

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

JUNE 26, 2019

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

CARLTON HART, Vice Chairperson (NCPC)
LESYLLEE M. WHITE, Board Member
LORNA JOHN, Board Member

ZONING COMMISSION MEMBER PRESENT:

ROBERT MILLER, Vice Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist
DINA TRUNCALI, Legal Intern

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALEXANDRA CAIN, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN J. MORDFIN
CRYSTAL MYERS
KAREN THOMAS

The transcript constitutes the minutes from the
Public Hearing held on June 26, 2019.

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

9:45 a.m.

VICE CHAIRPERSON HART: The hearing will please come to order. Good morning ladies and gentlemen. We are located in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W. This is the June 26th, 2019 public hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Carlton Hart, Vice Chairperson. Joining me today is Lesylee White and Lorna John, Board Members, and representing the Zoning Commission is Robert Miller.

Copies of today's hearing agenda are available to you and are located in the wall bin near the door. Please be advised that this proceeding is being recorded by a court reporter, and is also webcast live. Accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room. When presenting information to the Board, please turn on and speak into the microphone, first stating your name and home address.

When you are finished speaking, please turn your microphone off, so that your microphone is no longer picking up sound or background noise.

All persons planning to testify either in favor or in opposition must have raised your hand and been sworn in by the Secretary, to my left. Also, each witness must

1 fill out two witness cards. These cards are located on the
2 table near the door and on the witness tables. Upon coming
3 forward to speak to the Board, please give both cards to the
4 reporter sitting at the table to my right.

5 If you wish to file written testimony or
6 additional supporting documents today, please submit one
7 original and 12 copies to the Secretary for distribution.
8 If you do not have the requisite number of copies, you can
9 reproduce copies on an office printer in the Office of Zoning
10 across the hall. Please remember to collate your set of
11 copies.

12 The order of procedure for special exceptions and
13 variances pursuant to Subtitle Y49 are included in the table
14 at the door. The record shall be closed at the conclusion
15 of each case, except for any material specifically requested
16 by the Board. The Board and staff will specify that the end
17 of the hearing exactly what is expected and the date when the
18 persons must submit the evidence to the Office of Zoning.

19 After the record is closed, no other information
20 shall be accepted by the Board. The Board's agenda includes
21 cases set for decision. After the Board adjourns, the Office
22 of Zoning, in consultation with me, will determine whether
23 a full or summary order may issue. A full order is required
24 when the decision it contains is adverse to a party,
25 including an affected ANC. A full order may also be needed

1 if the Board's decision differs from the Office of Planning's
2 recommendation.

3 Although the Board favors the use of summary
4 orders whenever possible, an applicant may not request the
5 Board to issue such an order. The District of Columbia
6 Administrative Procedure Act requires that the public hearing
7 on each case be held in the open before the public. Pursuant
8 to Subtitle 405(b) and 406 of that Act the Board may,
9 consistent with its rules of procedure and the Act, enter
10 into a closed meeting on the case for purposes of seeking
11 legal counsel on a case, pursuant to D.C. Official Code 2-
12 575(b)(4) and/or deliberating on a case pursuant to D.C.
13 Official Code 2-575(b)(13), but only after providing the
14 necessary public notice and in the case of an emergency
15 closed meeting, after taking a roll call vote.

16 The decision of the Board in these contested case
17 may be -- must be based exclusively on the public record.
18 To avoid any appearance to the contrary, the Board requests
19 that persons present not engage the members of the Board in
20 conversation. Please turn off all beepers and cellphones at
21 this time, so as not to disrupt these proceedings.

22 Preliminary matters are those which relate to
23 whether a case will or should be heard today, such as
24 requests for postponement, continuance or withdrawal, or
25 whether proper and adequate notice of the hearing has been

1 given. If you are not prepared to go forward with a case
2 today or if you believe the Board should not proceed, now is
3 the time to raise such a matter. So Mr. Secretary, do you
4 have any preliminary matters?

5 MR. MOY: Good morning Mr. Chairman and members
6 of the Board. Very quickly sir, for the record, there are
7 two case application previously scheduled for today that have
8 been postponed and rescheduled. The first is Application No.
9 20009 of Amanuel Halib. This has been rescheduled to
10 September 25th, 2019, and Case Application No. 20042 of
11 Raycon Incorporated, rescheduled to July 3rd, 2019. Other
12 than that sir, there are other preliminary matters and I --
13 staff would suggest that the Board address those when I call
14 the case.

15 VICE CHAIRPERSON HART: That will be fine. Okay.
16 So we can go on with the agenda now. So all individuals that
17 are wishing to testify today, please rise to take the oath.
18 Mr. Secretary, would you please consider the oath.

19 MR. MOY: Thank you, sir. Good morning.

20 [WITNESSES SWORN.]

21 MR. MOY: Ladies and gentlemen, you may consider
22 yourselves under oath.

23 VICE CHAIRPERSON HART: Thank you, Mr. Secretary.
24 So welcome everybody. It's the first meeting of this summer,
25 since we're officially in summer. So we have a decent agenda

1 in front of us in terms of the number of cases. I think the
2 -- we'll go by the -- in the order that was listed in the
3 agenda that you had at the beginning of the door to my left.
4 There's in one change in that, in Application No. 20008.

5 I think we will hear at a later time maybe a
6 little bit, move it down on the agenda a few numbers so that
7 we can get some of the folks that are actually here for the
8 case. I don't know. Is anybody here for that case, 20008?
9 Okay. So we'll just hear that later in the, in the morning.

10 MR. MOY: Very good, sir.

11 VICE CHAIRPERSON HART: So with that, I think that
12 again we will go by the agenda order that we have listed in
13 the bin near the door, and so that you can call the first
14 case, Mr. Secretary.

15 Application No. 20022

16 MR. MOY: All right, thank you Mr. Chairman. So
17 if we could have parties to the table. This is to Case
18 Application No. 20022 of Preservation DC LLC, captioned and
19 advertised for a special exception under Subtitle E, Section
20 5201 from the minimum closed court requirements, Subtitle E,
21 Section 203.1, Subtitle E, Section 205.5 and 5201, rear yard
22 requirement, Subtitle E, Section 205.4.

23 This would construct a third story addition and
24 a three story rear addition to an existing four unit
25 apartment building in an RF-1 zone. This is at 416 Evarts,

1 E-V-A-R-T-S Street, N.E., Square 3638, Lot 82, and I believe
2 Mr. Chairman, there is too a request for party status.

3 VICE CHAIRPERSON HART: Are the parties here? Oh,
4 thank you. I saw one of you. I didn't see the other. So
5 I think first what we'll do is just introductions, and I'll
6 start from my right.

7 MS. WILSON: Alex Wilson from Sullivan and Barros
8 on behalf of the applicant.

9 MS. HOWERY: Cherkea Howery, owner at 424 Evarts
10 Street, N.E., two doors down from the property in question.

11 MR. HADAR: Doron Hadar, resident and owner at 424
12 Evarts Street #4, in the same building.

13 VICE CHAIRPERSON HART: Okay, thank you very much
14 everybody, and so what we'll do is first go through the
15 party status request, and I understand that there is some
16 information in the record already about why you believe you
17 should have party status request, or excuse me party status.
18 If you could just step through that a little bit for us? It
19 doesn't have to be long, just a few minutes and then we'll
20 decide that, and then we could move on to the case.

21 MS. HOWERY: Should you go first?

22 MR. HADAR: Sure. So essentially who have signed
23 the petition, there are 46 of us, as well as many of our
24 neighbors opposed this project in its entirety. We see
25 absolutely no unique circumstances that should allow for such

1 an extreme development. There are developments nearby that
2 are building within the rules that are respectful of their
3 neighbors and they're providing housing.

4 This giant building would tower over our condos.
5 It would have a rooftop deck that would view every backyard
6 on the block almost. It would block light in a big way on
7 both sides for both neighbors. So there are privacy
8 concerns. Essentially this is a luxury apartment building
9 that is being proposed to be just be dropped in the middle
10 of our block. These are four bedroom, four bath, 2,700
11 square foot units.

12 The rest of the units on the block are modest one
13 and two bedroom homes that are approximately 750 square feet.
14 So they're approximately four times the size. There just is
15 no need for luxury housing on our block. There's lots of
16 luxury housing just two blocks away at our Chancellor's Row
17 and a new development called Monument Square. Chancellor's
18 Row has 237 very large luxury family units.

19 We had an ANC meeting. There were probably 10 or
20 12 members of the community there. No one expressed any
21 support whatsoever. I don't know why Nancy Jones, our ANC
22 commissioner, seems to think we need to meet again, to come
23 to some sort of middle ground. I mean we are opposed to this
24 completely.

25 MS. HOWERY: So Cherkea Howery. Again, I own and

1 reside in a condo two doors down. I am also the president
2 of the condo association that is both 420 Evarts Street and
3 424 Evarts Street, consisting of eight condos of one bedroom,
4 one bath condos, where most of the owners actually live in
5 their homes.

6 VICE CHAIRPERSON HART: And you are here
7 representing yourself, however?

8 MS. HOWERY: Yes, I am.

9 VICE CHAIRPERSON HART: I'm just clarifying that,
10 so thank you.

11 MS. HOWERY: Absolutely. So when we were first
12 made aware of this development, we realized that we had to
13 get involved because it doesn't conform to the community and
14 the nature of the neighborhood as it is right now. We both
15 have PowerPoint presentations that will show you views of
16 what the neighborhood currently looks like, and how we
17 believe developers could actually build with the current
18 zoning laws that are present, and that we would support them
19 building within those zoning laws, rather than having them
20 get this special exception.

21 VICE CHAIRPERSON HART: Yeah, and what you're
22 providing is just why you should be given party status, and
23 that's it, not the actual case.

24 MS. HOWERY: Yeah.

25 VICE CHAIRPERSON HART: I appreciate that. Do the

1 Board members have any questions for either Ms. Howery or Mr.
2 Hadar? Hadar, okay. No? So I didn't know if you wanted to
3 just talk about that for the party status were admitted.
4 Listening to what they've said and also reading the
5 information that they provided, I think that there is -- that
6 they've provided a case for being granted party status.

7 I would be in support of that, and I didn't really
8 have -- I understand that they would have impacts from, you
9 know, particularly the light and air aspect of it. So I
10 didn't know what my other Board members thought.

11 MEMBER WHITE: Yeah, I agree with you, Mr. Chair.
12 I think they are uniquely affected. I'm glad they stuck to
13 the zoning aspect of how they're uniquely impacted by this
14 potential project. So with respect to them having party
15 status for this case, I'm not ruling on the case. But with
16 respect to their party status, I think they've met the
17 criteria under the regulation.

18 VICE CHAIRPERSON HART: Okay. So did you have any
19 comments on that?

20 MS. WILSON: No, we have no objection.

21 VICE CHAIRPERSON HART: I think -- so you will be
22 granted party status. It sounds like we are unanimous up
23 here. I saw a head nod, so I only heard from one but I
24 understand that the others are also in support of that. So
25 we will be granting you both party status, and basically what

1 that means is that when the applicant, Ms. Wilson, she
2 provides her testimony or not testimony, presents the case,
3 then you can have an opportunity to be able to do cross-
4 examinations, and also have --

5 It's not a difficult thing. It's just are there
6 any questions that you'd like more clarification on or
7 comment. You also have an opportunity to provide your own
8 presentation, given that party status -- that are, have been
9 granted party status.

10 So I think that there is -- so that that's now
11 done. I think that there is a motion for postponement that
12 we have to, I guess, deal with now and I didn't know what the
13 applicant's thoughts were on that.

14 MS. WILSON: So there were two motions for
15 postponement from one of the -- I think Edgewood Civic
16 Association and the ANC SMD, and we are completely fine
17 postponing. We consent to those motions, and I don't -- I
18 didn't know if the ANC was going to suggest an alternative
19 date. But we're happy to do it late September, after the
20 next ANC meeting.

21 VICE CHAIRPERSON HART: Okay. Do you all have any
22 thoughts on that? You're party status, that's why I'm
23 asking.

24 MS. HOWERY: We actually do. We believe that
25 there is significant opposition to this project as shown in

1 the exhibits for the case in IZIS system. In addition, the
2 Office of Planning has recommended a denial of the special
3 exception. So I'm of the mind that it would be interesting
4 to find out how Board of Zoning feels, considering the great
5 amount of opposition that has been presented so far.

6 VICE CHAIRPERSON HART: So go ahead.

7 MR. HADAR: If I read the rules correctly, a
8 request for postponement needs to be made I think five days
9 before the hearing. These were made last night, and as I
10 said before, I don't know what additional meetings are going
11 to accomplish. That's all.

12 VICE CHAIRPERSON HART: Yeah. I think we're able
13 to waive time deadlines and things. But I'd like to hear
14 from other Board members if you're thinking that we need to
15 postpone this, hear it now? Your thoughts on this?
16 Everybody's quiet.

17 MEMBER WHITE: Well, I guess one question I have
18 is, you know, I was interested in getting some feedback from
19 the ANC. Did they submit their information already?

20 VICE CHAIRPERSON HART: The only thing that we've
21 gotten, it looks like, is -- it looks like there were some
22 comments from one of the ANC commissioners. I think that's
23 what the party status folks were talking about a little
24 earlier. But there was nothing official in the record.

25 MS. HOWERY: There's nothing official that I can

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1 kind of speak to it.

2 VICE CHAIRPERSON HART: You actually can't speak.
3 No, no, because it's -- the ANC themselves have to have
4 something. You can give what your opinion is of it, but we
5 have to actually have something in writing from the ANC.
6 Usually I think it's the president or vice president or vice
7 chairman or whatever, so that we can understand what that is
8 and give that great weight.

9 But what you're providing is what you believe is
10 what they -- what they may have decided or whatever, and it
11 doesn't have the same legal standing as the ANC report
12 itself. That's why we're looking for the actual report.
13 Yeah, go ahead.

14 MEMBER WHITE: It sounds like the ANC wants more
15 time to provide formal feedback on the particular case. I
16 don't have any problem with that, but I am understanding
17 that there's, you know, just by reviewing the record, there's
18 been quite a bit of community feedback. But I'm open to
19 postponing, but I'd be interested to hear what the other
20 positions are as well.

21 MEMBER JOHN: So Mr. Vice Chair, I am -- I'm in
22 support of postponing until we can hear from the ANC, if the
23 ANC wants to have another meeting or further discussion.
24 It's always in everyone's interest to give the ANC an
25 opportunity to provide their recommendation. So I would be

1 in support of continuing.

2 VICE CHAIRPERSON HART: Mr. Miller?

3 ZC VICE CHAIRPERSON MILLER: Thank you.

4 VICE CHAIRPERSON HART: Commissioner Miller, bless
5 your heart. I support postponement. I realize the parties
6 in opposition is here and there is substantial opposition
7 to this case, including from Office of Planning, which makes
8 this a heavy lift. But with the ANC and Edgewood Civic
9 Association requesting postponement, I think -- I think
10 that's worth doing and see if they can revise the proposal
11 to maybe accommodate some of the concerns that have been
12 expressed.

13 VICE CHAIRPERSON HART: Okay. It sounds like, and
14 I would be in support of the postponement as well. It sounds
15 like we are unanimous in that, and so I think we will
16 postpone. Mr. Moy, late September I guess we're looking at.

17 MR. MOY: Yes sir.

18 VICE CHAIRPERSON HART: And I don't know what our
19 schedule is for late September. Do you know when the actual
20 ANC meeting is, either one?

21 MS. WILSON: I believe it's the third Tuesday of
22 the month, so I'd have to check.

23 VICE CHAIRPERSON HART: I mean I may want to put
24 it in October, to make sure that we actually get that date.
25 But if you could give me the meeting on the 25th of

1 September, and then the meeting on October 2nd. If there are
2 -- if we could do either one of those dates, that would be
3 helpful.

4 MR. MOY: And she's correct, Mr. Chair. It's the
5 third week in the month for an ANC meeting.

6 VICE CHAIRPERSON HART: And if it's the third
7 Tuesday?

8 MR. MOY: That's correct.

9 VICE CHAIRPERSON HART: So I guess -- yeah. I
10 mean the 25th would be the earliest that we would -- I
11 wouldn't want to do it on the 18th. I think it's just too
12 quick to get some -- a report from them. So I think the 25th
13 would be the earliest that we're looking at. What's the 25th
14 look like, the agenda look like?

15 MR. MOY: I was going to suggest that that would
16 be at the earliest, because I've been working on the
17 caseload. So either it would be September 25th or October
18 2nd.

19 VICE CHAIRPERSON HART: Is the 25th -- do we have,
20 do you know how many cases we have on the 25th right now?

21 MR. MOY: It's in pencil, so but it's -- I hate
22 to give a definitive number, because I don't know yet.

23 VICE CHAIRPERSON HART: That's fine.

24 MR. MOY: But that's not full.

25 VICE CHAIRPERSON HART: Okay. Why don't we -- why

1 don't we pencil it in for the 25th then, and Ms. Wilson,
2 hopefully we'll be able to get the ANC report before then.
3 I don't know. Do you want to give a date for the ANC report?
4 I mean they're not here, so it's going to be hard to ask for
5 that. Maybe the 20th, which is that Friday?

6 MR. MOY: Where am I, September? They meet
7 September 17th, which is a Tuesday, so perhaps in that week,
8 let's say Friday the 20th?

9 VICE CHAIRPERSON HART: Well, I think that we'll
10 have to shoot for that, and let's see how that goes. And so
11 I also want to make sure that party status folks, does the
12 25th work for you as well?

13 MS. WILSON: Actually, the Edgewood Civic
14 Association has an interest in this project, and their next
15 meeting is Monday, September 23rd. So I don't know if they
16 will have time to meet and provide the report to you all.

17 VICE CHAIRPERSON HART: Did they, have they met
18 already?

19 MS. WILSON: They --

20 VICE CHAIRPERSON HART: Have they met to discuss
21 this already?

22 MS. WILSON: Yes. On Monday we met and discussed
23 it.

24 VICE CHAIRPERSON HART: But you will at least be
25 -- ANCs have kind of a special status here because we give

1 the ANCs great weight. The civil associations are more than
2 welcome to provide comments to us, and I think because
3 they're still -- it is still before our date I think that may
4 work. I don't know. Do folks have any thoughts on that,
5 other Board members?

6 MEMBER WHITE: I don't know if it's appropriate,
7 but does the civil association ever attend the ANC meetings?
8 So perhaps maybe they can be available for that meeting on
9 September the 17th, so that they have an opportunity to hear
10 the status of the case. Because it sounds like there could
11 be some adjustments to the project possibly. I don't, I'm
12 not speaking for the applicant, but it sounds like there's
13 some concerns. That could be one solution.

14 VICE CHAIRPERSON HART: Yeah. I think it still
15 will work out. It is similar to the tight time line given
16 the week. But I think that will be able to work out. I'd
17 rather keep it on the 25th Mr. Moy, so I think we'll do that.
18 So everybody will just be back here on the 25th and we'll go
19 through the case at that point. Thank you all.

20 MS. WILSON: Thank you.

21 MS. HOWERY: Thank you.

22 (Pause.)

23 Application No. 20045

24 VICE CHAIRPERSON HART: So I guess we're at our
25 next case, Mr. Moy. All right, thank you Mr. Chairman. So

1 that would be Case Application No. 20045 of Celeste Brown,
2 captioned and advertised for special exceptions under
3 Subtitle D, Section 5201 from the lot occupancy requirements
4 of Subtitle D, Section 1204.1 and from the non-conforming
5 structure requirements, Subtitle C, Section 202.2.

6 This would construct a one-story rear addition to
7 an existing semi-detached principal dwelling in the R-20
8 zone. This is at 3401 N Street, N.W., Square 1228, Lot 832.

9 VICE CHAIRPERSON HART: Good morning.

10 MR. HORSEY: Good morning Mr. Chairman, members
11 of the Board.

12 VICE CHAIRPERSON HART: If you could introduce
13 yourself?

14 MR. HORSEY: Yes sir, right away.

15 VICE CHAIRPERSON HART: Thank you.

16 MR. HORSEY: My name is Outerbridge Horsey. I'm
17 an architect and I'm here on behalf of the owner, Celeste
18 Brown and her three young sons. I can go into as much detail
19 as you'd like on this. I can start with the photographs in
20 front of you where, as Mr. Moy, were here for --

21 VICE CHAIRPERSON HART: Yeah, I would. There are
22 a couple of things I'd like you to address specifically.

23 MR. HORSEY: Sure.

24 VICE CHAIRPERSON HART: In reading through the --
25 your application, you I guess it was Exhibit 13 and the

1 burden of proof. You did provide some information about how
2 you're meeting the criteria, and that the neighbors are not
3 opposed to the project. But I would like for you to just
4 give us how you are meeting the criteria, besides the
5 neighbors are not in opposition to it.

6 Like you know, are there any impacts on light and
7 air? Why are there not any impacts?

8 MR. HORSEY: Sure. I'll just run through them,
9 starting with --

10 VICE CHAIRPERSON HART: And it looks like the ANC,
11 we got an ANC report I think yesterday.

12 MR. HORSEY: Yes. They had no objections.

13 VICE CHAIRPERSON HART: Yeah, I just. It was just
14 a later addition for us so -- and that's -- I'll put, I'll
15 put about ten minutes on the board.

16 MR. HORSEY: That should be sufficient. Thank
17 you.

18 VICE CHAIRPERSON HART: So and you can start
19 whenever you like.

20 MR. HORSEY: Great, thank you. So these are the
21 photographs. I think the -- anyway, this is the photo. The
22 large photograph is the view of the front of the house. The
23 addition is around to the back here, behind the gate. Moving
24 across to the middle top photograph, that's the one story
25 rear addition existing. It was built in the early 20th

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1 century, and we are adding to this façade.

2 We're making an addition that will be about four
3 feet, coming out of the building about four feet to cover
4 this, to enclose this door so that we can get a little more
5 room in the kitchen and then also connect it to this adjacent
6 room. This shows the west side of the building. The
7 addition again is right around the corner here to the left.

8 This shows the view of the -- it's a corner lot,
9 so this would be the side yard and with this being the rear
10 yard, and there's not much to see here other than there is
11 a gate and the adjacent building next door, which is the
12 closest adjoining property to the addition. Finally, this
13 is the space underneath the kitchen.

14 So I'm going to close this image if you'd bear
15 with me, and open the -- so I'm not a PC person, so just bear
16 with me please and see if I can navigate back to the desktop.
17 I'm a Mac person, it's a little bit different. So let's see.
18 Okay. Let me see where it gets me. Okay, Architectural
19 Drawings.

20 All right. So the site plan, I think, is probably
21 the most salient drawing. Let's see if we can enlarge it a
22 little bit. These set of drawings is the one that was
23 approved by the Commission of Fine Arts, which all Georgetown
24 Board would speak to Criteria C in the burden of proof. So
25 on the left is the existing site plan. This is the corner

1 here, N Street, 34th Street. This is the front door. This
2 is the backyard that I showed you recently, and this is the
3 -- excuse me, this is the side yard here and then this is the
4 rear yard.

5 Our addition is going to go right here, and you
6 see on the right-hand side the proposed site plan with the
7 little addition shown here, just an L-shaped enclosure and
8 removing the existing, this existing exterior wall.

9 The property next door you can see here is the
10 -- here's the building next door. So in terms of light and
11 air, there's no impact at all on this adjoining property over
12 here, which is a large three story rowhouse, and the impact
13 on this building is very minor. It's a one story addition
14 here, and there's a fence between the properties here.

15 There are some windows that look out from this
16 building, but again there's been no comment or opposition
17 from the neighbors. I have spoken with them or communicated
18 with them, and obviously they received the notice. Just for
19 your information, the orange signs, one was posted here right
20 next to this building to the north, and the other one was
21 posted on the fence out front here. You could see that in
22 the posting photographs.

23 So moving ahead, this is the existing plans. Let
24 me reduce these a little bit. Sorry. So here it is on a
25 slightly larger scale. We have a landing on the outside.

1 Here's the addition here. This is the opening that we wanted
2 to capture in the addition, to allow circulation from the
3 kitchen to this room.

4 We are -- there's a landing outside, two steps up
5 from the garden level, and which will extend to the north
6 property line and the reconstruction of the stair back down
7 to this walkway. These two walkways are at the same height
8 on either side of the fence, the neighbor's walkway and ours,
9 and they are both are at the same grade as the street
10 sidewalk. This staircase goes down to the undercroft
11 (phonetic) that you saw in the photographs earlier.

12 I'll go to the elevations, sorry. This shows the
13 proposed -- so this, all right. This view would be the view
14 from the property to the north. This is the existing
15 kitchen, one-story addition. This is the rest of the house
16 behind, three stories, and this is our one-story addition to
17 the existing one story kitchen wing. Then this is the west
18 façade that faces the large three-story townhouse.

19 I don't have in this section the -- well here's
20 the fence. I don't think we have the structure next door
21 shown on that. It's about I would say ten feet away, maybe
22 nine feet away. So that's pretty much -- does that explain
23 the light and air conditions?

24 VICE CHAIRPERSON HART: Yeah. You're saying this
25 is a one-story addition. This is an addition on a one-story

1 part of the building?

2 MR. HORSEY: Yes.

3 VICE CHAIRPERSON HART: And it's a minimal
4 addition that will not have in your estimation significant
5 impacts, kind of undue impacts to the neighbors.

6 MR. HORSEY: Right, right.

7 VICE CHAIRPERSON HART: Because there's already
8 an addition that's there?

9 MR. HORSEY: Yes, yes, and the house to the north
10 really looks to the west and to the street more than it does
11 to the side.

12 VICE CHAIRPERSON HART: And just to be clear,
13 these are -- we have -- these are the same plans that are in
14 Exhibit 9 that you've already submitted to the --

15 MR. HORSEY: Yes sir.

16 VICE CHAIRPERSON HART: Yeah, okay. Just making
17 sure. And you went to the ANC? The ANC voted on this and
18 they were in full support of the --

19 MR. HORSEY: Well, the Georgetown ANC, unlike
20 other ANCs in my experience, does not take a position of
21 support. It takes a position of non-objection. So they're
22 a little more conservative in that way. But that's what they
23 did, so they -- similar to the old Georgetown board.

24 VICE CHAIRPERSON HART: That's fine. Does the
25 Board have any questions for the applicant?

1 (No response.)

2 VICE CHAIRPERSON HART: Okay. So we'll move to
3 the Office of Planning.

4 MS. MYERS: Good morning. For the record, Crystal
5 Myers with the Office of Planning. The Office of Planning
6 is recommending approval of this case, and stands on the
7 record of the staff report.

8 VICE CHAIRPERSON HART: Does the Board have any
9 questions for the Office of Planning? Does the applicant
10 have any questions for the Office of Planning?

11 MR. HORSEY: No sir.

12 VICE CHAIRPERSON HART: Okay. Thank you very
13 much. I did hear what you said. So is there anyone in the
14 audience that is -- that would like to speak in support of
15 the application? Anyone in the audience that is in
16 opposition to the application?

17 (No response.)

18 VICE CHAIRPERSON HART: Okay. Mr. Horsey, do you
19 have any further comments that you'd like to provide a
20 conclusion?

21 MR. HORSEY: Only just to ask the Board's approval
22 for this application and as expeditious a decision as
23 possible, so that Celeste Brown can move on with her
24 construction of the addition. Thank you.

25 VICE CHAIRPERSON HART: Okay. We have one

1 question from the Board?

2 MEMBER WHITE: Yeah, just one question. How are
3 you? Were there any shadow studies that were done with
4 respect to this, or was it deemed unnecessary for this
5 particular project? It seems like the ANC is in support.
6 I don't have anything in the record that shows me there's
7 going to be any impacts to light and air. But I just wanted
8 to just confirm whether or not that was actually a part of
9 the record.

10 MR. HORSEY: No ma'am, there were no shadow
11 studies done. Normally we do those if there's more interest
12 in the project on behalf of neighbors, and if there are, you
13 know, concerns about that. But there were none, so we didn't
14 --

15 MEMBER WHITE: No concerns were raised, okay.

16 VICE CHAIRPERSON HART: Okay. So I will close the
17 record. Is the Board ready to deliberate? I can start. So
18 after reviewing the full record and the applicant's
19 testimony, I believe that they have provided sufficient
20 information for me to be able to support the application for
21 relief from lot occupancy and non-conforming structure
22 requirements.

23 I'll just say, the project is a small one-story
24 rear addition to an existing historic house, and it didn't
25 look like there would be any sun or shadow impacts to the

1 neighbors, or they would be fairly minor. I would be also
2 in agreement with the Office of Planning report, which
3 recommended approval of the application in Exhibit 34, and
4 I'll also note that the project has the approval of the
5 Commission of Fine Arts, the old Georgetown Board, through
6 the old Georgetown Board in Exhibit 32. Those are the
7 comments that I have.

8 MEMBER JOHN: Mr. Vice Chair, I don't have very
9 much to add to that. I would support the application. It's
10 fairly straightforward. It's a fairly straightforward
11 special exception request. The existing non-occupancy is
12 47.2 percent and they're requesting to go to 49.1 percent,
13 which is well below the 70 percent that would be allowed.

14 So based on the full record, the applicant's
15 testimony giving great weight to the recommendation of the
16 Office of Planning and the no objection by the ANC, I am in
17 support of the application.

18 VICE CHAIRPERSON HART: Okay. So I will make a
19 motion to approve Application No. 20045 of Celeste Brown, as
20 read and captioned by the Secretary. Do I have a second?

21 MEMBER JOHN: Second.

22 VICE CHAIRPERSON HART: All those in favor --
23 hearing a second, all those in favor say aye?

24 (Chorus of ayes.)

25 VICE CHAIRPERSON HART: Any opposed?

1 (No response.)

2 VICE CHAIRPERSON HART: Motion carries. Mr. Moy.

3 MR. MOY: Staff would record the vote as 4 to 0
4 to 1, this is on the motion of Vice Chair Hart to approve the
5 application for the relief requested. Seconding the motion
6 is Ms. John. Also in support, Ms. White and Commissioner
7 Robert Miller. No other Board members participating today
8 sir.

9 VICE CHAIRPERSON HART: Thank you. Thank you very
10 much. So we can call the next case Mr. Moy.

11 Application No. 20047

12 MR. MOY: Yes, thank you. So that would be
13 Application No. 20047 of the D.C. Department of General
14 Service, as amended for special exceptions under Subtitle C,
15 Section 1402.1 from the retaining wall height requirement,
16 Subtitle C, Sections 1401.3 through 1401.5 and Subtitle C,
17 Section 1610.2, rooftop access requirements, Subtitle C,
18 Section 1603.6 and the floor area ratio requirements,
19 Subtitle C, Section 1604.2.

20 This would replace an existing three-story public
21 education building with a new three-story public education
22 building, and to relocate retaining walls on the campus of
23 an existing public school, R-1-B zone at 3301 Lowell Street,
24 N.W., Square 2008, Lots 1 and 800.

25 VICE CHAIRPERSON HART: All right. Thank you very

1 much. Good morning everyone. If you could please give your
2 name and address, starting from my right?

3 MS. VON ZUMBUSCH: Good morning. My name is
4 Julianna von Zumbusch, I'm representing Cox Graae Spack
5 Architects. My home address is in Alexandria, Virginia, but
6 Cox Graae Spack is 2909 M Street.

7 VICE CHAIRPERSON HART: Can you spell your last
8 name?

9 MS. VON ZUMBUSCH: Sure. That's V as in Victor,
10 O-N as in Nancy, Z as in Zebra, U-M as in Mary, B as in Boy,
11 U-S-C-H.

12 VICE CHAIRPERSON HART: Von Zumbusch? Okay.

13 MS. MOLDENHAUER: Good morning Vice Chair Hart and
14 members of the Board. My name is Meredith Moldenhauer on
15 behalf of Cozen O'Connor, here representing the Department
16 of General Services, the applicant.

17 MS. SWIATOCHA: Good morning. My name is Andrea
18 Swiatocha with D.C. Public Schools. Home address is
19 Alexandria, Virginia. The D.C. Public Schools Central Office
20 is located at 1200 1st Street, N.E.

21 VICE CHAIRPERSON HART: And could you spell your
22 last name? Sorry.

23 MS. SWIATOCHA: Sure. You've got some hard ones
24 this morning. S-W-I-A-T-O-C-H-A.

25 VICE CHAIRPERSON HART: So I guess you kind of

1 figured we were going to have a problem with them. I wonder
2 why? Hmm. So yes sir.

3 MR. MOLONEY: Good morning. My name is Patrick
4 Moloney. I work with DGS, represent DGS and my home address
5 is McLean, Virginia. Our office is located 1250 U Street,
6 N.W. I'm vice manager for the elementary school. Thank you.

7 VICE CHAIRPERSON HART: Thank you. Okay. I'm
8 assuming Ms. Moldenhauer you're going to start and then hand
9 it off?

10 MS. MOLDENHAUER: Yes, thank you. 15 minutes,
11 absolutely.

12 VICE CHAIRPERSON HART: 15 minutes? Okay.

13 MS. MOLDENHAUER: Okay. So I'll just start off
14 with a preliminary matter. I'm sure Commissioner Miller is
15 aware that the Zoning Commission on Monday night held a
16 meeting regarding Zoning Commission text amendments 1911.
17 We're obviously very pleased, as a representative from the
18 D.C. Public Schools and DGS of that emergency action.

19 However, out of an abundance of caution, since
20 we're still waiting for the OP report in connection, just to
21 make sure the Board members are aware, this text amendment
22 will eventually eliminate the need for our request for the
23 FAR relief and for the recreational roof access relief.

24 However, that action was taken as an emergency
25 action, but because the OP report still needed to be filed

1 in the record and it's not in the record as of yet, we are
2 still requesting the relief on those two areas of relief.
3 But obviously if we were to wait, we don't want to wait. We
4 obviously are proceeding forward today and feel that we have
5 a complete and comprehensive case.

6 We just wanted to obviously put that out there,
7 that we are aware of that. We are appreciative of the Zoning
8 Commission's actions. But we are going to still continue
9 forward today, asking for all three areas of relief.

10 VICE CHAIRPERSON HART: Okay. Thank you, and I
11 think that there is another preliminary -- there's a
12 preliminary matter for us regarding the waiver for the filing
13 of the documents?

14 MS. MOLDENHAUER: Yes. We filed an update from
15 the ANC, and also we have an expert. We'd obviously like
16 Julianna from Cox Graae Spack to be qualified as an expert
17 and we have her resume as well. So those are our three
18 preliminary matters that I'd like to go through.

19 VICE CHAIRPERSON HART: I think we can take them
20 one at a time. First, we wanted to have -- you wanted to
21 have whom from Cox Graae Spack? Okay, that's what I thought.
22 But I didn't think you said her name. That's why I was --

23 MS. MOLDENHAUER: I used her first name.

24 VICE CHAIRPERSON HART: I thought so, okay. von
25 Zumbusch is not that difficult though. It's just hard to

1 spell at first. Okay, so I have looked over -- I didn't
2 think that that was a particular issue for her to be in our
3 expert book. I don't know if any of the other members had
4 any comments on that? Okay. So we will allow her to be in
5 the expert book.

6 Our second issue is about the drawings themselves.
7 Just explain a little bit why they were, why you needed --
8 why they couldn't be in the 21 day time frame.

9 MS. MOLDENHAUER: Absolutely. So Commissioner
10 Hart, the filings were obviously beyond the 21 day because
11 of the fact that we're working with HPRB and we're obviously
12 kind of going back and forth, trying to make sure that you
13 had the most recent and the most up to date.

14 We are still obviously working with HPRB and are
15 awaiting a Mayor's Agent case that will be coming up in July.
16 But we obviously asked the Board for a waiver for that late
17 filing.

18 VICE CHAIRPERSON HART: I understand, and it seems
19 like there's been quite a bit of back and forth with the
20 Historic Preservation Review Board and the Office of -- the
21 state historic preservation office. So I don't have a
22 particular issue with that. I understand that that's kind
23 of an ongoing thing.

24 MS. MOLDENHAUER: Sounds great.

25 VICE CHAIRPERSON HART: So it sounds we have kind

1 of a unanimous that we're okay with that. So we will waive
2 the filing fee. The last --

3 MS. MOLDENHAUER: Not the filing fee, the filing
4 deadline.

5 VICE CHAIRPERSON HART: I'm sorry, the filing
6 deadline, yeah. No, you're going to have the filing fee.
7 I can't --

8 MS. MOLDENHAUER: Actually, it's the city.

9 VICE CHAIRPERSON HART: Yes.

10 MS. MOLDENHAUER: We can move on and do our
11 presentation.

12 VICE CHAIRPERSON HART: That's fine. Yes, yes.

13 MS. MOLDENHAUER: Okay, wonderful. I'll turn it
14 over to DCPS.

15 VICE CHAIRPERSON HART: Excellent, thank you.

16 MS. SWIATOCHA: I just wanted to give sort of a
17 high level of this project. We're really excited to present
18 this today. Eaton Elementary is one of our elementary public
19 schools located in the Cleveland Park Historic District.
20 This is undergoing one of our modernizations and will open
21 for school year for 2021.

22 For those of you that may have been to the site,
23 it has a beautiful campus, but it is one of our smallest
24 sites. As part of this process, we have been evaluating how
25 do we meet the demand of 21st century learning in the space

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1 that's there, as well as building an addition. As Meredith
2 mentioned, we've been going through a very extensive process
3 with HPRB in sort of conjunction with this.

4 This process actually started over a year and a
5 half for us ago with a feasibility study, and then we brought
6 on Cox Graae Spack in this spring to be our design
7 architects. You can see on the notes here we are expanding
8 the enrollment up to 490 of the students, and currently we
9 are going through the Mayor's Agent process to actually
10 demolish the multi-purpose wing that's in the middle of the
11 building, which is the 1930's wing that you'll hear us refer
12 to. The two historic 1910 and 1920 classroom wings will
13 remain.

14 And then I sort of want to end my portion with
15 just highlighting the community engagement process that we
16 have gone through to date. We have an extensive SIT, which
17 is School Improvement Team that meets on a regular basis, as
18 well as holding community, broader community meetings,
19 attending the ANC, the Cleveland Park ART, multiple meetings
20 with CFA and HPRB.

21 I think it's important to note that on June 13th
22 we did share the full application with the SIT and the
23 neighborhood, as well as attended ANC 3C on June 3rd, and the
24 full ANC unanimously approved the BZA application on June
25 17th.

1 MS. VON ZUMBUSCH: So this is just a quick exhibit
2 that shows the zoning map for the area. I think it
3 highlights that tight spot that is the full block between
4 33rd Street and 34th Street. It has been a school property
5 and operating as a public school for over 100 years within
6 the great R-1-B residential district.

7 These are a couple of quick images to orient you
8 to the site if you aren't familiar with it. The top two
9 images are those historic buildings that anchor the site on
10 the south side. Those really define the street presence on
11 Lowell, which is the primary entrance and street façade. The
12 site slopes pretty severely to the north, where there are a
13 series of existing embankments and high retaining walls at
14 the moment.

15 This is a quick summary of the project as a whole.
16 Given that we are working with the Historic Preservation
17 Office, we've focused on trying to maintain the massing of
18 the building, and balancing that with an increase in the
19 educational spec to meet current educational standards.

20 So this is the existing site map, which highlights
21 those spaces that we previously identified, and you can see
22 in the center are the multi-purpose building from 1930 and
23 the 1980 addition. Those are the two buildings that will be
24 demolished, and we're trying to maintain similar massing to
25 those buildings, so as to have minimal impact on the

1 community and the feel of the campus.

2 VICE CHAIRPERSON HART: And just to be clear,
3 north is to the top?

4 MS. VON ZUMBUSCH: North is to the top, yes. This
5 is the proposed site plan, which highlights -- the darker
6 pink area is the above-grade addition, and we are providing
7 a fair amount of the new educational space below grade, to
8 help minimize the impact. That is then driving some of our
9 relief causes with that beige area to the north side being
10 an occupiable roof.

11 VICE CHAIRPERSON HART: And if you could go back
12 for a second. What's happening just to the north of that?
13 Is that a ramp? That's the diagonal --

14 MS. VON ZUMBUSCH: So to the north of that, the
15 occupiable roof has two little segments, and then there is
16 a diagonal ramp. The site actually spirals up, so that the
17 low point is to the east side and we're ramping up the grade,
18 which is what it currently does to meet grade at the roof
19 access on the west side.

20 VICE CHAIRPERSON HART: Okay, thank you.

21 MS. VON ZUMBUSCH: So this is just a quick study
22 of the front elevation. This is still ongoing with HPO at
23 the moment, but the massing is fairly set. We are holding
24 the new façade back from the existing façade. So those two
25 existing pavilions will continue to really define the street

1 presence on Lowell.

2 VICE CHAIRPERSON HART: What are the changes that
3 they -- you can go to the next one. What is HPRB having
4 issues with, and so what are the parameters of the things
5 that are possibly changing?

6 MS. VON ZUMBUSCH: We're currently studying
7 fenestration patterns on that façade as well as material.
8 I think that the overall form and shape are quite defined,
9 but those are the two subjects that we are going through with
10 them.

11 VICE CHAIRPERSON HART: And the building material
12 that they're looking for? I mean it looks like you have
13 brick, but is it not brick? Is it some sort of tile or
14 something that you're looking at?

15 MS. VON ZUMBUSCH: It's shown as terre cotta right
16 now, there are different issues, both coloration as well as
17 being other materials.

18 VICE CHAIRPERSON HART: And the -- around the
19 fenestration on the west part of the addition that's in the
20 middle, excuse me not the west, the east part of that.
21 What's going on around that? Is that going to change as
22 well?

23 MS. VON ZUMBUSCH: So that will be changing as
24 part of that. We do not have an approved concept though.

25 VICE CHAIRPERSON HART: And the changing is in

1 terms of kind of the mullien spacing, the size of it, the
2 location of it? You're nodding yes to all of that.

3 MS. VON ZUMBUSCH: Yeah. Those three items, yes.
4 So it will be changing both the pattern, the mullien style
5 and the spacing.

6 VICE CHAIRPERSON HART: And so is this -- is what
7 we're seeing, this has been an evolution from something that
8 happened previously. Are they wanting to go back to that,
9 or are they looking for something that is a further
10 exploration?

11 MS. VON ZUMBUSCH: It is further exploration.

12 VICE CHAIRPERSON HART: And would you think that
13 this is getting smaller?

14 MS. VON ZUMBUSCH: No. I think the overall scale
15 is being maintained.

16 VICE CHAIRPERSON HART: I meant the --

17 MS. VON ZUMBUSCH: Oh, the fenestration.

18 VICE CHAIRPERSON HART: Yeah, the fenestration
19 itself. Would that be getting smaller? Are they looking for
20 -- because if you're looking at the images that are on the
21 two existing buildings, you have some very regular, you know,
22 pieces of -- fenestration that is on the façade. What you're
23 providing is while it's I don't want to say regular. While
24 it's rectilinear, it is somewhat a symmetrical. So it gives
25 it a little different. Are they looking for something that's

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1 more symmetric?

2 MS. VON ZUMBUSCH: They are looking for something
3 that's more symmetric, and also this previous scheme showed
4 both punched openings and a larger opening, and they're
5 looking for a unification of those strategies.

6 VICE CHAIRPERSON HART: Oh, okay. And what about
7 the -- there is no entrance to the part that you are -- the
8 addition that you're planning?

9 MS. VON ZUMBUSCH: There actually is, and maybe
10 we can go to the next -- nope. I guess it was two slides
11 back. So right there. You can see that there is an entry
12 in the -- below that larger window, which is the library
13 space.

14 VICE CHAIRPERSON HART: Would you think that there
15 would be any changes to the -- because it looks like there's
16 an existing grade in the building. The portion of that
17 building, is that the 1911 to the left?

18 MS. VON ZUMBUSCH: That is the 1911 to the left,
19 and there is about a five and a half foot difference between
20 that 1911 building and the 1922 building, which is on the
21 right. So the proposed addition is in between those, so that
22 it helps bridge those. That is one of the primary agendas
23 of the modernization, is to help tie together the existing
24 floor differences.

25 VICE CHAIRPERSON HART: And would you also --

1 that's also the ADA access as well?

2 MS. VON ZUMBUSCH: It is, yes.

3 VICE CHAIRPERSON HART: On the front of the
4 building. So you're not actually providing ramps; you are
5 able to go in at a grade?

6 MS. VON ZUMBUSCH: Correct.

7 VICE CHAIRPERSON HART: Okay. The column that's
8 there, is that going to -- it looks like it's something
9 that's kind of seen through the entire façade. So are you
10 looking to maintain that? Do they have an issue with that?

11 MS. VON ZUMBUSCH: That is still in the scheme
12 right now. I don't -- it may change. I don't anticipate
13 that going away.

14 VICE CHAIRPERSON HART: And I'm peppering the
15 questions, partially because I'm trying to understand. There
16 is a condition that Ms. Moldenhauer has added in, and I may
17 be jumping down the roof here. But about giving some
18 flexibility, and I wanted to understand what the flexibility
19 was in, and it sounds like it is -- it is how the façade
20 looks and some of the materiality of the façade.

21 I'm not sure where I am with it, but I understand
22 a little bit better as to -- you can continue with the
23 presentation. I just needed to understand that.

24 MS. VON ZUMBUSCH: That is correct, and just
25 because of that change of façade, it might impact slightly

1 the building footprint in terms of how it meets grade. But
2 we don't anticipate that it would change. The building area
3 would balance that.

4 VICE CHAIRPERSON HART: Okay, thank you.

5 MS. VON ZUMBUSCH: So this is just -- going
6 around, I think this view is useful in seeing the site grade
7 plain as it ramps up. So that that view you can see the ramp
8 and stair access to the occupiable roof, which is one of the
9 areas that we're requesting relief on.

10 VICE CHAIRPERSON HART: Would you also, going back
11 to this, would you also -- because you would be changing the
12 fenestration on the front façade, what is considered the
13 front façade, then on this east façade would you also be
14 doing the same -- you know, once you've kind of figured that
15 out, then you'd kind of figure it out in the rest of the
16 building?

17 MS. VON ZUMBUSCH: Right now, HPO has approved the
18 fenestration on the rear portion of it. So that probably --
19 the stair, the large stair window is something that we are
20 still fine tuning with them. But the general fenestration
21 pattern is approved on the rear.

22 VICE CHAIRPERSON HART: Thank you.

23 MS. VON ZUMBUSCH: So this is just heading around
24 a little bit more. This is the northeast corner of this
25 site, where we have the largest retaining wall. There is

1 currently a retaining wall that is in excess of seven feet.
2 We are needing to pull that retaining wall out closer to the
3 property line, to maintain the public and educational
4 playground space.

5 So by pulling it out because of the existing
6 grade, we are exposing a little bit more of the wall, and
7 that is driving our relief for retaining wall height. This
8 is an aerial view that I think helps sum up, and you can help
9 really see that great change over the course of the full site
10 with -- on the left-hand side right now, that northeast
11 corner where we have the highest retaining wall.

12 Just a quick overview of the floor plans. This
13 is the lower level, which shows the amount of program that
14 we're required to add to the space as part of the
15 modernization, and that's driving part of the FAR. Moving
16 up, this is the main entry level. So you can see that front
17 plaza, and then on the north side the occupiable roof.

18 This is a sample of the upper floors, the second
19 floor and third floor we're really maintaining existing
20 classrooms and adding some so that they can have specials as
21 well as regular classrooms. Roof plans is fairly
22 straightforward. That's been simplified a bit. It's a flat
23 roof for the most part. We are working with HPO in
24 maintaining the existing roofs as the high points and
25 defining massing on the site. So we will not be impacting

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1 building height with the new addition.

2 This is a quick summary slide for the recreational
3 roof access. The zoning regulation requires that we have two
4 ten foot wide areas that discharge into separate locations.
5 Right now we are providing more than 20 linear feet of access
6 to the roof area. Those just aren't divided quite evenly in
7 terms of ten foot and ten foot, which is driving our relief.
8 If you look on the east side of the site, of that roof that
9 discharges onto the play field, we are fairly constrained.

10 And so any additional there would impact the
11 available play field and have negative impact for the
12 students as well as for the community that use that field.

13 VICE CHAIRPERSON HART: If on this plan, the
14 playing field is kind of canted to a side. If you can talk
15 about why that's -- the reason I'm asking why it's necessary
16 because it also pushes the retaining walls that are along the
17 streets, kind of out closer to the streets, and I was just
18 wondering why that was necessary?

19 MS. VON ZUMBUSCH: It does, and so that cant is
20 actually following the natural grade of this site, and so
21 that's being done. If we didn't cant it, we would actually
22 -- it's done to pull the far northeast corner in to minimize
23 height impact of that retaining wall. If it was
24 straightened, that northeast corner would actually pull out
25 and be a higher retaining wall.

1 VICE CHAIRPERSON HART: Thank you.

2 MS. VON ZUMBUSCH: No problem. So this is a quick
3 side that I think speaks to what we were just talking about.
4 You can see the red highlighted walls are the walls that are
5 in excess of four feet. Currently, the two on the southeast
6 corner are existing walls that will be remaining, and then
7 the two that are on the northeast corner, we will be more or
8 less replacing in kind.

9 The height is not changing in terms of the top of
10 the wall, but since we are swinging out a little bit there,
11 increasing in height. We have a couple of additional slides
12 if you have any questions, but I think that wraps up the
13 areas of relief we are requesting.

14 VICE CHAIRPERSON HART: I think there are some
15 questions. Yes.

16 MEMBER WHITE: Okay. So it's an interesting
17 design. So a couple of questions I have, just one being
18 you're still waiting to get some final feedback from HPRB and
19 also HPO. Do you anticipate any significant changes that
20 they're going to be requiring you to make some changes to the
21 plans that you just presented to us, or do you see them as
22 minor modification or skin changes? I guess that's part of
23 the issue here right?

24 MS. SWIATOCHA: Yeah, it's a great question. Not
25 the plans, but I think Julianna explained well the

1 fenestration starting with the front entry. Again, not
2 necessarily the massing and the levels and the floor levels
3 are set, but what that materiality is, the scale, the texture
4 of it. And then just making sure that that also sinks and
5 correlates to the back.

6 MEMBER WHITE: Then it's not going to require you
7 to make any adjustments to the relief that you're seeking?

8 MS. SWIATOCHA: No. We don't anticipate that, no.

9 MEMBER WHITE: Thank you.

10 MEMBER JOHN: One question just to follow up. But
11 you could change the footprint? I believe that's what the
12 architect said.

13 MS. VON ZUMBUSCH: So I think any change to the
14 footprint would be very minor and it would require a new plat
15 just, you know, out of formality. But I don't think we would
16 be anticipating anything beyond a foot in one direction or
17 the other, and we would balance that to maintain the overall
18 building area so as not to impact the relief sought.

19 MEMBER JOHN: Okay, thank you.

20 MS. MOLDENHAUER: If there's no other questions,
21 I'll just briefly walk through the relief, so there isn't
22 going to be any more question how we satisfy the legal
23 standard. So we are currently looking for three areas of
24 special exception relief. One, an increase in the permitted
25 maximum FAR. Two, the ten foot width access requirement for

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1 rooftop recreational spaces to two public rights-of-way, and
2 then relief from the retaining wall height requirement.

3 The special exception obviously is to confirm that
4 the project is in harmony is in harmony with the general
5 purpose of the zone plan and regulations, and will not
6 adversely impact the use of neighboring property owners in
7 accordance with the zoning regulations, and the (inaudible)
8 of the conditions that are required.

9 We believe obviously that the modernization of
10 this project is, you know, in keeping with the harmony and
11 the intent of the zone plan, and that we do meet these
12 requirements. We then look at the specific conditions under
13 the requirements for special exceptions for public schools,
14 and here we go to the special exception for the FAR.

15 As indicated earlier, we are asking you to go from
16 .9 FAR to 1.17 FAR. Given the Zoning Commission's change
17 that would allow for up to a 1.8 FAR when that does go into
18 effect, and we believe though that the current relief being
19 sought, as indicated, the majority of that is being located
20 in the lower cellar, as was testified to.

21 But even though it's actually because it's over
22 four feet in height on the rear portion, some of that is
23 actually counting towards FAR, which contributes to our
24 request being here.

25 In regards to the recreational roof access, roof

1 access base should be used for open space and recreation for
2 field. Here, we believe that we are complying with the
3 purpose and intent of the regulation. We're going to have
4 to provide multiple forms of access to be compliant with all
5 building code requirements as well.

6 In regard to the special exception for the
7 retaining wall height requirement under C14.02.1, the
8 retaining wall should not exceed four feet in height in the
9 following locations unless lower height. Here, we had a
10 specific change in the grade on the property, which creates
11 the challenge. A lot of these retaining walls are currently
12 existing, but we modernizing them or slightly moving them.

13 Given that we are moving them and with the change
14 in the overall requirements, that is increasing them in some
15 regards, or at least relocating them, creating the
16 requirements for us to seek relief here. We believe that we
17 satisfied the special exception requirements, and obviously
18 also in regards to the special exception and the project is
19 in line with the low to moderate density residential
20 requirements, as well as obviously improving and providing
21 additional education for the residents in the community and
22 the neighborhood.

23 We would then ask that the issues that have been
24 discussed so far for some flexibility. We've tried to
25 outline those specific issues. That way, we are not kind of

1 asking for a global or a very broad area of flexibility, but
2 really kind of honing in on requests that would be to allow
3 for adjustments to the plans as required, and as approved.

4 So obviously only then what would be approved by
5 HPRB to the building's footprint and minor changes to the
6 building footprint site plan and dimensions, so long as that
7 modification does not increase GFA or FAR remaining at this
8 point, and does not increase the current relief being
9 requested.

10 Two, again to permit adjustments as required and
11 approved by HPRB to the final location and retaining walls,
12 in line with the development of landscaping and screening,
13 so long as the final retaining wall and height will be no
14 higher than the requested as of this time.

15 Three, to request modification as required and
16 approved by HPRB and the location, size and rooftop
17 mechanical screening as needed to coordinate with the final
18 units, so long as the changes do not trigger any new relief
19 from the permitted height of the penthouse and stepback
20 requirements.

21 And then four, to permit minor changes as required
22 and approved by HPRB to the project's height and envelope,
23 so long as the project does not require any new relief and
24 is within the height permitted by the public education
25 buildings in the R-1-B zone. That being said, we'll

1 obviously be open and available for any additional questions.

2 VICE CHAIRPERSON HART: Okay. Does the Board have
3 any questions for the applicant?

4 (No response.)

5 VICE CHAIRPERSON HART: We'll move to the Office
6 of Planning.

7 MS. THOMAS: Good morning Mr. Chair, members of
8 the Board. The Office of Planning remains satisfied that the
9 applicant has met the special exception criteria for the
10 relief requested. In addition, based on our conversations
11 with HP, we were assured that their concerns did not
12 anticipate any changes to the massing, and any other area
13 requirements for these plans, and as the applicant said, were
14 more reflective of fenestration and materiality than anything
15 else.

16 So with that, I'd stand on the record of our
17 report, and I'd be happy to take any questions. Thank you.

18 VICE CHAIRPERSON HART: Does the Board have any
19 questions for the Office of Planning?

20 (No response.)

21 VICE CHAIRPERSON HART: I had one question. So
22 Ms. Moldenhauer just read some of the flexibility that they
23 were looking for. It seemed as though there were kind of
24 specific areas. One of them was the -- in how the retaining
25 walls, kind of where they were kind of located. Did you all

1 have any particular opinion of that or any particular issue
2 with that?

3 MS. THOMAS: We had none. To me, it appeared that
4 there would be improvements to the retaining wall as it
5 existed. It would be more refined, they would have more
6 common use of materials and would not be substantially higher
7 than what existed, and in some cases they would be lower.

8 VICE CHAIRPERSON HART: And --

9 MS. THOMAS: And presented a more even look and
10 appearance to what exists today for this site.

11 VICE CHAIRPERSON HART: Thank you, and what about
12 the issue about mechanical screening for the site as well?
13 They were looking for flexibility around that as well?

14 MS. THOMAS: Yeah. We would support that.

15 VICE CHAIRPERSON HART: As long as they're not
16 looking for additional --

17 MS. THOMAS: Additional changes to the penthouse
18 in terms of height and -- but we would support mechanical
19 screening, yeah.

20 VICE CHAIRPERSON HART: Okay. Does the Board have
21 any other questions for the Office of Planning?

22 MEMBER JOHN: Yes. What are your thoughts on the
23 applicant's statement that there is a potential to change the
24 footprint of the building based on what HPRB finally
25 approves?

1 MS. THOMAS: Yes. Only insofar as again, as we
2 would state, it doesn't change any other area requirements
3 with respect to the plans. But one would anticipate that
4 there might be some shift based on what HPRB might recommend,
5 but as long as there are no changes to other area
6 requirements, like it doesn't shift what we have approved,
7 retaining walls and lot occupancy and stuff like that. We
8 would have to -- then it would become a modification of
9 consequence of that might be the case.

10 MEMBER JOHN: Okay, thank you.

11 VICE CHAIRPERSON HART: Any other questions? Does
12 the applicant have any questions for Office of Planning?

13 MS. MOLDENHAUER: Yes, just a few. I know that
14 we have worked with the ANC on and identified and agreed to
15 some conditions on parking. Can you just confirm for the
16 record your report identifies what are the parking
17 requirements for the site?

18 MS. THOMAS: Yes. We will stand in support of
19 DDOT's recommendations, that parking should not be an issue
20 for the site, that the site has -- DDOT submitted their
21 study, their parking study and we relied on their research
22 and DDOT's opinion with respect to that. We don't see a
23 problem with respect to parking on site. The site currently
24 does not have on-site parking and there are spaces assigned
25 on the perimeter in public space for drop off/pick up and

1 teacher parking.

2 VICE CHAIRPERSON HART: Is that it?

3 MS. MOLDENHAUER: No other questions.

4 VICE CHAIRPERSON HART: Okay. So is the ANC here?
5 Please, come forward.

6 (Pause.)

7 VICE CHAIRPERSON HART: Good morning. If you
8 would introduce yourself and give your name and address
9 please?

10 COMMISSIONER MACWOOD: My name is Nancy MacWood.
11 I'm the chair of ANC 3C. I live at 3417 Woodley Road, N.W.,
12 and I'm going to be representing ANC 3C this morning. John
13 Eaton Elementary School is located within the 3C boundaries
14 and is actually in my single member district. At the
15 regularly scheduled meeting of ANC 3C on June 17th, we voted
16 unanimously to support the requested zoning relief with
17 conditions.

18 We specifically found the requested relief in
19 harmony with the general purpose and intent of the zoning
20 regulations and maps. The ANC has been and continues to be
21 very involved with all stages of the modernization, and we
22 are appreciative that this long-awaited improvement in the
23 programmatic spaces will finally be realized.

24 But we believe that zoning order conditions are
25 necessary to protect adjacent and nearby property. For many

1 years, the school, neighborhood residents and the ANC have
2 tried to address the challenge of where teachers can park
3 since the site is very small, and there is no on-site
4 parking. Obviously, I have some differences with the Office
5 of Planning report in this regard.

6 The local streets are nearly all signed with
7 restricted parking hours, which is the result of neighborhood
8 parking demand and the parking needs of the many independent
9 schools in the neighborhood. We were optimistic when all the
10 stakeholders came together last fall to work on a curbside
11 parking plan in lieu of requesting some structured parking
12 on the site, but that good beginning stalled.

13 Only recently did we get DDOT back to the table
14 to discuss an enforceable parking plan that would dedicate
15 spaces to teachers during the school day, without removing
16 any restricted parking spaces unless the affected residents
17 agreed. The neighbors and the ANC believe there are options
18 to create such a plan, but we need DDOT and DCPS to share our
19 commitment.

20 Thus, the ANC thinks it is critical to require as
21 a condition of the requested relief that DCPS work with DDOT
22 and the ANC and neighbors to create a parking plan. Second,
23 the ANC requests a condition that requires the negotiation
24 of a construction management agreement between DCPS, DGS and
25 the ANC prior to the beginning of construction.

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1 We are not asking that the terms of an agreement
2 be included in the order, only that you include a condition
3 that agreement will be created before commencement of
4 construction. The John Eaton site is bordered on three sides
5 by narrow residential streets, one of which carries a lot of
6 commuter traffic. The fourth surrounding street is 34th
7 Street, which is a connector street that operates as a minor
8 arterial despite being only two lanes.

9 All of the streets have single family home close
10 to the sidewalks and in very close proximity to what will be
11 a large construction site. We've been through this before.
12 A year ago, a new Cleveland Park library opened only a block
13 from this site, and we are in the midst of construction of
14 the Ward 3 temporary family shelter.

15 The ANC believes a CMA that addresses the concerns
16 of the nearby residents, such as the timing of deliveries,
17 safety, rodent control, worker parking, staging, truck
18 routing and that fashions general protocols for the
19 contractors and subcontractors will give everyone some
20 certainty and will limit congestion and complaints while
21 keeping the project on schedule.

22 Lastly, ANC 3C requests a condition that the new
23 John Eaton playground be open to the public during the day
24 when not in use by the school. There is a DPR toddler
25 playground very near to the school, but we don't have public

1 playgrounds in Cleveland Park for older children. The school
2 has always been generous in sharing its facilities, and we
3 expect that will continue.

4 But events happen and administrations change, and
5 the ANC would like ensure, through a zoning condition, that
6 the construction mess and the changes to the site that will
7 bring structures closer to the neighborhood will result in
8 not only an enhanced education program at John Eaton, but the
9 use of the playground for all children, whether they are
10 enrolled at John Eaton or not.

11 The ANC was told by the applicant's attorney at
12 the public meeting that they would support these conditions.
13 Thank you very much for your time and attention, and I'm
14 happy to answer any questions you may have.

15 VICE CHAIRPERSON HART: Thank you. Excuse me,
16 than you Commissioner MacWood. Does the Board have any
17 questions for the Commissioner?

18 (No response.)

19 VICE CHAIRPERSON HART: And I understand that
20 there are a number of concerns, conditions that you all are
21 requesting for this. The construction management one may be
22 a little bit difficult for us. We don't have a lot of
23 purview over this. This is something that would be more of
24 a conversation that the ANC would have with the -- with
25 either DGS or DCPS.

1 It's not something that we can add to that,
2 because it's not something that is kind of within zoning.
3 So it's a very -- that one I think is a very difficult one.
4 If you have some thoughts on it?

5 COMMISSIONER MACWOOD: We've had experience with
6 having it included as a condition in a zoning order. A
7 number of years ago, one of the neighborhood --

8 VICE CHAIRPERSON HART: A BZA order or a zoning
9 order?

10 COMMISSIONER MACWOOD: I believe it was a BZA
11 order. It was a special exception request for National
12 Cathedral School, which is subject to special exception
13 relief when they want to either build or increase the
14 enrollment. They wanted to construct an athletic center, and
15 a construction management agreement actually that was
16 completed and presented to the BZA was in its entirety
17 included as a condition of the order.

18 VICE CHAIRPERSON HART: Okay. I hear what you're
19 saying. I'm not sure where I am with it, but I hear what
20 you've added to that. The access to the playground, part of
21 what the difficulty with some of these are that what they're
22 -- the relief that they're seeking is not really connected
23 to that. So it makes it very difficult for me to think about
24 how to --

25 While I understand the need for the connection for

1 the or access to the playground, I just don't know how the
2 BZA connects that to what the zoning relief that we're --
3 that's before us. So the two things are a little bit hard
4 for me to grapple with. I understand why you're asking for
5 it, but it's how do we connect it in and what is that, how
6 does that kind of look. So that part of it is a little bit
7 difficult.

8 With regard to the first part regarding the
9 parking, I'll note that -- I know DDOT hasn't raised any
10 concerns about this, and I don't know if you've had -- I'm
11 assuming you've had conversations with DDOT, if not in your
12 head reluctantly. Can you just talk about the conversation
13 you've had with DDOT?

14 COMMISSIONER MACWOOD: I've had numerous
15 conversations with DDOT. But one thing I'd like to point out
16 is, and I don't know whether Board members and the
17 Commissioner have had a chance to review the traffic study
18 and the parking study that was done in conjunction with this
19 project. But we found them quite lacking frankly. The
20 traffic study really was oriented towards determining whether
21 the project supported DDOT policy goals.

22 So it looked at things like how far away is the
23 Metro, how many bus lines run near the property. There was
24 absolutely no analysis of pick-up or drop-off, commuter
25 traffic on Macomb Street. The other challenge is that the

1 school has had in the neighborhood that it has had with
2 regard to traffic. So we were very disappointed that it was
3 an analysis that was done at 10,000 feet rather than on the
4 ground, with recommendations for this specific project and
5 this specific site challenges.

6 Parking study was done as an add-on, because the
7 neighborhood at the very beginning of the feasibility study
8 during the SIT meetings had requested parking study. It came
9 up at every SIT meeting, it came up at every community
10 meeting, and it's been an ongoing problem in the neighborhood
11 with regard to trying to secure reliable teacher and staff
12 parking without causing negative impacts on the neighborhood.

13 Again, the parking study looked at a very large
14 radius area, and didn't reach any real conclusions about
15 where the teachers could park. We had hoped that it would
16 actually identify some opportunities, but it didn't. It
17 actually -- it verified where restricted parking is in the
18 neighborhood, where unrestricted parking is, that there are
19 challenges with other institutional uses in the neighborhood.

20 We had a meeting with DDOT, DGS, DCPS as recently
21 as about two weeks ago now, and it was a follow-up to the
22 meeting that I referenced in my testimony that we had last
23 November. We've been trying to meet ever since November, and
24 the follow-up meeting was supposed to be -- it was supposed
25 to have focused on some preliminary recommendations from DDOT

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1 as to how we move forward with creating a plan.

2 The neighbors actually at the November meeting
3 presented a plan. They had done their own traffic study and
4 parking study and determined where there might be some spaces
5 that could be identified. DDOT did not come to this most
6 recent meeting with a plan, and in fact talked in terms of
7 starting really at square one.

8 We presented DDOT with some actual locations where
9 there's unrestricted parking, where we thought they could
10 focus their attention and do some evaluations. Last Friday,
11 I believe, I got an email from the lead DDOT official on this
12 matter, and he proposed a couple of locations which might
13 provide about half of the parking the school has identified
14 it needs, but didn't address some of the other locations that
15 we had suggested. So that's where we are.

16 VICE CHAIRPERSON HART: Okay. I'd like to --
17 sure.

18 MEMBER JOHN: So Commissioner the school is
19 existing now and has 482 students. They plan to add eight
20 more students. So the parking situation exists independently
21 of this application. So I'm not sure -- and they're not
22 requesting parking relief. So I'm not sure why we should put
23 in a condition that's not related to the relief they're
24 requesting. So I don't know if you have any thoughts.

25 They're also not adding any more teachers. So

1 there is minimal increase in any parking congestion from
2 adding eight students. So that's the difficulty we would
3 have in adopting that condition.

4 COMMISSIONER MACWOOD: I understand your comment.
5 It is an existing adverse impact, but I believe one of the
6 authorities that you have is to approve conditions that are
7 necessary to protect adjacent and nearby property, and I
8 would suggest that this falls into that category. Given that
9 we have been working on this issue for probably five years,
10 it really requires, I believe at this point, some
11 intervention. Because we have this opportunity with the
12 Board of Zoning Adjustment and this is a relevant factor in
13 your decision analysis, we hope that you will agree with us
14 that our condition is actually, I believe, fairly mild.

15 But it emphasizes how serious this issue is and
16 how committed the neighborhood and the ANC are to solve it,
17 and that we really need our partner stakeholders here to join
18 us on this.

19 VICE CHAIRPERSON HART: If I could -- thank you
20 very much. Would the applicant like to respond?

21 MS. MOLDENHAUER: Absolutely. So as Commissioner
22 MacWood indicated, the applicant has worked with the ANC and
23 is supportive of and, you know, consents to proposed
24 conditions that the ANC discussed. We do legally stand by
25 the position that we are not asking for parking relief, that

1 these are not issues that are on mitigating relief being
2 requested.

3 But we have, since this is a school, we are
4 working with the community. There have been obviously long-
5 going conversations. The City wants to try and come to a
6 final resolution, and so we are proposing to agree to those
7 conditions. But I think from a legal perspective, you know,
8 we obviously have indicated to the ANC that there is no
9 parking request being identified here, but we do consent.

10 VICE CHAIRPERSON HART: Understood. Does the
11 Board have any questions for either Commissioner MacWood or
12 the applicant?

13 (No response.)

14 VICE CHAIRPERSON HART: Okay. If there are --
15 thank you very much, Commissioner. If there are -- is there
16 anyone here that is wishing to speak in opposition to the
17 application? Please come forward. Did you just raise your
18 hand? No, okay. Wrong application you were in opposition
19 to. Are you -- I'm going to ask about people that are
20 wishing to speak in support as well.

21 So if there's anyone here wishing to speak in
22 support of the application, please come forward. Can we make
23 some, just one seat we need? Sir you -- are you? I can't,
24 I can't. You have to speak into one of the mics. Are you
25 here for this particular case? Okay. So that's okay.

1 If you're here to speak in support, then you can
2 sit down at the dias as well, at the table as well. You have
3 to give those to the court reporter. Do we have everybody
4 at the table? Okay. If we could just provide your name and
5 address, and start from my right to left?

6 MR. CAHILL: Christopher Cahill, and I recently
7 purchased the home at 3401 Lowell Street, which is adjacent
8 to the property.

9 VICE CHAIRPERSON HART: Is that C-A-H-I-L-L?

10 MR. CAHILL: Yes.

11 VICE CHAIRPERSON HART: Yes sir.

12 MR. MAHER: Shawn Maher, S-H-A-W-N, M-A-H-E-R.
13 I reside at 3104 33rd Place, N.W.

14 VICE CHAIRPERSON HART: Thank you. Yes ma'am.

15 MS. SALLEY: Well, my name is Andrea Salley. I
16 reside at 3110 33rd Place, N.W. I've lived there for 30
17 years.

18 VICE CHAIRPERSON HART: Thank you. Yes sir.

19 MR. GREEN: Good morning. My name is Douglas
20 Green. I live at 3106 33rd Place, half a block from the
21 school. I've lived there for approximately 32 years.

22 VICE CHAIRPERSON HART: Okay, yes.

23 MR. SALLEY: Good morning Thomas Salley, 3110 33rd
24 Place.

25 VICE CHAIRPERSON HART: Okay. So each of you will

1 be given three minutes to provide comments. I'll start from
2 -- with Mr. Cahill, and you can begin when you'd like, and
3 there should be a clock. Is it right in front of you? So
4 you could begin when you like.

5 MR. CAHILL: I've listened and heard all the
6 reasons why these things don't seem to pertain to the
7 applicant's present relief, but there are significant impacts
8 to the neighborhood with the -- such things as retaining
9 walls and other things that would change the dynamic of the
10 building and the structure to the neighborhood.

11 So the things that are problems presently aren't
12 going away, and because some of these previous decisions by
13 previous boards has allowed the situation not to have parking
14 on site, which is a requirement of the schools and most
15 schools have it, there are we feel at this time that the
16 impacts that this building is having and some of these other
17 structures to the neighborhood are offset by the fact that
18 we're going to address this parking issue, which has been in
19 process for five years previous to this application.

20 It is egregious solutions have been presented or
21 used to solve this problem, such as visitor parking passes
22 being given as lending tools to teachers, so they can park
23 as close to the school as possible. That then impacts the
24 area immediately around the school far more significant than
25 it impacts the balance of the neighborhood.

1 So the lack of direct solution has caused the
2 community to deal with antedated solutions that are impacting
3 the community as a whole, but more the community immediately
4 adjacent to the building. Without anybody really vesting in
5 this, nobody has any skin in the game, we are really left
6 with a five year journey to nowhere.

7 We're hoping that you can see that the impact of
8 this school, the construction and the end result. The
9 traffic study did not present at a timely fashion. As a
10 matter of fact, we were told that's being done and then we
11 learned none was done, and then did a quick one at the end.
12 So we have not had the opportunity to get to these solutions
13 yet.

14 The building is moving on a very fast track to
15 completion, and we're afraid that we're going to get left in
16 the residual, and meant to deal with this, the very end of
17 the process. We just realize that that isn't -- we have not
18 had cooperation with DCPS or anyone else on this issue. So
19 it does seem odd how it's being attached, but it is truly
20 relevant to what's going on.

21 VICE CHAIRPERSON HART: And just thank you. One
22 question. You're in support as long as the applicant follows
23 the conditions that the ANC --

24 MR. CAHILL: Yes.

25 VICE CHAIRPERSON HART: Okay. I just want to make

1 sure I understood that correctly, because you had the things
2 in, they were kind of negative. So I was just trying to make
3 sure I understood. You're just saying that there have been
4 some other issues that are existing ongoing issues that
5 you're concerned about and thinking that this may be the
6 opportunity to be able to address, or at least to try to fix
7 some of those?

8 MR. CAHILL: Yes.

9 VICE CHAIRPERSON HART: Okay, thank you. Any
10 questions for Mr. Cahill?

11 (No response.)

12 VICE CHAIRPERSON HART: Yes, Mister --

13 MS. MOLDENHAUER: I have no questions. I would
14 just for the record object to some of the issues that were
15 outside the scope of the BZA's area of germane facts. But
16 I will just make a general objection to that. That way, I
17 don't have to make an objection if there are any additional
18 comments regarding DDOT or construction. Thank you.

19 VICE CHAIRPERSON HART: Yeah, no. I understood
20 that. I am -- they are speaking the issues, the particular
21 issues that they have. This is -- that was Mr. Cahill's
22 opinion of this, and I took it as that. But I understand
23 what you're raising. Mr. Shawn Maher?

24 MR. MAHER: First name is Shawn, last name's
25 Maher.

1 VICE CHAIRPERSON HART: Oh, that's why -- I was
2 like wow, I don't quite get that. Okay. Mr. Maher, sorry
3 about that.

4 MR. MAHER: That's okay, Mr. Vice Chair. I've
5 been called a lot worse in my life. But thank you, thank you
6 to the other members of the Board for your time and your
7 service to our City. I just want to underscore a couple of
8 things. One is we are here as proponents of this project.
9 We are neighbors of John Eaton.

10 A number of the neighbors have sent their children
11 to John Eaton. Other neighbors support Eaton in multiple way
12 and have done so for many, many years. So we're here as
13 proponents, and we support the renovation of the school. We
14 view the school as kind of a jewel of the neighborhood,
15 something that should be cherished and improved, and this is
16 an incredible opportunity for our City to make this school
17 kind of a center for learning for the next century, as it's
18 been for the past century.

19 We do have some reservations, some conditions that
20 are reflected in the conditions that our ANC chair has
21 outlined and that are before you. We support those
22 conditions. We thank our ANC chair and all the members of
23 the ANC for their support of those conditions. We understand
24 that we're not appearing before DDOT this morning. We
25 respect your time and your need to move on to other matters.

1 But these are conditions that in the case of
2 parking and traffic are not only existing conditions, but
3 conditions that have grown more severe and will grow more
4 severe as this project moves forward. One of the things we
5 have not talked about, an important context in my view, is
6 that the make-up of the school has evolved over the years.

7 While there were some language in front of you
8 earlier this morning suggesting that the student population
9 is growing, the reality is it's growing not because
10 necessarily the number of children within the historic
11 boundary of the school is growing, but because the boundary
12 of the school is growing, there are more out of boundary
13 schools.

14 Therefore, there are more parents that are
15 required really to commute by car to get their kids to
16 school. We respect that, we understand that and we want to
17 accommodate that. One of the lucky things I think we have
18 in this situation is that we do have space. So in addition
19 to the study that DDOT has done, as inadequate as it was, the
20 neighbors, again in a spirit of constructive engagement did
21 our own study and we did find there is ample parking in the
22 neighborhood.

23 But we need political will on the part of our
24 leaders at DCPS, DGS and elsewhere to join with us, with our
25 ANC Commissioner and others to really say okay, let's solve

1 this problem in a way that works for the teachers, the other
2 employees of the school, as well as for parents and
3 neighbors.

4 VICE CHAIRPERSON HART: Thank you.

5 MR. MAHER: Thank you.

6 VICE CHAIRPERSON HART: Any questions for Mr.
7 Maher?

8 (No response.)

9 VICE CHAIRPERSON HART: I really had the -- I
10 don't know why I confused that, but I'm glad that you
11 corrected it. Thank you very much. Ms. Salley.

12 MS. SALLEY: Yes, thank you very much. I want to
13 thank all of you for your time and we, as everybody else her
14 at the dias is, we're all very much in support of the Eaton
15 project.

16 So I think we need to make that clear. But we are
17 really frustrated. We have been working for five years to
18 try to deal with the situation, and we live one block south
19 of the school, and because we live one block south, we have
20 a concentration of parking problems on our block.

21 We've seen since in the 30 years that I've lived
22 in our house, we've seen a lot of changes at Eaton. We love
23 living next to Eaton, but Eaton has grown over the 30 years
24 that we've been there. We didn't really have any problems
25 with the parking or the traffic until about the last five

1 years, and I think there are a number of reasons for that.

2 I think that the school has grown. I mean this
3 is all -- these are all good things, as long as we can
4 address the adverse impacts that may result from that. But
5 the school has grown.

6 There have been additional after school programs.
7 As Shawn said, the boundaries changed I think in 2014. It
8 expanded, so more families were coming in from farther away,
9 which added to the traffic and parking problems, particularly
10 on our block.

11 So as a result of these changes, there really no
12 longer is enough parking on our block, because everybody
13 wants to park on our block. So there's not enough room for
14 both the residents and also for all the teachers and
15 employees who want to park there.

16 So that's the problem in a nutshell, and basically
17 our block has turned into a parking lot for John Eaton
18 employees. The lack of -- there is no on site parking, and
19 contrary to what, with all due respect to OP and DDOT, there
20 is no curbside parking that's designated for teachers or for
21 staff members.

22 So it's like the wild west out there to try to
23 find a parking space, and they all come to our block. So
24 right now, the lack of the on site parking and the no parking
25 plan, which is what we've been advocating for for five years,

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1 we just want a plan. Because of those two things, there
2 right now are adverse impacts.

3 I totally understand the issue about trying to
4 relate that issue with this case. But as you may know, there
5 is no enrollment cap that's being proposed by Eaton. We're
6 not advocating that there should be, but because there's not,
7 there's nothing to say that the school couldn't grow by more
8 490 students. We already have an existing problem with
9 parking that really needs to be addressed.

10 I just have a couple of quick points. The main
11 problem right now is that very well intentioned parents in
12 Ward 3 are giving teachers visitor parking passes, and as a
13 result of that, even though our streets are zoned RPP, we've
14 got many, the majority of people who park on our block are
15 using visitor tags with Maryland and Virginia tags, and so
16 it's created really a dire situation for us.

17 So we're here. We fully support and would like
18 to thank Nancy MacWood for all of her efforts. She's been
19 by our side the whole time, and we really support the
20 conditions that the ANC has come up with, and we hope that
21 you will incorporate that into your order, because it's very
22 important for us. Right now we really are living with tough
23 conditions. There's been property damage to some of our
24 cars. There's trash that's on the street. People are
25 parking up on our bumpers. There's no room for everybody.

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1 We think there's an easy solution. I was part of
2 the group that went out in the morning and counted spaces.
3 There are lots of spaces. We call it the just spread out
4 plan. If teachers and employees would just not park in a
5 concentrated area, you know, one block away from the school,
6 we could have solved this problem in 15 minutes.

7 So again, thank you very much for your time, and
8 we hope that you can help us light a fire under DDOT and all
9 the players, so that we can work together to develop a
10 sensible parking plan that works both for the neighborhood
11 and for the teachers and employees. Thank you.

12 VICE CHAIRPERSON HART: Thank you. Mr. Green.

13 MR. GREEN: Yes, thank you and it's a pleasure to
14 be here this morning.

15 VICE CHAIRPERSON HART: And just a second. Any
16 questions for Ms. Salley?

17 (No response.)

18 VICE CHAIRPERSON HART: Mr. Green.

19 MR. GREEN: So thank you for your time. I have
20 been a neighbor. My family's been a neighbor with Eaton for
21 over 30 years. We support the school. We think this is a
22 -- the idea of updating it for the next century is a great
23 idea, and we've supported that. With that being said, the
24 issue of parking has been a long-standing problem, and it's
25 -- the fact that they're adding just eight students doesn't

1 minimize the problem that exists already.

2 So this is a pre-existing issue, and we ask your
3 support to help us address it. I do support -- I'm a
4 proponent of this, but I want to make clear it is conditioned
5 on the inclusion of Condition 1, or else we really haven't
6 solved I think one of the critical problems with the
7 expansion of the school.

8 One of my concerns is, as Andrea just pointed out,
9 is the fact that good intentioned parents are giving teachers
10 their parking, their visitor passes because they're trying
11 to help them find locations. My concern is that one of the
12 results of what might occur here with a parking plan is that
13 DDOT will designate the opposite side of my street, and again
14 I live half a block from the school on 33rd Place, will
15 designate that side of the street as teacher only parking
16 without --

17 So across from my house will be teacher-only
18 parking potentially, and I think that's one of -- that's
19 included in Condition 1 for something for DDOT to evaluate
20 and do. That would be fine. However, if the visitor parking
21 problem is not addressed, what that means is that we'll have
22 no place to park.

23 My family will have no place to park because we
24 will be prohibited from parking across the street because we
25 aren't teachers, but the teachers will not prohibited from

1 parking on our side of the street if they continue to use
2 visitor parking passes.

3 So we would only make a bad problem worse if
4 that's not addressed. So we would ask -- that's why we think
5 inclusion of this condition is so important, and that the
6 -- any parking plan respects the fact that the neighbors have
7 some place to park in front of their house. We don't have
8 off street parking. So again, if the opposite side of our
9 street is zoned teacher-only and the visitor parking issue
10 was still allowed on our side of the street, we'll just have
11 no place to park.

12 It's already a problem. That will just make it
13 much, much worse. Thank you and I appreciate -- I also want
14 to appreciate Chair MacWood. She has been -- and all of ANC
15 3. They've been very supportive. They've tried to bring the
16 parties together and we support their condition, and ask that
17 you include it in the order. Thank you.

18 VICE CHAIRPERSON HART: Thank you very much. Any
19 questions for Mr. Green? Mr. Salley.

20 MR. SALLEY: Thank you. So I won't repeat that
21 which you heard. I think my friends here have been very
22 eloquent on the things to think about. But my request to
23 each of you is to think about a very small change for the
24 zoning order to include the conditions that we've mentioned,
25 which we think are very minor.

1 The school process probably would have included
2 them more if they hadn't been spending so much time on what
3 turned out to be an excellent plan for renovation. We
4 support the plan. But we're asking from the back of the
5 room, screaming don't forget about us, because two-three
6 little conditions aren't going to make their lives any
7 harder. It's not going to slow the school down.

8 All it does is balance the interests of the school
9 with the neighbors, and the neighbors' voices have not been
10 heard.

11 VICE CHAIRPERSON HART: Thank you. Any questions
12 for Mr. Salley?

13 MEMBER WHITE: Just one question. I'm hearing a
14 similar mantra in terms of, you know, the seriousness of the
15 parking problem on your block, and I definitely can relate
16 to that. I live in the City, I deal with parking all the
17 time. But have you had any substantive conversations with
18 the school, you know, in terms of coming up with an
19 agreement?

20 It sounds like they are willing to address this.
21 But the one thing that I'll have to take a look at, just in
22 terms of what we can do, is do we have the authority to do
23 that from a regulatory perspective. So that's something that
24 we're going to have to take a look at. But there are some
25 limitations if it doesn't relate to the relief that's being

1 sought, and the zoning regs directly. So I'll let anyone
2 speak who wants to address that.

3 MR. SALLEY: So perhaps Andrea will want to talk
4 about that. But I know that the zoning order in the past,
5 in that case the National Cathedral School has a zoning --
6 had as part of the order a construction management plan, and
7 it sounds like that is something that should be non-
8 controversial.

9 As to the first part of your question, can't we
10 just get together and come up with a plan, what a great idea.
11 We've only been saying it for five years, and not making a
12 lot of progress. And so we're extremely frustrated and would
13 like this very minor bit of assistance. But Shawn can answer
14 this better than I can.

15 MR. MAHER: I would just say it. I think there
16 are people of good faith who want to find a solution, not
17 just in the neighborhood but among the parents, teachers and
18 other employees of the school. I think everybody realizes
19 there's a way forward here.

20 Our efforts to engage the leadership of the school
21 and the school district have been sincere and earnest for
22 about five years. We've really -- we haven't made progress.
23 I'm not going to speak for the school district or the
24 leadership of the school, but I will say there is good faith
25 and good will among teachers and school employees, neighbors

1 and parents to try to get to yes on something.

2 It could happen really quickly if there was sort
3 of the political will, and we believe that again, if you can
4 find your way forward here to approve these conditions, you
5 will be sending an important message that the Board thinks
6 these issues are significant and endorses the efforts to find
7 a solution.

8 MEMBER WHITE: Thank you.

9 MR. GREEN: I just want to add one other point.
10 Condition 1 is actually, it asks DDOT to work with the
11 neighbors to try to accomplish this goal. So we're going to
12 try to accomplish it. You wouldn't be ordering DDOT
13 specifically to ensure that it happens, but they have to try
14 to accomplish. So I think you -- it's actually rather, you
15 know, I would like to see the condition more not as porous.

16

17 But I think it would be within your prerogative
18 to include it, and I don't think it's something that would
19 be outside of your authority to say try to do this.

20 VICE CHAIRPERSON HART: Okay. Any other questions
21 for the folks? Thank you all very much. So I guess we go
22 back to Ms. Moldenhauer. Do you have any conclusion that
23 you'd like to make at this time?

24 MS. MOLDENHAUER: Yes. So I would just like to
25 state just for the record as part of our application that

1 under Section C704.2, since this is a historic building
2 that's contributing parking requirements would only be
3 required if we increased the GFA by more than 50 percent and
4 more than four parking spaces were required here.

5 We are increasing it by less than 50 percent and
6 there are currently zero parking spaces provided on the site,
7 and we are not proposing, nor do the zoning requirements
8 require any. In addition to that though we -- the property,
9 just to clarify Mr. McHill (sic) indicated this was a prior
10 decision. But rather as I think the Board is aware and the
11 record is aware, the zoning regulations have simply
12 grandfathered this prior structure that's obviously an older
13 structure in prior to 1958 when the zoning regulations came
14 into effect.

15 So that is obviously kind of how we arrive at
16 today's condition, where we have a school building with no
17 parking requirements or no parking on site. I will indicate
18 that we have worked extensively with the community, with the
19 neighbors and with the ANC, and just kind of just put them
20 up. We do consent to the wording of the ANC's conditions,
21 and we did indicate in Exhibit 36 of the record that we
22 consent to those conditions on behalf of the applicant.

23 The report obviously we objected on the record in
24 regard to some of the points that are beyond the scope. The
25 OP report does reference the parking study, but the applicant

1 did not personally file that parking study into the record.
2 We do believe that, you know, these are existing conditions
3 that are not being exacerbated by the proposed relief.

4 But in a good faith effort to work with the
5 community, these are conditions that we believe the Board,
6 you know, if they deem them appropriate could add on. They
7 are obligations on the applicant themselves, not on DDOT but
8 rather the applicant shall work with DDOT. So you're not
9 actually obligating another agency to conduct any potential
10 obligations.

11 You're simply asking that the applicant
12 communicate with them, that we would obviously have to prove
13 that to the Zoning Administrator prior to a certificate of
14 occupancy being issued, and saying in regard to the applicant
15 would be able to obtain a permit, but that we would work with
16 the ANC to negotiate a construction management agreement, and
17 that would obviously need to be shown or proven to the Zoning
18 Administrator prior to the C of O being issued, but that we
19 would be obligated to do that here before construction
20 started.

21 And then obviously we are consenting to the third,
22 which is allowing the playground to be open to the public
23 during non-school hours, and we believe that with or without
24 these conditions that we satisfy the standard. But we are
25 obviously, as representing DGS and DCPS, wanting to work with

1 the community and have these -- and are willing to have these
2 conditions if the Board finds them to be appropriate.

3 But in regard to the special exception standards,
4 we believe that the standards have been met as to all three
5 areas of relief that have been requested, and we would ask
6 the Board to deliberate and take what we've identified under
7 consideration. Thank you.

8 VICE CHAIRPERSON HART: Are there any questions
9 for Ms. Moldenhauer?

10 MEMBER JOHN: Yeah. So as to the first condition,
11 you would reword that as prior to the issuance of a
12 certificate of occupancy so that there's some limit to it?
13 Is that what you're -- I thought that's what I heard you say?

14 MS. MOLDENHAUER: No. I was just indicating that
15 typically any condition that on a BZA order is issued and is
16 typically not required under the C of O has been issued. So
17 that would be the final date in which the Zoning
18 Administrator would kind of review and make sure that that's
19 been addressed. It's gives also the community time to
20 continue to work on these issues if necessary.

21 MEMBER JOHN: Right.

22 MS. MOLDENHAUER: Hopefully they get resolved
23 before that --

24 (Simultaneous speaking.)

25 MEMBER JOHN: That's what I wanted to

1 characterize. So as to the third element, the third
2 condition, you said during non-school hours. This says "when
3 not in use by the school," and I'm wondering why the school
4 would agree to that agreement because of security concerns?
5 If the students are in school, any member of the public could
6 come in and use the facilities on the roof or wherever. So
7 I'm not sure why the school would agree to that?

8 MS. MOLDENHAUER: So we, we are -- and I may have
9 provided some verbatim, but we are agreeing to the condition
10 as written, not as verbally modified in any way, and it would
11 be not when in use. But I can --

12 MS. SWIATOCHA: Yeah, you are correct. We
13 actually have a formal policy. It's on our policy page at
14 DCPS, that all public playgrounds are opened during non-
15 school hours, correct. So either morning, evening, weekends.
16 But correct, during the day, even if for instance there's not
17 recess going on, we wouldn't want it just open. That's
18 correct.

19 MEMBER JOHN: So you would amend Condition 3?

20 MS. SWIATOCHA: Yes. I mean I think what we're
21 saying --

22 (Simultaneous speaking.)

23 MS. SWIATOCHA: --we're inclined to include it,
24 yeah.

25 MEMBER JOHN: Okay, thank you.

1 VICE CHAIRPERSON HART: Any other questions from
2 the Board? Okay. So I will just ask the Board where they --
3 kind of what we would like to do at this point. We have
4 heard the -- if there was anything else that we would be
5 requiring from -- actually, I do have one question.

6 Regarding the HPRB kind of discussion, and I know
7 that it was in here; I just don't remember where it was, when
8 do you all expect to go back to HPRB and have that finalized?

9 MS. VON ZUMBUSCH: So we are expecting to present
10 next month to HPRB. We wouldn't expect final approval at
11 that point. That would be approval of concept, and then they
12 would either delegate the final design for HPO at that point
13 or we would go back in September for final.

14 We are anticipating that they would delegate it
15 to HPO. Because of our Mayor's Agent review process, the
16 final approval would be pending the Mayor's Agent approval,
17 which is likely early September.

18 VICE CHAIRPERSON HART: And you're -- thank you.
19 And you're looking at having -- are you going to be
20 presenting to them what you presented to us today, or is it
21 going to be slightly changed?

22 MS. VON ZUMBUSCH: It will be slightly changed to
23 address the fenestration issues.

24 VICE CHAIRPERSON HART: Okay. Yes, please.

25 MS. SWIATOCHA: I think for consistency, what we

1 presented to you today we wanted to make sure was the same
2 as what was presented to HPRB.

3 VICE CHAIRPERSON HART: No, no, I understood that.

4 MS. SWIATOCHA: Yeah.

5 VICE CHAIRPERSON HART: I was just trying to
6 understand what was kind of the process going forward.

7 MS. SWIATOCHA: So there will be a new, it will
8 be revisions to what you're currently seeing for the July
9 submission.

10 VICE CHAIRPERSON HART: Sure, and I mean I
11 understand this is an iterative process.

12 MS. SWIATOCHA: Correct.

13 VICE CHAIRPERSON HART: And you're trying to kind
14 of get these, you know, the drawings so that we're kind of
15 looking at apples to apples, so that we're not saying well,
16 they looked at this and we looked at something else. I
17 understand that. I just wanted to understand where you were
18 in the process, and I appreciate that response.

19 So I know I haven't closed the record yet, because
20 I wanted to find out if we needed anything else from the
21 applicant. Okay. So I will close the record, because it
22 looks like -- yes.

23 MS. MOLDENHAUER: Yeah. I just want to add just
24 on Point 3 in regards to the change, I think that I just kind
25 of (inaudible) to the ANC. In the ANC that was the intent.

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1 If you do change it, that was their intent. I don't know if
2 you wanted to call the ANC up to kind of confirm it.

3 VICE CHAIRPERSON HART: Yes, we'll have to.

4 MS. MOLDENHAUER: Okay.

5 VICE CHAIRPERSON HART: I just want to make sure
6 that -- the changes that in this particular recommendation,
7 the condition is that the playground shall be open to the
8 public during the day when not in use by the school, and what
9 the DCPS rep just said was that their policy is to not open
10 them during the day but -- during the day, during the school
11 day, but it would be open outside of the school hours.

12 So it's just trying to understand if that's okay
13 with the ANC and Chairman MacWood is back with us.

14 COMMISSIONER MACWOOD: That was certainly the
15 intent of the wording of that condition.

16 VICE CHAIRPERSON HART: To be able to have it open
17 when the school was not --

18 COMMISSIONER MACWOOD: When school was not in
19 session.

20 VICE CHAIRPERSON HART: Okay, and I appreciate
21 that. I just wanted to get that clarification. So with
22 that, I will close the record. Is the Board ready to
23 deliberate, and I'm not really sure where I am so -- I know
24 where I am with the project. I'm trying to figure out where
25 I am with the conditions. So please.

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1 MEMBER WHITE: Yeah. I think I am comfortable
2 with the concept of the project, and the fact that it needs
3 to go before HPRB, and that there will probably be some
4 changes that don't enhance the relief that is sought. I
5 think OP's phrase was, you know, some skin changes in terms
6 of the project. But I am stuck on the conditions.
7 Obviously, I don't want to include something that's -- that
8 would not be okay with OAG.

9 But I can understand the concerns. It sounds like
10 that there's a common agreement between the applicant and the
11 ANC. The question is how do you or if we incorporate it into
12 the wording of the order. I'm having some hesitancy with
13 that, only because I just want to make sure I'm not including
14 something that's outside our purview as the Zoning Adjustment
15 Board. So that's kind of where I am right now.

16 VICE CHAIRPERSON HART: Understood, understood.

17 MEMBER JOHN: So Mr. Chairman, I thought that the
18 applicant did a very good job of explaining how the applicant
19 meets the conditions for relief, so I won't go through all
20 of that again. I also defer to OP's recommendations.

21 I am stuck on the conditions, because typically
22 the Board does not impose conditions that are not related to
23 the request, to the relief requested. We've spent more time
24 this morning talking about parking relief and there's no
25 request for parking. While I deeply appreciate the concerns

1 of the residents, if I lived on that block I would probably
2 be sitting in front of the Board asking for some of the very
3 same things.

4 The issue for me is that I always try to think of
5 the next applicant who comes in and asks the Board to
6 exercise its discretion in a way that's not supported by the
7 regulation, and that is my issue with Condition No. 1. As
8 to Condition 2, we typically do not include construction
9 agreements in the order because they're difficult to enforce
10 and it's outside of our jurisdiction. I know we get these
11 requests often, and I typically are very reluctant to include
12 them.

13 As to Condition No. 3, the school already has a
14 policy that opens the facilities when the school is not in
15 session, and so I don't see any reason to include No. 3.
16 Having said that, I think that the ANC and the applicant can
17 work to negotiate the memorandum of agreement that it says
18 outside of this zoning order, and impose such, you know, such
19 conditions for resolving any disputes along the way in that
20 agreement.

21 But I am -- I am really not in favor of imposing
22 conditions that are not related to the zoning relief
23 requested. It just muddies the waters as far as I can see.
24 Thank you.

25 VICE CHAIRPERSON HART: Thank you very much.

1 Commissioner Miller.

2 ZC VICE CHAIRPERSON MILLER: Thank you Vice Chair
3 Hart. A full disclosure. I live also -- I've lived in the
4 neighborhood for 30 years as my neighbors here have testified
5 today, and my children went to John Eaton, although it was
6 the end of the last century. I'm happy to see that this
7 century will get a modernization for the school, which is
8 much beloved in the community although it performed perfectly
9 well in the last century as well, even with its shortcomings
10 physically.

11 It is a jewel in the neighborhood, and I think
12 it's one of the last schools to get a modernization in Ward
13 3. There's a lot more that need to be there in the plan I
14 think correct, for DCPS. So I don't think my close
15 affiliation with the school, past close affiliation with the
16 school and close proximity to the school, I can see the
17 rooftop from my home, although with the leaves now it's a
18 little bit -- but with the elevation, I still can see the
19 roof.

20 Anyway, with my close proximity and closeness with
21 the school I don't think I -- it affects in any way my
22 objectivity to consider this case. I don't bring it out for
23 that reason, but just that I would -- I understand some of
24 my -- first of all, I think that the school clearly has met
25 the special exception criteria for the relief that's being

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1 requested, and as has been noted, the Zoning Commission this
2 week took emergency action, although I don't think it will
3 affect this case, that would eliminate the need for two of
4 the areas of relief being requested, the rooftop mechanical
5 penthouse and the -- what's the second one? The yard, the
6 FAR. The FAR, right, which is just a minor adjustment in the
7 school regulations in low density residential districts.

8 But the retaining wall I guess still would need
9 the relief being requested, and it's -- so on -- so I think
10 the applicant has met the conditions necessary for the relief
11 that's being requested. I don't think that the -- I think
12 the design flexibility conditions related to the HPRB and HPO
13 as the Mayor's Agent historic preservation review.

14 As the conditions that the applicant has put
15 forward saying to make any adjustments, it specifically says
16 as long as it doesn't affect the relief that's being
17 requested or trigger any new relief. So I don't think that
18 there really is any issue there with the design flexibility,
19 because if it would reflect the relief that's being requested
20 or trigger new relief, that would have to come back before
21 the Board pursuant to the way the condition is written. So
22 I don't think there's any issue with the design flexibility
23 conditions that the applicant has requested.

24 On the ANC's recommended conditions that the
25 applicant has no objection to, I agree with the Board, the

1 comments that some have made, or some of my Board members
2 have made, colleagues made that they're not related directly
3 to the zoning relief that's being requested in this case.
4 They are important conditions to the neighborhood and the
5 applicant is willing to --

6 And they present difficulties as we've seen in
7 past zoning cases, when we included these types of
8 conditions. They create difficulties of enforcement for the
9 Zoning Administrator. Construction management is not
10 something the Zoning Administrator enforces. They're
11 sometimes referenced in a zoning order, which is basically
12 all that's being asked for here.

13 I'm almost inclined to say fine, because the
14 applicant doesn't have any objection. But they're not really
15 enforceable by the Zoning Administrator or they're already
16 going to be done. I would be inclined to support what Board
17 Member John suggested, which is that the applicant -- since
18 the applicant doesn't object and this ANC is very
19 sophisticated in negotiating, my ANC, my SMD representative
20 and chair is knowledgeable about how to negotiate separate
21 agreements with applicants.

22 They should negotiate a separate agreement with
23 the applicant and sign it, make it enforceable with whatever
24 means that they want to. That's outside of this zoning
25 order, which really doesn't relate to these conditions in

1 terms of the relief that's being requested. So I would
2 encourage that separate agreement being negotiated between
3 the applicant and the ANC. So I'm ready to move forward, Mr.
4 Chairman.

5 VICE CHAIRPERSON HART: Okay, okay.

6 ZC VICE CHAIRPERSON MILLER: And I appreciate
7 everyone's work on this case.

8 VICE CHAIRPERSON HART: Thank you very much
9 everyone for your thoughts on this. As I noted earlier, I'm
10 also in support of the application in terms of them meeting
11 the criteria. I thought that that was fairly
12 straightforward. Regarding the condition discussion, I do
13 appreciate your thoughts on this, and I think I said that a
14 little earlier in my comments as well.

15 I think that while I understand the need and the
16 desire for the conditions that the ANC brought forward, I
17 just have a hard time trying to get to how did they -- how
18 do they relate to the specific criteria that's in the zoning
19 regs. That's the biggest aspect of this that made it harder
20 for me to be able to say oh yeah I understand it and that
21 makes sense to me, and I see how they connect in, and I --
22 so I don't think I would be in support of the conditions for
23 the reasons that my colleagues have raised already.

24 With regard to the minor, the applicant making
25 moderate changes to the project, listening to the architect,

1 it sounds like the fenestration on the front façade, the
2 material of the front façade, fenestration is basically the
3 windows of the building and the materials of the front façade
4 seem like they're the things that are changing.

5 I think that we need to at least acknowledge that
6 that's what is being kind of described. So something to the
7 effect of the applicant may make minor changes to the
8 location and size of fenestration, and material of the front
9 façade on the new addition. So not the side of the existing
10 buildings, but just that new addition along Lowell Street,
11 in order to comply with the design recommendations approved
12 by HPRB and -- well, I guess the HPRB.

13 So I think that I would focus a little bit more
14 on that. I don't know how my Board members feel about that.
15 With regard to the retaining wall mechanical penthouse
16 screening, and I guess landscape plans which are the other
17 three things, I think that those things can be incorporated
18 into that one recommendation.

19 I know that the applicant has kind of broken them
20 down into different conditions, and I don't know exactly what
21 that would read like. So maybe something like the applicant
22 may make minor changes in the retaining wall penthouse
23 mechanical screening and landscape plans, as well as the
24 location and size of fenestration and the material of the
25 front façade of the new addition along Lowell Street, in

1 order to --

2 That would not require more additional relief,
3 zoning relief, and that would comply with the design
4 recommendations approved by HPRB. I don't know if that makes
5 -- if that's okay with you. I'm just trying to collapse them
6 into one, one thought. I don't know if OAG has any thoughts
7 on that as well, and I'll give OAG a minute to think about
8 that, because I just put her on the spot.

9 MEMBER JOHN: Mr. Vice Chair, while OAG is taking
10 a look at it, I thought the way you reworded the condition
11 might work for me at any rate, because I typically don't like
12 to approve these flexibility requests. I usually start from
13 no and work my way out from there. But I think in this case,
14 it looks as if the relief is not really significant, and that
15 if there is any change that would require more zoning relief,
16 then the applicant would, you know, need to come back to the
17 Board.

18 Typically we have like, you know, an initial
19 concept approval before us. But in this case, we don't even
20 have that. So I was initially reluctant to vote yes on the
21 flexibility. But I think the way you've reworded it, I can
22 support that.

23 (Pause.)

24 VICE CHAIRPERSON HART: Okay, I'm sorry and I
25 don't know if I need to repeat it for Ms. Cain. Repeat it?

1 Okay. So I'll read it again. "That the applicant may make
2 minor changes to the retaining wall, penthouse mechanical
3 screening, landscape plans and the location and size of
4 fenestration, as well as the material of the front façade of
5 the new addition along Lowell Street that is in compliance --
6 that does not require additional zoning relief in order to
7 comply with the design recommendations approved by HPRB.

8 And I mean I guess HPRB and HPO, but HPRB is the
9 one that's going to be -- that's actually approving it. HPO
10 is kind of like SAS.

11 MS. CAIN: I think that basically what you stated
12 will work with some minor little tweaks. The only major one
13 I would say is at the end to say "as required and as approved
14 by HPRB."

15 VICE CHAIRPERSON HART: As required --

16 MS. CAIN: Which I believe is what the applicant
17 proposed as well.

18 VICE CHAIRPERSON HART: Can you put -- Ms.
19 Moldenhauer, can you put your language on the screen as well?
20 I'm sorry.

21 (Pause.)

22 VICE CHAIRPERSON HART: "As required and approved
23 by" you're saying?

24 MS. CAIN: Yes.

25 VICE CHAIRPERSON HART: Okay. Yeah, I'm okay with

1 that, and the applicant is sitting there talking to each
2 other so okay. So if you'd like, we're actually in
3 deliberations. I don't want to like stop that, because I'd
4 have to reopen the record and I don't want to do that. So
5 I think -- yes.

6 (Pause.)

7 VICE CHAIRPERSON HART: So does the Board -- is
8 the Board okay with the condition that I read?

9 ZC VICE CHAIRPERSON MILLER: I'm okay with it, and
10 I think we can also leave it to the applicant and OAG to
11 tweak it to make it consistent with what you said.

12 (Simultaneous speaking.)

13 MS. CAIN: Yeah. I think what you stated will
14 work, with minor tweaks.

15 VICE CHAIRPERSON HART: Okay, all right. So I'm
16 going to make a motion to approve the Application number --
17 what are we on now -- 20047, sorry 20047 of D.C. Department
18 of General Services, as read and captioned by the Secretary,
19 with the condition that I have now just read twice. Do I
20 have a second?

21 MEMBER WHITE: I have a question.

22 VICE CHAIRPERSON HART: Okay, go ahead.

23 MEMBER WHITE: Just a quick question. I don't
24 know if it's appropriate to do it here, but I wanted to see
25 whether or not it was appropriate to at least note that the

1 parties have agreed to work together with respect to parking
2 issues and the other condition that was of concern with the
3 residents.

4 VICE CHAIRPERSON HART: And I think that the order
5 can include or I think that the order should include that
6 information regarding that the applicant has provided some --
7 has indicated that they are willing to work with the ANC on
8 that.

9 MS. CAIN: Yeah. I believe we can include
10 language in the order, basically to the effect that the
11 applicant and the community will be reaching a private
12 agreement. That's sort of why the Board is not adopting the
13 conditions that were proposed by the ANC.

14 VICE CHAIRPERSON HART: Okay. So I made the
15 motion. Is there a second?

16 MEMBER WHITE: Second.

17 VICE CHAIRPERSON HART: Yes. The motion has been
18 seconded. All those in favor say aye?

19 (Chorus of ayes.)

20 VICE CHAIRPERSON HART: Any opposed?

21 (No response.)

22 VICE CHAIRPERSON HART: The motion carries, Mr.
23 Moy.

24 MR. MOY: Staff would record the vote as 4 to 0
25 to 1. This motion was made by the Vice Chair, Vice Chair

1 Hart, with the conditions as he has stated in his motion and
2 I believe seconding the motion was Ms. White. Also in
3 support Ms. John and Commissioner Rob Miller. No other Board
4 members present. The motion carries, sir.

5 VICE CHAIRPERSON HART: Thank you, and just one
6 closing thought. I appreciate everybody coming in today and
7 give your thoughts. It was -- I know it took us a little
8 while to kind of get through all of this, and it may not have
9 ended the way in which you have wanted. But I think that
10 there is at least a continued desire to be able to kind of
11 work through some of these.

12 They are hearing this and they are at least
13 acknowledging that they need to make some changes, or at
14 least the applicant does. On another closing thought, as
15 many of you may not know, I work for the National Capital
16 Planning Commission, and we review projects from DGS. I'm
17 looking forward to reviewing this project or our agency is.
18 So I'm expecting to see that some time soon. That's it.
19 Thank you all very much.

20 We're going to take a ten, maybe 15 minute break.
21 We usually break before now. I just realized it's noon, and
22 we'll get through the cases. I don't know if we will
23 necessarily take lunch. I think that this actually may be --
24 maybe we'll move through some of these cases pretty quickly,
25 but we'll play it by ear. So we'll be back at about 12:15,

1 12:20. Thanks, bye.

2 (Whereupon, the above-entitled matter went off the
3 record at 12:06 p.m. and resumed at 12:26 p.m.)

4 VICE CHAIRPERSON HART: Okay, Mr. Moy. If we
5 could call the -- actually, we're going to go back to call
6 one of the case that we skipped a little earlier, and then
7 continue with the agenda.

8 Application No. 20008

9 MR. MOY: Yes sir. Thank you Vice Chair Hart.
10 The time is at or about 12:30 for the record. Back in
11 session. So that case would be Case Application No. 20008
12 of Brighter Chapter Investment, LLC. This application was
13 captioned and advertised for an area variance from the
14 minimum lot area requirements of Subtitle D, Section 302.1,
15 to construct three new attached principal dwelling units in
16 an R-3 zone at premises 3233 Ely Place, that's E-L-Y Place,
17 S.E., Square 5446, Lot 808. As the Board is aware, the
18 applicant had requested a postponement to a date in July.

19 For the record Mr. Chair, I did have staff reach
20 out to the applicant and apparently unexpectedly he had a
21 medical emergency.

22 VICE CHAIRPERSON HART: Okay. Well, I hope he'll
23 be okay. I think that this case is -- they've requested a
24 postponement to July. I think we're looking at the 24th.
25 I've looked over the request that they made in Exhibit 35,

1 and it seems as though they're looking for more conversation
2 with the Office of Planning, and I guess there are some other
3 issues to kind of deal with.

4 But I was okay to postponing it to -- or
5 rescheduling it to July 24th. I didn't know if my other
6 Board members had any other -- had any comments on that.
7 Okay. So I think we will grant the postponement to July
8 24th, and we'll hear the case then.

9 MR. MOY: Thank you, sir. Done.

10 VICE CHAIRPERSON HART: Thank you. Okay. So we
11 can move now to the -- get back to the agenda, and I think
12 it's Case No. 20001.

13 Application No. 20001

14 MR. MOY: Okay. So I see parties are rushing to
15 the table. This would be Case Application No. 20001 of
16 Simone, S-I-M-O-N-E Management LLC as amended, for a special
17 exception under the new residential development requirements,
18 Subtitle U, Section 421.1 and pursuant to Subtitle C, Section
19 703.2, special exception relief from the minimum parking
20 requirement, Subtitle C, Section 701.5.

21 This would construct seven new attached flats in
22 the RA-1 zone at premises 6003 through 6015 Eads Street,
23 that's E-A-D-S, N.E., Square 5261, Lots 50 through 56.

24 VICE CHAIRPERSON HART: Thank you, Mr. Moy. Good
25 afternoon. If we could -- if you could just provide your

1 name and address?

2 MR. CARBALLO: My name is Adam Carbello. I'm
3 representing Carballo Architecture, 1816 Aliceanna Street,
4 Baltimore, Maryland.

5 VICE CHAIRPERSON HART: Thank you. Yes sir.

6 MR. KUNLIPE: John Kunlipe with Simone Management,
7 Brandywine, Maryland.

8 VICE CHAIRPERSON HART: And if you could spell
9 your last name?

10 MR. KUNLIPE: K-U-N-L-I-P-E.

11 VICE CHAIRPERSON HART: Okay, next one. Mr.
12 Carballo, you're going to be presenting the project to us?

13 MR. CARBALLO: I will, yes.

14 VICE CHAIRPERSON HART: Okay. I don't think that
15 there were a lot of -- I didn't have a lot of questions on
16 this. Just if you could, speak to how you are meeting the
17 criteria for your -- for the relief that you're requesting.
18 I noted that the -- that it looks like that DDOT had -- oh,
19 they've had a condition in there, a report about regarding
20 their support of the project. Is there an ANC report?

21 MEMBER WHITE: Yes.

22 VICE CHAIRPERSON HART: Yes.

23 (Off mic comment.)

24 VICE CHAIRPERSON HART: Okay, give me a sec.

25 (Pause.)

1 VICE CHAIRPERSON HART: Okay. If you could just
2 talk about the ANC, the kind of discussions that you had with
3 them? Is the ANC here?

4 (No response.)

5 VICE CHAIRPERSON HART: Okay.

6 MR. CARBALLO: I've met with the ANC on three
7 separate occasions, twice for their executive meetings, once
8 for their full public meeting. They've had some concerns
9 about parking, which I believe are reflected in the DDOT
10 report. We've also had an independent parking study done.
11 The results of that study we received on June 11th, which I
12 distributed that to the ANC on June 11th.

13 I also presented it to them at their last meeting
14 held on the 13th. The results of the study indicate that at
15 the peak time, only 39 percent of available parking was being
16 utilized within a two block radius, and the parking study is
17 fairly straightforward. There's approximately 684 available
18 parking spaces at the peak time, within a two block radius
19 of the subject property. So there's more than adequate
20 parking.

21 Our property is unique in that it does, it is
22 bound by a -- you can see it on the site plan -- where Eads
23 Street, 61st Street, N.E., 60th Street, N.E. There is a
24 paper alley to the rear of the property that was never
25 developed by DDOT. So we unfortunately have no opportunity

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1 for off street parking. Parking is required. We require
2 seven off-street parking spaces.

3 In my discussions with DDOT, we are providing
4 bicycle spaces within the building limits as a compromise,
5 and that is a condition of their approval. If you look on
6 IZIS, they did actually provide their approval and support
7 of this project.

8 MR. MOY: Mr. Chairman, I'm sorry to interrupt.
9 I just want to be sure the Board is aware that Antawan
10 Holmes, the Chairman of ANC 7, did submit into the record an
11 email message at 7:59 this morning. So I want to be sure
12 that the Board is reading this message.

13 VICE CHAIRPERSON HART: Yes, I'm seeing it now,
14 and what Mr. Holmes is saying is that while they did -- they
15 do have a -- they had their meeting I guess on the 13th, the
16 general meeting on the 13th, he said that they had not
17 received the parking study in advance of that meeting. I
18 understand what your testimony is today or what you had
19 stated earlier, and that they are requesting that this be --
20 that our hearing on this be postponed. He doesn't give us
21 an actual date as to when that is. Do you know when that is,
22 Mr. Moy?

23 MR. MOY: No sir. My only knowledge of his
24 request was this morning.

25 VICE CHAIRPERSON HART: Okay, and are you aware

1 of that?

2 MR. CARBALLO: I did see that email this morning.
3 I sort of -- I disagree with his position. He received this
4 traffic study on the 11th. I also presented it at the
5 meeting in front of the public on the 13th. This is not a
6 complicated document. It's two and a half pages long. I
7 read the bullet points that have the introduction.

8 The actual conclusion itself is three sentences.
9 I don't think it takes a lot of analysis to understand what
10 their position is from the independent parking study.

11 VICE CHAIRPERSON HART: He also noted that he
12 wanted -- he wanted some information from DDOT as well on its
13 assessment of the parking study, and I don't know what that
14 -- where that is exactly.

15 MR. CARBALLO: Right.

16 VICE CHAIRPERSON HART: I'm not exactly sure when
17 that would be, when it would be coming so it's a little bit
18 difficult to try to figure that out.

19 MR. CARBALLO: Yeah. We did receive approval and
20 support from DDOT based on this independent study, and to
21 date in the three meetings I've had with the ANC, they have
22 not provided anything in the way of, you know, sort of
23 opposition to this project of any sort of substance. We've
24 gone back to them time and time again. We're not asking for
25 relief on anything beyond the parking, and unfortunately

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1 these sites are just not available for parking due to the
2 fact that there's a paper alley.

3 We are not seeking any relief for massing, for
4 use, for height. There really isn't anything that I can
5 present to them, aside from paving the paper alley ourselves.
6 But I don't think that we have the jurisdiction or authority
7 to even do that.

8 VICE CHAIRPERSON HART: No, I appreciate your
9 thoughts on it. Excuse me. Yeah. The question that I had
10 was really around -- and I understand that DDOT has looked
11 at the TDM plan and just is looking for you to incorporate
12 that into -- or to actually do that.

13 MR. CARBALLO: Right, and we have, I guess if
14 you'd up here on the screen, we have actually provided a
15 bicycle parking space in each building, in the lobby of the
16 building that could be utilized for that, you know, for that
17 specific building. So we have reacted to the suggestions of
18 that report, and incorporated that into the design. That
19 doesn't have any adverse effect on the community or outside.
20 It's an interior element that we've adjusted.

21 VICE CHAIRPERSON HART: Understood. Does the
22 Board have -- what do you think of the motion for the -- not
23 a motion, the request to postpone the case? Just any
24 comments that you have on that.

25 MEMBER JOHN: I would support the request, because

1 I think what the ANC Commissioner is saying is they didn't
2 have enough time to discuss it, and then in the DDOT report,
3 DDOT says "At this time, DDOT cannot weigh in on the request
4 for parking relief until the applicant conducts a parking
5 occupancy study, and provides a formalized TDM plan." So
6 were you able to get back to DDOT on that?

7 MR. CARBALLO: We were, and we provided that on
8 June 11th. They have since approved it and provided their
9 support. As far as the ANC, they received this parking study
10 on June 11th, 48 hours before their meeting. I also provided
11 them with hard copies on the 13th of their meeting. I
12 explained, I read the conclusion of the report, which again
13 is only three sentences. It's not a complicated report.

14 It was very straightforward, and it concluded that
15 of the available parking, or of the parking within a two
16 block area, 61 percent of the spaces within two blocks were
17 unoccupied at the peak time. That's not a hard concept to
18 grasp. I don't understand what more time --

19 VICE CHAIRPERSON HART: Well yeah, Mr. Carballo,
20 I understand your point. I guess the concern that I have is
21 that while it doesn't seem like your particular project may
22 not have the issues, you don't think that there are a lot of
23 issues with it, the ANCs they have to do a lot of other
24 projects. So them getting something two days in advance, I
25 think they were looking at something that was like almost two

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1 weeks in advance.

2 Since they didn't get that, anything less than
3 that would be insufficient for them regardless of how large
4 it is. So well excuse me, hold on a second. While the
5 particular issue that you're raising is that well, it's so
6 small that, you know, it's not a particular issue, they
7 should have been able to look at this, you're looking at it
8 from Simone Management, one project.

9 They're looking at it like okay, we got ten
10 projects that we're reviewing every week or every month, and
11 that can get a little bit difficult to try to wade through
12 all of the other projects. I don't know how many other
13 projects they had on their agenda. I'm not saying that.
14 What I'm saying is that your perspective on this is one
15 thing, in thinking that it's fairly simple, they should be
16 able to do this in a fairly short period of time.

17 What we've gotten is a request to hold this. My
18 problem is I don't know how long we are supposed to be
19 waiting, and right now it looks like the applicant, the ANC,
20 I guess they met and you've stated that you were at their
21 meeting on the 13th. So maybe they meet the second Thursday
22 in the month, in which case their next meeting would be the
23 second Thursday, which would be July 11th. Again, I don't
24 know if that's the actual date or not, but my inclination is
25 to make sure that they have an understanding of this, and

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1 that they have -- if they have particular issues, that they
2 are able to then provide that information.

3 Part of this is to see if there's any condition
4 that they are -- that they want to add, that we may not have
5 included. Right now, we don't have that. So it makes it
6 hard to be able to say kind of say yeah sure, this is not an
7 issue and let's just kind of go through this, without
8 actually having an ANC report.

9 I get it that they've had notice of this. I'm
10 just trying to make sure that we have heard any particular
11 concerns that they have, and I don't know if my Board
12 members, fellow Board members have any other comments or
13 thoughts on. I don't know. If you do, I'd like to hear it.

14 MEMBER WHITE: I mean I think the way you framed
15 it was appropriate. I mean I obviously want to try to move
16 forward, but you know, the ANC is an automatic party. It
17 sounds like we've got almost everything we need to try to
18 wrap things up, but there may be some things that we're
19 missing because the ANC hasn't weighed in formally.

20 So while I hate to delay things, if the majority
21 want to kind of give them an opportunity to submit a formal
22 response, that's fine.

23 MR. KUNLIPE: If I can add to that before you --

24 VICE CHAIRPERSON HART: Hold on a second. Mr.
25 Miller, Commissioner Miller, do you have any thoughts on

1 that?

2 ZC VICE CHAIRPERSON MILLER: My only thought was
3 that I also don't like to delay projects when we seem to have
4 a lot of the information. But it would be useful to have
5 ANCs weigh in the supplemental DDOT report that I think was
6 just filed yesterday, and fully on the earlier technical
7 analysis. However, I'm looking on the ANC's website just now
8 on my phone, and it doesn't look like they have a July and
9 August meeting.

10 If that's the case, I would not be in support of
11 putting this off for three months. So I think that if we
12 waited, if we could somehow be able to consider this at the
13 end of the July and let the ANC have a special meeting or do
14 whatever they need to do to look at what they -- and provide
15 us with, give them the opportunity to provide comments
16 through whatever means they have, so that we can conclude
17 this and have a meeting on this in July.

18 VICE CHAIRPERSON HART: Yeah. I mean the other
19 problem you have, the ANC is not here. So you can't have any
20 sort of understanding from them that they would be able to
21 have anything to us by that time frame. I agree --

22 ZC VICE CHAIRPERSON MILLER: It would be giving
23 them the opportunity for another -- if we did it at our last
24 July meeting.

25 VICE CHAIRPERSON HART: I mean we'd probably have

1 to do it -- I think our last July meeting is pretty tight
2 right now. I think we've got, we've got more than enough
3 cases on July 31st.

4 ZC VICE CHAIRPERSON MILLER: Or another month,
5 whatever it is.

6 VICE CHAIRPERSON HART: But I appreciate the
7 comments, and I also appreciate you giving me the information
8 about when their next meeting is, because that's also -- I
9 also would not want to wait for three months for this,
10 because that's not just fair to the applicant and throughout
11 this process. So anyhow, Mr. Kunlipe?

12 MR. KUNLIPE: Kunlipe, yes.

13 VICE CHAIRPERSON HART: Kunlipe, okay. You had
14 a comment that you'd like to make?

15 MR. KUNLIPE: Yeah. It was just going to say the
16 same thing that, you know, I don't know of any meetings
17 scheduled with the ANC for any time soon, and also the last
18 time we were here, you know, we got the same request for an
19 extension the day of, that morning. You know, the Board
20 granted the extension, to give the ANC time to consider this
21 case.

22 We've met with them three times. They looked at
23 everything and they liked the project. They didn't have
24 anything negative to say. So we want to work with the ANC,
25 but we don't know what they want. We don't want to keep

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1 going back to them. We'd like to get this ball rolling, and
2 while we're sitting here spinning wheels, you know, I have
3 a note on the project and I'm also getting beat by DCRA with
4 regards to people bulk trash at the property, and also having
5 fines for not cutting down the brush and stuff like that over
6 there.

7 So again, I don't see what the ANC really has, you
8 know, to say or what they weigh in as negative. There's
9 barely any impact on parking, you know, at the site for this
10 project.

11 VICE CHAIRPERSON HART: Okay.

12 MR. CARBALLO: If I could add one thing too. The
13 ANC has had this document for 15 days now. They've had an
14 opportunity to discuss this openly at their June 13th
15 meeting. They've also had an opportunity to show up today
16 and express their opinion. They have not taken either one
17 of those opportunities to voice any opposition or objection
18 to the report. They've also not provided any email, aside
19 from an hour and a half before this hearing.

20 Really, if you look at the content of that email,
21 there is nothing of substance that would object to this
22 project. They're just asking for another delay.

23 VICE CHAIRPERSON HART: I understand. I mean I
24 read through the email. Again, I appreciate the points that
25 you brought up and someone just raised their hand a second

1 ago. You can't speak -- you have to speak on a mic, so you
2 have to come forward. Are you with the ANC?

3 (Off mic comment.)

4 VICE CHAIRPERSON HART: You have to come up to the
5 mic. You can't speak. Just the reason that I'd like for you
6 to come forward -- the reason I'd like for you to come
7 forward is that one, you raised your hand and that you wanted
8 to represent something. Are you with the ANC?

9 MS. JACKSON: I'm not.

10 VICE CHAIRPERSON HART: You have to turn the mic
11 on.

12 MS. JACKSON: So I'm a resident in the
13 neighborhood, and I was present at the previous ANC meeting
14 that this project was presented at, and I know exactly the
15 reason why we're requesting a delay, and I can explain that.

16 VICE CHAIRPERSON HART: Oh okay. Unfortunately
17 because you're not representing the ANC, you can't speak for
18 the ANC.

19 (Off mic comment.)

20 VICE CHAIRPERSON HART: I fully understand that.
21 What I'm saying is that the ANC has party status, and so
22 they're able to actually sit at the table and provide either
23 questions or make a presentation themselves. The time for
24 you to be able to give your testimony will come later on in
25 this hearing, and we'll give you the -- I think it's three

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1 minutes to be able to give your comments and whatever you'd
2 like to at that time.

3 But that's it. You don't have an opportunity to
4 be able to ask questions of anybody or, you know, whatever.
5 It's just testimony to us.

6 MS. JACKSON: Understood, and that's why I don't
7 have questions. I did want to make a statement though, and
8 so I wanted to make sure that no decision was rendered until
9 I had that opportunity to speak.

10 VICE CHAIRPERSON HART: Well, the public can speak
11 in opposition or support of any of the applications that are
12 before us, and it's just that time hasn't come up yet and so
13 I haven't called everybody up for that. But I appreciate
14 your comments. I thought you had, you were from the ANC and
15 you were representing that. If so, then I would have asked
16 you to come up and to be able to sit at the table.

17 At this point I just would ask you to -- you can
18 go back to your seat, and we'll call you in a few minutes,
19 once we've kind of gotten to that point.

20 MS. JACKSON: That is perfectly okay by me.

21 VICE CHAIRPERSON HART: Thank you. So the
22 question is whether or not we postpone this for a few weeks.
23 My only concern is that I don't know whether or not the --
24 it doesn't seem as though the ANC will meet by then, and so
25 since we have actually already pushed this particular

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1 meeting, we've scheduled the hearing and then now moved it
2 to this particular date, that doing it again I'm not sure
3 what we will get out of that. So I'm inclined to be able to
4 hear it today, to deny I guess the motion for postponement
5 and hear it today. But I'd like to hear my fellow Board
6 members, where they are on that.

7 MEMBER WHITE: That's fine.

8 VICE CHAIRPERSON HART: Not everybody speak at
9 once.

10 MEMBER WHITE: Well I mean I'll just speak. I
11 mean that is fine to hear it today. The only other option
12 would be to give them a week to submit a statement in the
13 record and make a decision a week from now.

14 VICE CHAIRPERSON HART: Yeah, I mean I think that
15 may be something we end up doing, but okay. So we're going
16 to deny the motion for to continue the hearing. While we've
17 actually kind of started hearing it already, I think that
18 that's fine. I just wanted to make sure that we were -- we
19 had kind of dealt with that. Okay so --

20 (Off mic comment.)

21 VICE CHAIRPERSON HART: To deny the motion. All
22 in favor say aye?

23 (Chorus of ayes.)

24 VICE CHAIRPERSON HART: Any opposed to denying the
25 motion?

1 (No response.)

2 VICE CHAIRPERSON HART: Okay. So it looks like
3 we will deny the motion to continue the hearing. So Mr.
4 Carballo, I know that you were going to kind of step through
5 all of this. I didn't know -- we kind of stopped in the
6 middle of this. I didn't know if you wanted to continue, if
7 you were -- what it is that you wanted to present per se.

8 MR. CARBALLO: I just -- I guess I'm not, I don't
9 understand your question as far as presenting. You know,
10 we've presented our project. I can explain the scope of the
11 project if you'd like, what our relief request is if that is
12 appropriate.

13 VICE CHAIRPERSON HART: Sure, sure.

14 MR. CARBALLO: So the subject property is located
15 at, as I said, the 6000 block of Eads Street, N.E. We border
16 in between 60th Street and 61st Street. This is an existing
17 vacant lot that was subdivided into seven separate parcels.
18 Our scope for the redevelopment is to provide seven adjoining
19 two family flats, and as you can kind of see from our
20 property line, we're not asking for relief. It's in a RA-1
21 zoning district.

22 RA-1, any new construction, RA-1 requests relief
23 from BZA and so we're here primarily because it's a new
24 construction, but also too, there is a paper alley at the
25 rear of this property that does not afford us the opportunity

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1 for off street parking. So our relief request is for off
2 street parking.

3 We are required one parking space per building,
4 so a total of seven off street parking spaces. We are
5 unfortunately not able to provide that. So we were asking
6 relief of the parking. We did conduct, have an independent
7 parking study in that conducted, which the results of the
8 study basically indicated no adverse effect. We've also
9 received approval from DDOT and support from DDOT.

10 Specifically, there are no other requests for a
11 special exception or a variance as part of this construction.
12 We are also providing on bicycle space, one bicycle storage
13 space per building in the common lobby of each building, as
14 a reaction to the DDOT request. That has been incorporated
15 into our plans.

16 VICE CHAIRPERSON HART: Okay.

17 MR. CARBALLO: I think that's basically it.

18 VICE CHAIRPERSON HART: Thank you. Any questions?

19 MEMBER JOHN: Can you talk about how you meet the
20 new residential -- I'm sorry, the new residential development
21 standard in the regulations?

22 MR. CARBALLO: Well we are providing two IZ units
23 as part of this construction. There are effectively 14
24 units. IZ requires 10 percent be IZ. We're providing two
25 total units, you know, for this development. Each unit is

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1 four bedrooms, three and a half bathrooms.

2 MEMBER JOHN: Okay, thank you.

3 VICE CHAIRPERSON HART: Any other questions for
4 the applicant?

5 (No response.)

6 VICE CHAIRPERSON HART: Okay. The Office of
7 Planning.

8 MS. MYERS: Good afternoon. For the record,
9 Crystal Myers for the Office of Planning. The Office of
10 Planning recommends approval of this case, and stands on the
11 record of the staff report.

12 VICE CHAIRPERSON HART: Does the Board have any
13 questions for the Office of Planning?

14 MEMBER JOHN: Do you have any comment on the IZ
15 component?

16 MS. MYERS: We believe it complies, so we're okay
17 with it.

18 MEMBER JOHN: I didn't see the new report. Did
19 I miss it?

20 MS. MYERS: Well, it's not part of the special
21 exception review. It's a requirement they have to do when
22 they do 14 units. So it wasn't something we really
23 addressed. We talked about it over the phone to just remind
24 them of that, but that was as far as we had to go with it.

25 MEMBER JOHN: Okay.

1 MR. CARBALLO: We have responded in kind, and we
2 are providing two IZ units, as per the requirements.

3 VICE CHAIRPERSON HART: Okay. Any other questions
4 for the Office of Planning, and does the applicant have any
5 questions for the Office of Planning? No? Okay. I asked
6 if the ANC was here. Is there anyone wishing to speak in
7 support of the application? Is there anyone wishing to speak
8 in opposition to the application? Please come forward. You
9 give them to -- yes.

10 MR. MOY: Mr. Chair, I'm not sure whether or not
11 she's taken the oath or not. You did?

12 VICE CHAIRPERSON HART: Actually, if anybody is
13 in the audience that needs to take the oath as well, not just
14 for this case but any projects that are coming up, please
15 stand and Mr. Moy, can you administer the oath?

16 [WITNESSES SWORN.]

17 MR. MOY: Thank you, you may be seated.

18 VICE CHAIRPERSON HART: Thank you. If you could
19 state your name and address.

20 MS. JACKSON: Sure. My name is Talayah Jackson.
21 My address is 5715 Clay Street, N.E.

22 VICE CHAIRPERSON HART: And you will have three
23 minutes to provide your testimony on the case.

24 MS. JACKSON: Sure.

25 VICE CHAIRPERSON HART: You can begin at any

1 point.

2 MS. JACKSON: Okay.

3 VICE CHAIRPERSON HART: Thank you.

4 MS. JACKSON: Thank you for the opportunity. So
5 at this present time, I am opposed to the application. While
6 we do not have any ANC meetings planned for July or August,
7 at our last ANC meeting this project was presented in a
8 rather hastily manner, and it was among several projects that
9 we had on the agenda.

10 So I was a resident was not given enough time to
11 process the information. I requested of the ANC Commissioner
12 and the ANC Council as a whole to sit in and have an
13 executive committee special meeting to discuss this project
14 and to review the documents, to see the transportation study
15 and to see what those details were. I agree that we were not
16 given the opportunity to see if there was anything that we
17 would like added to this project at all.

18 So I'm not necessarily opposed to it in whole, but
19 I would like additional time and I offered to work with the
20 gentleman, the project coordinator, the ANC Commissioner to
21 pull together a group of residents to discuss this project
22 specifically as soon as after the ANC meeting as we needed
23 to.

24 VICE CHAIRPERSON HART: And thank you, Ms.
25 Jackson. Have you had a chance to look at the parking study

1 or any of the transportation information that was submitted?
2 I mean the information was submitted to us, you know, on the
3 record or in a record.

4 MS. JACKSON: Yeah. So all I have been able to
5 see was I saw the renderings at the ANC meeting. I did go
6 online to pull the case numbers, and I did get in contact
7 with my ANC Commissioner to talk specifically about this
8 project and when we could discuss it. So I have not had a
9 chance to review the parking study.

10 VICE CHAIRPERSON HART: Are you -- are your
11 questions regarding the parking, what are your questions?

12 MS. JACKSON: So I'm concerned about the number
13 of units, and that there may not be enough spaces allocated
14 to the units themselves. I appreciate the inclusion of
15 bicycle parking, but we are a couple of things in this
16 community. We are a walking community, we are a driving
17 community, we are a bicycle community. So I do have concerns
18 that there may not be enough space for the units and we'll
19 have, which we do now, a proliferation of cars parking on the
20 space, which means often side swipes, rear ends, accidents.

21 We have a lot of people who walk. I walk myself
22 every single day in the neighborhood, and I'm just concerned
23 that there's just enough allocation for that. There may be,
24 I don't know. But just at glance, and like I said, we
25 processed this in a matter of like five minutes at our ANC

1 meeting, that I don't really feel like I have enough
2 information.

3 But given a chance to talk through it and to see
4 and to review, I feel like this is something that wouldn't
5 have to be held up for months and months and months, and that
6 we could come to a decision on it. Like I said, I would
7 appreciate the opportunity to include other things if needed.
8 That's my position.

9 VICE CHAIRPERSON HART: And you're aware that they
10 are -- the relief that they're requesting is with regard to
11 just the parking?

12 MS. JACKSON: I understand.

13 VICE CHAIRPERSON HART: I mean part of the issue
14 that you've raised is about the amount of development on the
15 site?

16 MS. JACKSON: Uh-huh.

17 VICE CHAIRPERSON HART: That is not something that
18 -- they are within the regulation to be able to request that.
19 In that the dimensions of that are kind of, I guess, fall
20 within what is allowed under zoning. The issue that they're
21 trying to deal with is that because there's no way to park
22 on it, there's no curb cut to be able to do that, there's no
23 alley to be able to park off of, that that's what they're
24 requesting as part of that.

25 So the issue that you'd be kind of focusing on is

1 the impact of parking in their, on I guess the streets around
2 the area. You're fully aware of all of that?

3 MS. JACKSON: Yeah, yeah. But that even too, all
4 of this information we got in five minutes essentially at a
5 meeting. Like there was no -- I mean this is an all new.
6 So this isn't a resident speaking. All new information in five
7 minutes, and this is a fairly large project. So we weren't
8 given any background, any context. It's just sort of like
9 here we are. That's not enough time to provide any
10 meaningful input, and he commented that he hadn't received
11 any meaningful input, because we haven't had time to process
12 anything.

13 VICE CHAIRPERSON HART: No, and I understood that.
14 I was just making sure that you were understanding where the
15 project was in its process, and what it was that they were
16 seeking relief from was about the parking issue. I
17 understand that you may have some other concerns about that,
18 but I appreciate --

19 MS. JACKSON: So yeah, I understand that they're
20 within the however many units they can build. I understand
21 that. So if that's constraint, that's constraint. But there
22 was a concern of ours, but if it's a moot point at this point
23 and there's nothing to be done, fine. But we weren't allowed
24 any time or opportunity to have input into anything else.

25 VICE CHAIRPERSON HART: Okay. Are there any

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1 questions for Ms. Jackson?

2 MEMBER WHITE: The only question, how close are
3 you to this project?

4 MS. JACKSON: I'm about two or three blocks away.

5 MEMBER WHITE: Okay. So you probably didn't get
6 notice. I don't know if you were within the 200 feet of the
7 property.

8 MS. JACKSON: No, I didn't. No, I'm not that
9 close.

10 MEMBER WHITE: But normally -- but they're
11 required to give everybody that's within 200 feet written
12 notice of it. So that's probably why you weren't immediately
13 aware of all the details of the project. But the only other
14 way to find out is through, obviously through the ANC. Okay,
15 thank you.

16 MS. JACKSON: Thank you.

17 VICE CHAIRPERSON HART: Thank you. Thank you very
18 much. Actually, do you have a question?

19 MR. CARBALLO: No.

20 VICE CHAIRPERSON HART: Okay. Thank you very
21 much. I appreciate it, okay. So are there any other
22 questions for the applicant?

23 MEMBER JOHN: Just one quick question in terms of
24 the applicant's outreach to the neighborhood beyond the ANC.
25 Did you talk to any neighbors close to the project, or did

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1 you just go to the ANC meeting?

2 MR. CARBALLO: Well, we attended the three ANC
3 meetings. We also notified every resident within a 200 block
4 (sic) area. But I did not knock on any doors or, you know,
5 sort of talk to anybody beyond those requirements of
6 attending those meetings. But I attended every meeting that
7 they requested that I attend.

8 MR. KUNLIPE: Just to add to that ma'am, I do
9 quite a bit around there, so I know some of the neighbors and
10 did talk to them. There were no objections as far as I know
11 to this project, and we're also surrounded by MU-4s, which
12 is primarily apartment buildings over there. So most of the
13 owners are, you know, apartment owners that want that kind
14 of development.

15 These are townhouses. These are two unit homes
16 that's needed in that area. So it wasn't any objections to
17 it as far as I know or heard of.

18 VICE CHAIRPERSON HART: Thank you. So do you have
19 any final comments that you'd like to make?

20 MR. CARBALLO: I don't believe so, but obviously
21 we've provided the off street or the biking, the bike parking
22 spaces. I'd also mention these are fairly generous-sized
23 units, each four bedrooms. Certainly additional bicycle
24 parking could be provided within the units, but I'm able to
25 provide one in the common area of each building.

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1 But certainly like if I just look here, I mean
2 there are -- we have, you know, a nice bay window that a bike
3 could be in. We have an area, sort of other spaces within
4 this that could be used for bikes, bicycle parking by the
5 resident. So I wouldn't say that if additional bicycle
6 parking was needed, it could certainly be accommodated for
7 within each unit, if that was a concern.

8 VICE CHAIRPERSON HART: Okay. Sure. It looks to
9 me we have a couple of questions.

10 ZC VICE CHAIRPERSON MILLER: I'm sorry I'm late
11 in asking these questions, but thank you Vice Chair Hart.
12 You may have addressed it, I might have missed it. You
13 addressed the bicycle parking. The DDOT report also
14 recommended three other transportation demand management plan
15 measures. Did you address those, the welcome packets to all
16 new residents, that should have included a Metrorail guide,
17 brochures of local bus lines?

18 I'm reading from the page four of the DDOT report
19 dated June 25th, the supplemental report dated June 25th.
20 So there was the welcome packet, the detailed car pooling
21 information, and then the third one was in addition to the
22 bicycle parking was the free SmarTrip card to every new
23 resident in a rental unit, and a complimentary Capital
24 Bikeshare coupon good for one ride. Did you address those?

25 MR. CARBALLO: I don't think there's any

1 objections to that. I think we'll address and those are all
2 accommodations that our ownership can make.

3 ZC VICE CHAIRPERSON MILLER: Okay, okay. I
4 appreciate that being on the record. And these are rental
5 units or are they for home ownership? Has that been
6 determined yet?

7 MR. KUNLIPE: It hasn't been determined.

8 ZC VICE CHAIRPERSON MILLER: Okay. DDOT was
9 referring to rentals, so I just didn't know if they had
10 information that we don't have.

11 MR. KUNLIPE: I'm not sure where to get that from.

12 ZC VICE CHAIRPERSON MILLER: Okay. You are aware,
13 and I appreciate that they are large units, family-sized
14 units. You've had discussions, some formal discussions
15 apparently with Office of Planning about the inclusionary
16 zoning that's required for ten or more units, and it's 14
17 units. You said that you're providing two?

18 MR. KUNLIPE: Yes.

19 ZC VICE CHAIRPERSON MILLER: Just so you're aware,
20 that there are different income levels if it's rental versus
21 home ownership. I think it's 80 percent MFI if it's home
22 ownership, then 60 percent AMI if it's rental, just so that
23 you're aware of those requirements, which I'm sure the Zoning
24 Administrator, when you go for your C of O, will make you
25 aware of as well.

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1 MR. KUNLIPE: Yes sir. We've done a few of them.

2 ZC VICE CHAIRPERSON MILLER: Okay. Thank you very
3 much.

4 MR. KUNLIPE: Thank you.

5 VICE CHAIRPERSON HART: Okay. Are there any other
6 questions for the applicant?

7 MEMBER WHITE: Just a comment. Obviously, you
8 know, resident came here in the area to kind of give her
9 opinion on some of the concerns that she has, and it doesn't
10 sound like she has a problem with the project itself. But
11 just had some concerns with some of the aspects of it, to
12 make sure residents were able to voice their opinion.

13 So I would encourage you to continue to have
14 dialogue, even though it appears that we're probably going
15 to be making a decision on this. But and I definitely
16 compliment you for doing the project and including the IZ
17 units especially. But this would give you a good opportunity
18 to increase some good will within the community. So that was
19 my only comment.

20 MR. KUNLIPE: Yes ma'am.

21 VICE CHAIRPERSON HART: Okay. So is the Board
22 ready to deliberate?

23 (Off mic comment.)

24 VICE CHAIRPERSON HART: Okay. So I'm going to
25 close the record. So I know that we've had a little hiccup

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1 with the ANC report, and actually the ANC request. I think
2 that we've heard enough information today to make a
3 determination today. I would be in support of the
4 application. I understand that, you know, Ms. Jackson has
5 provided some testimony regarding -- it wasn't necessarily
6 objection to the case; it was more just hadn't had the full
7 opportunity to be able to review the project.

8 As Board Member White just said, to be able to
9 have the applicant be able to continue kind of conversations
10 with the community after this, because it's just -- just
11 being a good neighbor to do that. I thought that they met
12 the requirement. I understand that the project does not have
13 a paper alley. Excuse me, it has a paper alley so there is
14 no alley to be able to park off of, and that would make it
15 difficult to actually provide parking.

16 It seems as though there is sufficient parking at
17 least capacity on the neighboring streets. Again, I would
18 be in support of the application, and Commissioner Miller
19 brought up basically the TDM plan, and DDOT has just noted
20 that they would condition their approval on the applicant
21 executing the TDM plan, and I'd be in support of that. I
22 would be -- my vote would be to support the application
23 that's before us. Does anybody have anything to add? Okay.

24 MEMBER JOHN: I was just going to add that the
25 applicant clearly is not able to provide parking because of

1 the paper alley in the rear. So I think they meet the
2 requirement for relief, and I would support the application.

3 VICE CHAIRPERSON HART: Okay. So I'm going to
4 make a motion to approve Application No. 20001 of Simone
5 Management LLC, as read and captioned by the Secretary, with
6 the condition that the -- we don't even have it here. Yeah,
7 with the condition that the -- that they include the TDM plan
8 approved by DDOT in the order itself. Do I have a second on
9 that motion?

10 MEMBER WHITE: Second.

11 MEMBER JOHN: Second.

12 VICE CHAIRPERSON HART: Having heard a second, all
13 those in favor say aye?

14 (Chorus of ayes.)

15 VICE CHAIRPERSON HART: Any opposed?

16 (No response.)

17 VICE CHAIRPERSON HART: The motion carries, Mr.
18 Moy.

19 MR. MOY: Staff would record the vote as 4 to 0
20 to 1, this on the motion of Vice Chair Hart to approve the
21 application, with the condition as he cited in his motion.
22 Seconding the motion, Ms. John. Also in support Ms. White,
23 Commissioner Rob Miller, no other Board members present. The
24 motion carries, sir.

25 VICE CHAIRPERSON HART: Thank you. Thank you all.

1 Okay.

2 (Pause.)

3 VICE CHAIRPERSON HART: Okay. You can call the
4 next case, Mr. Moy.

5 Application No. 20004

6 MR. MOY: If we can have parties to the table to
7 Case Application No. 20004 of General Services Incorporated,
8 captioned and advertised for a use variance from the use
9 restriction, Subtitle U, Section 201.1. This would construct
10 a new three-story mixed use building with ground floor office
11 and storage space, R-2 zone. This is at 5415 through 5417
12 Eads Street, E-A-D-S, N.E., Square 5231, Lots 16, 17 and 18.

13 VICE CHAIRPERSON HART: Welcome everybody. If you
14 could state your name and address?

15 MR. TAESS: Good afternoon. My name is Will
16 Taess, a principal with Taess Warren Architects, 515 M
17 Street, S.E., Suite 200, Washington, D.C.

18 MS. AKINLEYE: Good afternoon. Monreti Akinleye,
19 president, General Services Incorporated.

20 VICE CHAIRPERSON HART: Can you spell your last
21 name?

22 MS. AKINLEYE: A-K-I-N-L-E-Y-E.

23 VICE CHAIRPERSON HART: Thank you.

24 MR. SULLIVAN: Good afternoon, Marty Sullivan from
25 Sullivan and Barros on behalf of the applicant.

1 MS. WILSON: Alex Wilson from Sullivan and Barros
2 on behalf of the applicant.

3 VICE CHAIRPERSON HART: Mr. Sullivan, I'm assuming
4 you're going to be presenting to us, with Mr. Taess?

5 MR. SULLIVAN: Yes.

6 VICE CHAIRPERSON HART: You have ten minutes.

7 MR. SULLIVAN: We were thinking 20, but we can do
8 what we can do.

9 VICE CHAIRPERSON HART: It's going to have to be
10 15, okay.

11 MR. SULLIVAN: Okay.

12 VICE CHAIRPERSON HART: So if you could put 15 on
13 the --

14 MR. SULLIVAN: Will do. So I'll turn it right
15 over to Mr. Taess.

16 VICE CHAIRPERSON HART: And do we need to be --
17 I'm looking to see if there are any preliminary matters.

18 MR. SULLIVAN: Oh yes there is. There was a late
19 filing.

20 VICE CHAIRPERSON HART: Yeah. Okay. So it looks
21 like it's just the late filing, and if you could just talk
22 about that for a second, and we can decide on that, the late
23 filing.

24 MR. SULLIVAN: Sure. One of the issues was a
25 change in the plans as a result of some discussions with a

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1 neighbor I believe, and that was the reason for the plans.
2 The late submission was -- the late narrative that we
3 submitted was we had just been brought on board.

4 There was nothing changed with the actual relief,
5 but we just were hoping to add to the variance argument.
6 So we were adding some additional details that were going to
7 be in the PowerPoint anyway, but we thought even at this late
8 date it would be better to get them in written form as well.

9 VICE CHAIRPERSON HART: Okay. I didn't have any
10 particular issue with the late filing. I'd grant the waiver.
11 Any other -- any opposition to that or anybody else thinking
12 other than that?

13 (No response.)

14 VICE CHAIRPERSON HART: Okay. We're going to
15 grant the waiver for the late filing submission, and you have
16 15 minutes, and you can begin when you'd like.

17 MR. TAESS: Thank you. What we'd like to do is
18 begin with an overview of the project and orient the Board
19 to the location of the project, as we believe that's a
20 significant factor. It is a property that's located in the
21 R-2 zone, and it's also located in the 100 year flood plain.
22 There's a curious relationship in that the R-2 zone only
23 permits single family dwellings. But the 100 year flood
24 plain limitation does not allow for single family dwellings
25 to be built when you're within the 100 year flood plain.

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1 In addition, there's some complications in that
2 the building code does not allow residential uses for
3 buildings that are located in the 100 year flood plain. As
4 you can see from one of the pictures of our existing
5 conditions, there are three lots. There was a small wood
6 frame single story structure on the property that was in
7 pretty serious disrepair.

8 The property itself, as we mentioned is zoned R-2.
9 It's bordered by Eads Street to the north, 55th Street to the
10 east. There are three lots in question, 16, 17 and 18.
11 Originally the case was involving 16 and 17, and the
12 applicant purchased Lot 18 as well. There is a paper alley
13 at the rear of the property. There is an overlap right now
14 with the paper alley and part of the Marvin Gaye park system,
15 which we'll address in a later image.

16 As you can see, this is a graphic from the D.C.
17 GIS system that shows the extent to which Watts Branch, which
18 is the adjacent waterway, would flood in a 100 and 500 year
19 flood condition. So the entirety of the site is subject to
20 these flood plain regulations.

21 The aerial photo here shows the subject property
22 with the existing frame structure. I think it's significant
23 to note to the north is H.D. Woodson High School. Eads
24 Street in this particular block is actually a dead end street
25 and there are not any other single family dwellings on this

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1 particular block, neither to the north or to the south.

2 There is an adjacent three story apartment house,
3 apartment building that represents a non-conforming use, that
4 is to the east of the property and they share a property
5 line. And then to the south, you can see the Watts Branch
6 Marvin Gaye Park and the asphalt strip that you see running
7 diagonally across is actually the walking and bike path.

8 So you can -- there is just below the subject
9 property and the adjacent property is the area that's
10 designated on the D.C. records as a paper alleyway. The
11 challenge there is if we -- DDOT, in one of their filings,
12 had noted the existence of that and our project, as we'll get
13 to, has a curb cut. But I think it's important to note that
14 the paper alley overlaps with where the park system is. So
15 by resurfacing that alley and adding it back, I think it
16 impacts the park in a negative way.

17 Again, some context photos. I think the image in
18 the lower right-hand side, the right-hand corner, you can get
19 a better sense of the existing three story adjacent apartment
20 building. The image on the upper left really highlights the
21 fact that there's no other single family structures
22 surrounding this.

23 Again, some more context. The views in the bottom
24 left and bottom right are actually -- bottom left is standing
25 in the park, and that asphalt curbed area is the walkway

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1 through the park and the light poster, and that's the area
2 that DDOT's recommending be paved for alley access to the
3 lot.

4 The existing site plan here shows the three
5 existing lots that are 25 feet wide by 110 feet deep. The
6 intent would be to subdivide them and create a single record
7 lot. The existing building would be removed and replaced.
8 What we are proposing to replace it with is a mixed use
9 building, the ground floor of which would contain a
10 commercial use, which is the basis for our use variance
11 request today.

12 We're also proposing to introduce a curb cut and
13 a drive in the side yard to the west of the property that
14 would access six parking spaces in the rear. I think the
15 original plan had showed eight parking spaces, which was
16 cited in the DDOT report. We've reduced that to make some
17 accommodations for trash and site circulation.

18 The section I think is important to talk about
19 here and that we're proposing a three story structure, we
20 would have an office use on the lower level. That would be
21 the level that would be in the flood plain. The flood plain
22 regulations stipulate that residential uses including
23 residential storage are not permitted.

24 You can have, if you had an apartment building,
25 you can have a lobby in the flood plain. But you couldn't

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1 have the units or you couldn't have any storage or you
2 couldn't have a leasing office. So we're locating the
3 residential uses on the second and third floors. The façade
4 on the north elevation here that faces Eads Street, this is
5 one of the areas that had been redeveloped and changed as a
6 part of the ANC's review process.

7 We attended several meetings, and I think our
8 original concepts were something a little bit closer to using
9 the red brick pallet and really looking at the, not
10 necessarily for inspiration but at least for context, the
11 adjacent building. I think that we had some good feedback
12 from the ANC and from neighbors about how they really were
13 looking for something a little bit different, and suggested
14 one of the possibilities was to look across the street to
15 H.D. Woodson for some design inspiration, for both form and
16 material. We took those considerations to heart.

17 Here, the ground floor would be sort of a very
18 traditional sort of ground floor storefront glass system that
19 would really I think reflects the commercial use within. The
20 upper levels are really a -- are a two-story double height
21 or duplex style residential units that are accessed from the
22 rear. This is the site elevation facing the apartment
23 building. Residents going to the residential units would
24 enter the property on the eastern side yard, walk down along
25 the side of the building and access the stair to come up to

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1 the upper level.

2 This is elevation along the driveway, again
3 carrying some of these material and massing ideas that are
4 developed at the front to both sides. The rear elevation
5 here, you're seeing the stairs that would allow residents to
6 access the units on the second floor, which is where the
7 front doors to those units are.

8 In terms of the floor plans, we have about a
9 little less than 2,900 square feet of commercial space at the
10 ground floor. Again, this is the entirety of the ground
11 floor is located in that flood plain. On the second level,
12 we're proposing three units. Each of those units would be
13 accessed separately vis-a-vis the stair that we described in
14 the previous slide on the lower level. It would consist of
15 living rooms and kitchens and bedrooms, and the upper level
16 would be primarily bedroom, and then roof would be just a
17 simple flat roof that pitches back to the end of the site.

18 In terms of the materiality, we included some of
19 this information when we reviewed this with the ANC, where
20 I think it was received favorably, and I think we also
21 provided some context for both H.D. Woodson and some other
22 design inspiration as a way to communicate some of our design
23 ideas.

24 At this point, I wanted to turn over to Reti, who
25 will speak to -- as the president of General Services, will

1 speak to some of the programs that she's intending to provide
2 at that location.

3 MS. AKINLEYE: Good afternoon everyone. The
4 projects that is actually has been my continuous vision is
5 about training, and to be able to make, to contribute
6 something to the lives of the youth, which is something that
7 has been a long time vision of mines. That's what is
8 actually driving this project, to be able to help the
9 community and the youth in training, to help them in job
10 placements on a level that I'm doing right now, to mentor
11 them, to assist in networking operations and IT training.

12 I did a lot of demographic studies of the
13 neighborhood, and I met with so many youths, as well as some
14 neighbors in the community, to see and I was able to actually
15 see what the needs of the youth, as well as adults in the
16 neighborhoods, the neighborhood are and likes. So my purpose
17 is to be able to provide to the growth and the empowerment
18 of the community members through certified nursing assistant
19 training program, home health aide programs and IT programs,
20 that we enable them to be ready to be productive to
21 themselves, as well as the community through certifications.

22 As an instructor and a proficient person in the
23 health care field, I would say, and as an instructor, I want
24 to be able to impact the lives of many people in the
25 community. Some of the programs that I listed on the slide

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1 are things that I know I'm confident with the support through
2 God's grace, not by my power, but through God's help be able
3 to challenge each individuals, especially the young people
4 in the community, to become productive community members
5 through these numerous trainings and job opportunities that
6 are out here.

7 Whereby they wouldn't be able to tap into what
8 America has to offer, the opportunities to everyone. That's
9 my goal. Those are some of the trainings that I'm offering
10 right now, and I also as a mentor, be able to help the
11 community and help the youth.

12 MR. SULLIVAN: Thank you. The reason why we
13 wanted to give the Board some more information about the use,
14 not just because we are asking for a use variance for
15 commercial use, and it's not a non-profit. But the Office
16 of Planning noted that the use, if it was serving the
17 neighborhood, that it might have some impact on the
18 substantial detriment argument. There was nothing in the
19 record up to that point when they wrote the OP report, and
20 so they wouldn't have known about that.

21 So we wanted to give the Board some more
22 information on that nature of that use, and also my
23 understanding is that the nature of that use was the primary
24 driver behind getting the ANC support for this project. So
25 I'll go into the variance test then. We have an exceptional

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1 situation for a number of reasons as the architect pointed
2 out. The property is improved with a dilapidated building
3 that cannot be reused or adapted for any other use.

4 We're located in the R-2 zone as you heard. It's
5 in the 100 year flood plain, and those two things are in
6 conflict. Then there's also the separate building code
7 restriction against any residential use on the ground floor.
8 The thing that makes this a little more unique than other
9 properties in that flood plain is that vacant lots are lots
10 with unusual buildings. They have an undue hardship because
11 you can't use the property.

12 If you had an existing building, you could
13 continue to use it or you could maintain it. But properties
14 like this with an unuseable building are vacant buildings.
15 They are not able to use the property at all for any
16 permitted use in that zone. Some of the other exceptional
17 situations, it abuts the apartment building, as you saw, and
18 there's other properties located further east of the property
19 in squares with other single family dwellings.

20 VICE CHAIRPERSON HART: Can you go back to that
21 last slide?

22 MR. SULLIVAN: Sure.

23 VICE CHAIRPERSON HART: The last bullet, the last
24 sentence in the last bullet?

25 MR. SULLIVAN: Yes.

1 VICE CHAIRPERSON HART: Can you just explain what
2 that means?

3 MR. SULLIVAN: Sure. So the property cannot be
4 used for -- there's a provision in the zoning regulations,
5 C1102.4, which prohibits use for single families or flats in
6 the 100 year flood plain. In R-2 zone, the only residential
7 use permitted is single families and flats. So the only
8 permissible use under the R-2 zone is prohibited by a
9 different section of the zoning regulations.

10 VICE CHAIRPERSON HART: I got that part. The last
11 sentence.

12 MR. SULLIVAN: So the building code then prohibits
13 any use. So you could have a multi-family use in a 100 year
14 flood plain, provided you don't put any of that use on the
15 first floor. So if this was not R-2, if this was an RA zone,
16 we would only be here asking for relief for the first floor,
17 because the multi-family use would be permitted, but the
18 first floor multi-family use is prohibited under the building
19 code.

20 VICE CHAIRPERSON HART: Okay. You can continue.

21 MR. SULLIVAN: I think we've gone over most of the
22 exceptional conditions, and we'll go to the next slide. So
23 as I noted, this lot is -- has an unusual building. Most of
24 the other lots in the area are already improved with
25 residential buildings that can still be used.

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1 Undue hardship. The applicant will face an undue
2 hardship if we're not permitted to have multi-family use on
3 the second and third floor, and office use on the ground
4 floor. The Office of Planning agrees with this analysis to
5 the extent of approving the use variance for the multi-family
6 use upstairs. But where they draw the line is not approving
7 the commercial use.

8 We believe that based on what the Office of
9 Planning has found, that the basic elements necessary for use
10 variance relief exist on the property, and now it's just a
11 question of degree, and apparently that degree is too much
12 for the Office of Planning. But we think they are both use
13 variances. They both have the basic elements available, and
14 I think the hardship is practically speaking, it's just as
15 real for the commercial use for this particular owner as it
16 is for the residential use, because it makes the project not
17 feasible.

18 And then our hope is that the type of the proposed
19 commercial use as a neighborhood-serving use, and the strong
20 support for that use by the ANC will be enough to close that
21 gap that the Office of Planning has presented, and give the
22 Board what it needs to approve both areas of relief. The
23 last page. As noted, the ANC support, which I believe that
24 their letter came in this morning, they strongly support it
25 unanimously, and the commercial space was a driving factor

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1 in that support. Thank you.

2 VICE CHAIRPERSON HART: Any questions for the
3 applicant?

4 MEMBER WHITE: Just one question, whether or not
5 the applicant has considered or is willing to make any
6 adjustments to the design of the building in order to meet
7 OP's recommendation, and the second question is whether or
8 not OP has -- whether or not you've communicated with OP
9 regarding the community aspects of this project on the first
10 floor, and whether or not that had adjusted their lack of
11 support for the project.

12 MR. SULLIVAN: Not before today. But we did talk
13 before the hearing, so I'll leave that to Mr. Mordfin to
14 answer that question I guess, yeah. And then by design
15 changes, do you mean on the first floor? Like so the
16 residential storage would not be permitted, and to provide
17 parking, do you want to talk about parking?

18 MR. TAESS: Yes. I think if we go back to the
19 building section, there's this question of what do you do
20 with the space if you have to elevate the building? I mean
21 certainly you could put the building on stilts, which is one
22 option. But there's some practical issues there. If you
23 were going to treat it as storage and it was associated with
24 the residential use, it's in conflict with the building
25 regulations, and I think the Office of Planning also

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1 identified parking as an option.

2 And certainly, you know, one could do parking
3 there although it would be more expensive than providing
4 parking on the exterior. You've also got a lot, a fairly
5 large lot area upon which we're occupying a small portion of
6 it. So putting the parking outside of the building seemed
7 to be a more appropriate use.

8 I think that you could imagine one design strategy
9 of three town homes with a garage that's similar throughout
10 the City right now. We don't think that that's quite the
11 right urban solution in this particular case. That's why
12 we've really focused on the commercial use.

13 VICE CHAIRPERSON HART: Okay, and so you're
14 looking at also basically 100 percent lot coverage? I mean
15 I should say the lot should -- the lot has the building on
16 it. The 100 percent I was thinking was that the -- I guess
17 it's about 100 percent. The project would have very little
18 space that was not paved or building.

19 MR. TAESS: I don't have the exact percentage, but
20 most of the site would be either building or it would be a
21 paved surface, or more than likely a porous paving surface.

22 VICE CHAIRPERSON HART: Are you putting in porous
23 paving or are you just saying that you're -- have you thought
24 about that or are you just --

25 MR. TAESS: I --

1 VICE CHAIRPERSON HART: The reason I'm asking is
2 that one of the things that you're talking about is because
3 this is on the 100 year flood plain, you're having to make
4 these, to request this -- to make this request. Not putting
5 in porous paving seems like it's like well, you're putting
6 it in a 100 year flood plain and then you're paving and then
7 putting a building on the rest of the property, so there's
8 very little left to be able to deal with the flood.

9 You may be exacerbating the flooding problem. So
10 one, speak to that and two, is the only place to put the
11 entrance to the residential on the back of the building?
12 Because it just seems like you are -- I understand that's
13 where the parking is, but it just seems like you'd want to
14 have a front, you know, on the front of the -- I mean, you
15 know, accessing the building on the front of the building at
16 the street.

17 MR. TAESS: So I can speak to the porous paving
18 first. I think that there is a pervious surface requirement
19 that we would have to adhere to, and we're not asking for
20 relief for that. The question becomes about what -- there's
21 some details associated with being in the flood plain. The
22 whole idea with the porous paving is you're allowing rain
23 water to soak in. There's some complications when you try
24 to do that in a flood plain.

25 Now I don't have enough experience to say whether

1 that's the right solution. We need to deal with it in some
2 form or another. I think that in terms of providing an
3 entrance to the residential units immediately up the street
4 is an excellent suggestion in all. To be frank, we were
5 basically revised the drawings in fairly short order to
6 accommodate both the filing deadline and the sort of feedback
7 that we got from the ANC.

8 So I don't think we really gave that the entrance
9 to the units as much design study as we should have. But I
10 think it's something we'd be amenable to make plans for.

11 VICE CHAIRPERSON HART: I mean honestly, I would
12 like to see that, only because it feels like you're going --
13 commercial is entering off of the street, off of the
14 sidewalk, and the residential is not. I'm not saying I'm in
15 support of it. I'm just saying that that's making it even
16 harder for me to be able to support it. So it's helpful to
17 be able to do that.

18 I would like to understand what the impacts are
19 on the flood plain, and what you'd have to kind of deal with,
20 and I just don't know what that is right now. But if the
21 flood plain is a particular issue for the aspect of --
22 because it is a, sorry. Because the flood plain is, this
23 building is being put in a flood plain, I would like to
24 understand what the impacts are, just show you're supposed
25 to be dealing with it.

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1 If it is porous pavement, if it is something else,
2 green roof, I don't know. But it just seems like that's a
3 big question mark that probably needs to be understood. I
4 get it that it's -- that you all are asking for a variance.
5 But I still think that that's something that should be better
6 understood than it is right now.

7 MR. TAESS: I mean I think a couple of things.
8 One, we will be required to prepare a storm water management
9 plan. Given the amount of site disturbance, we're going to
10 be over that 5,000 square foot threshold. The likely
11 strategy for that piece would be a green roof, and then the
12 question becomes, you know, the treatment.

13 So we can certainly follow up with some additional
14 information about what DOEE would permit as a pervious
15 surface.

16 VICE CHAIRPERSON HART: And I'm sorry, I just
17 don't know this. Do you have a parking requirement? Are you
18 required to provide parking?

19 MR. TAESS: We are not required to provide parking
20 for either the residential use, because it would be
21 considered an apartment building, and then the commercial use
22 is below I believe the minimum standard.

23 VICE CHAIRPERSON HART: Okay, thank you. Any
24 questions?

25 ZC VICE CHAIRPERSON MILLER: Thank you, Vice Chair

1 Hart. If the Board were to approve the use variance for the
2 non-residential use, you were -- you propose these various
3 certification programs for job training and youth and adult
4 empowerment and you list the examples. You would be
5 supportive of the zoning, such as the zoning order including
6 a condition that limited the non-residential uses to those
7 specific uses?

8 MR. SULLIVAN: Yes.

9 MS. AKINLEYE: Yes.

10 ZC VICE CHAIRPERSON MILLER: Okay, thank you. And
11 you indicated you might be following up with DOEE on some of
12 these issues. Have you had discussions with DOEE about the
13 ground floor uses and then the other environmental challenges
14 with this site?

15 MR. TAESS: We've not spoken to DOEE about this
16 site in particular, but we have another project that's also
17 within the same flood plain that's a very similar typology
18 that we've taken almost all the way through permitting. So
19 that we've -- the knowledge that we have from that project
20 we're extrapolating to this project, in terms of the flood
21 plain requirements.

22 ZC VICE CHAIRPERSON MILLER: I guess I would
23 encourage you to speak with DOEE about this specific project,
24 including -- well all of the environmental issues that they
25 would be interested in specific to this site, and maybe what

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1 alternatives that they have that you might consider feasible
2 that you don't currently consider feasible, and get some
3 feedback from you on how those conversations went. So I'd
4 just encourage that. Thank you.

5 VICE CHAIRPERSON HART: Thank you. Any other
6 questions?

7 (No response.)

8 VICE CHAIRPERSON HART: Okay. Let's go to the
9 Office of Planning. Good afternoon.

10 MR. MORDFIN: Good afternoon Chair and members of
11 the Board. I'm Stephen Mordfin, and the Office of Planning
12 supports part of this application and also recommends denial
13 of a part. For the first part that I'll discuss, the
14 residential units, the three residential units the applicant
15 wants to put in the building, Office of Planning is in
16 support of that use variance. There are several reasons for
17 that.

18 One of them is that currently the site is divided
19 into three residential lots, and as the applicant stated, one
20 and two family buildings are not permitted within a flood
21 zone. So with the three lots, the use of or the provision
22 of three residential units is consistent with the way the
23 site is currently configured, and so therefore the Office of
24 Planning doesn't see where that would be increasing the
25 density on the lot.

1 While at the same time permitting the applicant
2 to provide those residential uses, and it's now currently
3 configured as two units, so it would be kind of townhouses
4 or rowhouses which although not permitted there, are
5 consistent with some of the neighborhood development. As for
6 the first floor where the applicant proposes office use, the
7 Office of Planning does not support that. This is a low
8 density residential area which also has some other uses in
9 it that support a neighborhood.

10 What I meant by uses that support a neighborhood,
11 such as the school across the street. If you go down Eads
12 Street a few blocks, you see several neighborhood churches
13 and those are things that directly impact the neighborhood
14 and directly serve those residents.

15 And so this is something different. It's an
16 office that will be bringing in people not just from what
17 Office of Planning has said the immediate neighborhood but
18 perhaps further. As for constructing an entire floor that
19 can't be used for residential or anything else, as the
20 applicant stated Office of Planning disagrees. I've
21 discussed this with DOEE. That first floor could be used for
22 parking, or it could also be used for the residences, or it
23 could be used for limited residential storage. So those are
24 different uses that could be placed there.

25 The other thing, DOEE says the applicant could do

1 is lower the building, so that you don't construct an entire
2 floor that might sit there with very little use, but just
3 high enough to be off the ground, so that the first floor of
4 that residential use will not be within the flood plain. So
5 it's not the first floor can't be used; it's that you can't
6 have a ground floor, an entire ground floor for residential
7 use.

8 So if the building were approximately a foot and
9 a half off the ground, it would be outside the flood plain
10 and the applicant wouldn't need an entire floor. As for the
11 number of parking spaces required, because it's in an R zone,
12 one -- there's one space required for every two units. So
13 because there's three spaces, excuse me three units, there
14 would be a required two spaces. The office space is below
15 the threshold of 3,000 square feet, so therefore if they were
16 to provide office, no parking would be required for that.

17 But they do need to two parking spaces, and the
18 Office of Planning does encourage the applicant to place them
19 perhaps maybe within the building, to reduce the amount of
20 paving on the site, just because it is sited within the flood
21 plain. So based on that, the Office of Planning recommends
22 denial of the office use and recommends approval of the three
23 residential uses on this site. Thank you.

24 VICE CHAIRPERSON HART: Thank you. I did have a
25 question regarding some of the -- some of what's been

1 presented to us already. The biggest one really is around
2 this conflict that the applicant or Mr. Sullivan was kind of
3 describing, that there isn't a -- that residential is not
4 allowed on the first floor. That's the part I was just
5 trying to understand, or at least yeah. It just didn't seem
6 to make a lot of sense to me that even in the R-2 zone, that
7 because it's in a 100 year flood plain that the residential
8 is not allowed on that first floor.

9 Is it that he's mistaken or is it that -- because
10 it sounds like you're saying that if they'd made a three foot
11 tall kind of border or put this on like a plinth or
12 something, that they would be able to build the residential
13 on here. It's just that they can't build a residential --
14 they can't have that first floor. They have to have the
15 first floor above, or the first -- the residential above the
16 100 year flood plain. I'm just trying to understand that.
17 I don't quite get why that's so.

18 MR. MORDFIN: Correct. None of the residential
19 can be within the flood plain. It has to be raised above the
20 flood plain. So whatever that, where that line is, the first
21 floor of the dwelling has to be out of the flood plain. So
22 that's --

23 VICE CHAIRPERSON HART: And that makes sense to
24 me. I just -- when it was presented earlier, I was thinking
25 that it was -- that there was no ability to have any

1 residential -- yeah, okay. No ability to have that, and I
2 guess it's just kind of what you call a floor. But anyhow,
3 I think you responded to the question I had, so I appreciate
4 it.

5 MEMBER WHITE: Okay. So this aspect of it I'm
6 still struggling with a little bit. What's the detriment
7 with having the office on the first floor?

8 MR. MORDFIN: Well as an R-2 zone, it's a low
9 density residential district, and office spaces are not
10 permitted as a matter of right or by special exception. So
11 the intent is that okay, so we don't want to be introducing
12 office uses that are not permitted at all. The third unit
13 building, you know, it's consistent with residential to
14 residential. But the office is not consistent with the types
15 of uses that are permitted.

16 Other such uses that are permitted are churches
17 and schools, as you see in this neighborhood and directly
18 across the street is a high school. So we don't see that
19 that's consistent with the intentions of the R-2 zone and the
20 zoning regulations.

21 MEMBER WHITE: Okay. So I'm still struggling with
22 it because they've got support from the ANC. So I guess the
23 ANC is seeing -- is not seeing any kind of negative impacts
24 to the community. But I understand that this is a regulatory
25 thing in terms of what's not allowed in that particular zone,

1 without a use variance?

2 MR. MORDFIN: It's not permitted without a use,
3 correct.

4 MEMBER WHITE: Okay, thank you.

5 VICE CHAIRPERSON HART: Does the -- any more
6 questions for the Office of Planning? Does the applicant
7 have any questions for the Office of Planning?

8 MR. SULLIVAN: No thank you.

9 VICE CHAIRPERSON HART: Okay. So I guess does the
10 Board members have any questions for the applicant? Okay,
11 okay. We'll go to the audience. Is there anyone here
12 wishing to speak in support of the application? Please come
13 forward.

14 (Pause.)

15 MS. JACKSON: Hello again.

16 VICE CHAIRPERSON HART: If you could state your
17 name and address please.

18 MS. JACKSON: Sure. I'm going to get used to this
19 process soon. Talayah Jackson, 5715 Clay Street, N.E. So
20 this property is three blocks away from me on the other side,
21 and we are as a community very much in favor of this project.
22 There are a couple of reasons. One, our area is primary
23 residential and it's probably too residential. We don't have
24 any, very little commercial mixed use spaces. We don't even
25 have a grocery store. So we were excited at a project that

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1 was going to bring in something different and make use of the
2 space in a different way, particularly in a way that was
3 going to benefit the youth in our community.

4 We do not have very many outlets in the area for
5 youth to go to and can be after school. The closest rec
6 centers are probably Deanwood Rec, which is about eight
7 blocks away from the site. There's Marvin Gaye Rec, which
8 is probably six blocks away from the site. The site is
9 directly across from Woodson High School. The youth
10 literally have nowhere to go after school but to the Chinese
11 carry out or to just wander around the neighborhood.

12 So we were very excited about this project, the
13 fact that it would be offering training classes,
14 certification classes, things that would help people
15 particularly as they transition or even while they're in high
16 school once they finish and upon graduation. The issue of
17 the parking being on the side, we were actually in favor of
18 that because the way the street is oriented, it sits --

19 Like I said, it's almost a dead end that abuts the
20 school's football field. So children do walk across the
21 street from school to the sidewalk, to the football field,
22 to the walking path that's across the street. So parking
23 directly in the front of the building could pose some issues
24 in terms of cars may be speeding or trying to get to the
25 residences. So we were actually in favor of the parking

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1 being on the side, so that people would generally have to
2 sort of navigate and move and park in a different way, and
3 it wouldn't be any obstruction for children who may be
4 crossing across that street.

5 But other than that yeah, I would just say that
6 we're fully in support of this because we need different and
7 varied development in our neighborhood. We need programs and
8 spaces for youth, adults, myself included to be able to go
9 to, and we just don't have enough of it. So we are in favor
10 of it and hope that the variance request would be approved
11 so we could get something in our neighborhood.

12 VICE CHAIRPERSON HART: Thank you. Are there any
13 questions for the -- for Ms. Jackson? Okay. Thank you, Ms.
14 Jackson. So is there anyone here wishing to speak in
15 opposition to the case?

16 (No response.)

17 VICE CHAIRPERSON HART: I'm assuming the ANC is
18 not here. Okay. I should have asked that before but so
19 does the Board have any final questions for the applicant?
20 Mr. Sullivan, one of the things that -- and I'm not sure kind
21 of where we are right now, partially because I am -- in
22 listening to your presentation and then listening to the
23 Office of Planning, I'm thinking that there may be a -- that
24 there may be a design that can be changed. But I need to
25 understand where you all think you are on this.

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1 Are you wanting to move forward with this as a
2 project today, or one of the things that I'd requested was
3 whether or not there was, you know, kind of the entrance for
4 the residential. You know, it's on the back. It just
5 doesn't seem to work really well, at least just doesn't seem
6 to make a lot of sense to me.

7 We heard some information from OP regarding that
8 it sounded like a little difference of opinion, and they thin
9 that there is a possibility of just elevating the building
10 a few feet, and then you're above the flood plain, and then
11 you can build the residential above that. But it doesn't
12 seem like you're -- well, you've proposed something that
13 doesn't do that. So I just don't know why, why there's a
14 difference of opinion in that, and if you could explain that.

15 MR. SULLIVAN: Sure. I think -- well the one, I
16 think we still lose a story on that. So we're still losing
17 the ability to have a story. It's not so much where the
18 residential sits; it's the fact that that first story is
19 sacrificed to that. And regarding changes, if we are going
20 to submit changes and I think we are -- intend to do that.
21 I would suggest maybe that there could be a continued
22 hearing?

23 VICE CHAIRPERSON HART: Yeah, I think we can do
24 that. I just wanted to understand where you thought we were.
25 I was kind of there, but --

1 MR. SULLIVAN: Yeah. I think we'd like more time
2 to discuss it, more than just hurry up and do it here. That
3 would be helpful, since that's going to be part of the --

4 VICE CHAIRPERSON HART: How much time are you
5 thinking that you need? Because currently we have, you know,
6 we're coming to the end of our kind of summer or I guess the
7 end of our session before the summer. We're not going to be
8 here in August. So my guess is that I know that the 31st is
9 pretty tight. I don't know about the 24th or even the 17th.
10 I'm looking at Mr. Moy to see if he can give me some
11 information on that.

12 MR. MOY: Very quickly Mr. Chairman, the 17th
13 would be better than the 24th or the 31st.

14 VICE CHAIRPERSON HART: That's fine.

15 MR. MOY: If that's possible. But other than
16 that, then the 24th would be better than the 31st. It's
17 escalating.

18 VICE CHAIRPERSON HART: So is it possible to get
19 some -- to have a continued hearing on the 17th? That would
20 give you about three weeks to be able to provide some updated
21 drawings for us. I don't know if you're actually doing
22 updated drawings in terms of what the Office of Planning is
23 saying or not, but I would -- I don't know. I don't know
24 where you are on that. But that is the question. Do you
25 have an idea of where you are, or will you need more

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1 conversation, more time to talk about it?

2 MR. SULLIVAN: Well, the sense is that we need
3 that commercial use to make the project work, and so that
4 would be where we look at first. But of course, you know,
5 we'll sit down and think about it and consider everything and
6 talk to the Office of Planning further. But at any rate July
7 17th works.

8 ZC VICE CHAIRPERSON MILLER: Just for on the date,
9 just to let you know, I cannot be here on the 17th. I've
10 already switched that date that I originally had with who it
11 was assigned to with Commissioner Hood. So he will have to
12 review the record, and I'm sure if he's listening he's really
13 happy to hear that.

14 VICE CHAIRPERSON HART: Sorry. I shouldn't be
15 that happy about that. So the 17th I think. I think we will
16 do it on the 17th. I don't want to do it on the 24th, only
17 that I know we have a pretty heavy agenda for both the 24th
18 and the 31st, and I'd rather not put another case on there,
19 on either one of those dates. So we'll -- Commissioner Hood,
20 excuse me, Chair Hood would have to read into this particular
21 case.

22 So in terms of timing for filings, Mr. Moy, can
23 we kind of talk about that? When we could look at having
24 filings from the applicant for the -- any revised drawings?

25 MR. MOY: Yes. Well, it's going to rest with the

1 applicant and his architect. If assuming that we don't need
2 any responses, then if they could make their filing into the
3 record by let's say Monday, July the 8th.

4 VICE CHAIRPERSON HART: That works. Okay, that
5 seems to work, and if the ANC needs -- I guess they've
6 already kind of given their -- they've provided a report for
7 the project. But do they need to provide a --

8 MR. MOY: Well that's up to the Board. I mean
9 it's a continued hearing, so they could submit anything into
10 the record up until the date, unless you want something
11 sooner.

12 VICE CHAIRPERSON HART: No, no, no, no. I don't
13 think we need anything sooner. I think we just allow them
14 the time to be able to give something to us if they would
15 like, if they would choose to. I don't want to give
16 anything, make any particular date for them. I just didn't
17 know if we needed to, that's all.

18 MR. MOY: As I said, it's a continued hearing.
19 But if you want to, it doesn't hurt to put a deadline for the
20 ANC. But if they choose to make a response, we could make
21 it a week later, which would be Monday, July the 15th.

22 VICE CHAIRPERSON HART: That's fine. So I think
23 we're finished for today. We're going to keep the record
24 open for any new drawings that you would like to submit to
25 us, and I'm assuming you're not, and maybe I am assuming.

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1 You're not going to provide any further justification?

2 MR. SULLIVAN: Yeah. I think we would if we can.

3 VICE CHAIRPERSON HART: The reason I'm asking is
4 that I'd like to be able to have. So maybe an updated, you
5 know --

6 MR. SULLIVAN: Narrative.

7 VICE CHAIRPERSON HART: Narrative for the project
8 as well.

9 MR. SULLIVAN: Sure.

10 VICE CHAIRPERSON HART: Also for the -- what did
11 we say, the 10th or 12th? Which day did we say that the
12 information -- the 8th?

13 MR. MOY: July 8th.

14 VICE CHAIRPERSON HART: Okay. If we could have
15 all of that on that same date, that's fine. I don't have --
16 I just want to make sure that we're not getting other
17 information. It's like we didn't ask for this. So we're now
18 asking for it. I think that's it. So we'll have a continued
19 hearing on the 17th, and I guess we will see you then. Thank
20 you all very much. We're going to take a ten minute break
21 because --

22 (Pause.)

23 VICE CHAIRPERSON HART: Okay. I said we're going
24 to take a ten minute break. I think we're going to take
25 lunch because I'm realizing that I'm -- I didn't realize it

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1 was as late as it was. We'll be back at 2:45. No, wow that
2 is. 2:45? So and we have three more cases after this, but
3 we will definitely take a lunch break, so that we can be
4 energized for the rest of the day. So thank you very much.

5 (Whereupon, the above-entitled matter went off the
6 record at 1:58 p.m.)

1 A F T E R N O O N S E S S I O N

2 2:58 p.m.

3 VICE CHAIRPERSON HART: Okay. We are back. Mr.
4 Moy, if you can call the next case please.

5 Application No. 19996

6 MR. MOY: Thank you Mr. Chairman. So for the
7 record, the time is about -- at or about 2:59, and from the
8 Board's lunch recess, and I believe parties to the table to
9 Case Application No. 19996 of Mallard Estates as amended, for
10 special exception under the residential conversion
11 requirements, Subtitle U, Section 320.2, a waiver from the
12 rooftop architectural element requirements, Subtitle U,
13 Section 320.2(h) and pursuant to Subtitle E, Section 5201.1,
14 special exception from the side yard requirements, Subtitle
15 E, Section 207.2 to construct a third story and three story
16 side addition an existing semi-detached principal dwelling
17 unit and convert it to a three unit apartment house, RF-1
18 zone, at 1501 West Virginia Avenue, N.E., Square 4058, Lot
19 70. If the Board will recall, this was last heard on May the
20 15th, 2019.

21 VICE CHAIRPERSON HART: Thank you Mr. Moy. Good
22 afternoon. If you could please state your name and address.

23

24 MS. GUNDRUM: Hi. I'm Victoria Gundrum. I work
25 for R. Michael Cross Design Group at 2001 S Street, N.W.

1 MR. CROSS: Michael Cross, architect, 2001 S
2 Street, N.W., Suite 230.

3 VICE CHAIRPERSON HART: Thank you. Excuse me.
4 So we have one -- we had reviewed this case back in -- I
5 guess it about May, about a month ago, a little over a month
6 ago. There were a few things that we were looking for. The
7 shade study, it looks like that's in Exhibit 39. There is
8 a chimney agreement. I think that's updated from when we
9 heard it or what was previously submitted, and in particular
10 I'd like to just understand what the impact is on the
11 existing solar array on the neighbor's property.

12 I understand that they've provided an agreement
13 on that, but I just don't know what the actual impact is.
14 It says it's above five percent, but is it 50 percent? I'm
15 not really sure, and I just need to understand what that is.
16 And then how the waiver from the architectural elements meets
17 the requirements, and I guess you've provided an updated
18 burden of proof as well?

19 I think we have -- there's a motion that we need
20 to accept some untimely filings that were later than what
21 they were intended to be. Could you just describe why they
22 were not submitted when we were -- had agreed that they be
23 submitted?

24 MR. CROSS: Yes sir. So when we were heard
25 previously, it was an abbreviated case just for postponement.

1 We did get those items that you noted. Most of the materials
2 were submitted by the date. The stuff that was submitted
3 most recently was really replacing the solar agreement.
4 There was an update to the solar agreement. So it's just
5 superseding the one that was already in the file, as well as
6 providing a -- what was the second one? Oh, no.

7 (Off mic comment.)

8 MR. CROSS: I think that actually might have been
9 the only item that was late that we're asking for relief for.

10 VICE CHAIRPERSON HART: I'm looking at the Exhibit
11 54, and accept the untimely filing of requested copies of
12 agreements with neighbor.

13 MR. CROSS: I believe that's the only item.

14 VICE CHAIRPERSON HART: Okay, and the change with
15 the neighbor is what exactly? What's the change in the
16 actual -- in the agreement?

17 MR. CROSS: The only change to the agreement was
18 the first one was, had kind of an unquantified stipulation
19 about compensation based on obstruction or interference, and
20 that conversation continued between my client and the
21 neighbor. They reached a lump sum agreement, and so they
22 updated the letter to be unconditional, no matter what actual
23 interference --

24 VICE CHAIRPERSON HART: Since they've already
25 given the compensation, they are not including that in the

1 agreement. That's what you're saying?

2 MR. CROSS: That's right.

3 VICE CHAIRPERSON HART: Okay. I didn't have a
4 problem with accepting the document. I don't know if anyone
5 else had any problem with the motion to accept the untimely
6 filing. I don't think -- I think, I have heard that they're
7 okay with it. So that will be -- the document will be
8 allowed to be entered into the -- I guess it already is in
9 the record.

10 So if you could, just talk a little bit about the
11 -- how much are we talking about it impacting the neighbor's
12 property, the neighbor's solar array, or if you want to, is
13 there something else that you'd like to actually discuss?

14 MR. CROSS: I can answer your questions. I'm glad
15 to run through a summary too, if anybody wants to hear. But
16 speak to the questions, it sounds like you have. The shading
17 studies we have in the report, BZA 14 and BZA 15 in the set
18 show a summer and winter solstice condition. As you can see
19 in the winter, due to the fact that our property is located
20 to the south of the adjacent property, there is anticipated
21 to be significant interference at certain points in the day.

22 The condition of the neighbor's solar panels is
23 a little unique in that they own them outright. There's no
24 solar company involved at this point, and so we were having
25 a hard time getting a solar analysis of it because there's

1 no company incentivized to provide that, since the sale's
2 already been completed. So the negotiation happened between
3 the two owners, independent of any quantified engineering,
4 but with these shading studies being revealed.

5 VICE CHAIRPERSON HART: Okay, and so you're -- it
6 looks like the -- looking at when it would be impacted.

7 MR. CROSS: Yeah, I think --

8 VICE CHAIRPERSON HART: Like what time of the year
9 would it be impacted?

10 MR. CROSS: It seems like in the summer, with the
11 sun high in the sky, there will be some impact as you see
12 that down in 4:00 p.m. Summer Solstice on BZA 14. It's kind
13 of the lower right-hand corner, this one. I'm not sure if
14 that's visible or not. But the real impact is probably in
15 the winter months, when the sun is low in the sky.

16 Again, the real long-term effect, I think, is at
17 the end of the day, just simply due to it's slightly off axis
18 westerly orientation.

19 VICE CHAIRPERSON HART: Yeah. It looks like your
20 -- where's the solar array itself? Is it the entire roof?

21 MR. CROSS: It makes up a fair bit of the adjacent
22 property's roof here. I couldn't say for sure exactly how
23 much.

24 VICE CHAIRPERSON HART: Yeah. I mean it's
25 impacting nearly the entire thing at the Summer Solstice at

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1 two o'clock, I'm sorry, Winter Solstice at two o'clock.

2 MR. CROSS: Winter Solstice, yeah.

3 VICE CHAIRPERSON HART: Okay, and if you could go
4 over the -- just verbally describe how you're -- the waiver
5 for the architectural element kind of meets the criteria or
6 the requirements?

7 MR. CROSS: Certainly. So the existing property
8 does have a front porch that would be subject to the
9 restrictions of architectural rooftop elements. There is no
10 architectural rooftop element on the primary structure
11 itself. The front porch at this address existing today is
12 actually not the original porch. It has -- it is some
13 combination of metal awning that has been retrofitted into
14 a porch roof.

15 And working with my client and the neighbors, what
16 we are proposing is to build a new porch that is in like kind
17 with the other porches that are existing on that block today,
18 with the traditional trim and cornice. That porch would be
19 relocated on the façade, since façade is being expanded. I
20 believe some of that final scale and massing was coordinated
21 with OP to have it resized for a size that's appropriate to
22 the new dimension of the front façade as you see there.

23 VICE CHAIRPERSON HART: Okay. Are there any
24 questions from the Board for the applicant?

25 (No response.)

1 VICE CHAIRPERSON HART: Okay. The Office of
2 Planning.

3 MR. MORDFIN: Good afternoon, I'm Stephen Mordfin,
4 and the Office of Planning continues to support this
5 application, and is in agreement with the applicant that he
6 porch was relocated at the request of the Office of Planning
7 because the width of the house was being expanded and to make
8 it -- it would fit in better with the appearance of the
9 house. It would not look off center or anything. So we did
10 request that they do that, even though it's altering the
11 porch.

12 But as the applicant said, that's not the original
13 porch to the front of the house. So OP is in support of
14 this application.

15 VICE CHAIRPERSON HART: And so you're saying it's
16 basically a better proportional --

17 MR. MORDFIN: Yes, that is the word I was looking
18 for. Proportionally, it looks much better to have realigned
19 that porch that the original proposal that the applicant had
20 submitted.

21 VICE CHAIRPERSON HART: Okay. Are there any
22 questions for the Office of Planning? Does the applicant
23 have any questions for the Office of Planning?

24 (No response.)

25 MR. CROSS: Not unless you guys have any further

1 questions.

2 VICE CHAIRPERSON HART: Okay. So is there anyone
3 in the audience that is, would like to speak in support of
4 the application? Anyone in the audience that is in
5 opposition to the application?

6 (No response.)

7 VICE CHAIRPERSON HART: Seeing no hands. Does the
8 applicant have any kind of -- actually, is the ANC here?
9 Just making sure. Does the applicant have any conclusion,
10 concluding statements they'd like to make?

11 MR. CROSS: Not necessarily, just to point out,
12 mention the ANC. We do have their support. Their letter did
13 come in late. Hopefully, you've received it. It should be
14 in the record today.

15 VICE CHAIRPERSON HART: Yes, we got it. It's in
16 Exhibit 55 and they are in support of the application and I
17 appreciate that. Does the Board have any final questions or
18 comments. Okay. I will close the record. Is the Board
19 ready to deliberate? Okay, I can start.

20 I, in reviewing the application, while I do
21 understand that there will be impacts on the solar system for
22 the -- solar array for the next door neighbor, I felt that
23 the applicant did provide sufficient information for me to
24 be able to understand what those impacts were, at least see
25 what those impacts were, as well as the applicant provided

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1 an agreement in the record that noted that the next door
2 neighbor understood what those impacts were and that they
3 were not in opposition to those.

4 I also felt that the applicant provided
5 information to show how they are meeting the -- that it's
6 -- why they are needing to change the architectural elements,
7 and that I would be in support of that as well. I think it's
8 an interesting design. I agree with the Office of Planning
9 report and would be in support of the application. I didn't
10 know if anybody else anything to add to that?

11 (No response.)

12 VICE CHAIRPERSON HART: Okay. So I'll make a
13 motion to approve Application No. 19996 of Mallard Estates
14 LLC, as read and captioned by the Secretary. Do I have a
15 second?

16 MEMBER JOHN: Second.

17 VICE CHAIRPERSON HART: All those in favor say
18 aye?

19 (Chorus of ayes.)

20 VICE CHAIRPERSON HART: Any opposed?

21 (No response.)

22 VICE CHAIRPERSON HART: Motion carries, Mr. Moy.

23 MR. MOY: Staff would record the vote as 4 to 0
24 to 1, this on a motion of Vice Chair Hart to approve the
25 application for the relief requested. Seconding the motion

1 Ms. John. Also in support Ms. White and Commissioner Rob
2 Miller. No other members present today sir.

3 VICE CHAIRPERSON HART: Thank you. Thank you all.

4 (Pause.)

5 VICE CHAIRPERSON HART: And you may call the next
6 case, Mr. Moy.

7 Application No. 19962

8 MR. MOY: That would be Case No. 19962 of District
9 Properties.com as amended for area variance from the side
10 yard requirements, Subtitle D, Section 206.3, to construct
11 a new detached principal dwelling unit, R-2 zone at 917 43rd
12 Place, N.E., Square 5096, Lot 20.

13 VICE CHAIRPERSON HART: Thank you. If you could,
14 welcome. If you could give me your name and address?

15 MR. DAVIS: Adam Davis, District Properties.

16 VICE CHAIRPERSON HART: And Mr. Davis, I think we
17 have -- we need -- do we need an affidavit of maintenance
18 waiver? Did we get that? No, the affidavit of maintenance
19 is in the record. But there is a motion to waive the filing
20 deadline.

21 MR. DAVIS: Yes sir.

22 VICE CHAIRPERSON HART: And just could you speak
23 to that for a minute?

24 MR. DAVIS: Oh yes. In reviewing the document
25 yesterday, our BZA report, we noticed an error in our

1 calculation of the square footage of the lot size. So we
2 just amended that and reuploaded it.

3 VICE CHAIRPERSON HART: Appreciate it. Does the
4 Board have an issue with this motion? I'm fine with waiving
5 the filing deadline. So I think that it seems like we have
6 agreement here, so we'll grant the motion to waive the filing
7 deadline. Let's see. We have not gotten an ANC report yet.
8 Could you -- did that come in? I didn't think that did. No,
9 that one didn't come in for this.

10 If you could just provide a little bit of
11 information on the -- just the ANC, what you've -- the
12 communication that you've had with the ANC?

13 MR. DAVIS: Yes. I have presented in front of the
14 ANC and Commissioner Sherice Muhammad. She just wanted to
15 know what type of variance that we asked for. So I uploaded
16 that information to her. I think that's exhibit -- I can't
17 pull it up. I think it's Exhibit 30, an email to the
18 Commissioner. It was one of the last four that I had
19 uploaded.

20 She wanted to know exactly what type of variance
21 we were seeking. So I've been in constant email
22 communication --

23 VICE CHAIRPERSON HART: 43.

24 MR. DAVIS: Yes, in communication with her to see
25 if I could, you know, if I could -- if I could present at

1 their executive meeting. Their schedule says that they had
2 one yesterday. I requested or presented at their executive
3 meeting, never gotten a response, so that's where we stand.

4 VICE CHAIRPERSON HART: And so they -- so have the
5 executive -- their executive committee has not met on this
6 at all?

7 MR. DAVIS: I'm not sure. They're scheduled to
8 meet at the last Tuesday or the fourth Tuesday of every
9 month. So I assume that they would have had one, an
10 executive meeting yesterday. So I requested a couple of
11 times to present there and I just never got a response.

12 VICE CHAIRPERSON HART: So neither the executive
13 committee or the full ANC has heard this, your project?

14 MR. DAVIS: The full ANC has heard it. They just
15 didn't give me a letter of support, and so that's why I was
16 trying to hope we'd get one yesterday.

17 VICE CHAIRPERSON HART: Yeah, okay. I understand,
18 okay. So that's fine. I just needed to understand where we
19 were with it. So if you would like to just talk about any
20 other -- how your project is meeting the criteria for us to
21 approve? Did we, we've heard this already?

22 (Off mic comment.)

23 VICE CHAIRPERSON HART: I was thinking that we
24 did. My problem is that you guys have so many projects, I
25 can't recall if we've actually heard this particular one or

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1 not. Did we postpone this after, before actually hearing the
2 case?

3 MR. DAVIS: I'm not sure, because I've only been
4 here a couple of months. So I'm not sure.

5 VICE CHAIRPERSON HART: I'll ask OAG.

6 MS. CAIN: I believe what you heard on the 15th
7 was testimony as to the postponement request, and then there
8 also was a request from Chairman Hood who was sitting with
9 the Board that day, and he specifically asked for the ANC
10 report or some kind of comment from the ANC. But I don't
11 believe you ever got into the specifics of the case.

12 VICE CHAIRPERSON HART: Okay. Yeah, and I guess
13 we have not gotten an ANC report yet. Yeah, because they
14 were supposed to have -- so the full ANC has heard it, but
15 they didn't provide any report for us, and you're not really
16 sure why.

17 MR. DAVIS: I'm not sure why.

18 VICE CHAIRPERSON HART: Okay. Well, let's just
19 go through the case and describe how you're meeting the
20 variance from side yard requirements and we'll go from there.

21 MR. DAVIS: Okay, thank you Chairman. This lot
22 is 21 feet in length or in width pardon me, and that's
23 beneath the 30 feet wide requirement of lot width. But we're
24 asking for a variance for a side yard because of the
25 narrowness of the lot. The lot is only 21 feet wide. So

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1 therefore we'll be building up to the property lines on both
2 sides of the side yard.

3 The way that this single family home will
4 contribute to the neighborhood is that this lot where it
5 sits, even though it's narrow, there is an adjacent lot that
6 is vacant. However, we did try to contact the owner and we
7 never got a response from the owner of the vacant lot to the
8 right of the property, and so that's why we weren't able to
9 buy the two lots and therefore to only build on this one
10 narrow lot.

11 This will impact the community positively because
12 currently that lot is right off an alley, and there's a
13 warehouse across the street. Right now, it's just kind of
14 a puddle. It's just kind of an official parking lot, where
15 people are parking trucks and all types of unauthorized
16 vehicles, and therefore it's become very swampy and unkept.
17 So we believe that this property will -- it will contribute
18 greatly to the development of the community by putting a
19 market rate house and to get rid of the extra vehicular
20 unauthorized parking.

21 Other than that, it is a market rate home and it
22 won't impede on anybody's light or air or anybody else's
23 property. So that's why we'd like to build this house.

24 VICE CHAIRPERSON HART: You're building on a
25 foundation wall. Why are you doing that? Why is the

1 foundation wall four-five feet? Are you in a flood plain?

2 MR. DAVIS: Yes, it is.

3 VICE CHAIRPERSON HART: I was just wondering, just
4 wondering that. Does the Board have any questions for the
5 applicant?

6 (No response.)

7 VICE CHAIRPERSON HART: Okay. We're going to turn
8 to the Office of Planning. Thank you very much.

9 MR. MORDFIN: Good afternoon, Mr. Chair, members
10 of the Board. I'm Stephen Mordfin, and the Office of
11 Planning is in support of this application to reduce the
12 minimum side yard on the north side of the property, and is
13 available for any questions. Thank you.

14 VICE CHAIRPERSON HART: And so you think that the
15 applicant meets the variance test, particularly because of
16 the shape of the lot?

17 MR. MORDFIN: Yeah. The lot narrows from the
18 front to the rear, abutting an alley on the north side,
19 abutting an alley on the east at the rear. So because of
20 that, building up to the property line helps them with the
21 practical difficulty of the way that the lot narrows. There
22 is nobody on the other side and across that alley are
23 churches.

24 So that it's not a residential property with
25 dwellings on that side of the property. So we feel that this

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1 will enable to applicant to overcome the practical difficulty
2 and we don't see a substantial harm to the zoning
3 regulations. It will permit a rowhouse within a district
4 where it's permitted as a matter of right.

5 VICE CHAIRPERSON HART: Okay, and are there any
6 questions for the Office of Planning? Okay.

7 MEMBER WHITE: I just have one question.

8 VICE CHAIRPERSON HART: Oh, that's fine. So I
9 think -- does the applicant have any questions for the Office
10 of Planning?

11 MR. DAVIS: No sir.

12 VICE CHAIRPERSON HART: Okay. We do have a
13 question for the applicant?

14 MEMBER WHITE: Just one. Do you know what the
15 feedback that you've received from the ANC? What's their
16 general feeling about this project?

17 MR. DAVIS: Oh, they were just unsure quite what
18 the type of variance that we were asking for. They were in
19 support of it. They just didn't know what type of variance
20 we were asking for. So in Exhibit 43, I listed what type of
21 variance that we are asking for.

22 MEMBER WHITE: But they understood what kind of
23 project this is?

24 MR. DAVIS: Yes they do, yes.

25 MEMBER WHITE: Okay, and there are no objections

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1 --

2 MR. DAVIS: No objections, no.

3 MEMBER WHITE: --to the substance of what you're
4 trying to do?

5 MR. DAVIS: Yes.

6 MEMBER WHITE: Okay, thank you.

7 VICE CHAIRPERSON HART: Any other questions? No?
8 Okay. Is there anyone here wishing to speak to support of
9 the application? Anyone here wishing to speak in opposition
10 to the application?

11 (No response.)

12 VICE CHAIRPERSON HART: ANC is not here? Okay.
13 So do you have any further, any conclusion that you'd like
14 to make Mr. Davis?

15 MR. DAVIS: No thanks.

16 VICE CHAIRPERSON HART: Okay. Is the Board ready
17 to deliberate?

18 MEMBER JOHN: Yes.

19 VICE CHAIRPERSON HART: Okay.

20 (Pause.)

21 VICE CHAIRPERSON HART: Okay, sorry. So hold on
22 a second. Give me a second.

23 (Pause.)

24 VICE CHAIRPERSON HART: So sorry for that. So
25 what I was trying to understand, evidently we have received

1 an email from the ANC, but it is not an official email from
2 the ANC. It is not actually in the record yet, and we want
3 to get -- and because it isn't and because we had
4 specifically asked for something from the ANC, I would like
5 to have that document in the record, or at least understand
6 where we are with that before taking a final decision.

7 I think we can set this project for decision, I
8 don't know, maybe next week. I don't know if that works, Mr.
9 Moy. But I think we can do that, and that time between now
10 and then we can get the actual -- whatever the email was that
11 we had gotten actually into the record, and then we can put
12 our decision on for that, at that point.

13 So kind of what's where we are, okay? Okay. It's
14 because we had gotten this today, it was a little hard for
15 us to figure out what to do with it. So I don't think there
16 was an actual vote in that. It's just a document from the
17 ANC, and so it's us trying to figure out whether or not we
18 give it great weight or not.

19 So I think we need some time to kind of figure
20 that out, and the document will be in the record. You can
21 review it, the Commissioners, Board members up here can
22 review it, and then we can make a decision for next week,
23 okay?

24 MS. CAIN: Mr. Vice Chair, I just want to know.
25 It did come in to OZ yesterday? Obviously, it did come in

1 before the time line but again, because this was specifically
2 requested in the last hearing, as you said I just want to be
3 formal about how we go through dealing with the ANC's
4 concerns.

5 VICE CHAIRPERSON HART: Okay, okay. So right now
6 I will close the record for everything except for this last
7 document, and if we need some updates to that or at least
8 need some clarification on that?

9 MS. CAIN: I would close the record except barring
10 a formal response from the ANC.

11 VICE CHAIRPERSON HART: Okay, okay. We will have,
12 put the case on decision for next week, and that's it.

13 MR. DAVIS: Okay.

14 VICE CHAIRPERSON HART: All right, all right.
15 Thank you all very much. Thank you very much. Sorry for the
16 confusion, but I think we're on the right page now. Okay.

17

18 MR. MOY: For the record then Mr. Chair then, this
19 is set for a decision next week, which is July the 3rd.

20 VICE CHAIRPERSON HART: Yes, I fully understood
21 that. Thank you very much. All right, Mr. Moy. I think we
22 have one more case left. That's 20006.

23 Application No. 20006

24 MR. MOY: Yes, thank you Mr. Chairman. So 20006
25 of T-Mobile Northeast, LLC. This is advertised and captioned

1 for special exception relief under the use provisions of
2 Subtitle C, Section 1313.2 to erect a monopole in the RA-1
3 zone. This is at 3675 Ely Place, E-L-Y Place S.E., Square
4 5438, Lot 801.

VICE CHAIRPERSON HART: Thank you,
5 Mr. Moy. If you could, welcome. If you could introduce
6 yourselves from my right to left.

7 MR. ALSAMNA: Mohammed Alsamna. I'm the radio
8 frequency engineer for T-Mobile.

9 VICE CHAIRPERSON HART: If you could spell your
10 name please?

11 MR. ALSAMNA: M-O-H --

12 VICE CHAIRPERSON HART: Your last name please.

13 MR. ALSAMNA: A-L-S-A-M-N-A, Alsamna.

14 VICE CHAIRPERSON HART: Thank you.

15 MS. BULL: I'm Alexandra Bull. I represent T-
16 Mobile. I work for Network Building and Consulting. My last
17 name is B-U-L-L, just like the animal.

18 VICE CHAIRPERSON HART: Ah, okay. Thank you.

19 MS. THEMAK: Tracy Themak with Donahue and
20 Stearns, rezoning counsel for T-Mobile on this application.

21 VICE CHAIRPERSON HART: Emak?

22 MS. THEMAK: Themak, T-H-E-M-A-K.

23 VICE CHAIRPERSON HART: Okay, and Ms. Themak, are
24 you going to be presenting?

25 MS. THEMAK: Yes.

1 VICE CHAIRPERSON HART: Okay. Kinda figured, just
2 had to ask. Ten minutes, five minutes, three minutes.

3 MS. THEMAK: Very easy, very easy. Yeah, I can
4 do it.

5 VICE CHAIRPERSON HART: Can we do it in one
6 minute?

7 MS. THEMAK: I had a lot of caffeine. We're good.

8 VICE CHAIRPERSON HART: Okay, yeah. That's fine.
9 We'll give you ten minutes. We'll deal with it. It's just
10 for me to understand where we are. It's sometimes hard. As
11 you can tell, sometimes the day gets away from us because
12 it's a lot of discussion that happens.

13 MS. THEMAK: Understood.

14 VICE CHAIRPERSON HART: But I appreciate you guys
15 waiting. I'm assuming you all have been sworn in?

16 MS. THEMAK: Yes.

17 VICE CHAIRPERSON HART: I know you've been here
18 for a while, but I had to ask. If you could, just kind of
19 step through the project, and you've got your ten minutes.
20 You can start when you like.

21 MS. THEMAK: Great. This is a fairly
22 straightforward application. We have, T-Mobile is proposing
23 a replacement light pole at the Washington Nationals Youth
24 Baseball Facility at 3675 Ely Place. This is the site plan.
25 It's included in the full set of drawings that you all

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1 received as part of the application. But this shows the
2 location of the facility. I know it's hard to see here. It
3 is to the west of the baseball field, and is where there eis
4 a current light pole for the stadium, and that light pole
5 will be removed. A replacement pole will be put up and then
6 the lights reattached on that pole. T-Mobile will be the
7 only carrier located on this replacement facility.

8 This is an elevation view of the facility. T-
9 Mobile again you see, it's a array of antenna at the top of
10 the rad center, and I believe it's at 87 feet, and then those
11 lights are going to be reinstalled according to the lighting
12 scheme for the facility. So there will be no change to that
13 lighting scheme.

14 This is simply an aerial. It shows the
15 perspective from which the photo sims were taken. I'm sorry,
16 I want to correct that. It's at 81 feet, the rad center.
17 The center line of T-Mobile's antennas will be 81, not 87.
18 It shows the perspective that the photo simulations were
19 taken. So I'm going to show you a few perspectives that show
20 the existing circumstances, and then that with the added
21 array on the replacement light pole.

22 The existing photo is on the left, and then the
23 photo on the right shows again the structure put back into
24 place, with T-Mobile's center line array on the right.
25 Another perspective, also again with the existing light pole

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1 and then the light pole with the antennas installed on the
2 right.

3 VICE CHAIRPERSON HART: Is the tower bigger? Is
4 the tower wider than what's -- it just looks wider.

5 MS. THEMAK: So the base, the structure of it
6 might be a little bit more substantial than what's proposed,
7 and that's so that it can handle the extra loading of those
8 antennas attached to the top. So it will be a little bit
9 thicker than what is existing for those lights, and that's
10 for structural reasons.

11 VICE CHAIRPERSON HART: Okay.

12 MS. THEMAK: This is the last perspective, again
13 with the antenna and without. These I will let -- if you
14 have specific questions on the need for this site, that's why
15 we have our RF engineers speak to these propagation maps.
16 But these show the two levels of coverage that will be
17 provided. Here you have the light green, the gap in coverage
18 in this particular area without a site here.

19 This is with the existing temporary site and this
20 is with the replacement pole, with the -- when the site goes
21 online, it will be at the location indicated in red there.

22 VICE CHAIRPERSON HART: And so would you need the
23 temporary one and this one?

24 MS. THEMAK: No. When that one is taken offline,
25 there will be no coverage in this area.

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1 VICE CHAIRPERSON HART: Ah okay.

2 MS. THEMAK: There's a temporary, there's a cell
3 on wheels temporarily installed to provide temporary
4 coverage. And then this is the exact same view, except this
5 is at the L-700 bandwidth, showing no facility in this area,
6 showing the existing coverage and then the existing coverage
7 is going to be removed, this site will be put into place and
8 this will be the resulting coverage for T-Mobile for this
9 area.

10 We do have the ANC's support. We met with them
11 at two executive work sessions and at two full ANC meetings.
12 We had an engineer present at the most recent, and we got a
13 vote of support. I don't think at present the letter was
14 entered into the record, but I did send staff an email saying
15 that it was forthcoming.

16 VICE CHAIRPERSON HART: It's in the record.

17 MS. THEMAK: Okay, great.

18 VICE CHAIRPERSON HART: Exhibit 37.

19 MS. THEMAK: And that's really all we have. I
20 wanted us to be present, so if you have any more specific
21 questions. But I'd also like to note that in OP's report,
22 there were a few items that were initially missing, and all
23 of those have been submitted into the record, and staff can
24 confirm that as well.

25 VICE CHAIRPERSON HART: Where is that in the

1 record?

2 MS. THEMAK: There were several submissions
3 subsequent to the OP report, and they were all done in
4 response to Karen Thomas' request for supplemental
5 information. I can let her detail exactly what was submitted
6 after her report was due.

7 VICE CHAIRPERSON HART: Okay. What I'm seeing is
8 that there is a motion to defer, a BZA memo granting
9 postponement to, you know, it's our memo, and then affidavit
10 of posting, affidavit of maintenance and then the ANC report.
11 But there's no other document that I'm --

12 MS. THEMAK: Subsequent to the OP report, before
13 all of those exhibits in the record, OP contacted the
14 applicant and had us submit several different things. We
15 have revised plans. I believe they're Exhibit 29 that
16 superseded the plans that were originally submitted. They
17 included things like stepbacks. Propagation maps were
18 requested, a topical map. So all of those things prior to
19 the request for deferral were submitted in response to
20 staff's request.

21 VICE CHAIRPERSON HART: Okay. It's just a little
22 bit --

23 MS. THEMAK: Sort of out of order.

24 VICE CHAIRPERSON HART: It's out of order in the
25 record, so it makes it a little bit -- I was trying to

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1 understand what you were saying and look at what this is.

2 MS. THEMAK: Yeah, I understand. Yes.

3 VICE CHAIRPERSON HART: So okay, and can you talk
4 about your, any conversation that you've had with the
5 National Park Service?

6 MS. THEMAK: When Mr. Moy contacted us about this
7 site, I believe he said he was going to speak to Commissioner
8 May about it, and we notified Parks that their facility, that
9 this is going to be on the facility adjacent to them, and
10 that's really the extent of it.

11 VICE CHAIRPERSON HART: You haven't heard anything
12 back from them on that?

13 MS. THEMAK: No.

14 VICE CHAIRPERSON HART: And who did you contact --

15 MS. THEMAK: No. We went through Peter May.

16 VICE CHAIRPERSON HART: Okay. I just didn't know
17 if they had a particular concern about it. And for projects
18 that are on District property, this is I'm putting my other
19 hat on. I also work for the National Capital Planning
20 Commission, and we review projects, District projects all
21 over the City, including at this facility.

22 Antennas are one of the things that we do review,
23 and I would expect to see this at NCPC at some point. I
24 don't know exactly what your schedule is for construction,
25 but you can go online and see what that process is. But I'm

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1 just notifying you that that's something that you may have
2 to do, that you have to do as well. Are there any questions
3 for the applicant on the project? Okay.

4 MEMBER WHITE: I just want to make sure. I think
5 OAG brought to our attention that we had to make sure that
6 all the criteria under 1313.11 were addressed. There were
7 some that were addressed, but others weren't. For instance,
8 1313.11(d) as in Dog, (f) as in Frank, (g) as in Girl, (j)
9 as in Jump, (k) as in Kangaroo and (l) as in Lion. I just
10 wanted to make sure those things were provided in the record.
11 If you need me to read them, I will.

12 MS. THEMAK: Yeah, that would be great. I believe
13 that they all were at this point.

14 MEMBER WHITE: And I don't know if that was
15 something that OP was going to address, but (d) has to do
16 with other towers or monopoles within a two mile radius of
17 the proposed site with identified heights above grade. The
18 applicant is supposed to provide written or graphic
19 documentation of that.

20 MS. THEMAK: I believe we submitted that.

21 MEMBER WHITE: I didn't see it in the record
22 unless I missed it.

23 MS. BULL: I believe that was submitted.

24 MS. THOMAS: Madam Commissioner, Chair, sorry.
25 I did see that was in the record. I'm sorry. I looked at

1 it, yeah. They have, they have -- I can't recall the exhibit
2 number. I don't have the information in front of me, but
3 there is a map that shows the location of existing towers
4 within a two mile radius.

5 MEMBER WHITE: All right.

6 MS. THOMAS: It's in that section after OP's
7 report was submitted, but prior to the deferment.

8 VICE CHAIRPERSON HART: Yeah. It's just that
9 unfortunately in the record, the record is a little bit --

10 MEMBER WHITE: Jumbled.

11 MS. THOMAS: Yes.

12 VICE CHAIRPERSON HART: Yeah, and so it's hard to
13 see what things were submitted before and after the OP
14 report. Some of these aren't dated, and so that makes it a
15 little bit even more confusing. But I think that some of
16 this is included in this.

17 MS. THOMAS: Yes. I can check.

18 MEMBER WHITE: Can we get to the next one, a
19 written statement agreeing to permit the co-location by other
20 service providers on a commercial basis on an antenna tower.
21 That's under Subsection (f).

22 MS. THEMAK: Yeah. That was submitted to staff
23 as well. A lot of these were, yeah.

24 MEMBER WHITE: Okay, and so I'm just making sure.
25 A written statement agreeing to designer-proposed monopole

1 for at least three antenna arrays and to make the array space
2 available on a commercial basis for co-location by any
3 telecommunications service provider whenever unused by the
4 initial telecommunications service provider or providers.
5 That's a long one.

6 MS. THEMAK: This is -- we understand that
7 requirement. We can't provide that here because of the
8 limit. We can't put antenna array below the lights, and
9 this would require a much taller structure. The goal here
10 was to keep it generally within the same height as the
11 existing light poles on the property.

12 MEMBER WHITE: Okay. Then under --

13 VICE CHAIRPERSON HART: So let's get back to this
14 one. So it's not that you are against it, you just need to
15 understand how tall -- it would -- that this would have to
16 have a taller height than what's out there now?

17 MS. THEMAK: Substantially, yeah.

18 VICE CHAIRPERSON HART: You're not against that.
19 You're just saying that you -- you're only proposing what it
20 is you're proposing, which is your antennas, not having this
21 taller for future --

22 MS. THEMAK: 140 feet for future, right.

23 VICE CHAIRPERSON HART: Okay, understood.

24 MEMBER WHITE: And then the proposed appearances
25 of the antenna tower or monopole including exterior finish.

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1 MS. THEMAK: Yes. This was included in our -- in
2 the burden of proof. It's a galvanized steel finish.

3 MEMBER WHITE: Okay, and then there's just two
4 more. A maintenance plan explaining how the property
5 manager, that's in there, yeah. Then finally other -- well,
6 that's just a catch-all one section. Is it?

7 (Off mic comment.)

8 MEMBER WHITE: Yeah. So it sounds like we've --
9 you've responded to all those sections.

10 MEMBER JOHN: So I -- did you say that you have
11 provided a written statement agreeing to design the pole so
12 it will accommodate three carriers or you said you did not.

13 MS. THEMAK: No. We did not submit a written
14 statement, because we're not -- the condition of the -- the
15 reason we chose this site was the minimal visual impact. We
16 looked for properties that are this large with existing tall
17 structures, and we were looking to install as a replacement
18 light pole. We wanted to blend with the existing light
19 scheme and not stand out at 130 or 140.

20 MEMBER JOHN: Right. But I think you have to
21 address the regulation, what the regulation requires. So did
22 you include any statement with the reasons for not doing
23 that?

24 MS. THEMAK: I believe we asked for -- we might
25 be asking for a waiver from that requirement. Given that

1 we're the limited height the impact, the visual impact is the
2 superseding factor. I can check on that.

3 MEMBER JOHN: Uh-huh.

4 (Pause.)

5 VICE CHAIRPERSON HART: Okay.

6 MS. THEMAK: I can't remember, we submitted so
7 many things supplemental to the OP's report. It may be in
8 there. I'll let Ms. Thomas testify to that. If it's not,
9 we can agree to submit a waiver, just asking for a waiver of
10 that in light of the lesser visual impact that will result.

11 MEMBER JOHN: Mr. Vice Chair, maybe the oral
12 explanation might be sufficient because I think -- I don't
13 know. I guess we could ask OAG.

14 VICE CHAIRPERSON HART: Or we could have a
15 condition.

16 MEMBER JOHN: Yeah.

17 VICE CHAIRPERSON HART: No. I mean there could
18 be condition that in the future, that you know, we would
19 expect that to be -- I don't know. Maybe that would have to
20 be submitted to us in the future anyway, but I'm not exactly
21 sure. Okay. Commissioner Miller, you have a question?

22 ZC VICE CHAIRPERSON MILLER: Yeah, just one
23 question. Thank you. Bless your heart. Hello. Was there
24 -- you may have touched on this and I might have missed it.
25 Was there any discussion with the youth baseball academy, the

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1 National Youth Baseball Academy about the antenna? I guess
2 there has to be, because you're -- it's their light tower.

3 MS. THEMAK: Yeah, we looked -- when we look at
4 a site like this, we want to make it as minimally impactful
5 to the operations of the facility as possible. So we let
6 them direct us where on the parcel they would like it to be
7 for safety and operations concerns. So absolutely.

8 ZC VICE CHAIRPERSON MILLER: So they've signed off
9 on these plans?

10 MS. THEMAK: Yes, absolutely.

11 ZC VICE CHAIRPERSON MILLER: And the lighting is
12 still going to be sufficient for whatever they -- where it's
13 located on the pole?

14 MS. THEMAK: Yes.

15 ZC VICE CHAIRPERSON MILLER: Okay, thank you.

16 VICE CHAIRPERSON HART: And just so that --
17 because we have the RF analyst here, so what is the human
18 safety impact around this, given that you are doing it at a
19 place at the park with kids? If you could just speak to that
20 for a minute.

21 MR. ALSAMNA: Yeah. Usually for this kind of
22 tower, when we run the EME, the electromagnetic effect --

23 VICE CHAIRPERSON HART: I was going to ask you to
24 --

25 MR. ALSAMNA: Yeah. When we run it on --

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1 VICE CHAIRPERSON HART: You can't use the acronyms
2 here.

3 MR. ALSAMNA: --this kind of site, it's usually
4 anywhere on the ground level. It would be less than one
5 percent of the FCC limit, and when we want the limitation for
6 the cabinet, we use maximum exposure, which is usually a lot
7 more than what we usually use on this kind of site. So we
8 use like maybe three times power than what we normally use
9 on this kind of site, and still less than one percent of the
10 FCC limit.

11 VICE CHAIRPERSON HART: So what you're saying is
12 you take three times the amount of what you would expect on
13 a normal antenna or normal site, and you kind of run your
14 analysis at this particular location, to understand what that
15 impact might be. What you're saying is that impact is less
16 than one percent of what is allowed?

17 MR. ALSAMNA: Yeah. It usually about one percent,
18 a little bit less or more.

19 VICE CHAIRPERSON HART: I just want to make sure
20 I understood what you were saying.

21 MR. ALSAMNA: For any, yeah, on the ground level,
22 anywhere on the ground level. So the only effect you would
23 have if you stand directly in front of the antenna for a long
24 time, that's when it can affect your body. If you're
25 anywhere on the ground level it's -- the signal is very low

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1 and --

2 VICE CHAIRPERSON HART: Where does the signal
3 start to increase? I mean I understand that it's -- you've
4 now told me about the ground level and then at the antenna
5 level, but there's 80 feet between that so, or 75 feet
6 between that. So what's the, what is the kind of not safe
7 location? Is it 20 feet, 30 feet away from it?

8 MR. ALSAMNA: So the only not safe place is when
9 you're standing directly in front of the antenna, like you
10 know at the same level as the antenna and standing there for
11 a long time. That's when it start affecting you. But
12 anywhere on the ground level, it should way below the FCC
13 limit and it should not have any effect.

14 VICE CHAIRPERSON HART: Okay, and cumulative? I
15 mean some people are going to be, you know, kids would be out
16 there every day maybe until -- is there a cumulative impact?

17 MR. ALSAMNA: Yeah. It should not have any
18 effect. I mean the thing about wireless communication, it's
19 a two-way communication. So the power output that we use is
20 very, very low compared to the TV station, radio station
21 because the radio station, TV station, they're one-way
22 communication. So the tower cover like let's say 100 miles
23 or 200 miles maybe.

24 So for the signal to travel that far, they have
25 to transmit at very high power. So for the

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1 telecommunication, because it's a two-way communication that
2 divides, talks to the antenna and the antenna talk to the
3 device. So the device has antenna, and because the device
4 has very small antenna, so the signal has to be balanced
5 between device and the antenna.

6 So if you transmit high power from the antenna,
7 your device wouldn't be able to communicate back because of
8 the limitation on the antenna. So that's one of the reasons
9 why our signal is very low, because it's a two-way
10 communication. So it has to be, you know, the antenna has
11 to be able to talk to the phone and the phone has to be able
12 to talk back to the antenna.

13 VICE CHAIRPERSON HART: thank you. I just needed
14 to get that --

15 MR. ALSAMNA: And one more thing. It's usually
16 better for you when you have good signal, because the way the
17 phone works, whenever you have weak signal so the network or
18 the hand device, because the network control how much power
19 comes out of your phone. So whenever, you know, you're in
20 bad coverage area, the network tells the device to power up
21 so it can talk back to the antenna.

22 So that's actually worse for you, because you're
23 holding the device next to you. It's not the signal coming
24 out of the antenna; it's the signal coming out of your phone.

25 VICE CHAIRPERSON HART: Thank you for scaring me

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1 now. I'm kidding. Are there any other questions for the
2 applicant?

3 MEMBER WHITE: I'm going to ask the simple
4 question. So there are no health risks to those kids that
5 are playing on the baseball field? That's basically T-
6 Mobile's testimony here?

7 MR. ALSAMNA: Yeah. We're way below the FCC limit
8 on this site.

9 MS. THEMAK: We did. We actually did. T-Mobile
10 brought an RF engineer also to the final full ANC meeting,
11 with the understanding that RF health effects are sort of off
12 the table, we did have him present to the community, to let
13 them know exactly what the measurements would be. So that
14 was addressed there as well, as part of the community
15 outreach.

16 MEMBER WHITE: I see there were a lot of ANC
17 meetings here, so I'm sure it came up in at least one of
18 those meetings.

19 MS. THEMAK: Yes, definitely.

20 MEMBER WHITE: Thank you.

21 VICE CHAIRPERSON HART: Okay. Any other
22 questions? Okay. So Ms. Thomas. I know we've kind of
23 talked to you already, but we might as well actually do that
24 officially.

25 MS. THEMAK: Yeah, sorry.

1 MS. THOMAS: Good afternoon Mr. Chair. OP would
2 say that we are in support of this application. To answer
3 some specific questions or concerns that you had, the
4 applicant did present a request and as stated in our report,
5 Exhibits 25 through 29. We asked for propagation maps, a
6 topographic map and the towers within two miles, and we asked
7 for a maintenance plan and a plan with updated plans for the
8 setbacks.

9 So that when it goes to DCRA, they would be able
10 to see it and they would be concerned that there was a change
11 in the plans. So also with respect to the height of the
12 proposed monopole, we would not support a monopole higher
13 than what is proposed, because it would be contrary to the
14 Height Act, and they would need additional relief to go to
15 the height -- to put different carriers. So if you --

16 VICE CHAIRPERSON HART: You said contrary to the
17 Height Act?

18 MS. THOMAS: It will go against the Height Act.
19 It will exceed the Height Act.

20 VICE CHAIRPERSON HART: How so?

21 MS. THOMAS: Ely Street, the width of Ely Street
22 plus 20 feet would exceed 88 feet.

23 VICE CHAIRPERSON HART: But towers are able to go
24 higher than that?

25 MS. THOMAS: Yes. It just depends on the width

1 of the street. But they would have to get Mayor's Agent
2 approval to exceed the Height Act. So there are towers that
3 go higher than that.

4 VICE CHAIRPERSON HART: Okay, okay.

5 MS. THOMAS: So in this case because of the
6 height, it could only support one carrier maybe, and the
7 height of the location of the light array that it's supposed
8 to hold. Because if you have different arrays, they would
9 need about ten foot separation, ten feet between different
10 carriers. So that would increase the height by ten feet
11 plus. So yeah, and then the antennas can't go below, an
12 array can't go below 50 feet. So that would -- that limits
13 the height of it.

14 So if OAG is asking for a waiver, we would support
15 that as well. If the application requires that, we would
16 support that, or approval rather. With that, I'll rest on
17 the record if you have any other questions.

18 VICE CHAIRPERSON HART: Okay. Yeah, I think that
19 the applicant would be the one that's requesting the -- would
20 be the one that would be requesting the waiver from that.
21 But I'm not exactly sure if they're able to do that waiver.
22 I don't know. Would they be able to -- I know they can
23 request it. I don't know, can we grant a waiver? Just want
24 to keep you on your toes today.

25 MS. CAIN: I think if they were to submit a formal

1 waiver from those provisions with the sort of a written
2 explanation of the testimony they gave today, the Board would
3 be able to make a decision on that. My inclination would
4 be to have something in writing in the record saying that
5 they're formally requesting this and spelling out the reasons
6 why.

7 I think that would give the Board a little bit
8 more grounds to grant an exception or a waiver from those
9 provisions.

10 VICE CHAIRPERSON HART: Yeah, I agree and that I
11 think it would be helpful to address it in that format,
12 because I think that it's -- to do it now, I'm still a little
13 bit -- I'm not sure if we could actually do the waiver. So
14 I don't want to -- I just need, I think we need more
15 information to be able to kind of understand that a little
16 bit better.

17 MS. THEMAK: There's no way that we could
18 incorporate it into a -- I mean I think we did this exact
19 thing with the -- Alexandra can speak to the cell on wheels
20 that's temporarily in place, that was sort of the interim
21 solution here.

22 MS. BULL: So actually it was, it was a case that
23 was before this Board a little while ago, a year or two ago
24 with a different carrier, was proposing a temporary monopole
25 structure and had to meet the same requirements listed in the

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1 ordinances the site has to meet. But again, couldn't meet
2 that requiring of allowing co-locators because of the design
3 of the site and because of the height of the site and the
4 sensitivity of the area.

5 I don't believe, I don't know if Karen would
6 remember, but I don't believe we submitted a waiver for that
7 project. But the Board was able to approve it even without
8 that being applied to the cases.

9 VICE CHAIRPERSON HART: That's fine. My problem
10 is that I don't have one, that case in front of me, or two
11 be able to -- what I'm saying is I don't think -- I think
12 that we need, I don't know, a week to be able to kind of deal
13 with the waiver issue and understand that a little bit
14 better, and right now I just don't think we have that. If
15 we needed some, a written document from you we haven't gotten
16 that written document on the request for the waiver or the --
17 how we're going to get that.

18 Right now I just think that we need to have a
19 little bit of time to be able to kind of understand that
20 better, and we just don't have that information. If you want
21 to provide us with a little bit, a little more information
22 on the particular location, then we can research that and
23 then be able to then say okay, I guess that we've done this
24 previously.

25 MS. THEMAK: Sure. I think --

1 VICE CHAIRPERSON HART: And we can move forward
2 with that. But I just don't think --

3 MS. THEMAK: We'd be happy to provide an
4 explanation of why we can't co-locate. I'm curious if that
5 could be a condition of approval.

6 VICE CHAIRPERSON HART: If you're trying to get
7 an approval for today, I don't think you're getting one.

8 MS. THEMAK: Okay, understood. I had to ask.

9 VICE CHAIRPERSON HART: So I think what we're
10 looking at is -- I know, that's fine. That's your job. I
11 think that we're talking about is just being able to get the
12 information and then I think we have everything except for
13 this. You wouldn't have to come back for another meeting.
14 We would do -- we would set this for a public meeting in
15 which a decision, which just means that we had a conversation
16 among ourselves with the information that you provided, and
17 then we could do that next week.

18 But I just need to get the information to then be
19 able to do that. OAG can then spend a little bit of time to
20 make sure that the waiver issue is something that we can do,
21 and then we can be kind of all on the same page. Right now,
22 I just think that it's a little bit -- we're trying to work
23 through this process, and some of this is -- I don't want to
24 kind of be presumptive on whether or not we can get the
25 waiver or to provide the waiver, and then we have a problem,

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1 you know, in the future. I'm just trying to get that kind
2 of solved, and then have a response for you for next week.

3 MS. THEMAK: I appreciate the explanation.

4 VICE CHAIRPERSON HART: Yep. So yeah. So you
5 would not have to come for that meeting. It's not a
6 conversation that we have like we do now during a public
7 hearing. It would just be us kind of having a conversation
8 and then saying this is yes, no or however we decide. So can
9 you get something to us by the end of this week?

10 MS. THEMAK: Absolutely.

11 VICE CHAIRPERSON HART: Okay. So if we could get
12 that. Do we need anything else from OAG? Okay. So it's the
13 waiver, why you think you should be receiving the waiver, and
14 if we could get that by the end of the week then we will set
15 this for decision next week, which is July 3rd, and I think
16 that's it. Okay.

17 MS. THEMAK: Thank you very much.

18 VICE CHAIRPERSON HART: Thank you all very much.
19 Have a good afternoon. So Mr. Moy, anything left on the
20 agenda?

21 MR. MOY: Not from the staff sir.

22 VICE CHAIRPERSON HART: So the hearing is now
23 adjourned.

24 (Whereupon, the above-entitled matter went off the
25 record at 3:59 p.m.)

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCBZA

Date: 06-26-19

Place: Washington, DC

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