We seem to have addressed some of those.
7 And I would agree with the analysis that was provided by the
8 Office of Planning. I also will agree with the testimony,
9 or I shouldn't say --- I can't really give much --- anything
10 great weight, but it is the testimony of the Applicant that
11 they have went before the ANC, and they have gotten their
12 support as well. I do think they're meeting the criteria for
13 which we can grant the special exception, and I will be
14 voting in favor of this application. Does anyone have
15 anything else they'd like to add?

16 (No audible response.)

17 Okay.

18 MEMBER WHITE: All right. Sure.

19 BZA CHAIR HILL: Of course. Go ahead.

20 MEMBER WHITE: I should be too tired to talk, but
21 I can't help myself. No, I would just like to add that ---
22 I would also like to add that there's positive community
23 support that was submitted into the record, Exhibits 13
24 through 15. And that goes to the special exception criteria
25 that there were no adverse impacts identified with respect

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1 to light and air privacy use and enjoyment. So I will be in
2 support of the application as well.

3 BZA CHAIR HILL: Okay, great. Thank you. I'm
4 going to go ahead and make a motion to approve Application
5 Number 19997 as captioned and read by the Secretary and ask
6 for a second.

7 MEMBER WHITE: Second.

8 BZA CHAIR HILL: Motion made and seconded. All
9 those in favor say aye.

10 (Chorus of aye.)

11 BZA CHAIR HILL: All those opposed.

12 (No audible response.)

13 BZA CHAIR HILL: The motion passes. Mr. Moy.

14 SECRETARY MOY: The staff would record the vote as
15 5-0-0. This on the motion of Chairman Hill to approve the
16 application for the relief requested. Seconding the motion
17 is Ms. White. Also in support Ms. John, Vice Chair Hart, and
18 Mr. Robert Miller. Motion carried, sir.

19 BZA CHAIR HILL: Great. Thank you. Thank you very
20 much. We got you out before 6:00. Okay. Mr. Moy.

21 SECRETARY MOY: All right. So, next up is Case
22 Application Number 19969 of 515 Jefferson Street, Northwest,
23 LLC. This is captioned and advertised for a special
24 exception under the residential conversion requirements,
25 Subtitle U, Section 320.2 to convert an existing semi-

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1 detached principal dwelling unit to a three unit apartment
2 house in the RF1 zone. This is at 515 Jefferson Street,
3 Northwest, Square 3208, Lot 812.

4 BZA CHAIR HILL: Is the Applicant here?

5 (No audible response.)

6 BZA CHAIR HILL: Okay. So the Applicant is not
7 here.

8 (No audible response.)

9 BZA CHAIR HILL: Okay. So the Applicant is not
10 here. So then this is another new on me. What do we do when
11 the Applicant isn't here?

12 SECRETARY MOY: Ms. Nagelhout can weigh in, but
13 typically --- I thought there was another party that was
14 here, Mr. Chairman, but I can't recall who it was, but there
15 was another body. But --- so I don't know, I mean, no one
16 said anything to me, but typically in the past we have ---
17 the Board has simply moved this to next week, and the staff
18 will contact the Applicant in the meantime. But it's your
19 call.

20 BZA CHAIR HILL: Okay. It's kind of up to the
21 Board on a couple of things here just for a minute. In that
22 we could do that in terms of putting it up for next week, or
23 we could put it up, actually, Mr. Moy, for a day that it's
24 not as crowded for us.

25 There was also a party status request for someone

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1 who wanted to be in support of the application. However,
2 that person, Christopher Geier, he is not here. And also
3 then that person did not serve the other people on that party
4 request, and it didn't seem very clear to me based upon the
5 report how the person was meeting the criteria for party
6 status. So at this point I will just be going ahead and
7 denying the request for party status if that's something that
8 we can do.

9 BZA VICE-CHAIR HART: I think it should be deemed
10 withdrawn if they're not here.

11 BZA CHAIR HILL: Okay.

12 BZA VICE-CHAIR HART: Per Subtitle Y404.10.

13 BZA CHAIR HILL: Okay. So then we will --- okay.
14 So the party status then is being withdrawn because the
15 person is not here. And so we'll go ahead and hear this
16 application again, Mr. Moy. When is the next day that is,
17 like, September?

18 MR. MOY: I'm assuming you're kidding with me. I'm
19 going through the docket now to look for a day where there's
20 no appeals. That's the case on June 5th, but we have
21 something like about nine or ten applications.

22 BZA CHAIR HILL: Yes, we just put a bunch on there.

23 MR. MOY: Yes, we just did. As well as June 12th.
24 There's no appeals although we have eight cases on that day.
25 The 19th of June is an appeal. Well, we're open for June

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1 26th.

2 BZA CHAIR HILL: Okay. June 12th is fine.

3 SECRETARY MOY: Okay. All right, June 12th. All
4 right, and then we handled the party status.

5 BZA CHAIR HILL: All right. Does the Board have
6 --- do we have anything else before the Board, Mr. Moy?

7 SECRETARY MOY: Not from the staff, sir.

8 BZA CHAIR HILL: Okay. Is there anything else
9 anybody would like to add?

10 (No audible response.)

11 Okay. All right. Then we stand adjourned.

12 (Whereupon, the above-entitled matter went off
13 the record at 4:38 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: 05-01-19

Place: Washington, DC

was duly recorded and accurately transcribed under
my direction; further, that said transcript is a
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