

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

MAY 22, 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 10:00 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 PRESENT:

PETER SHAPIRO, ZONING COMMISSIONER

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary  
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALEXANDRA CAIN, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

BRANDICE ELLIOT  
MATTHEW JESICK

JONATHAN KIRSCHENBAUM  
STEPHEN MORDFIN  
ELISA VITALE

The transcript constitutes the minutes from  
the Public Hearing held on May 22, 2019.

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Case Number 19927, Application of Catholic Charities  
of the Archdiocese of Washington, Inc.

Case Number 19982, Application of Montello 1723, LLC

Case Number 19971, Application GRID Alternatives  
Mid-Atlantic for the District of Columbia

Appeal Number 19896, Adams Morgan Friends and Allies

Case Number 19-929, Application of 614 Otis, LLC

Case Number 20013, Application of Simon Chan

Case Number 20017, Application of 1128 6th Street LLC

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

(10:03 a.m.)

1  
2  
3 MR. MOY: All right, if we could have parties  
4 to the table. This is to application number 19927 of  
5 Catholic Charities of the Archdiocese of Washington, Inc.,  
6 as caption advertised for special exception under subtitle  
7 U, section 203.1-B, to construct a solar array in the R1B  
8 Zone. This is a 2800 Otis Street NE square, parcel 167,  
9 lot 67 and 68.

10 As the Board will recall, there is a  
11 preliminary matter regarding a motion to postpone. And  
12 I'll leave it at that, Mr. Chairman.

13 CHAIRPERSON HILL: Okay, great. Could you  
14 please introduce yourselves from my right to left?

15 MS. BREVARD: I'm Commissioner Gail Brevard,  
16 ANC 5C01.

17 MS. BATTIES: Good morning, Leila Batties with  
18 the law firm of Holland & Knight on behalf of Catholic  
19 Charities.

20 MS. CHANDLER: I'm Joyce Chandler, I'm party  
21 status, I live at 2870 Perry Street Northeast. I'm  
22 adjoining the property.

23 CHAIRPERSON HILL: Okay, great. Thank you.  
24 Okay, thank you guys for coming down. Ms. Batties, you  
25 have requested postponement, could you explain that

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1 please?

2 MS. BATTIES: Sure, we had our second meeting  
3 with the ANC last week. They did not vote to support the  
4 project, I think there are still some issues that the  
5 applicant needs to review and address with the ANC. And  
6 so we've requested that the public hearing be deferred to  
7 give us time to continue to work with the ANC and the  
8 community.

9 CHAIRPERSON HILL: Okay. And Commissioner, you  
10 mentioned that -- I think I saw a filing last night that  
11 you guys were opposed to the postponement, but if we did  
12 postpone that you were okay with September, was that what  
13 I understood?

14 MS. BREVARD: That's correct.

15 CHAIRPERSON HILL: Okay, and so if we did  
16 postpone to September, then that would give the applicant  
17 more time to work with you?

18 MS. BREVARD: That's correct, yes.

19 CHAIRPERSON HILL: Okay, and Ms. Chandler, are  
20 you aware of this request for postponement?

21 MS. CHANDLER: Yes, I was aware of it but --

22 CHAIRPERSON HILL: Okay and -- I'm sorry, and  
23 do you have any thoughts on that?

24 MS. CHANDLER: My thoughts is that originally  
25 they met with us, I believe it was in March. And they

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1 made their presentation, and at time the ANC asked them to  
2 address our concerns and questions, and we didn't receive  
3 or hear anything from them until like, a week or so, six  
4 weeks later. They rescheduled it to meet in  
5 May and it was weeks that we didn't hear anything, we  
6 didn't get any feedback, and then when we did get  
7 questions, their -- my just quick review of it, the  
8 questions weren't fully addressed or answered.

9 So now I'm, I guess I'm kind of mixed because  
10 it seems like they had two months to address and reach out  
11 to us and they didn't do it. And now when the ANC did not  
12 support it, they're saying, well, we want additional time  
13 to work with the community.

14 So I'm just kind of, I would say, disappointed  
15 and mixed in that they're asking for it now when back in  
16 March they didn't seem to put much effort into working  
17 with us.

18 CHAIRPERSON HILL: Okay, okay. And actually,  
19 if you could just -- yes, thanks. When more than one  
20 microphone's on it kind of feeds back up here. So, Ms.  
21 Batties, so if we did this, I mean, I think the ANC was  
22 requesting September because they're off, I guess, in  
23 August and thankfully so are we. So when in September  
24 might work for you guys?

25 MS. BATTIES: We were okay with the date

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1 proposed in their letter, which is September 25th.

2 CHAIRPERSON HILL: Okay, Mr. -- we lost our  
3 secretary, just hang on a second. Ms. Chandler, would  
4 that date work for you?

5 MS. CHANDLER: Yes, the 25th would work with  
6 me.

7 CHAIRPERSON HILL: Okay, great. Mr. Moy, it  
8 looks like we're going to postpone this to September 25th.  
9 Okay?

10 MR. MOY: Okay.

11 CHAIRPERSON HILL: Unless the Board has any  
12 other thoughts. Okay, all right, thank you all very  
13 much. Have a nice summer.

14 MR. MOY: All right, Mr. Chairman, I believe  
15 the next case application is 19982 of Montello -- Montello  
16 1723, LLC. This application's amended for special  
17 exceptions under subtitle C, section 703.2, for the  
18 minimum parking requirements of subtitle C, section 701.5,  
19 subtitle G, sections 409, 1200 and 1201 from the lot  
20 occupancy requirements, subtitle G, section 404.1 and rear  
21 yard requirements, subtitle G, section 405.2 to construct  
22 a two-story addition and penthouse to an existing  
23 one-story commercial building and convert it to an  
24 eight-unit apartment house, MU4 zone.

25 This is at 1723 Montello Avenue, Northeast,

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1 square 4052, lot 180. As you'll recall, Mr. Chairman,  
2 there's a preliminary matter, a waiver of the 21-day  
3 filing deadline for supplemental information. And this  
4 was to submit a revised self-certification.

5 CHAIRPERSON HILL: Okay, great. Thank you.  
6 Good morning, can you please introduce yourselves for the  
7 record, from my right to left?

8 MR. MOY: Mr. Chairman, I'm sorry --

9 CHAIRPERSON HILL: Sure.

10 MR. MOY: Sorry. On this case we also have a  
11 Spanish interpreter.

12 CHAIRPERSON HILL: Oh, all right. Could the  
13 interpreter please come forward? If you could, just mind  
14 sitting over there. One sec, we'll figure it out. We'll  
15 figure it out. If you could please just introduce  
16 yourself, let's just introduce ourselves from right to  
17 left. You need to push the button there, you need to push  
18 the red button. Thank you.

19 MS. WILKINSON: My name is Vera Wilkinson,  
20 interpreter for Spanish and English.

21 MS. SHROPSHIRE: Commissioner Keisha  
22 Shropshire, on behalf of ANC 5D.

23 CHAIRPERSON HILL: Commissioner, could you  
24 spell your last name for me?

25 MS. SHROPSHIRE: Yes, S-H-R-O-P-S-H-I-R-E.

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1 CHAIRPERSON HILL: Okay, great. Thank you.

2 MR. SULLIVAN: Good morning, Marty Sullivan  
3 with Sullivan & Barros, on behalf of the applicant.

4 MR. FRIDY: Moe Fridy, Citadel Architects.

5 CHAIRPERSON HILL: Could you spell your last  
6 name, please?

7 MR. FRIDY: Fridy, F-R-I-D-Y.

8 MR. CLAGGIN: Good morning, Jamaal Claggin,  
9 Managing Member for Montello 1723, LLC.

10 CHAIRPERSON HILL: Okay, great. Ms. Wilkinson,  
11 if you could just turn off your microphone there. If  
12 there's more than one on at a time -- down there it's  
13 fine, but if there's more than one on at a time it feeds  
14 back.

15 And again, afterwards, if you guys could fill  
16 out your witness cards and give them to the transcriber  
17 over there to my right. The translator that you're here -  
18 - is the translator here for anyone at the table right  
19 now? No. Is there someone that was wishing to speak in  
20 support or opposition here that was requiring the  
21 translator?

22 Oh, that's pretty good. My board is saying  
23 that maybe I should speak that in Spanish. Ms. Wilkinson,  
24 if you could just put in the microphone there, and if you  
25 don't mind asking if anyone is here wishing to speak in

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1 support and opposition, if you wouldn't mind asking that  
2 in Spanish.

3 (Spanish language spoken.)

4 CHAIRPERSON HILL: Okay, so Ms. Wilkinson, I  
5 don't know if you're going to be needed yet but you're  
6 welcome to just sit back there and we'll see what happens,  
7 if someone else shows up or we might ask you to do that  
8 same thing again when the portion of the support and  
9 opposition comes. Okay?

10 MS. WILKINSON: Okay, thank you.

11 CHAIRPERSON HILL: Gracias. All right, Mr.  
12 Sullivan, I guess you're going to be presenting, is that  
13 correct?

14 MR. SULLIVAN: Yes, Mr. Chairman.

15 CHAIRPERSON HILL: Okay, if you could just kind  
16 of walk us through again, so first there's the preliminary  
17 matter of the waiver for the 21-day filing deadline. Can  
18 you explain that first?

19 MR. SULLIVAN: Yes, there was some discussion  
20 with the Office of Planning on an aspect of relief that  
21 wasn't needed for non-conforming structures until we  
22 removed that and so the self-certification was updated.

23 CHAIRPERSON HILL: Okay, but it was removal of  
24 something that you were asking for?

25 MR. SULLIVAN: Yes.

1 CHAIRPERSON HILL: Okay, so I don't think that  
2 there's a problem with that in terms of it affecting  
3 anyone. Does the Board have any issues with that? Okay,  
4 then we'll go ahead and waive the 21-day filing deadline  
5 on that.

6 Then the other, in terms of the affidavit of  
7 posting, it seemed -- can you explain when it was posted?  
8 I just want to make sure the 15 days, because it seemed as  
9 though, the affidavit states that it was posted on 5/6 but  
10 then -- I'm sorry, yes, the affidavit states that it was  
11 posted on 5/6 but it wasn't notarized until 5/15.

12 MR. SULLIVAN: So yes, I wasn't aware that was  
13 an issue. It was notarized, but it doesn't need to be  
14 notarized on the same day it's posted, right?

15 CHAIRPERSON HILL: So, you're just telling me  
16 it was posted on 5/6?

17 MR. SULLIVAN: Yes.

18 CHAIRPERSON HILL: Okay, all right. That's  
19 fine. All right, okay, so after that, let's see. All  
20 right, so Commissioner, you're here wishing to speak in  
21 support or opposition, or are you wishing to be a party?  
22 I mean, you're automatically a party anyway, but I'm just  
23 trying to see -- are you here in support or opposition?

24 MS. SHROPSHIRE: So, it's in support but it was  
25 conditional, there were things that we wanted to be met

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1 before we could say, yes, we are in total support of the  
2 project.

3 CHAIRPERSON HILL: Okay, so since you're a  
4 party, you have an opportunity to ask questions, cross-  
5 examine, give a presentation, everything like that.

6 So basically what's going to happen is Mr.  
7 Sullivan will go ahead and give his presentation, then you  
8 can ask questions of that presentation if you have any,  
9 and then you'll get an opportunity to give a presentation  
10 and then that's when I guess you can tell us all about the  
11 ANC's issues and concerns, and then we'll just kind of  
12 walk through the hearing as best we can.

13 MR. SHROPSHIRE: Great, thanks.

14 CHAIRPERSON HILL: Okay, great. So Mr.  
15 Sullivan, I don't have any particular questions, I guess,  
16 for you to address. We'll just go ahead and put 15  
17 minutes on the clock, Mr. Moy.

18 And you can just walk us through your project,  
19 tell us how you are meeting the standards for us to grant  
20 the relief that you are requesting. And you can begin  
21 whenever you like.

22 MR. SULLIVAN: Thank you Mr. Chairman and  
23 members of the Board. Again, my name is Marty Sullivan  
24 with the law firm of Sullivan & Barros, on behalf of the  
25 applicant. The subject property is located on a corner

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1 lot in Trinidad, it's a very small lot, 1,278 square feet.  
2 The existing building currently occupies 100 percent of  
3 the lot, it's a one story building most recently used as a  
4 laundromat.

5 And the applicant's proposing -- we're in the  
6 MU4 zone, the applicant's proposing to convert the  
7 existing building to eight residential units and construct  
8 a two-story addition. One of the units will be set aside  
9 as an inclusionary zoning unit and three areas of relief  
10 are required in order to realize this project.

11 The first is special exception relief from the  
12 parking requirement of one space, under C703.2 and special  
13 exception relief also from the lot occupancy and the rear  
14 yard requirements.

15 I'm going to turn it over to the architect, Mr.  
16 Fridy, to go over the plans. One thing I'll note is that  
17 I mistakenly included floor -- a previous set of floor  
18 plans. So I'll switch over to the exhibit 48A, which is  
19 the current plans when he's talking about those floor  
20 plans. Sorry about that. Thank you. Mr. Fridy?

21 MR. FRIDY: All right. Good morning Chairman,  
22 members of the Board. My name is Moe Fridy, Citadel  
23 Architects. The building is a corner store that occupies  
24 100 percent --

25 COMMISSIONER SHAPIRO: Excuse me, can you pull

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1 your mic a little closer to you? Thank you.

2 MR. FRIDY: The existing building is a corner  
3 store that occupies 100 percent of the lot and it's at the  
4 intersection of Montello Avenue and Simms Place. What we  
5 are proposing to do is to convert this property into an  
6 apartment building with three stories, a cellar, and a  
7 penthouse.

8 The entrance of the property will be at -- from  
9 Simms Place and basically, if you go to the floor plan, we  
10 will have a staircase in the middle. And then one  
11 apartment at each side of the building.

12 So this is the basement floor plan, we have one  
13 bedroom plus den, and then another two bedrooms on the  
14 other side. Most of the apartments are one-bedroom plus  
15 den or two bedrooms, except for the third story and the  
16 penthouse, where we have three-bedroom apartments. Duplex  
17 three-bedroom apartments.

18 The cellar will have bicycle parking and the  
19 first floor will have a nine-and-a-half by five-and-a-half  
20 trash room, nine-and-a-half feet by five-and-a-half feet.  
21 The penthouse will have a rooftop deck as well as a green  
22 roof. The exterior of the building will be a combination  
23 of brick veneer, metal cladding, and cement siding.

24 VICE CHAIRPERSON HART: Thank you. Just one  
25 question for the architect before you go on, Mr. Sullivan.

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1 What is the, when you're showing the cellar floor plan, I  
2 understand that you have the kind of wells on the -- I  
3 don't know if that's, I don't know what direction that is,  
4 but on the left hand side of the slide here.

5 What's the escape plan for the other unit? I  
6 mean, because it's just the stairs, there's not a  
7 requirement for another way of egress?

8 MR. FRIDY: So, the other unit will have a den  
9 and then it goes into the stair. And the bedroom will  
10 exit into, will have a bedroom that the window -- at this  
11 window of the property. Is this your question?

12 VICE CHAIRPERSON HART: So this is a two-story  
13 unit?

14 MR. FRIDY: The basement unit?

15 VICE CHAIRPERSON HART: Yes.

16 MR. FRIDY: No, it's a one-story unit.

17 VICE CHAIRPERSON HART: Okay, so there are no  
18 windows on here -- well, there's kind of a window. But is  
19 that --

20 MR. FRIDY: The basement is elevated four feet  
21 from the pavement, so we have windows at the top. If you  
22 look at the elevation --

23 VICE CHAIRPERSON HART: Yes, give me a sec.  
24 What I was trying to understand was how you did -- why you  
25 needed wells on one side and then you didn't have them on

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1 the other side. That's what I'm trying to --

2 MR. FRIDY: Oh, because DDOT would not allow  
3 window wells on Simms Place. That is the reason.

4 VICE CHAIRPERSON HART: Oh, okay. Okay, thank  
5 you. You can go on, Mr. Sullivan.

6 MR. SULLIVAN: Thank you. The special  
7 exception criteria for the three approvals, first of all  
8 there's the general criteria that the proposed relief is  
9 in harmony with the general purpose and intent of the  
10 zoning regulations.

11 It is so in harmony because it proposes an  
12 adaptive reuse of a previously neglected commercial  
13 property in the provision of eight new residential units,  
14 one of which will be set aside as an inclusionary zoning  
15 unit.

16 Zoning regulations specifically permit special  
17 exception relief requested for lot occupancy rear yard and  
18 for the parking relief. And the neighboring properties  
19 include a mix of commercial and low-to-moderate density  
20 residential uses.

21 And the project, we believe, will complement  
22 the surrounding character of that area and will not tend  
23 to affect adversely the use of neighboring properties.  
24 Specifically on the parking relief, it's a special  
25 exception which the applicant can satisfy under several

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1 considerations, just one of which we need to show.

2           Due to the fact that the building occupies 100  
3 percent of the lot, there's no access to any parking and  
4 we also were not able to discover any available parking  
5 within 600 feet of the subject property.

6           Regarding the rear yard relief, there are some  
7 specific special exception requirements for that. No  
8 apartment windows shall be located within 40 feet directly  
9 in front of another building, and we believe we meet that  
10 requirement, it's proposing windows just on the west and  
11 the south sides.

12           And buildings facing that are over 40 feet  
13 away, as you can see on these slides. Regarding lot  
14 occupancy relief, there is no special exception, specific  
15 special exception criteria, it's just the general criteria  
16 so I would refer back to that discussion that we had about  
17 meeting the general criteria.

18           The applicant has attended seven meetings with  
19 the ANC, either full ANC meetings or other scheduled  
20 meetings arranged by the ANC Commissioner. And the ANC is  
21 in conditional support, as you'll hear, OP supports  
22 approval and we have three letters in support from nearby  
23 neighbors. So that's it if you have any questions.

24           CHAIRPERSON HILL: Okay, does the Board have  
25 any questions of the applicant at this point?

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1 MEMBER WHITE: Just one question, I just wanted  
2 to just verify that you weren't requesting any type of  
3 variance relief for a non-conforming structure for this  
4 particular application. The second question is, I wanted  
5 to know where the IZ unit was located, maybe that's more  
6 of a question for the architect. Maybe start with the  
7 easier question.

8 MR. FRIDY: The IZ unit is in the basement, in  
9 the cellar.

10 MEMBER WHITE: So, it's one-bedroom,  
11 two-bedroom?

12 MR. FRIDY: It's a two-bedroom. I'm sorry,  
13 it's actually a three-bedroom.

14 MEMBER WHITE: Family-size unit?

15 MR. FRIDY: Right, three-bedroom duplex on the  
16 third-floor penthouse.

17 MEMBER WHITE: Good.

18 VICE CHAIRPERSON HART: Say that again?

19 MR. FRIDY: Three-bedroom, it's a three-bedroom  
20 duplex. The IZ unit.

21 VICE CHAIRPERSON HART: So, it's not in the  
22 basement?

23 MR. FRIDY: No, it's not.

24 VICE CHAIRPERSON HART: Okay, well I mean, you  
25 just said two things. I just wanted to make sure --

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1 MR. FRIDY: No, no, I just -- it is on the  
2 third floor, at the penthouse.

3 VICE CHAIRPERSON HART: That's fine, I just was  
4 making sure I got that clear, that's all.

5 MR. FRIDY: My mistake.

6 MEMBER WHITE: Thank you.

7 COMMISSIONER SHAPIRO: And on the question of  
8 the non-conforming, in discussions with the Office of  
9 Planning it was determined and we agreed that we didn't  
10 need that relief.

11 MEMBER WHITE: I just wanted to verify, thank  
12 you. I'll probably ask them the same question.

13 CHAIRPERSON HILL: Okay great, anyone else for  
14 the applicant? Just why do you think you don't need the  
15 relief?

16 MR. SULLIVAN: I would need a second to look at  
17 it, I'm not -- I wasn't focused on that issue and I'd have  
18 to look at the discussion behind that.

19 CHAIRPERSON HILL: Why don't you just take a  
20 look at that, Mr. Sullivan, while I kind of run through  
21 this here. But Mr. Shapiro, you had a question? Okay.  
22 Commissioner, so -- and I'm sorry, Shropshire?

23 MS. SHROPSHIRE: Yes, Shropshire.

24 CHAIRPERSON HILL: Shropshire.

25 MS. SHROPSHIRE: I know, it's a tongue twister.

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1 CHAIRPERSON HILL: Yes, it is, Shropshire. So  
2 let's see, Commissioner, do you have any questions of the  
3 applicant or would you just like to make your  
4 presentation?

5 MS. SHROPSHIRE: I'd just like to make my  
6 presentation.

7 CHAIRPERSON HILL: Okay. So please, go ahead.  
8 Mr. Moy, I'm going to put 15 minutes on the clock again,  
9 and you can begin whenever you like.

10 MS. SHROPSHIRE: Okay, I'm just going to read  
11 my submission. The applicant application was considered  
12 at a public meeting of ANC 5D on Tuesday, May 14th.  
13 Proper notice of this meeting was given by posting on the  
14 ANC 5D.org website, Ward 5 list-serve and Next Door  
15 Community Blog.

16 ANC 5D has seven single-member districts, a  
17 quorum of four commissioners is required, all seven were  
18 present during the meeting. There was a unanimous vote of  
19 7-0-0 to conditionally support the special exception,  
20 contingent upon the applicant making major revisions to  
21 redesign architectural plans and floor plans and request  
22 additional information accordingly.

23 That included reducing the total number of  
24 units proposed for the lot in order to increase the square  
25 footage for the two and three-bedroom apartments, making

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1 them reasonably sized. The proposed two-bedroom units  
2 would range from 464 to 500 square feet, while the quote-  
3 unquote family size three-bedroom units would range from  
4 639 and 675 square feet.

5 And also provide written documentation from the  
6 nearby property owners at 1210 Simms Place NE and 1211  
7 Mount Olivet Road, stating their intent to sign covenant  
8 and/or easement. Three of the windows that are on the  
9 plans are potential safety risks for future neighbors of  
10 not having the fire and emergency access unless they  
11 obtain letters from these property owners.

12 We've met with the applicant numerous times  
13 during four single-member district meetings on February  
14 16th, March 16th, April 6th and April 27th and three ANC  
15 5D community meetings on March 12th, April 9th and May  
16 14th.

17 During each of these meetings, the applicant  
18 was open to listening to and also considering  
19 incorporating some of the community's input, which  
20 consisted of the following concerns or requests: the  
21 community requested family size units for the building,  
22 there were concerns expressed regarding trash room  
23 capacity and size, concerns regarding frequency of the  
24 trash pick-up for eight units and the impact of the  
25 associated noise, concerns with parking due to increased

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1 street capacity based on increased number of units,  
2 concerns regarding safety issues of apartments with unit  
3 windows aligned with the property line of adjacent  
4 property at 1210 Simms Place, and concerns that drawings  
5 did not reflect the actual use of space.

6           There was some opposition to the larger, taller  
7 buildings, concerns that too many small-size units are  
8 being proposed for the allotted space. Each subsequent  
9 meeting, the applicant returned with minor revisions to  
10 the plans, but no reduction in the number of units, rather  
11 an increase in the number of units from seven to eight,  
12 including a newly proposed cellar unit.

13           We stated earlier but it bears repeating, the  
14 applicant's proposed two-bedroom apartments range between  
15 464 to 500 square feet. The penthouse area provides an  
16 additional 175 square feet to the top floor unit, so the  
17 three-bedroom units would range from 639 and 675 square  
18 feet.

19           To put the figures into context, according to a  
20 November 2018 study by Rent Café.com, Washington DC had  
21 the fourth smallest apartment sizes in the US. In their  
22 analysis, they found the following average sizes for  
23 Washington DC apartments: studio apartments 481,  
24 one-bedroom 721 square feet, two bedrooms 990, total  
25 average is 736.

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1           The applicant's proposed three-bedroom units  
2 would be smaller than the average one-bedroom in the  
3 district. In all BZA cases, the proof of burden is upon  
4 the applicant to justify, which the community, the ANC and  
5 the Board of Zoning Adjustment should support providing  
6 special exceptions.

7           The applicant is proposing a design where the  
8 units are extremely and unreasonably small. Moreover, the  
9 applicant is proposing units with at-risk windows that may  
10 not provide the fire department with the minimum  
11 three-foot access for a public way.

12           ANC 5D welcomes the opportunity to support this  
13 project, as the community wants to see something  
14 productive done with the property. However, we believe  
15 that the BZA should only provide a special exception if  
16 the applicant revises a design to provide realistic sized  
17 units for the two and three-bedroom, rather than packing  
18 our future neighbors into a building like sardines.

19           We look forward to discussing these concerns  
20 further, thank you for your consideration. And I wanted  
21 to add that the applicant, Mr. Claggin, he's been you know  
22 he's attended quite a few meetings as we listed and he's  
23 been willing to incorporate things, so we are in support  
24 of something happening to this property, it's just that we  
25 want something that's reasonable for future residents.

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1 CHAIRPERSON HILL: Okay. Does anybody have any  
2 questions for the Commissioner?

3 VICE CHAIRPERSON HART: Yes, I do. Ms.  
4 Shropshire, so you said something about the alignment of  
5 the buildings? What is it?

6 MS. SHROPSHIRE: The windows.

7 VICE CHAIRPERSON HART: Was it the windows that  
8 were --

9 MS. SHROPSHIRE: Do you have the drawing for  
10 that?

11 VICE CHAIRPERSON HART: Is it elevation that  
12 you're looking for?

13 MS. SHROPSHIRE: It's actually on the property  
14 line of the adjacent property at 1210 Simms Place.

15 VICE CHAIRPERSON HART: The plans, is it this  
16 window here? Okay, so it's the window that -- because  
17 there's a property that's located, that's here.

18 MS. SHROPSHIRE: Yes.

19 VICE CHAIRPERSON HART: Okay, and so it's this  
20 window that you're talking about.

21 MS. SHROPSHIRE: It's three of them, I think,  
22 on each floor.

23 Right?

24 VICE CHAIRPERSON HART: Yes, I'm just saying,  
25 on this particular floor, they are --

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1 MS. SHROPSHIRE: I assume. Is that the window  
2 that we're referring -- yes.

3 VICE CHAIRPERSON HART: And so that's because  
4 there's no stand-up from the building next to it --

5 MS. SHROPSHIRE: Yes.

6 VICE CHAIRPERSON HART: Which is a fairly tall  
7 building itself --

8 MS. SHROPSHIRE: Yes.

9 VICE CHAIRPERSON HART: That would, I'm not  
10 even sure how they would do that, honestly.

11 MS. SHROPSHIRE: So I think the building that  
12 is adjacent to that, the proposed property that's being  
13 developed, is the space where the windows are, there is  
14 not a building there. I think that they did not fully  
15 occupy the lot there.

16 So there is space, but that's why we were  
17 requesting the easement or the covenant letter from the  
18 property owners to say for the future, and I know that  
19 I've spoken with Mr. Claggin about this before, and he  
20 explained to me this DCRA process that will happen later,  
21 but I wanted, we wanted to be assured that there would not  
22 be any future conflicts. So that's why we put that  
23 request there.

24 VICE CHAIRPERSON HART: Yes, we've had to deal  
25 with at-risk windows before, so it is what it is. Thank

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1 you.

2 CHAIRPERSON HILL: Okay, anyone else?

3 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.

4 Do you, Commissioner Shropshire, do you all have any  
5 proposal for what, in your estimation, would be  
6 appropriately sized units?

7 MS. SHROPSHIRE: So, I don't know the magic  
8 number, but my question to the Board would be, what is the  
9 standard size? And maybe you don't have that answer to  
10 that right now, but I was wondering if even -- the plans,  
11 the original plans started out with seven units.

12 And then when there was a request for  
13 family-sized units it increased to eight, and then the  
14 cellar unit occurred, appeared. But the sizes of the  
15 units were small, so I'm thinking, even if it was, one of  
16 the thoughts that I had was if it was a six-unit building  
17 with reasonably sized units, based on the numbers that I  
18 quoted from the study from the RentCafe.Com, that there  
19 would be something more reasonable or realistic for people  
20 to at least put a couch in and you know be able to live  
21 in.

22 It just seems pretty small.

23 COMMISSIONER SHAPIRO: Thank you for that. And  
24 I just want to make sure I understand, based on your  
25 letter, there were a number of concerns expressed that

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1 came out during the meetings. And I appreciate how  
2 thoroughly this was documented.

3 The ones that are, provide that conditionality  
4 of your support though, it's not all of them, it's the two  
5 specific issues about the unit size and the three at-risk  
6 windows.

7 MS. SHROPSHIRE: Exactly.

8 COMMISSIONER SHAPIRO: Okay, thank you.

9 MS. SHROPSHIRE: The number of units and the  
10 unit size. The size of -- so in number one, are the first  
11 one that reduce the total number of units proposed, with  
12 reasonable sizes.

13 COMMISSIONER SHAPIRO: All right, thank you.  
14 Thank you, Mr. Chair.

15 CHAIRPERSON HILL: Okay, great. Commissioner,  
16 so you guys are in opposition then, now, at this point?

17 MS. SHROPSHIRE: If the conditions are not met.

18 CHAIRPERSON HILL: Right, I mean, the  
19 conditions aren't being met currently. So, the ANC vote  
20 is in approval if those conditions are met, and those  
21 conditions are not being met currently. So, you guys are  
22 in opposition.

23 MS. SHROPSHIRE: So, I guess we just didn't  
24 want to oppose the project, so when we voted, it was to  
25 support development of the --

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1 CHAIRPERSON HILL: With the conditions.

2 MS. SHROPSHIRE: Right.

3 CHAIRPERSON HILL: Okay, all right. Mr.

4 Sullivan, do you have any questions for the Commissioner?

5 MR.SULLIVAN: No, thank you.

6 CHAIRPERSON HILL: Okay, all right. Let's see,  
7 I'm going to turn to the Office of Planning.

8 MR. KIRSCHENBAUM: Good morning, Chair Hill and  
9 members of the Board. Jonathan Kirschenbaum from the  
10 Office of Planning, we recommend approval of this special  
11 exception relief and we rest on the record. Please let me  
12 know if you have any questions.

13 CHAIRPERSON HILL: Okay, does the Board have  
14 any questions for the Office of Planning?

15 VICE CHAIRPERSON HART: We had a discussion  
16 earlier about the lot occupancy issue, I should say the  
17 non-conformity issue. Could you just speak to that a  
18 little bit?

19 MR. KIRSCHENBAUM: Sure, so I guess I'll -- so  
20 we've spoken about this before, a couple months ago for  
21 another case. So I'll just sort of repeat, I think where  
22 the zoning administrator is at and where we're at, the MU  
23 zone, when you get a special exception, does not have any  
24 provision to get special exception relief from C202.2.

25 As you may know, after you can do the R and RF

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1 zones, so that special exception relief is not even -- you  
2 can't even do it. You know, we're basically at the point  
3 now where it doesn't make sense to request special  
4 exception relief, but then you need a variance because  
5 your building is non-conforming.

6 In this case, the zoning administrator felt  
7 that the existing non-conformities for the one-story  
8 building right now, is the rear yard, right? There's no  
9 rear yard and it's 100 percent lot occupancy.

10 The special exception relief that the applicant  
11 is requesting is to just continue to you know they're just  
12 increasing the height of the building and they're not  
13 expanding the rear yard. They're not expanding the rear  
14 yard non-conformity, and they're not expanding the lot  
15 occupancy non-conformity.

16 It's 100 percent right now and it's going to be  
17 100 percent with the special exception. So, the special  
18 exception is contemplating non-conformity, it's already,  
19 it just --

20 VICE CHAIRPERSON HART: I understand what  
21 you're saying in terms of the lot occupancy basically not  
22 changing, but the FAR is changing. So there is a change  
23 on the site, which, I don't know. And I understand that  
24 FAR is not being discussed here, but it just is a weird  
25 wrinkle. I just don't know, are you guys --

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1 MR. KIRSCHENBAUM: The FAR is conforming,  
2 though.

3 VICE CHAIRPERSON HART: I know, I'm just  
4 saying. It is still changing but it's almost like we're  
5 kind of saying, well, it's not. If you had a 90 percent  
6 building, then you'd have the same, we'd have the same  
7 discussion?

8 MR. KIRSCHENBAUM: Probably not. I mean again,  
9 the special exception is --

10 VICE CHAIRPERSON HART: That's what I'm saying,  
11 it just seems odd that we are, 70 percent is the kind of  
12 max, and we're at 100 percent, which is --

13 MR. KIRSCHENBAUM: So for the MU zone, you can  
14 go to 100 percent lot occupancy via special exception.  
15 For instance, and also to just also point out that the  
16 special exception criteria in the MU zone is for new  
17 buildings and it's for existing buildings.

18 So, if the applicant came in, let's say the  
19 applicant tore down the existing one-story building and  
20 proposed this building as fully brand-new, C202 wouldn't  
21 even be coming up as even a question. There's no  
22 non-conformities that exist.

23 VICE CHAIRPERSON HART: Okay, it just still  
24 seems like an oddity.

25 MR. KIRSCHENBAUM: And we, the Office of

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1 Planning and the Office of the Zoning Administrator is  
2 well aware of this disjointed issue. So, thank you.

3 VICE CHAIRPERSON HART: Thank you.

4 CHAIRPERSON HILL: Okay, anyone else?

5 COMMISSIONER SHAPIRO: Mr. Chair, a question  
6 for OP. Pardon my ignorance, but is there a -- this is  
7 probably a DCRA issue, not you, but what is the minimum  
8 required unit size?

9 MR. KIRSCHENBAUM: So, regarding the units you  
10 know, in the District of Columbia, we don't have density  
11 requirements in our zoning. So as long as you meet your  
12 FAR, you can put as many units as you want in the  
13 building, we do not restrict how many units are allowed on  
14 a lot in our higher-density zones like the MU zone.

15 And regarding the minimum size of an apartment,  
16 zoning doesn't control that, it's building code and I  
17 believe it's from 220 square feet, is the minimum size.

18 COMMISSIONER SHAPIRO: Okay, thank you. Thank  
19 you, Mr. Chair.

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

22 MR. SULLIVAN: No, thank you.

23 CHAIRPERSON HILL: Does the Commissioner have  
24 any questions for the Office of Planning?

25 MS. SHROPSHIRE: No.

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1 CHAIRPERSON HILL: Okay. I guess I have just a  
2 couple of quick questions for Mr. Sullivan. Mr. Sullivan,  
3 in terms of the issues that the Office -- I'm sorry, that  
4 the ANC is raising, those issues aren't affecting any of  
5 the relief you're requesting. Correct?

6 MR. SULLIVAN: No, I don't think so. Mr.  
7 Claggin can speak to those, if the Board would want to  
8 hear some explanation of that?

9 CHAIRPERSON HILL: Sure.

10 MR. SULLIVAN: I don't think they're directly  
11 related.

12 MR. CLAGGIN: Okay, good morning Mr. Chairman  
13 and board members, just wanted to talk briefly about the  
14 square footage issue. I've been a licensed real estate  
15 agent in Washington DC and Maryland for the past ten  
16 years. The way we arrive, I mean, the space is what it  
17 is.

18 But we did, I ran a ton of comps just in that  
19 Trinidad neighborhood before we were comfortable with  
20 designing the units the way they are currently designed.  
21 And I have to say that you know I disagree with the  
22 Commissioner's opinion on the size of the units.

23 A lot of new construction is taking place in  
24 the city you know it's consisting of smaller size units.  
25 The way the units are designed, they do meet code in terms

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1 of size of bedrooms, living rooms, and so forth. You know  
2 with that being said, I personally didn't see an issue  
3 with the size of the units and I thought that it would be  
4 advantageous to allow folks to at least get a look at the  
5 units and make the decision for themselves.

6 People that are coming into the DC wanting to  
7 live in Trinidad, to have them make that decision, and not  
8 someone make it for them, to say that, we think offhand  
9 that this is too small. Thank you.

10 CHAIRPERSON HILL: Okay, all right. So  
11 Commissioner, have you been there for a while?

12 MS. SHROPSHIRE: Yes, I've been a Commissioner  
13 since, this is my third term.

14 CHAIRPERSON HILL: I haven't heard in a while,  
15 people coming and wanting to move into Trinidad there,  
16 it's been a -- things are changing.

17 MS. SHROPSHIRE: Yes.

18 CHAIRPERSON HILL: Things are changing.

19 MS. SHROPSHIRE: I've been -- well, actually,  
20 I've been a resident of the community since 2006, yes.

21 CHAIRPERSON HILL: Good, good for you.

22 MS. SHROPSHIRE: I have a question now.

23 CHAIRPERSON HILL: Sure, go on.

24 MS. SHROPSHIRE: So, I know that there was, in  
25 the presentation there was an indication that the parking

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1 was being met. Can you go back to those slides? I just  
2 had questions, just clarifying how it's being met. I'm  
3 not understanding how.

4 CHAIRPERSON HILL: He's saying that it's not  
5 being met, that they're asking for relief from the parking  
6 and there was given reasons why. Correct, Mr. Sullivan?

7 MR. SULLIVAN: That's correct, we have a  
8 parking requirement of one space for eight units, or for  
9 six, seven or eight units. The requirement would be the  
10 same, so --

11 CHAIRPERSON HILL: Can you clarify again how  
12 you're not able to meet that requirement?

13 MR. SULLIVAN: Yes, it's basically a function  
14 of the condition of the property being 100 percent lot  
15 occupancy and not having access but through an alley. And  
16 it's also so close to the corner that a curb cut wouldn't  
17 be approved that close to a corner as well.

18 CHAIRPERSON HILL: Okay. All right Mr.  
19 Claggin, I guess we're -- Claggin? Claggin?

20 MR. CLAGGIN: Claggin.

21 CHAIRPERSON HILL: Claggin. Yes, I mean, in  
22 terms of as far as the number or size of the units, you  
23 guys are trying to get as many units as you can get in  
24 there, I would think is what you're trying to do, that are  
25 actually marketable. And one of them is an IZ unit, they

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1 are going to provide an IZ unit but they have to provide  
2 an IZ unit.

3 But actually, I'll just ask one question I  
4 guess of the applicant, in terms of like, when you thought  
5 about -- so did you look at the six units or the seven  
6 units? The reason why you got to the eight, just for  
7 financial reasons?

8 MR. CLAGGIN: Yes. So initially, the plan was  
9 to have seven units, so that consisted of five -- I'm  
10 sorry, six two-bedroom units and one penthouse. After  
11 maybe two, I'm sorry, the basement came later. So  
12 initially it was seven with the penthouse.

13 So after attending the meetings, community  
14 meetings, larger family size units became an issue you  
15 know, the community said, hey, we want to see larger  
16 units. So I came back, met with the architect, and we  
17 looked at that penthouse space and we decided to  
18 incorporate, instead of having a penthouse, we'll remove  
19 the penthouse and create two bedrooms to accommodate the  
20 top two two-bedroom units, at the top, at the top level,  
21 right?

22 So, we split the penthouse in half and create a  
23 bedroom for this side and a bedroom for the two-bedroom  
24 that's on the right side. So the penthouse went away.  
25 And after speaking with the architect, I said, well, how

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1 else can we try to make up the unit that we lost?

2           And we came up with a plan to have below-grade  
3 units, and at that time you know we would just be adding  
4 one, but if the space is there, why not just put two? And  
5 that's where the eighth unit came from. So initially it  
6 was seven, then it went to eight after we decided to  
7 excavate for below-grade units.

8           CHAIRPERSON HILL: Okay. And you -- I'll get  
9 you in one second, Commissioner. And you meeting with the  
10 ANC this whole time, I guess it was seven times. Yes,  
11 okay. Commissioner, you had a comment?

12           MS. SHROPSHIRE: So, it wasn't until later on  
13 that the question about square footage came up. Early on  
14 in our meetings, there was a question always posed as to  
15 why seven units? Can you go lower?

16           And I think that was his limit, and then that's  
17 when he went back and said, oh, because you guys asked for  
18 family size units, we found a way to utilize the cellar  
19 space with the architect. So we've increased it to eight,  
20 and we were like, why eight? That's more units.

21           So, there was never a consideration or we were  
22 never presented with a floor plan with less than seven  
23 units. So, I think that that's something that I  
24 definitely think could be considered but it hasn't yet.

25           CHAIRPERSON HILL: But the only reason why you

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1 guys are interested in the less than seven units, you're  
2 worried about density?

3 MS. SHROPSHIRE: Yes.

4 CHAIRPERSON HILL: Okay. I'm just going to  
5 make one comment, you guys, you've already stated that you  
6 are interested, the ANC's interested in seeing this get  
7 developed.

8 MS. SHROPSHIRE: Yes, I mean, it's a vacant  
9 property right now.

10 CHAIRPERSON HILL: All right, does anybody have  
11 any more questions?

12 VICE CHAIRPERSON HART: Yes. So, Mr. Sullivan,  
13 how do you plan on dealing with the at-risk window on the  
14 east side of the building or south side of the building?

15 MR. SULLIVAN: I'll have the architect attest  
16 to that, but the plan I think is to file a covenant on our  
17 end. The neighbor doesn't have to agree to that covenant,  
18 the covenant would be that if the building were to ever be  
19 close enough to that window to require it to be closed in,  
20 that Mr. Claggin would be required to do that.

21 And I don't know if that fully addresses your  
22 concern?

23 VICE CHAIRPERSON HART: No, no, I'm just trying  
24 to figure out, I mean, you have just about all of the  
25 bedrooms have some sort of window, and that's usually what

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1 somebody's kind of expecting. Not to have one, I just  
2 didn't know. Can you speak to that, Mr. Claggin, about  
3 how you perceive that unit that you may have to close the  
4 window on?

5 MR. CLAGGIN: I've spoken with the owner of the  
6 adjacent property and he has no plans, at least is what  
7 he's telling me now, he has no plans to build, to occupy  
8 100 percent of his lot.

9 As Marty was just indicating, we would be  
10 prepared to sign a covenant indicating that if he did at  
11 some point decide to come back before you guys and ask for  
12 an exception to occupy the entire lot, then we would close  
13 those windows so the units would become, they're currently  
14 two-bedroom units, they would become one bedroom and a  
15 den.

16 So that rear unit would lose a window,  
17 basically.

18 VICE CHAIRPERSON HART: Okay, because I can  
19 tell you, we've heard cases already, that the people just  
20 you know larger buildings than this, that they found, oh,  
21 there's something that's happening. Right now, you have  
22 an owner that is, you know who the owner to next door, but  
23 they could sell in five years. And now they say, I don't  
24 want this building, we're going to do something completely  
25 different.

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1 I just was trying to figure out what you were  
2 looking to do with that, but just understand that that is  
3 a very real possibility regardless of if it's this owner  
4 or the next owner.

5 MR. CLAGGIN: We will be prepared, I will be  
6 prepared to let the tenants know you know, that the  
7 covenant is there. I don't think something like that  
8 would happen overnight, but once we receive notice from  
9 the neighbor that they had intention to do that, we would  
10 then notify the tenants to let them know you know what's  
11 coming down the pike and see if they have any concerns, if  
12 they want to move, is there something we can do to assist  
13 them in moving.

14 If they don't want a one-bedroom and a den, if  
15 they would prefer a two-bedroom, then we would let them  
16 know. I think we would have sufficient time to you know  
17 advise the tenants that that was going to happen.

18 MEMBER JOHN: Just a follow-up question, do you  
19 plan to include that information in the lease?

20 MR. CLAGGINS: Yes because of that, because it  
21 is an at-risk window, yes. Yes, we're going to have to  
22 let them know that because, you know, like I said I don't  
23 think that's something that would happen overnight, but  
24 once we are notified, we will put in the lease that, you  
25 know, you will be given 30-day notice or however, as much

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1 advanced notice that we're given we will provide that to  
2 the tenant. We would let them know that, as well, in the  
3 lease.

4 MEMBER JOHN: Just another question, so would  
5 the tenant's rent be reduced when the tenant loses that  
6 extra bedroom? I think that information has to be in the  
7 lease. What happens if you lose a bedroom?

8 MR. CLAGGIN: That's hard, I mean we would give  
9 them the option, you know, some may want to move, if they  
10 decide. They don't lose square footage, you know, they  
11 still would have the same square footage but, you know, I  
12 understand your question.

13 And we would give them the option if they would  
14 like to move, we would refund the security deposit. And  
15 the system would, you know, relocating, you know, it would  
16 be completely up to them.

17 But we would accommodate, you know, the tenant  
18 at that time once, you know, if the changed did happen.  
19 We'd do our best to accommodate. We didn't roll out a  
20 full plan to, you know, I have that ready for you today  
21 but we, you know, I would be more than willing to  
22 accommodate, you know, the tenant, if they have to  
23 relocate.

24 MEMBER JOHN: Thank you.

25 VICE CHAIRPERSON HART: Just one final question

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1 and this is, I guess, for the architect. So you're  
2 maintaining the existing building and you're building,  
3 you're maintaining the existing shell of the building and  
4 you're building on top of that? You're punching holes  
5 through the existing shell?

6 MR. FRIDY: Correct.

7 VICE CHAIRPERSON HART: Okay, it just seems  
8 like a lot of the existing shell is going to be gone. So  
9 how much are you retaining of the building?

10 MR. FRIDY: We were retaining a little bit  
11 more, over 50 percent but that's the discussions we will  
12 have with DCRA whether -- whether the --

13 VICE CHAIRPERSON HART: So that's the wall  
14 that's to the north and the wall that's to the --

15 MR. FRIDY: Correct.

16 VICE CHAIRPERSON HART: -- basically the south?

17 MR. FRIDY: Correct.

18 VICE CHAIRPERSON HART: And then the facades  
19 along Simms and Montello would be -- you would take down  
20 part of it or try to figure out how to deal with, because  
21 some of this looks like it's new. I mean, you're putting  
22 in --

23 MR. FRIDY: Yes.

24 VICE CHAIRPERSON HART: -- you know, windows  
25 and doors and, you know, you're kind of adding various

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1 things. Is the floor going up too?

2 MR. FRIDY: Yes.

3 VICE CHAIRPERSON HART: The floor is increasing  
4 so you can have a basement level?

5 MR. FRIDY: Correct. Correct.

6 VICE CHAIRPERSON HART: So you're partially  
7 excavating the site?

8 MR. FRIDY: Correct.

9 VICE CHAIRPERSON HART: Okay.

10 MR. FRIDY: So this is really, you know, we  
11 talked to DCRA about it and I think the regulations now we  
12 will have to get a raze permit anyway, even if we're doing  
13 this. We're not demolishing all of the building. The  
14 guidelines just changed the last couple of months. So  
15 that's something in flux that we still not sure how DCRA  
16 will look at it as a total raze or an addition to an  
17 existing building.

18 VICE CHAIRPERSON HART: Okay, thank you for the  
19 clarification.

20 CHAIRPERSON HILL: All right, well I thought we  
21 might actually get all done before lunch, but now I can  
22 see that this is going to go on and so we are going to  
23 actually have lunch. Hey I'm going to get a sandwich, I'm  
24 all good.

25 So, let's see, the reason why we're asking all

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1 these at-risk window questions, it's so interesting.  
2 Somebody came back with an appeal to us one time because  
3 they were losing their at-risk window. I didn't realize  
4 that it had such an effect on all of us that this is now,  
5 you know --

6 VICE CHAIRPERSON HART: No, there's actually  
7 several cases that we've had to deal with and it's just  
8 trying to figure --

9 CHAIRPERSON HILL: Right.

10 VICE CHAIRPERSON HART: -- out about kind of  
11 how to understand it.

12 CHAIRPERSON HILL: Sure. So, Ms. John, you had  
13 a question about a condition that I might ask OAG in terms  
14 of --

15 MEMBER JOHN: I think I would ask OAG. I would  
16 like to see a condition that the applicant must include in  
17 its lease, that this is an at-risk window and that the  
18 applicant will take appropriate steps to compensate the  
19 tenant, if the tenant loses a legal bedroom. Because once  
20 you lose that at-risk window, it's no longer a legal  
21 bedroom. So instead of renting a two bedroom, one-bath  
22 apartment, the applicant is renting a one bedroom and den  
23 which is a different price point.

24 And I'm just concerned that you're telling the  
25 Board this now, but maybe a subsequent owner does

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1 something different. And then the tenant has to fight  
2 with the landlord/owner at that point to enforce what  
3 you're telling us now. And I expect that you will do what  
4 you've said you would do, but I'm just concerned about  
5 this privacy, and it's not privacy as much as the use of  
6 the rental unit for a tenant. I don't know, I'm just  
7 concerned that the tenant would never know that that --  
8 well, might not be able to get any sort of relief, so.

9 CHAIRPERSON HILL: So my question then to OAG  
10 is, is that something that we have made a condition before  
11 or are we able to make that a condition?

12 MS. CAIN: I'm not sure if you've done  
13 something to that effect before. I think you would be  
14 able to incorporate language in the lease saying that in  
15 case these windows do have to get closed up down the line,  
16 that the property owner will provide compensation or that  
17 there will be some recourse for the tenant in that unit.  
18 And we need to sort of look at the exact language though.

19 CHAIRPERSON HILL: Okay, hold on, the attorney  
20 had something to say?

21 MR. SULLIVAN: I can see how you can reasonably  
22 relate a condition like that to asking for lot occupancy  
23 relief and I'm sure we'd be happy to do that but I don't  
24 think that you can put details in there about how that's  
25 going to work, other than notice. So if the tenant has

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1 notice, then it's a negotiation between whoever owns the  
2 property at the time and that tenant. As long as the  
3 tenant knows that this could happen and but, to  
4 specifically define how that negotiation has to take  
5 place, gets --

6 CHAIRPERSON HILL: No, at some point, we have  
7 to stop in terms of the condition but I'm just trying to  
8 see what the condition will be that there will be a  
9 condition that for those units that have the at-risk  
10 window, the tenants would need to be notified at the time  
11 of lease.

12 COMMISSIONER SHAPIRO: I think it's true  
13 they're required to do that?

14 CHAIRPERSON HILL: Pardon?

15 COMMISSIONER SHAPIRO: I think so, I think  
16 they're required to do it.

17 CHAIRPERSON HILL: They're required to do it?

18 MR. SULLIVAN: I'm not a landlord/tenant  
19 lawyer. I suspect that tenants are well-protected in this  
20 situation just as any other. But I don't know  
21 specifically.

22 COMMISSIONER SHAPIRO: I mean, that that window  
23 is an at-risk window, not to -- to your point, that there  
24 would be some kind of relief offered.

25 MEMBER JOHN: I think I might be in the

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1 minority but I don't the like the situation where the  
2 tenant has the burden of making sure that the tenant is  
3 properly compensated for losing a legal bedroom. Because,  
4 you know, that's what is happening. And so I could see a  
5 situation where a tenant, in dire need of housing, signs a  
6 lease knowing that the tenant could lose this window.

7 CHAIRPERSON HILL: Okay.

8 MEMBER JOHN: And so I would suggest something  
9 like, at the time of lease that the lease will include a  
10 provision requiring the landlord to compensate or make  
11 other arrangements with the tenant for the loss of this  
12 legal bedroom because that's what is happening. It's a  
13 different price point.

14 CHAIRPERSON HILL: Okay. Okay, I don't think  
15 the applicant is opposed to this so I'm just trying to  
16 figure out what the condition is, to if that, you know,  
17 satisfies the Board. Now before I move on -- okay, so  
18 Commissioner, I'm back over here. So you're hearing all  
19 this stuff about the at-risk window, right? In terms of  
20 the unit size, I mean I'm just letting you know, I don't  
21 necessarily know whether that's something that we would  
22 have gotten involved in.

23 And so, I don't know what to say about the -- I  
24 mean, you're not going to get your conditions, I mean, I  
25 don't think so, in terms of with this application in this

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1 way. I mean, if we deny it based upon what the ANC has  
2 said, that they think is, you know, the units are too  
3 small, then, you know, they'll be back to us possibly with  
4 another design. I'm just saying they'd have to come back  
5 with another design, in order for us to be --

6 But before I ask any questions, I'm not really  
7 asking questions, I guess, about the size of the units,  
8 you've been listening to the at-risk window issue. Do you  
9 have any questions about that at-risk window issue at this  
10 point?

11 MS. SHROPSHIRE: No, I just wanted to make  
12 another statement, like I mentioned in the condition that  
13 is a covenant or an easement. So those particular  
14 windows, I think that they require easements from both  
15 property owners, the two property owners that I had  
16 mentioned, 1210 Simms Place and 1211 Mount Olivet Road  
17 because -- in order for them to be legal windows.

18 CHAIRPERSON HILL: I think what we're talking  
19 about here is the fact that they're not, like you're not  
20 going to get the other people to agree to not build to  
21 that lot line or whatever they can do. And so they're  
22 providing the, they're taking care of it on their end  
23 which is that if somebody moves in there and they lose the  
24 window, then this is what's going to happen.

25 MS. SHROPSHIRE: I've been listening.

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1 CHAIRPERSON HILL: Okay, no I'm just trying to  
2 explain. It helps me to explain if I talk out loud. All  
3 right, so I'm going to keep moving along sure --

4 MS. SHROPSHIRE: Can I just make another  
5 statement, like there was the property that I keep  
6 bringing up, which is in the picture here, the taller 1210  
7 Simms Place. They had a BZA case here in 2013 and they  
8 put four reasonably sized units in that building.

9 And I think it's going to be about the same  
10 height, it's going to be about the same space and so I'm  
11 just, I guess that was of concern that that particular,  
12 even they proposed reasonable living size quarters for  
13 residents to be in. It wasn't eight units put into the  
14 same amount of space. So I just wanted to note that.

15 CHAIRPERSON HILL: Okay, all right. Is there  
16 anybody here wishing to speak in support? Is there anyone  
17 here wishing to speak in opposition? Could the translator  
18 come forward one more time, if you wouldn't mind, Ms.  
19 Wilkinson? Ms. Wilkinson if you wouldn't mind I don't  
20 anything's changed but if you could please go ahead and  
21 ask in Spanish if anyone is here wishing to speak in  
22 support or opposition?

23 MS. WILKINSON: (Spanish language spoken).

24 CHAIRPERSON HILL: Or support or opposition.  
25 Did you say support already?

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1 MS. WILKINSON: I said any statement in  
2 opposition of the project.

3 CHAIRPERSON HILL: Okay, could you also ask if  
4 there's any statement in support of the project?

5 MS. WILKINSON: (Spanish language spoken).

6 CHAIRPERSON HILL: There's someone here wishing  
7 to speak? You can come up forward. You need to come up  
8 forward and yes, but so you don't seem like you need  
9 Spanish translation. But go ahead and come on over here  
10 and first, did you get sworn in earlier?

11 MR. HENDRICK: Yes, I did.

12 CHAIRPERSON HILL: Okay, give me one second.  
13 All right, so Ms. Wilkinson, just out of curiosity, do you  
14 work for the city, how did we get you, how did you end up  
15 here today? You need to push the microphone -- because  
16 I'm curious.

17 MS. WILKINSON: The agency I work for sent me a  
18 request to come to this hearing.

19 CHAIRPERSON HILL: Okay. We haven't had a  
20 translator before so that's why I'm curious.

21 MS. WILKINSON: Yes, it is TransPerfect.

22 CHAIRPERSON HILL: Okay, there you go. All  
23 right well Ms. Wilkinson I appreciate your help and, if  
24 you wouldn't mind staying until the end just in case  
25 something happens --

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1 MS. WILKINSON: Okay.

2 CHAIRPERSON HILL: -- but we don't need you  
3 right now.

4 MS. WILKINSON: All right, I'll stay.

5 CHAIRPERSON HILL: Thank you. Thank you so  
6 much.

7 MS. WILKINSON: You're welcome.

8 CHAIRPERSON HILL: Thank you. All right, sir,  
9 if you want to go ahead and introduce yourself for the  
10 record.

11 MR. HENDRICK: Hello, my name is Marcus  
12 Hendrick. I'm a resident of 623 Otis Place NW, Washington  
13 DC.

14 CHAIRPERSON HILL: Okay, Mr. Hendrick. All  
15 right, so Mr. Hendrick, are you speaking in support or  
16 opposition?

17 MR. HENDRICK: Opposition.

18 CHAIRPERSON HILL: Okay, so, Mr. Hendrick, as a  
19 member of the public you're going to get three minutes to  
20 testify.

21 MR. HENDRICK: Oh, sure.

22 CHAIRPERSON HILL: And I'm going to, Mr. Moy if  
23 you could just put three minutes on the clock there and so  
24 the clocks are located up on the ceiling on either side.  
25 And you can begin whenever you like.

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1 MR. HENDRICK: All right, I'll keep this very  
2 brief. I have not been involved with the discussions at  
3 the Trinidad location but, as a member of the community, I  
4 regularly interact with developers in my neighborhood and  
5 I just wanted to speak specifically to this question of  
6 density and the size of the units.

7 The ANC has framed it as a question about how  
8 big the units are. But, given that the developers are  
9 asking for a parking variance for the number of units they  
10 have, one way they could have addressed the community's  
11 concern about the size of the units is to reduce the  
12 number so they could get to the size that the community  
13 feels is appropriate.

14 And the ANC then may have been able to support  
15 a variance request for the loss of a parking space, if  
16 there were six units that were larger and capable of  
17 actually supporting families who wanted to live in a two  
18 or three-bedroom home, rather than this sort of small-  
19 celled proposal that the developers are proposing.

20 So I think that the BZA should consider that  
21 when they're looking at the parking variance, whether or  
22 not the developers have taken the appropriate steps to  
23 address the community concerns as they have been presented  
24 by the ANC. That's all I have to add, thank you.

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

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1 Hendrick, for testifying. They're not here for a  
2 variance, it's a special exception, just to be clear on  
3 that one. And so, does anybody have any questions for the  
4 witness? Does the applicant have any questions for the  
5 witness?

6 MR. SULLIVAN: No thank you.

7 CHAIRPERSON HILL: Does the ANC Commissioner  
8 have any questions for the witness?

9 MS. SHROPSHIRE: No.

10 CHAIRPERSON HILL: Okay, Mr. Hendrick, thank  
11 you so much. All right, okay do we have any more  
12 questions for the applicant or the Commissioner? Okay,  
13 Commissioner, I'm going to let you go ahead and give a  
14 little bit of a closing and then, Mr. Sullivan, I'll let  
15 you do the same. Commissioner, you can begin whenever you  
16 like.

17 MS. SHROPSHIRE: So taking all the information  
18 into consideration, the ANC welcomes the opportunity to  
19 fully support this project as the community wants to see  
20 something productive done with the property.

21 However, we believe that the BZA should only  
22 provide a special exception if the applicant revises the  
23 design to provide realistic size units for two and three-  
24 bedroom or only two-bedroom, rather than having such a  
25 dense building by packing a lot of residents into one

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1 space.

2 CHAIRPERSON HILL: Okay, thank you. Mr.  
3 Sullivan?

4 MR. SULLIVAN: Thank you, Mr. Chairman, members  
5 of the Board. In closing, I would just reiterate what  
6 we've said before, that we think this meets all the  
7 special exception requirements, regardless of whether it's  
8 seven or eight units.

9 And just to close up the issue on the  
10 non-conforming aspect of it, we did ask for that  
11 originally. I understand the Zoning Administrator said  
12 it's not needed. I get that because we're not increasing  
13 an existing aspect of the non-conformity. So there's 100  
14 percent lot occupancy, which by the previous use is  
15 conforming, under a new use it wouldn't be. But we're not  
16 extending that, we're adding to it up.

17 So we're creating new non-conformities but  
18 we're not expanding existing non-conformities, either rear  
19 yard or lot occupancy. So that makes sense to me now.  
20 And that's all I have, thank you.

21 CHAIRPERSON HILL: Okay, Board Member John, you  
22 had some thoughts maybe about your condition?

23 MEMBER JOHN: So the condition would be that  
24 the applicant will include a provision in the lease to  
25 notify each prospective tenant of the existence of an

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1 at-risk window and the potential loss of a legal bedroom.

2 CHAIRPERSON HILL: Okay, does the applicant  
3 understand that condition? Is the applicant --

4 MR. SULLIVAN: Yes.

5 CHAIRPERSON HILL: -- comfortable with that  
6 condition?

7 MR. SULLIVAN: Yes.

8 CHAIRPERSON HILL: Okay, all right. Does  
9 anybody have anything else they'd like to add? All right,  
10 I'll go ahead and close the hearing. Is the Board ready  
11 to deliberate? Okay, all right, I can start.

12 I think that it's unfortunate that the ANC --  
13 I'm, I don't know if confused is the right word, I mean,  
14 like the size of the units as to what's a family size or  
15 what's not a family size. I mean, I find it's kind of  
16 like I don't know if that's necessarily within the Board's  
17 -- or in our purview, I suppose.

18 I mean, we are here to understand whether or  
19 not they're meeting the regulations and the standards to  
20 ask for what they're asking for. So there are certain  
21 standards that we use to analyze whether or not the  
22 special exceptions, the relief's going to be granted.

23 I feel that the applicant has met the criteria  
24 and their burden of proof for the standards that we look  
25 at for this particular application. I think that the

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1 market will bear out as to whether or not, you know,  
2 families move in there or if anybody moves in there. I do  
3 think that the Office of Planning's analysis in their  
4 report, I think is accurate and I would agree with it. I  
5 also think that DDOT didn't have any objection to the  
6 project.

7 I think that it's a little bit of a mix in  
8 terms of like if this were to get denied. The community  
9 wouldn't get to see this get developed for however much  
10 longer that would be. So, but regardless of that, I think  
11 they've met the burden for us to go ahead and grant this  
12 application. And I'll be voting in favor with the  
13 condition that Board Member John had put forward. Does  
14 anyone else have anything else they'd like to add?

15 VICE CHAIRPERSON HART: We actually didn't talk  
16 about the DDOT conditions. I guess there were several. I  
17 mean, it didn't seem like they were that, this is in their  
18 report, Exhibit --

19 CHAIRPERSON HILL: All, yes, I'm sorry.

20 VICE CHAIRPERSON HART: So each resident should  
21 receive a welcome package which includes information about  
22 nearby transportation options, ride sharing, car sharing,  
23 metro and bike shares. The applicant will offer one-year  
24 bike share memberships and then applicant will install  
25 trans screen or similar device displaying real time

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1 transportation schedules, and then bike, car share options  
2 located within a half mile of the site and then continued  
3 coordination with DDOT and a variety of things.

4 CHAIRPERSON HILL: I appreciate that, Vice  
5 Chair Hart, thank you. Yes, I don't have any issues with  
6 those conditions being added, as well. Does anyone else  
7 have anything they'd like to add concerning the  
8 application?

9 COMMISSIONER SHAPIRO: Sure, there was some  
10 question about no relief needed from Subtitle C202.2. It  
11 was confirmed by the Zoning Administrator and do we need  
12 OP to go on the record about that or are we past that  
13 point?

14 CHAIRPERSON HILL: They did --

15 COMMISSIONER SHAPIRO: Okay.

16 CHAIRPERSON HILL: -- yes, they described what  
17 it was and Mr. Sullivan just gave a little bit more  
18 information about that, as well. And I understand it, it  
19 just seems, it does seem like a little quirk in the --

20 COMMISSIONER SHAPIRO: But we have enough  
21 information?

22 CHAIRPERSON HILL: Oh yes, I mean, it's just  
23 that it's, it is, yes, I do.

24 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.

25 CHAIRPERSON HILL: Okay, anyone else? Okay,

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1 I'm going to go ahead and make a motion to approve  
2 Application Number 19982 as captioned and read by the  
3 Secretary, including the conditions that DDOT had listed  
4 as well as working with DDOT, as well as the condition  
5 that Board Member John read into the record and ask for a  
6 Second.

7 BOARD MEMBER JOHN: Second.

8 CHAIRPERSON HILL: Motion made and seconded,  
9 all those in favor say aye.

10 (Chorus of aye.)

11 CHAIRPERSON HILL: All those opposed?

12 The motion passes. Mr. Moy?

13 MR. MOY: Staff would record the vote as 5-0-0.  
14 This is on the motion of Chairman Hill to approve the  
15 application for the relief requested along with the  
16 conditions as sited in his motion. Seconded the motion is  
17 Ms. John. Also, in support, Ms. White, Vice Chair Hart  
18 and Mr. Peter Shapiro. Motion carries.

19 CHAIRPERSON HILL: Okay, thank you, Mr. Moy.  
20 Thank you all very much. You guys, we're going to take a  
21 15-minute break and we'll be back. Thank you.

22 (Whereupon, the above-entitled matter went off  
23 the record at 11:09 a.m. and resumed at 11:21 a.m.)

24 CHAIRPERSON HILL: All right. Let's all get  
25 started again. We're actually going to go a little bit

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1 out of order. The next case we're going to actually hear  
2 is 19971, and then we'll go back to 19929. The hope is  
3 we'll get through everything before the appeal. And so  
4 let's just see what happens. So Mr. Moy, whenever you're  
5 ready.

6 MR. MOY: All right. Thank you, Mr. Chairman.  
7 Again, that would be case Application Number 19971 of GRID  
8 Alternatives Mid-Atlantic for the District of Columbia,  
9 capture and advertise to a special exception under the use  
10 provisions, Subtitle U §§ 420.1(a) and 203.1(p).

11 This would permit the installation of a  
12 community solar facility, RA-1 Zone at premises South  
13 Capitol Street S.E., Square 6274, Lots 800, 801 and 802.  
14 And I believe, Mr. Chairman, under Exhibit 35, if I'm  
15 correct, there was on the part of the ANC a request to  
16 postpone?

17 CHAIRPERSON HILL: Okay. All right. Let's see  
18 where we get. If everyone could introduce themselves from  
19 my right to left.

20 MS. STEELE: Good morning, Chairman Hill. I'm  
21 Nicole Steele. I'm the Executive Director of GRID  
22 Alternatives Mid-Atlantic.

23 MS. CROFT: Good morning. I'm Jen Croft from  
24 the Department of General Services Sustainability and  
25 Energy Division.

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1 MR. KING: Good morning, Chairman, Board. Emil  
2 King, Department of Energy and Environment.

3 MR. WELLS: Good morning. I'm Tommy Wells.  
4 I'm your Director of the Department of Energy and  
5 Environment.

6 MR. LASKY: Good morning. I'm David Lasky. I  
7 am the Construction Manager at GRID Alternatives  
8 Mid-Atlantic. Oh, and I do have some additional documents  
9 to turn in.

10 MR. OLIVER: Good morning. I'm Kyle Oliver  
11 with Vika Capital, a surveyor and civil engineer.

12 MR. IZEVBIGIE: Good morning. I'm John  
13 Izevbigie, a consultant of Lightbox Energy. We're a  
14 contractor with DGS.

15 MS. HENDERSON: Good morning, Chair and Board  
16 members. My name is Commissioner Henderson of the ANC  
17 Commission of the Single Member District and also the  
18 chair of ANC 8D.

19 CHAIRPERSON HILL: Okay. Well, Commissioner,  
20 welcome. Council Member, welcome. I'm glad you guys took  
21 up all my seats. And, let's see, so Commissioner, I know  
22 there was a request, I think, for a postponement. Is that  
23 correct?

24 MS. HENDERSON: That's correct.

25 CHAIRPERSON HILL: Could you explain the

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1 request, please?

2 MS. HENDERSON: The request was because they  
3 did appear at our last working session meeting GRID  
4 Alternative along with Emil King in which we did provide  
5 them with support letter because there was a lot of  
6 information that was implemented into the document.

7 Hopefully, you all have the document, the  
8 statement of applicant, that was inaccurate and some  
9 information that we wanted to receive as the ANC was not  
10 included. So we refused to move forward.

11 CHAIRPERSON HILL: So you guys didn't vote yet?

12 MS. HENDERSON: No, sir.

13 CHAIRPERSON HILL: Okay. So you're asking for  
14 the postponement so that you can get the information that  
15 you need or that you were asking for, and then you would  
16 be able to have a vote?

17 MS. HENDERSON: Well, we actually have our ANC  
18 community meeting on tomorrow and we wanted to at least  
19 vote first and provide you all a letter of support even if  
20 we are supporting it or we're not.

21 CHAIRPERSON HILL: Okay. All right.

22 MS. HENDERSON: And we can provide you with  
23 that letter Friday after the Thursday vote.

24 CHAIRPERSON HILL: Okay. Who's going to be  
25 presenting for you guys?

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1 MR. KING: It's a group effort.

2 CHAIRPERSON HILL: Okay. Who's going to start  
3 the group effort?

4 MR. KING: Director Wells.

5 CHAIRPERSON HILL: Okay. Director Wells? All  
6 right. So in terms of the postponement request, I mean,  
7 you guys have already -- you haven't spoken to the ANC  
8 yet, or you have spoken to the ANC?

9 MR. WELLS: Thank you and thank you for giving  
10 us this opportunity. We're very, our team has met with  
11 ANC about, Commissioner, I guess, four or five times, if  
12 that's correct, and we've worked very closely with the ANC  
13 and very eager to get the ANC's support. Also working  
14 with the Council Member and his staff in that area as  
15 well.

16 CHAIRPERSON HILL: Okay. So, I guess and so  
17 are you guys planning on presenting again tomorrow or  
18 whenever this next meeting is?

19 MR. KING: We understand that there just needs  
20 to be a motion to take a vote.

21 CHAIRPERSON HILL: Okay. So, in terms of me  
22 having the information, right?

23 MR. KING: Yes.

24 CHAIRPERSON HILL: So then if I would, so my  
25 thoughts in terms of the Board, and you guys can tell me

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1 what you think, is, you know, everybody's here. Like we  
2 can go ahead and hear the case and then perhaps leave the  
3 record open for the ANC and see what they have to say, and  
4 then we could set this for a decision one way or the other  
5 after that ANC letter would be put forward. Does that  
6 sound good to the Board? Okay.

7 So Council Member, we're going to keep the  
8 record open. Regardless of what happens here today,  
9 everybody's here so we're going to go ahead and hear the  
10 case and then we'll keep the record open so that we can  
11 hear from you're ANC and then we'll probably set it for  
12 decision again one way or the other. But, we're going to  
13 go ahead and move forward. So we're going to  
14 deny your request for postponement, but we are going to go  
15 ahead and, you know, leave the record open for you to give  
16 us the information that you need or would like us to hear.

17 MS. HENDERSON: We've provided the information  
18 that I have today, and although you're postponing it, the  
19 information that I provide, will it be able to actually  
20 stop the process moving forward if the information is  
21 accurate that I provide?

22 CHAIRPERSON HILL: Yes, I mean, you'll be  
23 giving us whatever you end up giving us. And then if we  
24 think that we need to even continue the hearing, we could  
25 go ahead and reopen the hearing to continue hearing from

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1 the ANC or whatever it is with the information you were  
2 giving us.

3 Also, we're not going to be making a decision  
4 today. So we would be taking that information into our,  
5 you know, process to decide whether or not we think this  
6 application should be approved or denied.

7 MS. HENDERSON: Thank you.

8 CHAIRPERSON HILL: Okay. So Commissioner,  
9 you're here so you can go ahead and, just to let you know,  
10 since you're here and you're a party, you're going to get  
11 to be able to, you know, make a presentation if you want  
12 to or ask questions if you want to. But, at this point,  
13 we're just going to go ahead and move the hearing. Okay?

14 MS. HENDERSON: Okay. And I do want to add  
15 that this is my first time ever attending a hearing, so I  
16 am butterflied all over nervous right now.

17 CHAIRPERSON HILL: Okay.

18 MS. HENDERSON: But I do want to read from  
19 a document.

20 CHAIRPERSON HILL: Okay, sure. Well, you'll  
21 get that opportunity and you're doing a great job. I  
22 mean, the first time I was here, I got to tell you, I was  
23 scared to death. Okay.

24 MS. HENDERSON: Thank you.

25 CHAIRPERSON HILL: I'm still actually scared to

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1 death, but I've learned how to fake it. So I'm going to  
2 go ahead, Mr. Moy, if you could put 15 minutes on the  
3 clock and just, you know, if you need more time, Director,  
4 you can please go ahead and do that, but I'm going to go  
5 ahead and let you begin whenever you would like.

6 MR. WELLS: Thank you very much. And, thank  
7 you for this hearing. Let me also say to the commissioner  
8 that I was ANC commissioner for about three terms and I  
9 had the same butterflies, just the intimidation.  
10 Eventually it goes away a little but not always, but yes.  
11 I appreciate that and appreciate your service to your  
12 neighborhood and your community in being here today.

13 And as you know, the mayor has set a goal of  
14 getting the city carbon neutral by 2050 but also have all  
15 of our energy to be from a renewable portfolio by 2032,  
16 and that at least 10 percent of the city's energy comes  
17 from solar power generated from within the city.

18 And so we have an aggressive goal, and  
19 obviously we know the city's climate is changing  
20 dramatically, and the city had to provide leadership with  
21 the failure of the federal government to provide  
22 leadership to do this.

23 This project is funded with the Solar for All  
24 program that's funded through the city council, and one of  
25 the things about Solar for All is that the energy that we

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1 develop from solar power from the community's solar  
2 projects, we will then share those benefits with residents  
3 that have high energy burdens.

4           And so the average household energy burden per  
5 year is between \$1,000 and \$1,200. And, so we will  
6 select, with the community's input, including the ANC's  
7 leadership, 750 households around the Oxon Run  
8 neighborhood to provide half of their power bill through  
9 this power, through this solar installment, installation.

10           Additionally, this is at Oxon Run, where it's a  
11 contaminated ground filled site, and it's not suitable for  
12 building. It's also federally owned but controlled by the  
13 district. So it's not a site that's going to get economic  
14 development, and it's a site that been followed for quite  
15 a while.

16           So the program and projects going forward and  
17 the particulars will now be provided by my colleagues.  
18 Thank you.

19           MR. KING: So with respect to the project team  
20 we have represented here, again, the government of  
21 District of Columbia is the owner of the project.

22           Funding is being provided by the Department of  
23 Energy and Environment. Excuse me. The construction  
24 management, Department of General Services, Solar  
25 Representation by Lightbox Energy, project construction by

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1 GRID Alternatives Mid Atlantic, and civil engineering by  
2 Vika Capital.

3           So I'm going to provide some project  
4 information, specifically about the site. So first, the  
5 site location, the subject property is located on the  
6 southwestern side of South Capitol Street, S.E., directly  
7 on the border of the District of Columbia and Maryland.

8           The site plan, it's about 15.4 acres in total  
9 size. The rows of proposed solar panels will be spaced  
10 approximately six feet apart. Our revised plan, which  
11 differs from the initial plan that was filed with BZA,  
12 avoids impacts to wetlands, which are visible to the south  
13 of the bottom right corner in green.

14           The site plan also adds landscaping to buffer  
15 the views along South Capitol Street, which is the only  
16 visible area from the community. It's surrounded by  
17 commercial uses along South Capitol Street and string  
18 buffers to the east, south, and west.

19           This project complies with our RA-1 zone  
20 requirements. It meets the setback requirements on all  
21 sides of 20 feet or greater. The panels are approximately  
22 six feet tall, which is lower than the RA-1 height limit  
23 of 40 feet.

24           The use is not subject to maximum FAR green  
25 area ratio as there are no buildings. And based on the

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1 definition of lot occupancy and building area, solar rays  
2 will not count as lot occupancy.

3           However, if the panels did count, the occupancy  
4 would be 25 percent, which is below the 40 percent  
5 permitted in this zone.

6           CHAIRPERSON HILL: And Mr. King?

7           MR. KING: Yes.

8           CHAIRPERSON HILL: Can you speak a little bit  
9 to the landscaping, or are you going to? Okay?

10          MR. KING: Yes.

11          CHAIRPERSON HILL: In terms of the -- okay, the  
12 screening. Thank you.

13          MR. KING: So, with respect to the landscape  
14 plan, we had a strategy comprised of three elements. The  
15 first is to maintain existing trees along South Capitol  
16 Street that are maintained by DDOT.

17                 The second was to provide for beautification  
18 along South Capitol Street, without entirely hiding the  
19 solar facility. We believe this is a community asset,  
20 which should be viewed and welcomed and appreciated by the  
21 community.                 We're also planning to plant native  
22 trees and pollinators that provide food and protective  
23 shelter for birds, insects, and other wildlife, which is  
24 an improvement upon the existing conditions of the site  
25 now.

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1           We can go over this if you have additional  
2 questions, but in year one, we propose to add  
3 approximately 40 new trees, primarily along the  
4 northwestern edge and street frontage and roughly 30 new  
5 shrubs. This is a mix of species to improve biodiversity.

6           In the second year, we propose to plant native  
7 pollinator meadows around the perimeter in selected areas,  
8 again, to improve wildlife habitat and improve the  
9 conditions of the site.

10           MEMBER WHITE: Just one question. How do you,  
11 what's the ongoing maintenance plan in terms of making  
12 sure that it looks presentable on an ongoing basis, not  
13 just the early stage of implementing the panels, but is  
14 there plan in place for that to make sure it's kept up,  
15 clean, mowed, that kind of thing?

16           MR. KING: You're referring to maintenance of  
17 the solar equipment and/or the landscaping, or both?

18           MEMBER WHITE: Landscaping.

19           MR. KING: Okay. Landscaping. Yes, so we have  
20 an arborist on staff. We're providing the funding for  
21 that landscaping and we're looking to incorporate an  
22 additional maintenance plan likely through a competitive  
23 solicitation for ongoing years to manage that. We also  
24 have biologists on staff that routinely manage tree  
25 canopies in a variety of settings so -

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1           VICE CHAIRPERSON HART: And with this as well,  
2 so, I understand that you're trying to limit the number of  
3 trees because the trees will, of course, block the sun,  
4 but I'm not exactly sure kind of why you chose the  
5 particular areas that you did. Was there a -- could you  
6 just talk about the, how you figured out where to kind of  
7 put these and where not to put them.

8           It just seems a little, 40 trees doesn't seem  
9 like a lot so I'm just trying to figure out what, you  
10 know, how you were thinking about looking at this.

11          MR. KING: Yes, so again, the landscaping is  
12 primarily on the street frontage to provide a buffer  
13 between the street, the sidewalk, and existing trees. So,  
14 that's why they're congregated there.

15          This is to the rear of the arrays so it's  
16 behind the system actually. So, it's not blocking  
17 sunlight. And, we expect that the variety of trees and  
18 shrubs will kind of grow in and create, again, additional  
19 habitat that kind of matches the surrounding area. The  
20 rest of it is buffered already by trees.

21          VICE CHAIRPERSON HART: And so you're saying  
22 also that the area that's here doesn't get any trees  
23 because it is behind some existing buildings that you  
24 don't really need to screen it?

25          MR. KING: That is correct.

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1           VICE CHAIRPERSON HART: Okay. And, so, and the  
2 area here is along South Capitol Street, so that's kind of  
3 why you're looking at having --

4           MR. KING: Correct.

5           VICE CHAIRPERSON HART: Okay. And, then areas  
6 like here or here, you're just not looking at it just, I  
7 just don't know why. Because currently there's some trees  
8 that are near the creek that's over the, sorry, Oxon Run  
9 --

10          MR. KING: Yes.

11          VICE CHAIRPERSON HART: -- that's over to the  
12 west of this. And, I just was trying to understand how  
13 you were looking at doing that. I think there's also some  
14 kind of, I know that there's kind of flooding issues and  
15 stuff that's going on. So, I just was trying to  
16 understand the strategy with respect to some of the, I  
17 mean, Oxon Run is about stormwater management.

18                 In many ways, it was created for that so I just  
19 was trying to figure out how you're dealing with that and  
20 you can continue this. I just was, it's just me trying to  
21 figure some of that out so.

22          MR. KING: Yes, again, and the short answer is  
23 existing riparian buffer along both sides. It's heavily  
24 forested already.

25          MR. WELLS: If I could add, we're also funding

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1 a study to look at rewilding Oxon Run so it's not just a  
2 drainage ditch, to turn it back into an asset for water  
3 management. And, so that's an ongoing project in parallel  
4 with this.

5 VICE CHAIRPERSON HART: I'm assuming that, is  
6 there any wildlife down there?

7 MR. WELLS: Yes.

8 VICE CHAIRPERSON HART: So well, I'm just, the  
9 reason I'm asking is because you have a fence around, an  
10 eight-foot fence around this entire site. So, I'm  
11 assuming you try to get them out before you build this?

12 MR. WELLS: Well, we always do, because where  
13 it is, we will do a search for turtles and other things  
14 like that to be sure that they're not fully disturbed.  
15 But, most of the wildlife that is there will be able to  
16 coexist with what is there. But, yes, in terms of any  
17 other type of wildlife like deer or something, absolutely.

18 VICE CHAIRPERSON HART: Thank you. You can go  
19 on. I just was, it was more of a curiosity. I appreciate  
20 it.

21 MR. KING: Thank you. Next slide. So, with  
22 respect to community engagement, due to the complexity of  
23 this project, obviously there's, you know, some timelines  
24 that had to be considered.

25 So the first part, neighborhood outreach, we

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1 have a web page that addresses the project basics and some  
2 frequently asked questions. We're currently conducting  
3 door to door canvassing and flier distribution of a flier  
4 that's also located on our website.

5 We've had engagement with multi-family property  
6 owners, resident managers, faith-based community and other  
7 contacts via ANC commissioners and other community leaders  
8 to assist with engagement and we also have a weekly  
9 standing office hours in a neighborhood public library,  
10 Bellevue Library. So, we have two days a week office  
11 hours to talk about Solar for All as well as this project.

12 Early on, when we first began developing this  
13 project in 2017, we worked with Counsel member White to  
14 identify potential members of a task force. And, the goal  
15 of this task force was specifically to assist the agency  
16 in developing a prioritization plan for how the benefits  
17 of the system would be allocated.

18 Not to talk about the site or the project per  
19 se but how, once completed, if it were completed, that it  
20 would, of how those benefits would be allocated to members  
21 of the community.

22 So we held three meetings in 2018 between July  
23 and September and then we have a fourth and final meeting  
24 that we're still planning where we'll look at the final  
25 prioritization recommendations for once the projects,

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1 again, comes online.

2 We also were in attendance at the Department of  
3 Parks and Rec and Friends of Oxon Run public meeting in  
4 April, April 18th, recently. And, then as far as ANC 8D  
5 meetings, we had two work sessions, one in February and  
6 one in May, a public meeting on March 28th.

7 And then we requested to come back in April but  
8 the ANC couldn't accommodate. Their agenda was full.  
9 And, so as mentioned before by Commission Henderson, the  
10 final action is expected May 23rd, tomorrow.

11 COMMISSIONER SHAPIRO: Mr. King, just a quick  
12 question on this slide. So, the, under the Oxon Run Solar  
13 Task Force, that last bullet point, when you say a fourth  
14 and final meeting's being planned, which will allow the  
15 group to apply this final, you're talking about who's  
16 going to benefit from community solar, which households?  
17 That's what we're talking about?

18 MR. KING: Correct. How, yes, how the agency  
19 will implement --

20 COMMISSIONER SHAPIRO: Okay.

21 MR. KING: -- the plan to actually select those  
22 households.

23 COMMISSIONER SHAPIRO: And I'm just curious,  
24 how many eligible households are there altogether in the  
25 area, however you're defining the area, and how many are

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1 actually going to benefit from this?

2 MR. KING: Roughly thereabout, oh, 5,000 that  
3 kind of fit within some of the parameters and we're  
4 looking at proximity to the site primarily. So, we've  
5 mapped half mile, one mile, one and a half mile radius and  
6 looked at LIHEAP eligible households that we already  
7 serve.

8 COMMISSIONER SHAPIRO: So you're saying there's  
9 about 5,000 households that are potentially eligible.  
10 And, how many could --

11 MR. KING: Yes, roughly.

12 COMMISSIONER SHAPIRO: -- how many could this  
13 community solar project support?

14 MR. KING: 750, approximately.

15 COMMISSIONER SHAPIRO: 750? Okay. Thank you.  
16 Thank you, Mr. Chair.

17 MR. WELLS: And just for clarification, LIHEAP,  
18 as you probably know, it's assistance we provide to  
19 low-income residents that are unable to meet their energy  
20 bills.

21 And so we have identified more than 750  
22 households in that neighborhood that have applied for  
23 benefits to help with their energy bills but what we need  
24 to do is work with the community to prioritize is it  
25 retirees, is it large families. Because we already have a

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1 pool that's larger than 750 that need assistance with  
2 energy bills in that neighborhood.

3 VICE CHAIRPERSON HART: Just one, also,  
4 clarifying, I understand that you all had some  
5 correspondence with NPS, the National Capital Region.  
6 Have you also talked to National Capital East? That, I  
7 think, they have their purview over the, this is in their  
8 administrative unit.

9 I just didn't know if you had any conversation  
10 with them. And if you don't, that's fine. I just, it  
11 would, I would just, not recommend, but I would encourage  
12 you to kind of reach out to them. I know that they, that  
13 NPS has the underlying ownership of the other property but  
14 it's just a note, no big conversation about it. Thanks.

15 MS. CROFT: Sure, we can have that conversation  
16 but just for clarification, National Capital East is not a  
17 part of the National Park Service.

18 VICE CHAIRPERSON HART: Yes, they are.

19 MS. CROFT: They are? Okay.

20 VICE CHAIRPERSON HART: Yes, yes, so it's the

21 --

22 MS. CROFT: Yes.

23 VICE CHAIRPERSON HART: In D.C., you have  
24 Na-Mall, which is the National Mall, Rock Creek and  
25 National Capital East are the main administrative units in

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1 D.C. I think President's Park probably is another one.  
2 But, they're, it's the west side, it's the east side of  
3 D.C.

4 MS. CROFT: Got it.

5 VICE CHAIRPERSON HART: So the west side of  
6 D.C. is basically Rock Creek Park.

7 MS. CROFT: Yes.

8 VICE CHAIRPERSON HART: And then downtown,  
9 where people consider as the national mall, is the  
10 National Mall and memorial --

11 MS. CROFT: Yes.

12 VICE CHAIRPERSON HART: -- administrative unit.  
13 National Capital East is big. They actually go up the B2B  
14 Parkway.

15 MS. CROFT: Got it.

16 VICE CHAIRPERSON HART: They're a, they have  
17 very large purview.

18 MR. WELLS: So, as Director of the OE, I spoke  
19 with Bob Vogel, who was the regional director at the time,  
20 and he signed off on this in writing.

21 And then, obviously, since he's been moved and  
22 they haven't replaced him yet, I've been working with Tara  
23 Morrison, who is the superintendent for the east area and  
24 she is very involved as well and supportive. But,  
25 initially, before Bob Vogel left, he wrote an approval of

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1 support for the project.

2 VICE CHAIRPERSON HART: I do see that. I  
3 appreciate that in the --

4 MR. WELLS: Okay.

5 VICE CHAIRPERSON HART: -- in the record.  
6 That's very helpful. Thank you.

7 CHAIRPERSON HILL: And Vice Chair, you know  
8 this because of your real job?

9 VICE CHAIRPERSON HART: Yes, as somebody that  
10 works for the National Capital Planning Commission, I  
11 just, we actually reviewed this project early this year.

12 CHAIRPERSON HILL: Because this isn't our real  
13 job. Okay. All right. Please continue.

14 COMMISSIONER SHAPIRO: If I can, Mr. Chair.

15 CHAIRPERSON HILL: Certainly.

16 COMMISSIONER SHAPIRO: Thank you. We may get  
17 to this later on down the road, but if you could, for the  
18 benefit of the Board but also my own edification, if we  
19 can just make sure how this relates to what's before the  
20 Zoning Commission and the emergency rulemaking.

21 I think this is essentially exempted from what  
22 the Zoning Commission is taking up. So, this is going to  
23 be able to move forward either way but I'd like some  
24 clarification on that and it might help the Board as well.

25 CHAIRPERSON HILL: Okay. Thanks Commissioner.

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1 Whenever you guys get to it.

2 COMMISSIONER SHAPIRO: It doesn't have to be  
3 now but at some point.

4 CHAIRPERSON HILL: Yes, just get us, continue  
5 moving through, Mr. King.

6 MR. KING: Okay. I think next slide, John, if  
7 we could try to quickly wrap this up.

8 MR. IZEVBIGIE: Yes, no problem. I'll just  
9 provided an overview of Community Solar. It's a program  
10 whereby customers or homeowners subscribe to a portion of  
11 production or capacity of our solar system and receive  
12 adequate credit for it.

13 So this is very beneficial as a lot of  
14 homeowners would like to install solar but they face  
15 certain electrical, mechanical, or financial barriers or  
16 the roof is too small, structure is not adequate, the  
17 upfront cost is too substantial. So, this is a solution  
18 that helps them participate in a solar program and reap  
19 the environmental and financial benefits from it as well.

20 Just on a high level, the design of the solar  
21 system, these panels would be affixed to steel beams  
22 mounted directly into the ground. They're situated six  
23 feet apart and so this will allow for maintenance and also  
24 minimize the impact of row shading that may have on  
25 production.

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1           Sorry. The systems will be placed about two  
2 and a half feet above the ground so this will allow  
3 vegetation and grass to grow and the need to have a  
4 cooling system, which will actually improve the efficiency  
5 of these systems as well.

6           At the highest point, this will be about less  
7 than six feet, so five feet and ten inches. All in all,  
8 it's a pretty straight forward system design and I'm sure  
9 the community will benefit from it.

10           MR. KING: Okay. I'll cover this section  
11 quickly on the existing conditions of the brownfield. So,  
12 I believe this is in the record but the agency has  
13 classified this site as a brownfield because of petroleum  
14 hydrocarbon pollution that is a result of migration of  
15 those materials from upstream from preexisting fueling  
16 stations.

17           As well, there's some, been illegal dumping on  
18 the site and there was a DPW fueling station and some  
19 other kind of uses that basically result in this pollution  
20 existing.

21           It's located about 17 to 20 plus feet below the  
22 surface and if solar's developed on this site, no future  
23 or further remediation or mitigation is required.

24           So we consider this the highest and best use  
25 and it also mitigates the blighted condition and security

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1 fencing and the site will be in use. And, so that, we  
2 hope, will deter future dumping, loitering, et cetera.

3           It integrates well with wildlife. As we've  
4 seen across the globe, solar farms work very well with  
5 wildlife. And, then it also allows us to hold the  
6 property for roughly 15 to 25 years that allows those  
7 hydrocarbons to naturally breakdown in the soil and then  
8 the site could potentially be returned to park use or some  
9 other use in the future.

10           MS. STEELE: Okay. And, now, it's me. So,  
11 again, Nicole Steele, Executive Director of GRID  
12 Alternatives Mid-Atlantic. I did want to note that I am  
13 actually a former land use planner and so this is bringing  
14 back a lot of memories and I'm happy to be here and  
15 present on behalf of the District of Columbia and GRID  
16 Alternatives.

17           But just a little bit about who we are and why  
18 we do what we do. GRID Alternatives is a non-profit,  
19 turnkey solar installer. So, we do everything from site  
20 origination to the installation process to operation and  
21 maintenance of referring back to, how was this system  
22 maintained over the life of the project.

23           When we applied to this RFP two years ago, we  
24 took a close look at what the benefits would be to the  
25 neighborhood and that's really the important piece of the

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1 puzzle for GRID because we want to make sure that clean  
2 renewable energy is accessible to everyone and we work  
3 exclusively in low to moderate income communities and we  
4 have a job training model to do those installations  
5 themselves.

6           So we took a look at this project and saw that  
7 it was not only on a brownfield, which is a perfect use  
8 for a solar installation, and to what Emil was just  
9 saying, you know, it allows for the land itself to heal  
10 over the 15 to 20 years of the project.

11           And then once that brownfield has healed over  
12 that time, it could be used for another use. And, even  
13 the solar panels could be put on top of whatever the  
14 development would be on that property.

15           So we do a number of things. We work in  
16 conjunction with the District on a solar job training  
17 program. We do tenant engagement and community education  
18 around solar and the importance of solar deployment and  
19 why it's incredibly important to make sure that  
20 everybody's included in this conversation.

21           So if you want to just go to the next slide.  
22 We won the RFP to install this project earlier this year  
23 and our role, and why we're here today, is to design and  
24 permit.

25           And then as part of the permitting process,

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1 it includes a special exception. If that special  
2 exception does go through, we will also be in charge of  
3 constructing, commissioning, and doing the utility  
4 interconnection as well.

5 I think, really, the important piece of the  
6 puzzle, though, is that, you know, we're not only a  
7 for-profit solar installer but we really truly engage the  
8 community through that installation process. And so  
9 we intend on making sure that the surrounding community is  
10 able to participate.

11 In that process then, we'll be hosting  
12 community events as part of the installation itself.  
13 Those usually include picnics and just fun days that the  
14 community can participate in. So, not only 750 families  
15 will benefit from the energy generation from the facility  
16 itself, they will also get to be able to be part of it.

17 And we even do really cool things where, you  
18 know, the homeowners that are participating in the install  
19 get to sign the back of the solar panels and really make  
20 it their own.

21 And so that it's not a completely esoteric  
22 project, not on the roof of their home but they own it and  
23 they're part of that conversation and that transition to a  
24 new clean energy economy and to the district.

25 And so today, we're asking a special exception

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1 for basic utility in a residential community. We feel  
2 that the solar install as a ground mount system is fully  
3 compatible in a residential community. We meet the  
4 setback requirements in the RA-1 including height floor  
5 ratio, the green area ratio, and all of that.

6 We are also looking at making sure that we're  
7 meeting the setback requirements from all property lines  
8 if we were, you know, a facility itself. And, so we're  
9 meeting all of those requirements per that special  
10 exception as if we were a building.

11 And so today, we want to make sure that we're  
12 requesting a special exception use for, a basic utility  
13 for the Oxon Run community solar array. With that, we can  
14 take questions.

15 CHAIRPERSON HILL: Okay. Great. Thank you.  
16 Thank you. Does the Board have any questions for the  
17 applicant? Sure, go on.

18 MEMBER WHITE: Two questions. The security of  
19 the area, how are the panels going to be protected? You  
20 know, because the history of the area was a dumping  
21 ground. So, one, I'd just like to just quickly hear what  
22 your plan is to protect those panels.

23 And then, two, I think I heard you say that you  
24 were integrating the community with respect to training,  
25 job training or, can you talk to me a little bit about

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1 that?

2 MS. STEELE: Absolutely. Yes, yes. In terms  
3 of the fence details, I can let my staff speak a little  
4 bit to that but we do plan to install a no-climb chain  
5 link fence that's eight feet tall around the property.  
6 That should be adequate to make sure that individuals are  
7 not climbing the fence and meddling with the system.

8 But if there's anything else that you want to  
9 add around the fence, I will note that we have other  
10 ground mount facilities on multifamily properties in the  
11 district that do not need that fencing but that we're  
12 taking that extra precaution for fencing here as well.

13 And we are excited to be cleaning up the site  
14 and putting in new landscaping. The sort of really cool  
15 part of what we do as GRID Alternatives is that we have a  
16 job training program. And, so for all of the  
17 installations that we do, we incorporate job trainees into  
18 those programings.

19 And so as part of this project, we will have  
20 district residents learning about solar installation and  
21 being part of the install itself, going through a training  
22 program that we implement in partnership with DOE and  
23 DOES, here in the district, called Solar Works D.C.

24 And we really hope to be able to bring those  
25 trainees out on site to learn about what it really entails

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1 to do a ground mount solar facility and a community solar  
2 facility at that and a large solar facility.

3 And so I think it's a really great opportunity  
4 not only for residents who are participating in our solar  
5 job training program to participate in this install itself  
6 but then also potentially receive those benefits.

7 MEMBER WHITE: Thank you. I think that's,  
8 those are some great ideas.

9 CHAIRPERSON HILL: Okay. Thanks.

10 COMMISSIONER SHAPIRO: Thank you. A couple of  
11 quick questions. Where are the access points for  
12 maintenance and how do you get in and out of this fence?

13 MR. LASKY: Yes, we currently plan to utilize  
14 the, kind of the entrance there at the end of Southern  
15 Avenue. I kind of, I can, I wish I could circle it but --

16 VICE CHAIRPERSON HART: You can circle it on  
17 the one next to you.

18 MR. LASKY: Oh.

19 VICE CHAIRPERSON HART: That one is, yes.

20 MR. LASKY: All right. Great. That would be  
21 our main site entrance, basically, coming in off of where  
22 Southern Avenue kind of dead ends. It's currently the  
23 kind of access point to the lot and we plan on kind of  
24 maintaining that as the entrance point. There will be a  
25 gated fence, a gate in the fence at that location.

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1           COMMISSIONER SHAPIRO: And how, what kind of  
2 work have you done around this related to public safety  
3 and have you, are you, are there going to be any kind of  
4 video monitoring that you've planned or? I just want to  
5 hear a little bit about how you've taken up this issue  
6 around public safety.

7           MS. CROFT: We have spoken with our DGS Public  
8 Safety Group. They're physical security specialists who  
9 did a walkthrough of the site with GRID.

10           The eight-foot fence should be all that is  
11 needed, though, if we're finding that there are security  
12 problems, we can look into lighting and cameras, which,  
13 right now, would take the project budget over. But, in  
14 the following year, when substantial completion is  
15 reached, there may be some additional funds for it.

16           COMMISSIONER SHAPIRO: Thank you. It would be  
17 helpful just to hear from the police department just to,  
18 you know, for us, for me, it would be helpful to hear  
19 where they see if there's any things that are going to be  
20 beneficial upfront. So, yes, I'll leave it at that.

21           MS. STEELE: I will add that our, the solar  
22 facility itself does have remote monitoring capabilities.  
23 So, if, you know, a solar panel is to go offline or an  
24 inverter was to go offline, we would know immediately and  
25 be able to go out and deal with the situation.

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1 COMMISSIONER SHAPIRO: Thank you.

2 CHAIRPERSON HILL: Okay. That's all right.  
3 Let's see. Commissioner, so, you're also the chair, is  
4 that correct? Congratulations on being elected chair.

5 MS. HENDERSON: Thank you.

6 CHAIRPERSON HILL: It's a great job. Let's  
7 see. Commissioner, if you want to go ahead. Do you have  
8 any questions that you'd like to ask anybody or you just  
9 want to go ahead and give your presentation?

10 MS. HENDERSON: I just want to go ahead and  
11 give my presentations.

12 CHAIRPERSON HILL: Okay.

13 MS. HENDERSON: And all the questions for  
14 everyone and also the Board members are going to be  
15 implemented in the presentation.

16 CHAIRPERSON HILL: Okay. So, you can go ahead  
17 and start whenever you like.

18 MS. HENDERSON: Okay. Thank you. Good  
19 morning, Chair and Board. ANC 8D is here asking the Board  
20 of Zoning for an extension to allow ANC 8D great weight  
21 with pertaining to providing a purported letter for the  
22 project prosed from GRID Alternative Mid-Atlantic for the  
23 District of Columbia.

24 There are still questions they have pertaining  
25 to the project. Back in October, a task force was put

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1 together, which included mixed residents, non-profits,  
2 advocates, a faith-based leader, ANC 8D Single Member  
3 District Commissioner, no residents, along with other  
4 commissioners.

5           When they put together the task force, it was  
6 stated that I was on the task force, in which I had no  
7 mind, no memory that I was actually placed on this task  
8 force.

9           Along on this task force, it was Reverend  
10 Donald Isaac, Philip Pannell, Perry Moon, Vaughn Perry,  
11 Velma Hammond, Absalom Jordan, who is another  
12 commissioner, Olivia Henderson, Nate Fleming, and T'Chaka  
13 Sapp, both from the councilmember office.

14           The only people who actually ever attended  
15 these meetings was Olivia Henderson and Absalon Jordan.  
16 Perry Moon attended the meeting one time but the rest of  
17 the members, we have never seen attend one of these task  
18 force meetings.

19           All members that attended also was Patricia  
20 Carmon, she's the ANC commissioner, Monique Diop, Connie  
21 Mobley, Nathan Harrington never attended, Jaqueline Kinlow  
22 never attended, and Bernadette Farrell. I have no  
23 knowledge of who that might be.

24           So some of the members of the ANC also stated  
25 that they didn't know that they were part of this task

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1 force and if this was going to be put on record, I want to  
2 state that me as a commissioner would like to be removed  
3 off the task force that I didn't know I was part of.

4 So, in regards to the task force, it really, I  
5 took it really personal because Emil King stated that many  
6 people of his team and also GRID Alternative went onto the  
7 site.

8 If I was part of a task force, I thought maybe  
9 that I, along with the other members, would also go onto  
10 the site and see exactly what they were seeing each and  
11 every time they stepped on the site.

12 I breathe, I eat, I sleep this community. I've  
13 been a commissioner for over ten years. And, for some of  
14 the things that they have stated right now today is very  
15 appalling and humiliating to the community.

16 So this is a \$5.2 million dollar project. It  
17 was stated to us it was a \$5.5 million dollar project.  
18 And, when we asked what were they going to do in regards  
19 to the existing property, such as the South Capital  
20 corridor, Southern Avenue that you enter into the  
21 building, Emil King stated that they didn't have any plans  
22 to do any type of renovation to that front entrance.

23 We know about the safety. We know about the  
24 hanging out in front of the 7-Eleven. And, on the whole  
25 South Capital corridor, we know about the criminal acts

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1 that occur.

2           So when they're talking about the safety and  
3 not securing the gates and things like that, the gate will  
4 be secured. But, when we talked, they never reached out  
5 to MPD to speak to MPD in regards to safety issues. They  
6 only came to the ANC to actually host these meetings.

7           And when they state an ongoing maintenance  
8 plan, DGS is a slumlord already. That property's been  
9 probably empty for over 20 years and the grass is known to  
10 be overgrown.

11           And to know that we have contaminated soil on  
12 that property, we stopped one project because they tried  
13 to put a farm there with fruits and vegetables. They  
14 found that the soil was contaminated and they can't really  
15 do nothing with the property.

16           So they come to ANC and say that they want to  
17 put a solar farm, which no one has any opposition against  
18 it. We do, would like our families over in Ward 8, which  
19 is the lower portion, low-income families, to receive a  
20 reduction from their energy bill.

21           However, I live one block away from this  
22 property. No one from Mr. Allen, I think that's his name,  
23 he never came over to my community. And, we have part of  
24 those 750 homes within my community and I'm a homeowner.  
25 I've been a homeowner for over ten years. Never got one

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1 notice on my door.

2           So it's very upsetting that they have to come  
3 to the ANC and they say that they have an office. Yes,  
4 they do have an office because when they came to our  
5 meeting a month ago, we told them that they need to do  
6 some more outreach services. So, they provided the office  
7 up at William Lockbridge Library. That was a month ago.

8           You talk about the wildlife. It was known by  
9 MPD officers that talks to me. I'm a known ANC  
10 commissioner but I try my best to stay behind the scenes.  
11 But, MPD officers told us that they ride through the back  
12 of Oxon Run park and they find many deers back there dead  
13 and vultures eating off the deers. And, they're trying to  
14 figure out why is that?

15           Well, we know that the soil is contaminated.  
16 So, for GRID Alternative not to answer a lot of these  
17 questions that we have in regards to placing the solar  
18 panels onto the contaminated soil and we don't know.

19           Maybe those solar panels in years might sink  
20 and go into the contamination that they speak on. Don't  
21 nobody know what might occur. But, GRID Alternative is  
22 not providing accurate information.

23           What they say that some of these things are set  
24 in stone, even if it's the allocation of the benefits.  
25 They already stated that they already know where the

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1 benefits are going to. When Commissioner Jordon's been  
2 asking them, will Ward 8 families get any part of that  
3 benefit?

4 We don't want no CBA. We're not asking for  
5 anything. But, we do have individuals in our community  
6 that can benefit from it. If it's cutting the grass. If  
7 it's security. They never even reached out to us with  
8 this \$5. million dollars to even go into a CBA. And, I  
9 just think it's really bad and damaging for our community.

10 CHAIRPERSON HILL: Okay. All right. So,  
11 thanks, Commissioner. Thanks for coming down. So in the  
12 letter that you sent last night, it seemed as though you  
13 guys were, I'm a little confused. I mean, it seems as  
14 though you guys were taking a vote tomorrow to support the  
15 project?

16 MS. HENDERSON: Well, we're taking a vote  
17 tomorrow to support the project but there's many of us  
18 that's, some of us are for it, some of us not, are not for  
19 it. So --

20 CHAIRPERSON HILL: Okay. But, you think that  
21 you have the votes to support the project?

22 MS. HENDERSON: I'm not sure.

23 CHAIRPERSON HILL: Okay. All right.

24 MS. HENDERSON: And, can I also add --

25 CHAIRPERSON HILL: Sure.

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1 MS. HENDERSON: -- that the letter that was  
2 written was not written by me. It was written by  
3 Commissioner Diop, who is our assistant chair for ANC 8D,  
4 who has been in communication with GRID Alternative and  
5 also Emil King in regards to the project.

6 CHAIRPERSON HILL: Okay. All right. Does the  
7 Board have any questions of the witness or the  
8 commissioner, I should say?

9 VICE CHAIRPERSON HART: I appreciate you coming  
10 down. I know that it was not easy but you did well. It  
11 was fine.

12 MS. HENDERSON: Thank you.

13 VICE CHAIRPERSON HART: It sounds as though you  
14 have concerns that are ongoing about things that are  
15 happening currently at the site.

16 MS. HENDERSON: Yes.

17 VICE CHAIRPERSON HART: And that because there  
18 is money to, there's a budget to do this project that  
19 there should be some way of also addressing some of the  
20 other concerns that you, that the neighborhood has kind of  
21 seen around here.

22 MS. HENDERSON: Correct.

23 VICE CHAIRPERSON HART: And did you also say  
24 that you weren't, you were notified about the project.  
25 You just, or were you not notified about the project?

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1 MS. HENDERSON: Well, they definitely came to  
2 us. However, the community, in regards to this hearing,  
3 if it's a three-lot land, there is one notice on the far  
4 end of First and South Capitol Street on that property.

5 But if they state that their entrance way is  
6 going to be Southern Avenue and South Capitol Street where  
7 most of the traffic is coming, there's no sign there.  
8 There's no sign next to the Rite Aid that's adjacent to  
9 this property.

10 And even going out to the Rite Aid, paying that  
11 business respect, will be great because once they start a  
12 demolition or start the project, disturbing any type of  
13 field will bring rodents up to alert, you know, that  
14 business that maybe you should get an exterminator.

15 Even in the CBA, they could have said that if  
16 there's any rodents that will appear in the Rite Aid or  
17 the Walgreens, we will be, you know, liable or we will be  
18 held accountable to get them an exterminator because it  
19 can come from the project. They might as well as to spend  
20 the \$5.5 million on anything but the project itself.

21 VICE CHAIRPERSON HART: And I appreciate it and  
22 I think one of the good things about having the ANC here  
23 and you're at the table at the same table as the applicant  
24 is, is that they get to hear directly, you know, some of  
25 those concerns and then understand how they can address

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1 those. And they'll have to figure that out themselves.

2 I'm just saying it's helpful for you to be here  
3 to be able to do that. So I appreciate your coming to  
4 give us the testimony.

5 MS. HENDERSON: Thank you. And, Mr. Hart, I  
6 also want to say at our last working session meeting, and  
7 I stated this to Mr. King and he knows my feelings about  
8 the whole project, when they stated that I was on the task  
9 force and I never went onto that property and Mr. King  
10 like pretty much laughed at us in a smirk through the  
11 whole meeting. I had to let him like what's funny? This  
12 is not a funny matter right now.

13 I want to make sure that I'm included, not just  
14 as a task force member but the voice for those two  
15 thousand residents that I represent within that deprived  
16 area. It's very deplorable over there. So I just need  
17 him to know that this is a serious matter and whenever he  
18 comes to the table, it's no joke at all.

19 VICE CHAIRPERSON HART: Thank you.

20 CHAIRPERSON HILL: Okay. Anybody else?

21 MEMBER WHITE: I'd like to thank you for coming  
22 by, too, because it's always good to get community  
23 feedback and you've been living there a long time. And,  
24 you know, that's why I kept asking about questions about  
25 security and fencing and other things that popped up

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1 today.

2 But were there any particular things that you  
3 wanted them to address? Maybe that will be in the letter.  
4 But were there any, were there like one or two items that  
5 you needed to be addressed in order to be comfortable with  
6 the project?

7 MS. HENDERSON: Yes. I need an address, their  
8 position on how they're going to clean up and take care of  
9 the property or DGS as it is right now today. There's a  
10 lot of loitering. There's a lot of hanging out, overgrown  
11 grass, trash, debris, just the security part.

12 And also the health concerns. They say solar  
13 panels is not a damage to the community. We told them  
14 that we wanted it far enough back that it doesn't play an  
15 effect on the community's health.

16 But it's just the blightness of the project and  
17 many people think that our area is becoming, it's going to  
18 look like an industrial area rather than an area up and  
19 coming like the rest of the District of Columbia.

20 MEMBER WHITE: Okay. Thank you. I think it  
21 would be helpful to maybe have some kind of response to  
22 what she just testified to just to be able to add some  
23 positive feedback from your organization because they are  
24 legitimate concerns.

25 I mean, it's a brown fill. So I know what a

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1 brown fill is. There are all kinds of environmental  
2 issues that are, that come with brown fills but there's  
3 also a process for cleanup and there's also a process to  
4 be able to address some of their concerns.

5 So, I just wanted her to put that on the record  
6 in case you're not here for the next part of the hearing  
7 or discussion.

8 CHAIRPERSON HILL: So, actually before, just to  
9 clarify, I guess, I mean, I guess, does anybody have any  
10 more questions of the witness? I mean, sorry, of the  
11 commissioner? Okay. So, now turning it over to you guys,  
12 Mr. King.

13 So, my fellow Board member here had some  
14 question about like responding to some of the comments. I  
15 mean, in terms of like the personal things, I mean, we're  
16 just trying to figure out what's going on in terms of the  
17 outreach to the community.

18 And I guess there were a list of things that  
19 have been brought up from the ANC commissioner and, I  
20 guess, Board Member White was curious as to your comments  
21 on some of those.

22 MR. KING: Yes, so, generally, we did our very  
23 best to respond to comments as they were raised at each  
24 discussion and not only participated in community meetings  
25 but also working sessions. And there was a cookout I

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1 attended and just, you know, getting to know folks and  
2 understanding what their concerns are.

3 I believe, and we can share this documentation,  
4 that we provided most if not all of those responses via  
5 email since the very beginning. So recordkeeping is  
6 really important to us.

7 We've tried to address concerns each time we  
8 went back to, and we brought different individuals as  
9 well, members of our team, to answer, you know, more  
10 specific questions.

11 So, we supplied documentation with respect to  
12 site contamination, what was there, our plans for, you  
13 know, various activities, prioritization of the benefits  
14 and how we were thinking through some challenges.

15 So, yes, I think we've always done, to the best  
16 of our ability, to respond in a timely manner and will  
17 continue to do so.

18 MR. WELLS: I would add a couple things. One  
19 is, and I think the commissioner's aware of this, that  
20 while the agency's committed to working very closely with  
21 the commissioner and the commission, that we also worked  
22 very closely with the council member. And had the council  
23 member select a number of who he thought should be on the  
24 task force for allocating the benefits in the community.

25 But then we went, not around the council

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1 member, but we also tried to reach out to the ANC as well.  
2 Still assuming the council member is working with the ANC  
3 but also trying to be on the ground ourselves as the  
4 executive branch with our ANC as well.

5           So that, trying to be sure that that works  
6 together well and, at the same time, being sure that the  
7 council member's aware of exactly what we're doing and  
8 involved.

9           I can say that, again, that our team, you know,  
10 two things. One is that we understand and are committed  
11 to the ANC having an ongoing relationship that doesn't end  
12 with the approval of the project. It continues with the  
13 implementation and the management and the maintenance of  
14 the site.

15           That, you know, DGS does cover a lot of  
16 properties but this puts DOEE in a closer relationship  
17 with, as Mr. King noted, not only with our biologists and  
18 our other experts about how to manage the foliage, the  
19 trees, our arborist and such for the land who are  
20 currently not involved but through this project will be  
21 involved.

22           But also the issue of remediation that's there  
23 that Mr. King brought up, that letting the land settle for  
24 a period of time, we believe that ongoing, to some degree,  
25 and we need to work with the ANC on this, we have to try

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1 to be sure that the ongoing contamination of the site's  
2 not continuing from the private owners of the gas stations  
3 around there from what we've been able to identify.

4 And that's should be and must be an ongoing  
5 relationship with the ANC because that's a broader concern  
6 in terms of contamination, primarily from petroleum  
7 besides the dumping.

8 We do think that this will end the illegal  
9 dumping, which has an impact on the watershed and the  
10 Potomac and that creek. And we have a direct relationship  
11 through DOEE with the Environment Crimes Unit that you may  
12 be aware of that we've deployed with them to end illegal  
13 dumping that's hitting the watershed area and this will,  
14 obviously, be a part of that.

15 So, I do believe that by bringing in another  
16 agency with an area that's historically not been treated  
17 or managed well, that the community will be getting much  
18 greater attention by having both DOEE and DGS responsible.

19 CHAIRPERSON HILL: Okay. Thanks, Director  
20 Wells. Mr. King, I guess we could, after this hearing,  
21 speak with the commissioner and just remove her name off  
22 the task force or whatever is that, you know, she didn't  
23 want to be involved in. And so that would be helpful.

24 Let's see. Do you guys have any questions for  
25 the commissioner?

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1 MR. WELLS: Just to any degree that, you know,  
2 we realize there's a task force but that doesn't supplant  
3 the ANC. And so we're really still at the direction of  
4 the ANC of how you want us to engage with the  
5 neighborhood. That this task force does not replace the  
6 ANC.

7 MS. HENDERSON: And I want to make sure that  
8 everyone understands that my role at this table is an ANC  
9 commissioner, not being a part of anybody's task force.  
10 So I want to make sure that I'm providing my residents  
11 along with ANC 8D accurate information.

12 And, also, when you site that, you know,  
13 managing that area that's already deprived, even putting  
14 the solar panels, as you all heard, have heard stated at  
15 this meeting, they don't have no plans for any type of  
16 security mechanism. So how could you manage anything if  
17 you're not securing it?

18 And MPD is not here, they're here to prevent  
19 it. In order for them to prevent crime, illegal dumping  
20 or anything happening in our community, someone has to be  
21 there actually securing their property and that's not the  
22 case.

23 MR. WELLS: Let me reiterate that we have a  
24 very close relationship, DOEE does, with the Environment  
25 Crimes Unit. So the first, there's really two aspects.

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1           One is the property and the aspect of illegal  
2 dumping that's been going on there for a long time. We  
3 believe the fencing, along with quick repairs and managing  
4 maintenance of the fencing along with working with the  
5 Environment Crimes Unit will address that.

6           But then the second piece is what one of the  
7 Board members brought up. It's the issue of public  
8 safety. And the issue of public safety is, needs to be an  
9 ongoing relationship with the ANC and DOEE to see if the  
10 area, the issues of public safety are ameliorated or  
11 exacerbated by the installation along with the fencing.

12           And that is an ongoing relationship because  
13 we're your city agency. We work for you. And so that  
14 will be a continuing relationship to amend or change if it  
15 needs to be cameras, lights. As you know, whatever needs  
16 to be deployed to be sure that we did not create a public  
17 safety, that it helps rather than hurts what's already  
18 going on there.

19           CHAIRPERSON HILL: Okay. So maybe after this  
20 hearing, also, you know, you all can have a continued  
21 dialogue with the commissioner that's here and, but so,  
22 again, Mr. King, you guys are presenting tomorrow,  
23 correct? They're just taking a vote and we're just going  
24 to see what happens?

25           MR. KING: That's our understanding, yes.

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1 CHAIRPERSON HILL: Okay. All right. So a  
2 couple of things before I turn to the Office of Planning.  
3 I can't believe it's been that long before I turn to the  
4 Office of Planning.

5 But there was a, the affidavit of maintenance  
6 that you guys put in Exhibit 36, I guess it's dated  
7 Monday, 5/20, so it's a little late. It needs to be dated  
8 five days before the hearing. So I assume that you're  
9 asking for a waiver from that time requirement, is that  
10 correct?

11 It's okay. It's a five-day requirement but so,  
12 and you can't talk because you're over there. But that's  
13 all right. So, I'm, what I'm asking you is I assume  
14 you're asking for a waiver of the five-day requirement?

15 MR. WELLS: Yes.

16 CHAIRPERSON HILL: Okay. So I don't really  
17 have a problem with that waiver or granting that waiver.  
18 Does the Board have any issues with that?

19 MALE PARTICIPANT: No, sir.

20 CHAIRPERSON HILL: Okay. All right. So we'll  
21 go ahead and grant the waiver for the five-day  
22 requirement. Next, is that there is an expert in  
23 engineering, Kyle Oliver, I guess that's not in the expert  
24 book. There was another one for Paul Lanning but Mr.  
25 Lanning is not here, correct? Oh, he is here.

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1 MS. CROFT: No, John.

2 MR. LASKY: Oh, correct. I do have the, I'm  
3 sorry. I probably should have gotten it to you.

4 CHAIRPERSON HILL: That's all right. So,  
5 first, is Mr. Lanning presenting right now?

6 MS. CROFT: So, John from Lightbox just  
7 presented in lieu of Paul Lanning.

8 CHAIRPERSON HILL: Okay. In lieu of Paul  
9 Lanning. Okay. So you are then going to ask to be an  
10 expert in solar energy? Oh, you didn't present. Did you  
11 present?

12 MR. IZEVBIGIE: Yes, I did.

13 CHAIRPERSON HILL: You did provide testimony.  
14 Okay. So could you tell us about yourself, sir?

15 MR. IZEVBIGIE: No problem. I've worked with  
16 Paul Lanning for about four years, now a consultant to  
17 Lightbox Energy. We provide sustainability services to  
18 DGS. I was a manager of their initial efforts to deploy  
19 solar across the district and currently assist Paul  
20 Lanning on an on and off basis.

21 CHAIRPERSON HILL: Okay. Does the Board have  
22 any issues with this gentleman being, his testimony being  
23 taken as an expert witness?

24 VICE CHAIRPERSON HART: Do we have a resume  
25 that's on -- is that what they're handing out here?

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1 MR. LASKY: Yes, I have --

2 VICE CHAIRPERSON HART: I know they're handing  
3 out something. I just couldn't see what it was.

4 MR. LASKY: I apologize for not getting that to  
5 you immediately. I was trying to deal with the procedures  
6 here but, yes, that is what, that is that right there.

7 VICE CHAIRPERSON HART: Yes, that's fine. And  
8 if you could just talk about your educational background?

9 MR. IZEVBIGIE: Yes, no problem. I have a  
10 civil engineering undergraduate degree. I have a graduate  
11 degree in mechanical engineering. I've worked in solar  
12 for close to five years now. I'm currently an associate  
13 at Strategic Advisory Firm in the D.C. area. We're  
14 supporting corporations in their transition to renewable  
15 energy so --

16 VICE CHAIRPERSON HART: How?

17 MR. IZEVBIGIE: In the solar space for quite a  
18 while. And just to add, my graduate degree in mechanical  
19 was, is a subset of that, it was specifically a clean  
20 energy engineering degree as well, so.

21 COMMISSIONER SHAPIRO: I'm basically sure he's  
22 smarter than we are, so I'm fine with this.

23 CHAIRPERSON HILL: Okay. At least in solar, I guess.  
24 Although, maybe in everything. I don't know. So, if you  
25 could please, whoever handed this out, make sure this gets

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1 submitted into the record, okay, the items that just got  
2 handed out?

3 I see there was something about a fence detail  
4 it looks like and then a photograph that I think you guys  
5 spoke about during your presentation. And then now we  
6 have the resume of your expert witness, which we're now  
7 going to accept into the record.

8 Let's see. Mr. Oliver, we have your resume in  
9 Exhibit 30C, I believe. And, is that correct? Okay. I  
10 don't have an issue with Mr. Oliver being accepted as an  
11 expert witness. Does anyone else?

12 FEMALE PARTICIPANT: I have no issue.

13 CHAIRPERSON HILL: Okay. All right. So we're  
14 going to accept you both as expert witnesses. I've taken  
15 care of that. So now we're going to go ahead and turn to  
16 the Office of Planning.

17 MS. VITALE: Good afternoon, Mr. Chair, members  
18 of the Board. Elisa Vitale with the Office of Planning.  
19 The Office of Planning recommends approval of the  
20 requested special exception relief for a utility use in  
21 the RA-1 zone.

22 I know that Commissioner Shapiro had a question  
23 about the text amendment that's pending before the Zoning  
24 Commission. I'm happy to provide a little bit more  
25 information about that.

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1           The Zoning Commission took emergency action in  
2 Zoning Commission case 19-04. That emergency action would  
3 permit a community renewable energy facility as a matter  
4 of right, subject to the yard and height requirements of  
5 the zone in which the CREF is proposed.

6           That emergency expires on June 11th. So  
7 someone, you know, wanting to pursue a project under that  
8 emergency would need to have secured all the necessary  
9 building permits prior to that June 11th date.

10           The Office of Planning is continuing to work  
11 with the Zoning Commission to refine the text amendment  
12 and the Office of Planning is scheduled to go back to the  
13 Zoning Commission again on June 10th.

14           We anticipate on June 10th the Zoning  
15 Commission could extend that emergency so that folks could  
16 continue to proceed down the building permit path should  
17 they choose to go that route.

18           Certainly, applicants, you know, like the case  
19 before you today, who couldn't, you know, proceed under  
20 the emergency, certainly have the option to come to the  
21 Board of Zoning Adjustment for a special exception, you  
22 know, which is what we're considering today.

23           So there are options for moving forward and  
24 then, certainly, the Zoning Commission could take action  
25 to adopt formal modifications to the zoning regulations

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1 that would, you know, change how community solar is  
2 regulated in the future.

3 CHAIRPERSON HILL: Okay. Does the Board have  
4 any questions for the Office of Planning? Ms. Vitale, if  
5 you could just, I mean, for us, what we're tasked with,  
6 again, is going over the standard in terms of whether or  
7 not to grant this. Could you just kind of provide a  
8 little bit more analysis to how you think they're meeting  
9 the standard?

10 MS. VITALE: Certainly, this special exception  
11 relief is pursuant to Subtitle U, Section 203.1, and, like  
12 I said, this is specific to a utility use.

13 The first criteria speaks to electronic  
14 equipment facilities. This is not an electronic equipment  
15 facility so that's not applicable.

16 The second item speaks to setbacks, screening  
17 requirements or other safeguards that the Board of Zoning  
18 Adjustment may deem necessary for the protection of the  
19 neighborhood.

20 As we've discussed in detail today, the  
21 applicant is proposing to meet all of the required  
22 setbacks that would apply in the RA-1 zone. The applicant  
23 is also proposing the eight-foot fence surrounding the  
24 perimeter of the ground-mounted solar panel installation.

25 The applicant is also proposing landscaping to

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1 screen and buffer the installation in addition to the  
2 proposed new tree and shrub plant material that's shown on  
3 the site plan in that kind of northeastern edge.

4           There is extensive existing vegetation that  
5 would also serve to screen the solar panels and that's  
6 located along, you know, the west and east and southern  
7 borders along the stream valley that's adjacent to where  
8 these panels would be installed.

9           And, certainly, you know, should the Board  
10 determine that additional screening or buffering is  
11 necessary, that could be included as a condition of the  
12 approval.

13           The third criteria, again, would not be  
14 applicable. And then also we look to the general special  
15 exception standards. So whether or not this would be in  
16 harmony with the general purpose and intent of the zoning  
17 regulations.

18           The zoning regulations, you know, contemplate  
19 utility uses. There is the special exception requirement  
20 in certain zones so as stated previously, we think it  
21 meets the special exception review criteria for utility  
22 use in this zone. It would meet the side and rear yard  
23 requirements for the RA-1 zone.

24           The fencing, and landscaping, and existing  
25 stream buffers, we feel, would provide enough, you know,

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1 separation from the adjoining uses. It is adjacent to,  
2 you know, the district lines along the east side and then  
3 the back of the commercial that fronts on South Capitol  
4 Street to the north.

5 CHAIRPERSON HILL: Okay. Thank you. Does the  
6 applicant have any questions for the Office of Planning?  
7 Somebody's got to say no in the microphone.

8 MR. WELLS: No, we do not.

9 CHAIRPERSON HILL: Thank you. Does the  
10 commissioner have any questions for the Office of  
11 Planning?

12 MS. HENDERSON: No.

13 CHAIRPERSON HILL: Okay. If you think about  
14 something later, you just let me know. Okay. Let's see,  
15 is there anyone here wishes to speak in support? Is there  
16 anyone here wishes to speak in opposition? Okay. Now,  
17 we're back to the end.

18 So, Commissioner, is there anything you'd like  
19 to add in conclusion?

20 MS. HENDERSON: Well, just in conclusion, the  
21 Office of Planning stated that the applicant agreed to  
22 just to clean, just the beautification of the property as  
23 a whole, around the property itself. I just, it'll be  
24 great if we can have that in writing in moving forward.

25 CHAIRPERSON HILL: Okay. Well, it seems,

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1 that's all right. So, it seems like tomorrow you're going  
2 to have your ANC meeting and we'll see whether or not, you  
3 know, Mr. King can give you anything that might try to get  
4 your vote. And so we'll see what the ANC has to say.

5 So I do have one last thing to ask the  
6 applicant, I suppose. DDOT had a condition concerning  
7 their approval, which was the, close the existing curb cut  
8 and restore the curb and tree box on South Capitol Street  
9 SE. You guys are aware of that condition and are in  
10 agreement with that?

11 MR. KING: We're aware, yes.

12 CHAIRPERSON HILL: Okay. And you're in  
13 agreement with that?

14 MR. KING: Yes.

15 CHAIRPERSON HILL: Okay. All right. All  
16 right. Does the Board have any final questions they'd  
17 like to ask or anything? Okay. Then as I mentioned  
18 before, we're going to go ahead and keep the record open  
19 for tomorrow's ANC meeting.

20 And so, Commissioner, you think you guys are  
21 going to take a vote and in the letter that you didn't  
22 write, it said that you would be able to respond within 48  
23 hours to provide something to the Board. Do you still  
24 think that's the case?

25 MS. HENDERSON: Yes, we'll provide something to

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1 the Board by Friday morning.

2 CHAIRPERSON HILL: Okay. Wonderful. So then,  
3 in that case, the Board will be able to look at whatever  
4 it needs to look at for a decision next week and if  
5 filing, oh, that's right, we're off.

6 And then if we need to from the, based upon  
7 whatever we get from the ANC, if we're interested in  
8 reopening the record for a continued hearing, we can do  
9 that as well.

10 But otherwise, we're going to put this on for a  
11 decision, Mr. Moy, for the week after we get back from our  
12 holiday, which is June 5th.

13 MR. MOY: Yes, sir, June 5th.

14 CHAIRPERSON HILL: Okay. Great. So we'll go  
15 ahead and do that for June 5th. We're going to take a  
16 quick three-minute break again. We're going to tread  
17 through as best we can. And thank you all very much.

18 (Whereupon, the above-entitled matter went off  
19 the record at 12:30 p.m. and resumed at 12:33 p.m.)

20 CHAIRPERSON HILL: All right, Mr. Moy. Are we  
21 back here again?

22 MR. MOY: Yes, sir.

23 CHAIRPERSON HILL: Okay. So we're going to  
24 move some things around, everybody who's here again  
25 because this is going to be a little different than I

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1 thought.

2 First of all, is everyone here for the appeal  
3 that's taking place, which is, let me look for the number,  
4 which is 19896? So I'm just letting you all know that if  
5 the people for the appeal, if they're all here, whoever  
6 wants to come in and can hear.

7 I'm not calling anybody to the table yet. I'm  
8 just trying to make sure everybody's here. Okay. Some  
9 people are walking in. All right. Okay. So we're, so  
10 everybody's here because I just have to, kind of have to  
11 talk through some preliminary matters concerning the  
12 appeal.

13 And so what I'm going to try to do just so  
14 everybody else knows, we were going to try to hear the  
15 appeal after lunch but I think things might, there might  
16 be some preliminary matters that we're going to deal with  
17 with the appeal. So we're going to do that first and then  
18 we're going to have lunch. Okay

19 So if you're here and you're not the appeal,  
20 then you're going to be probably heard after lunch.  
21 However, before we do hear the appeal, as I said, there  
22 were some preliminary issues that have come up.

23 So I would like to go ahead and make a motion  
24 to move to a closed session to seek legal counsel on the  
25 matter of the Appeal 19896 and ask for a second in order

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1 to take a vote.

2 MEMBER JOHN: Second.

3 CHAIRPERSON HILL: Okay, the motion is made and  
4 seconded. Mr. Moy, could you please take a roll call  
5 vote?

6 MR. MOY: Yes, thank you, Mr. Chairman. When I  
7 call a Board member's name, if you would reply, respond  
8 with a yes or no? Mr. Peter Shapiro.

9 COMMISSIONER SHAPIRO: Yes.

10 MR. MOY: Ms. White.

11 MEMBER WHITE: Yes.

12 MR. MOY: Chairman Hill.

13 CHAIRPERSON HILL: Yes.

14 MR. MOY: Vice Chair Hart.

15 VICE CHAIRPERSON HART: Yes.

16 MR. MOY: Ms. John.

17 MEMBER JOHN: Yes.

18 CHAIRPERSON HILL: Okay. So it appears as the  
19 motion has passed. So we're going to go ahead and adjourn  
20 now for a meeting with legal counsel. And so that might  
21 take 15 minutes, something like this, 20 minutes. How  
22 long does OAG take?

23 MS. CAIN: I'd say 20 minutes.

24 CHAIRPERSON HILL: Okay. Fine. So we're going  
25 to go ahead and adjourn for 20 minutes and we'll be back

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1 to hear the preliminary issues that I think we're going to  
2 talk about for the appeal. And then, depending upon how  
3 long that goes, we might break for lunch.

4 I suggest the people on the other cases still  
5 stay until we actually adjourn for lunch just in case we  
6 might be able to do one more case. But we'll see what  
7 happens. Okay? Thank you.

8 (Whereupon, the above-entitled matter went off  
9 the record at 12:36 p.m. and resumed at 1:07 p.m.)

10 CHAIRPERSON HILL: All right, Mr. Moy.  
11 Whenever you're ready, if you'd call the appeal.

12 MR. MOY: Thank you, Mr. Chairman. The Board  
13 is back in session and the time is about 1:08. If we can  
14 call parties to the table to Appeal Number 19896 of Adams  
15 Morgan Friends and Allies.

16 This caption advertised as an appeal from the  
17 decision made on August 3rd, 2018 by the zoning  
18 administrator, Department of Consumer Regulatory Affairs,  
19 to issue building permit no. B as in Bravo, 1800516, to  
20 construct a new three-story 28-unit apartment house in the  
21 RC-1 zone at 1731 Kalorama Road, NW Square, 2563 Lot 98.

22 CHAIRPERSON HILL: Okay. First, a couple  
23 things. Has everybody been sworn in?

24 MR. OTTEN: No.

25 CHAIRPERSON HILL: Okay. Has anyone else here

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1 not been sworn in? If you would, please stand. Anybody  
2 who hasn't been sworn in, just go ahead and stand now and  
3 take the oath administered by the secretary to my left.

4 (Witness sworn.)

5 CHAIRPERSON HILL: Okay. Great. Thank you.  
6 All right. First, let's go ahead and introduce ourselves  
7 for the record from my right to left.

8 MS. LORD-SORENSEN: Good afternoon, Adrienne  
9 Lord-Sorensen, Assistant General Counsel with the D.C.  
10 Department of Consumer and Regulatory Affairs.

11 MR. LE GRANT: Matthew Le Grant, Zoning  
12 Administrator, DCRA.

13 MR. OTTEN: My name is Chris Otten, co-founder  
14 of Adams Morgan Friends & Allies.

15 MS. PRINCE: Alison Prince of Goulston & Storrs  
16 here on behalf of the owner.

17 MR. HODGSON: Neal Hodgson with Petra Design  
18 Build, Design Development. I represent Petra.

19 CHAIRPERSON HILL: Okay, great. Could you  
20 spell your last name for me?

21 MR. HODGSON: H-O-D-G-S-O-N.

22 CHAIRPERSON HILL: Okay, great. Mr. Otten, if  
23 you could turn off your microphone for me if you don't  
24 mind.

25 So, okay, so, you guys, what's happened now is

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1 that there are a lot of preliminary, or not a lot, there  
2 are some preliminary issues that I'd like to try to get  
3 through. So we already had kind of an emergency closed  
4 meeting. We talked to the Office of the Attorney General.  
5 And so we're not going to take any testimony today.

6 I wanted to go ahead and, you know, have you  
7 guys come up before lunch so that we can go ahead and kind  
8 of like figure out what we're going to do and then  
9 reschedule you all.

10 So for everybody who's still here in the  
11 audience, we're going to take lunch after we're done with  
12 these preliminary matters. Okay? So there you go.

13 All right. I'm just curious, Ms. Lord-Sorensen,  
14 can you try to speak into your microphone. Wow, this  
15 switch --

16 MS. LORD-SORENSEN: Hello.

17 CHAIRPERSON HILL: -- actually works. Okay.  
18 All right. All right. So I'm going to go through some of  
19 these preliminary issues. There's several preliminary  
20 issues that the Board would like the Board would like to  
21 address on the record and also these, all of these issues  
22 are going to be put in a memo so everybody can take a look  
23 at the memo afterwards by the Office of Zoning.

24 First, the Board's deeply troubled by the  
25 appellant's consistent late and incomplete filings in this

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1 appeal. An appellant is required to provide substantive  
2 responses to each of the appeal filings required of  
3 Subtitle Y, Section 302, including demonstration of how an  
4 appellant has standing and the statement of the alleged  
5 violations with all evidence and anticipated testimony.

6 Any supplemental information additional to that  
7 required with the initial filing must be submitted by at  
8 least 21 days prior to the hearing. Yet, appellant only  
9 submitted its statement on standing yesterday at 6:18 p.m.  
10 This prevents the other parties from responding and the  
11 Board from reviewing and considering the relevant  
12 submissions.

13 With regards to the motions to dismiss, the  
14 Board notes that the first writing rule under Y302.5,  
15 establishes that only the first writing of a decision can  
16 be appealed and that modifications can only be appealed to  
17 the extent of the modification.

18 In this case, that means that if this appeal of  
19 Building Permit B1800516 is dismissed, that the appellant  
20 is barred from appealing that permit. If that permit is  
21 later revised, that revised permit may be appealed but  
22 only to the extent of the changes.

23 The Board is aware that the property owner has  
24 submitted a timely motion to dismiss the appeal for lack  
25 of standing and failure to state a claim. The issue of

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1 the appellant's standing impacts both the underlying  
2 appeal and the motion to dismiss.

3           While the Board is aware that the appellant has  
4 filed a response opposing dismissal on the basis of  
5 standing, the appellant still has not formally provided  
6 written authorization of its agent, Chris Otten, to  
7 represent its interests before the Board as required by  
8 Subtitle Y302.10.           The appellant is, therefore,  
9 procedurally unable to present a counter-argument to the  
10 substantive elements of the property owner's motion.  
11 That's why we're trying to get through this so we can  
12 actually hear from everybody.

13           To allow the Board to properly consider the  
14 motion to dismiss the appellant's response, the Board has  
15 decided to hold the motion in abeyance until June 5th to  
16 allow the appellant an opportunity to correct the  
17 underlying authorization and standing issues. The  
18 appellant will have one week to submit the following  
19 information.

20           On the matter of standing, the appellant shall  
21 provide documentation of Adams Morgan Friends & Allies,  
22 AFMA's status as a community organization such as bylaws,  
23 names and addresses of members, dates, agendas of public  
24 meetings, and any resolutions related to this appeal.

25           We do need written authorization from AFMA for

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1 Chris Otten to serve as it's representative before the  
2 Board in this matter per Subtitle Y, 302.10.

3 We also need a written explanation of which  
4 specific AFMA members are claiming to be particularly  
5 aggrieved by the issuance of building permit B1800516 and  
6 the specific nature of those grievances based on the  
7 zoning regulations per Subtitle Y, 302.12(f) and (g).

8 This information will be due to the record by  
9 11:59 p.m. on Wednesday, May 29th. DCRA and the property  
10 owner will have one week to file any responses to the  
11 appellant's filing including the one submitted on May  
12 21st. These responses will be due by 11:59 on June  
13 5th. The Board will take up this appeal along with any  
14 preliminary motions on June 12th.

15 Any questions regarding the filings or the  
16 hearings can be directed to the Office of Zoning. A  
17 procedural memo will be submitted to the record on IZIS  
18 documenting the requested information and the appropriate  
19 deadlines.

20 The Board would like to note that while the  
21 property owner has filed an application to revise the  
22 original building permit, DCRA has yet to issue a revised  
23 permit. As such, the only subject of this appeal and  
24 associated motions in the original building permit,  
25 B1800516. Any future revisions of the permit will

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1 become part of the appeal only if issued and only, if  
2 then, incorporated into the appeal. If this appeal is  
3 dismissed or withdrawn, any appeal of a subsequent  
4 revision to the permit would be necessarily limited to the  
5 revisions proposed by the revised permit, not those  
6 retained aspects of the original permit.

7           So again, if there's any further questions,  
8 they can be directed to the Office of Zoning. So, Mr.  
9 Moy, did you get all that in terms of what dates we're  
10 going to do and what times?

11           MR. MOY: Yes, sir.

12           CHAIRPERSON HILL: Okay. So okay. So that's  
13 it. All right. Does the Board have any other questions  
14 or issues that they have to talk about? Okay. All right.  
15 Then we'll see you guys on the date that we set forward  
16 and for everybody else, we're not taking any testimony.  
17 We're not asking any questions. There's nothing we're  
18 going to say.           We're just going, you know, as  
19 of now, there was nothing. The main reason is I don't  
20 have somebody in front of me that I can actually talk to  
21 in terms of the written authorization. So there was no  
22 point in talking to anybody. So with that, we'll go to  
23 lunch and hopefully we'll be back around 2:00. Thank you  
24 all very much.

25           (Whereupon, the above-entitled matter went off

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1 the record at 1:15 p.m. and resumed at 1:57 p.m.)

2 CHAIRPERSON HILL: All right. Mr. Moy,  
3 whenever you like.

4 MR. MOY: Thank you, Mr. Chairman. The Board  
5 is back in session from its lunch recess and the time's  
6 about 2:11 p.m.

7 So I believe the next case before the Board and  
8 I see the applicant's entourage is entering the hearing  
9 chamber. This is Case Application 19-929 of 614 Otis,  
10 LLC.

11 This application is captioned and advertised  
12 for a special exception under the residential conversion  
13 requirements, Subtitle U, Section 320.2.

14 This would construct a rear addition and  
15 convert an existing attached principal dwelling unit to a  
16 three-unit apartment house, RF-1 zone at 614 Otis Place  
17 NW, Square 30, 3035, Lot 63.

18 The Board last heard this on March 20th, 2019,  
19 and continued the hearing to today's hearing session.

20 CHAIRPERSON HILL: Okay. Thank you. Would the  
21 parties come to the table? Okay. Great. If you would  
22 please introduce yourselves for the record from my right  
23 to left?

24 MR. CROSS: Michael Cross, architect.

25 MR. MEEKINS: Bert Meekins, private designer.

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1 MR. GREGG: John Gregg, owner.

2 MR. DUNCAN: Adrian Duncan, owner.

3 CHAIRPERSON HILL: Okay. Mr. Gregg, you  
4 decided to join us at the table today? Yes. Okay. All  
5 right. Mr. Cross, are you going to be presenting to us?

6 MR. CROSS: Initially, yes.

7 CHAIRPERSON HILL: Okay. All right. So if you  
8 want to go ahead and tell us what happened since the last  
9 time you were here and I guess we'll just start from  
10 there.

11 Why don't you guys just go ahead and go through  
12 it? I can't remember how far we got. I think -- but I'll  
13 put 15 minutes on the clock, Mr. Moy, just so I know where  
14 we are.

15 And, Mr. Cross, why don't you just start with  
16 that and we'll see where you get to.

17 MR. CROSS: Yes. Michael Cross. Appreciate  
18 you having us back. As discussed, we presented originally  
19 on March 20th. We did have a pretty lengthy conversation  
20 at that time.

21 This case is seeking relief from 320.2 for a  
22 three-unit conversion in an RF-1 zone. It's at 614 Otis  
23 Place, which is the south side of the block between Park  
24 Place and Water Street.

25 In an effort to reduce the impact of an

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1 addition directly off the rear of this existing home, the  
2 design being proposed is a courtyard scheme, which  
3 maintains a two-family size principal volume and adds an  
4 additional family-size unit in the rear carriage house  
5 style addition.

6           The proposed construction is conforming with  
7 the requirements of U320.2, with two exceptions. The  
8 first being, we're seeking a waiver from the ten-foot rule  
9 regulating the projection of the rear addition -- so to be  
10 able to make space for our rear addition off the back of  
11 the row house in an effort to maintain light and air for  
12 the adjacent neighbors.

13           The second of which is seeking a waiver from  
14 the architectural rooftop provision, architectural rooftop  
15 element provision in order to be able to provide a new  
16 mansard and dormer that is compatible with the area so to  
17 avoid the project looking like an out-of-context pop-up.

18           While we posted an extensive and thorough  
19 response letter into the Exhibit, number 43, I thought I'd  
20 simply touch on three key issues here in the opening  
21 statement today.

22           And first to note for the record, I'm  
23 presenting from Exhibit 44, which may be erroneously  
24 labeled as superseded in the case log.

25           At our initial hearing, there was a question

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1 about the proposed connection conforming with --

2 COMMISSIONER SHAPIRO: Mr. Chair?

3 CHAIRPERSON HILL: Sure. Go on.

4 COMMISSIONER SHAPIRO: I just to make sure that  
5 we're clear on what you're talking about then. You're  
6 talking about 44 versus 45?

7 MR. CROSS: That's correct. We have an  
8 additional set of plans in the record should we need them.

9 CHAIRPERSON HILL: So which one are the --  
10 which one are the plans where --

11 MR. CROSS: 44 is the plan set that we are -

12 CHAIRPERSON HILL: Exhibit 44?

13 MR. CROSS: -- presenting here today.

14 COMMISSIONER SHAPIRO: So you're saying 45 is  
15 just kind of like a plan B?

16 MR. CROSS: Potentially, yes.

17 COMMISSIONER SHAPIRO: Okay. Thank you.

18 MR. CROSS: At our initial hearing, there was a  
19 question about the proposed connection conforming with the  
20 definition of meaningful connection as outlined in  
21 Subtitle B, Section 309.1.

22 We did meet with the Zoning Department at DCRA  
23 on April 22nd, following our meeting with you and got  
24 verbal approval based on the proposal we presented  
25 previously and presenting here today.

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1           And we were able to get that in writing just a  
2 day or two ago and posted it into the record on May 20th  
3 from the Zoning Administrator and that is Exhibit 52 of  
4 the case log.

5           That meaningful connection is shown in pages 24  
6 and 25 of the exhibit.

7           CHAIRPERSON HILL: Of 44?

8           MR. CROSS: Of 44, yes. And on the screen here  
9 now.

10          CHAIRPERSON HILL: Right. I mean, actually,  
11 Mr. Cross, now I'm remembering everything more clearly. I  
12 think we just going to -- we'd just like to end up  
13 starting to ask question, because it'll be an easier way  
14 to kind of go through some of this perhaps.

15          And so if you would, if you just want to go  
16 back to that -- well, go back to that very first slide  
17 that you showed me with the -- or showed us, I suppose?  
18 Yes. There you go.

19          So how much room is behind that -- between the  
20 rear of the property -- between the rear addition and the  
21 property line? Are you guys going to put parking back  
22 there?

23          MR. MEEKINS: Yes. There's two proposed spaces  
24 back there and there's 20 feet in the rear.

25          CHAIRPERSON HILL: Okay. And then, the two

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1 adjoining neighbors, you guys already have their support?

2 MR. CROSS: I believe we have the support of  
3 the one resident owner. The other property's vacant.

4 (Simultaneous speaking.)

5 CHAIRPERSON HILL: Which one's the vacant one?

6 VICE CHAIRPERSON HART: In this image?

7 CHAIRPERSON HILL: Yes.

8 MR. DUNCAN: In this -- and the property, that  
9 would be on the right side is the vacant one.

10 CHAIRPERSON HILL: So vacant means you haven't  
11 been able to find the owner?

12 MR. DUNCAN: It is under construction and we  
13 have reached out but have heard nothing back. On the  
14 other side, 616 Otis Place, there's a resident owner,  
15 Buckrey Jamison, and he is supporting our project and was,  
16 in fact, guided it.

17 CHAIRPERSON HILL: Okay. And so the -- when  
18 you say, in fact, guided it, right, he wanted to see this  
19 solution rather than trying to go back all the way,  
20 meaning joining it together and just going back farther?

21 MR. DUNCAN: Correct. He didn't like the idea  
22 of a large addition on the main principal front structure.  
23 He preferred setting it back with a courtyard design.

24 CHAIRPERSON HILL: Okay. And have you guys  
25 spoken to all the other neighbors on this block? Have you

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1 gotten any feedback from them?

2 MR. DUNCAN: Yes. I have. I've been there at  
3 least nine times that I documented and we have, I believe,  
4 24 signatures of neighbors that was also submitted to the  
5 record as an exhibit.

6 MR. DUNCAN: Okay. And you went --

7 CHAIRPERSON HILL: That's Exhibit --

8 MR. DUNCAN: -- to the ANC and you got their  
9 support. The vote was 12-0. And so the ANC didn't say  
10 anything about the -- I mean, again, and I know that you  
11 all were here the -- you all were here the last time.

12 And so it's a new solution or it's not a new  
13 solution, it's a solution that we haven't seen a lot of.  
14 Right?

15 And so we've seen them before in terms of,  
16 like, they've been on the end and so it's again something  
17 that I kind of am trying to just understand from the  
18 Office of Planning in terms of how this works.

19 And I guess I'm just going to go right to my  
20 thing, which is that, you know, is this character scale  
21 and pattern of housing along the street or alley, it's  
22 basically the alley. Right?

23 And the reason why I'm just trying to talk this  
24 through is I believe, you know, whether you can make the  
25 case or not for the meaningful connection, I think it

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1 seems like you're going to be able to make that case.

2           And then, it just turns out, is this now what  
3 we're just going to see and from the next photo that you  
4 had which had the aerial photo, I guess, of the whole  
5 block. If you go to the next slide there, I think it was?

6           I think -- maybe it's the first one you showed  
7 me -- showed us. Yes. So, you know, they're all long  
8 lots and they're all, you know, have this possible  
9 solution, you know, that you could possibly get to.

10           So then, I guess in terms of the mansard roof,  
11 the one that you're proposing is the one that's in the top  
12 left corner? Is that correct, Mr. Cross?

13           You're proposing that mansard roof that I see  
14 in the top left corner of you slide? Yes?

15           MR. CROSS: Yes. The proposed is the --

16           CHAIRPERSON HILL: Yes. And then the other  
17 solution that you think the Office of Planning is going to  
18 sign off on is the one that's set back, the compromise?

19           MR. CROSS: The other solution illustrating the  
20 alternate option is set back.

21           CHAIRPERSON HILL: And that's what you think  
22 the Office of Planning might sign off on?

23           MR. CROSS: It seems like that is what they are  
24 indicating they would have greater support for. Again,  
25 the proposal we're presenting here today is one that was

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1 vetted with the community and --

2 CHAIRPERSON HILL: He has to go back perhaps?

3 MR. CROSS: -- supported by the ANC over the  
4 alternate.

5 CHAIRPERSON HILL: Over the alternate, right.  
6 The ANC -- and I'm not necessarily saying that we would  
7 possibly, you know, split with the Office of Planning on  
8 the mansard roof.

9 I just want to get the clarity around what  
10 you're trying to do. So yes. Does -- I mean, Mr. Cross  
11 can continue with his presentation and/or we can start  
12 asking questions.

13 VICE CHAIRPERSON HART: I mean, might just go  
14 to the questions.

15 MR. CROSS: Okay.

16 VICE CHAIRPERSON HART: So if you could just  
17 walk through the meaningful connection, because I think  
18 that that was something -- and I do appreciate the images,  
19 because they did help me understand this better.

20 It wasn't clear to me the -- on the, I think  
21 this is west side, the new development that's being --  
22 that's being -- that's, I guess, being under construction  
23 now, that side is -- I wasn't sure what the -- where the  
24 grade was in the backyard there and so it was little bit  
25 unclear as to how that grade was hitting your connection

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1 or at least would be at the connection? Because I think  
2 there's a fence there now.

3 So I just wanted to understand that. Yes.  
4 Really was -- what was this piece where that grade was.  
5 Because at one point, I thought it was actually higher.

6 But I think that it's actually fairly flat and  
7 that this is sitting on top of that and then, you could go  
8 down into the basement or cellar level of your building  
9 via this connection.

10 MR. CROSS: I believe that's largely true. The  
11 images on your screen, specifically number 27, does show  
12 how our volume is not significantly taller than a matter  
13 of right fence that you might find between the two  
14 properties.

15 Specifically, regarding the meaningful  
16 connection and grade, I think the diagrams on 24 and 25  
17 speak to that with the most specificity.

18 The grade is best illustrated by number 24  
19 where the grade line in the rear is illustrated by the red  
20 dashed line.

21 And as you can see, the connection volume there  
22 is a hundred percent above grade in terms of the local  
23 grade there in the court and the connection through the  
24 space is illustrated in section there on BZA case, page  
25 25.

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1           Where the connection while at the front is  
2 entering on the cellar level, you can see that when it  
3 makes the actual connection, it is at grade or above  
4 grade.

5           And that is the element that we reviewed with  
6 the Zoning Administrator. I do believe you're correct  
7 that some of the initial materials submitted are unclear  
8 simply because architectural standards, you can see that  
9 the floor plates of the two building are off.

10           So when we're showing first floor cuts, they  
11 happened to end up on different levels. So I think that's  
12 where maybe some of the initial confusion lay.

13           VICE CHAIRPERSON HART: I think the initial  
14 confusion for me was that we didn't have an understanding  
15 of where -- I mean, this red line is new in this and so it  
16 wasn't very clear in any of the drawing where that grade  
17 was on that property.

18           And I want to say to the west. Is that to the  
19 west? It doesn't matter, but that property that's on the  
20 -- yes, the left-hand side, this property -- sorry. Yes,  
21 that property here.

22           Just trying to understand what that grade was  
23 in the rear. There just wasn't any drawing -- there  
24 weren't any drawings that showed that.

25           You provided information now that I'm

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1 understanding where that grade is. So it's clear to me  
2 where that -- how that connection it sits on the ground or  
3 at least sits on the property.

4 So the other question on -- if you go back to  
5 Page 23 of this, so the --

6 VICE CHAIRPERSON HART: This one?

7 MR. CROSS: No.

8 VICE CHAIRPERSON HART: This one. So can you  
9 --

10 okay. This -- yes. Can you go back one? Because one of  
11 them -- I don't know. I'm looking at -- on 44, there's --  
12 page 23 -- there is it.

13 Page 23 has -- this says top of ADU. So what  
14 you're doing is comparing what an accessory dwelling unit  
15 -- what a separate building size might be with regard to  
16 this? Is that what I'm reading?

17 MR. CROSS: That's correct. I think the most  
18 proper term for that would be top of accessory building.  
19 The use being dwelling is probably irrelevant to this  
20 discussion.

21 But a matter of right accessory building is  
22 shown -- and I'm going to flip back, if you don't mind, to  
23 24, because it's just a little bit more zoomed in.

24 It shows that volume in this diagram as well  
25 and I think the point here is first that the gray shadow

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1 above the rear proposed mass shows that prior to coming to  
2 the Board, in working with the community, we had already  
3 conceded seven feet from the matter of right height  
4 allowable for this volume.

5           And how the volume with the diagonal hatch,  
6 that being a matter of right accessory building, the  
7 footprint is not largely dissimilar from the 450 square  
8 foot footprint allowable in this zone.

9           And that the height is only eight feet taller  
10 than that accessory structure would be allowed and the  
11 sort of conclusion there is if you see the line of our  
12 proposed structure, it lands almost perfectly halfway  
13 between the matter of right height of a principal building  
14 and that of an accessory building.

15           VICE CHAIRPERSON HART: No. I understood that  
16 and I think you also -- is the rooftop -- is there rooftop  
17 access in this image for the building that's in the rear  
18 or the whatever you want to call that?

19           MR. CROSS: We do still show roof decks in all  
20 the floor plans.

21           VICE CHAIRPERSON HART: So -- because it's a  
22 little unclear in this, it looks like there isn't a  
23 railing around this. So I don't know how you're doing  
24 that and I thought I'd seen in one of the drawings that  
25 there wasn't one. So I was a little bit --

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1 MR. CROSS: So you're correct. Some of the  
2 illustrations, because we were preparing multiple options,  
3 some of the illustrations are not completely accurate per  
4 the version we're looking at.

5 The version presented here is to include a roof  
6 deck and mansard roof on the front as illustrated in the  
7 plans and elevations for this proposal.

8 The front façade is showing the mansard roof  
9 with dormer on BZA 12. And you can see the roof deck on  
10 the top of that principal structure in 14.

11 And if you flip to 13 and 15, the elevations of  
12 that rear most volume, you'll also see the roof deck and  
13 exterior access to it on the rear volume.

14 CHAIRPERSON HILL: Mr. Cross, so that  
15 meaningful connection, again, so it's a three-unit  
16 apartment house so that people are walking through that  
17 connection to get to the third unit?

18 MR. CROSS: Yes. The meaningful connection  
19 provides both the primary entrance for the rear most  
20 volume. Right? So they're entering from the front  
21 through that hallway and into their dwelling unit there in  
22 the rear.

23 It also serves as the rear access for trash and  
24 parking for the front two units.

25 CHAIRPERSON HILL: Right. So it's just -- it's

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1 basically, like, I don't know where you can show me this.  
2 It's basically, like, a hallway?

3 MR. CROSS: That's correct.

4 CHAIRPERSON HILL: So everybody gets to use it.  
5 And then to go -- well, actually you got it right there.  
6 That gray, when you say the matter of right, that again is  
7 matter of right if you, in fact, do have a meaningful  
8 connection? The gray volume?

9 MR. CROSS: Yes. It's matter of right building  
10 height for a principal building in the RF-1 zone and with  
11 the meaningful connection as established by the Zoning  
12 Administrator that would be the matter of right height for  
13 this floor.

14 CHAIRPERSON HILL: Got it. Okay. All right.  
15 We're just going to jump right in the conversation.

16 VICE CHAIRPERSON HART: Yes. Actually, just if  
17 you could get to the sun studies? Because I think that  
18 the impacts are -- and this is, I think, why I was  
19 thinking that it was -- that I thought that it was -- the  
20 building -- I thought it was east, west. I realize now  
21 that the building is actually facing the north. So the  
22 top of this is actually the south.

23 MR. CROSS: That's right.

24 VICE CHAIRPERSON HART: Okay. Which is a  
25 little bit odd to kind of deal with because otherwise the

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1 shadows look a little different. But if you could talk a  
2 little bit about -- because you didn't actually provide a  
3 kind of matter of right like, what a ten foot might be?

4           These images, what I'm talking about is, you --  
5 know. You can go back to them. That's fine. The area  
6 that we're talking about is this area here, which is not  
7 -- which doesn't have any shadow, because there's, of  
8 course, no building there. And then, this area here,  
9 which is now in shadow at this point in time and I just  
10 noted that that happens at several times during -- in the  
11 shadow study. So if you could, talk a little bit about  
12 how that is not more impactful on the light and air for  
13 the neighbor. And I understand that the neighbor may have  
14 signed off on it.

15           But the neighbor signs off on it but we have to  
16 actually independently look at what the impacts are to be  
17 able to then say, yes. We kind of agree with that or we  
18 may disagree with it.

19           But right now, I'm just trying to understand it  
20 and if -- yes. So if you could just talk about that a  
21 bit?

22           MR. CROSS: So first off, as referenced before,  
23 we've got a pretty lengthy response letter in Exhibit 43,  
24 which does reference the matter of right solar studies  
25 versus the proposed.

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1           It's specifically, I believe, Item 10, Figure  
2 3, showing the matter of right, but in any case, I think  
3 that there is shading of these rear yards already existing  
4 today at various points during the day.

5           And that the amount of light and air being  
6 observed at the rear of the existing properties by the  
7 neighbors may not be the same as what we're seeing in our  
8 solar studies, because, yes, there's a shadow from the  
9 building.

10           But they are seeing the entire sky dome above  
11 them without the wall of a big apartment building being  
12 immediately next to them.

13           So they have a bigger space that they're  
14 within. Effectively, they're within a courtyard as well  
15 and that was a more desirable experience as communicated  
16 to us by the neighbors and possibly the broader community  
17 -- than having a wall immediately next to their existing  
18 house and a similar shadow, again, and that's based on the  
19 ten foot matter of right solution.

20           VICE CHAIRPERSON HART: And you also found  
21 there was -- did the next-door neighbor have any questions  
22 about privacy in that they will now be -- if you had a  
23 building that was a matter of right, the windows would be  
24 on the back looking toward the back.

25           In this case, you have a building that's now --

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1 whatever, 30 feet away from the back of -- well, 30, maybe  
2 more than that, but about 30 feet away from the back of  
3 their house that now have windows looking toward them,  
4 which is not a case in the matter of right scenario.

5 MR. DUNCAN: Yes. I met with Mr. Jamison in  
6 his home on three occasions and he made it abundantly  
7 clear that his opinion, after we came back to him with  
8 different options, was he preferred courtyard.

9 And his view of this was that we would no  
10 longer have this core exterior staircase providing access  
11 to all the units where the new neighbors would be out on  
12 their rear decks, which would be sort of immediately -- if  
13 you look at the Figure 2 in our response on Page 4, you  
14 can see that each level would have had a deck and a  
15 staircase whereby the new residents would have accessed  
16 their units.

17 And he felt by removing that, he would have  
18 more privacy from a rear structure that was sort of moved  
19 to the -- moved the massing to the rear of the lot, even  
20 if they have windows that are facing both sides.

21 VICE CHAIRPERSON HART: Okay. I appreciate the  
22 responses and, again, our job is to understand what the  
23 impacts are and how we believe that that's meeting the  
24 standard in the zoning regs.

25 But I do appreciate the responses and the

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1 information that you provided. I did see it. I just  
2 wanted to hear you all talk about that a little bit -- in  
3 a little bit more detail. So thanks.

4 MEMBER JOHN: So can we go back to the image of  
5 the block that shows the mansard roofs? Thank you. So  
6 are you saying that you spoke to each of the neighbors  
7 along that portion of the block, including Mr. Jamison?

8 MR. DUNCAN: Yes, Board Member John. That is  
9 correct. I spoke to all neighbors, in fact, on both sides  
10 of the block and number 20 in our response, we, in fact,  
11 zoomed in on the different responses there from the  
12 neighbors.

13 Specifically, with this block of seven unique  
14 oversized lots, where they all have the same roof line.  
15 There it is. Correct. So everybody there, but I also  
16 sought feedback from everyone on the block.

17 Even people that were further up the block to  
18 the west that wouldn't even see this necessarily and  
19 across the street, of course. I thought their opinion was  
20 really valuable because they would be the ones that would  
21 look at it every single day.

22 And I wanted it to be something that they were  
23 onboard with.

24 MEMBER JOHN: Thank you. So can you go back or  
25 maybe pull up an image of the alternate proposal, which is

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1 to set back the third floor from the front of the building  
2 and maintain the mansard roof?

3 MR. CROSS: So I think I'm going to stay within  
4 this response document, Exhibit 43. Because it's  
5 addressed in Item 42, Figure 12, I believe -- showing how  
6 if we were to maintain that front mansard condition and  
7 basically, provide a conforming third floor with a setback  
8 from the existing architectural rooftop element's ridge  
9 line -- the resulting mass is one that, I guess  
10 subjectively, we, and I believe Commissioner Bass is in  
11 agreement with this, feel is the pop-up that folks have  
12 been objecting to -- and that we were looking to provide a  
13 higher quality architectural design that was more  
14 compatible with the character of the neighborhood than  
15 something that was simply conforming and possibly not  
16 compatible.

17 MEMBER JOHN: So on this design, could you not  
18 include a mansard roof as well instead of the box? Could  
19 you merge the two things so it doesn't look like a box?

20 MR. CROSS: No. The zoning administrator --  
21 the code section for architectural rooftop element uses  
22 the terms remove, modify or extend.

23 MEMBER JOHN: Yes.

24 MR. CROSS: And so any type of connection and  
25 extension would be a modification of that rooftop element

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1 and not allowed. It would require the same relief.

2 MEMBER JOHN: Yes. Sure. You would need the  
3 same relief.

4 MALE PARTICIPANT: Set back.

5 MEMBER JOHN: You would set back the third  
6 floor and create the mansard effect with the setback and  
7 then, my second question is what would be the line of  
8 sight from the third floor across the street?

9 Could you see that -- this third floor in this  
10 design across the street? Because I may as well get to  
11 what my question is.

12 I particularly don't like breaking up this  
13 block, which has this uniform view of, you know, mansard  
14 roofs all along that portion of the block.

15 I would make a distinction as the Chairman's  
16 said, I don't know if he agrees with me, that perhaps if  
17 this design, as in your preferred option, would be closer  
18 to the end?

19 But I see no distinction between what you've  
20 proposed and, you know -- well, this pop-up, in a way. It  
21 just breaks the line of sight for that row and I don't  
22 know. Go ahead.

23 MR. DUNCAN: Thank you, Board Member John. I  
24 appreciate that feedback because I agree that there  
25 doesn't seem to be much of a difference as far as how it

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1 breaks up this row of homes.

2           And that is why we tried to go with something  
3 that would be a better design both architecturally and  
4 contextually as it relates to the dormer windows that are  
5 found on the properties -- on the homes across the street.

6           And furthermore, we -- I think we spoke about  
7 this in our response, but I'll just touch on it either  
8 way. By setting it back, it creates, like, a bathtub roof  
9 condition, which we would then be passing on to future  
10 owners, which makes drainage problems.

11           And that is one of the biggest issues from a  
12 building perspective with this three-foot setback because  
13 you have the original mansard and then, the rear of it  
14 actually slopes down a little bit.

15           And then, you have to get -- now they've said  
16 three feet away from the rear of that slope down before  
17 you go up.

18           So then, you create this bathtub on the roof  
19 where you either need to drain it back down through the  
20 house or try to get it out the front and create a  
21 perforation.

22           But it just creates lots of issues and it  
23 doesn't look as good either is our take and the entire  
24 neighborhood supported that.

25           MEMBER JOHN: So the three foot is a minimum.

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1 It's not a maximum. Right? Could you go further back?  
2 The reason I ask, I've seen designs that are set back 15,  
3 20 feet from the front where you can't really see that  
4 addition.

5 And it doesn't disturb the view of the top of  
6 the houses, you know, because you look at them from across  
7 the street. So we see those designs all the time.

8 MR. DUNCAN: Correct. We could, but we have  
9 decided not to do so because it's an urban setting with  
10 limited space and to be able to have a bedroom count that  
11 is more appropriate based on feedback from community  
12 stakeholders -- which emphasized repeatedly that the core  
13 character of the neighborhood changes when smaller units  
14 are built, because it doesn't allow people to begin a  
15 family or grow into their space.

16 And it accelerates the turnover period for  
17 housing and sets up a cycle of transient neighbors who are  
18 less invested in the neighborhood.

19 The existing neighbors were clear about not  
20 wanting housing that has a short shelf life in the natural  
21 progression of a family and that's why we are not setting  
22 that back further.

23 And that's we have -- that's also why the  
24 courtyard design was made to address their concerns.

25 COMMISSIONER SHAPIRO: Mr. Chair? So I can't

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1 find a picture of your proposed elevation with the pushed  
2 forward mansard roof in the context of the row. Do you  
3 have one?

4 Not that one. The one you're actually -- the  
5 one you want to do. I see the one that you want to do. I  
6 just don't see it in the context of the neighboring  
7 houses.

8 (Off-microphone comments.)

9 COMMISSIONER SHAPIRO: I'm not sure that's the  
10 only question that I have. So if you -- if there's a way  
11 to track that down in some way while we're talking or  
12 perhaps the other --

13 CHAIRPERSON HILL: Okay. Sure. No that's  
14 fine. Thanks. I guess, you can take a look at that. I'm  
15 going to actually -- I think we're just going to have a  
16 lot of questions with this.

17 This is just going to take a while. So I'm  
18 going to turn it to the Office of Planning and I think  
19 Office of Planning is just going to repeat their report,  
20 but I don't know.

21 So go ahead, Office of Planning, because I got  
22 some questions for the Office of Planning.

23 MS. ELLIOTT: I can't wait.

24 Good afternoon, Members of the Board, Chairman  
25 of the Board. I'm Brandice Elliot representing the Office

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1 of Planning and the Office of Planning continues to  
2 recommend approval of the conversion itself.

3           And we are recommending approval of the waiver  
4 for the rear addition that has been requested, but we are  
5 recommending and continue to recommend denial for the  
6 removal of the rooftop architectural element.

7           So there have been a lot of questions and I'm  
8 not sure that I have a completely organized way of going  
9 through some of the ones that have been asked.

10           I know the issue of the meaningful connection  
11 has been addressed. There is the issue of -- one of the  
12 other outstanding issues that we really haven't discussed  
13 a whole lot is whether the rear massing -- that the rear  
14 mass -- the rear portion of the addition is actually  
15 compatible with existing structures in the alley? But the  
16 applicant did provide a lot of photographs and some more  
17 context demonstrating that it is compatible.

18           Although the other detached structures along  
19 the alley on the same side tend to be single -- or I'm  
20 sorry, single level, there are larger apartment buildings  
21 and some larger structures on the other side of the alley.

22           So we do continue to think that that rear  
23 structure is compatible with some of the existing forms  
24 that you see there. We do continue to have an issue  
25 regarding the roof deck on the rear portion of the

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1 addition.

2           The roof deck is permitted by right in this  
3 scenario because it's connected to the main dwelling, but  
4 we're concerned that because it sort of acts as a detached  
5 structure, that perhaps we want to maintain that detached  
6 structure character, which doesn't allow roof decks.

7           And so we do continue to be opposed to the  
8 inclusion of a roof deck on the rear mass. But there's no  
9 issue with the roof deck on the primary -- or on the front  
10 portion of the development.

11           And the applicant has indicated that it  
12 complies with all the regulations. And we also saw a  
13 rendering of the meaningful connection itself  
14 demonstrating what the neighbors would see.

15           And we feel a little more comfortable with how  
16 that, you know, with -- yes, with how that will appear for  
17 the neighbor adjacent to it since it really is just a  
18 small extension above an existing fence line.

19           I'll go ahead and let it sit there. And I'm  
20 happy to take any questions you have.

21           CHAIRPERSON HILL: So yes. So there's -- so  
22 you guys, the applicants, you guys gotten rid of the roof  
23 deck on the -- I mean, it's not on this picture, but I  
24 don't know where the drawings are.

25           You still have the roof deck on the second

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1 whatever the addition. Is that correct?

2 MR. CROSS: We are still asking for that --

3 CHAIRPERSON HILL: Okay. So then, when you say  
4 it's a matter of right, Office of Planning, so we would  
5 have to put in a condition that they don't have -- or it  
6 would just be to the approved plans or we'd have a  
7 condition that says they can't ever put a roof deck up  
8 there?

9 MS. ELLIOTT: So some of the drawings show a  
10 roof deck and it looks like some of the more recent ones  
11 don't. So I think that the Board would probably have to  
12 specify whether or not you'd want to see the roof deck on  
13 that rear portion.

14 CHAIRPERSON HILL: But then, would you need a  
15 condition for it? Because if we didn't -- and I'm just  
16 kind of curious. So then, it would be to the approved  
17 plans and the approved plans wouldn't have a roof deck.

18 But you wouldn't have to have a condition  
19 necessarily saying that a roof deck couldn't ever be put  
20 there?

21 MS. CAIN: If your -- if the approved plans  
22 don't show them and that's what the order is going to be  
23 approved to, then I wouldn't think you would need a  
24 condition on top of that.

25 CHAIRPERSON HILL: Okay. But --

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1           VICE CHAIRPERSON HART: But the issue is that  
2 the roof -- the plans are not consistent. So there are  
3 some floor plans that actually show it, that image that  
4 you saw, which is the kind of perspective,  
5 computer-generated rendering, that actually did not show  
6 it.

7           The section that I talked about earlier, that  
8 didn't show it, but there are some sections and are some  
9 other plans and drawings that do show it.

10           So I don't think we could talk about the --  
11 we'd have to talk about, literally, specific images that  
12 we were -- or pages of the drawings that did not include  
13 -- or actually, that included it, because it is very  
14 unclear through the various images.

15           And I understand that as the architect has to  
16 go through doing iterations, sometimes you just -- you  
17 kind of miss a few things. So I kind of understand that.

18           I'm just saying that out of the drawings that  
19 we have, there are two different things that we have --

20           (Simultaneous speaking.)

21           CHAIRPERSON HILL: I'm sorry. Yes. I mean,  
22 we'll figure it out. I'm just kind of getting clear on  
23 something. Commissioner Shapiro?

24           COMMISSIONER SHAPIRO: Thank you, Mr. Chair.  
25 Question for the Office of Planning. The reason why you

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1 would oppose the roof deck on the rear section, let's call  
2 it that, that's strictly around privacy for the neighbors?

3 MS. ELLIOTT: Correct. The character that's  
4 intended for detached structures is intended to be lower  
5 scale and the issue of privacy does come into play. I  
6 mean, this is already a taller detached structure.

7 Any guardrail is just going to continue to add  
8 height to it and so our preference is that it remains  
9 lower profile and that the privacy of the neighbors would  
10 continue to be, I guess, you know, protected.

11 COMMISSIONER SHAPIRO: You know, I appreciate  
12 you describing that. I mean, this -- I think this is for  
13 discussion for us as a Board, but I'm not quite sure why I  
14 get how the roof deck on the rear section would somehow  
15 provide more -- less of a -- or more of a privacy issue  
16 than what the -- you could do by right on the main  
17 structure.

18 So I'm going -- I guess I hear the words you're  
19 saying. I don't quite get -- is it about some kind of  
20 precedent that we're afraid of setting with this? Because  
21 this is kind of an in between approach.

22 MS. ELLIOTT: You know, it all goes back to the  
23 intent of the zoning regulations and detached structures  
24 were intended to be lower profile. So I think that  
25 because this -- the rear mass resembles a detached

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1 structure, we would want to maintain the intent that's  
2 sort of been set in the zoning regulations into how we --  
3 in how we treat that structure. Hope that helps.

4 COMMISSIONER SHAPIRO: I hear you. Yes. Thank  
5 you. Thank you, Mr. Chair.

6 CHAIRPERSON HILL: Just another quick one. So  
7 the -- and I don't know if the applicant can pull up that  
8 thing that had the gray shading on the detached structure  
9 on the matter of right?

10 Yes. No. Yes. Thank you so much. So the  
11 matter of right, which is apparently this gray that  
12 they've come down. So would that be matter of right?

13 I don't -- I'm asking the Office of Planning,  
14 like, you know, that's -- thank you. That's a meaningful  
15 connection.

16 They've made a meaningful connection. Right?  
17 And so they can argue that it should be -- they should be  
18 able to have that massing?

19 MS. ELLIOTT: That would be matter of right  
20 height and that argument could certainly be made.

21 CHAIRPERSON HILL: Okay. And so -- and this is  
22 a special exception. That's what I'm just trying -- I  
23 mean, this is not a variance, like. So everybody on this  
24 row could start to do this. Right?

25 It's just a special exception and so if I were

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1 an applicant, I'd be arguing possibly for that height. I  
2 mean, everything's different. Like, they've gone to --  
3 and I respect very much that you guys have gone through  
4 this whole process.

5 I may have mentioned it many times. It's just  
6 this is somewhat new and so for me to get over this, we're  
7 going to have to talk it through a lot because that means  
8 I just don't want to argue about it anymore.

9 I'll be, like, you know, okay. Fine. We did  
10 this. This is a nice solution. This solution everybody  
11 signed off. Let's just move along. Okay?

12 But so then, matter of right, they're coming  
13 here to the Office of Planning. If I were the developer,  
14 I'd be arguing for that extra height. The reason why they  
15 don't have that extra height is because they needed to get  
16 through the ANC.

17 And so they went ahead and lost that extra  
18 height. But you, the Office of Planning, probably would  
19 have been okay with that extra height. Correct?

20 MS. ELLIOTT: Well, we didn't review that  
21 scenario and I don't feel comfortable saying that we would  
22 be comfortable --

23 CHAIRPERSON HILL: That's all right. That's  
24 okay.

25 MS. ELLIOTT: -- would be okay with it.

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1 CHAIRPERSON HILL: Pardon me?

2 MS. ELLIOTT: I don't feel comfortable saying  
3 that we would be okay with that.

4 CHAIRPERSON HILL: Sure. But it is a  
5 possibility that somebody could come and argue that before  
6 you?

7 MS. ELLIOTT: They could -- yes.

8 CHAIRPERSON HILL: Okay. great. Anybody else?  
9 Okay. Does the applicant have any questions for the  
10 Office of Planning?

11 MR. CROSS: No questions.

12 CHAIRPERSON HILL: Okay. Does -- sure. Go  
13 ahead.

14 COMMISSIONER SHAPIRO: Did you find the picture  
15 I was looking for? Was that from a previous document or  
16 did you -- is somebody drawing in the back room?

17 MR. CROSS: No. I wish. I guess the origin of  
18 this design is we are actually not the original design  
19 architect and so this design was given to us by the client  
20 from another architect.

21 This is the original proposal he provided with  
22 the original conceptual design.

23 COMMISSIONER SHAPIRO: So what's before us  
24 right now is at least from the -- in terms of the  
25 articulation, in terms of the size, the colors maybe not,

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1 but this is what that -- the size of what you're  
2 proposing?

3 MR. CROSS: I think that this generally  
4 represents the scale and intent of what we're showing in  
5 our proposal in Exhibit 44.

6 CHAIRPERSON HILL: And when you went -- sorry.  
7 And when you went to -- when this iteration was going  
8 through, did you guys have the meaningful connection thing  
9 and the thing in the back?

10 Or was this design just going back 20 feet or  
11 something?

12 MR. CROSS: No. The conceptual design shown  
13 here included the courtyard scheme.

14 CHAIRPERSON HILL: Okay.

15 MR. CROSS: So when the ten foot scheme that we  
16 had originally developed, was not -- was questioned by the  
17 neighbor, looking for more of a courtyard scheme, the  
18 courtyard scheme was introduced by another architect shown  
19 here.

20 CHAIRPERSON HILL: And so the courtyard was  
21 introduced by -- wasn't introduced by you? I'm sorry, Mr.  
22 Cross.

23 MR. CROSS: No.

24 CHAIRPERSON HILL: Okay.

25 MR. CROSS: We did not come up with that

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1 concept.

2 CHAIRPERSON HILL: Okay. And so that concept  
3 was driven by the discussions with the neighbor. The  
4 neighbor and the other -- the previous architect came up  
5 with that solution?

6 MR. CROSS: Yes. And I think that's it an  
7 important note. I didn't really make it in my opening  
8 comments. It is in the response letter, but to the idea  
9 that this is a new concept, there are two other BZA cases  
10 that approved this very concept.

11 And they were done by this other architect and  
12 that's why my client went directly to him because he had  
13 the scheme that the neighbor was looking for.

14 CHAIRPERSON HILL: And so did they go through  
15 the ANC with that previous architect?

16 MR. CROSS: Those are different cases that we  
17 were not --

18 CHAIRPERSON HILL: No. No. No. This case,  
19 your case. Did the previous architect -- so I'm seeing  
20 the owner shake no. So the previous architect -- you guys  
21 are the ones that went through the ANC?

22 MR. CROSS: We did.

23 CHAIRPERSON HILL: With this design and, Mr.  
24 Cross, I know you've brought it up and I think it's great,  
25 because I was here for both of the ones that you keep

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1 referring to.

2           And so -- and you put them in the record and  
3 one, I guess, just again how it kind of just overall, I  
4 mean, besides all of the things that we need to do to  
5 approve it, one was almost basically at the end, which it  
6 wasn't.

7           And then, the other was at the end next to,  
8 like, a big apartment building. And so it wasn't exactly  
9 like this and so that's why I'm just trying to figure out  
10 where we're going in the future so I don't have to  
11 struggle.

12           So okay. Anybody else got anything?

13           MEMBER JOHN: Mr. Chairman, I would just  
14 comment, I think this is where we're going in the future.  
15 I think we're going to see these, you know, these designs  
16 in the middle of a nice neat row of mansard roofs and  
17 we're going to see courtyard designs. That's my  
18 prediction.

19           MEMBER WHITE: Now, I mean, my only comment is  
20 that yes. I mean, I agree. I think the concept is unique  
21 because it -- at least from the rear, it doesn't -- it's  
22 not as intrusive to the adjacent neighbors and the  
23 neighbors in the rear because you have a little bit of an  
24 open space between the two structures and you've got that  
25 meaningful connection.

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1 I'd be interested in, at some point, I don't  
2 know if you have it here, but seeing what that actual  
3 meaningful connection looks like from the interior of the  
4 building to see exactly how people are able to maneuver  
5 from one building to the next.

6 But I note that the Office of Planning and the  
7 Zoning Administrator have weighed in in terms of this  
8 being a meaningful connection, but at some point, I think  
9 we've got so many different options in the record.

10 So I don't have any other questions, but I  
11 think we'll need to finalize the plans we're actually  
12 going to be approving for this application if we get to  
13 that point today.

14 CHAIRPERSON HILL: Okay. All right. Is there  
15 anyone here wishes to speak in support? Great. Come on  
16 forward. I think you got sworn in earlier. Correct?  
17 Okay. Great.

18 MR. HENDRICK: That's correct.

19 CHAIRPERSON HILL: Sure. If you could please  
20 state your name for the record?

21 MR. HENDRICK: Hello. My name is Marcus  
22 Hendrick. I'm a resident of 623 Otis Place NW. That's  
23 just down the block from this property.

24 CHAIRPERSON HILL: Okay. So, Mr. Hendrick, as  
25 you remember, you'll have three minutes to speak and, Mr.

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1 Moy, if you'd put three minutes on the clock, please?

2 As from the previous time that you're here or  
3 previous case, that is. And you can begin whenever you  
4 like.

5 MR. HENDRICK: All right. Hopefully, I can be  
6 a little more help on this case since I'm a resident and I  
7 had a chance to prepare my testimony a little bit.

8 I just want to say that I have appeared before  
9 the BZA a number of times in my capacity as the president  
10 or vice president of my neighborhood civic association,  
11 generally, in opposition to zoning variances.

12 So this is actually the first time I've  
13 appeared in support of a project and only the second time  
14 I've been involved with an exception.

15 So I understand that the process is different  
16 in that you guys are looking more to see if sort of  
17 administrative or sort of requirements, regulatory  
18 requirements, have been met.

19 And if they've been met, you move it along, but  
20 to the extent that the neighborhood input is helpful in  
21 the criteria that are a little more subjective regarding  
22 the character and scale of the neighborhood -- the sort of  
23 use and enjoyment of the properties, I do feel that we as  
24 a community have some value to add there.

25 And so I'll speak briefly on two elements of

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1 this project that you've been asking a number of questions  
2 about. The first is the rear addition, moving the massing  
3 back away from Mr. Jamison's windows.

4 So I was actually one of the people to suggest  
5 to the owner that if they were going to be seeking an  
6 exception, that they try and find a way of maintaining the  
7 character of the neighborhood in the sense that these are  
8 family-sized homes.

9 Most of these houses are single-family homes,  
10 sometimes with an English basement. A lot of the folks  
11 that have come in to develop and do things by right, slice  
12 them into two or three one or two-bedroom units, which  
13 then change the character of the neighborhood.

14 And, you know, we don't get a chance to weigh  
15 on that because it's option by right. So with the  
16 original proposal, which was ten foot back, the units, I  
17 think, were two bedroom and we asked if they could find a  
18 way, if they would be asking for an exception, to try and  
19 make as much of the units family size as possible.

20 And moving the mass back, gave them an  
21 opportunity to sort of adjust the footprint of each unit  
22 in a way that they were able to put more bedrooms in it  
23 without just doing a really long extension in the back.

24 So the shadow plans sort of show you where the  
25 shadow is on the ground floor, but they don't do a great

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1 job of showing how it effects the back wall of the  
2 property.

3           And a lot of us in these houses, most of our  
4 day-to-day living is on the first floor, which is kind of  
5 elevated a bit, almost the second floor for some houses  
6 because their basements are usually only partially  
7 lowered.

8           And those, like, so when you moved the mass  
9 back, he gets his light on his rear windows near his  
10 kitchen most of the day. And if you put the mass towards  
11 the front, the shadow is on that.

12           Very quickly on the mansards, the neighborhood  
13 is on a slope. The folks on the north side, the houses  
14 are built in such a way that the porches are main level as  
15 the street drops.

16           So further down the block, the porch is  
17 basically on the second floor. On the south side of the  
18 street, all the houses are, like, on street grade.

19           And so, Ms. Judy, my neighbor down the block,  
20 when she looks at this house across the street, regardless  
21 of whether you put the box towards the back or not, she's  
22 going to be able to see that box.

23           And in our neighborhood, we tend to prefer -- I  
24 know there's a sort of architectural debate about whether  
25 when you're adding to a historical home, the addition

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1 should be clearly extended additions or if they should try  
2 to blend the original architectural design.

3 In the community meetings I've been to at our  
4 neighborhood on our little block, the preference, as  
5 Commissioner Bass has made clear a number of times is more  
6 to try to blend the new with the old.

7 And so the new mansard, which sort of puts  
8 everything up front, but adopts that style is the  
9 preference for us and if you put a box on the roof and  
10 push it towards the back -- it's not really going to hide  
11 it from of the people on the block, because their porches  
12 are so high, we're going to see it all the time anyway.

13 So I'm hoping that I've addressed the main  
14 issues here. Yes. You know, I just want to close by  
15 saying the rear addition, which keeps these family-sized  
16 units of three bedrooms, keeps more with our character  
17 than use as a block in the neighborhood -- than a by right  
18 division of this home into three small condos for folks  
19 who that are going to move in and then have to move out  
20 when they have kids. Thank you.

21 CHAIRPERSON HILL: Okay. All right. Thank  
22 you. Does the Board have any question for the witness?

23 MEMBER JOHN: One quick question.

24 MR. HENDRICK: Yes, ma'am.

25 MEMBER JOHN: Can you comment on this design

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1 that's on the screen right now? This is the first design  
2 that I don't believe was briefed to the ANC. It was  
3 briefed to the ANC? Okay.

4 So what is your view of this design? Because  
5 there's a mansard roof that's sort of continued and with  
6 the dormer in the front.

7 MR. HENDRICK: Right. So our --

8 MEMBER JOHN: Which matches the window at the  
9 -- on the second floor.

10 MR. HENDRICK: The second floor. Right. So my  
11 preference and the preference that I've heard from members  
12 of the community most frequently is that we would prefer  
13 this -- what's on the picture now, where you extend the  
14 mansard and try and blend the new height with the original  
15 architectural design as opposed to pushing a box a little  
16 further back, which may or may not match.

17 But you're going to see that box anyway for my  
18 neighbors on the north side of the street. So we would  
19 rather have the whole think look sort of uniform, even if  
20 it's a little taller than its neighbors because you can't  
21 hide it.

22 MEMBER JOHN: So you do know this is not what's  
23 being proposed? This was an earlier version. Correct?  
24 Is this what you're proposing?

25 MR. HENDRICK: Yes. The proposal --

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1 (Simultaneous speaking.)

2 MR. HENDRICK: -- I actually looked over the  
3 documents and they're a little confusing, but my  
4 understanding was that they're asking for a mansard and  
5 dormer windows as opposed to what the Office of Planning  
6 has proposed.

7 CHAIRPERSON HILL: Okay. Anyone else? Okay.  
8 All right. Thank you, sir.

9 MR. CROSS: I can --

10 CHAIRPERSON HILL: Sorry. Yes. You can ask  
11 some questions --

12 MR. CROSS: -- two questions.

13 CHAIRPERSON HILL: -- of the witness, sir.

14 MR. CROSS: Yes. Just to confirm, the image on  
15 the screen here is consistent with your understanding of  
16 the mansard roof that's being proposed?

17 MR. HENDRICK: Yes. That it would have the  
18 sort of shingled mansard on the side and dormer windows on  
19 the third as opposed to a visible mansard with a recessed  
20 extension to the back.

21 MR. CROSS: And that's preferred to you?

22 MR. HENDRICK: That's my preference.

23 MR. CROSS: And do you have any input on some  
24 of the privacy concerns about a rear -- a roof deck on the  
25 rear volume?

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1           MR. HENDRICK: I haven't really given a lot of  
2 thought to the rooftop element. I don't really have a  
3 concern one way or the other about the deck. That wasn't  
4 -- I have not really given a lot of consideration to that.

5           MR. CROSS: Thank you.

6           CHAIRPERSON HILL: Okay. Thank you. All  
7 right. Anyone here wish to speak in opposition? Okay.  
8 Let's see. So I'm going to turn to the Board just a  
9 little bit.

10           I mean, if you guys are ready -- so you're  
11 excused. Thank you so much. Thank you for coming down.  
12 If -- yes. So I'm perfectly happy going into -- I mean,  
13 I'm keeping the record open and we can talk about this for  
14 a while, because I'm perfectly happy going into  
15 deliberations and I think it'll be interesting to  
16 deliberate because that's what we're going to do.

17           And then -- but if we -- I'd rather just go  
18 ahead and do it as opposed to, like, you know, I mean, I  
19 think all the plans are there. If you guys want to talk  
20 about, you know, whether or not we're going, you know, the  
21 mansard roof versus whatever it is.

22           And we can kind of figure out, you know, I'm  
23 just trying to gauge as to what plans we're actually going  
24 to be approving. I don't want to have to have the guy  
25 come back again with new plans.

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1 I mean, if, you know, we can get to the  
2 deliberations today, then, let's go, you know, if the  
3 Board thinks they're kind of ready to deliberate, then --  
4 yes. Go ahead.

5 VICE CHAIRPERSON HART: Yes. No. Mr. Chair,  
6 I'm ready. So we can talk about the drawings --

7 CHAIRPERSON HILL: Okay. All right. So let's  
8 try to figure out at least kind of what we're talking  
9 about. So there are the drawings that have, I guess, the  
10 -- whatever, the thing that the -- the mansard roof's been  
11 sort of -- the mansard roof has not been changed and  
12 there's the bathtub that's been created. And so what does  
13 the bathtub plan look like? Can you pull that up for me,  
14 Mr. Cross? And which Exhibit is the bathtub plan in?

15 MR. CROSS: I believe that is Exhibit 45 and --

16 CHAIRPERSON HILL: So 45 is a full set of  
17 plans?

18 MR. CROSS: It is. I believe it's a full set  
19 of architectural plans. I don't know if it has all the  
20 additional diagrams that 44 does.

21 CHAIRPERSON HILL: Does it have the roof deck  
22 on the back --

23 MR. CROSS: No.

24 CHAIRPERSON HILL: -- thing?

25 MR. CROSS: So the two differences in 45 versus

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1 44 is that 45 shows the, I guess, the matter of right  
2 condition at the front with regard to architectural  
3 rooftop elements and not needing that waiver.

4 And it shows a compromised position of not  
5 showing the matter of right roof deck on the rear volume,  
6 which I just want to real quickly say, correct my  
7 statement earlier.

8 We're not seeking relief from that. That is  
9 understood to be a matter of right element.

10 CHAIRPERSON HILL: Sure, of course. Please go  
11 ahead.

12 VICE CHAIRPERSON HART: And I just have to say  
13 this because I feel like we've -- we've seen this a couple  
14 of times over the last kind of last month. I do not like  
15 alternative plans.

16 I like having one set. That's what we're  
17 looking at. I know that folks like putting them in there,  
18 but I think what it ends up doing is well, we talk about  
19 this or that? I'm not really sure.

20 And then, it becomes this, you know, well, this  
21 is -- this drawing -- so tried to make sure that these  
22 drawings weren't here. We weren't sure if you were going  
23 to be okay with this.

24 Well, you all have -- the applicant's have one  
25 proposal that's before us and that's what we should be

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1 looking at.

2           This -- the number 45 or Exhibit 45 is just not  
3 helpful because we are having this conversation about  
4 plans that we're not even really going to be looking at.  
5 I mean, it should be this is what your proposal is.

6           This is what we're approving. Not, well, you  
7 want to choose this or this. I'm not going to go into two  
8 things, because that means I'm doing more work to try to  
9 figure out well, do I like this one or that one?

10           I'm not doing that. You all have your proposal  
11 that is before us. We've had the thing last week where  
12 they wanted to do a supermarket or a café. And they're,  
13 like, you have to decide one.

14           No. You decide what you want to do and you  
15 submit it to us and then, we decide what that is. So I  
16 have an issue with having the two sets. I mean, you can  
17 kind of tell I'm kind of -- it makes me a little bit too  
18 -- I don't know.

19           It adds a little bit more confusion and I don't  
20 think it's very helpful. So I just think that we should  
21 be looking at 44 and that's it.

22           CHAIRPERSON HILL: There's no response, just --  
23 or actually, is there a response? So I guess there's a  
24 response. I'm just trying to process now. You're coming  
25 over here. So wait a second, wait a second.

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1                   So I'm sorry, Ms. John? Wait. Sorry.  
2 Commissioner?

3                   COMMISSIONER SHAPIRO: Again I, you know, for  
4 me cut to the chase. I like the mansard roof that they  
5 proposed. I think it's fine to have a rooftop in the  
6 back. Everything else about this seems fine to me.

7                   And that's where I'm at. It's pretty  
8 straightforward. I have no problem with it.

9                   CHAIRPERSON HILL: All right. So then, we're  
10 going to have these deliberations, because I was -- and  
11 may -- pardon me?

12                   (Off-microphone comment.)

13                   CHAIRPERSON HILL: No. We're not closing yet.  
14 I mean, I'm trying to figure out whether we're going to  
15 need anything else from them. Right?

16                   Like, the reason why I'm asking what we're  
17 doing is because I don't like -- I don't want them to lose  
18 the mansard roof. Okay?

19                   And so -- but I don't really know how I feel  
20 about the thing in the back anyway. So I was just  
21 thinking about abstaining. So, you know, I don't how to  
22 abstain.

23                   I'd be, like, just use the word abstain. I'm  
24 was, like, hey, you know, and so that's what I'm trying to  
25 figure out. Will they need anything else from the

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1 applicant and you all don't need anything else from the  
2 applicant --

3 FEMALE PARTICIPANT: No.

4 CHAIRPERSON HILL: -- other for them to choose  
5 which plans they're submitting. And, Ms. John, do you  
6 need anything?

7 MEMBER JOHN: I would like to say what I like  
8 so you can figure out where we are. I've been pretty  
9 straightforward.

10 I like the mansard, the extended mansard roof  
11 with a dormer as was shown in the rendering that I asked  
12 the neighbor about. I don't know if that is fairly  
13 depicted in the plans because I can't get that from here.

14 So -- and I agree with Office of Planning's  
15 suggestion that we not have a roof deck in the back and I  
16 agree that there's a meaningful connection and other than  
17 that, I should be able to support this application.

18 COMMISSIONER SHAPIRO: I missed one thing you  
19 said. On the roof deck on the back, was that a yes or a  
20 no for that one?

21 MEMBER JOHN: No.

22 COMMISSIONER SHAPIRO: That was a no. Okay.  
23 So we're almost aligned.

24 (Simultaneous speaking.)

25 MEMBER JOHN: Almost aligned except you don't

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1 like the image -- the design that --

2 COMMISSIONER SHAPIRO: No. I do. I agree with  
3 you. I think we're saying the same thing.

4 MEMBER JOHN: Okay.

5 COMMISSIONER SHAPIRO: So what's on -- I have  
6 in front of -- what I have in my computer, if you could go  
7 to BZA 01 on 44. So the first page of 44, that's it.  
8 That's the one you like. Right? Because that's the one  
9 that I like.

10 MEMBER JOHN: Yes. Assuming that's the same  
11 one in the rendering.

12 COMMISSIONER SHAPIRO: Yes.

13 CHAIRPERSON HILL: Okay. So I think I know  
14 where we are. Right? I mean, and I'm thoroughly happy or  
15 I should say that I don't -- I just know where we are.

16 So you're now -- so can you show us whatever  
17 exhibit it is that has the mansard roof has been removed  
18 and, you know, that's what's there. Right?

19 And then, that doesn't have the roof deck in  
20 the rear. Is that anywhere in your -- has not been  
21 removed? Oh, it has the roof deck in the rear?

22 COMMISSIONER SHAPIRO: Well, it's split around  
23 the roof deck.

24 VICE CHAIRPERSON HART: The images have the  
25 roof deck in it. In this set, the images have -- the

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1 drawings have the roof deck in it. So --

2 (Simultaneous speaking.)

3 CHAIRPERSON HILL: In the rear. In the rear.

4 (Simultaneous speaking.)

5 CHAIRPERSON HILL: But Lorna was not -- Lorna  
6 was not supporting in the rear.

7 VICE CHAIRPERSON HART: I know.

8 CHAIRPERSON HILL: Right.

9 MEMBER JOHN: May I please state what I said?  
10 So we retain the mansard roof to keep the uniformity of  
11 all the mansard roofs on the block.

12 But the extension is as it is here on the  
13 image. Did I -- is that clear?

14 MR. GREGG: You two are saying the same thing.  
15 He's just saying --

16 MEMBER JOHN: Okay.

17 MR. GREGG: -- you removed the existing mansard  
18 roof and kind of build up. Right? Is that what I'm --

19 MEMBER JOHN: No. No.

20 MR. GREGG: -- saying, Chairman Hill? No?

21 MEMBER JOHN: No.

22 MR. GREGG: All right. Never mind.

23 CHAIRPERSON HILL: That's okay. So we're --  
24 and we'll fix this in the future where we won't let  
25 anybody, you know, they can just come with us with the

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1 plan, then I'll be done.

2 I heard what you were saying, Vice Chair Hart.  
3 But today, we're where we are. And so let's just kind of  
4 work through this a little bit.

5 So the rear -- I'm just trying to understand.  
6 So the rear deck, okay, because I just want to get to a  
7 set of plans that we're all talking about.

8 So the rear deck -- Commissioner, you were fine  
9 with the rear deck and on the accessory dwelling unit and  
10 Ms. John you're opposed to the rear deck. Okay? So  
11 there's a split right there. Okay?

12 MEMBER WHITE: So I have a question.

13 CHAIRPERSON HILL: Sure.

14 MEMBER WHITE: So what is the ANC's position  
15 again on the rear deck?

16 CHAIRPERSON HILL: You can ask the applicant.

17 MEMBER WHITE: Mr. Applicant?

18 MR. CROSS: The ANC has no express concern  
19 about the rear deck to my knowledge. I think, if I may to  
20 kind of help bring this into a conclusion for you guys,  
21 we're seeking relief from 320.2 for the third unit.

22 We're seeking two waivers. One from the  
23 ten-foot rule to be able to do this rear volume. And one  
24 for the waiver of the rooftop element in order to remove,  
25 modify or extend the front mansard roof.

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1           The rooftop deck on the rear volume, is  
2 something that OP cites in their report. However, it is  
3 not something that we're seeking relief from today, as we  
4 believe --

5           CHAIRPERSON HILL: Mr. Cross, I'm going to  
6 interrupt you. I totally got you and I appreciate trying  
7 to help us out. We're trying to -- we understand the two  
8 waiver and part of the two waivers is whether or not we  
9 think that there's going to be any adverse impact by that  
10 other thing that you have in the rear.

11           And one of our Board members thinks that that  
12 roof deck, they're agreeing with OP, could provide more of  
13 an adverse impact. So that's why the roof deck -- it's no  
14 longer a -- it's not a matter of right because you can't  
15 do it anyway until you are here before us. Right? So the  
16 mansard roof, we're going to work through.

17           So the roof deck, right, so I got a split on  
18 the roof deck. Okay? And who else is going to split on  
19 the roof deck? Who wants the roof deck? Who doesn't want  
20 the roof deck?

21           VICE CHAIRPERSON HART: I'm okay with the roof  
22 deck.

23           MEMBER WHITE: I'm fine with it as long as  
24 there's no ANC protest against it. So --

25           CHAIRPERSON HILL: Okay. So you need to get --

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1 so now I need new plans again. That's what I'm trying to  
2 get to. Right? Because I got nothing -- I don't have  
3 anything -- okay. Well, I'll tell you why I need the  
4 plans.

5 Give me one second. So then now there's the  
6 mansard roof. Okay? So, Ms. John, the mansard roof is --  
7 and this is where the applicant can help me out, there's  
8 the plan that the mansard roof remains. Okay?

9 That the Office of Planning supposedly is in  
10 favor of. Okay? And that's the one that has the setback.  
11 Could you show me a picture, please, of the mansard roof,  
12 the plan with the mansard roof remaining -- which is the  
13 compromise thing? Right. So that's the mansard -- so  
14 that's not the one you're speaking of. Correct, Ms. John?

15 MEMBER JOHN: No. It's the one in the  
16 rendering.

17 CHAIRPERSON HILL: Okay. So Ms. John is  
18 opposed to the Office of Planning rendering. Okay?

19 COMMISSIONER SHAPIRO: As am I.

20 CHAIRPERSON HILL: Yes. So now we're back to  
21 this one, but --

22 MEMBER JOHN: Does this one have the mansard  
23 roof on it?

24 COMMISSIONER SHAPIRO: 44A 01.

25 MEMBER JOHN: Can we go back to the rendering?

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1 CHAIRPERSON HILL: You need a --

2 MEMBER JOHN: Can you go back to the rendering  
3 that you showed me? Okay. Is there -- are there plans  
4 with that?

5 CHAIRPERSON HILL: The mansard roof has been  
6 removed on that -- in that rendering.

7 COMMISSIONER SHAPIRO: That's two very slightly  
8 different --

9 MR. GREGG: Yes.

10 COMMISSIONER SHAPIRO: -- versions of the same  
11 drawing.

12 MR. GREGG: Exactly. Thank you very much.  
13 It's just the one on the right has a cornice. The one on  
14 the left doesn't have the cornice. The one on the left's  
15 consistent with all the other roof lines on that block.

16 We actually went back and forth about that. We  
17 chose the one on the left because it's more similar than  
18 all the other houses where they have that kind of little  
19 pitch in the front.

20 As opposed to the one on the right, has that  
21 little cornice. That's the only difference. It's a very  
22 minor architectural detail that we actually really care  
23 about.

24 And we had discussions about and that's why we  
25 have two -- and we apologize. That's because of the two

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1 of us here going back and forth about which is more  
2 esthetically appealing. And we should not do that  
3 anymore. It's actually -- it was me. So they are  
4 supposed to represent the exact same thing, though.

5 CHAIRPERSON HILL: So okay. All right. So you  
6 don't have any plans, however, with the rear rooftop deck?

7 MR. CROSS: We do.

8 CHAIRPERSON HILL: And this particular -- in  
9 this set --

10 MR. CROSS: In this set --

11 CHAIRPERSON HILL: In this set?

12 MR. CROSS: -- Exhibit 44, shows the rooftop  
13 deck in all of the architectural plans. Some of the  
14 graphical illustrations do not show it graphically, as you  
15 see here.

16 However, all the architectural plans, as you  
17 see here on BZA 13 and 15, you see the rail of the rooftop  
18 deck and elevation and --

19 CHAIRPERSON HILL: Okay.

20 MR. CROSS: -- the access is --

21 CHAIRPERSON HILL: Okay.

22 Okay, so Exhibit 44 are the plans that have the  
23 rooftop deck on the -- whatever. The ADU, the ADU. And  
24 the -- and has the mansard roof removed in 44.

25 Okay. All right. So you guys are voting on --

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1 you guys. You guys are talking about 44. Okay? All  
2 right. So do we need anything else and then we can  
3 deliberate on 44?

4 Okay? All right. So you guy have anything  
5 you'd like to add in conclusion?

6 MR. CROSS: No, sir.

7 CHAIRPERSON HILL: All right. So we'll close  
8 the record. All right. Is the Board ready to deliberate?

9 VICE CHAIRPERSON HART: Yes.

10 CHAIRPERSON HILL: Please go ahead.

11 COMMISSIONER SHAPIRO: All right. I think I've  
12 been pretty clear with where I am on this. I think,  
13 Commissioner John, the only thing that we differ on is  
14 that rooftop, the rear section rooftop.

15 But in terms of the mansard roof, I think we're  
16 in the same place around it.

17 MEMBER JOHN: Right. And I'm fine with rooftop  
18 deck and the rear structure. It's not a significant issue  
19 for me. I'm more concerned about the mansard roof.

20 COMMISSIONER SHAPIRO: And if I understanding  
21 correctly, you and I are in the same place --

22 MEMBER JOHN: Yes.

23 COMMISSIONER SHAPIRO: -- in the mansard --

24 MEMBER JOHN: Yes.

25 COMMISSIONER SHAPIRO: -- in the front. Okay.

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1 MEMBER JOHN: But I don't know how to vote,  
2 because I don't know which is which.

3 COMMISSIONER SHAPIRO: So I think we're -- but  
4 that's -- I think that's right. We want to make sure  
5 we're talking about the same thing. We're talking about  
6 the elevations in 44.

7 CHAIRPERSON HILL: Yes.

8 COMMISSIONER SHAPIRO: Right.

9 CHAIRPERSON HILL: We're talking about the  
10 plans in 44. You guys --

11 COMMISSIONER SHAPIRO: Okay.

12 MEMBER JOHN: The elevations in 44, I'm fine.

13 COMMISSIONER SHAPIRO: Okay. So --

14 MEMBER JOHN: Elevations in 44, I'm fine with.

15 COMMISSIONER SHAPIRO: So that's all I have,  
16 Mr. Chair.

17 MEMBER WHITE: Yes. I think they've responded  
18 to all our concerns. I mean, the main issue regarding the  
19 meaningful connection, I'm comfortable with that.

20 I'm comfortable with the version of the mansard  
21 roof that Board Member John talked about and I'm pretty  
22 much in support, you know. I think Exhibit 44 was the one  
23 that we're going to try to go with.

24 So I don't have any concerns. I'm willing to  
25 support the roof deck. I don't see anything in the record

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1 that communicates any concerns on the part of the  
2 neighbors. So I'm ready to move forward.

3 VICE CHAIRPERSON HART: So I was going kind of  
4 back and forth on this because I had some issues with the  
5 -- understanding the meaningful connection.

6 I didn't think that there was sufficient  
7 information previously. I think the applicant has  
8 provided that information.

9 So I can be able to support that aspect of it  
10 as well as the project itself. I did not like -- and I  
11 still or -- well, I shouldn't say still.

12 I think that the -- understanding what the  
13 neighbor is stating that he is in support of the  
14 application and that the reason -- the rationale for this  
15 particular project to have the building in the rear is to  
16 provide for more light and air.

17 I understand it and I will continue -- I think  
18 we're going to have to look at these things as we always  
19 do, looking at them as individual projects and individual  
20 applications that come before us.

21 Regarding the mansard roof removal, I -- again,  
22 originally, I'm not -- I'm usually not in favor of  
23 removing them. If you're removing them, then usually it's  
24 set back.

25 I understand the context here and I appreciate

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1 everyone coming in -- the sorry -- Mr. Hendrick that came  
2 in to give us some information about the -- what their  
3 perspective was, the civic association perspective was.

4           And I would be in support of this particular  
5 application for the Mansard roof. I didn't quite -- I  
6 understood the issue that the Office of Planning brought  
7 up regarding the rear deck, but it seems as though you  
8 have windows that are able to look into the neighbor's  
9 yard, again.

10           So the privacy issue doesn't seem to be -- it  
11 either you don't allow windows and you don't allow the  
12 deck or you allow both.

13           So I just didn't see that you could take away  
14 the windows that look at the back of the people's houses,  
15 but -- I'm sorry. Keep the windows and then take away the  
16 deck, just didn't seem to be congruent to me.

17           So I think that the deck and the windows are --  
18 while they would be able to see into somebody's house, I  
19 think that -- or the back of somebody's house, I think  
20 that the ability for -- to provide a separation between  
21 the units may be more helpful in this particular instance.

22           I do appreciate the architect's changing --  
23 there was a, I guess, a stair in the rear of this --  
24 actually, it's shown in this image. Yes. I think that  
25 it's helpful to have that stair kind of a little

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1 re-oriented to allow that courtyard space to actually be a  
2 courtyard space.

3           And I think that's it. So in general, I'd be  
4 in support of the application. I wasn't sure I was going  
5 to get here, but I think I finally did get there. So  
6 that's it.

7           CHAIRPERSON HILL: Okay. So this took an hour  
8 and a half. So I'm going to take -- we're going to take a  
9 break after this before we go to the next case. I'm going  
10 to have my little say.

11           And then, we're going to take a vote. And so  
12 again, as I -- we've gone -- I mean, I think it's really  
13 interesting, because, again, even though the applicants,  
14 and we said this on the record already a couple times.

15           Even though the applicants brought up two cases  
16 that have been before us, I mean, I remember looking at  
17 them. I think they were farther apart. It was a deeper  
18 lot.

19           I think it was at the end -- it was almost at  
20 the end of the row. And so the almost at the end of the  
21 road doesn't seem like -- I'm just kind of talking this  
22 through a little bit more. Right?

23           And so -- and the other example, again, was  
24 up against an apartment building and so, you know, one  
25 side was already knocked out. So I do think there's a

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1 meaningful connection.

2           And I do think, then, that we're going to have  
3 people coming before us that are trying to go get all that  
4 they can get. Right? To the top, like, you know, why  
5 not? Right?

6           And so my issue with it was that, again, and  
7 the only thing I had to kind of hang my hat on was the  
8 character of the alley. You know, that was the -- because  
9 I think that the Office of Planning's analysis, I think is  
10 pretty accurate.

11           It's just whether or not this is now going to  
12 be a solution kind of moving forward and what our position  
13 is now going to be on that.

14           And I'm just going to keep talking it through  
15 for me, because I just want to, please. Is that the  
16 windows at the back, right, they're now looking into  
17 everybody else's yard. Okay?

18           And so, as you just stated it again, before,  
19 there's now a roof deck. I mean, I was at least -- I  
20 mean, I would have been opposed to the roof deck.

21           And then the removal of the mansard roof, a  
22 long time ago, I voted for something to remove a rooftop  
23 element and I felt -- I thought on further  
24 reconsideration, I possibly would have voted differently.

25           The mansard roof line, is all -- they're all

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1 mansard roof, so they're the same -- they're all there.  
2 Right? So now, they're all just going to kind of come and  
3 go.

4 I mean, I do understand, like, maybe the pop-up  
5 looks worse, but, you know, 50 years from now, 100 years  
6 from now, you might like the line of mansard roofs and the  
7 pop-ups will have blended in and people have gotten used  
8 to the pop-ups.

9 And be, like, wow, what a nice line of mansard  
10 roofs. So I'm going to be abstaining, because I actually  
11 don't know what I'm going to think about this in the  
12 future. Okay?

13 So that's why I'm not clear. Okay? I mean, I  
14 think that the lots deep, the connection is meaningful.  
15 You know, when we're having people now arguing about the  
16 meaningful connection, I mean, everybody's using that  
17 hallway.

18 They're taking their trash out. They're going  
19 to get to parking out there. So that's a meaningful  
20 connection. It's heated. It's air conditioned. So  
21 somebody else can make a motion.

22 VICE CHAIRPERSON HART: So I'll make a motion  
23 to -- I got to get the actual case now before me. Gosh.  
24 Okay. Well, I think I -- yes. I think I have that one.

25 MALE PARTICIPANT: The other thing.

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1 COMMISSIONER SHAPIRO: I have it if you want.

2 VICE CHAIRPERSON HART: No. I got it.

3 COMMISSIONER SHAPIRO: You got it?

4 VICE CHAIRPERSON HART: So to approve  
5 application -- I'll make a motion to approve Application  
6 19-929 of 615 Otis Street, LLC, as read and captioned by  
7 the secretary.

8 And we're looking at Exhibit 44 as the images  
9 that -- or yes. Exhibit 44 is the plans that we are going  
10 to be approving. So do I have a second?

11 COMMISSIONER SHAPIRO: Second. I'll --

12 CHAIRPERSON HILL: The motion is made and  
13 seconded. All those -- I think I still get to do that  
14 part. The motion being made and seconded, all those in  
15 favor say aye.

16 (Chorus of ayes.)

17 CHAIRPERSON HILL: All those opposed? All  
18 those abstaining? Aye. The motion passed, Mr. Moy.

19 MR. MOY: If staff would record the vote as 4-  
20 1-0. This is on the motion of Vice Chair Hart to approve  
21 the application for the relief requested.

22 And as mentioned in the motion, these are as  
23 shown on Exhibit -- these are plans as shown on Exhibit  
24 44. The second motion is Peter Shapiro, also support, Ms.  
25 White, Ms. John and Chairman Hill abstaining.

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1 Motion carries, sir.

2 CHAIRPERSON HILL: Okay. Thank you. Thank you  
3 all very much for the learning experience. Bye-bye.

4 MR. CROSS: Thanks for your time.

5 (Whereupon, the above-entitled matter went off  
6 the record at 3:31 p.m. and resumed at 3:47 p.m.)

7 CHAIRPERSON HILL: All right. Mr. Moy, you can  
8 call it whenever you like.

9 MR. MOY: Thank you, Mr. Chairman. So I  
10 believe the next case before the Board, if I can have  
11 parties to the table, is Case Application Number 20013 of  
12 Simon -- is it pronounced Chan, C-H-A-N? This is  
13 captioned and advertised for a special exception under  
14 Subtitle U, Section 802.1(a). This would permit an animal  
15 boarding use in the PDR-4 zone. This is at 1025 Brentwood  
16 Road, Northeast. This is parcel 143/108.

17 CHAIRPERSON HILL: Okay. Good afternoon.  
18 We've lasted a long time. If you could, please introduce  
19 yourselves for the record from my right to left.

20 MS. OLIVER: Darlene Oliver, ANC 505.

21 MR. HUBIG: Karl Hubig, business owner.

22 MR. COLLINS: Melvin Collins, business owner.

23 MR. HUBIG: So Chan is the property owner. And  
24 they had signed off on actually myself representing them  
25 during this.

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1 CHAIRPERSON HILL: Okay. Okay. All right.  
2 And so, Ms. Oliver, you said you're the ADC? Oh, ANC, I'm  
3 sorry.

4 MS. OLIVER: ANC --

5 CHAIRPERSON HILL: ANC, oh, okay.  
6 Commissioner, I'm sorry. I didn't hear you. Okay.  
7 Great. So is it Mr. Hubig, Hubig? All right. So you're  
8 going to be presenting to us?

9 MR. HUBIG: Yes.

10 CHAIRPERSON HILL: Okay. If want to, go ahead  
11 and tell us a little bit about the project. I mean, I  
12 think we, we've been here all day now. And so I'm going  
13 to try to work through this as efficiently as possible. I  
14 see there's a commissioner here who's been here a long  
15 time as well.

16 So the, I suppose if you could, just kind of  
17 walk us through what you're trying to do. And then if you  
18 wouldn't mind, again kind of speak to the hours of  
19 operation that you think you might have, as well as kind  
20 of the number of animals that you think you might be  
21 housing and just start from there. Okay?

22 MR. HUBIG: Sure. Karl Hubig once again. We  
23 are doing a doggy daycare, doggy boarding. So our bulk of  
24 our traffic will be during the day between 8:30 to  
25 probably 5:30, no more. And then we will be doing some

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1 boarding overnights depending on major holidays, things  
2 like that. What else did you all want to know?

3 CHAIRPERSON HILL: How many animals do you  
4 think you might be housing?

5 MR. HUBIG: We'll do during the day probably 20  
6 to 40 depending. And then on the weekends so far as  
7 overnights, it depends, you know. Obviously, bigger  
8 holidays we have more people. But on the average, it's  
9 two to six a night maybe.

10 CHAIRPERSON HILL: Okay. And how do you think  
11 you guys are going to be handling pet waste?

12 MR. HUBIG: We have another service that we  
13 outsource that to. So we'll be starting. Actually, that  
14 will be our next phase will be us doing that position.

15 CHAIRPERSON HILL: Okay.

16 MR. HUBIG: Going out and doing like a scooper  
17 pooper kind of business.

18 CHAIRPERSON HILL: Okay.

19 MR. HUBIG: But currently we'll be outsourcing.

20 CHAIRPERSON HILL: Okay. Got it. All right.  
21 Does the -- I'm sorry. Does the Board have any questions  
22 for the Applicant? Okay. Commissioner, would you like to  
23 speak to why you're here?

24 MS. OLIVER: Okay. Good afternoon.

25 CHAIRPERSON HILL: Good afternoon.

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1 MS. OLIVER: I'm here --

2 CHAIRPERSON HILL: Thank you for staying so  
3 long.

4 MS. OLIVER: No problem. The, Mr., I'm sorry,  
5 Hubig I found out, we talked yesterday concerning this  
6 project. And I informed him that he has not presented to  
7 the community or to the ANC. And those are two things  
8 that he has to do to move forward his project.

9 CHAIRPERSON HILL: Okay. So you guys haven't  
10 presented to the ANC yet?

11 MR. HUBIG: We did not. We've reached out  
12 several times. There was no response. So, actually, I  
13 timestamped it and recorded it and went to the zoning  
14 office. And I said, look, I've reached out a lot of  
15 times. What should we do? And it's actually in that  
16 grouping of paperwork. And they said, well, you provide  
17 more than a burden of proof on that. And we approve your  
18 position. So we're not trying to go around the ANC or --

19 CHAIRPERSON HILL: Sure. So, Commissioner, do  
20 you know why they haven't ended up on an agenda yet?

21 MS. OLIVER: No one knew about them. I did not  
22 receive a notice.

23 CHAIRPERSON HILL: Okay.

24 MS. OLIVER: And I know the ANC did not receive  
25 a notice.

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1 CHAIRPERSON HILL: Okay.

2 MS. OLIVER: So --

3 CHAIRPERSON HILL: Are you the SMD for this  
4 project?

5 MS. OLIVER: Yes.

6 CHAIRPERSON HILL: Okay. So then you would be  
7 trying to hear from them at the next ANC meeting?

8 MS. OLIVER: I can't predict what's on the  
9 calendar for the next meeting. But I've talked to Mr.  
10 Hubig. We've talked several times in trying to find a way  
11 to move this along very, very fast. We've come up with  
12 one solution. I don't know if we're going to be able to  
13 push it through.

14 CHAIRPERSON HILL: What was that solution?

15 MS. OLIVER: To have an open house at his  
16 facility this weekend, pass out flyers, get the community  
17 to come down actually to his facility so they can actually  
18 view it. And then we'll, you know, we'll talk. And if  
19 they approve, then we'll move on to the next phase.

20 CHAIRPERSON HILL: When you say if they approve  
21 you'll move on to the next phase, so you're saying that's  
22 kind of like your executive committee type how --

23 MS. OLIVER: No, this is the community.

24 CHAIRPERSON HILL: Right.

25 MS. OLIVER: It will be the community.

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1 CHAIRPERSON HILL: But when I'm saying the  
2 next, I mean, for us the next phase I guess is how they  
3 get to present to the ANC. So I'm just, I'm trying to  
4 understand when that might actually happen.

5 MS. OLIVER: I can't, I don't know the next ANC  
6 calendar, I mean, agenda. I should say agenda. I don't  
7 know what that is at this point. That's something we are  
8 working toward. But first we want, I wanted to help him  
9 get through the community SMD meeting as fast as possible  
10 because they are facing a deadline. So I'm really pushing  
11 the SMD meeting right now --

12 CHAIRPERSON HILL: Okay.

13 MS. OLIVER: -- to get it done this weekend.

14 CHAIRPERSON HILL: Okay. Mr. Hubig, how long  
15 have you guys been trying to reach out to the ANC?

16 MR. HUBIG: Sixty days. Actually, we have  
17 three phone calls and seven emails stamped in there.

18 CHAIRPERSON HILL: Okay. Where is the --

19 MR. HUBIG: I think actually --

20 CHAIRPERSON HILL: Where is that in the  
21 exhibits?

22 MR. HUBIG: It should actually -- well, I  
23 talked to the gentleman next door. But he had me fill out  
24 a form that's in there. It should be in your paperwork --

25 CHAIRPERSON HILL: There's a whole bunch of

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1 paperwork. So that's why I'm trying to figure out which  
2 exhibit it is. But we can go ahead and do that. So what,  
3 there was a deadline that the Commissioner mentioned that  
4 you guys were up against.

5 MR. HUBIG: Yeah, so the reason that we even  
6 had that discussion with the zoning gentleman across the  
7 street is that we said in two weeks we actually have to  
8 leave where we are. So we don't have a space to continue  
9 forward. So that's why we agreed, you know, we, they put  
10 us onto this date originally is because our lease --

11 CHAIRPERSON HILL: You're somewhere else right  
12 now.

13 MR. HUBIG: Right.

14 CHAIRPERSON HILL: You're operating somewhere  
15 else right now.

16 MR. HUBIG: Right.

17 CHAIRPERSON HILL: And so your facility has  
18 already been completed?

19 MR. HUBIG: No. So there's two different  
20 places in that space. So there's a garage space, and then  
21 there's a front kind of room that's already for the most  
22 part finished. For the time being, we haven't taken any  
23 dog boardings. We're only doing doggy daycare because --

24 CHAIRPERSON HILL: You're currently doing doggy  
25 daycare where you are now --

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1 MR. HUBIG: Yes.

2 CHAIRPERSON HILL: -- in the facility that's in  
3 the application.

4 MR. HUBIG: No.

5 CHAIRPERSON HILL: Okay.

6 MR. HUBIG: It's a different facility. It's a  
7 friend's facility that they have a license. It's another  
8 dog walking facility. And we actually bring our clients  
9 there currently.

10 So now they've been kind enough to let us be  
11 for the last 60 days. We're running out of time. And to  
12 be honest with you, they're, they own another business  
13 there. It's the same business, and it's kind of a  
14 conflict of interests. But they made the exception for us  
15 to be there. They were trying to help us out in the  
16 meantime.

17 So now we're -- we don't want to overstay our  
18 welcome. So this is why that time crunch was happening.

19 CHAIRPERSON HILL: Sure. So, Commissioner, do  
20 you get a sense of, I mean, I know you're not, you can't  
21 vote for the whole ANC or anything. But, I mean, I've  
22 seen the pictures. I've seen the application. I've seen  
23 where they're trying to do this. And I didn't really have  
24 any issues with particularly what they're trying to do.  
25 Do you know if, do you have a sense of what the community

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1 might think of this?

2 MS. OLIVER: I think the community will be very  
3 grateful to have him in our neighborhood.

4 CHAIRPERSON HILL: Okay, because it seemed like  
5 it was, it would seem like it was a place that could be  
6 using some care.

7 MS. OLIVER: Yes.

8 CHAIRPERSON HILL: Okay. All right. So you  
9 would prefer, the ANC would prefer that this would be -- I  
10 mean, we're going to hear the hearing. We're having the  
11 hearing now. What I'm trying to understand is do you  
12 think that the ANC would rather this is postponed to the  
13 point where this gentleman's business might go out of  
14 business.

15 MS. OLIVER: I don't, I know the ANC would not  
16 want that to happen. When you say postponed, what do you  
17 --

18 CHAIRPERSON HILL: Well, I'm just trying to  
19 understand the timing of this a little bit --

20 MS. OLIVER: Yeah.

21 CHAIRPERSON HILL: -- because he said he's up  
22 against a two-week window.

23 MS. OLIVER: Right.

24 CHAIRPERSON HILL: Or two weeks you said? Two  
25 weeks. But even then, actually, we, couldn't, you

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1 couldn't get an order that fast anyway if you had --

2 MS. CAIN: I mean, if there's --

3 CHAIRPERSON HILL: Because if the ANC is  
4 opposed --

5 MS. CAIN: If the ANC --

6 CHAIRPERSON HILL: -- or if there's no ANC  
7 report --

8 MS. CAIN: You don't need the ANC report to  
9 render a decision. If there is an ANC report in the  
10 record, the Board can give it great weight. The testimony  
11 that's been given today by the ANC Commissioner you can  
12 take as part of your decision-making ability. It just  
13 won't be given great weight in the record because there's  
14 nothing in writing.

15 CHAIRPERSON HILL: But in terms of a summary  
16 order, you don't have, we don't have anything from the  
17 ANC. So you couldn't do a summary order?

18 MS. CAIN: No, we would still be able to do a  
19 summary order. It would just be noted that, you know, the  
20 ANC Commissioner, excuse me, provided oral testimony at  
21 the hearing, but an ANC report was not received.

22 CHAIRPERSON HILL: Okay. Okay.

23 MS. CAIN: One other thing, Mr. Chairman --

24 CHAIRPERSON HILL: Sure.

25 MS. CAIN: -- the ANC does have seven days

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1 after this hearing to supply written documentation of the  
2 testimony that was given. So that's the other timeframe  
3 that could be used.

4 CHAIRPERSON HILL: Okay. All right. We'll  
5 keep going through this. We're going to continue to go  
6 through the hearing. What I was just trying to  
7 understand, Commissioner, is that it's unclear to me as to  
8 when they're going to be on the agenda again, meaning you  
9 can't say because you don't get to decide. And so you  
10 don't know what the agenda looks like for your next  
11 hearing, your next ANC meeting. And your next ANC meeting  
12 is when?

13 MS. OLIVER: I think it's June 15th.

14 CHAIRPERSON HILL: June 15th.

15 MS. OLIVER: I think.

16 CHAIRPERSON HILL: Okay. That's all right. So  
17 you're like the second week of June or something.

18 MS. OLIVER: Yeah.

19 CHAIRPERSON HILL: So if they weren't to get on  
20 that, and that's already now past their two-week window --  
21 although to be quite honest, sir, I mean, that's pretty --  
22 I don't even, whether you got an order or not within that  
23 seems pretty unlikely. So, but still, you don't know if  
24 it would be this June 15th or it might be July.

25 MS. OLIVER: I don't know.

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1 CHAIRPERSON HILL: You don't know. And then  
2 you guys are off in August, correct?

3 MS. OLIVER: Yes.

4 CHAIRPERSON HILL: Okay. All right. So,  
5 again, Commissioner, as a party, you've, is there anything  
6 else you'd like to add to your testimony and/or do you  
7 have any questions for the Applicant?

8 MS. OLIVER: I don't have anything to ask the  
9 Applicant. Although, I would like to see the plans. I  
10 haven't seen the plans yet. But I do think that having a  
11 dog grooming facility in walking distance of my  
12 neighborhood would be a great asset and a benefit to the  
13 community.

14 CHAIRPERSON HILL: Okay. The plans are in, I'm  
15 sure they're in, sorry, Exhibit 5 in the record. And,  
16 Commissioner, you had a question?

17 COMMISSIONER SHAPIRO: It's a question for the  
18 Applicant.

19 CHAIRPERSON HILL: Okay. Please go ahead.

20 COMMISSIONER SHAPIRO: So, you know, part of I  
21 think what we're all hung up about is this tight deadline  
22 that you're proposing, which, you know, come up with a  
23 plan B, so, because that's going to take some of the  
24 pressure off around this conversation.

25 The ANC has things that they, you know,

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1 appropriately want. And I hear what you're saying about  
2 the 60 days. I can't find anything in the record that  
3 speaks to what you were describing. I believe what you're  
4 saying. I just don't see it anywhere in any of our  
5 documents.

6 VICE CHAIRPERSON HART: It's Exhibit 11.

7 COMMISSIONER SHAPIRO: Okay.

8 VICE CHAIRPERSON HART: It says questions to,  
9 for BZA. And it just says that, I guess this is from Mr.  
10 Hubig saying that he's contacted and written several  
11 emails to, and he tells, says the three individuals, the  
12 Councilmember Kenyan McDuffie, the Chairman of the ANC 5C.  
13 And then also there was a email to Commissioner Oliver,  
14 but it's to the ANC email address.

15 And so I don't know if, I don't know how folks,  
16 because sometimes I've seen ANC members use personal email  
17 addresses. Sometimes I've seen them use the kind of city  
18 email addresses. So I'm really sure which one you use.  
19 But it has the, the email address they have is  
20 5C05@anc.dc.gov, which I'm assuming is the email address  
21 for you.

22 But they said that they had reached out via  
23 these emails to these three, to you and the two other  
24 folks. And so they were just trying to figure out what to  
25 do, you know, what they should be doing now.

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1 MR. HUBIG: So I asked for advice in the office  
2 across the hall. And they just said just document that  
3 you asked for advice at this point and that you wrote  
4 these emails, because we couldn't actually get onto the  
5 docket at all until then. And then it was another 60  
6 days. And I said, look, we're running kind of into a time  
7 window. And he said, well, submit this. And, you know --

8 VICE CHAIRPERSON HART: Yeah, no, I think  
9 that's good. I think just in the future it's always  
10 helpful. I mean, the ANC meetings are always open.

11 MR. HUBIG: Yeah.

12 VICE CHAIRPERSON HART: And so you can always  
13 just show up, not saying that you were going be at one,  
14 but at least you could meet the people in person, because  
15 I got to say, emails are just really hard. We all get  
16 flooded with emails.

17 MR. HUBIG: Yeah, I'm sure.

18 VICE CHAIRPERSON HART: And so it's just, it  
19 can be a little bit more difficult to get to somebody that  
20 way.

21 If you were -- and I do understand that you are  
22 in a time crunch. If I were in a time crunch this much,  
23 I'd be going to the meeting itself to make sure that I was  
24 able to get in, you know, face to face with them to  
25 understand if they had any questions, because if she had

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1 come in and had some issues or said that, oh, well, we  
2 want this, this, whatever, then we're having to, as our  
3 general counsel said, we have to give that great weight.  
4 And so --

5 MR. HUBIG: Right.

6 VICE CHAIRPERSON HART: -- that could, that may  
7 work against you if you don't make sure all this stuff is,  
8 you know, this correct, is in order. So just some helpful  
9 suggestions.

10 CHAIRPERSON HILL: Okay. Do you have -- so,  
11 Commissioner, so you didn't have any questions for the  
12 Applicant. You don't have any further testimony?

13 MS. OLIVER: No, sir, I don't.

14 CHAIRPERSON HILL: Okay. I'm going to turn to  
15 the Office of Planning.

16 MR. MORDFIN: Good afternoon, Chair and members  
17 of the Board. I'm Stephen Mordfin. And the Office of  
18 Planning recommends approval of this application as it's  
19 in conformance with the criteria for the use and  
20 recommends approval and is available for any questions.

21 CHAIRPERSON HILL: Okay. Does anybody have any  
22 questions for the Office of Planning? Does the Applicant  
23 have any questions for the Office of Planning?

24 MR. HUBIG: No, sir.

25 CHAIRPERSON HILL: Does the Commissioner have

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1 any questions for the Office of Planning?

2 MS. OLIVER: No, sir.

3 CHAIRPERSON HILL: Is there anyone here who  
4 wishes to speak in support? Is there anyone here who  
5 wishes to speak in opposition? Is there anything else  
6 either the Commissioner or the Applicant would like to add  
7 in conclusion?

8 MS. OLIVER: No, sir.

9 MR. HUBIG: No, sir.

10 CHAIRPERSON HILL: Okay. Does the Board have  
11 anything else before I close the record? Okay. Going to  
12 close the record. Is the Board ready to deliberate?  
13 Okay. I can start.

14 I think that I guess, you know, I think that  
15 the Office of Planning's analysis is accurate. I think I  
16 agree with their analysis in terms of how the Applicant is  
17 meeting the criteria to get the special exception.

18 I'm appreciative that the Commissioner has come  
19 down here to provide testimony as to what the ANC would  
20 like to see. I suppose I'm a little torn in that, given  
21 the fact that the Applicant appears to be under a time  
22 situation with their business and that they have I believe  
23 documented in the record their attempt to reach out to the  
24 ANC, although it has been unsuccessful, I fear that in  
25 postponing a decision or, I'm sorry, postponing a decision

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1 to wait for the ANC, for them to testify to the ANC, it  
2 could harm the Applicant and then cause, the community  
3 would also be harmed.

4 So I would be of the mind of keeping, as OAG  
5 had mentioned, the record open or the record is already  
6 open. The ANC can submit anything even seven days after  
7 the hearing in terms of into the record. So that would be  
8 something that I would be open to the ANC doing and  
9 welcoming obviously.

10 But I am in, I think that DDOT had no  
11 objection. And I think that I would, you know, given the  
12 Applicant and given the photographs that I've seen and  
13 also kind of what they're trying to do with that  
14 neighborhood, I don't want to stand in the way of this  
15 application at this moment. So I'm going to be voting in  
16 approval. Does anyone else have anything they'd like to  
17 add?

18 VICE CHAIRPERSON HART: Yeah, just one point.  
19 Affidavit of maintenance, was there a waiver that we  
20 needed to talk about? I have a note about it. And I just  
21 don't know if -- sorry.

22 MS. CAIN: It was submitted to the record.  
23 It's the last exhibit.

24 VICE CHAIRPERSON HART: That's fine. But I  
25 second. Did you make a motion?

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1 CHAIRPERSON HILL: No, I haven't made a motion  
2 yet. Does anybody have anything else that they'd like to  
3 add?

4 MEMBER WHITE: Mr. Chair, I would just say I'm  
5 in support of the request based on the feedback that we've  
6 gotten from the Office of Planning, as well as, you know,  
7 the initial feedback that we got from the Commissioner in  
8 terms of qualifying that there is a demand for this type  
9 of service in your area.

10 I've also closely looked at the plans, as well  
11 as they've responded very well in terms of the number of  
12 animals, the boarding process. And I haven't identified  
13 any adverse impacts with respect to this application. So  
14 I think they've met the special exception criteria. And I  
15 will be voting in support.

16 COMMISSIONER SHAPIRO: Yeah, I'm fine, Mr.  
17 Chair. I think to your point that the ANC actually will  
18 have an opportunity to weigh in and that they're, if they  
19 choose to weigh in, then we will be able to give that  
20 great weight, even if we make a decision today there still  
21 will be that opportunity, then I'm comfortable moving  
22 forward.

23 CHAIRPERSON HILL: Okay. Great. Ms. John?

24 MEMBER JOHN: Mr. Chairman, I'm also in support  
25 of the application. And even though we cannot give the

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1 Commissioner's testimony today great weight, I do  
2 appreciate her coming down to let us know at least her  
3 initial impression of the application and that the project  
4 would be an asset to the community. And so I would be  
5 able to support the application.

6 CHAIRPERSON HILL: Okay. Great. Thank you.  
7 All right. I'll make a motion to approve Application  
8 Number 20013 and ask for, oh, I'm sorry, as captioned and  
9 read by the Secretary and ask for a second.

10 MEMBER WHITE: Second.

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

13 (Chorus of aye.)

14 CHAIRPERSON HILL: All those opposed. The  
15 motion passes, Mr. Moy.

16 MR. MOY: Staff would record the vote as five  
17 to zero to zero. This is on the motion of Chairman Hill  
18 to approve the application for the relief requested.  
19 Seconded the motion is Ms. White, also in support, Ms.  
20 John, Vice Chair Hart, and Mr. Peter Shapiro. The motion  
21 carries.

22 CHAIRPERSON HILL: All right. Thank you, Mr.  
23 Moy. Thank you all very much. Commissioner, again,  
24 thanks for staying so long.

25 MR. HUBIG: Thank you.

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1 CHAIRPERSON HILL: All right. Mr. Moy, let's  
2 call the last one.

3 MR. MOY: All right. That would be Case  
4 Application Number 20017 of 1128 6th Street LLC as amended  
5 for a special exception under Subtitle F, Section 5201,  
6 from the lot occupancy requirements of Subtitle F, Section  
7 304.1 to construct a three-story addition, a rear  
8 penthouse addition, and to convert a principal dwelling  
9 into a six-unit apartment building, RA-2 zone. This is at  
10 1128 6th Street, N.W., Square 449, Lot 40.

11 CHAIRPERSON HILL: Okay. Great. Could you  
12 please introduce yourselves for the record?

13 MR. ADEMILUYI: Sure. Good afternoon. My name  
14 is Oluseyi Ademiluyi, Seyi for short. And I'm the owner  
15 of the property.

16 MR. BOSTAN: Good afternoon. My name is Sahnur  
17 Bostan. I'm the architect for the project.

18 CHAIRPERSON HILL: Okay. I know one of you  
19 haven't been sworn in. Have both of you been sworn in?  
20 Okay. If you could, both please stand and take the oath  
21 administered by the Secretary to my left.

22 MR. MOY: Do you solemnly swear or affirm that  
23 the testimony you're about to present in this proceeding  
24 is the truth, the whole truth, and nothing but the truth?  
25 Thank you.

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1           CHAIRPERSON HILL: Okay. All right. Could you  
2 -- oh, you did introduce yourselves for the record. All  
3 right. So there's a preliminary matter of the 21-day  
4 filing in that there's a waiver request. So you're aware  
5 of this in that you're filing something underneath the 21-  
6 day filing. And so you'll need, so you're requesting a  
7 waiver from that. Is that correct?

8           MR. BOSTAN: Yes, and we uploaded a waiver  
9 request written.

10          CHAIRPERSON HILL: Okay. And why is it late?

11          MR. BOSTAN: We went through historic board  
12 review on this project. And originally, we had a  
13 penthouse, so we had to strike down the penthouse --

14          CHAIRPERSON HILL: Okay. So you're removing  
15 something in terms of --

16          MR. BOSTAN: Yes.

17          CHAIRPERSON HILL: -- your request? Okay.

18          MR. BOSTAN: Yes, that's the reason.

19          CHAIRPERSON HILL: All right. I don't have any  
20 issues with that waiver. Does the Board have any issues  
21 with the waiver? Okay. All right. So we'll go ahead and  
22 grant you the waiver for the 21-day filing.

23                 Then the next is this affidavit of maintenance.  
24 Do they not have an affidavit of maintenance, OAG? I'm  
25 just a little confused.

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1 MR. BOSTAN: We did upload that. And I checked  
2 I believe Robert before the meeting.

3 MS. CAIN: There's nothing in the record  
4 currently that's the affidavit of maintenance. There is  
5 an affidavit of posting but not maintenance.

6 CHAIRPERSON HILL: Okay. So when did you post?  
7 When did you post?

8 MR. BOSTAN: Whenever that the photographs, I  
9 believe a couple days after that I believe.

10 CHAIRPERSON HILL: No, I mean, how long have  
11 you had the placard up?

12 MR. ADEMILUYI: The placard, I don't know the  
13 exact date I put it up. But I know it was well over the  
14 minimum amount of time that was required.

15 VICE CHAIRPERSON HART: The date of the  
16 affidavit of posting is, looks like May 3rd at 2:00 p.m.

17 MR. ADEMILUYI: I would have to check.

18 VICE CHAIRPERSON HART: Is that March? Is that  
19 -- I can't tell if that's March or May. It looks like --  
20 is it 05 or 03?

21 MR. ADEMILUYI: 05, that's May.

22 VICE CHAIRPERSON HART: Okay. So it would be  
23 May 3, 2019?

24 MR. ADEMILUYI: Yes.

25 VICE CHAIRPERSON HART: That's affidavit of

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1 posting not maintenance.

2 CHAIRPERSON HILL: Okay. So the affidavit of  
3 maintenance means that you've maintained the placard. All  
4 right. And so you needed to submit an affidavit of  
5 maintenance so we know that you've actually maintained the  
6 placard.

7 MR. ADEMILUYI: I understand.

8 CHAIRPERSON HILL: So I don't know what the  
9 Board wants to do. I mean, you know, have you maintained  
10 the placard?

11 MR. ADEMILUYI: Yes.

12 CHAIRPERSON HILL: Okay.

13 MR. ADEMILUYI: And I was there -- what's  
14 today? Today is Wednesday. I was there on, actually two  
15 days ago. And the placard has been maintained. It's been  
16 there the whole time.

17 CHAIRPERSON HILL: Okay. So what does the  
18 Board think of the affidavit of maintenance and that the  
19 gentleman here under oath has --

20 COMMISSIONER SHAPIRO: I'm fine, Mr. Chair.

21 CHAIRPERSON HILL: Okay. All right. So we're  
22 going to waive the affidavit of maintenance.

23 MR. ADEMILUYI: Thank you.

24 CHAIRPERSON HILL: Okay. All right. So --

25 VICE CHAIRPERSON HART: And I'll say just to

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1 add one thing.

2 CHAIRPERSON HILL: Sure.

3 VICE CHAIRPERSON HART: We do have a ANC report  
4 on this.

5 MR. ADEMILUYI: Yes.

6 VICE CHAIRPERSON HART: And I think that that  
7 also helps with the affidavit of maintenance. It's, we  
8 have something from the community that says that, you  
9 know, they've, whether or not they support it or they are  
10 favoring this, but I think that's also helpful. So --

11 CHAIRPERSON HILL: I agree. Thank you. Thank  
12 you, Vice Chair Hart. All right.

13 So, gentlemen, if you want to go ahead and walk  
14 us through your proposal, if you want to tell us about  
15 what you're trying to get done or what you're trying to do  
16 I should say, as well as the standard in which you're, and  
17 speak to the standard as to why we should grant the  
18 application.

19 I'm going to put 15 minutes on the clock, Mr.  
20 Moy, just so I know where we are. And you can begin  
21 whenever you like.

22 MR. BOSTAN: Yes. I know it's been a long day,  
23 so I'll try to keep it short. Again, like it's stated, we  
24 are converting this single-family townhouse into actually  
25 five units, not six units.

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1           The waiver we're asking today is, the special  
2 exception we're asking today is for the lot occupancy.  
3 And the extra occupancy we are asking, I believe it's 66  
4 percent instead of 60, is for the stair we are putting in  
5 the back. That's the stair that's going from first to  
6 second floor in the back. That counts as lot occupancy.  
7 So we're asking special exceptions so that we can have  
8 that stair in the back.

9           The stair, we have some shadow studies. Like I  
10 say, it's one story. It doesn't cause any adverse effect  
11 to the neighbors. It doesn't block their sun. And their  
12 privacy is also not impacted in our, as shown in the  
13 exhibits.

14           I mean, the history of the project, like I  
15 mentioned, there was a penthouse. It's been struck down.  
16 So, on the last exhibit, I believe it's 33, is the most  
17 accurate drawings. And the stair used to go up to the  
18 third floor. We took it down to the second floor. So  
19 it's only going one story up instead of two.

20           CHAIRPERSON HILL: Okay. Does the Board have  
21 any questions for the Applicant? Okay. I'm going to turn  
22 to the Office of Planning.

23           MR. JESICK: Thank you, Mr. Chairman and  
24 members of the Board. My name is Matt Jesick. The Office  
25 of Planning is happy to rest on the record in support of

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1 the application. Thank you.

2 CHAIRPERSON HILL: Okay. Does the Board have  
3 any questions for the Office of Planning? Does the  
4 Applicant have any questions for the Office of Planning?

5 MR. ADEMILUYI: No.

6 CHAIRPERSON HILL: I do have one question I  
7 guess. There was this, and I can't remember what it was,  
8 something about the color, the ANC had requested a  
9 particular type of color. Can you speak to this?

10 MR. BOSTAN: Yes, on the ANC meeting, one of  
11 the ANC members, they mentioned that the use of dark metal  
12 panel color will be too strong for the residents across  
13 the street. I mean, it's not seen from the street. But  
14 the people across the street on the upper levels, they may  
15 see this. Historic didn't have any issues. So we are  
16 going to use a lighter color on the project. And that was  
17 a personal preference of one of the ANC members --

18 CHAIRPERSON HILL: Okay. It was the personal  
19 preference of one of --

20 MR. BOSTAN: Yeah.

21 CHAIRPERSON HILL: Or I shouldn't say personal  
22 preference. Well, you got feedback.

23 MR. BOSTAN: The personal comments.

24 CHAIRPERSON HILL: You got feedback from one  
25 commissioner.

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1 MR. BOSTAN: One commissioner.

2 CHAIRPERSON HILL: And they thought maybe that  
3 a lighter color would be helpful.

4 MR. BOSTAN: Yes, something that matches with  
5 the building.

6 CHAIRPERSON HILL: And you are in, that's what  
7 your plan currently is.

8 MR. BOSTAN: That's our intentions, yes.

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

13 MR. ADEMILUYI: Not --

14 MR. BOSTAN: I mean, ANC is in support of this  
15 in the letter. So --

16 MR. ADEMILUYI: And HPRB.

17 MR. BOSTAN: And HPRB is I believe in two days.  
18 So they are in concert.

19 CHAIRPERSON HILL: Okay. All right. Does the  
20 Board have any final questions before I close the record?  
21 Okay. I'm going to go ahead and close the record. Is the  
22 Board ready to deliberate? Okay. I can start.

23 I didn't really have any issues with the  
24 application. I thought that the analysis that was  
25 provided by the Office of Planning was well thought out.

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1 I also am glad to see the ANC was in support. And they  
2 did have a suggestion concerning color. And the Applicant  
3 seems as though they're going to take that into  
4 consideration.

5 So I do think that they've met the standard  
6 with such to grant the special exception. And I will be  
7 voting in favor. Does anyone else have anything they'd  
8 like to add?

9 Okay. I'll go ahead and make a motion to  
10 approve Application Number 20017 as captioned and read by  
11 the Secretary and ask for a second.

12 VICE CHAIRPERSON HART: Second.

13 CHAIRPERSON HILL: Motion has been made and  
14 seconded. All those in favor say aye.

15 (Chorus of aye.)

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

18 MR. MOY: The staff would record the vote as  
19 five to zero to zero. And this is on the motion of  
20 Chairman Hill to approve the application for the relief  
21 being requested. Seconding the motion is Vice Chair Hart,  
22 also in support Ms. John, Ms. White, Mr. Peter Shapiro.  
23 Motion carries, sir.

24 CHAIRPERSON HILL: Okay. Great. Thank you,  
25 Mr. Moy. Thank you, gentlemen.

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1 MR. ADEMILUYI: Thank you very much.

2 CHAIRPERSON HILL: Mr. Moy, is there anything  
3 else before the Board today?

4 MR. MOY: Not from the staff, sir.

5 CHAIRPERSON HILL: Okay. Great. Then we stand  
6 adjourned.

7 (Whereupon, the above-entitled matter went off  
8 the record at 4:18 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 Board of Zoning Adjustment

Date: 05-22-19

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

*Neal R Gross*

-----  
Court Reporter

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