

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

JULY 24, 2019

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBERS PRESENT:

MICHAEL TURNBULL, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary  
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

## OFFICE OF PLANNING STAFF PRESENT:

STEVE COCHRAN  
ELISA VITALE  
JONATHAN KIRSCHENBAUM  
KAREN THOMAS  
CRYSTAL MYERS  
MAXINE BROWN-ROBERTS

The transcript constitutes the minutes from the  
Public Hearing held on July 24, 2019.

## C-O-N-T-E-N-T-S

Application No. 20075	
CTF Georgetown Hotel LLC . . . . .	8
Application No. 20072	
Appeal of Marybeth and Ken DeGrave . . . . .	35
Application No. 20008	
Brighter Chapter Investment LLC . . . . .	40
Application No. 19978	
775 Fairmont NW LLC . . . . .	49
Application No. 20036	
Mariela Licha Salomon . . . . .	69
Application No. 20063	
Siri Fiske . . . . .	74
Application No. 20071	
Charles Weil and Leigh McCue-Weil . . . . .	84
Application No. 20073	
Oxbridge Development QOZB Fourth St NE LLC . . . . .	89
Application No. 20074	
Stanton Rd SE LLC . . . . .	114

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

(9:50 a.m.)

CHAIRPERSON HILL: All right, good morning, everyone. The hearing will please come to order. We're located in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street N.W.

This is a July 24th public hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Fred Hill, Chairperson. Joining me today is Carlton Hart, Vice Chair; Lesyllee White and Lorna John, Board Members; and representing the Zoning Commission is Michael Turnbull.

Copies of today's hearing agenda are available to you located in the wall bin near the door. Please be advised this proceeding is being recorded by a court reporter and is also web cast 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're finished speaking please turn off your microphone 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 their hand and been sworn in by the Secretary. Also, each witness must fill out two witness cards.

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1           These cards are located on the table near the door  
2 and on the witness table. Upon coming forward to speak to  
3 the Board please give both cards to the reporter sitting at  
4 the table at 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. If  
8 you do not have the requisite number of copies you can  
9 reproduce copies on an office printer in the Office of Zoning  
10 located across the hall. Please remember to collate your set  
11 of copies.

12           The procedures for special exceptions and  
13 variances and as well as appeals is also listed as you come  
14 in the door. The record shall be closed at the conclusion  
15 of each case except when any material is specifically  
16 requested by the Board.

17           The Board and the staff will specify at the end  
18 of the hearing exactly what is expected and the date when the  
19 persons must submit the evidence to the Office of Zoning.  
20 After the record is closed, no other information shall be  
21 accepted by the Board.

22           The Board's agenda, including cases set for  
23 decision, after the Board adjourns, the Office of Zoning in  
24 consultation with myself will determine whether a full or a  
25 summary order may be issues. A full order is issued when the

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1 decision it contains is adverse to a party, including an  
2 affected ANC.

3 A full order may also be needed if the Board's  
4 decision differs from the Office of Planning's  
5 recommendation. Although the Board favors the use of summary  
6 orders whenever possible, an applicant may not request the  
7 Board to issue such an order.

8 The District of Columbia Administrative Procedures  
9 Act requires that the public hearing on each case be held in  
10 the open before the public, pursuant to Section 405(b) and  
11 406 of that Act.

12 The Board may, consistent with its rules of  
13 procedures and the Act, enter into a closed meeting on a case  
14 for purposes of seeking legal counsel on a case pursuant to  
15 D.C. Official Code Section 2-575(b)(4) and/or deliberate on  
16 a case pursuant to D.C. Official Code Section 2-575(b)(13)  
17 but only after providing the necessary public notice and in  
18 the case of an emergency closed meeting, after taking a roll  
19 call vote.

20 The decision of the Board in these cases must be  
21 based exclusively on the public record. To avoid any  
22 appearance to the contrary the Board requests that persons  
23 present not engage the Members of the Board in conversation.  
24 Please turn off all beepers and cell phones at this time so  
25 as not to disrupt the proceeding.

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1 Preliminary matters are those which relate to  
2 whether a case will or should be heard today such as requests  
3 for a postponement, continuance or withdrawal or whether  
4 proper and adequate notice of the hearing has been given.

5 If you're not prepared to go forward with the case  
6 today or believe that the Board should not proceed now is the  
7 time to raise such a matter. Mr. Secretary, do we have any  
8 preliminary matters?

9 SECRETARY MOY: Good morning, Mr. Chairman,  
10 Members of the Board. I have a brief announcement with  
11 respect to today's docket. First, Case Application Number  
12 20078 of Sig, S-I-G, LLC has been postponed to September  
13 25th, 2019.

14 Other than that, Mr. Chairman, there are  
15 preliminary matters to some of the applications and staff  
16 would suggest that the Board address those when I call the  
17 case.

18 CHAIRPERSON HILL: Okay, great. Thank you, Mr.  
19 Moy. All right, good morning, everyone. Sorry that we're  
20 starting a little late. There were some traffic issues with  
21 some of our Board Members and so I apologize for that.

22 If anyone is here wishing to stand, I'm sorry, if  
23 anyone is wishing here to testify either in support or  
24 opposition if you would please stand and take the oath  
25 administered by the Secretary to my left.

1 (Witnesses sworn.)

2 SECRETARY MOY: Ladies and gentlemen, you may  
3 consider yourselves under oath.

4 CHAIRPERSON HILL: Okay, great, thank you. And  
5 just so everyone is aware we are going to just follow the  
6 agenda that is in the order in which the agenda has been put  
7 forward by the door there.

8 And so, Mr. Moy, you can call our first case  
9 whenever you like.

10 SECRETARY MOY: Thank you, Mr. Chairman. So, with  
11 that if we can have parties to the table to Case Application  
12 Number 20075 of CTF Georgetown Hotel LLC, captioned and  
13 advertised for special exception under Subtitle C, Section  
14 703.2 from the minimum parking requirements of Subtitle C.

15 Section 701.5 to renovate an existing hotel, MU-12  
16 Zone. This is at 1050 31st Street, N.W., Square 1130, Lot  
17 80.

18 And I believe, Mr. Chair, we can have a  
19 confirmation from the Applicant whether or not they were  
20 seeking expert status for one of their witnesses. That might  
21 have been under Exhibit 38D.

22 CHAIRPERSON HILL: Okay, thanks, Mr. Moy. Just  
23 give me one second, you guys. Okay. If you could please  
24 introduce yourselves for the record from my right to left.

25 MR. VIDA: Good morning, Mr. Chair. Good morning,

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1 Board Members. My name is Gabor Vida. I'm the managing  
2 director of the hotel.

3 MS. PRINCE: Allison Prince with Goulston & Storrs  
4 here on behalf of the Applicant.

5 MR. EISENBERGER: George Eisenberger, architect  
6 of record with Winstanley Architects and Planners.

7 MR. SCHIESEL: Robert Schiesel. I'm a  
8 transportation engineer with Gorove/Slade Associates.

9 CHAIRPERSON HILL: Okay, great, thank you. Ms.  
10 Prince, I assume you're going to be presenting to us.

11 MS. PRINCE: Yes, I am.

12 CHAIRPERSON HILL: Okay, great. So, I guess let  
13 me start by, well I guess I'm go to go ahead and let you walk  
14 us through your presentation and what you're trying to  
15 accomplish for your client and then also how you're meeting  
16 the criteria for us to grant the relief that's requested.

17 A couple of questions just that you might want to  
18 kind of focus on. I mean we, as we were kind of going  
19 through this it seemed like there was a lot of different  
20 parts in it that maybe we are a little confused by in terms  
21 of like, and I'm going to start with like, you know, how many  
22 spaces are you actually trying to provide or where are you  
23 trying to provide them?

24 You know, how are you actually going to provide  
25 them? So, that's something. And then, you know, it seemed

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1 as though there was a couple of different arguments for the  
2 special exception in terms of, well I'll kind of let you walk  
3 through.

4 I mean, it seemed like you could have been here,  
5 I guess for a variance if you wanted to as well was one  
6 possibility. But it seems as though, you know, you've chosen  
7 this route.

8 So, I'll go ahead and let you go ahead and walk  
9 us through your presentation and then let the Board ask  
10 questions as they go. But I guess, again, a little bit  
11 focusing on, you know, C 703.2 in terms of how you're meeting  
12 those requirements.

13 And I'll let you begin. I'm going to put 15  
14 minutes on the clock so I know where we are. And you can  
15 start whenever you like.

16 VICE CHAIR HART: One question, Mr. Chairman.  
17 Regarding the parking, can you make sure you describe whether  
18 or not they are zoning compliant parking spaces because I  
19 know you're talking about like valet and all this other stuff  
20 and they may not be.

21 And it's helpful for us to kind of understand  
22 these are compliant. You know, there may be three or four  
23 but just to understand what those are that would be helpful.  
24 So, thank you.

25 MS. PRINCE: I will do that. Allison Prince from

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1 Goulston and Storrs here on behalf of the Applicant. Good  
2 morning, Chairman Hill and Members of the Board.

3 We're here today to request special exception  
4 relief from the parking requirements for the Rosewood Hotel,  
5 an existing hotel located at 1050 31st Street. And I will  
6 clarify our request at the outset.

7 We're requesting a special exception under 703.2  
8 in order to provide no standard parking spaces on site but  
9 to provide three valet spaces in the former ramp that was  
10 going down to the former parking level of the hotel. We have  
11 the support of the Office of Planning, of Advisory  
12 Neighborhood Commission 2E and of DDOT.

13 Our overall approach to this application is to  
14 provide those three valet spaces on site and also to have an  
15 agreement with Colonial Parking which is on the other side  
16 of the street in an existing building, to provide up to 26  
17 spaces there.

18 Rosewood operated this hotel for two years with  
19 some onsite parking. During the time that they operated the  
20 hotel, as Rob Schiesel our expert in traffic will confirm,  
21 they found that the parking demand for the hotel vacillated  
22 between about seven and ten spaces.

23 So, a decision was made when they undertook the  
24 renovation of the hotel after two years of operation, a  
25 decision was made to increase the amount of employee support

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1 space by taking some of the existing parking and converting  
2 it to employee support use, back of house space essentially  
3 to have a better environment for the employees.

4 In eliminating the existing parking they were able  
5 to get a building permit. Frankly, they shouldn't have  
6 gotten a building permit. There was a misunderstanding with  
7 the regulations, under the new regulations that parking was  
8 no longer required for the site when in fact it was.

9 But the city issued the permit and the work was  
10 done to decommission the parking. It was only at the  
11 Certificate of Occupancy stage that that error was picked up.  
12 So, at that point the owners came to me and said we've got  
13 to address this situation.

14 They had always intended to provide this offsite  
15 parking. Under the regulations they can do that, under the  
16 special exception provision which is what we sought. The  
17 benefit here is that the hotel understands its history of  
18 operation.

19 So, having operated for those two years they're  
20 confident in what the parking demand is. Nonetheless,  
21 they've agreed not only to the offsite parking and the three  
22 valet spaces on the ramp, they've agreed to a very robust set  
23 of TDM measures.

24 And that parking agreement, by the way, is with  
25 Colonial Parking and it's in the record. It's attached to

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1 our submission dated July 3rd.

2 I have two expert witnesses here today. I have  
3 Gabor Vita who is not an expert but he's here on behalf of  
4 the owner. And then I have Rob Schiesel who has been  
5 qualified as an expert many times before. And then we also  
6 have George Eisenberger from the architecture firm who has  
7 40 years of experience. He's a registered architect. His  
8 resume is in the record.

9 CHAIRPERSON HILL: Ms. Prince, I'm sorry. So,  
10 which one, are all of your people already in our book in  
11 terms of the expert testimony?

12 MS. PRINCE: Not George Eisenberger. He's not  
13 been qualified before. So, we submitted his full resume.

14 CHAIRPERSON HILL: Okay. And which one is that?  
15 Do you remember the exhibit?

16 MS. PRINCE: It's --

17 CHAIRPERSON HILL: 39D is what I was just told.

18 MS. PRINCE: Right. It's attached to, it's  
19 Exhibit --

20 CHAIRPERSON HILL: 39D.

21 MS. PRINCE: -- D, right.

22 CHAIRPERSON HILL: Okay.

23 MS. PRINCE: To the July 3rd submission.

24 SECRETARY MOY: If it helps, Mr. Chairman, Mr.  
25 Schiesel is in our expert status quo but the other person is

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1 not. But you can decide that today.

2 CHAIRPERSON HILL: Okay. Does the Board have any  
3 issues with having Mr. Eisenberger as an expert witness?

4 COMMISSIONER TURNBULL: I don't have any issues,  
5 Mr. Chair.

6 CHAIRPERSON HILL: Okay, all right. Mr.  
7 Eisenberger, we're going to go ahead and put you in our book.  
8 It's a lovely picture on your resume, by the way. All right.  
9 Ms. Prince, go ahead and continue.

10 MS. PRINCE: We'll go ahead with the testimony of  
11 our first witness, Gabor Vida from the hotel.

12 MR. VIDA: Good morning, Mr. Chairman. Good  
13 morning, Members of the Board. My name is Gabor Vida. I'm  
14 the managing director at the hotel. Rosewood Hotels and  
15 Resort acquired this property in 2016.

16 CHAIRPERSON HILL: Ms. Prince, would you mind  
17 turning off your microphone? If more than one is on down  
18 there it feeds back. I'm sorry.

19 MR. VIDA: Thank you. So, Rosewood Hotels and  
20 Resorts acquired this property in 2016 and has managed it for  
21 two and a half years before it closed down for a  
22 comprehensive renovation.

23 This renovation was permitted and we are  
24 approaching the end of the work. And as Ms. Prince  
25 mentioned, during our conditional Certificate of Occupancy

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1 the parking question came up.

2           So, we're prepared to provide valet parking on  
3 site for our hotel guests and restaurant patrons. We have  
4 an agreement with a nearby garage across the street for up  
5 to 26 parking spots at any given time.

6           And with the intentions to provide a better  
7 support to our hotel staff and operation providing employee  
8 dining room, locker areas and internal storage. That's all  
9 I needed to add, I suppose as far as testimony. Thank you.

10           CHAIRPERSON HILL: Thank you.

11           MS. PRINCE: We'll now proceed with the testimony  
12 of George Eisenberger, the architect.

13           MR. EISENBERGER: Thank you. George Eisenberger  
14 with Winstanley Architects and Planners. We were engaged a  
15 little over a year ago by the owner to accommodate the desire  
16 to totally renovate and expand the bar, restaurant and  
17 kitchen facilities on the ground floor of the Rosewood Hotel  
18 as well as the check in and lobby functions of the hotel  
19 itself.

20           We did not renovate any of the rooms above. Part  
21 of the program for the renovation, as Gabor has stated, is  
22 that they needed increased support spaces for the hotel  
23 itself which it has a robust staff even though there aren't  
24 that many rooms, and greatly expanded staff for the bar and  
25 restaurant and kitchen.

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1           And so, the only place to do that were in the  
2 former parking levels. And that's what we proceeded to do  
3 based on the assumption at that time that according to the  
4 new zoning regulations we could substitute no parking in the  
5 hotel proper for offsite parking that was within a certain  
6 distance of the hotel.

7           And we proceeded to produce our documents and  
8 submit our drawings for permit and obtained a permit in the  
9 fall of 2018. And construction commenced.

10           And as Allison Prince indicated, we only were told  
11 that our assumption about the parking not being required was  
12 not correct once the inspectors were looking at the  
13 Certificate of Occupancy requirements. And that's what has  
14 precipitated our appeal here today.

15           MR. SCHIESEL: Good morning. This is Rob Schiesel  
16 with Gorove/Slade Associates. I'll just highlight a few  
17 things from our transportation report that's in the record.

18           As Allison has already said, we did look at  
19 historical data from the hotel because it had been operating  
20 before and we had data on how many overnight parkers there  
21 were, how many ticket parkers there were, you know, hourly  
22 parkers.

23           And we were able to determine that the amount of  
24 parking onsite was more than what was needed. And in fact  
25 the agreement with 26 is well more than what historically has

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1 been used.

2           So, we can say with confidence that the amount of  
3 parking they have reserved with Colonial can easily  
4 accommodate the demand even if it increases if there is  
5 success with the renovations that's going on.

6           I'd want to point out a few things. Our report  
7 said seven spaces on the ramp. You now may see here it's  
8 referring to three spaces on the ramp. That's because in  
9 response to some of the DDOT comments ensuring head-in, head-  
10 out maneuvers we went ahead and did an analysis based on the  
11 design plans and said that three cars is what can be  
12 accommodated leaving maneuvering room on the ramp to ensure  
13 head-in, head-out maneuvers so that there is no backing over  
14 the sidewalk.

15           So, that's why that number, you've seen it reduced  
16 from seven to three. It wouldn't surprise me if eventually  
17 the valet staff figured out they could get four or so.

18           But three is kind of the number that I say with  
19 confidence that you can ensure there is head-in, head-out  
20 maneuvers. I also want to point out that, you know, we say  
21 those three are parking spaces. It's likely they'll mostly  
22 be used more like swing space.

23           Most of the cars will be going to the Colonial  
24 Garage. But the valet staff will be able to use the ramp  
25 spots right next to their curbside as a swing space, places

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1 where they can shuttle cars, you know, if multiple cars  
2 arrive at once and not all the valet staff can take them to  
3 Colonial they can put them somewhere while they have time to  
4 keep the curb area clean.

5           So, it's really, you know, they have the curb  
6 side, the swing spaces on the ramp and then the parking  
7 reservoir at Colonial. And that's how it may operate  
8 especially at heavier times when there is more traffic coming  
9 in and out.

10           I also want to point out that, you know, we say  
11 26 spaces off site. If you really look at a quarter mile  
12 radius from the hotel location in our report we highlight  
13 around 1,500 parking spaces in service lots and garages  
14 nearby.

15           It's not like these 26 spaces are all that's  
16 available. You know, restaurant patrons, employees of the  
17 hotel may find a better deal at a different lot or a  
18 different spot and may choose to park somewhere else.

19           That's all there. It also means that there is  
20 ample opportunities to get more spaces if they need to with  
21 an agreement with another parking operator.

22           And lastly, Allison mentioned this. It's a very  
23 multimodal area and the Applicant is agreeing to a pretty  
24 robust TDM plan. And then that's kind of mentioned in the  
25 DDOT report.

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1           It includes several things. A lot of the  
2 traditional things like Smart Benefits plans. A couple of  
3 things that are a little bit different here is the hotel is  
4 planning to offer their valet parking for bicycles.

5           They can't, they don't have a lot of room, a  
6 traditional garage to put bike racks in. So, they're  
7 actually going to keep room so that on the garage ramp and  
8 in the internal space they can actually host guests'  
9 bicycles.

10           Also, they could have a fleet of bicycles they  
11 keep for themselves, like their own bike share system for the  
12 hotel. There's five brand-new bicycles they keep on site as  
13 offers for members.

14           And those are a little bit of, those are the two  
15 main non-traditional TDM measures they have. But the rest  
16 are included in our report and in the DDOT staff report.  
17 With that, I'll end there and if you have any questions I  
18 would be happy to answer them.

19           CHAIRPERSON HILL: Okay. I've just got a couple.  
20 So, Ms. Prince, and also for Mr. Eisenberg, no, I'm sorry the  
21 transportation specialist. Your last name again?

22           MR. SCHIESEL: Schiesel.

23           CHAIRPERSON HILL: Schiesel, thank you. So, Mr.  
24 Schiesel, as far as like, and I know the hotel and I'm just  
25 trying to figure out that ramp. How do you turn, the three,

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1 how would they go down and turn around and how would they  
2 position on the ramp?

3 MR. SCHIESEL: So, there's the ramp and then  
4 there's an aisle off to the side, kind of forms a T. So, as  
5 the cars are parked on the ramp they can park towards one  
6 side kind of lined across the ramp. And that T is used for  
7 three point turns.

8 So, they can head in and then kind of parallel  
9 park on the ramp or head in back along the aisle and then  
10 come back out and use that.

11 CHAIRPERSON HILL: Okay, okay.

12 MR. SCHIESEL: So, it's kind of like, yes, where  
13 that first aisle stretches off the ramp is where they can do  
14 the turns.

15 CHAIRPERSON HILL: Okay. Mr. Vida, you guys  
16 haven't opened back up yet, right?

17 MR. VIDA: I beg your pardon?

18 CHAIRPERSON HILL: You have not opened again, yet?

19 MR. VIDA: No, we have not.

20 CHAIRPERSON HILL: Okay. The amount of spots that  
21 you guys have like, I'm confused. I can't remember. DCRA  
22 wanted 20 and then there's another like 24 number gets thrown  
23 around. Now there's 26 and the ANC is saying 20.

24 I mean, what do you think you guys actually want  
25 to commit to provide?

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1 MS. PRINCE: We have some proposed conditions that  
2 I'll submit to the Board. We're fully comfortable with the  
3 ANC's suggestion that we provide a total of 20 spaces, the  
4 three valet on site and then 17 off site.

5 In fact, our agreement with Colonial is for more  
6 than 17. But the 17 plus the three is the 20 that is  
7 actually our legal requirement. So, that's what the ANC went  
8 with.

9 CHAIRPERSON HILL: Okay. So, the 20 then, that's  
10 supposedly including the three valet spots?

11 MS. PRINCE: It does include the three, yes, it  
12 does.

13 CHAIRPERSON HILL: So, that will be 17 for the  
14 agreement?

15 MS. PRINCE: The agreement provides 26. It's an  
16 executed agreement. So, the 17 would be a minimum.

17 CHAIRPERSON HILL: Okay. And we can hear about  
18 your conditions in a second. I'm just trying to figure out  
19 what number we're actually going to get stuck on.

20 In the conditions that the ANC had put forward  
21 they mentioned 20 parking spots and then also, you know, they  
22 mentioned that if for any reason the current agreement is,  
23 you know, closed or what have you then you guys will do  
24 another one with another parking garage.

25 MS. PRINCE: Yes.

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1 CHAIRPERSON HILL: Because we noticed in the  
2 agreement is that you, that you guys provided it says that  
3 you can cancel at 30 days at any time.

4 And so, it's kind of like we just want to make  
5 sure that this is something that would go on in perpetuity  
6 and that's not something that you're just getting through the  
7 Board right now and then you'll cancel the agreements.

8 MS. PRINCE: Exactly, exactly.

9 CHAIRPERSON HILL: Correct, so, that's not the  
10 plan?

11 MS. PRINCE: Permanent in nature for the life of  
12 the building.

13 CHAIRPERSON HILL: Mr. Vida, could you say that's  
14 correct?

15 MR. VIDA: That is correct. That's in our  
16 intention to be able to provide all those parking spots.

17 CHAIRPERSON HILL: In perpetuity?

18 MR. VIDA: Absolutely.

19 CHAIRPERSON HILL: Okay.

20 VICE CHAIR HART: The only question I had was so  
21 again, Ms. Prince, we are, we're really kind of discounting  
22 any parking spaces that you're providing on site. Really all  
23 we're talking about are parking spaces off site because you  
24 have three spaces but they're not standard spaces.

25 So, we can't really call those kind of zoning

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1 parking spaces. Those are something that you, that the owner  
2 is able to use and utilize. But they're not actual ones that  
3 we would consider included in, as part of, or counted as  
4 standard zoning parking spaces?

5 MS. PRINCE: Correct. That's why the proposed  
6 conditions simply refer to 17 off site spaces because the  
7 three on site are not technically zoning compliant.

8 VICE CHAIR HART: No, what I'm saying is I think  
9 there should be ten that are off site.

10 MS. PRINCE: Ten that are off site?

11 VICE CHAIR HART: I'm sorry, sorry, 20 that are  
12 off site and not count the three that are at --

13 MS. PRINCE: That's fine with us if you would  
14 prefer to make it 20 off site so the full zoning obligation  
15 is off site.

16 VICE CHAIR HART: Thank you.

17 MS. PRINCE: That's fine.

18 CHAIRPERSON HILL: Okay. Does the Board have  
19 anything else for the Applicant?

20 MEMBER WHITE: Just one question. So, the three  
21 that we were kind of, the valet spaces, those weren't zoning  
22 compliant spaces?

23 MS. PRINCE: They are not.

24 MEMBER WHITE: Okay. And then again, can you just  
25 tell me under C 703.2, how you're meeting that particular

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1 provision?

2 MS. PRINCE: Any particular subsection or just the  
3 entirety of the section?

4 MEMBER WHITE: Well, the entirety of the section,  
5 .2.

6 MS. PRINCE: Clearly the use is well served by  
7 parking mass transit in the general area, as Rob mentioned.  
8 Georgetown actually has an extraordinary amount of parking.  
9 So, the immediate neighborhood is well served.

10 So, in the event that our agreement with Colonial  
11 terminates for any reason we're confident and are willing to  
12 commit then we'll come up with alternate agreement with  
13 another provider.

14 The land use transportation characteristics of the  
15 neighborhood do minimize the need for relief here because a  
16 lot of people can get here in ways other than bringing their  
17 own vehicle.

18 We fortunately have a good understanding of the  
19 needs generated by our own employees and guests from the two  
20 years of operation. So, I think that's a very helpful fact  
21 here.

22 We certainly, the owner would never have  
23 contemplated eliminating the spaces had they felt the demand  
24 was there. They own the building. They would never have cut  
25 off their nose to spite their face.

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1           They felt very comfortable with the arrangement.  
2 And again, it's a little repetitive. The regs are a little  
3 repetitive on this issue. But in the neighborhood there are  
4 plenty of spaces to meet any potential demand.

5           And finally, the reduction is consistent with the  
6 number of spaces that we can provide on site because frankly  
7 the work has been done. So, we can provide the three non-  
8 compliant spaces. But the work was done in reliance on the  
9 permit.

10           And so, we're providing what we can fit. It's a  
11 very, very unusual case I understand. And so, our approach  
12 was once we realized what the issue was, yes, we relied on  
13 the permit. But we need to straighten this out with the  
14 Board and make sure that we get the relief in a remedial way  
15 so that everything is satisfactory to DCRA.

16           MEMBER WHITE: And the goal was to go the special  
17 exception route?

18           MS. PRINCE: Right. I mean there could have,  
19 there's an option, as George mentioned, we could have gone  
20 under the section, we could have opted to not come before you  
21 at all and reach an agreement with an owner to provide the  
22 600 spaces, I'm sorry, to provide all 20 spaces off site in  
23 a very permanent arrangement.

24           But those are hard. It's hard to get a permanent  
25 arrangement with another owner for an off site parking need.

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1 That section is going to work very, and it's a new section  
2 under the 2016 regs.

3 That section is going to work beautifully if an  
4 owner happens to own a property off site where they want to  
5 accommodate the parking. But in a situation like ours when  
6 we don't control any off site property I talked to the Zoning  
7 Administrator about it and I just wasn't confident that we  
8 could reach a permanent type agreement.

9 I do want to add, the plans that are in the record  
10 show the seven spaces on the ramp that we later reduced to  
11 three. So, I do have a modified plan that shows only the  
12 three and I also have proposed conditions.

13 But as we've sat here one of the conditions is  
14 already changing from 17 off site spaces to 20.

15 MEMBER WHITE: Thank you.

16 VICE CHAIR HART: One other question and if you  
17 could, Ms. Prince --

18 CHAIRPERSON HILL: Mr. Moy, I think if you could  
19 pass those out to us. Put right in front of you.

20 VICE CHAIR HART: What is the -- and at some point  
21 I guess you could have gone for an appeal for the permit?

22 MS. PRINCE: We could have.

23 VICE CHAIR HART: And you just decided not to do  
24 this? It was kind of like --

25 MS. PRINCE: Yes. It seemed like a much better

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1 approach to simply admit that an error was made and move on  
2 than to challenge, you know.

3 VICE CHAIR HART: That's fine.

4 MS. PRINCE: It seemed like a cleaner, simpler  
5 approach.

6 VICE CHAIR HART: Thank you.

7 COMMISSIONER TURNBULL: I just have one question  
8 and I think I know the answer. Is there a fee for the  
9 parking?

10 MS. PRINCE: Yes. They'll be paying for the  
11 offsite parking.

12 COMMISSIONER TURNBULL: Okay.

13 CHAIRPERSON HILL: Okay, great. Does the Board  
14 have any other further questions for the Applicant?

15 MEMBER JOHN: So, I have one question. So, your  
16 special exception request is based on the notion that you  
17 cannot provide permanent parking off site because you are  
18 providing parking within the 600 feet?

19 MS. PRINCE: Yes, we are.

20 MEMBER JOHN: And that's why I didn't understand  
21 why you thought you met that criteria. You know, if you are  
22 providing parking and you're willing to, your client is  
23 willing to continue to renew the agreement or find alternate  
24 parking space it seems to me then that you're really asking  
25 for permission, for relief from the permanent parking

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1 requirement.

2 MS. PRINCE: Oh, I see what your point is.

3 MEMBER JOHN: You see, I didn't understand why you  
4 were basing your special exception on that particular section  
5 of the regulation and not on some other because you only have  
6 to meet one.

7 MS. PRINCE: I think there was more than one way  
8 to skin a cat in this case. We just went with the special  
9 exception provision to reduce the amount of required parking  
10 on site.

11 But yours is a very good point. We could have  
12 simply sought relief from the permanent nature of the 600  
13 foot requirement and sought flexibility to change the  
14 location as needed.

15 MEMBER JOHN: And so, which other criteria do you  
16 think you would base your request for special exception  
17 criteria on? There are several. You only need to meet one.

18 MS. PRINCE: We happen to meet all of them.  
19 Right, we met all of the special exception criteria.

20 MEMBER JOHN: Okay, all right. Thank you.

21 COMMISSIONER TURNBULL: Mr. Chair -- Ms. Prince,  
22 we just have your conditions. The only thing we would change  
23 is 17 to 20. Can we agree on some language? It says offsite  
24 parking spaces.

25 Can we agree to some term, how far away? I mean

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1 right now it's across the street. But if that goes away how  
2 are you, are you saying within a block, a quarter of a block?

3 MS. PRINCE: That's a great point. Why don't we  
4 just go with the 600 foot criteria.

5 COMMISSIONER TURNBULL: The 600 foot?

6 MS. PRINCE: Yes.

7 CHAIRPERSON HILL: Okay. And, Ms. Prince, the  
8 last one also I guess the ANC, they said that, and I think  
9 it's interesting. But at no time will the Rosewood Hotel  
10 utilize the area between the curb cut and the garage entrance  
11 to store even temporarily vehicles.

12 ANC 2E expects that the area in front of the  
13 hotel, including the garage, will be fully accessible to  
14 pedestrians at all time. Are you in agreement with that?

15 MS. PRINCE: Well I, you'll notice I didn't  
16 include that for two reasons.

17 CHAIRPERSON HILL: Sure.

18 MS. PRINCE: One reason is we're not allowed to  
19 block the sidewalk so it seemed a little duplicative. But  
20 the second was I didn't like the exact wording that, we have  
21 to cross over the sidewalk to access the three parking spaces  
22 on the ramp.

23 So, that language was so definitive that we --  
24 there couldn't be any interruption in pedestrian access when  
25 in fact when a car crosses over the sidewalk there is, there

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1 is a break. So, if you would like to go with, if you would  
2 like to add that language back in I'm fine with it.

3 It's just that final phrase that I didn't like  
4 because when a car accesses the parking they're going to  
5 affect.

6 CHAIRPERSON HILL: Sure, yes. Just get rid of the  
7 will be fully accessible to pedestrians at all times?

8 MS. PRINCE: Exactly, the at all times, yes.

9 CHAIRPERSON HILL: Okay, yes, so, right. Another  
10 time Rosewood Hotel, I mean I agree with you you're not  
11 supposed to be doing it anyway. At no time will the Rosewood  
12 Hotel utilize the area between the curb cut and the garage  
13 entrance to store even temporarily vehicles.

14 MS. PRINCE: I mean that's a legal requirement.  
15 We can't block the sidewalk. If you would like to put it in  
16 that's fine.

17 CHAIRPERSON HILL: All right. We'll see what the  
18 Board thinks anyway about all those. All right, anyone else.  
19 Okay, going to turn to the Office of Planning.

20 MR. COCHRAN: Thank you, Mr. Chair. This is the  
21 first time I'll be seeing the new proposed conditions. As  
22 of the last time yesterday I checked the record there wasn't  
23 anything from the ANC.

24 So, I'm sort of winging it a bit here. I'm  
25 assuming, well first off OP had been recommending that the

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1 Board grant the Applicant relief from all required parking  
2 spaces, 20 were required, zero proposed.

3 And we were prepared to recommend that it be  
4 conditioned on the same requirement on the head-in, head-out  
5 movements for anything that might happen to enter the former  
6 garage although no parking spaces would be required. And  
7 then the maintenance of the TDM measures that are described  
8 in the comprehensive transportation report.

9 The new proposed conditions I'm assuming are still  
10 asking for complete relief, that there would be no required  
11 parking spaces. And they would note that the vehicles  
12 entering or exiting the building shall do so using head-in  
13 and head-out movements only.

14 I'm assuming that the Applicant providing 20  
15 offsite spaces for the life of the hotel use is a proffer  
16 because it doesn't have any required parking spaces if you  
17 grant that relief. I'm assuming that if it's a condition  
18 that's part of your order it's not a condition, that it's not  
19 just part of an agreement, a legal agreement with the ANC,  
20 that it would be part of this order.

21 And finally, the last condition that they're  
22 mentioning is the same as we had in the OP report. So, my  
23 only confusion is whether the requirement for the offsite  
24 parking spaces, the one that would be a proffer, would be  
25 part of the Board order or whether it would be part of an

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1 agreement reached with the ANC and therefore up to the ANC  
2 to enforce.

3 CHAIRPERSON HILL: Okay. Does anybody have any  
4 questions for the Office of Planning? Okay, does the  
5 Applicant have any questions for the Office of Planning?

6 MS. PRINCE: No questions.

7 CHAIRPERSON HILL: Okay. Is there anyone here  
8 wishing to speak in support? Is there anyone here wishing  
9 to speak in opposition? Is there anything else you would  
10 like to add, Ms. Prince, at the end?

11 MS. PRINCE: No. We've taken enough of your time  
12 today. We appreciate your consideration of the application.

13 CHAIRPERSON HILL: Okay, great. All right, is the  
14 Board ready to, I'm going to close the hearing. Is the Board  
15 ready to deliberate? Okay, I mean I can start.

16 I was again, just slightly confused about some of  
17 the -- Ms. Prince, if you could turn off that microphone,  
18 thank you. I was just slightly confused about some of the  
19 things that were being requested from us in terms of what the  
20 Applicant was trying to provide in terms of the application  
21 and how they are meeting the criteria.

22 I would actually agree with the Office of Planning  
23 in terms of how they are meeting the criteria for the relief  
24 that's requested. I also would be in favor of the conditions  
25 that were offered.

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1 I mean, you know, there was some discussion. I  
2 know that when we were having kind of questions with the  
3 Office of the Attorney General during a call that we had  
4 about, you know, head-in, head-out movements.

5 But since it seems as though, you know, I can  
6 understand why perhaps that would be mitigating some type of  
7 adverse impact in terms of like, you know, people backing  
8 out. It's easier to pull out of the garage.

9 And so I would also be in favor of the condition,  
10 the head-in, head-out movements. In terms of the 20 off  
11 street parking spaces I think that, you know, I think that  
12 does mitigate some kind of possibility that there could be  
13 an issue with parking that was provided for the hotel and  
14 that no longer is provided for the hotel.

15 And so I would still again be in favor of the  
16 condition that the 20 parking spaces for life of the hotel  
17 within 600 feet be implemented as well as then with the  
18 condition of the TDM plan that was in Exhibit 23 and also the  
19 Exhibit 40 of the record.

20 Other than that, I don't really have a lot to add  
21 and I will be voting in favor of this application. Is there  
22 anything anyone else wants to say?

23 MEMBER WHITE: Mr. Chair, I agree with your  
24 assessment. I think they've met the special exception  
25 criteria. I'm glad that they clarified some of the issues

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1 regarding the parking.

2           It was also helpful to have the input from the  
3 ANC. So, I would be also voting in favor with the proposed  
4 conditions that we discussed including incorporating the  
5 proposed TDM plan.

6           CHAIRPERSON HILL: Okay, great. Ms. Prince, by  
7 the way can you put this into the record, the plans?

8           MS. PRINCE: Yes.

9           CHAIRPERSON HILL: Okay, great. Thank you. All  
10 right, I'm going to then make a motion to approve Application  
11 Number 20075 as captioned and read by the Secretary including  
12 the conditions that vehicles entering or exiting the building  
13 shall do so using head-in and head-out movements only.

14           The Applicants shall provide 20 off street parking  
15 spaces for the life of the hotel use within 600 feet and the  
16 Applicant shall adhere to the proposed transportation  
17 management measures stated in the comprehensive  
18 transportation report submitted in Exhibit 23 and DDOT's  
19 report in Exhibit 40 of the record and ask for a second.

20           MEMBER WHITE: Second.

21           CHAIRPERSON HILL: The motion has been made and  
22 seconded. All those in favor say aye.

23           (Chorus of aye.)

24           CHAIRPERSON HILL: All those opposed? The motion  
25 passes, Mr. Moy.

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1           SECRETARY MOY: Staff would record the vote as 5-  
2 0-0. This on the motion of Chairman Hill to approve the  
3 application for the relief requested including the conditions  
4 as he has stated in his motion.

5           Seconding the motion is Ms. White. Also in  
6 support Ms. John, Vice Chair Hart and Zoning Commissioner  
7 Michael Turnbull.

8           CHAIRPERSON HILL: Okay, great. Thank you very  
9 much. Mr. Vida, I look forward to that rooftop bar opening  
10 up again.

11          MR. VIDA: Very soon. Looking forward to having  
12 you there. Thank you very much.

13          CHAIRPERSON HILL: All right Mr. Moy, whenever you  
14 like.

15          SECRETARY MOY: Thank you, Mr. Chairman. If we  
16 can have parties to the table. This is to Appeal Number  
17 20072 of Marybeth and Ken DeGrave captioned and advertised  
18 as the appeal from the decision made on March 11, 2019, by  
19 the Zoning Administrator, Department of Consumer and  
20 Regulatory Affairs to issue Building Permit Number B1903685  
21 revising Building Permit Number B1803293 to construct a new  
22 three-story addition to an existing attached principal  
23 dwelling unit, RF-1 Zone at 2202 1st Street NW, Square 3122,  
24 Lot 24.

25                 And as the Board is aware, there's a preliminary

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1 matter regarding postponement.

2 CHAIRPERSON HILL: Okay, great. Thank you. If  
3 you could please introduce yourselves for the record from my  
4 right to left.

5 MS. LORD-SORENSEN: Good morning, Chairman Hill  
6 and Members of the Board. My name is Adrienne Lord-Sorensen,  
7 Assistant General Counsel with the D.C. Department of  
8 Consumer and Regulatory Affairs.

9 MR. LEGRANT: Good morning. This is Matthew  
10 LeGrant. I'm the Zoning Administrator at DCRA.

11 MR. GUISE: Lynwood Guise, property owner of 2202  
12 1st Street, NW.

13 CHAIRPERSON HILL: Could you spell your name for  
14 us, sir?

15 MR. GUISE: Yes. First name L-Y-N-W-O-O-D. Last  
16 name G-U-I-S-E.

17 CHAIRPERSON HILL: Okay, thank you.

18 MR. DEGRAVE: Good morning, Chairman and Members  
19 of the Board. Ken DeGrave, 2204 1st Street NW. I'm the  
20 Appellant here along with my wife.

21 MS. DEGRAVE: Hello. My name is Marybeth DeGrave  
22 and my home address is 2204 1st Street NW, Washington D.C.

23 CHAIRPERSON HILL: Okay. Well welcome you guys.  
24 I was down there one time before. It's a little nerve  
25 wracking, isn't it? Okay, so there is a postponement

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1 request. Can you tell me who has it and why?

2 MS. LORD-SORENSEN: I believe last Tuesday Mr.  
3 Guise had filed a motion to continue because he wanted to  
4 address some of the issues in the appeal. And then DCRA  
5 subsequently filed a consent motion agreeing that this matter  
6 should be postponed so that way the property owner could be  
7 given an opportunity to address some of the issues in the  
8 appeal.

9 And what I've learned is that I think it will be  
10 beneficial to the Board if we, if this matter is postponed  
11 because it's my understanding that a building permit  
12 application was recently submitted to remove the roof deck,  
13 Your Honor --

14 Your Honor, excuse me, Chairman Hill, at 2202 1st  
15 Street NW and if that's the case then it will actually moot  
16 several of the issues that are pending before the Board  
17 because some of the issues have to deal with lot occupancy  
18 for the roof deck addition, the setback as well as arguably  
19 an unauthorized enlargement of the third floor.

20 So, those matters would be mooted if in fact this  
21 building permit application goes through and is ultimately  
22 approved for the removal of the roof deck.

23 CHAIRPERSON HILL: Okay, thanks. Mr. and Mrs.  
24 DeGrave, do you understand what the postponement request is  
25 about?

1 MR. DEGRAVE: Yes, I'll go first.

2 MS. DEGRAVE: I think so, more clearly now.

3 CHAIRPERSON HILL: Okay, so your microphone is one  
4 if you wouldn't mind just turning it off. I get feedback,  
5 thank you. The, and we can hear if the Board has any issues  
6 or concerns or thoughts.

7 I mean I'll tell you what my thoughts are  
8 immediately. I would be in favor of postponement so that we  
9 can at least kind of, it would be a little bit more efficient  
10 for us to find out what exactly we're going to be talking  
11 about.

12 And so, that's why I would be interested in the  
13 postponement. Also, I would be interested in the  
14 postponement because what I would like you guys to kind of  
15 think about, I don't know if you have thought about it or not  
16 and also even DCRA, is the first writing rule in that there  
17 was -- the first writing rule is that what I'm unclear of,  
18 and this is something that I think we went to talk about  
19 right away in terms of whether or not, you know, what is  
20 going to be before us, is that the original application is  
21 what had the building permit.

22 And you had to apply, and I'm just kind of  
23 throwing this out. I'm not deciding this one way or the  
24 other. I'm just saying that you would had to have filed for  
25 the appeal 60 days after that first permit.

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1           And I haven't delved too much into the appeal yet  
2 because I was waiting to get through whether or not we were  
3 going to go through the postponement. But that if you are,  
4 if you're untimely for that portion of it then you'll be  
5 actually only able to appeal what is the revised permit.

6           And again, I'm not saying that this is necessarily  
7 the case. I'm just saying that's something that I would like  
8 to hear from DCRA about, okay.

9           So, other than that, Mr. Moy, when would we be,  
10 and is the Board in agreement with what I'm proposing?

11           VICE CHAIR HART: Yes, I think it would be helpful  
12 to hear that, to have some of this information and whatever  
13 the changes or amendments are it would be helpful to actually  
14 see that because I think that it would, as you said, make it  
15 a little bit more, I think it would be more concise because  
16 there would be fewer issues presumably with that.

17           And I agree with you about the first writing rule.  
18 And, you know, it's, if there are any changes on any  
19 subsequent permits they can, you know, go after those, the  
20 changes that happen in the permit.

21           But if the information in the permit was from the  
22 original, the permit hadn't changed, if some of that hadn't  
23 changed then they have to go from that first permit. So, I  
24 think that is a big concern that we have to understand more  
25 fully.

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1 CHAIRPERSON HILL: Okay. Does the Board have any  
2 further comments or questions?

3 COMMISSIONER TURNBULL: I would just say I would  
4 support the postponement. I think any options that are  
5 available for neighbors to resolve issues on a situation like  
6 this should be taken fully. So, I totally support the  
7 postponement.

8 MEMBER WHITE: I support it too, Mr. Chair. The  
9 first writing rule is under Subtitle Y 302.5. So, that's the  
10 issue that would need to be addressed if we get that far.

11 CHAIRPERSON HILL: So, what I also just, so what  
12 my colleague just mentioned again is, Mr. Guise, really like  
13 if you can work with your neighbors and figure this out, like  
14 that would be the most helpful thing.

15 And if you haven't, you don't need, if you haven't  
16 tried to figure that out yet really try to figure that out  
17 because even if you're back here for an appeal on the revised  
18 permit you're still back here for an appeal on the revised  
19 permit and it will just take hours and hours and hours of  
20 your day.

21 So, okay, Mr. Moy, when do you think we will be  
22 able to come back with this?

23 SECRETARY MOY: At this point, Mr. Chairman,  
24 September's docket is very full to take up an appeal case.  
25 Staff would suggest either October 2nd or October 9th.

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1 October 9th is preferable.

2 CHAIRPERSON HILL: Okay. So, we're going to go  
3 with October 9th, okay. And hopefully you guys can, you  
4 know, take a look at what the tape was and ask what we were  
5 requesting of you.

6 And if you have any questions really the Office  
7 of Zoning are happy to answer any questions, okay. All  
8 right. Thank you guys very much. We'll see you or hopefully  
9 not on October 9th.

10 All right, Mr. Moy. You can call the next when  
11 you get a chance.

12 SECRETARY MOY: All right, next application before  
13 the Board for hearing is Case Application Number 20008 of  
14 Brighter Chapter Investment LLC. This application is  
15 captioned and advertised for area variance from the minimum  
16 area requirements, Subtitle D, Section 302.1 to construct  
17 three new attached principal dwelling units, R-3 Zone at 3233  
18 Ely Place, E-L-Y Place, SE, Square 5446, Lot 808.

19 And, Mr. Chairman, there was a series of filings  
20 yesterday. So, those were untimely. So, there's a request  
21 to allow those into the record.

22 CHAIRPERSON HILL: All right, could you please  
23 introduce yourself for the record?

24 MR. BELLO: Good afternoon, Mr. Chair, Board  
25 Members. Toye Bello for the Applicant.

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1 CHAIRPERSON HILL: All right, Good morning, Mr.  
2 Bello. How are you doing today, good?

3 MR. BELLO: Can't complain, sir.

4 CHAIRPERSON HILL: Okay, all right. So, you gave  
5 us a whole bunch of stuff yesterday. Is that correct?

6 MR. BELLO: That's correct.

7 CHAIRPERSON HILL: Okay. And we were unable to,  
8 we don't have a report from the Office of Planning. I guess  
9 you sent us an email from the ANC which I haven't had a  
10 chance to look at yet.

11 And so, I've got to let you know there's no way  
12 that I can hear this today. And so, you know, I'm not going  
13 to be able to figure out all this stuff that you submitted  
14 last night.

15 And so, you want to -- am I missing something?  
16 Office of Planning hasn't submitted a report, correct?

17 MR. KIRSCHENBAUM: We have not. But we're  
18 prepared to discuss a recommendation on the record.

19 CHAIRPERSON HILL: All right. Well then I'm back  
20 to the Board then. Okay, Mr. Bello, you want to first  
21 explain why everything came to us last night and then we can  
22 see what the Board has to say as to whether or not they want  
23 to hear this today or try to figure it out another day?

24 MR. BELLO: Okay, certainly. There's been a back  
25 and forth debate as to whether relief is even required for

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1 this property.

2           And in the course of the application Office of  
3 Planning, this goes for the Zoning Administrator and both  
4 agree that the record lot is still valid and could be  
5 developed as a matter of right. So, we've been waiting for  
6 DCRA to make a determination as how to assign addresses which  
7 is a procedural issue that DCRA has.

8           So, technically we should not be here. But we've  
9 been several months trying to get DCRA to resolve this  
10 matter. I submitted to the records the last email that I got  
11 from DCRA that they hadn't made a determination.

12           So, it's really in my client's interest to proceed  
13 with this application because that resolves the question for  
14 DCRA while they are still mulling a determination. The issue  
15 again, is about the coexistence of tax lots and record lots  
16 where a subdivision to eliminate or combine those lots into  
17 one has not taken place.

18           I think the Office of Planning agrees with my  
19 contention that those record lots still remain valid. And  
20 if DCRA found a way to assign addresses to those lots then  
21 we wouldn't be here.

22           So, it's really not a zoning issue. But we need  
23 the zoning relief to resolve an obstacle at DCRA. And we  
24 don't have a determination at this point after seven months  
25 of trying.

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1 CHAIRPERSON HILL: Okay. I mean, Mr. Bello, if  
2 you didn't need to be here you wouldn't be here. And so, you  
3 know, you're here. And so, you need relief, right?

4 MR. BELLO: Absolutely.

5 CHAIRPERSON HILL: Okay, all right. Well first  
6 let me figure out what does the Board want to do. Do you  
7 guys, I mean I'm still, I don't know what I want to do. Like  
8 do you want to waive the requirement, accept the filing and  
9 then struggle through this?

10 I am of the opinion right now I can't figure  
11 something out that just happened to me last night. But if  
12 you guys want to tell me what you think that's fine.

13 VICE CHAIR HART: Yes. I've got to tell you, Mr.  
14 Bello, it's really difficult trying to kind of get through  
15 the documents that we get in a timely fashion.

16 When we get them outside of that it makes it even  
17 harder because it's, I mean it's, trying to understand what  
18 it is that's being said and then how to, are there any  
19 particular issues with it and then being able to questions  
20 on that to make sure that we get a full record, it makes it  
21 really hard for us to kind of navigate through that when we  
22 don't receive that.

23 I understand that you have had some difficulties  
24 trying to get some information from DCRA and having kind of  
25 the back and forth conversations.

1           But I just find it, as I said, very difficult  
2 trying to get through pages of documents and understanding  
3 kind of what they mean and how relevant and helpful they are  
4 to the procedure, the process that we're going through right  
5 now.

6           I would be in favor of not hearing this right now  
7 only because I just, again, it's just really hard trying to  
8 kind of digest this information in such a way that it would  
9 be helpful for us and that we have all of the understanding  
10 of what is before us. Again, that's it.

11           MR. BELLO: If I may, Mr. Hart. The submissions  
12 that I made yesterday are not that substantive. They only  
13 speak to the agreement of the Applicant to seek special  
14 exception as opposed to variance as recommended by the Office  
15 of Planning.

16           But the burden of proof statement has been in the  
17 record since we filed and we've had to postpone this case  
18 several to give DCRA the chance to resolve this matter.

19           VICE CHAIR HART: No, I understand that. My  
20 concern is though every time it comes to us we have to start  
21 reading kind of reading everything as it's new. We go  
22 through about ten cases a meeting that we have.

23           We have meetings every week for just about every  
24 month except for August which we're off. So, we're talking  
25 somewhere about 400 cases a year that we go through. It may

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1 be more than that, it may be a little bit less than that.

2 And to reread a case while it may have a lot of  
3 similarities it just may, it's also having to just reread it  
4 and just to understand you think that there isn't anything  
5 that's substantive but you're here. So, that means that we  
6 have to make sure that we are giving as much attention to  
7 your case as we do everyone else's case.

8 So, while I understand what you're saying I still  
9 am just saying that it, we have to be careful about what it  
10 is that we're kind of working through. And when we get  
11 information we have to make sure we understand what that  
12 information is.

13 And you're right it may be that it's, okay, sure  
14 I get it. But it may also be wait, are there more questions  
15 now that I have. And right now I just don't know how to be  
16 able to handle that.

17 And that's why I'm saying that it's hard to gauge  
18 that because, you know, when we've reviewed things we have  
19 reviewed things at a particular period of time. Right now  
20 we haven't had that time to do that. So, that's my two  
21 cents.

22 MR. BELLO: Appreciate that, sir, thank you.

23 CHAIRPERSON HILL: Okay. Does, I mean, Mr. Bello,  
24 I'm sorry. It's just like, it's just too much to try to  
25 figure out. It's just too much to try to figure out.

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1           So, the Office of Planning, I mean we would  
2 actually like, I mean since you're here like what are your  
3 thoughts and then I want a full report anyway?

4           MR. KIRSCHENBAUM: Okay. So, I mean as Mr. Bello  
5 stated, as far as we understand there are three record lots  
6 that currently exist at the property. They are 50 square  
7 feet deficient.

8           But, as we know, existing record lots are  
9 considered conforming if they were created before 2016. So,  
10 he has three record lots that he could build three row houses  
11 on.

12           In 1958, the property owner at the time decided  
13 to put a tax lot on top of the three record lots. And  
14 unfortunately DCRA can only see that tax lot in their system  
15 even though there are three record lots that we understand  
16 are existing beneath it.

17           The creation of a tax lot does not erase record  
18 lots. It's purely for taxation purposes. So, I mean again  
19 we have recommended to Mr. Bello that he resolve this issue  
20 with DCRA because he has three record lots that if he were  
21 to re-subdivide them based on the same exact boundaries they  
22 are deficient by 50 square feet.

23           And because they were created after, if he were  
24 to re-subdivide them they would be recreated after 2016. And  
25 for zoning purposes that means that they would be non-

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1 conforming which means that they would require a variance.

2 But as far as we understand these record lots do  
3 exist and because they do exist prior to the passage of the  
4 2016 zoning regulations they are considered conforming. You  
5 know, so we have recommended that this issue continue to be  
6 resolved at DCRA.

7 I don't believe that Mr. Bello is the only  
8 Applicant that is experiencing this issue with the Agency.  
9 And we had also recommended in our report that we filed to  
10 the record that if for some reason that the record lots don't  
11 exist or for some reason there's a determination that tax lot  
12 were to somehow void the underlying record lots, we would  
13 recommend that the Applicant opt into the IZ program via  
14 special exception because that would allow him to have three  
15 conforming lots.

16 CHAIRPERSON HILL: All right, Mr. Kirschenbaum.  
17 I was following along really well and I thought I could pull  
18 it off. And then you threw in the IZ thing and now I don't  
19 know if I can pull it off.

20 So, all right, Mr. Bello. So, we'll go ahead and  
21 postpone this to, if you could please, you know, Mr.  
22 Kirschenbaum if you could please give us a report, you know,  
23 a formal report on all of this.

24 And then, Mr. Bello, if you can try and get  
25 something from the ANC? Did you guys present? --

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1 MR. BELLO: Yes, we did. And it was unanimously  
2 approved. Part of what I submitted yesterday is an email  
3 from the SMD that she was waiting for the Chair just to sign  
4 the letter.

5 CHAIRPERSON HILL: Okay, unfortunately we can't  
6 give the email great weight.

7 MR. BELLO: That's fine.

8 CHAIRPERSON HILL: So, okay, all right. So, now  
9 we don't have to do the untimely filing correct because it  
10 will be timely by the time they come around again, correct,  
11 Mr. Moy?

12 (No audible response.)

13 CHAIRPERSON HILL: Okay. So we're going to deny  
14 the untimely filing request. Then we'll go to OAG.

15 MS. NAGELHOUT: You could dismiss it as moot  
16 perhaps --

17 CHAIRPERSON HILL: Okay, I'll just --

18 MS. NAGELHOUT: -- because you're allowing the  
19 stuff in the record.

20 CHAIRPERSON HILL: Yes. So, I'm going to dismiss  
21 it as moot. And then, Mr. Bello, I guess we'll try to get  
22 you here as soon as we can. And unfortunately, I guess,  
23 October 2nd is already really full, Mr. Moy. But can we try  
24 to get him on here for October 2nd?

25 SECRETARY MOY: We could squeeze that in, Mr.

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1 Chair.

2 CHAIRPERSON HILL: Okay, great. Mr. Bello, I  
3 understand now what's going on. I'm just sorry it was just  
4 too much stuff for us to get, you know, processed at this  
5 late time as well as you don't have a report from the ANC and  
6 we still don't technically have a report from the Office of  
7 Planning.

8 MR. BELLO: Understood. Thank you, Mr. Chair.

9 CHAIRPERSON HILL: All right, thank you. So, then  
10 we'll see you on October 2nd.

11 MR. BELLO: Thank you.

12 CHAIRPERSON HILL: Thank you.

13 VICE CHAIR HART: Okay. If you, when you're  
14 ready, Mr. Moy.

15 SECRETARY MOY: Thank you, Mr. Vice Chair. Seeing  
16 that Mr. Bello is at the table then we'll call Case  
17 Application Number 19978 of 775 Fairmont Street NW LLC  
18 captioned and advertised as amended for special exceptions  
19 under Subtitle E, Section 5108 and 5204 for the rear yard  
20 requirements; Subtitle E, Section 5014.1 side yard  
21 requirements, Subtitle E, Section 5105.1 and pursuant to  
22 Subtitle X, Chapter 10 for area variance from the height  
23 requirements; Subtitle E, Section 5102.1 alley center line  
24 setback requirements; Subtitle E, Section 5106.1 minimum  
25 pervious surface provisions set forth under Subtitle E,

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1 Section 5107.1.

2 This would construct a second story addition to  
3 an existing alley lot structure and convert it to a detached  
4 principal dwelling unit, RF-1 Zone at 775 Fairmont Street NW,  
5 Square 2885, Lot 862.

6 VICE CHAIR HART: Thank you, Mr. Moy. If we could  
7 just go introduce everyone that's at the table so far by  
8 right to left.

9 MR. CAMPBELL: Thomas Campbell.

10 VICE CHAIR HART: And you're representing?

11 MR. CAMPBELL: The owner.

12 MR. BELLO: Toye Bello on behalf of the Applicant.

13 MR. JONES: Patrick Jones, architect.

14 MR. NOBLE: Hilmar Noble on behalf of the  
15 Applicant.

16 VICE CHAIR HART: Okay, good morning, everybody.  
17 I was, we've had some kind of discussion with our Office of  
18 Attorney General regarding the case. And there were a number  
19 of documents, there are a number of things that are going on  
20 that are, there were a number of things that we had requested  
21 at our, at one of the previous hearings.

22 And we had a deadline of May 29th as that  
23 information being submitted by. And I don't see any  
24 documents. And I'm trying to figure that out.

25 And right now in our conversation with the

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1 Attorney General's Office we are really looking at having the  
2 Applicant, Mr. Bello, if you could because I know you are  
3 representing the folks that are here, submit information to  
4 us to have us understand why this should not be dismissed,  
5 the case should not be dismissed.

6 And really that's because we have not received the  
7 information that we have requested in the past. And we've  
8 had this kind of a couple of times. And I'm just trying to  
9 understand that.

10 So, right now what we're looking to do is to  
11 really have a, information from you to us before the next  
12 meeting that describes why this application shouldn't be  
13 dismissed. And again, it's primarily because the information  
14 that we had requested, we haven't received.

15 So, I don't know what your thoughts on that are.  
16 And just to make sure, has everybody been sworn in? Is that  
17 a nod from everybody? Okay, thanks.

18 MR. BELLO: Thank you, Mr. Chair. First of all,  
19 I think the central issue the last time we were here was  
20 whether the areas of relief that we were looking for here  
21 were variances or special exception.

22 And we submitted a revised form self-certification  
23 going along with the recommendation of the Office of Planning  
24 as recommended that we both ask for variance and a special  
25 exception on some of the relief that we are asking for.

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1           Some of the other issues that were discussed, I  
2 believe that my previous submissions had actually addressed  
3 all of those. And we've come here prepared today to discuss  
4 them and augment by testimony whatever already submitted.

5           VICE CHAIR HART: Well the reason that we were  
6 requesting was that we felt they were not submitted to us.  
7 So, we were not requesting information that we had already  
8 received. I mean that's what I'm stating.

9           MR. BELLO: And I can explain that a little  
10 further. There were late submissions at the time, the last  
11 time we were here the Board claimed not to have read or  
12 understood.

13           Again, the central issue was the matter of the  
14 area of relief necessary for it. There were some  
15 clarifications that were required. But those clarifications  
16 were already in the record as exhibits.

17           VICE CHAIR HART: And you do realize that the  
18 Office of Planning has no, have given us no report for this?

19           MR. BELLO: I believe there's a supplemental  
20 report.

21           VICE CHAIR HART: Yes. But the supplemental  
22 report states that there is --

23           MR. BELLO: The supplemental report states that  
24 they continue to recommend approval of this application.

25           VICE CHAIR HART: Okay. That's why, there were

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1 a couple of cases that I was looking at. So, I take that  
2 back. But we had requested information from you and we had  
3 not received that information. So, that's the part that I'm  
4 trying to get around.

5 MR. BELLO: Well, again I didn't feel the need to  
6 submit information that was already in the record by the time  
7 of the last postponement. I was out of the country to bury  
8 my mom so I wasn't here on the 29th.

9 I didn't come back until the first week of June.  
10 And we requested a continuance of this application on the  
11 belief that the record was full with respect to the areas of  
12 relief that we were looking for.

13 Again, the central issue was the area of relief  
14 that we're asking for and we submitted a revised Form 135 to  
15 that effect.

16 VICE CHAIR HART: Okay. Is there something, let  
17 me ask OAG. I know that we've had several conversations  
18 about this. And the Applicant is saying that they've given  
19 us everything.

20 And I'm stating that I think that they haven't.  
21 And I'm looking at possibly doing a dismissal of the case  
22 because of the insufficiency that we have. So, any thoughts  
23 on this?

24 MS. NAGELHOUT: Well I think one of the  
25 fundamental issues here was the lack of a record lot not just

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1 what relief is needed. And they haven't shown you anything  
2 to make you, to allow you to find that they have in fact  
3 subdivided this property from a tax lot into a record lot and  
4 gotten an address for the property.

5 They have put in some statement that the tax  
6 records show that the address is 775 Fairmont Street. But  
7 that is in no way definitive especially because there's more  
8 than one property that has their address.

9 So, they need to show you that this is a record  
10 lot and that it's eligible to get building permits and it  
11 needs an address. And I still don't think they're ready to  
12 go forward.

13 But perhaps you want to give them a longer time  
14 to make that showing. That was part of the relief or part  
15 of the information you had asked for in April that they have  
16 not addressed.

17 MR. BELLO: If I can speak to that. The  
18 subdivision application is pending at the surveyor's office.  
19 There is absolutely no provision in the zoning regulations  
20 that prohibits the conversion of a tax lot for any property,  
21 including an alley lot, to a record lot.

22 The exceptions to that rule are very specific in  
23 the zoning regulations. In that provision there is no  
24 mention of an alley lot not being able to be converted from  
25 a tax lot to a record lot.

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1           And with respect to the issue of the address.  
2 This is a property that has a history of using this in the  
3 city. It has a Certificate of Occupancy. Beyond the tax  
4 records that I submitted into the records I did submit a copy  
5 of the Certificate of Occupancy.

6           This is also a property that has a history of BZA  
7 approval previously. So, this is not a phantom property that  
8 doesn't exist or doesn't have an address.

9           It's a property that's been historically used as  
10 a commercial woodwork shop with a Certificate of Occupancy,  
11 with a specific address.

12           MEMBER JOHN: So, is that address for the  
13 commercial use on the alley lot and not the other side, not  
14 the, you know, not the front of the property?

15           MR. BELLO: Yes, ma'am. It is on the alley lot.  
16 And --

17           MEMBER JOHN: Where is that on the record? Where  
18 is that information in the record?

19           MR. BELLO: Which information, ma'am?

20           MEMBER JOHN: That the alley lot has a commercial  
21 address and an occupancy, Certificate of Occupancy?

22           MR. BELLO: That would be Exhibit 39. And just  
23 to brief that issue a little further, every property in the  
24 city has a unique lot number and square number as you all  
25 know.

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1           So, the property tax records as submitted is very  
2 specific to this property. And it's a unique marker for the  
3 property. DCRA may be having issues about how to address  
4 alley lots.

5           But there have been many alley lots in the city  
6 that are occupied with Certificate of Occupancies that have  
7 always been traditionally addressed as aware of the streets  
8 that they are located in.

9           MEMBER JOHN: So, Bello, my problem is that it  
10 says 775 Fairmont Street NW.

11           MR. BELLO: The Certificate of Occupancy or the --

12           MEMBER JOHN: This document that I'm looking at  
13 here, the tax information. And where is the Certificate of  
14 Occupancy?

15           MR. BELLO: The Certificate of Occupancy should  
16 be part of that attachment. And --

17           MEMBER JOHN: I think that's the issue. We have,  
18 you know, everything is 775 Fairmont Street. There is no,  
19 doesn't the alley have to be named?

20           MR. BELLO: No, ma'am. The alley doesn't have to  
21 be named. And again, this is a new issue with DCRA. This  
22 property again has a unique lot number. It has a history of  
23 use.

24           The tax records that you're looking at would not  
25 confuse that property with the 775 that faces Fairmont

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1 because that property has its own unique lot number. So, the  
2 records that you're looking at central to that record is the  
3 square and lot number for the property which is consistent  
4 with the property of application.

5 MEMBER JOHN: Okay. So, the C of O, let me take  
6 a minute to look at it. So, I would have to defer to OAG  
7 again because I don't know of any way just by looking at this  
8 Certificate of Occupancy to distinguish between the front of  
9 775 Fairmont Street and the back.

10 It does say woodworking shop and studio. And I  
11 don't know how to distinguish it.

12 MR. BELLO: Well 775 the front on Fairmont is a  
13 residential use. That's one distinction. Number two, the  
14 Certificate of Occupancy would be specific to the lot of the  
15 woodwork shop. And this is based on the prior BZA approval  
16 use variance for that property specifically.

17 MEMBER JOHN: Do you have the information on the  
18 use variance?

19 MR. BELLO: The BZA number, the previous BZA  
20 number. Yes, Order Number 17892.

21 VICE CHAIR HART: Thank you. Do we have any other  
22 questions for the Applicant right now? And we're really  
23 still trying to figure out whether or not we're, my issue is  
24 the issue about dismissal do we have sufficient information  
25 to be able to move forward.

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1           And do we want to have, because really what we're  
2 looking at is do we want to hear this, well we've heard a lot  
3 of it today.

4           Do we want to hear this today or have information  
5 on the issue of dismissal and provide the, have the Applicant  
6 provide us information as to why they believe it should not  
7 be dismissed and do we have the sufficient information to be  
8 able to move forward with it?

9           MEMBER WHITE: I'm not prepared to really make a  
10 decision on the case today. I think I need to have more  
11 information because I still think it's, the record is  
12 somewhat incomplete.

13           And I also noticed that the, I don't know if the  
14 posting information is in the record for this particular  
15 case.

16           VICE CHAIR HART: I mean it is now.

17           MEMBER WHITE: It is now.

18           VICE CHAIR HART: I see it in there now.

19           MEMBER WHITE: Where is it, Mr. Vice Chair?

20           VICE CHAIR HART: The last, 49 and 50 the Exhibits  
21 49 and 50.

22           MEMBER WHITE: I just couldn't actually read the  
23 information on the attachment that's all.

24           VICE CHAIR HART: Yes. It looks like it's, one  
25 of them is upside down. I think that information is in here

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1 now. I don't know if we had --

2 MEMBER WHITE: It just wasn't legible, that's all.  
3 I couldn't read the photo. But beyond that I still feel as  
4 though I need a little bit more clarity in order to make a  
5 decision.

6 VICE CHAIR HART: And actually what I would, the  
7 way I think we should move with this is there was information  
8 that we had requested, Mr. Bello.

9 What I would like you to do is write up what it  
10 is that we have asked for and where it is that you believe  
11 that you have already submitted that information for us so  
12 that we have, we are clear as to where that is because  
13 currently that's part of the problem is that there's  
14 evidently a difficulty in our communication between you all  
15 and us.

16 And we've asked for information. You say that  
17 you've already provided it. But if we ask for the  
18 information then we believe you haven't gotten it. So, if  
19 you could provide that to us I think that we, I think that  
20 would be, provide us with that document.

21 Does the Board believe that we should be moving  
22 forward with the dismissal process or do you want to actually  
23 hear the case because we haven't, we've asked for information  
24 already and we haven't received it, at least that's what my  
25 understanding is.

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1           MEMBER JOHN: Mr. Vice Chair, I think maybe, I  
2 don't know if the Office of Planning has anything to add to  
3 the discussion in terms of whether the Office of Planning has  
4 sufficient information.

5           I am also curious about when the subdivision  
6 process would be completed because you also don't have enough  
7 frontage on the alley. I believe you don't meet that  
8 criteria as well.

9           So, when is the subdivision process going to be  
10 completed and then I'll ask Office of Planning to weigh in  
11 to see whether or not we need to, you know, postpone this  
12 hearing until all of the information can be, you know,  
13 submitted.

14           MR. BELLO: Okay. To answer two question, I  
15 believe, we are compliant with the alley width requirements  
16 being able to establish a single family dwelling on the  
17 subject property.

18           Secondly, the Office of the Surveyor is drawing  
19 up the subdivision plan which hopefully will be ready this  
20 week. When applied for it takes about six to eight weeks to  
21 get these things ready.

22           So, that should be ready this week but then it  
23 still has to go through the entire process of getting every  
24 Agency having sign off including the Zoning Administrator's  
25 Office. I've sent an email to the surveyor asking for him

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1 to weigh in on this specific question as to whether a tax  
2 alley lot can be recorded in these records as a record lot  
3 through the subdivision process.

4 We're not dividing the lot. Maybe the term  
5 subdivision was confusing. But when you're recording a tax  
6 lot it is still referred to as a subdivision.

7 But we are not reconfiguring the lot. We are not  
8 splitting it. It stays as it exists.

9 MEMBER JOHN: I mean, I will defer to OAG. But  
10 it seems to me that you're asking the Board to provide relief  
11 on the basis of the tax lot when there is no record lot and  
12 you're still going through that process.

13 But I guess I'll here from OP because we do give  
14 their report and recommendations great weight.

15 MR. BELLO: If I may just add. The matter of  
16 converting a tax lot to a record lot is a building permit  
17 process. It's really not the purview of the zoning  
18 regulations or the BZA.

19 The necessity of the requirement of the Code is  
20 that a building permit not be issued if a property cannot or  
21 is not converted to a record lot. There is absolutely  
22 nothing in the zoning regulations that precludes that and  
23 it's a building permit issue. It's not a zoning issue.

24 VICE CHAIR HART: Yes, we can hear from the Office  
25 of Planning. Good morning.

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1 MS. VITALE: Good morning, Vice Chair and Members  
2 of the Board. Elisa Vitale with the Office of Planning. I  
3 believe our June 21st report addresses the discussion that  
4 we've been having so far this morning.

5 At the April 24th hearing the Board did request  
6 additional information from the Applicant including  
7 information regarding the subdivision, the address of record,  
8 the relief requested, basically treatment of the existing use  
9 variance on the property and whether or not that would be  
10 superseded with the new relief that the Applicant is  
11 requesting for a residential use as well as having the  
12 Applicant provide a revised burden of proof based on the  
13 current relief request.

14 And as OP noted in its June 21st report, we don't  
15 believe that the Applicant has fully addressed the issue of  
16 subdivision. However, we did note that if this was an  
17 impediment to permitting and the Applicant was not able to  
18 resolve the subdivision issue with DCRA the Applicant would  
19 have to come back to the Board.

20 This is a self-certified application. The  
21 Applicant is proceeding at their own risk, if you will, in  
22 terms of requesting the appropriate relief. So, the  
23 Applicant could proceed on the basis of, you know, believing  
24 that the Applicant would be able to get a record lot  
25 designated for the property.

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1           The Applicant did not provide a revised burden of  
2 proof. And I don't believe the Applicant had fully addressed  
3 the treatment of the existing variance and whether or not  
4 that would be, you know, vacated or superseded.

5           So, I think there were a few items that were  
6 outstanding. With all that said though, we believe that  
7 there was enough in the record that we could support variance  
8 relief for the use of an expansion of this existing alley  
9 structure for a single family residential dwelling.

10           VICE CHAIR HART: Okay, thank you. Are there any  
11 questions for the Office of Planning? Okay, so this is kind  
12 of how I think we should be moving forward.

13           I appreciate the Office of Planning and, Mr.  
14 Bello, your information as well. I think that what we should  
15 do is ask for some information one, regarding the variance,  
16 the existing variance that's there to understand where that  
17 is in this context and have something that is written in the  
18 record on it.

19           I still don't believe that we should be having  
20 this hearing today. I mean we've spent quite a bit of time  
21 even though we haven't -- kind of deciding this.

22           And I would like to understand the subdivision  
23 issue partially because I just don't want to have to go  
24 through this process again if you have to actually come back  
25 to us to get a subdivision.

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1           So, I would rather understand where that is as  
2 opposed to having this discussion and then coming back in  
3 whatever, five months, six months and then having to go  
4 through this again. So, it sounded like there may be some  
5 information that we get within the next week or so.

6           And I'm not saying that we should have a meeting  
7 at the end of July because I know our agenda is packed right  
8 now. But I do believe that we, I don't know if we can  
9 possibly squeeze this in, Mr. Moy, in September at some  
10 point.

11           I don't know all of the, when all of the, what all  
12 the meeting dates are and how many cases that we have. But  
13 I, my suggestion would be to do that so that we get more  
14 information because I think part of this is that we feel like  
15 we don't have enough information at this time.

16           And I think some of that information may come in  
17 fairly shortly so that we can then be able to move forward  
18 with this. I'd like to hear other Board Member's thoughts  
19 on this as well.

20           MEMBER WHITE: Mr. Vice Chair, I agree with your  
21 assessment in terms of getting a little bit more information  
22 about the, how the subdivision issue kind of weighs in to  
23 this particular case.

24           I'm not comfortable in making a decision today  
25 because it just seems like there are still some issues that,

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1 in fact the OAG even pointed out to us that we needed to be  
2 aware before moving forward with it.

3 COMMISSIONER TURNBULL: I would concur with your,  
4 with the comments from the two of you and say we ought to  
5 postpone this. I don't know whether a month is going to be  
6 enough.

7 VICE CHAIR HART: We have at least until  
8 September. We can't hear this at least until September.

9 COMMISSIONER TURNBULL: Right, right.

10 VICE CHAIR HART: So, it may be early October, I  
11 don't know.

12 COMMISSIONER TURNBULL: Okay, I would agree.

13 VICE CHAIR HART: I'm just trying to --

14 COMMISSIONER TURNBULL: I'm in agreement with  
15 that.

16 VICE CHAIR HART: Okay. Mr. Moy, the second, is  
17 there any time in September or are we definitely looking at  
18 early October?

19 SECRETARY MOY: Certainly in October, early  
20 October. But given the circumstances, Mr. Vice Chair, if you  
21 wanted to squeeze it into September the best of the three  
22 hearings in September would be September 11th, then this  
23 would be the eleventh case on that day.

24 VICE CHAIR HART: Okay. I think it may be better  
25 just to do that and I think we'll have information. I know

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1 that we had a pretty tight schedule, Mr. Bello.

2 So, what we're looking for is the further  
3 information around this, the existing variance that's there  
4 and how this fits into, the request that you're making now  
5 fits in with that variance, what happens to that variance  
6 that's already been provided.

7 And I asked also if you could provide, well I  
8 understand that the Office of Planning has provided some  
9 information about where you, the responses to some of the  
10 things that we had requested. I'd like something in the  
11 record from you all.

12 I know that you said that you believe that all  
13 that's there. But it's helpful for us to actually see where  
14 you're saying Exhibit such and such is what we believe is  
15 the, you know, responds and deals with this particular issue.

16 It's helpful for us to see that because then we  
17 know that you actually one, heard us and two, responded to  
18 us. If you don't do that then it becomes well did they not  
19 respond because they didn't understand that or do they  
20 believe that there's something that's in there that we just  
21 haven't seen that is pointing to that.

22 So, that's why we were looking for that response  
23 from you. So, if you could provide that and, Mr. Moy, do you  
24 want to do like two weeks before the hearing?

25 SECRETARY MOY: Yes, sir. So, that would be --

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1           VICE CHAIR HART: Or actually do you want to do  
2 three weeks before the hearing and then we give Office of  
3 Planning a chance to be able to respond themselves? Whatever  
4 the timing. I just, that's --

5           SECRETARY MOY: Right so, let me throw out the  
6 proposed dates, Mr. Vice Chair.

7           VICE CHAIR HART: Thank you.

8           SECRETARY MOY: So, let's say Office of Planning  
9 to provide a supplemental let's say Wednesday, September 4th  
10 and the Applicant to file by August 14th.

11          VICE CHAIR HART: Is the 14th fine?

12          MR. BELLO: That's fine, Mr. Chair. I just need  
13 a little bit more clarification on specifically what is being  
14 requested here.

15                 Submit additional documentation about the  
16 subdivision record lot issue. The import of the existing  
17 variance, number two.

18          VICE CHAIR HART: Yes.

19          MR. BELLO: Is that it?

20          VICE CHAIR HART: Well, I mean, if you look at the  
21 OP report they kind of talk about a series of things that we  
22 had asked. And some of that has been, the OP report does  
23 describe how you all, well they describe how they believe  
24 this, the information is, the supplemental report is Exhibit  
25 20 -- 47.

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1           They are describing some of the things that we had  
2 actually requested. And I just would like to have the  
3 information from you all because this is your application  
4 that's coming before us.

5           And if their, if what they said is what you all  
6 believe then that's fine. But right now it's just hard for  
7 us to, we're getting information from the Office of Planning  
8 and I would rather get the information directly from you all.

9           And I just don't have anything on the record that  
10 says this is where we believe that we've provided this  
11 information.

12           MR. BELLO: Okay. Just follow the bullet points  
13 of the OP report?

14           VICE CHAIR HART: Yes.

15           MR. BELLO: Thank you.

16           VICE CHAIR HART: I think that's it. Thank you  
17 all very much. We're going to take a five minute break.  
18 Thanks.

19           (Whereupon, the above-entitled matter went off the  
20 record at 11:20 a.m. and resumed at 11:32 a.m.)

21           CHAIRPERSON HILL: Mr. Moy, whenever you are  
22 ready.

23           SECRETARY MOY: Thank you, Mr. Chairman. The  
24 Board is back in session, and it is at or about 11:30.

25           So if I may call parties to the table to

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1 Application Number 20036 of Mariela, M---A-R-I-E-L-A, Licha,  
2 is it Licha, L-I-C-H-A, Salomon captioned and advertised for  
3 special exceptions under Subtitle D, Section 5201 from the  
4 side yard requirements Subtitle D, Section 206.7;  
5 non-conforming structural requirements, Subtitle C, Section  
6 202.2.

7 This would construct a two-story rear addition to  
8 an existent principal dwelling unit, R-1-B Zone. This is at  
9 4844 Reservoir Road, N.W., Square 1387, Lot 74.

10 CHAIRPERSON HILL: Okay. Good morning. If you  
11 could please introduce yourselves for the record from my  
12 right to left.

13 MS. SALOMON: Good morning. Mariela Licha  
14 Salomon. I'm the Applicant.

15 MR. MANION: I'm Thomas Manion. I'm the architect  
16 for the project.

17 MS. LEONNIG: I'm Viviana Leonnig. I'm an  
18 architect with Manion and Associates for the Applicant.

19 CHAIRPERSON HILL: Sir, I'm sorry, could you spell  
20 your name for me, please?

21 MR. MANION: M-A-N-I-O-N.

22 CHAIRPERSON HILL: Manion?

23 MR. MANION: Yes.

24 CHAIRPERSON HILL: Okay. And, ma'am, could you  
25 spell your last name also as well for me?

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1 MS. LEONNIG: It's Leonnig, L-E-O-N-N-I-G.

2 CHAIRPERSON HILL: Okay, great. Thank you. Mr.  
3 Manion, are you going to be presenting to us? Okay. So Mr.  
4 Manion, I don't have a lot of questions for it, actually.  
5 It seems relatively straightforward for me in terms of your  
6 application.

7 However, if you just want to tell us again what  
8 your client is doing and how you think you meet the criteria  
9 for us to grant the application. I'm going to put 15 minutes  
10 on the clock, Mr. Moy, just so I know where we are and you  
11 can begin whenever you like.

12 MR. MANION: Thank you, Mr. Chairman and the  
13 Board. We're seeking a special exception essentially for a  
14 side yard setback. We are the end unit of three units. We  
15 are a triangular lot.

16 There are three units on the other end similar to  
17 us. We sit forward by about 14 feet in front of the next two  
18 units. So the units basically form sort of a "U". There is  
19 a space between them.

20 On the back we're trying to extend out 12 feet.  
21 The neighbor extends 14. We wouldn't be past him. This is  
22 a party wall. I use my hands too much. This is a party wall  
23 between us.

24 And so we don't, because we're non-conforming we  
25 don't meet that side setback. There was support from the

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1 ANC, and I think that's in Exhibit 37.

2           There was a waiver granted for our mirror house  
3 on the very far end to do an addition to the rear which we  
4 also are now requesting. I think after that we meet all the  
5 other setbacks, and it simply was a matter of not being able  
6 to locate a simple addition at the back without the variance.  
7 The requirement is eight feet on that side even though the  
8 house is connected, and so it would -- and the house is only  
9 20 feet wide. So it would basically not be a usable space.

10           I'm going to add -- my architect has got something  
11 she would like to add.

12           CHAIRPERSON HILL: Okay, please.

13           MS. LEONNIG: Well there was a notice of final  
14 rulemaking recently. And there was -- it was eight feet  
15 before the side setback on that side.

16           But now because that passed on January 28, 2019,  
17 and now we're trying to -- we're applying for a special  
18 exception of five feet side setback on that side where the  
19 common wall is because we're trying to add a space there for  
20 the homeowner. But it's very difficult to really do anything  
21 when you have to have a side setback like that.

22           CHAIRPERSON HILL: Okay. Thank you. Actually,  
23 Mr. Manion, I'm going to just see if the Board has any  
24 question for you guys. Does the Board have any questions for  
25 the Applicant? Okay, I'm going to turn to the Office of

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1 Planning.

2 Mr. Manion, if you would turn off your microphone  
3 for me; I just get feedback. Thank you.

4 MS. THOMAS: Good morning, Mr. Chair, Members of  
5 the Board. Karen Thomas with the Office of Planning. And  
6 we will stand on the record of our report, and we're in  
7 support of this request for the addition. Thank you.

8 CHAIRPERSON HILL: Okay. Thank you. Does the  
9 Board have any questions for the Office of Planning? Does  
10 the Applicant have any questions for the Office of Planning?

11 Is there any here wishing to speak in support?  
12 Is there anyone here wishing to speak in opposition? Mr.  
13 Manion, is there anything you want to add at the end? Okay,  
14 all right. So I'm going to close the hearing. Is the Board  
15 ready to deliberate?

16 Okay, I can start. I, as I started at the  
17 beginning, didn't have any issues with the application. I  
18 think that the analysis that was provided by the Office of  
19 Planning and the burden of proof of the Applicant, I would  
20 be also in support of their analysis as well as that of ANC  
21 3D being in support.

22 Again, I didn't have any issues or concerns with  
23 the application, and I think they meet the criteria. Is  
24 there anything else that anyone would like to add?

25 I'm going to go ahead and make a motion to approve

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1 Application Number 20036 as captioned and read by the  
2 Secretary, and ask for a second.

3 VICE CHAIR HART: Second.

4 CHAIRPERSON HILL: Motion has been made and  
5 seconded. All those in favor say aye.

6 (Chorus of aye.)

7 CHAIRPERSON HILL: All those opposed? The motion  
8 passes, Mr. Moy.

9 SECRETARY MOY: Staff would record the vote as  
10 5-0-0. This is on the motion of Chairman Hill to approve the  
11 application for the relief requested. Seconding the motion  
12 is Vice Chair Hart. Also in support Ms. John, Ms. White and  
13 Zoning Commissioner Michael Turnbull.

14 CHAIRPERSON HILL: Thank you, Mr. Moy. Thank you  
15 very much. All right, Mr. Moy. Whenever you're ready.

16 SECRETARY MOY: All right, if I can have the  
17 parties to the table to Application Number 20063. This is  
18 of Siri, S-I-R-I, Fiske, F-I-S-K-E.

19 And this application is captioned and advertised  
20 with special exceptions under Subtitle D, Section 5201 from  
21 the lot occupancy requirement Subtitle E, Section 304.1 rear  
22 yard requirements; Subtitle E, Section 306.1 non-conforming  
23 structure requirements, Subtitle C, Section 202.2.

24 This would construct a rear addition to an  
25 existing attached principal dwelling unit, RF-1 Zone at 1210

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1 T Street, N.W., Square 275, Lot 46.

2 CHAIRPERSON HILL: Okay, well good morning. Would  
3 you please introduce yourselves for the record?

4 MR. FREEMAN: Yes. I am Mark Freeman. I am the  
5 architect of record representing Ms. Siri Fiske on the  
6 special exception application for 1210 T Street, N.W.

7 MS. COLOMBAT: I am Virginie Colombat. I am part  
8 of the aggregate architecture team.

9 CHAIRPERSON HILL: Okay. Mr. Freeman, are you  
10 going to be presenting to us?

11 MR. FREEMAN: Yes, sir.

12 CHAIRPERSON HILL: Okay, great. So I didn't again  
13 have a lot of issues with this particular one. I see that  
14 you've submitted some sun studies. And the ANC, I guess, did  
15 file a report, but they had requests concerning Hardie board  
16 planking instead of sheets. I guess you could kind of speak  
17 to all that as you're kind of going through your  
18 presentation.

19 If you want to again just kind of tell us about  
20 the project and what you're trying to achieve, as well as how  
21 you believe you meet the criteria for us to grant the  
22 application. I'm going to put 15 minutes on the clock that  
23 Mr. Moy just did for us, and you can begin whenever you like.

24 MR. FREEMAN: Yes, hi. We are requesting special  
25 exception relief to build a conservatory or sun room at the

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1 rear of the property as a one story addition. What we are  
2 asking for special relief from is the lot occupancy  
3 requirement of keeping the lot coverage at 60 percent.

4 We are requesting special exception relief for  
5 68.58 percent. We are also requesting relief to go into the  
6 rear yard setback two feet which would normally be a 20 feet  
7 rear yard setback, but at 18 which will still allow for a  
8 single standard parking size or standard size parking space  
9 to maintain at the rear.

10 We also are asking for special exception relief  
11 because the existing structure is slightly over the lot  
12 occupancy of 60 percent. It's actually currently at 61.5 I  
13 believe is what it is. Yes, 61.5.

14 So what we did during our burden of proof  
15 statement, we provided sun studies which when we are dealing  
16 with the light and air -- to not affect light and air of  
17 adjacent properties, we showed the sun studies in our burden  
18 of proof which should minimize any effect on the neighboring  
19 properties of 1208 T and 1212 T.

20 We also are discussing the privacy and use and  
21 enjoyment of neighboring properties. We have maintained the  
22 firewall on the western side, and we've maintained a green  
23 wall on the eastern side for privacy which I believe the  
24 Office of Planning also has noted in their report.

25 We have maintained the same width of the existing

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1 rear addition that is on the back, the dogleg to try to  
2 maintain sort of the overall massing and the feel. It also  
3 sort of repeats the rhythm in the massing of the neighboring  
4 properties at the rear.

5 And then let's see. The other -- we have provided  
6 plans on elevations to the Board, as well as -- I'm trying  
7 to think what's the last thing here. Talk about regarding  
8 the rear conservation addition is in harmony.

9 The rear addition will not tend to affect  
10 adversely the neighboring properties in order to meet special  
11 exception conditions. So per the sun study, per the Office  
12 of Planning's report, I believe, which addresses some of  
13 these, we feel that we have met the burden of proof to  
14 receive approval for the special exception.

15 CHAIRPERSON HILL: Okay. Does the Board have any  
16 questions for the Applicant?

17 VICE CHAIR HART: Just a quick question. The ANC  
18 noted this issue about the HardiePlank siding versus the  
19 boards. Do you -- is there mostly siding along the other  
20 neighbors?

21 You know, are they using siding as well? Is that  
22 why they were looking at it, or is there some other issue?

23 MR. FREEMAN: I believe it tends to be more  
24 towards the traditional versus modern. I think some of the  
25 modern feel that we're looking at for this addition uses the

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1 Hardie board which has the reveal system.

2 We were here in front of the Board about a year  
3 ago for the 1208 T special exception. We are also using the  
4 same material pattern on that. I think there was some  
5 feedback in regards to that materiality -- wanting to have  
6 a little more traditional feel versus a modern feel.

7 We did have a correspondence with Ms. Amanya Price  
8 (phonetic) who is the historic representative for this  
9 neighborhood. She did not provide any comment on that  
10 situation.

11 She had more of a concern about the height of the  
12 parapet wall that's on the western side. But as I mentioned  
13 both the ANC as well as the historic because we are having  
14 a glass roof, we need to have a fire rated parapet wall to  
15 maintain building code. And so we're having a 30 inch high  
16 parapet wall that's on the western side.

17 Now I know there's been other discussions about  
18 the neighbors' support on the 1212 side because we do not --  
19 we don't have any support from them.

20 We do have 1208. The -- we have reached out  
21 numerous times to 1212. We had a discussion with the ANC  
22 about this in their zoning, the ZPD meeting which was their  
23 design committee.

24 And long story short is we have reached out. They  
25 just didn't -- they have not had any correspondence for us.

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1 They have not had any say, yes or no.

2 We do have certified mail, which we have receipts  
3 that show that we did formally submit the drawings to them  
4 in addition to Ms. Fiske's sort of general outreach to the  
5 neighbor.

6 But it got to the point where we just didn't --  
7 it was becoming uncomfortable to continue to push for support  
8 because it didn't seem like there was going to be support or  
9 denial either way or any more, what's the word, cooperation  
10 I guess may be the right work for it from 1212 T.

11 VICE CHAIR HART: Understood. And which project  
12 did you say you worked on previously? Is it in any of the  
13 photos?

14 MR. FREEMAN: It's 1208. It would be the property  
15 to the east, directly to the east. We are at 1210. So if  
16 you're looking at the sun study it is the -- on the  
17 rendering, it's the one directly to the right which has the  
18 roof deck over top of the rear addition and then has the rear  
19 deck.

20 VICE CHAIR HART: I'm looking for the sun study.  
21 Give me a second.

22 MR. FREEMAN: That's in the burden of proof.

23 VICE CHAIR HART: That's what it is. Okay, and  
24 you said it's the -- which one again?

25 MR. FREEMAN: Property directly to the east, right

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1 next door. So 1210 is the one in the middle. It's the one  
2 right to the right.

3 VICE CHAIR HART: Okay.

4 COMMISSIONER TURNBULL: Do you have any better  
5 drawings than that? These are all black and white, and they  
6 get kind of blurry.

7 MR. FREEMAN: Regarding to the sun study?

8 COMMISSIONER TURNBULL: Yes. Even your other  
9 architectural drawings were kind of hard to read.

10 VICE CHAIR HART: I think maybe that they're  
11 copies.

12 COMMISSIONER TURNBULL: Yes, I don't know.

13 MR. FREEMAN: We do have in the submission on Page  
14 A003, which would be the black and white hard line drawings  
15 which has a rear elevation, number one, a proposed east  
16 elevation and a proposed west elevation.

17 So the middle drawing is the east elevation which  
18 shows the green wall that we're putting up. The west  
19 elevation, which is the far right drawing, has the Hardie  
20 panel.

21 COMMISSIONER TURNBULL: How are you -- what's the  
22 dividing? Is that a -- you've got the panels, but you have  
23 something over top of the panels? How are you holding the  
24 panels?

25 MR. FREEMAN: It's going to be on a frame system.

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1 COMMISSIONER TURNBULL: It's a frame, okay.

2 MR. FREEMAN: Yes, it would be essentially a rain  
3 screen system.

4 COMMISSIONER TURNBULL: Okay.

5 MR. FREEMAN: The feedback from the ANC and the  
6 design committee about the HardiePlank versus the Hardie  
7 board, we didn't think that was a showstopper. It was sort  
8 of, if historic reinforced that, it's fine.

9 The way that they said it at the end of the day  
10 was, you know, it's up to Zoning, the BZA, it's up to  
11 historic. But that would be their recommendation; otherwise  
12 they provided full support for the proposal for the  
13 application.

14 CHAIRPERSON HILL: Okay. Anyone else for the  
15 Applicant?

16 MEMBER WHITE: Just a final question. So you  
17 believe that this design is in conformity with kind of like  
18 the scale and the look and feel of that block, that it's  
19 going to meet the special exception criteria in terms of it  
20 kind of fitting in with the pattern of those houses, or do  
21 you think it's not going to?

22 MR. FREEMAN: We do. I mean before we put the  
23 application to full submission, I always want to reach out  
24 to historic because I feel like as a design feedback historic  
25 is going to give us the most direction of whether they feel

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1 it does or does not become compliant with or fit in.

2 I think when we get into a discussion of  
3 traditional or contemporary or transitional, I think that's  
4 purely a personal preference. I do feel that there is --  
5 it's 1204 was a complete like tear down, build up.

6 That was a completely modern transition. The one  
7 on the corner, I believe, is by Teass Warren Architects.  
8 That one is a complete transition and it will have a lot of  
9 modern elements.

10 It's really just a question, I think in this case  
11 of your approach and your personal preference. But we do  
12 feel that the design that we're submitting and in reference  
13 to 1204, 1208, 1210 that the modern elements will fit in,  
14 that we're not trying to create an imposing modern element  
15 that's too large or massive.

16 VICE CHAIR HART: And this is the -- that modern  
17 building that you were talking about?

18 MR. FREEMAN: Yes, sir.

19 CHAIRPERSON HILL: Okay. My personal preference  
20 for you guys -- well, I'm just going to express my opinion.  
21 I don't necessarily think it's in our purview to kind of like  
22 deal with the HardiePlank versus the sheets and I don't --  
23 that's not necessarily true.

24 We could in terms of like character and style  
25 issues in terms of whether or not, you know, it's part of the

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1 neighborhood. I guess my thoughts -- and we can see how we  
2 get to this at the end -- is that I don't necessarily think  
3 I have enough information to decide what I think of it one  
4 way or the other.

5 So but outside of that does anybody have any  
6 questions for the Applicant? Okay, I'm going to turn to the  
7 Office of Planning.

8 MS. MYERS: Hello, Crystal Myers with the Office  
9 of Planning. The Office of Planning is recommending approval  
10 of this case, and it stands on the record of the staff  
11 report.

12 CHAIRPERSON HILL: Okay. Does anyone have any  
13 questions for the Office of Planning? Does the Applicant  
14 have any questions for the Office of Planning?

15 MR. FREEMAN: No, sir.

16 CHAIRPERSON HILL: Is there anyone here wishing  
17 to speak in support? Is there anyone here wishing to speak  
18 in opposition? Is there anything else you would like to add  
19 at the end, Mr. Freeman?

20 MR. FREEMAN: No, sir.

21 CHAIRPERSON HILL: Okay, all right. I'm going to  
22 close the record. Is the Board ready to deliberate? Okay,  
23 I can begin. I thought that the analysis that was provided  
24 by the Office of Planning was concise.

25 I also would agree with the burden of proof that

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1 was provided by the Applicant. I didn't really have any  
2 particular issues with the application. I do think that  
3 they're making the criteria in order for us to grant the  
4 application.

5 It also was good to see the ANC was in support.  
6 However, I don't think I would be able to get behind that  
7 condition in terms of the Hardie board planking versus the  
8 sheets.

9 I think that's something that, as the Applicant  
10 has stated, is not a deal breaker either way. But as you're  
11 going to kind of work through the process if you end up with  
12 Hardie board, and that's something that you end up with then  
13 that's -- I think that's kind of out of our purview.

14 But I will be voting in favor of the application.  
15 Is there anything else anyone would like to add? Okay.  
16 Going to make a motion to approve Application Number 20063  
17 as captioned and read by the Secretary and ask for a second.

18 VICE CHAIR HART: Second.

19 CHAIRPERSON HILL: Motion made and seconded. All  
20 those in favor say aye.

21 (Chorus of aye.)

22 CHAIRPERSON HILL: All those opposed? Motion  
23 passes, Mr. Moy.

24 SECRETARY MOY: Staff would record the vote as  
25 5-0-0. This is on the motion of Chairman Hill to approve the

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1 application for the relief requested. Seconding the motion  
2 is Vice Chair Hart. Also in support Ms. John, Ms. White and  
3 Zoning Commissioner Michael Turnbull.

4 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy.  
5 Thank you all. All right, Mr. Moy, you can call our next one  
6 whenever you're ready.

7 SECRETARY MOY: The next application is Number  
8 20071 of Charles, is it pronounced Weil, W-E-I-L? Weil,  
9 thank you, and Leigh McCue-Weil, captioned and advertised for  
10 special exception under Subtitle D, Section 5201 from the lot  
11 occupancy requirements of Subtitle D, Section 304.1 to  
12 construct a side yard addition to an existing detached  
13 principal dwelling unit, R-1-B Zone.

14 This is at 5405 Sherrier Place, N.W., Square 1443,  
15 Lot 43.

16 CHAIRPERSON HILL: Okay, great. Thank you, Mr.  
17 Moy. Could you please introduce yourself for the record?

18 MS. SHEPARD: I'm sorry. I'm Elizabeth Shepard  
19 with Case Design Remodeling for the Applicant.

20 CHAIRPERSON HILL: Okay, Ms. Shepard. Every time  
21 I see you now, I'm just going to think of you going to school  
22 with Peter May.

23 MS. SHEPARD: It's not a bad thing.

24 CHAIRPERSON HILL: It depends on who you talk to  
25 probably. Okay. So I'm just going to go ahead and let you

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1 walk us through your presentation, and I'm going to put 15  
2 minutes on the clock, Mr. Moy.

3 And I don't have anything specific to ask for  
4 ahead of time. So I'll let you kind of get set up, and then  
5 you can begin whenever you like.

6 MS. SHEPARD: My apologies. I thought I had a PDF  
7 just right on this.

8 CHAIRPERSON HILL: Take your time; that's all  
9 right.

10 MS. SHEPARD: And I'm not seeing it. There may  
11 be. I don't know what to say.

12 VICE CHAIR HART: You can check online.

13 MS. SHEPARD: I'm sorry.

14 VICE CHAIR HART: You can check online.

15 MS. SHEPARD: Oh, here it is. It won't open it.  
16 Check online -- why don't I just speak? This is a single  
17 family house.

18 We are trying to put a small 80 square foot  
19 addition on the side. The entrance is on the side. It's kind  
20 of an "L" shaped building.

21 The lot coverages are already a tiny bit over the  
22 allowable 40 percent. I think we're at 42.5. The proposed  
23 addition will bring it up to 44.3, I believe.

24 The homeowners are looking for just a small entry  
25 mud room addition with a covered porch area over the front

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1 door just for a little more ease of access for two busy  
2 children, two busy dogs and two busy adults.

3 CHAIRPERSON HILL: Okay, all right. Does anybody  
4 have any questions for the Applicant? Okay. I'm going to  
5 turn to the Office of Planning.

6 MS. VITALE: Good morning, Mr. Chair, Members of  
7 the Board, Elisa Vitale. The Office of Planning is  
8 recommending approval of the requested special exception  
9 relief for lot occupancy.

10 Our report noted that the Applicant may need  
11 relief under C 202.2. We don't believe that's necessary.  
12 I'm happy to answer any questions, but that concludes my  
13 report. Thank you.

14 CHAIRPERSON HILL: Okay. Does the Board have any  
15 questions for the Office of Planning?

16 VICE CHAIR HART: Just for clarification, can you  
17 say that last part again?

18 MS. VITALE: Our report noted that relief from C  
19 202.2 may be necessary but had not been requested. Through  
20 discussions, that relief is not required. The special  
21 exception is sufficient.

22 VICE CHAIR HART: Okay. I just wanted to make  
23 sure I understood. I thought I heard that, but sometimes I  
24 -- but thank you very much for that clarification.

25 CHAIRPERSON HILL: Okay. Does the Applicant have

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1 any questions for the Office of Planning?

2 MS. SHEPARD: No. Thank you.

3 CHAIRPERSON HILL: Is there anyone here wishing  
4 to speak in support? Is there anyone here wishing to speak  
5 in opposition? All right, Ms. Shepard, is there anything you  
6 would like at the end?

7 MS. SHEPARD: That's it.

8 CHAIRPERSON HILL: Okay. I'll go ahead and close  
9 the hearing. Is the Board ready to deliberate? I can go  
10 ahead and begin. I did not have any issues with this  
11 application.

12 I thought that they met the criteria for us to  
13 grant it. I also would agree with the analysis that has been  
14 provided on the record by the Office of Planning, also the  
15 burden of proof from the Applicant, as well as the ANC's  
16 report of being in support, as well as DDOT not having any  
17 objection.

18 Again, as I said, I don't have any issues or  
19 concerns. So I will be voting in favor. Is the Board -- is  
20 there anything else anyone would like to add?

21 I'm going to make a motion to approve Application  
22 Number 20071 as captioned and read by the Secretary and ask  
23 for a second.

24 MEMBER WHITE: Second.

25 CHAIRPERSON HILL: The motion has been made and

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1 seconded. All those in favor say aye.

2 (Chorus of aye.)

3 CHAIRPERSON HILL: All those opposed? Motion  
4 passes, Mr. Moy.

5 SECRETARY MOY: Staff would record the vote as  
6 5-0-0. This on the motion of Chairman Hill to approve the  
7 application for the relief requested. Seconding the motion,  
8 Ms. White. Also in support Ms. John, Vice Chair Hart and  
9 Zoning Commissioner Michael Turnbull.

10 CHAIRPERSON HILL: Thank you, Mr. Moy. Thank you  
11 very much. Okay. We're actually going to take a quick  
12 break, but we're probably not going to take lunch. I say  
13 probably because I don't know what's going to happen. But  
14 we're probably not going to take lunch. So we're going to  
15 take a quick break.

16 (Whereupon, the above-entitled matter went off the  
17 record at 12:00 p.m. and resumed at 12:13 p.m.)

18 CHAIRPERSON HILL: All right, Mr. Moy, whenever  
19 you like.

20 SECRETARY MOY: Thank you, Mr. Chairman. The  
21 Board is back in session, and it is at or about 12:15 p.m.

22 If I can call parties to the table to Case  
23 Application Number 20073 of Oxbridge Development QOZB at  
24 Fourth Street N.E., LLC as amended for special exception  
25 relief under the inclusionary zoning provisions, Subtitle C,

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1 Section 1001.2(e)(3) and from the lot width requirements  
2 Subtitle E, Section 201.1.

3 This would raise an existing detached principal  
4 dwelling unit and subdivide the lot to construct three new  
5 attached flats, RF-1 Zone at 2637 4th Street, N.E., Square  
6 3634, Lot 803.

7 CHAIRPERSON HILL: Okay, great. Thank you, Mr.  
8 Moy. If you could please introduce yourselves for the record  
9 from my right to left.

10 MR. TOTAH: Good afternoon. My name is Elliot  
11 Totah. I am the Applicant here with Oxbridge Development.

12 CHAIRPERSON HILL: Can you spell your last for me,  
13 sir?

14 MR. TOTAH: T, like in Tom, O-T, like in Tom, A-H.

15 CHAIRPERSON HILL: Okay, great. Thank you.

16 MS. MOLDENHAUER: Good afternoon, Meredith  
17 Moldenhauer from the law firm of Cozen O'Connor here on  
18 behalf of the Applicant.

19 MR. TEASS: Good afternoon. My name is Will  
20 Teass, a principal with Teass Warren Architects. I would  
21 also like to point out I was not sworn in this morning.

22 CHAIRPERSON HILL: Okay, great. Thank you. So  
23 if anyone hasn't been sworn in and you plan on testifying,  
24 if you would please stand and take the oath administered by  
25 the Secretary to my left.

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1 (Witnesses sworn.)

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

3 CHAIRPERSON HILL: Okay, great. Thank you. I  
4 guess, Ms. Moldenhauer, you're going to be presenting to us  
5 today? Okay, I don't have anything specific to ask about  
6 this application.

7 I mean, I think if you want to just go ahead and  
8 walk us through what you're trying to achieve, and how you  
9 believe you meet the criteria for us to grant the relief  
10 requested. I'm going to put 15 minutes on the clock that Mr.  
11 Moy has done so and you can begin whenever you like.

12 MS. MOLDENHAUER: Great, thank you very much.  
13 We'll go through this quickly. The property is currently a  
14 tax lot, a single lot in the RF-1 Zone as identified here in  
15 the zoning map.

16 Here you can identify the property. It is  
17 currently a single family home in between two larger  
18 apartment buildings. Here you can see the abutting property  
19 buildings that are identified here in this image.

20 I will turn it over now to Mr. Totah just to  
21 quickly walk through the proposed project.

22 MR. TOTAH: Thank you, Meredith. Our intent is  
23 to raise the existing single family structure, subdividing  
24 the property into three lots to build two family flats on  
25 each of those lots, so a total of three two family flats.

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1           Each flat will feature one cellar unit on the  
2 ground floor or on the cellar floor, and then a second unit  
3 spanning the floors one through three above that. Cellar  
4 unit is anticipated to be two bedroom, one bath, with the  
5 upper larger unit anticipated to be six bedroom, three and  
6 half bath.

7           We secured unanimous support from ANC 5E as part  
8 of our application, as well as support from the Office of  
9 Planning.

10           MS. MOLDENHAUER: Thank you. Now we'll turn it  
11 over to Mr. Teass.

12           MR. TEASS: Good afternoon. What is on the screen  
13 in front of you is the existing site plan which depicts the  
14 two adjacent multi-family buildings -- one to the north at  
15 401 Evarts, and one to the south at 20615 4th Street.

16           The subject property is 50 feet wide by 115 feet  
17 deep. As was previously discussed, the intent here is to  
18 subdivide that into three new lots that we will construct  
19 three new row houses.

20           The proposed site plan, the new buildings, the new  
21 building footprints are shown in green. There is an existing  
22 stair in the northeast corner, I'm sorry, the northwest  
23 corner of the property that will be used and rebuilt to  
24 access the property.

25           One item of note is the fact that there is a

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1 fairly significant grade change from the sidewalk all the way  
2 up to where the new ground floor would be. And so that is  
3 the reason for why the structures have been pulled back.

4           If we go to the next slide, please. The enlarged  
5 site plan here, you can see the lots themselves will be  
6 identical. They will be 16.67 feet wide, 115 feet deep. As  
7 was previously discussed, each will be improved as a two unit  
8 flat.

9           We will be providing three parking spaces, so one  
10 parking space for each lot. Those parking spaces are on the  
11 northeast corner, accessed from the alley way. There is a  
12 fairly significant grade change not only at the front but at  
13 the rear.

14           And so the idea is locating those parking spaces  
15 in the northeast corner minimizes the amount of sight  
16 disturbance that we need to take on. A cross easement will  
17 be established so that each of those units would be able to  
18 access that.

19           One thing we would like to note is as we move  
20 forward with the project, there may be a potential for the  
21 size to diminish slightly. So we're showing what we would  
22 consider the maximum size. We just wanted to make the Board  
23 aware of that moving forward.

24           If we could go on to the next slide, please. The  
25 building section here is very typical building section for

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1 this type of construction where we have a 35 foot tall  
2 structure with a cellar.

3 We have one of those units in the cellar and then  
4 the other unit, unit two in each of the buildings would be  
5 on the ground, second and third floors. There is an existing  
6 retaining wall that's in public space.

7 I think it was mentioned in the DDOT report. It  
8 may need some repair. But you can get a sense of just how  
9 much the grade slopes up as it meets the building. The  
10 elevations, there will be three new structures that will be  
11 identical.

12 The representation that you're looking at now  
13 really emphasizes a similar facade design to all three. We  
14 think that's the most appropriate architectural response.  
15 The materials will be a mixture of brick and Hardie panel on  
16 the front elevation.

17 If we go to the next slide on the rear elevation  
18 will consist of Hardie siding and a little bit of  
19 HardiePlank. And I'll just quickly take you through the  
20 floor plans. If there is any questions I would be happy to  
21 answer them.

22 But the cellar here shows the two bedrooms at the  
23 rear. This ground floor plan is devoted entirely to living.  
24 The second floor and third floor plans are very similar in  
25 that they have three bedrooms each.

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1           We would like to point out that we are proposing  
2 to do a roof deck or have a roof deck available for each of  
3 the three buildings. That roof deck will be set back. The  
4 guard rail for the roof will be set back on the front and the  
5 rear, as well as the side on the north side.

6           The south side, we're providing a parapet. That  
7 parapet will be four feet above the roof or no more than four  
8 feet above the roof. That provides fall protection. That  
9 stair is what's considered or what we've termed in previous  
10 discussions as an open well.

11           So we're not violating any of the penthouse rules.  
12 And so you will step out, the third floor you will see up to  
13 the sky and then walk up the stairs to the roof deck. With  
14 that, I'd like to conclude my portion of the testimony.

15           MS. MOLDENHAUER: Thank you very much. What we're  
16 seeking here is we're seeking special exception.

17           CHAIRPERSON HILL: I'm sorry. You had a question?

18           MEMBER WHITE: You answered the question in your  
19 last sentence. I was interested in more information on the  
20 IZ unit. So there is an IZ unit, number one, and where  
21 exactly is that unit located?

22           MS. MOLDENHAUER: The IZ unit will be one of the  
23 two bedroom, one bath units. So it will be located in one  
24 of the cellar locations.

25           CHAIRPERSON HILL: Okay, Ms. Moldenhauer, you can

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1 continue.

2 MS. MOLDENHAUER: Absolutely. So we are seeking  
3 special exception relief under E 201.1 and C 1001.2(e). We  
4 went back and forth with the Office of Planning to ensure  
5 that we were asking for the right area of relief.

6 Obviously one of the sections is the IZ opt in  
7 language which OP had recommended, and so we added that  
8 relief. The other section, Section E, is the section which  
9 allows for the specific reduction in the lot width from 18  
10 feet required to 16 feet required by opting into the IZ.

11 We believe that the proposed project is in harmony  
12 with the zone plan. It's providing additional housing to the  
13 District of Columbia as well as including affordable housing  
14 in a flat design.

15 And it is compatible with the abutting and  
16 surrounding neighborhood features as it's providing, a you  
17 know, row structures which are consistent with the RF-1 Zone.  
18 There is no adverse effect on neighboring properties.

19 The property is directly adjacent to two apartment  
20 buildings that are larger than the proposed flats. The  
21 apartment house to the south does not have windows facing the  
22 property, and the apartment house to the north is ten feet,  
23 the ten foot side yard between the building and the proposed  
24 structures here.

25 The project will be set back as well 26 feet 11

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1 inches from the front property line. As we discussed, we had  
2 also just kind of a --- I think the Board is aware but we had  
3 removed the retaining wall relief we had initially asked for  
4 based on some design changes.

5 And based on that, we believe that we satisfied  
6 the special exception standard, and we are available to  
7 answer any questions that the Board may have.

8 CHAIRPERSON HILL: Okay, great. Thank you. Does  
9 the Board have any questions for the Applicant?

10 VICE CHAIR HART: Just one question that I think  
11 this is for Mr. Teass. You said that the building might  
12 diminish slightly. What is that? What do you mean by that?

13 MR. TEASS: Right now we're drawing what we think  
14 is the maximum zoning envelope. As the project moves into  
15 more detailed cost estimates, there may be a desire to reduce  
16 the size of the building to reduce the construction cost.

17 VICE CHAIR HART: Well I kind of understood that.  
18 I meant what do you mean by that in terms of are you talking  
19 about six inches, are you talking about a foot, are you  
20 talking about a floor? I don't know what you're --

21 MR. TEASS: It would most likely be a reduction  
22 in the overall depth of the property. So if it's, you know,  
23 it could be a couple of feet. It could be, you know, maybe  
24 ten feet. We just don't know at this point.

25 VICE CHAIR HART: So the height would remain the

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1 same. It's the how deep the building is?

2 MR. TEASS: Correct, yes. The intent would always  
3 to maintain that three story height. It's just the depth  
4 would be something that we may diminish.

5 VICE CHAIR HART: Thank you. And the reason that  
6 you had the -- you said for the setback that you're proposing  
7 is because of the topography in the front of the building is  
8 such that it is -- is it flatter is the part that you're  
9 building on? I don't know, if you could just talk about that  
10 a bit.

11 MR. TEASS: It is. And so, if we go to the  
12 building section the site really does slope up. I mean,  
13 there's an existing structure that's located roughly where  
14 the proposed structure is going to be.

15 And so there's quite a substantial berm at the  
16 front of the property. And so that was really what was one  
17 of the driving forces. The other was accessing. You know,  
18 we have to provide a stairway from the sidewalk all the way  
19 up the ground floor.

20 And so we thought an approach that utilized a  
21 stair that was perpendicular to the sidewalk made more sense  
22 than trying to do one that was more parallel. That was  
23 actually related to our original application where we had  
24 really a more complex, unnecessarily so, circulation strategy  
25 to get from the sidewalk up to the house.

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1           VICE CHAIR HART: And you just have stairs there?  
2 There's no ramping or anything?

3           MR. TEASS: Correct. And if we can go to the  
4 photos here. And you can see in the middle photo in the  
5 image to the left here, there is an existing concrete  
6 stairway that straddles the property line.

7           Unfortunately, that stair is not -- does not meet  
8 current code, so we're going to have to sort of rebuild it.  
9 But the idea is that we will be reconstructing a portion of  
10 the stairs that's on our property to meet the current code.

11          VICE CHAIR HART: Thank you. And then one final  
12 question. With regard to the IZ unit -- and I'm not saying  
13 that I'm connecting them, I'm just trying to figure out --  
14 are there any regulations requiring any sort of ADA access  
15 or ramp access?

16          MR. TEASS: No, because these would be individual,  
17 two unit properties on individual lots. Accessibility  
18 doesn't kick in until you get to four or more units. And so  
19 there's not an accessibility requirement under, for housing  
20 or ADA.

21          VICE CHAIR HART: And you're going -- the IZ is  
22 for all six? If you could describe that a little bit.

23          MS. MOLDENHAUER: So the IZ opt-in requirement --

24          VICE CHAIR HART: And what I mean by all six is  
25 that, you know, how are you utilizing them?

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1 MS. MOLDENHAUER: So the IZ requirement would be  
2 one unit in order to obtain the reduction from 18 feet to 16  
3 feet. So it is not -- it is a different requirement than  
4 when you have 10 or more units where you have a square  
5 footage requirement.

6 Under the opt-in requirements for the lot width,  
7 it is only one unit. There is no size requirement or square  
8 footage requirement. So we will be providing one unit in one  
9 of these cellar locations which is currently proposed to be  
10 a two bedroom, one bath.

11 VICE CHAIR HART: No, I think I understood that  
12 part. The part I was trying to get is: this is considered  
13 one lot?

14 MS. MOLDENHAUER: No. They will be -- it is  
15 currently one tax lot. We will be creating three record  
16 lots. And in order to obtain the permit for the three record  
17 lots at 16 feet, one of the lots -- not all three but only  
18 one lot -- will have IZ, CIZ form filled out and one lot will  
19 have an IZ covenant on it, not all three.

20 VICE CHAIR HART: I think I understood it. I just  
21 wanted to make sure that I heard that.

22 MS. MOLDENHAUER: It's clear and on the record.

23 VICE CHAIR HART: Yes, the part that I was trying  
24 to get to was -- the part that I was trying to find my way  
25 around or at least understand better is that you're

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1 requesting the special exception for all three tax lots to  
2 be -- kind of allow them to be the 16 feet for all three. But  
3 this is really currently one tax lot or one record lot?

4 MS. MOLDENHAUER: One tax lot, yes.

5 VICE CHAIR HART: And you are creating three  
6 record lots after -- at some point in the future?

7 MS. MOLDENHAUER: Yes. With this application, our  
8 request is to create three record lots. Of those three  
9 record lots, one record lot would have a covenant for IZ  
10 purposes for one unit.

11 VICE CHAIR HART: Okay. Thank you.

12 COMMISSIONER TURNBULL: So you've got three record  
13 lots, but each record lot does not have its own parking  
14 space?

15 MS. MOLDENHAUER: Correct, yes. Under the zoning  
16 regulations, we are permitted to have, so long as there is  
17 a -- you heard earlier today a case in which they could not  
18 coordinate for permanent easement.

19 Here we can because we are creating all three  
20 lots. And so there will be a permanent easement recorded for  
21 the third lot, I'll call it. I'll kind of show you my  
22 cursor, this lot, which will give it permanent easement in  
23 perpetuity to access one of these three spaces.

24 So we'll be creating -- and that is now permitted  
25 by right by the zoning regulations.

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1 COMMISSIONER TURNBULL: What is going to be in  
2 that other -- that bottom lot in the back yard? Anything or  
3 just open?

4 MR. TEASS: So currently the actual -- there's an  
5 additional site topography there.

6 COMMISSIONER TURNBULL: Right.

7 MR. TEASS: And so, the idea is that just becomes  
8 -- the southernmost unit has a larger yard.

9 COMMISSIONER TURNBULL: Okay.

10 MR. TEASS: And so, it will just be green space.

11 COMMISSIONER TURNBULL: So you're saying that in  
12 the order, it's going to mention that there's an easement  
13 allowing access to the parking space?

14 MS. MOLDENHAUER: The order does not need to  
15 mention that. The order can just identify, we are not asking  
16 for parking relief. The same way the order wouldn't have to  
17 mention that we're complying with rear yard.

18 COMMISSIONER TURNBULL: So you don't need a  
19 parking space? Is that what you're saying?

20 MS. MOLDENHAUER: No. We will be complying with  
21 zoning by recording an easement to grant this lower unit  
22 permanent parking access. And because that is permitted  
23 under the zoning regulations by right, the order would not  
24 need to reference any of that.

25 COMMISSIONER TURNBULL: Okay.

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1           MEMBER JOHN: Can we just go back to the layout  
2 of the flats on floors one, two and three, not the cellar?  
3 How many bedrooms would each flat have?

4           MR. TEASS: So what we pulled up is the ground  
5 floor, and so I'll just take you through. I think it will  
6 answer the question by looking at the drawings. So on the  
7 ground floor, it would be predominantly devoted to living.  
8 So you've got a dining room at the front, a kitchen in the  
9 middle and then a living area at the rear that connects it  
10 to the rear yards.

11           On the second floor, each of the record lots will  
12 have three bedrooms. There's a bedroom at the front facing  
13 the street, a bedroom at the rear facing the rear yard, and  
14 a third bedroom in the middle that opens onto an open court.

15           And then that plan is very similar to the third  
16 floor, where you have a bedroom that looks onto the street,  
17 a bedroom that looks onto the rear yard and then a third  
18 bedroom on that floor, the sixth bedroom of the unit, that  
19 looks onto the open court.

20           MEMBER JOHN: So each flat would have six  
21 bedrooms?

22           MR. TEASS: Three of the flats would have six  
23 bedrooms. The other three that are in the cellar would have  
24 two bedrooms.

25           MEMBER JOHN: Is this a rooming house?

1 MR. TEASS: It's not intended to be.

2 CHAIRPERSON HILL: Okay. Mr. Totah, I'm just  
3 curious, how did you find this property?

4 MR. TOTAH: The property was listed on MLS. It  
5 was up for sale.

6 CHAIRPERSON HILL: No, but I'm saying you just --  
7 I'm just curious. Like you were just looking through MLS?  
8 I mean it's just kind of a unique little stand out there  
9 that's been there for a while it looks like.

10 MR. TOTAH: In sort of doing a tour of the  
11 neighborhood, it stood out to me very much as a lone single  
12 family home that was on a lot that was a lot bigger than it  
13 should be, in other words there was an opportunity there to  
14 develop.

15 CHAIRPERSON HILL: Sure. So you just saw it  
16 driving by?

17 MR. TOTAH: Yes.

18 CHAIRPERSON HILL: Okay. All right. Going to  
19 turn to the Office of Planning.

20 MR. KIRSCHENBAUM: Good afternoon, Chair Hill,  
21 Members of the Board. Jonathan Kirschenbaum for the Office  
22 of Planning. We recommend approval of the special exception  
23 to opt into the IZ program. And then we also recommend  
24 approval of the special exception to reduce the minimum lot  
25 width from 18 feet to 16 feet because there is one IZ unit

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1 being provided for this development site. Please let me know  
2 if you have any questions. Thank you.

3 CHAIRPERSON HILL: Does the Board have any  
4 questions for the Office of Planning? Does the Applicant  
5 have any questions for the Office of Planning?

6 MS. MOLDENHAUER: No questions, thank you.

7 CHAIRPERSON HILL: Is there anyone here wishing  
8 to speak in support? All right, if you can come forward.  
9 That's okay. Is there anyone here wishing to speak in  
10 support? Is there anyone here wishing to speak in  
11 opposition?

12 Okay, if you could come forward. No, that's okay.  
13 Did you get sworn in earlier?

14 MS. ALDRICH: I did, yes.

15 CHAIRPERSON HILL: Okay. And could you please  
16 introduce yourself for the record?

17 MS. ALDRICH: Good afternoon. My name is Laura  
18 Aldrich. I'm a resident of 401 Evarts Street. It's one of  
19 the buildings adjacent to this property.

20 CHAIRPERSON HILL: Okay. You're going to want to,  
21 and if you wouldn't mind -- or actually never mind I've got  
22 a slide up here. When you say you're adjacent, you're in one  
23 of the apartment buildings?

24 MS. ALDRICH: Correct.

25 CHAIRPERSON HILL: Okay. And just so the Board

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1 knows which one that is, because I'm just trying to figure  
2 it out as I look, if you're looking straight at the front of  
3 the house are you the one to the right or the left?

4 MS. ALDRICH: If you're looking straight at the  
5 house I am on the building on the left, so the top.

6 CHAIRPERSON HILL: Okay, I got it. All right, so,  
7 Ms. Aldrich?

8 MS. ALDRICH: Aldrich.

9 CHAIRPERSON HILL: Aldrich, okay. So, as a member  
10 of the public you'll have three minutes to give your  
11 testimony. Mr. Moy has put that time on the clock there and  
12 now you can begin whenever you like.

13 MS. ALDRICH: Great, thank you very much. I had  
14 just a couple of questions that I hoped to be addressed to  
15 ask as well. So, I'll start with those.

16 CHAIRPERSON HILL: Can I interrupt for one second?

17 MS. ALDRICH: Sure.

18 CHAIRPERSON HILL: As someone who is providing  
19 testimony to the Board it's not -- you're not asking  
20 questions of the Applicant. You're just giving testimony to  
21 us.

22 So, if you want to you can just ask the questions  
23 to us and if -- or you can give your testimony, and if the  
24 Board feels that it's something that they want to then ask  
25 the Applicant, they can go ahead and do that. It's not

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1 something that you're having a conversation with the  
2 Applicant, is what I'm trying to point out.

3 MS. ALDRICH: Okay, I understand.

4 CHAIRPERSON HILL: Sure.

5 MS. ALDRICH: No problem. Thank you very much.

6 In terms of my testimony I have four main points that I would  
7 like address in opposition to this construction proposal.

8 The first one is about the sizing and the density  
9 of the proposed construction. Honestly, it seems like there  
10 is just an attempt to maximize the number of people to fit  
11 into this square footage.

12 If you'll notice from some of the older documents  
13 on record, they initially proposed three units on each of the  
14 three floors to each have three bedrooms, and then in  
15 addition to the cellar units, so that was a very large size  
16 which it seems like they've downsized to now each of the  
17 three units having only six bedrooms instead of nine. And  
18 so, I think it's just an attempt, you know, to fit as many  
19 people as possible into a space. As noted by, they said,  
20 well this could diminish depending on the cost and what not.  
21 It's just extremely large in comparison to the buildings  
22 adjacent to it.

23 And number two, my second concern is about natural  
24 light for the community surrounding the proposed  
25 construction. In their proposal they said that there would

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1 be ten feet to the Evarts building. And that's true. We do  
2 have ten feet of property there. But they will be reducing  
3 the existing amount of space between the two properties from  
4 22 feet to only the ten feet. So, they will be taking out  
5 12 feet and that 12 feet contributes significantly to the  
6 natural light of all of the entire side of the Evarts  
7 building. So, I would strongly recommend that some light  
8 studies be undertaken so that we could better understand how  
9 this construction will impact natural light.

10 My third point is about community and parking.  
11 You know, I would like to hear more information about this  
12 staircase development and how that will affect our property  
13 on the 401 Evarts side, and also the addition of a large  
14 number of tenants and no additional parking in terms of, our  
15 building has 24 occupants and five parking spaces and there's  
16 will have approximately 24 and three parking spaces. So,  
17 it's just not exactly equivalent.

18 In addition, there is another building on the  
19 Evarts side that they have applied for additional exceptions.  
20 So, we're looking at a lot of construction on the Evarts,  
21 Fourth Street area in the coming year.

22 And that leads to my last point is that these  
23 applications lead to potentially setting a bad precedent for  
24 over-development and asking for a lot of exceptions to add  
25 a large number of people to the community without providing

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1 sufficient resources. And that would affect our quality of  
2 life in terms of parking and natural light. So, those are  
3 my main points and I appreciate your time. Thank you very  
4 much.

5 CHAIRPERSON HILL: Okay, great. Thank you. Does  
6 the Board have any questions of the witness?

7 VICE CHAIR HART: Have you provided your comments,  
8 have you talked to the Applicant?

9 MS. ALDRICH: I have not.

10 VICE CHAIR HART: Okay. Thank you.

11 CHAIRPERSON HILL: And then I guess, one question  
12 is did you have a chance to go to the ANC meeting?

13 MS. ALDRICH: I did not.

14 CHAIRPERSON HILL: Okay. I'm just curious. You  
15 didn't know about it or you missed it or --

16 MS. ALDRICH: I just recently moved back to the  
17 area. So, I perhaps did not know about it or was not in the  
18 area when it took place.

19 CHAIRPERSON HILL: Okay. Did you read the -- did  
20 you have an opportunity to -- well actually the report is not  
21 actually all that in depth, but did you get a chance to the  
22 ANC report?

23 MS. ALDRICH: I looked through all the files last  
24 night on the case. I did not see the ANC report there unless  
25 I missed it.

1 CHAIRPERSON HILL: It's 26.

2 MS. ALDRICH: I apologize and I will review that.

3 CHAIRPERSON HILL: That's all right. And then the  
4 Office of Planning's report, did you get a chance to look at  
5 that?

6 MS. ALDRICH: I'm not sure which exhibit that is.

7 CHAIRPERSON HILL: Thirty-three. Again, it just  
8 kind of like outlines why the Office of Planning believes  
9 they met the criteria for us to go ahead and approve the  
10 application. Okay, all right. Well thank you very much.

11 MS. ALDRICH: Thank you.

12 CHAIRPERSON HILL: Okay. I've got a question for  
13 the Office of Planning now. In terms of the -- I mean the  
14 testimony that just was given to us in terms of like natural  
15 light and such, does the Office of Planning have any comments  
16 on the natural light question?

17 MR. KIRSCHENBAUM: The building complies with the  
18 permitted zoning envelope. So, they don't have any side yard  
19 requirements and they don't have any height requirements.

20 CHAIRPERSON HILL: So, it's a matter of right in  
21 that area?

22 MR. KIRSCHENBAUM: That is correct. There are no  
23 -- there's no areas of relief for any sort of setbacks or for  
24 height variance or any sort of thing like that.

25 CHAIRPERSON HILL: Okay, all right. Okay, does

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1 anybody have anything further?

2 COMMISSIONER TURNBULL: I'm just wondering has the  
3 Applicant done any sun studies in that area to see how that  
4 would impact the neighborhood?

5 MR. TEASS: We have not undertaken any sun studies  
6 yet.

7 CHAIRPERSON HILL: Okay. All right, let's see.  
8 Yeah, okay. So, does the Applicant have anything they would  
9 like to add at the end?

10 MS. MOLDENHAUER: I will just add one or two quick  
11 things. Mr. Totah, can you just walk through the Board your  
12 outreach that you did and some of the meetings that the ANC  
13 coordinated with you for the neighborhood?

14 MR. TOTAH: Absolutely. I actually engaged  
15 directly with the ANC commissioner even prior to submitting  
16 the application, introducing ourselves and our intent. Had  
17 a meeting with her at the beginning of April.

18 She proceeded two weeks thereafter in mid-April  
19 to have an on-site meeting where she notified all adjacent  
20 residents that she was going to be holding an on-site meeting  
21 to discuss the intent. I unfortunately had religious  
22 services at the time of that meeting so I couldn't attend,  
23 but I touched base with her thereafter and she conveyed to  
24 me that the concerns that were raised by residents revolved  
25 around construction dust as well as the sighting of the

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1 building in terms of impact to sidewalk during construction  
2 which we then proceeded to address throughout the rest of the  
3 process.

4 But I did present at the May ANC meeting for that  
5 area for purely informational purposes. I was back at the  
6 June ANC meeting where I provided an updated presentation  
7 with any tweaks we had made, one of which was the fact that  
8 we were no longer seeking retaining wall relief because we  
9 had moved the buildings back which also helped mitigate some  
10 of the concerns about impact to sidewalk.

11 And it was at that June meeting that we achieved  
12 unanimous support. So, there were several touch points and  
13 consistent communication with the ANC chairperson throughout  
14 and several ANC meeting presentations.

15 CHAIRPERSON HILL: Okay, all right. Anything  
16 else, Ms. Moldenhauer?

17 MS. MOLDENHAUER: No. We believe that we satisfy  
18 the special exception standard, the envelope as Office of  
19 Planning identified whether it's a matter of right or the  
20 proposed project would take up the same space. And so, a sun  
21 study we do not believe is necessary since we're not asking  
22 for any relief that would impact or change a matter of right  
23 construction versus the proposed construction.

24 And so, we believe that we've done a lot of  
25 outreach. The ANC is unanimously in support of this

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1 application. It is in harmony with the zoning plan and we  
2 would ask the Board for their support.

3 CHAIRPERSON HILL: Okay. Does the Board have any  
4 further questions? All right, I'm going to close the record.  
5 Is the Board ready to deliberate? Okay, I can start.

6 I guess, you know, I mean I think that they met  
7 the criteria. I think that the analysis that was provided  
8 by the Office of Planning, I would agree with that analysis  
9 and again how they met the criteria.

10 DDOT had no objection to the application. The ANC  
11 5E was in unanimous support to this. I would agree with the  
12 burden of proof. In terms of a witness that came forward,  
13 I mean, it's disappointing that they were not able to go to  
14 the ANC meeting.

15 However, since they are here perhaps, you know,  
16 you might -- the Applicant might be able to reach out to the  
17 neighbor to try to see whether you can, you know, allay any  
18 concerns because obviously you want to be a good neighbor as  
19 best you can.

20 So, with that believing that they have met the  
21 criteria for us to grant the applications I'm going to be  
22 voting in approval. Is there anything else anyone would like  
23 to add? Okay. Going to go ahead and make a motion to  
24 approve Application Number 20073 as captioned and read by the  
25 Secretary and ask for a second.

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1 VICE CHAIR HART: Second.

2 CHAIRPERSON HILL: Motion made and seconded. All  
3 those in favor say aye.

4 (Chorus of aye.)

5 CHAIRPERSON HILL: All those opposed? Motion  
6 passes, Mr. Moy.

7 SECRETARY MOY: Staff would record the vote as  
8 5-0-0. This is on the motion of Chairman Hill to approve the  
9 application for the relief requested.

10 Seconding the motion Vice Chair Hart. Also in  
11 support Ms. John, Ms. White, and Zoning Commissioner Michael  
12 Turnbull.

13 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy.  
14 Thank you very much. Okay, Mr. Moy, you can call it whenever  
15 you like.

16 SECRETARY MOY: Thank you, Mr. Chairman. So, that  
17 would be Case Application Number 20074 of Stanton Rd SE LLC.  
18 This has been amended for special exception under the new  
19 residential developmental requirements of Subtitle U, Section  
20 421.1 and special exception under Subtitle C, Section 715.9  
21 from the landscaping requirements of Subtitle C, Section 715.

22 This would construct a new three story, 22 unit  
23 apartment building, RA-1 Zone at 2604 through 2610 Stanton  
24 Road Southeast, Square 5869, Lot 84. As you are aware, Mr.  
25 Chairman, there was a waiver request from the 21-day filing

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1 deadline with the Applicant to make a filing for, I believe,  
2 a corrected self-certification.

3 CHAIRPERSON HILL: Okay, all right. Let's see,  
4 if we can please introduce yourselves for the record from my  
5 right to left.

6 MR. SULLIVAN: Thank you, Mr. Chair. My name is  
7 Marty Sullivan with Sullivan & Barros on behalf of the  
8 Applicant.

9 MR. MCGRAW: Good afternoon. My name is Adam  
10 McGraw with Studio MB. We are the architecture firm that  
11 represents the Applicant.

12 MR. LANDSMAN: David Landsman, CAS Engineering,  
13 civil engineer.

14 CHAIRPERSON HILL: Okay. So, Mr. Sullivan, you  
15 are going to be presenting to us?

16 MR. SULLIVAN: Yes.

17 CHAIRPERSON HILL: And so, the Applicant is not  
18 here, you're representing for the Applicant?

19 MR. SULLIVAN: Yes, the owner is here and can  
20 answer any questions. He's just not sitting with us.

21 CHAIRPERSON HILL: Sure, all right. So, I guess,  
22 first of all you wanted to ask for a waiver of the 21-day  
23 filing deadline. What is it that you were asking us for a  
24 waiver to file just if you could clarify that for the record?

25 And then the question that I had and this is where

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1 we might get a little bit, just talk a little bit more about  
2 is whether or not it was posted for the landscaping relief.  
3 And is that -- so I'll let you go ahead and answer the first  
4 question.

5 MR. SULLIVAN: So, the landscaping relief was  
6 included in the Applicant statement which was included in the  
7 package that we sent to the Advisory Neighborhood Commission.  
8 And the issue was discussed with the Advisory Neighborhood  
9 Commission. And I can have -- the owners here can talk about  
10 that point if the Board wants to hear more about that. But  
11 it was not included in the original notice. And it was in  
12 the Applicant's statement but an oversight it wasn't included  
13 on the self-certification until later.

14 And so, that's what we were filing after the fact  
15 -- or, we filed the self-certification within the 21-day  
16 period, the revised certification.

17 CHAIRPERSON HILL: Okay.

18 MR. SULLIVAN: But it was fully discussed in the  
19 Applicant's statement and they had that. And that was one  
20 of the issues that the ANC, was discussed was one of their  
21 important issues was parking. They wanted to have as much  
22 parking as possible.

23 CHAIRPERSON HILL: Okay. I mean, I know we'll get  
24 to the argument that you're making. And I guess my -- so it  
25 wasn't posted, the landscaping relief wasn't posted?

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1 MR. SULLIVAN: I was trying to get clarification  
2 on that, but I don't think the poster itself. No, it wasn't  
3 posted with the hearing notice then, no.

4 CHAIRPERSON HILL: Right, it wasn't. Okay, so I  
5 don't know exactly what -- I mean I know kind of where I am,  
6 so that's why I don't know necessarily whether this is going  
7 to matter or not.

8 But what does the Board think about the 21-day  
9 filing waiver? And then -- yeah, what does the Board think?

10 VICE CHAIR HART: Well it sounds like from Mr.  
11 Sullivan -- I don't know if the ANC is here. It sounds like  
12 for Mr. Sullivan that there was discussion about it, I mean  
13 at the ANC meeting, -- if, in the ANC report, I guess is  
14 Exhibit 29 they kind of talk about environmentally friendly  
15 features, but I don't know if that's what that is eluding to,  
16 or if there is some other part. And I don't, Mr. Sullivan,  
17 if there is anything else that you can point to that kind of  
18 says this is what they -- because typically the ANC will say,  
19 okay, you know, we heard from this Applicant and they brought  
20 us these things and this is how we voted on that.

21 And since they don't actually include that, the  
22 whole landscaping piece -- it's, we don't have that  
23 information, that part of the information beyond your -- what  
24 you've just stated. So, I don't know if there's something  
25 else you could point us to or not.

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1 MR. SULLIVAN: Yeah, I understand that. We do  
2 have, and maybe I'm getting into the substance of it, but we  
3 have landscaping in adjacent area that wasn't included in our  
4 parking lot landscaping calculation because it's on a  
5 different elevation and we weren't sure that it could be  
6 included. But it's adjacent to it because of the topography  
7 it's -- and it substantially exceeds then that landscaping  
8 requirement if you included that. But out of caution we  
9 wanted to ask for relief because we're not sure that you can  
10 include that since it's not on the same -- at the same  
11 elevation.

12 And then there's green roof, a significant amount  
13 of green roof. And there's permeable pavers for the parking  
14 lot. And that's why we have a civil engineer here as well  
15 who can talk about some of the other storm water management  
16 and environmentally friendly aspects of the case that would  
17 compensate for this, what we're talking about is 100 square  
18 feet of landscaping that's not there and otherwise, give some  
19 feedback on what the ANC may have been talking about in their  
20 letter.

21 VICE CHAIR HART: I don't know. I kind of see it  
22 as I think that we should -- I think we should be -- I would  
23 be okay with moving forward with the case and with the relief  
24 that they are -- I guess, a waiver that they have requested  
25 for the late filing. And I think we can move forward with

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1 this. But, you know, that's where I am.

2 CHAIRPERSON HILL: Sure, that's fine. I mean my  
3 question was -- and I think I'm also in agreement that's  
4 fine. The ANC, it's on the record here in terms of Mr.  
5 Sullivan is giving us testimony that this was discussed at  
6 the ANC meeting. I understand that this was discussed at the  
7 ANC meeting, it's just that it's a little messy and it wasn't  
8 necessarily on the placard. But, you know, I mean the  
9 project was on the placard I suppose.

10 So, anyway, does anybody else have anything they  
11 would like to say?

12 MEMBER WHITE: I'm okay with it. I guess the  
13 question is whether or not this will prejudice any of the  
14 parties and I don't get the sense that it would, and that the  
15 ANC is familiar with the project.

16 But, yeah, again it is a little messy. But I  
17 don't think that this will create any hardship or harm to the  
18 opposing side or to other parties in the area.

19 MEMBER JOHN: I think that if the landscape issue  
20 was discussed with the ANC as I believe I'm hearing, is that  
21 correct?

22 MR. SULLIVAN: Yes.

23 MEMBER JOHN: So I would be in favor of waiving.

24 COMMISSIONER TURNBULL: I'm in favor of going  
25 ahead with it and I'll wait to hear OP weigh in on the

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1 landscaping issue.

2           CHAIRPERSON HILL: Okay. So, Mr. Sullivan, we're  
3 going to accept your filing and waive the 21-day filing  
4 deadline. So, in terms of the case I guess, you know, I'll  
5 go ahead and kind of tell you what I think a little bit --  
6 I mean, you know, obviously you know what some of the issues  
7 are in terms of the Office of Planning's report. And so, I'm  
8 going to put 15 minutes on the clock just so I know where we  
9 are, Mr. Moy.

10           And in terms of the, you know, as you're walking  
11 through why you think the client has met the burden for us  
12 to grant this application, if you could focus a little bit  
13 on the whole -- for me it's like, you know, the one parking  
14 spot that they are saying to get rid of and then it seems as  
15 though you don't get the 20-foot-wide curb cut if that were  
16 happening. And then so, you know, then the landscaping  
17 relief.

18           So, that's all the things that you can kind of  
19 discuss in terms of what I was interested in. Unless there  
20 is anything else anybody else wants to hear from  
21 specifically, you can go ahead and begin whenever you like.

22           MR. SULLIVAN: Thank you, Mr. Chair, Members of  
23 the Board. Again, Marty Sullivan with Sullivan & Barros on  
24 behalf of the Applicant, Stanton Road SE LLC. This is for  
25 2604 to 2610 Stanton Road SE, and we are requesting special

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1 exception relief under the RA-1 Zone regulations which is  
2 required for all multi-family dwellings. And in addition to  
3 the landscaping relief under Section C 715. And I'll turn  
4 it over to the architect to briefly go through the project.

5 MR. McGRAW: Good afternoon, again. My name is  
6 Adam McGraw, Studio MB Architects. Here we can see the lots  
7 which were originally combined from 2604 and 2610. They have  
8 been combined, we have not picked a new address for those  
9 yet. And here is the site where I think you can see the  
10 challenging topography. There's over 30 feet of elevation  
11 going from the southwest corner to the northeast corner of  
12 the lot.

13 Here are some other buildings from the  
14 neighborhood, which we looked around the neighborhood as we  
15 created our design to have features which were compatible,  
16 including masonry structure, projecting bays with a mix of  
17 masonry and paneling as well as projecting balconies.

18 Here you can see the site plan of the building.  
19 I'm going to move through the zoning features quickly. We  
20 can discuss them later if anybody has questions, but we are  
21 complying with our FAR. We are complying with lot coverage.  
22 We are complying with building height. We are providing 22  
23 units. We have seven, two-bedroom units; we have seven, two-  
24 bedroom plus den units; and we have eight, three-bedroom  
25 units.

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1           It was the desire, at the encouragement of the  
2 neighborhood, to provide a family friendly building. So,  
3 we're not providing studios to one-bedrooms, which also leads  
4 to the issue of parking. In early discussions with the  
5 neighborhood they expressed a desire for as much parking as  
6 possible for again, units that were meant to serve for  
7 families. So, we are providing 15 spaces and we'll talk  
8 about that at length later, I'm sure.

9           I'm going to just quickly walk through -- the  
10 floor plans are color coded to show the unit mix. There's  
11 a cellar, first floor, the second and third floor are  
12 identical and the IZ units that we are providing, we are  
13 required to provide two, and they are on the southeast corner  
14 of both the second and the third floor. And they are both  
15 three-bedroom units. At the roof level there is a common  
16 roof deck and there is an accessory room to serve the roof  
17 deck. There is also a large green roof to meet the  
18 requirements of the green area ratio.

19           Cross section of the building, you can see from  
20 left to right the large amount of topography that has to be  
21 handled to put a building on this site. You can also see  
22 that the penthouse exceeds the required one-to-one setbacks.

23           I'm going to move quickly past these elevations  
24 because I think the color renderings are a bit more  
25 illustrative of the building. Again, here you can see the

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1 building with its mixture of paneling and masonry and as well  
2 as the projecting balconies.

3           Here you can see some of the landscaping to meet  
4 the requirements of screening the parking lot. And then  
5 again, here a bit more of a bird's eye view you can see the  
6 building, the relationship to the parking lot as well as the  
7 relationship to the topography.

8           You can see -- again, the issue that Marty brought  
9 up is there is all of the green area up above the retaining  
10 wall. If you look at it in-plan, it is within six feet of  
11 the parking lot which is part of what zoning allows you to  
12 count, which is green space-adjacent to parking. But because  
13 of that elevation change we're being cautious and saying we  
14 can't count that area. The only area that we're counting  
15 towards the required landscaping for the parking lot are --  
16 there is a planter provided within the parking lot and then  
17 six feet towards Stanton Road to the left and right of the  
18 gate.

19           Here is a diagram, again, illustrating the  
20 parking. We are providing 15 parking spaces. There are  
21 seven compact spaces. There are eight full size spaces, two  
22 of which are accessible spaces. We are also providing trash  
23 and recycling area toward the rear of the parking area which  
24 will be screened off.

25           VICE CHAIR HART: Mr. McGraw?

1 MR. McGRAW: Yes.

2 VICE CHAIR HART: Where does the -- where does it  
3 drain?

4 MR. McGRAW: It all drains towards the south,  
5 towards Stanton Road.

6 VICE CHAIR HART: I'm sorry. I understood that  
7 it drains towards the Stanton Road. What I'm trying to  
8 figure out is where is the actual drain here? What we're  
9 trying to -- what I'm trying to get to also is the Office of  
10 Planning is looking at having additional green space. And  
11 you could have provided green space there or here and that  
12 might help with -- you know, runoff because it is going to  
13 the, you know, from the higher elevation to the lower  
14 elevation. You wouldn't want to put something up here  
15 because that's where it's starting not where it's kind of  
16 ending.

17 So, what I'm trying to get to is, where is that  
18 actual drain happening, and where would be the best place to  
19 actually locate it, locate more green space as the Office of  
20 Planning has discussed?

21 MR. LANDSMAN: I understand your question better.  
22 So, the entire parking area itself, just shy of 4,000 square  
23 feet will be pervious pavement. So, it will self-drain to  
24 a degree into the paver joints.

25 At grade alongside the drive aisle there are two

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1 bio-retention facilities. So, the entire parking area is  
2 sloped north to south.

3 The portions that aren't absorbed by the pervious  
4 pavement will flow directly into those at grade planters that  
5 are at the south where you were making your circles. We sort  
6 of had that at-grade planting already.

7 VICE CHAIR HART: And if you, I mean the biggest  
8 problem about pervious pavement is, of course, you know, we  
9 are in an area that you have a lot of snow, a lot of, you  
10 know, having to deal with that.

11 People are putting in sand and other things which  
12 tends to then accumulate on the pervious pavement area making  
13 that a little less -- reducing the ability for that to be  
14 able to absorb, you know, the water. So, I don't know, do  
15 you --

16 MR. LANDSMAN: It requires more maintenance than  
17 a typical parking lot --

18 VICE CHAIR HART: Much more maintenance.

19 MR. LANDSMAN: -- because of your snow melt kind  
20 of applications. Were the pervious pavement in this  
21 application to clog or degrade over time it would flow into  
22 those two planters which will be depressed bio-retention  
23 planters designed pond with water, you know, with grasses and  
24 bio-retention style plantings designed to soak up the water.  
25 So, it's sort of a two-tier parallel system.

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1 MR. McGRAW: And I would like to draw your  
2 attention to the areas that you just circled. This rendering  
3 is more up to date than the parking diagram that you were  
4 looking at previously.

5 On the next slide, which actually it appears that  
6 the water would not be able to flow into those areas and due  
7 to the --

8 VICE CHAIR HART: That's also what I was trying  
9 to, you know --

10 MR. McGRAW: Due to this discussion we've  
11 redesigned it as per the rendering and that's where the flow  
12 would go to.

13 VICE CHAIR HART: So, you would have surface flow  
14 that was kind of coming down here and coming down here as  
15 well?

16 MR. McGRAW: Yes.

17 VICE CHAIR HART: And so, there is no kind of --  
18 it looked like there was a blockage on this side on the, what  
19 is that east side of it? Is that right?

20 MR. LANDSMAN: I believe it's the south.

21 VICE CHAIR HART: South?

22 MR. LANDSMAN: Right. And previously there are  
23 other renderings make it appear that way. That is not going  
24 to be the case.

25 They will be flush and the under drains from our

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1 pervious pavement will also spill into those bio-retention  
2 facilities, sort of knocking out your guy's concern and OP's  
3 concern but also for DOEE to get our full treatment criteria  
4 for those areas for treatment potential.

5 VICE CHAIR HART: And the rationale behind 14  
6 versus 15 parking spaces? I mean that's what kind of OP was  
7 looking for. If you had gotten that I'm not sure if they  
8 would be in opposition to this. But right now you have a  
9 denial, a partial denial of your -- of what you're  
10 requesting.

11 MR. LANDSMAN: Understood. And that's part of  
12 what we're here to discuss today. The reason we're asking  
13 for 15 is, again, at the encouragement of the neighborhood  
14 to have as much parking available for residents who are  
15 primarily going to be families with children and --

16 VICE CHAIR HART: I understood that. What I'm  
17 trying to get to, is this a deal breaker for them? I mean  
18 is it if they don't get 15 then that's -- I mean I understand  
19 that they want as much as they can, but you're only required  
20 to do three. So, you are going well above what that is. OP  
21 is looking for fairly -- it sounds like a fairly reasonable  
22 kind of request. And I'm just not sure why that -- why it  
23 seems as though there is not an easy solution for this.

24 You know what I mean? It would be kind of easy  
25 to be able to say sure, we can do that, 14. And I get that

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1 the ANC has looked for more parking, but I just don't know  
2 the difference between 14 and 15 in this instance. I don't  
3 know the difference in how the ANC is seeing 14 versus 15.  
4 I know the difference in 14 and 15.

5 MR. SULLIVAN: If I could speak to that, Board  
6 Member Hart. It's not that difficult to do and we actually  
7 have a plan and we can hand you 15 copies of the plan with  
8 14 spaces.

9 So, but what we wanted to request first -- because  
10 I thought we could fit it maybe in the section where it says  
11 that compliance would not be reasonable. And it's not  
12 unreasonable, of course, but when we consider that we have  
13 the adjacent landscaping and that we have these other storm  
14 water management issues, if storm water management was the  
15 concern. But we have a space that would go away, it would  
16 be 14, and there would another 100 square feet of landscaping  
17 there too, if that's the way the Board wanted to go.

18 VICE CHAIR HART: And I appreciate that. I think  
19 that it's -- if this were contiguous property -- if this  
20 were, not contiguous.

21 If this were property that were a flat and that  
22 we were having this discussion I would be more understanding  
23 of kind of where you're coming from in terms of well, it's  
24 part of the property so that, you know, even though there is  
25 a retaining wall there, well in this case there's a retaining

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1 wall there. If there were no retaining wall and it was just  
2 all flat then I think there would be less of a concern about  
3 it.

4           Because of the retaining wall, that whole area is  
5 actually not even coming -- the storm water is not even  
6 hitting and coming down the direction that it would normally  
7 come down. It's coming down and sheeting off in a different  
8 direction. And so, it then kind of makes me well, you know,  
9 that's a different consideration. So, that's why I'm kind  
10 of just trying to understand that 14 versus 15.

11           And I think I understand it so you don't have to  
12 continue. I just wanted to let you know where I was.

13           CHAIRPERSON HILL: Okay. And now sorry, Mr.  
14 Sullivan -- sorry, Ms. John?

15           MEMBER JOHN: So, my understanding is if you go  
16 to 14 the issue goes away, right?

17           MR. SULLIVAN: Well, yeah. There's a couple  
18 reasons why we wanted to first request the 15. One was that  
19 the ANC specifically mentioned 15 in their letter. I don't  
20 think it's a condition of support, they just said they  
21 further support the 15 spaces. And two --

22           CHAIRPERSON HILL: Mr. McGraw, could you turn of  
23 that microphone? Sorry, it feeds back, thank you.

24           MR. SULLIVAN: And as I understand it, there's a  
25 DDOT requirement that shrinks our driveway to, once we get

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1 to 14, when we get to 14 our driveway will shrink and then  
2 we just thought that would be, we would prefer to have a  
3 larger driveway.

4 Now that's not the Board's issue. We might be  
5 able to request relief from DDOT for that. But that was the  
6 reason why we're sticking to our guns up to a point. But  
7 yeah, we came here ready to make the issue go away if that's  
8 the way the Board wants to go.

9 MEMBER JOHN: So, you would just have a smaller  
10 driveway. And what would be the difference --

11 MR. SULLIVAN: A smaller driveway, one less space  
12 and a little more planting.

13 MEMBER JOHN: -- in the size of the driveway?

14 MR. LANDSMAN: It would go from 20 feet wide to  
15 12 feet wide.

16 VICE CHAIR HART: You would have, instead of a two  
17 way driveway, you would have a one way driveway?

18 MR. LANDSMAN: Essentially you would go to a one  
19 way, one in, one out.

20 VICE CHAIR HART: Yeah.

21 MR. LANDSMAN: Correct.

22 CHAIRPERSON HILL: Okay, Mr. Sullivan. If you've  
23 got those plans you can go ahead, I mean do you have copies  
24 now for the plans or --

25 MR. SULLIVAN: We can submit those.

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1 CHAIRPERSON HILL: Yeah, give us all the plans  
2 now. He has to distribute them. It's his job.

3 MR. MCGRAW: The plan that's being distributed  
4 shows 14 spaces. It indicates one space which is closest to  
5 the trash and recycling area has been converted to be a  
6 planted area.

7 The second page shows the, shows some of the area  
8 calculations showing that the new plan complies with the  
9 required landscaping percentage.

10 CHAIRPERSON HILL: All right. I'm actually going  
11 to, Mr. Sullivan, do you have anything necessarily more?

12 MR. SULLIVAN: Not unless you wanted me to run  
13 through the requirements which are in our PowerPoint and in  
14 our presentation.

15 CHAIRPERSON HILL: I got it. I think we're okay  
16 or I'll come back to that. I'm going to take actually a  
17 three minute break so that OP can take a look at these plans  
18 and then come back.

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

21 CHAIRPERSON HILL: Okay. I'm going to call us  
22 back into order. The time is 1:12 p.m. Mr. Sullivan, so we  
23 have the new plans that you provided to us. Can you guys  
24 kind of walk us through the new plans and how you think  
25 you're now meeting the requirements?

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1 MR. SULLIVAN: Yes. So, we are counting the area  
2 between the parking area and Stanton Road six feet outside  
3 of the parking area, as we understand we're allowed to count  
4 that green space towards the landscaping requirement.

5 We're also providing two planting areas within the  
6 parking lot. We calculate the total area of the parking lot  
7 as 4,140 square feet.

8 And then we're providing a total of 510 square  
9 feet in the modified plan which brings us up to 12.3 percent  
10 of planted area as a ratio to the area of the parking lot  
11 which, as we understand, meets the ten percent requirement.

12 CHAIRPERSON HILL: Okay. Mr. Sullivan, would you  
13 please make sure you submit these into the record?

14 MR. SULLIVAN: Yes, you mean in addition to what  
15 we handed in.

16 CHAIRPERSON HILL: Yes, because to be quite honest  
17 I don't know how it gets into IZIS and Mr. Moy is not here.  
18 So, I assume he does it. But it's not me. So, okay, all  
19 right.

20 COMMISSIONER TURNBULL: Mr. Chair, I just have a  
21 question on the drawing.

22 CHAIRPERSON HILL: Sure. Of course.

23 COMMISSIONER TURNBULL: The first sheet of the  
24 drawing. I thought you said that the entry is going to be  
25 12 feet wide.

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1 MR. McGRAW: The entry as designed is -- we did  
2 not update the entry. So, yes, DDOT would require that if  
3 we go from the 15 to 14 that we reduce the width of the curb  
4 cut.

5 COMMISSIONER TURNBULL: So, this is really showing  
6 22 feet then?

7 MR. McGRAW: This still shows the 20-foot drive  
8 aisle. So, we would have to --

9 COMMISSIONER TURNBULL: I don't see a curb cut.  
10 Is there a curb cut here or, what am I looking at?

11 MR. LANDSMAN: So, the distinction for DDOT would  
12 be the curb cut. The curb cut would go from 20 to 12. The  
13 actual stem of the driveway would remain the same. It has  
14 to meet the drive aisle requirements.

15 COMMISSIONER TURNBULL: Okay.

16 MR. LANDSMAN: So, it would be that -- it would  
17 be necking down from 20 to 12 sort of at that property line  
18 interface with back of the sidewalk.

19 COMMISSIONER TURNBULL: Okay.

20 MEMBER WHITE: So, I wasn't clear, how do the cars  
21 get into the parking lot? Do you have like a rendering that  
22 shows so you could point it out to me?

23 MR. McGRAW: Right. There would be a curb cut  
24 which is not completely clear on this computer model. But  
25 you can see the area where the drive aisle is, then there's

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1 a gate and then -- exactly, thank you.

2 VICE CHAIR HART: You can actually draw, the one  
3 that's in front of you. No, that one is you can draw on it.

4 MR. MCGRAW: Got it, thank you.

5 CHAIRPERSON HILL: Sure, of course. Go ahead,  
6 please.

7 MEMBER WHITE: Just one more question. Where  
8 would the IZ units be?

9 MR. MCGRAW: The IZ units would be located on the  
10 second floor and third floor of those two units there.  
11 That's where we currently have them located.

12 MEMBER WHITE: Okay, thank you.

13 VICE CHAIR HART: Now you're going to use that a  
14 lot once you know you have that, and to clear it is upper  
15 left hand side.

16 CHAIRPERSON HILL: Yes, Mr. Sullivan, that will  
17 be handy for later. Vice Chair Hart really loves that thing.

18 Mr. Moy, I had a question for you. So, I was  
19 asking for Mr. Sullivan to submit this into the record. If  
20 people give us stuff do you then submit it into the record?  
21 Is this now in the record?

22 SECRETARY MOY: If we receive such as this hard  
23 copy, the staff would load it into the record.

24 CHAIRPERSON HILL: Okay. So, they don't have to  
25 do it, the Applicants don't have to do anything?

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1 SECRETARY MOY: Unless they want to.

2 CHAIRPERSON HILL: Sure. No, I just thought it  
3 was interesting. Okay, so then people then -- okay, all  
4 right. Okay, I'm going to turn to the Office of Planning.

5 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman  
6 and Members of the BZA. Maxine Brown-Roberts of the Office  
7 of Planning. As outlined in our report we are supportive and  
8 recommend approval of the -- of Subtitle U 421 for the new  
9 residential development.

10 And of course our concern was the special  
11 exception for the surface parking lot landscaping  
12 requirements. I think the Applicant has adequately  
13 demonstrated that they are able to do the 14 parking spaces  
14 as requested.

15 Some of the things that the Applicant has provided  
16 and we are supportive of is that, you know, the permeable  
17 spaces and the permeable surface of the parking lot.  
18 However, if you look at 715.5, you know, it says that the  
19 following shall not count towards landscape area requirements  
20 of the section and permeable surface area used for parking,  
21 is one of the things that is called out.

22 Another thing is that as we stated the Applicant  
23 did not provide a landscaping plan and the requirement calls  
24 for a parking area should be provided with the equivalent of  
25 one canopy tree per five parking spaces, subject to some

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1 requirements. And we think that at least three trees may be  
2 required. And we didn't see that demonstrated on the plan.  
3 I'm not sure if the Applicant is asking for a waiver for that  
4 also.

5 Also as outlined in our plan, we were concerned  
6 about the elevations on the retaining walls. None of the  
7 plans showed how high they were. And so, we were not able  
8 to check to see that they met the zoning requirements on  
9 those.

10 And so, but generally I mean with the 14 parking  
11 spaces the Applicant has demonstrated that they're able to  
12 do that. And based on that we would recommend approval and  
13 maybe that they provide an updated landscape plan.

14 CHAIRPERSON HILL: Okay. So, Mr. Sullivan, you've  
15 got to -- you're trying to find three trees. Do you know  
16 where your three trees are?

17 MR. LANDSMAN: We will have more than three trees  
18 on the property. The challenge is getting them into that six  
19 foot swath along the parking area.

20 So, for the bio-retention facilities that are  
21 along the drive aisle or the stem going towards Stanton those  
22 trees really want to be located centrally on the  
23 bio-retention facility to kind of frame out the slopes around  
24 them, plant around them.

25 We could put it up against the parking area within

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1 those six feet. Our idea was to have that relief combo-ed  
2 with the other landscaping relief to sort of better balance  
3 the trees.

4 VICE CHAIR HART: Can you give us a plan to show  
5 us where this is? That's fine you can do it in this.

6 MR. LANDSMAN: So, centrally located in those  
7 bio-retention areas are where the trees really want to be to  
8 flank with grasses and other plantings around the exterior  
9 of the bio-retentions.

10 The other trees, sort of planting a shade tree in  
11 the landscape strips within the parking stalls is a little  
12 bit challenging. We will have another large shade tree  
13 located on the high side of the wall in our third  
14 bio-retention facility.

15 VICE CHAIR HART: You could, maybe for the parking  
16 area you can use, like, structural soil for at least a  
17 portion of that. That might help.

18 MR. LANDSMAN: Structural soil will help. It sort  
19 of conflicts with our permeable pavement. So, the permeable  
20 pavement gravel section sort of -- it wants to take up those  
21 24 inches for GAR requirements, we're in .4 GAR Zone.

22 CHAIRPERSON HILL: Okay, I'm trying to get this.  
23 So -- I don't understand. So, the Office of Planning is  
24 looking for a revised landscaping plan that includes the  
25 three trees before the Office of Planning would be in

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1 approval of a revised application that got rid of the  
2 landscaping relief. Is that correct?

3 MS. BROWN-ROBERTS: What I'm trying to understand  
4 is the trees that they are talking about are outside of the  
5 parking lot. So, was the application to deviate from the  
6 entire surface parking lot requirements?

7 CHAIRPERSON HILL: Mr. Sullivan?

8 MR. SULLIVAN: Yes, ideally. We were -- the  
9 intention was to request relief from the ten percent and the  
10 tree requirement.

11 CHAIRPERSON HILL: I mean you see where we are,  
12 Mr. Sullivan. I'm just trying -- if I thought this was going  
13 to take this long I would have taken lunch. I'm just letting  
14 you know, like now we're getting into the point where like,  
15 you know, I don't know where we are.

16 MR. SULLIVAN: I know, I hate to be the one that  
17 slowed you down today.

18 CHAIRPERSON HILL: Right, that's okay, you did.

19 MR. SULLIVAN: I think we're okay with  
20 withdrawing, if we just withdraw.

21 CHAIRPERSON HILL: You're going to withdraw the  
22 landscaping requirement.

23 MR. SULLIVAN: And then we have to comply with it.

24 CHAIRPERSON HILL: Right, then you have to comply  
25 with it. So, then therefore the Office of Planning does not

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1 have to see revised landscaping drawings, because they're not  
2 asking for any landscaping relief.

3 So, you're going to remove special exception under  
4 Subtitle C, Section 715.1 for the landscaping requirements  
5 of Subtitle C 715?

6 MR. SULLIVAN: Yes.

7 CHAIRPERSON HILL: You're revising that now?

8 MR. SULLIVAN: Yes.

9 CHAIRPERSON HILL: On the record?

10 MR. SULLIVAN: Yes.

11 CHAIRPERSON HILL: Okay, all right. Okay, so now  
12 we don't have to talk about that. All right, is there  
13 anything else from the Office of Planning?

14 MS. BROWN-ROBERTS: We're fine, thank you.

15 CHAIRPERSON HILL: Okay, thank you. So, you will  
16 comply with the landscaping requirements?

17 MR. SULLIVAN: Yes.

18 CHAIRPERSON HILL: All right. Is there any other  
19 questions for the Applicant? Okay, is there anyone here  
20 wishing to speak in support? Is there anyone here wishing  
21 to speak in opposition?

22 All right, Mr. Sullivan. Is there anything else  
23 you would like to add at the end -- or actually that's not  
24 true. Hold on one second, sorry. The DDOT conditions. So,  
25 you guys are agreeing with the DDOT conditions in terms of

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1 the TDM plan in Exhibit 31?

2 MR. SULLIVAN: Yes.

3 CHAIRPERSON HILL: Okay. And for the record  
4 again, you have submitted plans that I'm going to -- if we  
5 do approve this I'm going to submit, you know, the plans that  
6 you just submitted to us that shows 14 parking spaces rather  
7 than 15, correct?

8 MR. SULLIVAN: Yes, that's correct.

9 CHAIRPERSON HILL: Okay, all right. Does anybody  
10 have any further questions for the Applicant? Does the  
11 Applicant have anything -- does the Applicant want to say  
12 anything at the end?

13 MR. SULLIVAN: No, thank you.

14 CHAIRPERSON HILL: Okay, great. All right, I'm  
15 going to go ahead and close the record. Is the Board ready  
16 to deliberate?

17 Okay. I think that I can get behind the analysis  
18 that the Office of Planning has provided, in terms of the  
19 special exception relief without the landscaping requirements  
20 relief.

21 I think that in terms of the ANC support, I mean  
22 I do see that they are in support and they wanted as much  
23 parking as possible. I however, am again, as Vice Chair Hart  
24 brought up there was only was supposed to be three parking  
25 spaces and now they're getting -- they're going to get 14.

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1 So, they're going to get a lot more parking spaces than they  
2 thought, I believe, and it's not a problem that's what the  
3 Applicant came for us. I think they came here to try to get  
4 the larger -- another way to get around trying to get the 22-  
5 foot-wide driveway which, by the way, I think looks like the  
6 way I would want to do it. And maybe they can try to get  
7 DDOT to agree with them.

8           However, I also then do think that DDOT's  
9 conditions in terms of the TDM plan is something that I would  
10 be behind and in favor of. And again, I do think that the  
11 Applicant's burden of proof as well as the analysis of the  
12 Office of Planning is something I can get behind for the  
13 application, except for the landscape requirements. Is there  
14 anything anyone would like to add?

15           VICE CHAIR HART: I know I spent quite a bit of  
16 time talking about the parking. And I do appreciate it and  
17 I would be in support of the application as well. I do  
18 appreciate the update to just kind of address the OP concern  
19 and I don't have anything else to add. Thanks.

20           MEMBER WHITE: I would just say that I concur with  
21 your comments. I would support the application as well. I  
22 also think this is a very attractive project. I applaud the  
23 Applicant's desire to put family-size units online for this  
24 community as well as to be on board with the ANC's request  
25 to provide some additional parking.

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1           So, I think they're met the criteria and with OP  
2 support I'm prepared to support the application.

3           COMMISSIONER TURNBULL: I would agree with the  
4 Members of the Board and support the application.

5           MEMBER JOHN: I'm fine with the application.

6           CHAIRPERSON HILL: Okay. And I'll echo Ms.  
7 White's comments. I do think it's a nice design and I think,  
8 you know, the fact that you guys are doing the IZ  
9 requirements, I think the property owners should be very  
10 proud of what they're trying to bring into the community.

11           So, I'm going to go ahead and make a motion to  
12 approve Application Number 20074 as amended pursuant to 11  
13 DCMR Subtitle X, Chapter 9 for a special exception under the  
14 new residential development requirements of Subtitle U, 421.1  
15 to construct a new three-story 22-unit apartment building in  
16 the RA-1 Zone on premises 2604-2610 Stanton Road Southeast,  
17 Square 5869, Lot 84 and ask for a second.

18           VICE CHAIR HART: With the --

19           CHAIRPERSON HILL: Oh sorry, thank you. With the  
20 conditions, the DDOT conditions to accept the TDM plan in  
21 Exhibit 31 and including the new plans that were just  
22 submitted into the record during testimony here that limits  
23 them to 14 parking spaces and ask for a second.

24           VICE CHAIR HART: Second.

25           CHAIRPERSON HILL: The motion made and seconded.

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1 All those in favor say aye.

2 (Chorus of aye.)

3 CHAIRPERSON HILL: All those opposed? The motion  
4 passes, Mr. Moy.

5 SECRETARY MOY: Staff would record the vote as  
6 5-0-0. This is on the motion of Chairman Hill to approve the  
7 amended relief for the application along with the conditions  
8 as cited in his motion.

9 Seconding the motion, Vice Chair Hart. Also in  
10 support Ms. John, Ms. White, and Zoning Commissioner Michael  
11 Turnbull.

12 CHAIRPERSON HILL: Thank you, Mr. Moy. Thank you,  
13 gentlemen. Mr. Moy, does the Board have anything else in  
14 front of it today?

15 SECRETARY MOY: Not from the staff, sir.

16 CHAIRPERSON HILL: Okay. Then we stand adjourned.

17 (Whereupon, the above-entitled matter went off the  
18 record at 1:27 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC BZA

Date: 07-24-19

Place: Washington, DC

was duly recorded and accurately transcribed under  
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