

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

SEPTEMBER 18, 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  
LESYLLEÈ M. WHITE, Board Member  
CARLTON HART, Board Member (NCPC)  
LORNA JOHN, Board Member

ZONING COMMISSION MEMBERS PRESENT:

ROBERT MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary  
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

## OFFICE OF PLANNING STAFF PRESENT:

STEVE COCHRAN  
BRANDICE ELLIOTT  
ANNE FOTHERGILL  
ELISA VITALE  
STEPHEN MORDFIN  
JONATHAN KIRSCHENBAUM  
CRYSTAL MYERS  
KAREN THOMAS

The transcript constitutes the minutes from the  
Public Hearing held on September 18, 2019.

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

10:06 a.m.

1  
2  
3 CHAIRMAN HILL: All right, Mr. Moy. Thank you for  
4 that. There's actually something. We're going to move a  
5 case around here. So, Mr. Moy, if you could, read out the  
6 caption and call the case for 20094 when you get a chance?

7 SECRETARY MOY: Thank you, Mr. Chairman. If we  
8 can have the applicant to the table? This is to Case  
9 Application Number 20094 of Kevin Meurer, M-E-U-R-E-R,  
10 captioned and advertised for a special exception under  
11 Subtitle E, Sections 206.2 and 5203 from the upper floor  
12 addition requirements, Subtitle E, Section 206.1.

13 This would convert the existing front elevation  
14 third story bay to be accessible at the third floor with new  
15 composite railing to an existing attached principal dwelling  
16 unit, RF-1 Zone at 3014 13th Street Northwest, Square 2849,  
17 Lot 34.

18 CHAIRMAN HILL: Okay, great. Thank you, Mr. Moy.  
19 Good morning. Could you please introduce yourself for the  
20 record? I'm sorry. I have to push the button.

21 MS. MEURER: Natalie N. Meurer.

22 CHAIRMAN HILL: Okay, great. Thank you. All  
23 right. So Ms. Meurer, if you could go ahead and kind of walk  
24 us through what you're trying to do and also how you think  
25 you're meeting the standard of relief for us to grant the

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1 special exception. I'm going to go ahead and put 15 minutes  
2 on the clock, Mr. Moy, so I just know where we are. And you  
3 can begin whenever you like.

4 MS. MEURER: Sure thing. I don't think I'll need  
5 15 minutes hopefully. Essentially there is a third story in  
6 my townhouse of sort of a basement four story total home that  
7 is a row house. And on that top floor, there is an existing  
8 bay extending out from the top of the house.

9 And on that bay there is currently a window that  
10 looks out onto that bay. So the idea of the plan is to open  
11 up that window and then pull down the brick and then create  
12 a small balcony for that bedroom at the top.

13 And so the kind of proposed change would be a new  
14 door as well as a new railing on the bay. And the thinking  
15 on whether or not it conforms is that in my neighborhood  
16 there are quite a few of these. And the railing itself would  
17 be within the character of the house and would not  
18 fundamentally disrupt from the actual full culture of the  
19 neighborhood.

20 So that's the justification, and hopefully you all  
21 approve.

22 CHAIRMAN HILL: Okay, great.

23 MS. MEURER: I'm happy to answer further  
24 questions.

25 CHAIRMAN HILL: Okay, great. Thank you. Does the

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1 Board have any questions of the applicant? Okay. I'm going  
2 to turn to the Office of Planning. Sure, of course.

3 MEMBER JOHN: I have one question.

4 CHAIRMAN HILL: Sure, of course. Please go ahead.

5 MEMBER JOHN: So are there houses similar to yours  
6 where they have added that railing on top of the porch?

7 MS. MEURER: Yes, certainly. I'm not positive of  
8 the exact zoning kind of divisions. But I've seen a number  
9 of porches, many actually quite large compared to mine that  
10 have existing bays that have been converted as such, yes.

11 MEMBER JOHN: Thank you.

12 CHAIRMAN HILL: Okay, thank you. Office of  
13 Planning, please.

14 MR. COCHRAN: OP is happy to stand on the report  
15 and would note that there are several townhouses in the  
16 blocks to the north that were built with those exact kind of  
17 railings. And the architect has imitated the railings that  
18 are already there on top of the bays to the north.

19 CHAIRMAN HILL: Does the Board have any questions  
20 for the Office of Planning? Does the Applicant have any  
21 questions for the Office of Planning?

22 MS. MEURER: No.

23 CHAIRMAN HILL: Okay. Is there anyone here who  
24 wishes to speak in support? Is there anyone here who wishes  
25 to speak in opposition? Ms. Meurer, how do you pronounce the

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1 last name?

2 MS. MEURER: No, you got it right. You nailed it.

3 CHAIRMAN HILL: Meurer.

4 MS. MEURER: Yes.

5 CHAIRMAN HILL: Meurer.

6 MS. MEURER: Meurer.

7 CHAIRMAN HILL: Have you ever heard of the Ghost  
8 and Mrs. Muir?

9 MS. MEURER: No. But I have heard of John Muir,  
10 the noted environmentalist.

11 CHAIRMAN HILL: I like the Ghost and Mrs. Muir.  
12 Okay. Do you have anything you'd like to add at the end?

13 MS. MEURER: No.

14 CHAIRMAN HILL: All right. I'm going to close the  
15 hearing. Is the Board ready to deliberate? Okay. I can go  
16 ahead and start.

17 I actually also thought this was pretty  
18 straightforward. I didn't have any issues or concerns. I  
19 would also agree with the analysis that was provided by the  
20 Office of Planning. Also that ANC 1A also did not have any  
21 issues or concerns and would be voting in approval. Is there  
22 anything else the Board would like to add?

23 Okay. I'm going to make a motion then to approve  
24 Application Number 20094 as captioned and read by the  
25 Secretary and ask for a second.

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1 MEMBER WHITE: Second.

2 MEMBER JOHN: Second.

3 CHAIRMAN HILL: Motion made and seconded. All  
4 those in favor say aye.

5 (Chorus of ayes.)

6 CHAIRMAN HILL: All those opposed?

7 (No audible response.)

8 CHAIRMAN HILL: Motion passes, Mr. Moy.

9 MS. MEURER: Thank you.

10 CHAIRMAN HILL: Thank you.

11 SECRETARY MOY: The staff would record the vote  
12 as 5 to 0 to 0, that is on the motion of Chairman Hill to  
13 approve the application for the relief requested. Seconding  
14 the motion was Ms. White, also in support was Ms. John, Vice  
15 Chair Hart and the Zoning Commissioner, Robert Miller.

16 CHAIRMAN HILL: Okay, great. Thank you, Mr. Moy.  
17 All right, Mr. Moy, whenever you're ready.

18 SECRETARY MOY: Thank you, Mr. Chairman. So if  
19 we could have parties to the table. This is to Case  
20 Application Number 20092 of James J. Hogan, Jr. The caption  
21 advertised for special exception under Subtitle F, Section  
22 5201 from the lot occupancy requirements of Subtitle F,  
23 Section 504.1.

24 This would construct a one story rear addition to  
25 an existing accessory structure, RA-7 Zone at premises 224

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1 C Street Northeast, Square 756, Lot 804. As you're aware, Mr.  
2 Chairman, there are three requests for party status.

3 CHAIRMAN HILL: Okay, great. Thank you, Mr. Moy.  
4 Mr. Hart is one of my fellow board members. Unfortunately,  
5 I'm going to have to recuse myself from this case, so I  
6 apologize for that. And I'm going to turn this over to the  
7 capable hands of the Vice Chair.

8 VICE CHAIR HART: Thank you. If the parties in  
9 opposition could actually come to the table as well? I think  
10 there are three of them. A lot of folks standing.

11 Okay. Good morning, everyone. If you could  
12 introduce yourselves from my right to left. And just push  
13 the button once and the mic will come on. And then actually  
14 if you all could not turn the mics on yet. There's feedback  
15 with the mics when more than one is on at a time. If you  
16 could turn the mic on when you're going to be speaking and  
17 then turn it off when you're finished speaking. Thank you.

18 MR. SEATH: I'm William Seath. I am here on  
19 behalf of St. Joseph's on Capitol Hill at 313 2nd Street  
20 Northeast.

21 VICE CHAIR HART: Yes.

22 MS. WIRT: Hi, good morning. My name is Karen  
23 Wirt. I'm the Chair of the ANC 6C, and I'm at 234 E Street  
24 Northeast.

25 VICE CHAIR HART: Welcome. Yes, sir.

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1 MR. LOCRAFT: My name is Martin Locraft. I'm  
2 representing Fowlkes Studio, and we were hired by the owner  
3 of the property, James J. Hogan. We're acting as his  
4 representative.

5 VICE CHAIR HART: Can you spell your last name?

6 MR. LOCRAFT: L-O-C-R-A-F-T.

7 VICE CHAIR HART: Yes, ma'am.

8 MS. ROUHANIAN: My name is Minoou Rouhanian. I  
9 reside at 312 3rd Street Northeast.

10 VICE CHAIR HART: Yes, sir.

11 MR. FIESTA: My name is Richard Fiesta. I reside  
12 at 213 C Street Northeast.

13 VICE CHAIR HART: Could you spell your last name?

14 MR. FIESTA: F-I-E-S-T-A.

15 VICE CHAIR HART: Okay. Thank you.

16 MR. MEADOWS: Good morning. My name is David  
17 Meadows. I am representing At-large Councilmember Anita  
18 Bonds. I am her senior advisor.

19 MR. FOWLKES: Hi, there. My name is V.W. Fowlkes,  
20 principal at Fowlkes Studio.

21 VICE CHAIR HART: Okay. Thank you all. Okay.  
22 Mr. Meadows, you're representing the Councilmember?

23 MR. MEADOWS: Yes.

24 VICE CHAIR HART: Okay. Okay. And so we have the  
25 ANC here, Ms. Wirt and we have the other folks, the other

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1 parties in opposition. I guess what we'll start with is Mr.  
2 Seath. We can start with you. And what we're trying to do  
3 is ascertain whether or not -- and you've looked over the  
4 requirements for party status and kind of how you get to that  
5 level.

6           And what we're trying to understand is whether or  
7 not we believe that you meet the criteria in which to be  
8 granted party status. And being granted party status would  
9 allow you to be able to make a presentation, cross-examine  
10 the witnesses and the people that are giving testimony -- I  
11 should say testimony. And so that gives you a little bit  
12 more of a part in the actual hearing.

13           If you do not -- and this is to everyone that is  
14 before us except for the owner and the ANC. If you are not  
15 given party status, then you will be able to provide  
16 testimony after the presentations have been given. So you do  
17 have a part in the procedure; it's just a different role.  
18 You are not able to ask questions. It's just testimony that  
19 you're giving to us. So I just wanted to make sure that  
20 you're all aware of that before we start.

21           And so what we'll do is we'll go through each of  
22 the folks to be able to understand whether or not we believe  
23 that you should be granted the party status. So please  
24 proceed.

25           MR. SEATH: Just for clarification, you would like

1 me to explain how St. Joseph's on Capitol Hill is eligible  
2 for party status?

3 VICE CHAIR HART: Yes. I know that Ms. Rouhanian  
4 has given a request for party status and Mr. Gurnee, Father  
5 Gurnee, excuse me, I'm sorry. I'm sorry. I'm having to read  
6 through a lot of information to get here. So I apologize if  
7 I did not do that. It's actually Reverend Gurnee is how it  
8 was submitted to us.

9 And is Mr. First representing you? Okay. So I  
10 understood that part of it. So Reverend Gurnee is the party  
11 with Mr. First actually representing him, and then Mr. Fiesta  
12 are the three that have actually requested party status  
13 before us. So I understand that Councilmember Bond is  
14 represented here, but that's not part of this discussion  
15 right now. So I may skip over you as we're kind of having  
16 this discussion. So it's not because I'm ignoring you; it's  
17 just I'm trying to go through this procedure.

18 So if we could, Mr. Seath, if you could just give  
19 us a description of how you believe you meet the criteria  
20 under the regs?

21 MR. SEATH: Vice Chair, I am an employee McCrery  
22 Architects, which is an architecture firm in Washington,  
23 D.C., which has ongoing work with St. Joseph's on Capitol  
24 Hill, a parish church, which is a neighbor of the applicant's  
25 property.

1           VICE CHAIR HART: Okay. Yes. And the project  
2 that is before us is an expansion onto an accessory building.  
3 And this is going to affect the property that you're  
4 representing how?

5           MR. SEATH: The property, which belongs to St.  
6 Joseph's Capitol Hill, is immediately adjacent. Both  
7 properties share an accessory building, which share a wall,  
8 a common wall.

9           And I will demonstrate in additional testimony  
10 that the proposed modifications to the applicant's building  
11 would adversely affect the accessory unit that belongs to St.  
12 Joseph's on Capitol Hill.

13          VICE CHAIR HART: Okay. Thank you. Are there any  
14 questions for Mr. Seath?

15          COMMISSIONER MILLER: Mr. Vice Chairman, as you  
16 go through each of the people who have requested party  
17 status, and you've mentioned this, that there are criteria.  
18 If those responding could focus especially on the sixth  
19 criteria, which is explaining how your interest would be more  
20 significantly, distinctively or uniquely affected in  
21 character or kind by the proposed zoning action than that of  
22 other persons in the general public, realizing that everybody  
23 has an interest in it. But if it's more significantly,  
24 distinctly or uniquely affected than an immediately adjacent  
25 property, it might fall into that category.

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1           VICE CHAIR HART: I appreciate that. That's a  
2 good clarification. And if you could respond to that,  
3 please.

4           MR. SEATH: Well, again, because the properties  
5 share a common wall and the modifications would potentially  
6 affect a building which is not only directly adjacent but  
7 adjoining to the property to which the proposed modification  
8 is being suggested.

9           I will demonstrate in testimony that this  
10 modification would potentially impair or cause other adverse  
11 effects for maintenance on the property that belongs to St.  
12 Joseph's.

13           VICE CHAIR HART: Thank you very much. Any  
14 questions? And would you like to -- I'm asking my fellow  
15 Board members, would you like to vote on these individually  
16 as we go through them, or do you want to wait to hear from  
17 everyone?

18           COMMISSIONER MILLER: I think I'd rather wait  
19 because maybe there's a consolidation that can happen amongst  
20 the parties, amongst the persons.

21           VICE CHAIR HART: Thank you. So we are now at Ms.  
22 -- and I will have a hard time with your name, Ms. --

23           MS. ROUHANIAN: Rouhanian.

24           VICE CHAIR HART: -- Rouhanian. Okay. Yes. If  
25 you could please just give your statement on how you think

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1 you believe you meet the criteria.

2 MS. ROUHANIAN: So I've prepared a statement for  
3 testimony. Do you want me to read that, or do you want me  
4 to just specifically -- because my property is about 12 foot  
5 on the back side. And the construction that they are  
6 proposing is to expand the activities that has been  
7 destructive to neighborhoods, especially to me because of the  
8 back alley. I can read over the testimony, or if you have  
9 a specific question, I can answer that.

10 VICE CHAIR HART: Please.

11 MEMBER WHITE: My specific question is: how are  
12 you uniquely impacted by this application?

13 MS. ROUHANIAN: So my back-to-back alley that we  
14 share, they use it for truck -- for very large truck  
15 delivery. And I have images of that for the panel if I may  
16 pass it at this point.

17 VICE CHAIR HART: Yes. What we're going to do is  
18 just go through this, and once we --

19 MS. ROUHANIAN: Okay.

20 VICE CHAIR HART: -- get to the actual kind of  
21 discussion, we will have the images and all that stuff. But  
22 you are describing that your property abuts their property,  
23 or there's an alley between the --

24 MS. ROUHANIAN: Well, their wall and my wall is  
25 almost like in this angle. So I'm about 12 foot --

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1 VICE CHAIR HART: You're saying a right angle.

2 MS. ROUHANIAN: Yes. Slightly moved, yes.

3 VICE CHAIR HART: Okay.

4 MS. ROUHANIAN: So I'm about 12 feet from the back  
5 side of it. And how they are using this property and through  
6 this exception, they are trying to expand the activity that  
7 is ongoing, which brings a lot of heavy, commercial vehicles  
8 to service the building.

9 And that is disruptive to my privacy, to how  
10 actually it could structurally impact us because it's a back  
11 alley. It's a historic building. So all of these noise,  
12 services, traffic, the large fundraising groups that are  
13 coming, because my back yard and my back room, which is my  
14 private area, gets exposed to all of these activities  
15 throughout the day and evening is impacting me and having  
16 adverse impact on my peace of mind and living space.

17 VICE CHAIR HART: Okay. Thank you. Are there any  
18 questions for Ms. Rouhanian? I got that right? Okay. And  
19 finally we have Mr. Fiesta.

20 MR. FIESTA: Yes. I live at 213 C Street  
21 Northeast, which is across and slightly angled from the  
22 property. And again, similar to what Ms. Rouhanian had said,  
23 that the ongoing commercial activity and catering trucks.  
24 We've also seen that groups who are bringing visitors to  
25 events there have been using buses, advertising buses that

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1 then come on C Street to the front of the house where I live.  
2 It's a one-way, one lane street that increases traffic.

3 VICE CHAIR HART: Mr. Fiesta, you are -- you said  
4 you are south of C Street?

5 MR. FIESTA: No. I'm on C Street.

6 VICE CHAIR HART: No, I'm saying, but you are on  
7 the south side.

8 MR. FIESTA: The south side, that's correct.

9 VICE CHAIR HART: Yes, this is on the northern  
10 side of C Street.

11 MR. FIESTA: That's correct.

12 VICE CHAIR HART: And I know I'm going to be a  
13 little bit -- very -- I don't want to say nitpicky, but  
14 direct in this. The project that is before us is an  
15 expansion of an accessory unit that is north of the building.

16 MR. FIESTA: That is correct.

17 VICE CHAIR HART: Okay. So what I'm trying to  
18 understand --

19 MR. FIESTA: The garage.

20 VICE CHAIR HART: Yes, the garage. We call it an  
21 accessory building. But what we're trying to understand is:  
22 how is the construction on that impacting your -- and we're  
23 not really looking at the use issue in some ways. And I  
24 understand that there is a concern, and we're going to talk  
25 to the applicant about having a little bit more information

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1 about that. But where we're truly trying to figure out is  
2 the impact of the actual physical building and project that  
3 is going on that is north of the existing, I guess,  
4 residential structure that is there.

5 And so what I'm trying to understand is: what is  
6 the impact of that on your property?

7 MR. FIESTA: Directly none obviously because of  
8 the geography of it. But on the implications and then  
9 expanded use of the property and the traffic, et cetera, that  
10 I described is my interest.

11 VICE CHAIR HART: Okay. Thank you very much. Any  
12 questions for any of the folks that have given their  
13 testimony before us here?

14 Okay. So thank you all. We will have to figure  
15 out whom -- if we believe all three, if we believe one or two  
16 or what number need to be included as parties. Are you all  
17 ready to deliberate on that? Yes? Anybody like to start?  
18 Everybody raise your hands at once.

19 MEMBER WHITE: Yes. I'll start. I mean, I think  
20 that -- I mean, I think that all three kind of have kind of  
21 unique -- could have potentially unique impacts for this  
22 particular application.

23 I'll go one by one. The first party, potential  
24 party, indicated that there was a common wall. So obviously  
25 that is -- you're kind of uniquely positioned there. You are

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1 adjacent. So just looking at the structural issues, not the  
2 use issues because this is a zoning issue. So I know that  
3 there are some questions about the actual uses. But that's  
4 not the relief that the party is coming to us to resolve.  
5 I know that there are other entities that are involved with  
6 that, perhaps DCRA and others.

7           So with the first testimony, I think that there  
8 is an impact with Ms. Rouhanian. She's very close, too.  
9 She's 12 feet from the rear of the property. I mean, the  
10 back of her property is directly impacted or directly in  
11 sight of the property owner's property. It's kind of at a  
12 right angle.

13           It doesn't seem as close as the first individual  
14 but there seems to be some impact. But, again, I think some  
15 of her testimony had to do with the use concern. So  
16 technically we can't really deal with the use aspect of that,  
17 but we can begin to ask some questions about that once the  
18 case comes up.

19           And Mr. Fiesta is also across from the property.  
20 He's not just in the neighborhood, but he's definitely very  
21 close as well. He expressed some concerns about the  
22 activities and the traffic. But I would hope perhaps maybe,  
23 I don't know if all three parties could be consolidated into  
24 one, but they are definitely very close to the property at  
25 issue here.

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1           VICE CHAIR HART: Sure. I'll give my two cents  
2 on this as well. So I actually I agree with Ms. White for  
3 the St. Joseph's as well as Ms. Rouhanian. Mr. Fiesta, I'm  
4 a little bit less convinced on only because the project is  
5 actually to the north of the building and he is located south  
6 of the building across the street from the building.

7           And so it's, and I want to just be -- and I'm not  
8 saying that Mr. Fiesta could not provide testimony when we  
9 have public comment as part of this public hearing. I'm just  
10 saying I'm not necessarily sold on Mr. Fiesta being a party  
11 but the first two, I think, have given sufficient information  
12 for me to be able to support their party status request.

13           MEMBER JOHN: Mr. Vice Chair, I agree with your  
14 analysis. I believe that the Reverend William Gurnee's  
15 interest on behalf of St. Joseph's Church is immediately  
16 adjacent to the property and so I think that that is fairly  
17 straightforward.

18           Ms. Rouhanian, I believe, has met her burden  
19 because she's really quite close to the construction. And  
20 she's indicated that there might be some impact from the  
21 construction and the noise and traffic, and that's a zoning  
22 issue that we can look at. We cannot look at the use issues.

23           And, Mr. Fiesta, I believe that his interests  
24 could really be represented by the ANC or others, and that  
25 he's not as uniquely impacted by the construction just

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1 because of his location, but we would be happy to hear from  
2 you and to hear your testimony. You just won't be able to  
3 cross-examine and ask questions.

4 VICE CHAIR HART: Mr. Miller?

5 COMMISSIONER MILLER: Thank you, Mr. Vice Chair.  
6 I agree with my colleagues. I look forward to everybody's  
7 testimony whether they're parties or not. I think it's all  
8 relevant. But I would agree that the first two fit the  
9 criteria more exactly. So I would grant that I would have  
10 no objection to party status for them.

11 VICE CHAIR HART: Okay. So it sounds like Mr.  
12 Seath and Ms. Rouhanian would be kept as party status. Mr.  
13 Fiesta, I'm sorry. I think that your request is being  
14 denied.

15 But as I said earlier, you are more than welcome  
16 to provide testimony when we have that part of the hearing.  
17 And I think -- and just to get back to Ms. Wirt, you are  
18 already a party because you are representing the ANC. So  
19 that's why I didn't have a conversation with you in case  
20 anybody was wondering. Thank you.

21 And if Mr. Locraft --

22 MR. LOCRAFT: Yes.

23 VICE CHAIR HART: Do you have any comments on any  
24 of this conversation? If you could -- yes, thank you.

25 MR. LOCRAFT: At this point, I do not.

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1 VICE CHAIR HART: Okay. Thank you. So with that,  
2 we will start the proceedings. And Mr. Fiesta, thank you  
3 very much. And we will hear from Mr. Meadows when we get to  
4 the public comment period and I think Mr. Fowlkes?

5 MR. FOWLKES: Fowlkes.

6 VICE CHAIR HART: Thank you. I think we'll hear  
7 from you during the project. So if you could, we'll give you  
8 -- oh, actually the other issue was have to deal with is Mr.  
9 Seath and Ms. Rouhanian, are you -- would you like to  
10 consolidate your -- just for the interest of time.

11 The way that the proceeding with move forward from  
12 here is that the applicant will have an opportunity to  
13 provide their case. And you all, as the parties in  
14 opposition, will have a combined amount of time to present  
15 a case on the other side.

16 So if he takes 15 minutes, you all have 15 minutes  
17 combined, not 15 minutes each. And it is helpful just,  
18 again, in the interest of time, to be able to either have a  
19 conversation together if you are interested in doing that.  
20 And are you interested in doing that, Mr. Seath? Do you  
21 understand what I'm moving forward?

22 MR. SEATH: Fifteen minutes is the given length  
23 of time combined?

24 VICE CHAIR HART: No. It actually depends on how  
25 the long the applicant has taken for their presentation. So

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1 the parties in opposition have a combined amount of time,  
2 that is how much time the applicant has taken for their  
3 presentation itself. And right now we don't know how long  
4 that is. So I just said 15 minutes because I was thinking  
5 that -- I'm not sure how long you're looking for your  
6 presentation.

7 MR. SEATH: Not terribly long.

8 VICE CHAIR HART: Okay. So not terribly long was  
9 the answer. So anyhow, so I'm just trying to see if -- and  
10 maybe we just move forward and hear it and then we'll go  
11 forward from this. After he's given his presentation -- let  
12 me ask OAG. Cross-examination, that happens to the applicant  
13 once his presentation is ended, correct?

14 MS. NAGELHOUT: Yes. Before or after Board  
15 questions.

16 VICE CHAIR HART: Okay. So this will provide  
17 actually all three of you with an opportunity to be able to  
18 ask questions of the applicant after he's finished his  
19 presentation. Your time does not start with that. Your time  
20 starts when you actually start your presentations.

21 And it may be better to have one presentation  
22 itself. And we have -- a couple people have hands up for  
23 questions. So I'll let you ask questions, Ms. Wirt, first  
24 and then Mr. Fowlkes.

25 MS. WIRT: My question is: how much time does ANC

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1 have, or am I worked in with the other 15 minutes?

2 VICE CHAIR HART: I'm going to ask OAG on that.

3 MS. WIRT: I believe it's five minutes for the  
4 ANC.

5 MS. NAGELHOUT: They are not -- the ANC is a  
6 separate party. They have their own time, and a reasonable  
7 amount of time is allotted to them.

8 VICE CHAIR HART: And basically it could be the  
9 same amount of time as the applicant has taken?

10 MS. NAGELHOUT: Yes.

11 VICE CHAIR HART: Okay.

12 MS. WIRT: Thank you.

13 VICE CHAIR HART: Mr. Fowlkes?

14 MR. FOWLKES: Cross-examination, does it go both  
15 ways?

16 VICE CHAIR HART: It will once they do their  
17 presentation. So once -- and I'm assuming you're going to  
18 be with your -- are you going to be part of the presentation  
19 as well?

20 MR. FOWLKES: Perhaps I could, if Ms. Rouhanian  
21 would allow it, I would just sit next to them, and I'll try  
22 and keep my mouth shut as much as I can.

23 VICE CHAIR HART: You may speak as much as you'd  
24 like. It's up to you. I just am looking for how long it  
25 would take to move through the presentation itself.

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1           So what we'll do is to have the applicant give his  
2 presentation.    And then Mr. Seath, you may give your  
3 presentation.    Ms. Rouhanian, you may give yours.

4           After each of the presentations, there will be  
5 cross-examinations.    So there's, you know -- and the cross-  
6 examination is really trying to understand more fully to make  
7 sure we understand what is a point that you think that may  
8 not be clear, but it does have to pertain to zoning.

9           It's not just any open-ended question.    And it  
10 also pertains to what the applicant has presented.    So it's  
11 not, again, not an open ended process.    It is really trying  
12 to get more clarity on it.

13           The one thing I wanted to begin with, and I'm  
14 assuming that the applicant will address this, but what the  
15 Board would like to hear is I know there's been quite a bit  
16 of discussion about whether or not this is a residence.    And  
17 we would like to understand that aspect of it and have some  
18 sort of proof, some sort of information.    Are there leases,  
19 residential leases that are there with their tax records?  
20 I'm not exactly sure what you all are bringing to give to us  
21 as proof.

22           But I think you've read the Office of Planning  
23 report that stated that there was some question on this.    And  
24 we're looking to understand that a little further.    And the  
25 reason that we're looking to understand that really has to

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1 do with the zoning itself.

2           If the zoning contains language about residential  
3 uses being expanded and then you may be able to get a special  
4 exception if you meet the criteria. And so we're trying to  
5 understand that aspect of it. Yes.

6           MEMBER WHITE: I was just going to add that, you  
7 know, the relief that they're seeking is residential relief.  
8 So if it's commercial, then technically it would not be the  
9 appropriate relief that they're seeking.

10           So that's why it's important to expand on the  
11 residential aspect of the property. And obviously it's been  
12 raised as an issue. So that would be helpful, I think, for  
13 everybody.

14           VICE CHAIR HART: So before we begin, Mr. Moy, you  
15 have 15 minutes. We can begin whenever you'd like, Mr.  
16 Locraft. And the floor is yours.

17           MR. LOCRAFT: Thank you. I first want to really  
18 quick say our client, the owner of the property, he really  
19 did want to be here. And we thought it was very important  
20 for him to be here. But he had an obligation that he just  
21 couldn't get out of.

22           So a quick overview of what has happened over the  
23 last few months during discussion of this project. The ANC  
24 in July informed our client that they were going to have a  
25 discussion about the use of the property, and they were going

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1 to propose sending a letter to Matthew LeGrant indicating  
2 their concerns and what they considered impermissible use on  
3 the property.

4 As a result of that meeting, you know, acting on  
5 behalf of our client, I set up a meeting with Mr. LeGrant to  
6 just kind of figure out where we are and, you know, be as  
7 forthright as possible in terms of the conversation that was  
8 happening.

9 He suggested that our client write a letter to him  
10 as well, and he would ultimately take those two letters,  
11 examine, you know, all the things that have been put before  
12 him and issue some sort of a statement. He didn't do that,  
13 but he does have those things.

14 And I think the best way for me to represent the  
15 way that the property is being used is to read that letter  
16 from the client to Mr. LeGrant, if I may? It's not very  
17 long.

18 But I think -- I don't know the client very well.  
19 I don't know exactly how he uses the property. We were hired  
20 to do this design exercise to see if we could expand the  
21 footprint of the detached garage. So I think this is the  
22 most straightforward way for me to communicate what his  
23 intentions are.

24 VICE CHAIR HART: Sure.

25 MR. LOCRAFT: Dear Mr. LeGrant, I hope this letter

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1 finds you well. I understand you wish to know how I use my  
2 property located at 224 C Street Northeast. My partners and  
3 I own the house and use it for our own convenience when we  
4 come into town. We all live far outside of town, and our  
5 office is in Ashburn, Virginia, more than an hour away.

6 We primarily use it for entertainment and personal  
7 use. My son Kyle is currently living there as he interns on  
8 the Hill. We host a few gatherings at the house periodically  
9 throughout the year, mostly holiday parties and the like.  
10 And we will meet with local business associates so they don't  
11 have to trek out to Ashburn. No daily business is conducted,  
12 and no employees work there.

13 Regarding the new addition for the garage, I  
14 simply want to put in a media room that walks out into the  
15 back patio. My original idea of adding a second level for  
16 the media room was met with disapproval from some neighbors  
17 whose sunset view would be obstructed.

18 After hearing their concerns, I decided to change  
19 the design to be on the main level, leaving their view  
20 intact. The new addition will not change how the house is  
21 being used. I hope this answers any questions you may have.  
22 I'm happy to get on the phone with you directly if you need  
23 further clarity.

24 That's the use question. And if I need to kind  
25 of explain the -- or if you would like me to explain the

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1 actual relief itself, I'd be happy to do that.

2 VICE CHAIR HART: Most definitely. I mean, that's  
3 kind of why you're here for that.

4 MR. LOCRAFT: Yes.

5 VICE CHAIR HART: I didn't know if anyone had any  
6 question on this. I have a question only in that I'm  
7 assuming this is taxed at a residential rate.

8 MR. LOCRAFT: I would assume so.

9 VICE CHAIR HART: I mean, do you know that?

10 MR. LOCRAFT: I don't know that.

11 VICE CHAIR HART: Okay. I think that's  
12 information that we would like to have, at least understand.  
13 I mean, what we're trying to make sure that is as for the  
14 zoning that we understand that this is -- I mean, that was  
15 a letter that was written by the owner kind of explaining  
16 something.

17 But it would be helpful to have something that  
18 says, this is either taxed at a residential rate or not, or  
19 this has a business license or not and that it's -- you know,  
20 that's located there right now.

21 I think that would be something that we would need  
22 to have to be able to just make sure that we understand that  
23 for our records. And did you say the letter was -- and I may  
24 have missed it. Is the letter in our -- submitted to us?

25 MR. LOCRAFT: It is not because one thing I didn't

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1 want to do representing Mr. Hogan was feel like we were going  
2 behind the backs of people, the neighbors, you know, who  
3 voiced their concerns.

4 I checked almost daily on IZIS to make sure that  
5 if they had submitted their letter from the ANC. But that  
6 was directly to Mr. LeGrant, which wasn't -- because of the  
7 use considerations that are not necessarily applicable to the  
8 relief that we're seeking, I didn't think that it was  
9 completely appropriate to be part of the record.

10 VICE CHAIR HART: And you do understand that the  
11 Office of Planning asked a very similar question about this  
12 use issue as well?

13 MR. LOCRAFT: Yes. In their report, correct.

14 VICE CHAIR HART: Yes. And how are you responding  
15 to that?

16 MR. LOCRAFT: The response that I would have would  
17 be that we're not arguing anything that's being presented to  
18 us in terms of the use. And we're trying to represent what  
19 our client is telling us in terms of how it's being used.  
20 I don't --

21 VICE CHAIR HART: Yes, no. That's fine. What I  
22 would suggest is that you submit the letter into the record  
23 so that we at least have that and submit some information,  
24 either that it's tax records or if there is a business  
25 license, I don't know, that says that this is a -- whether

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1 or not this is a residential use or not. And we're just  
2 trying to get to that.

3 And I'm still not 100 percent clear on where that  
4 is. But we can move forward and at least understand the rest  
5 of this. I think we should be able to get that information.

6 MEMBER JOHN: I have one question. So you  
7 mentioned that the owner's son lives there. How long has he  
8 lived there?

9 MR. LOCRAFT: I don't know the exact answer to  
10 that.

11 MEMBER JOHN: And --

12 MR. LOCRAFT: From what I understand he interned  
13 on the Hill and lived there for presumably the eight week  
14 period or whatever that intern period is during the summer.

15 MEMBER JOHN: So is there mail or something that  
16 the son has received, or some indication that he actually  
17 lives there from time to time? It doesn't have to be  
18 continuous, just that he's lived there.

19 MR. LOCRAFT: I could check.

20 MEMBER JOHN: Thank you. And put that in the  
21 record, please. Thank you.

22 MEMBER WHITE: No. I'm just saying just based on  
23 the information we have right now, I'm not really convinced  
24 that it's being used for residential use.

25 So it sounds like once you get your information,

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1 we'll be able to have at least some additional information  
2 because if it's not residential, then you're not bringing  
3 this application under the right zoning regulation, but I'll  
4 let Vice Chair Hart move forward.

5 VICE CHAIR HART: So I think we can move forward  
6 with your discussion, the presentation, how you meet the  
7 criteria.

8 MR. LOCRAFT: So what we are seeking is this is  
9 a -- there is an existing detached structure at the rear of  
10 the property that is a non-conforming structure because it's  
11 over 450 square feet, and our lot occupancy currently is 62.8  
12 percent.

13 And the addition that we would be proposing to add  
14 to the accessory structure would effectively bring the south  
15 wall towards the main building on the property. And in doing  
16 that, we would increase the footprint and increase the lot  
17 occupancy to 67.2 percent.

18 As was mentioned in the letter, and I'm sure will  
19 be discussed, we had originally done a second story design  
20 for this property, same general condition but over top of the  
21 garage. We were very sensitive to the fact that that would  
22 have had a very substantial impact on the neighbors.

23 We were actually set for a BZA hearing for that  
24 in April but decided to withdraw and scale the project back  
25 because we were sensitive to the neighborhood, and we feel

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1 that the design that we've proposed now is pretty low impact  
2 in terms of what it will do to the adjacent neighbors, the  
3 neighborhood.

4 It is visible from certain avenues. It is visible  
5 from an open surface, a little parking lot on 3rd Street.  
6 It's open a little bit further away, but if you're looking  
7 at St. Joseph's from 2nd Street, it's visible to the left but  
8 pretty, you know, I'd say 100 yards from 2nd Street.

9 VICE CHAIR HART: Do you have any images that we  
10 can easily go to, or that you can display on the --

11 MR. LOCRAFT: Yes. There were images in the  
12 submission.

13 VICE CHAIR HART: And what page are you on in the  
14 submission?

15 MR. LOCRAFT: It was actually a separate document.  
16 I think it was entitled color photographs. I separated it  
17 because the BZA --

18 VICE CHAIR HART: So Exhibit Number 5 for us.

19 MR. LOCRAFT: I'm not sure if people can see that  
20 image. But this computer is not -- the monitor is down.

21 VICE CHAIR HART: It's not displaying? If we  
22 could have Paul Javier -- he's our technical person to come  
23 help with this.

24 MR. LOCRAFT: I don't want to take too much of the  
25 time.

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1 VICE CHAIR HART: He's coming.

2 MR. LOCRAFT: While he's doing that, there is no  
3 image in this document that shows those two views that I was  
4 just talking about. These are specifically kind of  
5 highlighting the area of work that was going to be done in  
6 views from the alley and from the property itself.

7 VICE CHAIR HART: You can continue.

8 MR. LOCRAFT: Okay. So what we're proposing to  
9 do is, like I said, it's effectively a one story renovation  
10 of the existing garage, an addition that projects towards the  
11 main house on the property.

12 It increases lot occupancy. It does not, since  
13 we brought it down to that one story, it projects above the  
14 existing garage. The existing garage is abnormally long.  
15 Like you could basically tandem park cars in it.

16 So what we did is we left one parking space intact  
17 and created a gathering space in the rest of the building  
18 that projects the -- the roof of the proposed addition  
19 projects above the existing roof line by about two feet and  
20 as far as we're concerned, it doesn't block any light. It  
21 doesn't block any, you know, movement.

22 The alley facing side does not get affected aside  
23 from replacing the existing garage door, which is right now  
24 just like a white vinyl door. We want to dress it up a  
25 little bit.

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1           There are no windows on the sides as it abuts the  
2 property line. So there would not be any, you know, proposed  
3 modifications that would allow somebody to like look directly  
4 into the adjacent property.

5           The condition as it relates to the property, this  
6 structure as it relates to the adjacent properties, the  
7 condition really does not change.

8           VICE CHAIR HART: And how is this connected to the  
9 St. Joseph's property?

10          MR. LOCRAFT: So there is in Exhibit 6 on the last  
11 page, there is like a site plan diagram. And the way that  
12 the page is oriented, the south is to your right. Northeast  
13 is to your left. St. Joe's is west of our property.

14          And the building that you see, the partial  
15 building that you see at the bottom right of the page, that's  
16 the Convent for the church. And then the church itself is  
17 actually a little bit further west than that.

18          And behind the Convent is an accessory structure  
19 for St. Joe's, and that's what shares a party wall with our  
20 detached building. And that is a gabled structure with a  
21 roof that runs north/south, you know, sloping north and  
22 south.

23          And I believe I read through the initial party  
24 requests from St. Joe's. And I believe their concern has a  
25 lot to do with what affect this addition would have in terms

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1 of water being shed onto their property and things like that.

2 I don't think structurally, personally I don't  
3 think structurally it will have a significant impact just  
4 like any project we would design would not be structurally,  
5 you know, obtrusive to any adjacent properties. We would do  
6 everything we can to alleviate those concerns.

7 VICE CHAIR HART: And this is -- there is kind of  
8 like a -- I saw it in the photographs, there was like a two  
9 story now?

10 MR. LOCRAFT: Yes, the white building.

11 VICE CHAIR HART: Yes. What is that?

12 MR. LOCRAFT: Honestly, I'm not totally sure.  
13 This alley and -- the rear of the subject property leads into  
14 an alleyway that's kind of a little labyrinthian maze of  
15 detached structures. And it kind of snakes from 3rd Street  
16 behind Massachusetts Avenue mostly commercial properties for  
17 deliveries, things like that, and then it runs out to 2nd  
18 Street a little bit further north.

19 But that white building, I'm actually not totally  
20 sure who that belongs to, but it actually bisects our -- you  
21 know, it abuts into -- there's a little one-story hyphen and  
22 that's abuts into our property, actually right about, not  
23 quite in the middle. Yes, exactly.

24 VICE CHAIR HART: You're talking about that piece  
25 that's right there.

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1 MR. LOCRAFT: Right. So our property does not  
2 have full exposure to the north side, which is what you see  
3 in that one image.

4 VICE CHAIR HART: And there's no connection  
5 between where that one story white building, what you're  
6 calling a hyphen is, and your building. It's just --

7 MR. LOCRAFT: Like physical connection from one  
8 into the other?

9 VICE CHAIR HART: Yes, like a door or anything?  
10 It's just close?

11 MR. LOCRAFT: Yes. It's just there, yes.

12 VICE CHAIR HART: Yes. So are there any questions  
13 on the Board on the -- I'm sorry. Are you completed?

14 MR. LOCRAFT: Yes, of course.

15 VICE CHAIR HART: Are there any questions from the  
16 Board for the applicant? Go ahead.

17 COMMISSIONER MILLER: Thank you, Mr. Chairman.  
18 So no one is living at the home now?

19 MR. LOCRAFT: From what I understand, no.

20 COMMISSIONER MILLER: How many bedrooms does the  
21 principal structure have?

22 MR. LOCRAFT: I don't know the answer to that.  
23 I would have to look at the drawings or at the existing  
24 conditions. We were tasked to deal with the accessory  
25 structure.

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1           COMMISSIONER MILLER: I understand. I just wanted  
2 to get that on the record.

3           MR. LOCRAFT: Okay.

4           COMMISSIONER MILLER: Okay. Thank you.

5           VICE CHAIR HART: Any other questions? Okay.

6           MEMBER JOHN: So let's go back to that. So how  
7 often does the owner stay in this house? Is it weekly,  
8 monthly? You mentioned that the owner lives in Virginia and  
9 so uses this house for, you know, stays here from time to  
10 time. So do you have any more information on that? That we  
11 just can't, you know, credit just an allegation. We need  
12 something else to show that he actually uses the house from  
13 time to time.

14          MR. LOCRAFT: I can't answer that. I don't know.

15          MEMBER JOHN: Okay.

16          VICE CHAIR HART: Okay. I think we'll move into  
17 the cross-examination, whichever one of you would like to --  
18 I'll let them go if they need to go -- whichever one of you  
19 would like to proceed.

20          MR. SEATH: Certainly. Thank you for your time,  
21 Vice Chair. And I'd like to acknowledge changes that the  
22 applicant has made since that earlier withdrawn application,  
23 but take this opportunity to note that there are still some  
24 significant problems with the applicant's new submission that  
25 I hope to demonstrate, that these fail to meet several

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1 criteria required for the granting of a special exception  
2 through this process.

3 First, that the proposed modification would not  
4 be in harmony with the general purpose and intent of the  
5 zoning regulations.

6 VICE CHAIR HART: Let me just make sure I state  
7 this clearly. What I would like for you to do is to ask  
8 questions of the applicant. You will be able to make your  
9 presentation yourself and kind of lay out the issues that you  
10 have. What I'm trying to get to is really just the questions  
11 or clarifications on what the applicant just presented.

12 MR. SEATH: Understood.

13 VICE CHAIR HART: Okay. Thank you.

14 MR. SEATH: May these questions -- to further  
15 clarify, may these questions address items in the drawings  
16 that may require clarification which were not specifically  
17 addressed in the applicant's comments?

18 VICE CHAIR HART: I think so. The drawings are  
19 here on the page. So there may be some questions there that  
20 we can kind of address now. And we'll see where we are.

21 MR. SEATH: Okay. Please.

22 MS. ROUHANIAN: Okay. You mentioned that based  
23 on the letter, that their son, the intern, had stayed there  
24 for eight weeks. If that's the level of use, and this is a  
25 large house on the Hill, why is there need for this

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1 expansion? If it's one person going there every so often,  
2 why is this -- I mean, if it's not a commercial space, then  
3 why is it needed to get this expansion to enlarge something  
4 that nobody is using at this point except perhaps one young  
5 gentleman?

6 MR. LOCRAFT: I can't personally justify why that  
7 would occur. But I don't see -- speaking to the use, I don't  
8 see how if somebody wanted -- if somebody single lived in a  
9 home and they wanted to expand their detached structure, you  
10 know, taking the use conversation out of it, I don't see how  
11 that would be problematic.

12 MS. ROUHANIAN: It's not a problem if they're  
13 using it as residential. But the point here I'm trying to  
14 make is -- I have a neighbor. My neighbor is on the HSP  
15 payroll to maintain the outside of the property.

16 And I know the reason he is doing that is because  
17 nobody is living there, and the appearance is to be clean.  
18 So he has been doing since pretty much HSP has purchased that  
19 property.

20 So what we are trying to get to is, like, nobody  
21 has lived there. And we have been in the neighborhood. And  
22 I know that the owner is not here and you guys are the  
23 architect, but you're the one that we have to ask the  
24 question from.

25 So the use is not residential. We know that. We

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1 have proof of it. We have pictures of it. So what is the  
2 purpose of this expansion? I mean, they have to explain to  
3 you because as the architect, you have to know why they want  
4 to upset the flow. I mean, what is it that they're using it  
5 for?

6 VICE CHAIR HART: I think one of the -- and just  
7 to kind of -- there was a letter evidently that they have  
8 stated they were looking at having -- I mean, it seems as  
9 though there's an explanation that has been provided. I  
10 don't think that -- these folks are not going to be able to  
11 give you that, you know, I think what you are looking for.

12 What I would try to focus you in on is there are  
13 aspects under the zoning regs that we have to --

14 MS. ROUHANIAN: Yes.

15 VICE CHAIR HART: -- adhere to. And I'm trying  
16 to get to those. I understand that there's a use issue that  
17 is also being kind of -- that is being discussed or at least  
18 there's a question on what that use is.

19 But if you could focus on: what are the aspects  
20 of this particular project that you believe don't meet the  
21 zoning regulations? And in particular, what are the  
22 questions that you have about the applicant about the  
23 testimony that they have just provided, for clarity, that you  
24 would like a little bit more information.

25 MS. ROUHANIAN: I guess my understanding is to get

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1 a special exemption, there has to be a justification and need  
2 for it.

3 VICE CHAIR HART: Well there are actually criteria  
4 that they have to go through to do that. There is not a "why  
5 would you like to do that" as part of the zoning regulations.  
6 It really is: are you meeting these aspects of the zoning --  
7 these criteria that talk about what that particular project  
8 is. And we're just trying to get to that aspect of it.

9 MS. ROUHANIAN: Okay. Then I'll pass it now to  
10 the architect.

11 MR. SEATH: Thank you. Okay. I'd like to ask if  
12 possible for Mr. Fowlkes, as agent to the applicant, to read  
13 from the last page of the burden of proof statement, the  
14 first sentence, please?

15 VICE CHAIR HART: And what aspect of the burden  
16 of proof are you --

17 MR. SEATH: If I can just read it where it says,  
18 "Please note that the footprint of the existing accessory  
19 structure will not change."

20 VICE CHAIR HART: Okay.

21 MR. SEATH: And now I'd like to direct Mr. Locraft  
22 to page 2, the ground floor proposed drawings.

23 MR. LOCRAFT: That's a valid point that you're  
24 making. What I intended to state, and what I think I've  
25 presented pretty clearly in the drawings, is that we would

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1 not intend to -- we would not intend to take any part of the  
2 existing structure away.

3           In other words, we didn't want to -- you know, I  
4 think if our client really wanted to, we could have actually  
5 just eliminated that structure and built something new. But  
6 we wanted to maintain the character that addressed the alley.  
7 We wanted to not disrupt the way that the building actually  
8 engaged the property line on either side. So the idea was  
9 that we were going to take this addition and kind of slide  
10 it in between the two existing side walls.

11           So technically, you know, from a zoning  
12 perspective, the footprint actually does increase a little  
13 bit towards the main house on the property, which is what  
14 this lot occupancy exception -- that's kind of the basis of  
15 our whole proposal. But semantically, I think it's a valid  
16 question.

17           VICE CHAIR HART: Sure. I understand that.

18           MR. SEATH: Mr. Locraft, can you explain the  
19 purpose of raising the new roof, the modified roof above the  
20 existing roof of the accessory building?

21           MR. LOCRAFT: Certainly. Right now the images  
22 show from the interior -- let's call it a courtyard for lack  
23 of a better word -- between the main house and the accessory  
24 structure, there are two steps down into the garage entrance.  
25 And to engage the relationship between the patio and the new

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1 renovated space, we would actually still propose to step down  
2 a little bit and kind of meet halfway, between the patio  
3 elevation and the existing garage elevation.

4           So what we propose to do, yes, you can see it in  
5 the building section. If you were to continue drawing the  
6 garage, that sloped floor straight, you know, until it  
7 engages where that person is standing, that's the existing  
8 grade. But to make it a more consistent usable space, we  
9 would raise that and just to get, you know, comfortable  
10 clearances and not have it feel like it's a very, kind of,  
11 dwarfing experience. To put it a little simpler, we raised  
12 the ceiling because it would be a nicer space.

13           MR. SEATH: The walls that are supporting that  
14 roof do not currently align with the load bearing walls of  
15 the existing structure. Is that correct?

16           MR. LOCRAFT: That's correct. Yes, there would  
17 certainly be some structural work to be done. I envision  
18 that there would be -- some of the existing garage slab would  
19 be removed to dig new footings and, you know, everything that  
20 would be required.

21           I mean, the drawings that you're looking at, I  
22 think they're very well considered, but they're certainly not  
23 ready to be permitted or go to construction. You know,  
24 they're very much for the exercise of going through the BZA  
25 and the HPRB, which we did months ago.

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1 MR. SEATH: So as currently drawn, there is a gap  
2 between the existing accessory building wall, the property  
3 line and the proposed modification. Is that correct?

4 MR. LOCRAFT: It's effectively the width of the  
5 party wall. So there wouldn't be like a little roof section  
6 between the existing party wall and the new, what we're  
7 proposing to do. There would not be a little gutter or any  
8 kind of condition there. But it's effectively the top of the  
9 party wall with flashing and everything that would be  
10 currently existing. It would probably have to be redone, but  
11 yes.

12 MR. SEATH: Thank you.

13 MS. ROUHANIAN: May I ask one question? You are  
14 saying that you might be changing the floor of the garage.  
15 And all of these walls or footing on the hill, especially in  
16 that section, they are about a foot and a half only deep.  
17 And the roof is pretty much what's holding the kind of walls  
18 down.

19 So when you're doing any restructure, you're  
20 actually changing the integrity of that structure and  
21 especially the historic garage if there is such, you know,  
22 construction for the garage that you have to do.

23 Isn't a requirement to setback because right now  
24 this property is blocking half of my garage. I cannot use  
25 my garage. So when you are taking the floor off and going

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1 one foot, for the one step, you actually are pretty much  
2 going to the bottom of the wall.

3           So if you are getting a raise permit for  
4 restructuring the garage, why are you not setting back where  
5 actually per regulation, I think, if there's a new structure  
6 and it's blocking something else -- I don't know the  
7 regulation, but isn't that part of it that you have to go  
8 back because those walls, pretty much if you go down and  
9 restructure the bottom, it is going to be collapsing because  
10 my house is exactly the same set up, and we have done the  
11 boards to see how these walls go.

12           MR. LOCRAFT: I think that it's kind of a two part  
13 question. One, we're not razing the structure. If we were  
14 eliminating it, we would have to comply with the zoning  
15 setbacks. But because it's an existing condition and we're  
16 leaving the exterior shell of the building, I don't believe  
17 we have to set anything back.

18           From a structural standpoint, of course, it's no  
19 different than any other project in any other part of D.C.,  
20 historic or otherwise. We would take -- you know, we would  
21 have a structural engineer record. He would design  
22 everything according with DCRA regulations to make sure that  
23 the structure as it's being, you know, the core existing, if  
24 we're modifying the roof, if we're modifying the footings,  
25 all measures would be taken during that process to make sure

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1 that the project itself and that the existing structure  
2 itself is sound.

3 MS. ROUHANIAN: So I guess my point is that you  
4 are just leaving the walls so that you don't have to setback.

5 MR. LOCRAFT: No. We're leaving the walls because  
6 there's no need to remove them.

7 MS. ROUHANIAN: Right. But you're almost removing  
8 the roof so it's almost, the structure, there's not much  
9 integrity left to it. So I'm --

10 VICE CHAIR HART: Yes. It sounds like they're  
11 making a decision to keep that. If they want to do that,  
12 that's up to them to do that.

13 So Ms. Wirt, I know I haven't asked you if you  
14 have any questions, but if you have questions, you may ask  
15 them.

16 MS. WIRT: I have one question for Mr. Locraft.  
17 The letter that was sent to Zoning Administrator Matt  
18 LeGrant, who wrote that letter?

19 MR. LOCRAFT: The client, Mr. Hogan did.

20 MS. WIRT: There's one signature, Mr. Hogan's?

21 MR. LOCRAFT: Yes.

22 MS. WIRT: I thought there was more than one  
23 owner. Does that really represent of all the owners? It's  
24 a technical point.

25 MR. LOCRAFT: It's a technical point. I know that

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1 it was written by Mr. Hogan and signed by him. I don't know  
2 -- and he's primarily the person that we've been dealing  
3 with. I know that there are multiple owners of the property.  
4 But I also know that when we do any kind of design exercises  
5 or projects, we're not always dealing with everybody that  
6 owns the property. We may be dealing with one person.

7 MS. WIRT: Do you know are there other owners and  
8 who they are?

9 MR. LOCRAFT: If you look at the property records  
10 on Property Quest, there are two owners listed and it's Mr.  
11 Hogan and Ms. Paul. And I know that they're business  
12 partners.

13 MS. WIRT: But we don't know if Ms. Paul is  
14 represented by that letter. It's just that --

15 MR. LOCRAFT: I don't know.

16 VICE CHAIR HART: Mr. Seath, do you have any other  
17 questions?

18 MR. SEATH: No further questions.

19 VICE CHAIR HART: So I think we can move to the  
20 next presentations. And if the ANC is okay, I'd like to go  
21 with the party in opposition and then have the ANC last?

22 MR. SEATH: Thank you, Vice Chair.

23 VICE CHAIR HART: And I'll put 15 minutes on. I  
24 don't know if you'll need all that time. But thank you.

25 MR. SEATH: Again, I'd like to acknowledge changes

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1 that the applicant has made since that earlier withdrawn  
2 application but noting the problems that remain and are clear  
3 after the testimony and the cross-examination.

4 First, that the proposed modification would not  
5 be in harmony with the general purpose and intent of the  
6 zoning regulations, which is one of the criteria for granting  
7 a special exception. The applicant's burden of proof  
8 statement as you heard inaccurately claims that the footprint  
9 of the existing accessory structure will not change when,  
10 again, this statement is contradicted by the submitted ground  
11 floor plan, which annotates a 5 foot 6 total projection  
12 beyond the existing footprint. That's not merely a  
13 projection. It's an overhang. It is an extension of  
14 enclosed and semi-enclosed space.

15 Roughly half of that proposed addition is  
16 sheltering outdoor space, and it's not clear that this is  
17 necessary for any compelling reason that would justify  
18 increasing the non-conformance of the existing accessory  
19 building. For that matter, Mr. Fowlkes chiming in on the  
20 cross-examination noted that the only reason for raising the  
21 roof is to make the space nicer. So it does not appear to  
22 be a requirement of making this inhabitable space, let's say,  
23 to make that modification.

24 The applicant's designated building materials for  
25 this modification are listed as cement panels. And the

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1 Capitol Hill neighborhood and its historic district, I wish  
2 to note, are composed principally of buildings with brick and  
3 stone exteriors or frame structures with painted wood siding  
4 and trim. The use of cementitious panels would be  
5 inconsistent with the normative architectural character of  
6 the neighborhood.

7           The west side of the proposed modification, which  
8 rises above the existing roof about 2 feet 2 inches according  
9 to the drawings, would be visible from both the adjoining  
10 alley and from 2nd Street Northeast through St. Joseph's  
11 property as Mr. Locraft earlier stated.

12           And I'd like to note that while we have no  
13 objection to the use of a modification that might involve  
14 traditional brick or stone materials, if these were proposed,  
15 we're open to that reasonable accommodation.

16           Nevertheless, the proposed modification on a  
17 second criteria for granting special exception would  
18 adversely impact the use of the neighboring property that  
19 belongs to St. Joseph's on Capitol Hill, which again St.  
20 Joseph's owns the building that shares a party wall that is  
21 attached to this existing accessory structure. They also own  
22 the hyphen section that is attached to the garage portion of  
23 this existing building and the two story parcel immediately  
24 behind that on the alley.

25           The building to be modified shares that wall.

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1 Applicant's floor plans indicate that the proposed  
2 modification would be supported by framed walls, as we heard  
3 in cross-examination, set not on top of the existing  
4 structure but inside of its existing brick walls. So these,  
5 if my hands represent the brick walls, one belonging to St.  
6 Joseph's, the other belonging to the applicant's property.

7           What they are proposing is building above that set  
8 in from the brick wall. And what that would create is a  
9 condition, a setback approximately 8 inches from the property  
10 line and St. Joseph's property, a rather deep trench between  
11 the two buildings, which would easily gather litter, leaves,  
12 twigs, nests, vermin, birds, animal waste, snow and ice and  
13 would be exceedingly difficult to clear out because of the  
14 nature of having to reach into a narrow space from the top  
15 of a building.

16           It would easily create a very difficult  
17 maintenance situation that could easily lead to damaging  
18 conditions of the existing structure for both properties.

19           I'd like to note also that the applicant has not  
20 submitted either a west elevation or a building section  
21 through this relevant portion of the building that would  
22 confirm that that condition does not currently exist, one  
23 which would affect my client.

24           Even if the applicant is able to demonstrate  
25 through additional drawings that this should not be a

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1 concern, that proposed setback from the existing brick wall  
2 would limit my client, St. Joseph's ability to modify or add  
3 to the height of its existing accessory building in the  
4 future without creating very similar conditions, causing  
5 damage to both properties.

6           It is customary in Capitol Hill and in urban row  
7 house type neighborhoods generally speaking to build two side  
8 property lines to avoid these very conditions. Recognizing  
9 that the Board of Zoning Adjustment has the authority in  
10 special exception cases to, quote, impose requirements  
11 pertaining to design, appearance, size, building materials  
12 or other requirements it deems necessary to protect adjacent  
13 property or to ensure compliance with the intent of the  
14 zoning regulations, I respectfully request that you require  
15 the applicant to adhere to such building conventions for the  
16 sake of the health, safety and welfare of his neighbors and  
17 their properties.

18           I note also that the applicant submitted drawings  
19 currently show a modified roof condition with no apparent  
20 slope, no apparent gutters, drains or downspouts. There is  
21 no indication then of how water is shed from the proposed  
22 modifications and how that might adversely impact immediate  
23 neighbors.

24           I note also the concerns expressed by several  
25 other neighbors regarding the actual use of the property, as

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1 it may conflict with the requirements of the site's  
2 underlying zoning.

3 In summary, we would have no objection to a proper  
4 modification of the existing structure, which would maintain  
5 its existing footprint and envelope to minimize non-  
6 conformance, which would use appropriate building materials  
7 and forms and would demonstrate no adverse effects to its  
8 neighbors.

9 However, the applicant's proposed modifications  
10 as submitted do not satisfy those requirements that merit a  
11 special exception. The proposal would be in discord with the  
12 purpose and intent of the zoning regulations and would create  
13 an adverse impact on the use and potential use of immediately  
14 neighboring properties.

15 I respectfully request that you deny the request  
16 for a special exception until the applicant has demonstrated  
17 with an alternate design that these requirements can be met.

18 Thank you.

19 VICE CHAIR HART: Are there any questions for the  
20 party in opposition? Okay. Cross-examination?

21 MR. FOWLKES: Yes. I have three questions. The  
22 first is, Mr. Seath, when we had the larger scheme, the one  
23 that was two stories, it had the same basic configuration and  
24 same materiality. It just was another story and it actually  
25 had a roof deck as well. Originally had a roof deck.

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1 Perhaps it was removed.

2           And at that time we went and we spoke to your  
3 clients and we presented them with the project. And they  
4 supported the project, and they provided us with an email  
5 indicating from the Reverend that he supported the project.

6           Do you know why they are voicing their problems  
7 with the aesthetics of it and the design of it now when it's  
8 several feet shorter and less obtrusive and didn't at that  
9 time?

10           MR. SEATH: Mr. Fowlkes, to my knowledge that's  
11 inaccurate information because my firm was contacted by  
12 Reverend Gurnee at the time of that original application that  
13 has since been withdrawn expressing similar concerns and that  
14 was the point at which I got involved with this.

15           Reverend Gurnee is in the room, as are other  
16 representatives of St. Joseph's on Capitol Hill and perhaps  
17 they can address the nature of your earlier communications  
18 directly.

19           MR. FOWLKES: I'd just like to chime in really  
20 quickly, I don't want to get into, you know, why didn't this  
21 happen or why didn't that happen? But I will say that  
22 between January --

23           VICE CHAIR HART: Is this a question? We're  
24 asking questions right now of the presentation that was  
25 before us.

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1           MR. FOWLKES: Okay. I have another question. And  
2 it pertains to the drawing that's on the screen in front of  
3 you. Is this the outline of the structure that belongs to  
4 your client?

5           MR. SEATH: That is correct.

6           MR. FOWLKES: Okay. Can you show me the portion  
7 of the relief that my client is seeking that abuts your  
8 client's structure?

9           MR. SEATH: The hashed walls that you see in this  
10 drawing are, as I understand, your proposed modification.  
11 Immediately beyond those hashed walls and between the dashed  
12 property line are the existing brick walls.

13           So by building above the current height of that  
14 current existing brick wall and St. Joseph's on Capitol  
15 Hill's existing brick wall, that area between the buildings  
16 is where a deep trench would be created between the  
17 buildings.

18           MR. FOWLKES: We're not asking for relief for  
19 height. We're asking for relief for area. And this is the  
20 area that is beyond the allowable lot occupancy. So what  
21 portion of this area here, as I'm indicating with the cursor,  
22 abuts your client's structure?

23           MR. SEATH: I believe there is also a party wall  
24 which continues along the property line, which is adjacent  
25 to that section of the proposed modification.

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1 MR. FOWLKES: The party -- can you define a party  
2 wall for the record?

3 MR. SEATH: Excuse me. I should clarify that  
4 there's a wall separating the properties rather than a party  
5 wall, per se, between the two properties.

6 MR. FOWLKES: So our client would be building up  
7 against the wall and on the other side of that wall, in your  
8 client's structure, excuse me, is your client's property, but  
9 there is no structure there. Is that correct?

10 MR. SEATH: On that particular portion. However,  
11 the portion on which we are building necessarily has  
12 modifications and implications for the remainder of the  
13 building, which do impact the client's existing accessory  
14 structure.

15 MR. FOWLKES: And is it true that portion that you  
16 just referenced is a portion of construction that my client  
17 can do by right?

18 MR. SEATH: I can't answer that because you have  
19 not submitted drawings that would indicate a modification by  
20 right.

21 MR. FOWLKES: From a zoning perspective.

22 MR. SEATH: I can't answer that question.

23 VICE CHAIR HART: So you're all talking about this  
24 wall that's here, the wall that's in the middle of this.  
25 This one here.

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1 MR. FOWLKES: Yes.

2 VICE CHAIR HART: Okay. Okay. I mean, I, yes.  
3 Any further questions?

4 MR. FOWLKES: No.

5 VICE CHAIR HART: No? Okay. The ANC, do you have  
6 any questions? I just want to make sure you don't have any  
7 questions. Okay.

8 MS. ROUHANIAN: Mine is not as much on this  
9 structural end. It is more toward the evidence of the use  
10 because if they are not residential, how can they request  
11 exception?

12 So my testimony is more toward the evidence that  
13 we have collected through the neighborhood that would impact  
14 us by the use of it, which would also exclude them from  
15 requesting for this relief.

16 So I should read that or are you focusing more on  
17 the architectural?

18 VICE CHAIR HART: We have requested information  
19 from the applicant on whether or not it is a -- how are they  
20 proving that it is a residential structure?

21 MS. ROUHANIAN: Right.

22 VICE CHAIR HART: You can submit the information  
23 in to us, and we can review it because I don't think we're  
24 going to decide this today because we've asked information  
25 from the applicant.

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1 MS. ROUHANIAN: If you don't mind, I'd like to  
2 read this statement --

3 VICE CHAIR HART: Sure.

4 MS. ROUHANIAN: -- just with regards to that.  
5 Okay. My name is Minoou Rouhanian. I reside at 312 3rd  
6 Street Northeast. I want to thank you for allowing me to  
7 voice my concern in opposition to the special exception  
8 application submitted by Mr. Hogan for 224 C Northeast  
9 property.

10 One of the primary goals of the Planning and  
11 Zoning Department is to maintain and enhance the quality of  
12 the DC neighborhood. I thank you for your diligence to  
13 uphold our zoning ordinance and to protect the quality of our  
14 neighborhood.

15 Our neighborhood, when applicant purchased this  
16 property with his partners on January 10, 2017, is located  
17 in a residential neighborhood. My neighbors and I object and  
18 oppose my Mr. Hogan's request for a special exemption to  
19 further expand on illegal commercial use of this residential  
20 property.

21 The continuation and expansion of the proven  
22 illegal commercial use of this residential property, one,  
23 would alter the essential residential zoning and character  
24 of the neighbor. Two, it would pose a threat to the historic  
25 structures, properties and personal vehicles by regular

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1 access and parking of very large commercial vehicles in the  
2 small back alley. Three, it will negatively affect the  
3 health and safety of the neighborhood. Four, it has and will  
4 cause disruption to our daily lives and exacerbate parking  
5 and traffic issues in the neighborhood.

6 It will also have a negative economic impact on  
7 the neighborhood's property value. Additionally, there is  
8 not an inordinate burden on Mr. Hogan and his partners to  
9 justify the request for the special exemption.

10 There are numerous evidence proving that no one  
11 resides at this property and that this residential property  
12 has been used for commercial purpose in violation of local  
13 zoning regulation.

14 For example, my neighbor, Mr. Hardner, who  
15 resides at 311 3rd Street is on HSP payroll to maintain the  
16 appearance of this property since no one lives there. There  
17 are printed flyers as well as online advertisement of various  
18 events at various times held at 224 C property. We have found  
19 online job posting for staffers to assist with events at this  
20 location.

21 We have also gathered pictures and disturbingly  
22 witnessed large commercial vehicles servicing this property  
23 from my back alley and causing traffic congestion onto 3rd  
24 Street as shown in the pictures that I will provide to you.

25 As my residential property is located less than

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1 12 feet from the back of 224 C property, the approval of this  
2 special exception will increase the illegal commercial use  
3 of this residential property and hence will affect me by  
4 invading my privacy, negatively impacting my quality of life,  
5 posing a threat to my peaceful living environment, health and  
6 safety, exposing me to noise and traffic from large delivery  
7 trucks servicing the property from the back alley.

8           Additionally, the media center proposed in the  
9 plans will introduce additional noise beyond the crowd noise  
10 during the commercial use of this property. Such altered  
11 environment and socioeconomic conditions would also have a  
12 negative impact on the value of my property.

13           I request denial of the special exception  
14 application to Mr. Hogan and instead opening up an  
15 investigation into commercial use of this property and to  
16 cease further deterioration of our residential neighborhood.  
17 Thank you very much for your time.

18           VICE CHAIR HART: Thank you. Do you have any  
19 questions for the -- any questions? Does the ANC have any  
20 questions?

21           So I will let the ANC give their -- do you have  
22 a presentation that you'd like to give as well?

23           MS. WIRT: Very brief.

24           VICE CHAIR HART: That's fine. If you -- let's  
25 put 10 minutes.

1 MS. WIRT: I don't need that much.

2 VICE CHAIR HART: Okay.

3 MS. WIRT: That's fine.

4 VICE CHAIR HART: Let's just let you go with it  
5 then.

6 MS. WIRT: On September 11, 2019, at a regularly  
7 scheduled duly noticed monthly meeting of ANC 6C with a  
8 quorum of six out of six commissioners and the public  
9 present, the 224 C Street application came before us.

10 Commissioners voted unanimously 6 to 0 to 0 to  
11 oppose this application. 224 C Northeast is zoned as a  
12 single family residential in RA-7 zone that is owned and used  
13 by principals from the Virginia-based direct mail marketing  
14 firm as a rent space.

15 Numerous neighbors in attendance at our ANC 6C  
16 meetings have complained about the adverse impacts from the  
17 commercial use of this property, which is out of sync with  
18 the residential neighborhood as well as parking problems  
19 during events and trucks that provide catering to events,  
20 blocking nearby streets and the rear alley.

21 The ANC 6C commissioners took the position that  
22 enlarging the garage to include additional meeting space  
23 constitutes an improper expansion of a non-conforming use in  
24 violation of DCMR 11-C, Section 204.

25 I urge you to oppose this application.

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1           VICE CHAIR HART: Thank you. Any questions?  
2 Okay. Let's go to -- does the Board have any questions?

3           MS. ROUHANIAN: May I pass this to you, or?

4           VICE CHAIR HART: You have to give that to the  
5 Secretary, Mr. Moy, who's at the end over there.

6           MS. ROUHANIAN: Okay.

7           VICE CHAIR HART: So let's hear from the Office  
8 of Planning. Welcome.

9           MS. ELLIOTT: Good morning, Vice Chair and  
10 members of the Board. I'm Brandice Elliott, representing the  
11 Office of Planning.

12           The application as provided in the record  
13 requests special exception relief for an addition that is  
14 about 86 square feet onto the accessory building and would  
15 increase the lot occupancy to 67 percent.

16           OP was supportive of the special exception. The  
17 application does represent that the property is being used  
18 for residential purposes. We understand this is now a much  
19 larger concern, and we did have some conversations with the  
20 applicant regarding the use and demonstrating that it is  
21 being used for residential purposes.

22           So we have asked the applicant to, and the  
23 applicant has already been working with the zoning  
24 administrator. We think that the correct way forward is to  
25 probably get an interpretation from the zoning administrator

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1 regarding the use.

2           There are some nuances where, you know, a home  
3 based business is permitted in a residential zone. But I  
4 think that it should be left up to the zoning administrator  
5 to determine whether or not -- whether the activities on the  
6 property, you know, are considered a home based business  
7 because it does require that the owner of the business  
8 actually reside on the site.

9           If it turns out that this is an expansion of a  
10 non-conforming, non-permitted use, OP would not support the  
11 application. But I'm happy to answer any questions you have.

12           MEMBER WHITE: You said you spoke to the owner  
13 personally or you spoke to the owner's representative?

14           MS. ELLIOTT: No, I spoke to not the owner, the  
15 person representing the owner, the applicant here, yes.

16           MEMBER WHITE: So you weren't able to actually  
17 have a conversation with the actual owner about whether or  
18 not he lives there and whether or not it's being used for  
19 residential purposes?

20           Obviously, we're hearing what the issues are.  
21 And there are some pretty dramatic conversations going on  
22 about whether or not it's actually being used as a  
23 residential building. And the applicant will have to provide  
24 proof.

25           So if the residential proof is not provided,

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1 obviously OP would not support the special exception request.  
2 Or is that incorrect?

3 MS. ELLIOTT: So if the zoning administrator  
4 determines that this is a non-conforming use and this would  
5 be an expansion of a non-conforming use, then OP would not  
6 support the request. There would be other relief that would  
7 need to be requested, probably, you know, use variance, you  
8 know, for starters.

9 MEMBER WHITE: Thank you.

10 VICE CHAIR HART: And so you're saying also the  
11 only allowable use would be a home-based business and that  
12 the owner would have to reside there. That's kind of part  
13 of that definition.

14 MS. ELLIOTT: That is correct.

15 VICE CHAIR HART: And so if they wanted to have  
16 something that was outside of that, that they would have to  
17 either get some sort of special exception for, I guess,  
18 variance from us because a use as an event space would not  
19 be allowed in the, what is it, R-7 Zone?

20 MS. ELLIOTT: RA-7 Zone. That is correct. If  
21 the zoning administrator determines that this is not a home-  
22 based business, then a use variance would likely be required  
23 for the activities.

24 VICE CHAIR HART: Okay. All right. Any other  
25 questions?

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1           MEMBER JOHN: I have a question. So regulations  
2 speak to a residential building. And so if the tax records  
3 confirm that this is a residential building, why would we be  
4 concerned about the expansion of a non-conforming use, and  
5 why wouldn't that be an enforcement issue?

6           MS. ELLIOTT: I don't think that the tax codes  
7 always fully align with the zoning regulations in terms of  
8 how use is defined. So it is possible that it's -- I mean,  
9 I couldn't tell you in what cases they match or they don't.

10           But I think that in this case since this is an  
11 issue of the zoning regulations and they're asking for that  
12 relief, then they need to demonstrate as it pertains to the  
13 zoning regulations, as is defined by the zoning regulations,  
14 that this is a residential use.

15           VICE CHAIR HART: Does the applicant have any  
16 questions for the Office of Planning? Sure.

17           MR. FOWLKES: Just a clarification. Is it  
18 correct to say that there actually is not very much  
19 disagreement about the use? The disagreement or the  
20 confusion is about what is a residential use or what defines  
21 a residential use?

22           MS. ELLIOTT: So I think that there's some room  
23 for interpretation in this case as to, you're correct, as to  
24 whether the activities occurring on the site are indeed  
25 residential and that's why we would need the zoning

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1 administrator to weigh in and determine if the activities are  
2 a home-based business in conjunction with, you know, a  
3 residence or if it is a commercial activity.

4 VICE CHAIR HART: Any other questions? I'm going  
5 to go -- oh, yes. I'm sorry.

6 COMMISSIONER MILLER: Yes. I have a couple of  
7 quick questions or comments for the Office of Planning. What  
8 was your interaction with the zoning administrator? You may  
9 have said that. I just think I missed it. What was your  
10 interaction so far with the zoning administrator about this  
11 property?

12 MS. ELLIOTT: I did not engage the zoning  
13 administrator because by the time I had spoken with the  
14 applicant about it, he had already reached out and provided  
15 additional information. And it seems like we're waiting for  
16 him to respond to the letters that have been provided from  
17 both the owner and the ANC.

18 COMMISSIONER MILLER: And I can ask the ANC this  
19 question. I don't think we have it in the record the letter  
20 that you may have written to DCRA or do we?

21 MS. WIRT: No. It was written in July, but I can  
22 provide it.

23 COMMISSIONER MILLER: And that letter, with your  
24 indulgence, Mr. Chairman, if I can go back and forth between.  
25 Ms. Wirt forwarded that letter in July to DCRA zoning

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1 administrator to ask for --

2 MS. WIRT: It asked for an investigation as to  
3 whether it was commercial use or residential.

4 COMMISSIONER MILLER: Say that again. I'm sorry.

5 MS. WIRT: It asked for an investigation as to  
6 whether the use was residential or commercial.

7 COMMISSIONER MILLER: And have you received a  
8 response?

9 MS. WIRT: I have not, not definitive no. I did  
10 receive one email but it was not conclusive.

11 COMMISSIONER MILLER: What was the email? You  
12 just said -- what did it say? It just acknowledged your --

13 MS. WIRT: It acknowledged our ANC letter and  
14 also said it was looking into it so.

15 COMMISSIONER MILLER: Looking into it.

16 MS. WIRT: I can also provide that.

17 COMMISSIONER MILLER: Okay. I think it would be  
18 helpful to have that. Ms. Elliott, there's a lot of  
19 information in the record already, and we haven't even gotten  
20 into the opposition testimony. But there is an enforcement  
21 issue here.

22 You're representing the Office of Planning but  
23 you're two sister agencies, which I think need to be  
24 investigating this situation. DCRA about the use, whether  
25 there non-permitted use is going on on this property and Tax

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1 and Revenue to make sure that if there are non-permitted  
2 uses, non-residential uses going on on this property, that  
3 it's not getting the residential property tax rate, a much  
4 lower, I would say, Class 1 owner-occupied residential tax  
5 rate.

6 And so I think there are enforcement issues which  
7 you, as our representative in the executive branch here, need  
8 to refer to those agencies for investigation and appropriate  
9 enforcement. And I would encourage you to do that, whatever  
10 the outcome of this case is.

11 VICE CHAIR HART: Ms. Wirt, do you have any  
12 questions for the Office of Planning and do the opposition  
13 parties have any questions for the Office of Planning? Yes.

14 MS. ROUHANIAN: Hi. So some of these events, and  
15 I provided the pictures that we have captured the traffic  
16 that it is causing because they cannot access the front of  
17 the house with these large trucks and they barely fit through  
18 the alley. And every time they come and go and do delivery,  
19 as the picture shows, the C Street and 3rd Street, they are  
20 completely traffic congestion. It pretty much comes to a  
21 halt until these guys can get into the alley and get out of  
22 the alley.

23 And our neighbor, who has a parking spot, even  
24 though we cannot prove that these cars have caused these  
25 scratches, the environment, the area, the way the

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1 neighborhood is, it's not capable of receiving such service  
2 trucks, especially that the structures are historic and these  
3 trucks literally fit -- I cannot pass by it. I literally  
4 have to slip by the truck.

5           So their commercial use of this property, the way  
6 it is now, it is so much traffic and it's not just home-  
7 based. It's more that I believe is like five or six that  
8 they can work in the location if they are using it as a home-  
9 based. It's way beyond that. I mean, when they have  
10 function, which they advertise it, you can see. And then  
11 they have all these trucks coming in.

12           So you can see in the pictures, C Street and 3rd  
13 is completely congested all the way down. So in response to  
14 DCRA how they would look at it, even if there is a variance  
15 for them to have a home-based, which they are not living at  
16 at all. We know that for a fact. They even exceed the  
17 number of people that with a home-based they can have at this  
18 property and the services that they can provide because they  
19 cannot access the front. They can only access from the back.

20           MS. ELLIOTT: So I'm not exactly sure what the  
21 question was there.

22           MS. ROUHANIAN: I'm sorry. So I guess my  
23 question is with these congestion and issues that the current  
24 commercial use poses, is it still okay with -- is this  
25 something that DCRA would still approve even for a home-based

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1 variance because it's really causing such havoc in the area.

2 MS. ELLIOTT: I think that that's something --  
3 it's been called to DCRA's attention to investigate it. And  
4 I assume that that's going to be part of the investigation.  
5 As part of this review, which was the expansion of the  
6 garage, DDOT did review the application, and they had no  
7 objection to the addition.

8 As for the use, I think that DCRA is probably --  
9 that would be part of their broader investigation. The  
10 District Department of Transportation weighed in on this  
11 application in the record and submitted a report of no  
12 objection.

13 MS. ROUHANIAN: So was there any record of the  
14 service trucks that are constantly coming to this property?  
15 Is that part of the application? Does that show in that  
16 application?

17 MS. ELLIOTT: The record is what's in the file,  
18 what the applicant filed as part of their application. And  
19 then the subsequent correspondence that has rolled in  
20 afterwards including party status requests and letters of  
21 objection and the ANC information.

22 VICE CHAIR HART: Thank you very much. So at  
23 this point, I think I would like to actually hear from the  
24 public, because I know there are a lot of folks that are --  
25 at least I'm thinking there are a lot of folks that are here

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1 that would like to speak. And I think that because we're  
2 looking for some additional information that we'll probably  
3 not finish this hearing today only because we're looking at  
4 having the information about, you know, how are you proving  
5 that this is a residential building, you know, for zoning  
6 purposes.

7 So could I have a show of hands how many people  
8 are here to testify on this case? Okay. The folks that are  
9 at the table now if you could give up your seats so that  
10 these folks could come in. And I'm assuming everybody has  
11 been sworn in. Has anybody not been sworn in that's coming  
12 to testify right now? Okay.

13 If you all could come forward and I'll say folks  
14 that are here to testify in opposition -- are you folks all  
15 in opposition that are coming here? I just want to make sure  
16 -- you all can come forward. I'm saying for the record that  
17 everybody that is coming forward is in opposition.

18 I'll give you a minute to make your way to the  
19 table. Okay. Welcome, everybody. If you could give us your  
20 name and address. And you can start from my right to left.

21 MS. GARDNER: Okay. Thanks a lot. I'm Elizabeth  
22 Gardner. I live at 313 3rd Street Northeast.

23 VICE CHAIR HART: Yes. If you can go -- just go  
24 down the --

25 MS. HALKIAS: My name is Becky Halkias. I live

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1 at 317 C Street Northeast.

2 VICE CHAIR HART: Can you spell your last name?

3 MS. HALKIAS: Sure. H-A-L-K-I-A-S.

4 VICE CHAIR HART: Thank you. Yes, ma'am.

5 MS. BLACKMAN: Good morning. I'm Doris Blackman.

6 And I live at 318 3rd Street NE.

7 VICE CHAIR HART: Thank you.

8 MS. ELSASSER: I'm Katharine Elsasser, E-L-S-A-S-  
9 S-E-R, and I live at 319 C Street Northeast.

10 MR. FIESTA: Richard Fiesta. I live at 213 C  
11 Street Northeast.

12 MR. MEADOWS: David Meadows, senior advisor for  
13 councilmember at large Anita Bonds, 1350 Pennsylvania Avenue  
14 Northwest.

15 MR. PETERSON: Good morning. Gary Peterson for  
16 the Capitol Hill Restoration Society. I live at 810  
17 Massachusetts Avenue Northeast.

18 VICE CHAIR HART: Okay. So each of you that are  
19 here representing yourselves, you will have three minutes.  
20 And Mr. Peterson, you have five minutes representing the  
21 CHRS. And actually, I'm curious, the Office of the Attorney  
22 General, the person that's representing the person that is  
23 representing -- Mr. Meadows is representing the  
24 councilmember. Do they have five?

25 MS. NAGELHOUT: Typically, they --

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1 VICE CHAIR HART: Okay. He said they only need  
2 a minute so that's fine.

3 MS. NAGELHOUT: The actual figure, yes.

4 VICE CHAIR HART: I kind of figured as much, but  
5 I wanted to make sure. So Ms. Gardner, you have three  
6 minutes.

7 MS. GARDNER: Okay.

8 VICE CHAIR HART: And you can begin when you  
9 like.

10 MS. GARDNER: Thanks. I've learned a lot about  
11 zoning today, this morning and the last two weeks. I'm a  
12 nurse, not a zoning expert. I bought my house in 2003 to be  
13 near Washington Hospital Center where I work and because I  
14 wanted to live in a neighborhood many people had described  
15 back then as a pedestrian village.

16 But since 2003 this pocket of very inner Capitol  
17 Hill, the blocks immediately around the Capitol, the Senate  
18 buildings, the Supreme Court, et cetera, have become less  
19 characterized by the neighbors living here and more populated  
20 by quasi-business political uses, such as HSP Events Based  
21 Townhouse at 224 C.

22 Parking is challenged by the presence of Chevy  
23 Suburban convoys. It is eerily silent at night and on  
24 weekends, and it feels more like an empty business sector and  
25 less like a place where people live than it used to. And

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1 that's no accident, of course. Businesses like HSP want to  
2 be right there for obvious reasons.

3           Though their headquarters is in Virginia, it  
4 wouldn't serve their purposes to have their events based in  
5 the suburbs rather than the political congressional  
6 epicenter.

7           I wanted to quote another neighbor, Elizabeth  
8 Holmes, who wasn't able to be here today. She resides at  
9 Madonna House at 222 C Street Northeast. She expressed  
10 surprise that 224 C is listed in this special exception  
11 application as a single family dwelling.

12           She noted when the new owners bought the house in  
13 2017 they dropped in, provided their business card and said  
14 their group lobbied for nonprofit organizations and would  
15 hold gatherings there although no one would be living there.

16           Ms. Holmes has observed gatherings on the back  
17 patio and some in the house. Very occasionally someone is  
18 in the house in between the gatherings but not for very long.  
19 There is no evidence of anyone living there permanently and  
20 especially at night. No signs of activity at night at all,  
21 no lights.

22           She also noted that when Madonna House got to  
23 this block in 1981, 224 C had always been a family dwelling,  
24 which meant people living there pretty much 24/7. She  
25 observed, one can sense on this block a lack of life because

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1 of the houses that are not domiciles.

2           So I'm an aging nurse. I'm hoping to retire in  
3 the next decade. But I'm concerned at the changes to the  
4 residential quality of the neighborhood. And I'm considering  
5 whether I have to move away when I retire because I want  
6 actual human neighbors.

7           I don't want to leave Capitol Hill, but at this  
8 point, as a nurse, I can't afford to buy in anywhere else on  
9 Capitol Hill, some perhaps more distant Capitol Hill  
10 neighborhood that has retained its residential quality  
11 because it's not so vulnerable as this immediate inner  
12 neighborhood is to this type of business use.

13           I may be forced to leave. This makes me sad and  
14 indignant. This area is still zoned residential. I join my  
15 neighbors in asking the Zoning Commission to deny this  
16 special exemption on the grounds of fundamental ineligibility  
17 by a business and also because HSP already causes adverse  
18 impacts to the neighborhood. It will only be increased by  
19 allowing them to add to their footprint on the lot and on the  
20 activity and character of the block. Thank you for this  
21 opportunity.

22           VICE CHAIR HART: Thank you very much. And I  
23 appreciate the testimony that you've given. And just to make  
24 sure that we're all on the same page, if you could make sure  
25 that all of the testimony that you give is your testimony.

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1 I understand that you gave someone else's. It's not a  
2 problem. But the issue is that when you're giving testimony  
3 from someone else, then no one can cross-examine or ask  
4 questions of them because they're not here.

5 MS. GARDNER: I can send the primary email from  
6 her as well.

7 VICE CHAIR HART: And I appreciate the  
8 information. It's okay. I just want to make sure that we're  
9 making sure that when we're going through that we're getting  
10 testimony of the people that are sitting here today. But  
11 thank you very much. Are there any questions?

12 MS. HALKIAS: My name is Becky Halkias. I live  
13 at 317 C Street, and I oppose the request for the special  
14 waiver because I believe it violates the purpose and the  
15 intent of the zoning regulations.

16 I am familiar with the business model of HSP but  
17 not zoning. And I, too, have learned a lot about zoning  
18 today. And I'm concerned about turning everything over to  
19 the zoning administrator because there has been a  
20 proliferation of this business model of corporations buying  
21 residential houses on the house side. They even have little  
22 plaques naming the corporate interest that own the house.

23 And now you have a number of these type of  
24 corporate entities using the houses just on this one block.  
25 And I understand, and I will try to get the information for

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1 you, that DCRA went to meet with someone on this block who  
2 uses one of the houses during the day as an office. And this  
3 gentleman registers in federal records that his address is  
4 in Maryland and yet he uses the house. And DCRA went in and  
5 he said this is my home office yet he's never there at night.

6           So this is a problem that someone needs to work  
7 with DCRA and make sure that your laws that you devote all  
8 your time to enforce and that protect one of the largest  
9 investments we all make in our lives are protected. But  
10 anyway, I just believe that, yes, the special exemption will  
11 make this a better events space. I know when I got to these  
12 events having one large room makes it a better space.

13           But for all the reasons you've heard about, it  
14 has a serious deleterious effect on all of our lives for all  
15 the reasons you heard. So I'm going to zip it on that.

16           But I've spent my life dealing with government  
17 and dealing with laws. And I respect the law and the process  
18 for changing it because this is a system that strives to make  
19 our society just, equal and fair. And these zoning laws  
20 protect, you know, the things that, our homes and our lives,  
21 if we all follow the rules then it can't be abused by  
22 anybody.

23           And for that reason, I just ask that you reject  
24 the waiver. Thank you.

25           VICE CHAIR HART: Thank you. Any questions for

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1 Ms. Halkias?

2 MS. HALKIAS: Excellent.

3 VICE CHAIR HART: I try. Ms. Blackman.

4 MS. BLACKMAN: Good morning, everyone.

5 VICE CHAIR HART: Good morning.

6 MS. ELSASSER: My name is Doris Blackman. And I  
7 live at 318 3rd Street Northeast. I have been in the house  
8 that I live in, which my parents purchased, since 1948 and  
9 I've watched a lot of changes in the neighborhood and in the  
10 laws of the District of Columbia.

11 My interest is that renovation of this building,  
12 traffic, there's an alley right there in the middle, right  
13 there on one side of the alley. I have residential parking  
14 space there. And I have trouble with traffic coming in and  
15 out of there, not necessarily for this particular building  
16 that we're talking about, but all traffic coming in and out  
17 of there. And like they say, this is a public place.

18 We've been there a long time and the alley itself  
19 is in sections. It may start out wide here, get narrow  
20 there. And then they get up and see, the persons I mean.  
21 And that's an excellent driver. There's damage to the house  
22 because my house shows evidence of some of that from way back  
23 when because trash trucks used to go up there and they  
24 stopped that.

25 But as far as this issue is concerned, renovation

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1 itself, whenever it starts, if it starts there, all of the  
2 traffic will be directed pretty much through the alley on 3rd  
3 Street because now the police insisted that they go up  
4 through C Street and no trucks are allowed to go up there.

5           And then depending on the trucks for the traffic  
6 that goes in and out of there, then it may be a big truck.  
7 It may be a pallet truck. It may be a Bobcat to do, you  
8 know, the construction work and all like that. It will  
9 affect the area and especially my property.

10           And I am not in favor of this, and I stated that  
11 when I was approached when they came by that I was not  
12 signing any papers or anything because I did not, I could  
13 see, you've got to look at what is to happen and how it's  
14 going to happen and how it's going to affect us. So I am in  
15 opposition of this request.

16           As I said, that's the main thing. And there are  
17 a lot of law changes and all like that. But it's either  
18 residential or commercial and then we have to consider it one  
19 or the other. Thank you.

20           VICE CHAIR HART: Thank you very much. Any  
21 questions for Ms. Blackman? Ms. Elsasser.

22           MS. ELSASSER: My name is Katharine Elsasser.  
23 And I live at 319 C Street Northeast. This is one block from  
24 224 C. I have lived in my property since 1973. I've lived  
25 there continuously.

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1           We moved there because it was a residential  
2 neighborhood. And we raised our son there and one of the  
3 things that we have most enjoyed about the neighborhood are  
4 the number of children currently on my block between 3rd and  
5 4th. On C Street there are nine children under the age of  
6 18, which is exceptional. There are now, as far as I know,  
7 no children in the 200 block of C Street. And there used to  
8 be a number, including ones who lived at 224.

9           I personally object to the traffic and congestion  
10 caused by using 224 as a commercial space and having events  
11 there. I also am concerned about the large number of trucks,  
12 and I mean, very large delivery trucks of all sorts, that  
13 come down the 300 block of C and also on 3rd Street.

14           I also feel very, very, very sad about losing so  
15 many properties. And it's constant. It's a constant battle.  
16 These houses are being taken over and used as commercial  
17 space. And I know that 224 is, and I'm aware of a couple of  
18 other properties in the immediate vicinity as well.

19           It is destroying a residential community that has  
20 existed as a residential community for over 200 years.  
21 That's my statement.

22           VICE CHAIR HART: Thank you very much. Any  
23 questions for Ms. Elsasser? Thank you. Mr. Fiesta.

24           MR. FIESTA: Yes, thank you. My name is Richard  
25 Fiesta, 213 C Street. And my understanding is the applicable

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1 standard for the special exemption is there will be no  
2 adverse impact for granting the exception. In fact, as  
3 you've heard today the owners of this property have already  
4 created an ongoing adverse impact by using this zoned  
5 residential property for commercial purposes that started  
6 shortly after its purchase in January of 2017.

7 I've provided the Board members with a packet of  
8 readily researchable items on the internet indicating the  
9 number of receptions, fundraisers for political candidates  
10 and other commercial non-residential events at 224 C. And  
11 as you can see, it started -- the earliest that I could find  
12 was shortly after the sale in 2017.

13 I would like to direct you -- again, no one lives  
14 in this house. I live across the street. The drapes never  
15 move. The front window from the porch is always open,  
16 drapery-wise, that you can see through the house. The drapes  
17 on the second floor never move. There are no lights on the  
18 weekend. The recycling bins are never put out on the  
19 appropriate night either.

20 And as you have heard a neighbor is actually  
21 being paid by the owner to upkeep the house from Ms.  
22 Rouhanian.

23 Throughout these documents, this property is  
24 referred to as the HSP Townhouse, not the Mr. Hogan or Ms.  
25 Paul's townhouse, but their corporate name townhouse. And

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1 they allow third-party sponsors to host events there. And  
2 you can see that through these documents as well. Even if  
3 this was residential, you wouldn't have someone using third-  
4 party commercial entities using this property.

5           In fact, my Document 6, March 2019 is job ad by  
6 HSP on its own Facebook and LinkedIn sites looking for a  
7 staff member whose duties include Capitol House event  
8 planner. Plan and execute events at our company-owned  
9 townhouse in DC, arrange catering, drinks, theme if  
10 applicable, and miscellaneous details prior to the event.  
11 Form guest lists and track RSVPs leading up to each event.  
12 Keep track of house inventories and order new supplies when  
13 needed. Act as liaison for the house schedule.

14           This is the owner of the property in their own  
15 words. Hardly a residential use of this property.

16           In addition, my Document 7 shows a fundraiser  
17 just this past May for a member of Congress at the house and  
18 the sponsoring event refers to busses that took the  
19 partygoers, the fundraiser-goers, to the event and then  
20 picked them up. Again, a residential property on C Street  
21 Northeast.

22           There's plenty of zoned commercial property  
23 underneath of it. Building owners of commercial properties  
24 are put at a loss for situations like this. So I urge this  
25 application, that you oppose it, follow the recommendation

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1 of ANC C-6, which is unanimous as well as councilmember  
2 Charles Allen and I assume Councilwoman Anita Bonds. Thank  
3 you.

4 VICE CHAIR HART: Thank you very much. Any  
5 questions for Mr. Fiesta?

6 MEMBER WHITE: Mr. Fiesta, did you share any of  
7 these documents with DCRA or the zoning administrator?

8 MR. FIESTA: Yes. This is not new to us in spite  
9 of what the applicant's representative said. Commissioner  
10 Wirt and Commissioner Eckenwiler met over a year ago with  
11 DCRA personnel in August of 2018.

12 And a number of these documents have been -- not  
13 only this house. Our block is unfortunately famous for the  
14 Scott Pruitt condo that you may remember, the former EPA  
15 administrator. There are other properties. This is not the  
16 only property on our block where we have residentially zoned  
17 and businesses being used. So a number of this, thanks to  
18 Commissioner Wirt and Commissioner Eckenwiler and the two  
19 council offices, we have been trying to get DCRA to move for  
20 a long time. Again, they met with them August of 2018.

21 MEMBER WHITE: Thank you.

22 VICE CHAIR HART: Any other questions? Okay.  
23 Yes.

24 MR. MEADOWS: David Meadows with the office of  
25 at-large Councilmember Anita Bonds. And it may seem, you

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1 know, interesting that, you know, a letter was not submitted.  
2 But I think that the situation here does call for testimony  
3 from her office and from the council-lady. She stands in  
4 support of these neighbors.

5 She's the chairperson of our housing and  
6 community revitalization, not our community depletion  
7 committee. What we have here on its face is quite simple.  
8 We have a corporation that wants to expand their space to  
9 continue to behave as a corporation.

10 This is not a resident that has benefitted their  
11 neighbors or their community. This is a corporation. And  
12 so Councilmember Bonds stands firmly with the residents of  
13 the neighborhood. She stands firmly with 80 units being used  
14 to expand affordable throughout this city.

15 Last year, in fact, she produced legislation that  
16 will allow such things to happen but not 80 units to be  
17 expanded for corporations. And so that's pretty much the end  
18 of my testimony except to add that we have contacted DCRA in  
19 May of this year. At that time, they did not have any  
20 objection to the ownership.

21 It was owned by Mr. Hogan, who is the principal  
22 of the fundraising firm. They cannot determine whether he  
23 resided at the property or not. But at that time in May they  
24 found no indication that he did or did not live at the  
25 property. We're asking for follow-up to that.

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1           Additionally, we have reached out to the Office  
2 of Tax and Revenue, and we're expecting to receive some  
3 documentation on exactly what this property pays in taxes.  
4 And so we will be happy to share that with this Commission  
5 once we receive those documents.

6           VICE CHAIR HART: Thank you very much. Any  
7 questions for Mr. Meadows? Okay. Last we have Mr. Peterson.  
8 Welcome.

9           MR. PETERSON: Last but not least. My name is  
10 Gary Peterson. And I'm the Chairman of the Capitol Hill  
11 Restoration Society. In the interest of time I will note for  
12 you that we submitted a letter in opposition, and I'm not  
13 going to read that or repeat what's in the letter. I think  
14 we give you ample grounds just based on special exception  
15 requirements not to approve this special exception. And  
16 that's in the letter itself.

17           I would like to, however, clarify a few things.  
18 First of all, this property is taxed as residential. I  
19 checked the tax record yesterday. It does not receive a  
20 homestead exemption as well. Two of the partners of the firm  
21 are listed as owners of the property.

22           If you go to the website of the firm, it lists  
23 five partners. And four of the five partners, it lists where  
24 they live. And so the two partners who are listed as the  
25 owners list Virginia as their residence.

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1           So I think their own statements -- and you can go  
2 to their website and check that out. It's very easy. And  
3 so I think their own statements would show that they are not  
4 in residence at the place, and I think the fact that it's not  
5 receiving a homestead exemption also would prove that they're  
6 not in residence at that place.

7           Now, I would also point out that there's a number  
8 of organizations now that provide space for what they propose  
9 to do, the events they propose to hold and are in the  
10 business of renting space to organizations and are used by  
11 many organizations for these purposes.

12           And so there is commercial space. There are  
13 commercial businesses on Capitol Hill that can offer what  
14 they are doing. So it isn't as if there's not space  
15 available or things like that.

16           So I heartily recommend -- I join the others in  
17 recommending to you that for the reasons stated in our letter  
18 you deny the special exception.

19           VICE CHAIR HART: Thank you. Are there any  
20 questions for Mr. Peterson? Okay. And I know that I should  
21 be also allowing the applicant and the parties in opposition  
22 and the ANC to ask questions of you all. But there are a lot  
23 of you all that are here.

24           Can I have the -- yes, Mr. Locraft. Do you have  
25 any questions? And he's nodding no. So I'm just kind of

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1 checking. Ms. Wirt? Thank you, no. And, I'm sorry, you  
2 guys were all over the place in the room. Yes? It looks  
3 like no one has any questions for any of those that have  
4 testified.

5 I do appreciate your testimony. And you may have  
6 a seat. And I'll ask the other folks to come back here, the  
7 parties in opposition, the ANC and then the applicant and  
8 then we'll show you where we are from here.

9 I will ask, is there anyone here that would like  
10 to speak in support of the application? I didn't ask that.  
11 So I just wanted to make sure. And folks are changing so I  
12 will give them a second to do that.

13 Okay. So normally what we would do is have a  
14 rebuttal and then kind of closing arguments. But because  
15 we've asked a couple of questions or we've asked for some  
16 information from the applicant, I think it might be better  
17 to get that information and then kind of continue the  
18 conversation at an upcoming meeting.

19 So just how the rest of the hearing -- we've gone  
20 a pretty long way today, and we've heard a lot of testimony  
21 on the different sides of the case. So that's what I would  
22 propose that we do now.

23 So Mr. Locraft, do you understand what we're  
24 looking from you all?

25 MR. LOCRAFT: I do.

1           VICE CHAIR HART: Okay. Is there anything else  
2 -- does the Board have any other questions or anything -- for  
3 the applicant or for any of the parties?

4           MEMBER WHITE: Will we also be getting some  
5 information from DCRA?

6           VICE CHAIR HART: Well, I think that I would like  
7 that. And I'm not exactly sure what the direction is. And  
8 maybe it's you, Mr. Locraft, if you could reach out to them  
9 and understand what that timing is because right now I'm not  
10 really sure when we might be able to get that. It seems like  
11 there's been information that's been requested from them for  
12 months.

13          MR. LOCRAFT: Right.

14          VICE CHAIR HART: And I don't know if that's --  
15 if we continue this hearing for a month and then to see what  
16 we get at that point, I think that might be the best route  
17 to go down now.

18          MR. LOCRAFT: I think so, too. One question I  
19 have is I've tried to follow up with Mr. Locraft, like, six  
20 or seven times. And I know that he's notoriously hard to  
21 reach. I feel like if I keep doing that it's probably going  
22 to be the same scenario where we're just waiting and waiting.  
23 I don't know if there is anything that the Commission can do  
24 to kind of, you know --

25          VICE CHAIR HART: Expedite it.

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1 MR. LOCRAFT: Expedite it or kind of step in and  
2 say, hey, this is something that's being considered right  
3 now. Otherwise, I just don't know how long it's going to  
4 take to move this forward.

5 VICE CHAIR HART: Mr. Moy --

6 MR. LOCRAFT: The same with DCRA, I don't know,  
7 you know, just me reaching out to them, I don't know what  
8 kind of clout that I have --

9 VICE CHAIR HART: I understand.

10 MR. LOCRAFT: -- in terms of --

11 VICE CHAIR HART: I understand. Mr. Moy, can we  
12 reach out to DCRA in this?

13 SECRETARY MOY: Yes, I can -- I have done that in  
14 the past. I can give it a shot.

15 VICE CHAIR HART: That would be great.

16 (Simultaneous speaking.)

17 VICE CHAIR HART: Poor choice. For whatever it's  
18 worth.

19 MS. WIRT: Just a quick question. How many days  
20 do we have to submit additional information after these  
21 hearings?

22 VICE CHAIR HART: I'm going to keep it open. So  
23 we'll get information. And part of that is just so that we  
24 can understand all of this. What additional information are  
25 you going to add? Just so that I --

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1 MS. WIRT: I said I would send the letter that  
2 the ANC sent to the zoning administrator.

3 VICE CHAIR HART: Okay.

4 MS. WIRT: And also the email I received back.

5 VICE CHAIR HART: Okay. And we're supposed to  
6 also get the letter from Mr. Locraft that you had sent to the  
7 DCRA. That would be helpful as well. I don't think we asked  
8 for anything from you all. Okay.

9 MS. ROUHANIAN: If you need any additional proof  
10 of what we have, we have a lot of documents. We just didn't  
11 want to kill too many trees.

12 VICE CHAIR HART: I think this is fine that we've  
13 got. We've got your testimony and the drawing. Did you --

14 MS. ROUHANIAN: The pictures.

15 VICE CHAIR HART: Sorry, the pictures. Did you  
16 submit the pictures into the record? I guess if we have them  
17 now, they'll be added to the record now. So you don't have  
18 to do anything additionally other than that.

19 So now we have to look at kind of timing and what  
20 does a month from now look like, Mr. Moy?

21 SECRETARY MOY: If you're scheduling this for a  
22 continued hearing, Mr. Miller will be back on October the  
23 16th. Otherwise, if it's for a meeting, the Board can select  
24 any date.

25 VICE CHAIR HART: Oh, I think the 16th is fine.

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1 That's a month from now. We'll kind of push with DCRA to  
2 understand where they are. If you all, Ms. Wirt, if you  
3 could submit your information, I assume you could it by the  
4 end of this week, in October, yes.

5 SECRETARY MOY: And that would be a hearing.  
6 That would be another hearing.

7 VICE CHAIR HART: That's correct. Yes, yes.  
8 What's the -- there's an issue with the date.

9 MS. ROUHANIAN: I don't know if I need to be  
10 present. I am on a business trip.

11 VICE CHAIR HART: Okay. Well, you are now a  
12 party. And so it is helpful to have that. However, there  
13 are two people that are parties, and I don't know if you can  
14 have a conversation with Mr. --

15 MR. SEATH: Seath.

16 VICE CHAIR HART: -- Seath. I'm sorry. I'm,  
17 like, a lot of names right now that I've gone through, to at  
18 least understand if there are some additional things that  
19 you'd like to have and if you're okay with that, that's up  
20 to you. And I just want to make sure that you are okay with  
21 that.

22 MS. ROUHANIAN: Okay.

23 VICE CHAIR HART: Okay. So I think we will keep  
24 the 16th. And we have asked for information, and you all are  
25 providing some more information. This is a continued hearing

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1 so we will still be able to ask questions. We'll go through  
2 a rebuttal and the kind of the closing, which is the last two  
3 things. And that's it. So do you have any further  
4 questions? Okay.

5 SECRETARY MOY: Mr. Chair.

6 VICE CHAIR HART: Yes, sir.

7 SECRETARY MOY: For my own edification --

8 VICE CHAIR HART: Sure.

9 SECRETARY MOY: -- so just to recap, so the Board  
10 is asking for specific documents from the applicant. And I  
11 believe he said he would provide that to the Board in a week,  
12 was that? Did I hear that incorrectly? Apart from a  
13 response from DCRA.

14 MR. LOCRAFT: Yes, yes. Everything that we  
15 currently already have in our records, yes, by the end of the  
16 week, for sure but not, like, this afternoon.

17 SECRETARY MOY: Okay. Well, since this is  
18 rescheduled to October 16, I think it's okay to give you a  
19 week --

20 MR. LOCRAFT: Okay.

21 SECRETARY MOY: -- to file them into the record,  
22 which then would be September the 25th.

23 MR. LOCRAFT: Okay.

24 SECRETARY MOY: And I believe that was all the  
25 Board was asking for from the parties or did you ask for

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1 anything else from the parties, sir?

2 VICE CHAIR HART: From Mr. Locraft, we were  
3 looking for just some clarification or some additional  
4 documentation that shows that you are a business. You're  
5 stating that. We'd just like some information that clarifies  
6 that.

7 I understand the DCRA thing is kind of outside of  
8 that. But any other information would be helpful and that  
9 week period is when we're looking to get that information by.  
10 Ms. Wirt?

11 MS. WIRT: A question for DCRA for what the  
12 resident had --

13 VICE CHAIR HART: For the Office of Planning?

14 MS. WIRT: We represent DCRA's --

15 VICE CHAIR HART: The Office of Planning.

16 MS. WIRT: Okay. Well, we don't know this,  
17 whether DCRA has proof that they don't live there. We'll  
18 just ask for proof that they do. We'll work with DCRA on  
19 that one.

20 VICE CHAIR HART: Okay. Thank you. Okay. So  
21 thank you all very much. And we will see you all on the  
22 16th.

23 And we're going to have a ten-minute break and  
24 get some water. We'll probably hear just a couple of cases  
25 before we go on lunch. So just letting everybody know that.

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1 And that's it. Thank you.

2 (Whereupon, the above-entitled matter went off  
3 the record at 12:20 p.m. and resumed at 12:35 p.m.)

4 CHAIRPERSON HILL: All right, Mr. Moy. We're  
5 going to go a little bit out of order. We're going to try  
6 to make it through three; I don't know if we're going to make  
7 it through three, but we're going to start with 20048 and  
8 then we'll go back into the order and see how far we get.  
9 Okay?

10 MR. MOY: Thank you, Mr. Chairman. The Board is  
11 back in session and the time is about 12:40 p.m.

12 Okay. So if we can have parties to the table to  
13 Case Application No. 20048, as amended for a special  
14 exception under Subtitle E Section 5201 from the lot  
15 occupancy requirements of Subtitle E Section 304.1. This  
16 would construct a two-story rear addition to an existing  
17 flat, RF-1 Zone. This is at 940 S Street, N.W., Square 363,  
18 Lot 71.

19 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy.

20 I'd like to say also that if you know you had to  
21 recuse yourself on one, that was a good one to recuse  
22 yourself on.

23 (Laughter.)

24 CHAIRPERSON HILL: All right. If you could  
25 please introduce yourselves for the record?

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1 MR. ROSE: I'm Joe Rose, owner at 940 S Street,  
2 N.W.

3 MR. MARTIN: Jim Martin, 938 S Street, N.W.

4 CHAIRPERSON HILL: Okay. Mr. Martin, are you  
5 going to be presenting to us today?

6 MR. MARTIN: I believe Mr. Rose.

7 CHAIRPERSON HILL: Mr. Rose? Okay. Great.

8 So, Mr. Rose, if you could go ahead and go  
9 through what you're trying to do and then also how you're  
10 meeting the criteria, the standard for us to grant your  
11 special exception.

12 I'm going to put 15 minutes on the clock, Mr.  
13 Moy, just so I know where I am. I know that there was  
14 something concerning I guess a traffic study, but we can  
15 maybe talk about that. Oh, no, it wasn't that. Actually,  
16 yes, go ahead and just walk us through what you're trying to  
17 accomplish, and I'll let you start whenever you like.

18 MR. ROSE: Okay. Thank you, sir.

19 Good afternoon. Thank you for the opportunity to  
20 be heard. I'm here to ask for special exception relief to  
21 allow construction of a two-story rear addition to my house  
22 at 940 S Street, N.W.

23 Since my preliminary hearing before the Board on  
24 July 3rd my architect Jim Martin has worked with the Zoning  
25 Administrator and the Office of Planning to revise the

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1 original request for a zoning variance. We've been  
2 successful in reducing the total lot coverage and are now  
3 requesting special exception relief.

4 Mr. Alex Padro, my ANC commissioner, was here  
5 earlier today, but he had to step out and so he's not here.  
6 He was going to speak in support of the application.

7 Jim Martin is my architect for the project and he  
8 can answer your detailed questions.

9 And I'd like to thank Anne Fothergill from the  
10 Office of Planning for her guidance and assistance in  
11 revising the project to make it a special exception request.

12 I've lived at 940 S Street, N.W. since 2003. The  
13 request for special exception relief is to add an addition  
14 to the rear of my row house to replace an open covered porch  
15 that's near its end of life with an enlarged enclosed porch  
16 that can be used year round and to add a sleeping porch  
17 above.

18 As the file shows, I have the support of the  
19 L'Enfant Trust to which I donated a historic facade easement,  
20 the D.C. Historic Preservation Board, the French Street  
21 Neighborhood Association, ANC6E, my immediate neighbors to  
22 the east and west, and the DCRA Permit Office. Finally,  
23 working with the Office of Planning I've been able to reduce  
24 the size of my carport in order to keep total lot coverage  
25 below 70 percent. And the revised Office of Planning report

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1 now recommends approval of my project.

2 I ask the Board to concur with the Office of  
3 Planning and to grant my application for a special exception.  
4 Thank you for your time.

5 CHAIRPERSON HILL: Okay. Mr. Martin, can you  
6 just speak to the portion of the roof that you removed in  
7 order to get out of the lot occupancy?

8 MR. MARTIN: Sure. If you look at -- I think  
9 it's item No. 39, photographs, you'll see that the carport  
10 has cantilever on both ends, and we're proposing that we  
11 remove the cantilever in the direction of the house which  
12 gets us the additional coverage that we need, or removes the  
13 additional coverage we need to remove. Thirty-nine should  
14 be two photographs.

15 CHAIRPERSON HILL: Okay. Great. Thank you.

16 VICE CHAIR HART: If you could close that laptop  
17 in front of you? Just push it closed. It just should turn  
18 off. At least I hope it will turn off.

19 CHAIRPERSON HILL: Okay. All right. Does the  
20 Board have any questions for the applicant?

21 (No audible response.)

22 CHAIRPERSON HILL: All right. Go ahead and turn  
23 to the Office of Planning.

24 MS. FOTHERGILL: Good afternoon. I'm Anne  
25 Fothergill with the Office of Planning and we rest on the

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1 record in support of the application for special exception  
2 relief. As the applicant indicated, it was previously a  
3 variance and is now a special exception and we find it meets  
4 the criteria. And I'm happy to take any questions.

5 CHAIRPERSON HILL: Does the Board have any  
6 questions of the Office of Planning?

7 (No audible response.)

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

10 (No audible response.)

11 CHAIRPERSON HILL: Okay. Is there anybody here  
12 who wishes to speak in support?

13 (No audible response.)

14 CHAIRPERSON HILL: Is there anyone here who  
15 wishes to speak in opposition?

16 (No audible response.)

17 CHAIRPERSON HILL: Okay. Mr. Rose, I had a quick  
18 question. I mean, I know that you've removed some of the  
19 roof in order to get under the 70 percent, so I would -- and  
20 I'm kind of looking to the Board also that we might put a  
21 condition in there so that we can ensure that that roof would  
22 not be replaced again. In other words, to ensure the lot  
23 occupancy would not exceed 70 percent after construction of  
24 the planned rear addition any motion to approve this  
25 application -- well, I guess we might include a condition

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1 requiring removal of 2.8 feet -- 2 feet, 8 inches, sorry, of  
2 cantilevered overhang on the carport as shown in the revised  
3 plat, Exhibit 51, and removed plan, Exhibit 52 as a  
4 condition. And you wouldn't have any objections to that,  
5 correct?

6 (No audible response.)

7 CHAIRPERSON HILL: Okay. Could you just speak  
8 correct into the microphone?

9 MR. ROSE: Correct.

10 CHAIRPERSON HILL: Okay. Great.

11 All right. Does the Board have any final  
12 questions for the applicant?

13 (No audible response.)

14 CHAIRPERSON HILL: Okay. Does the applicant have  
15 anything they'd like to add at the end?

16 (No audible response.)

17 CHAIRPERSON HILL: All right. I'll close the  
18 hearing. Is the Board ready to deliberate?

19 (No audible response.)

20 CHAIRPERSON HILL: Okay. I can start since you  
21 guys were talking a lot earlier.

22 I think that I would agree with the Office of  
23 Planning, and now that they've managed to get it as a  
24 special exception rather than variance. As mentioned before,  
25 I would want to put a condition in there so that we

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1 understand that the removal of the two foot eight of the  
2 cantilevered overhang on the carport will actually happen as  
3 cited in the exhibits that I cited. And I'll read that  
4 condition when I make the motion.

5 I do think that they have addressed the standard  
6 and I do also see that the ANC is in support. I also know  
7 that Commissioner Padro I guess was here, but was unable to  
8 attend given the length of the first hearing.

9 So is there anything else that the Board would  
10 like to add?

11 (No audible response.)

12 CHAIRPERSON HILL: Okay. I'm going to make a  
13 motion to approve Application No. 20048 as captioned and read  
14 by the secretary including that a condition requiring the  
15 removal of two foot, eight inches of cantilevered overhand  
16 on the carport as shown on the revised plat, Exhibit 51, and  
17 revised plans, Exhibit 52, and ask for a second.

18 VICE CHAIR HART: Just to clarify, I think it's  
19 2.8 feet.

20 CHAIRPERSON HILL: Didn't I say 2 point -- oh,  
21 two feet, eight inches. I'm sorry, 2.8 feet. And ask for  
22 a second.

23 VICE CHAIR HART: Second.

24 CHAIRPERSON HILL: Motion made and seconded. All  
25 those in favor, say aye?

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1 (Chorus of aye.)

2 CHAIRPERSON HILL: All those opposed?

3 (No audible response.)

4 CHAIRPERSON HILL: Motion passes, Mr. Moy?

5 MR. MOY: Staff would record the vote as four to  
6 zero to one, this on the motion of Chairman Hill to approve  
7 the application for the relief requested with the one  
8 condition as he has cited into the record. Seconding the  
9 motion, Vice Chair Hart. Also in support Ms. White, Zoning  
10 Commission Robert Miller. And we have a Board member not  
11 present, not participating.

12 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy.

13 Thank you, gentlemen.

14 All right, Mr. Moy.

15 MR. MOY: Thank you, Mr. Chairman.

16 So we're back at the top of the original batting  
17 order. So if I can have parties to the table to Case  
18 Application No. 20059. This is of 5804 Field LLC, as amended  
19 for area variances from the minimum side yard setback  
20 requirements, Subtitle D Section 206.2, and from the minimum  
21 lot dimension requirements, Subtitle D Section 302.1. This  
22 would construct a new three-story detached principal dwelling  
23 unit, R-2 Zone. This is at 5804 Field Place, N.E., Square  
24 5255, Lot 821.

25 Okay. Great. Thank you, Mr. Moy.

1           Good afternoon. Could you please state your name  
2 for the record?

3           MR. AJIBOYE: Good afternoon, commissioners. My  
4 name is Kinney Ajiboye.

5           CHAIRPERSON HILL: All right, Mr. Ajiboye. If  
6 you could please go ahead and tell the Board what exactly  
7 you're trying to propose or what you're proposing, and also  
8 how you're meeting the standards for us to grant the relief  
9 you're requesting?

10           Mr. Moy, if you could put 15 minutes on the clock  
11 so I know where we are.

12           And you can begin with -- whenever you like.

13           MR. AJIBOYE: Thank you, commissioners, for your  
14 time and thank you for the opportunity given to me to come  
15 here.

16           I'm seeking the relief to put a three-story  
17 detached home in an R-2 subdivision in Deanwood. I'm seeking  
18 a variance of a side yard, and I'm also seeking a variance  
19 of a lot dimension. And this is a four bedroom, three-and-a-  
20 half bathroom on a lot that is not regular. This is a 2,214  
21 square foot lot, 25 foot by 88, and without the relief there  
22 is nothing that can be built on this particular lot.

23           This lot has been there, predated 1957 zoning,  
24 and most of the other lots that are in this particular Field  
25 Place are of the same size and most of them also equally have

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1 a four-foot side yard given to each other.

2 Without the relief here that I'm seeking, the  
3 property, being that it's affected by the exceptional size,  
4 shape or of the topography, we encounter a very particular  
5 difficulties, and the variance that I'm seeking will not  
6 cause any detriment to the public good and will not  
7 substantially impair the intent of the zone, as I have put  
8 it.

9 The other three bodies are met. This lot, like  
10 I said predated the current Zoning Regulation and the  
11 practical difficulty of the compliance comes from the fact  
12 that the lot is not standard. There will be no other option  
13 without this relief being granted.

14 Like I said, in view of the less-than-current  
15 standard size as of the lot, I would encounter particular  
16 difficulty if it is not -- if this regulation was strictly  
17 applied due to the sub-standard lot size and the variances  
18 will not cause substantial detriment to the public good as  
19 far as I am concerned.

20 I'm going to also go to the issue of the three  
21 tests. The first, the exceptional situation resulting in a  
22 particular difficulty. This subject property is a vacant tax  
23 lot that is actually adjusted to two other tax lots of the  
24 same size with single-family houses and granting the relief  
25 will allow for the development of a new single-family

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1 residential unit which is consistent with the other buildings  
2 on the north side of Field Place.

3           On the south side of Field Place is a zoning  
4 residential apartment, so most of the buildings facing my --  
5 this building, they are all apartment buildings and most of  
6 the other buildings on Field Place are all three level with  
7 no basement. So this particular project will actually be in  
8 conformity with what is in the neighborhood. And granting  
9 the requested lot dimension variance will allow a single-  
10 family house in an in-filled development which is a use  
11 anticipated and permitted as a matter of right within the R-2  
12 Zone and granting the relief would therefore not impair the  
13 intent of the regulations.

14           Then as far as the side yard, we are providing  
15 for -- I mean two four-foot side yard because of the width  
16 of this lot, which is 25 foot. To provide an eight-foot lot  
17 on both side will leave us with a nine-foot house, which is  
18 nothing. So without the four-foot side yard it will be very  
19 difficult to put anything on this particular lot and it is  
20 not an alley lot.

21           This particular property is -- providing the  
22 eight-foot setback on both sides will result in the very  
23 narrow nine-foot-wide house, and granting the relief also  
24 will allow for development of the in-fill lot and the  
25 proposed structure would have side windows as do both

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1 adjacent houses. And the windows are structured in such way  
2 that there will be privacy to the adjacent houses. There  
3 will be no intrusion. It will be staggered in such a way that  
4 there is no window from our project that is looking into any  
5 of the adjacent houses.

6           And we also have a newly-constructed fence  
7 between the applicant's -- between our property and the  
8 property to the east which will enhance the protection of the  
9 privacy on the east adjacent property's first floor. And  
10 granting this requested variance, commissioners, will allow  
11 a living development to be developed, and with that we would  
12 have an in-fill lot that -- Field Place is known for  
13 notorious activities and the neighbors and especially the  
14 lady living to the east was so happy that finally somebody  
15 is coming here to do something here.

16           When I went there, I was confronted that -- you  
17 know, hey, you're going to have to be paying us here if you  
18 want to build something here. So building this particular  
19 project on Field Place would benefit the residents of that  
20 neighborhood very well.

21           And I submitted some pictures on the platform and  
22 those pictures actually are the pictures of the apartment  
23 building that is facing this structure. There is nothing  
24 else here that I think we can build here that is going to be  
25 likely be conforming to the apartment building that is facing

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1 the proposed building.

2           So I submit to the commissioners that with all  
3 this I would like to seek that you support the application  
4 for both the lot variance and the side yard variance. Thank  
5 you very much and I will be willing to answer any questions.

6           CHAIRPERSON HILL: Okay. Thank you, Mr. Ajiboye.  
7 Could you speak to again -- I know you know that the ANC --  
8 and you presented to the ANC and they're in opposition. What  
9 they seem to kind of be mostly concerned about is drainage,  
10 but I'm not sure. Can you tell us about the ANC meeting and  
11 how that went and what seemed to be the concerns of the ANC  
12 from your viewpoint?

13           MR. AJIBOYE: Thank you, Chairman Hill. I was  
14 here in July with the chairman of the ANC in which the  
15 hearing was postponed to today, so we have two months to work  
16 together. I engaged and sent emails, is there anything you  
17 really need me to do or what do you want us to do? I didn't.  
18 get any answer.

19           He finally sent an email to me about two weeks  
20 ago that there was going to be a general meeting, which I  
21 went to and I presented what I have to them regarding what  
22 we are trying to do. There were four of the commissioners  
23 that were present at that day. They were very receptive.  
24 I asked them is there anything you don't like, you --  
25 anything you would like us to make? They said no, we like

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1 it. Everything is okay.

2           So I went to the executive meeting. That was the  
3 executive meeting. Then I went to the general meeting, which  
4 was on the 12th of September, made my presentation. And the  
5 first thing I hear was there is a water problem. I said  
6 water problem? And I've been through this thing before with  
7 ANC 7C. They always find fire on that water where there is  
8 none. Where is the evidence? The neighbors here supported  
9 the project. And I told them if there anybody here or any  
10 in the audience. Nobody stood up that they have any water  
11 problem in their house.

12           Based upon the time that I had I quickly, quickly  
13 asked -- then they ask me to send them a drainage situation,  
14 which I did. I sent it to them. But they had already voted  
15 regardless of what it is. And I had the architect do a  
16 drainage because there's no water issue here anywhere. But  
17 if you say there is a water issue, we are ready to deal with  
18 it. This particular project is abutted on one side on Field  
19 Place and Nannie Helen Burroughs on the other side, so it is  
20 actually sitting in between those two streets.

21           There is no alley here, so it is very difficult  
22 without an alley to have a water problem when we can actually  
23 have two streets where we can direct the drainage or the  
24 rainwater. So that was why I proposed that drainage if that  
25 is their issue. We can definitely deal with it. But as far

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1 as I'm concerned there is no water issue. And I had the  
2 letter from the engineers that when they had looked at it and  
3 there's nothing there that can be found.

4 CHAIRPERSON HILL: That's -- again, the  
5 engineers, it's Battaseer Construction?

6 MR. AJIBOYE: Yes, sir.

7 CHAIRPERSON HILL: Okay.

8 All right. Does the Board have any questions for  
9 the applicant?

10 MEMBER WHITE: Just what did the engineers report  
11 show?

12 MR. AJIBOYE: It shows that this -- if you don't  
13 have 5,000 square foot, you cannot do a site test, but base  
14 upon the test and the depth of the lot, that he cannot find  
15 anything here that specified that there is water problem  
16 here. Basically where you see any vacant lot that has a  
17 water issue, you can tell by looking at how soft this soil  
18 is within the past few days of raining, but they couldn't  
19 find anything there. Both neighbors is not telling me that  
20 they have any water issue either.

21 MEMBER WHITE: And that was shared with the ANC?

22 MR. AJIBOYE: Yes. Yes.

23 MEMBER WHITE: And what was their response?

24 MR. AJIBOYE: The letter that I receive from the  
25 construction company was not shared with the ANC because I

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1 went to the ANC on September 12th. That is the first time  
2 they are making me aware that they have the water issue. So  
3 I have six days to run up and down to try to solve the water  
4 issue which they are claiming, because as far as I'm  
5 concerned if there had been a water issue that I'm aware of,  
6 I would have been prepared to deal with it, but there is no  
7 issue. There is no water issue prior to me going to their  
8 meeting on the 12th of September.

9 VICE CHAIR HART: And you have a -- is there a by  
10 right option for building this on a lot line and --

11 MR. AJIBOYE: That will --

12 VICE CHAIR HART: If you could explain that.

13 MR. AJIBOYE: Yes, that will be very good option  
14 to do on a lot line, but because of the fact that most of the  
15 houses on that particular street are actually four-foot side  
16 yard to issue that anyway, so the best thing to do for this  
17 here to flow with the other properties would be do exactly  
18 what they did. My next door neighbor has a four-foot side  
19 yard also. So figuring out the lot line is an option that  
20 we're not opposed to, but it would not be in line and in  
21 conformity with the other detached properties on that side  
22 of the street.

23 VICE CHAIR HART: Okay. Thank you.

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

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1 MR. COCHRAN: Thank you, Mr. Chair. In response  
2 to the Vice Chair's question, no, there isn't any scenario  
3 under which the lot could be developed by right, even if they  
4 went down to a semi-detached house with voluntary IZ  
5 inclusion. It would still not meet the exact dimensions  
6 required for the R-2 Zone for that.

7 OP is happy to stand on the record or would be  
8 happy to answer any questions. We note only that typically  
9 any potential future drainage problems are dealt with through  
10 the building code.

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

13 (No audible response.)

14 CHAIRPERSON HILL: Does the applicant have any  
15 questions for the Office of Planning?

16 MR. AJIBOYE: No, sir.

17 CHAIRPERSON HILL: Is there anyone here wishing  
18 to speak in support?

19 (No audible response.)

20 CHAIRPERSON HILL: Is there anyone here to speak  
21 in opposition?

22 (No audible response.)

23 CHAIRPERSON HILL: Is the ANC here by any chance?

24 (No audible response.)

25 CHAIRPERSON HILL: All right. Mr. Ajiboye, do you

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1 have anything else you'd like to add at the end?

2 MR. AJIBOYE: No, sir.

3 CHAIRPERSON HILL: Okay. Did someone just raise  
4 their hand?

5 (No audible response.)

6 CHAIRPERSON HILL: No? Okay.

7 All right. I'm going to go ahead and close the  
8 hearing. Is the Board ready to deliberate?

9 (No audible response.)

10 CHAIRPERSON HILL: Okay. I mean I actually am in  
11 support of this application. I think that they are meeting  
12 the tests in order for us to grant the area variance. I  
13 understand that from a previous deliberation that we had  
14 earlier today when there was one where there was an alley  
15 next to the property line and how that failed. In this case  
16 I would be able to support the analysis that was provided by  
17 the Office of Planning as well as that of the applicant in  
18 terms of their testimony.

19 As far as the ANC, it's disappointing that they  
20 have presented their opposition because in my opinion again  
21 it's something that would dealt with during permitting as the  
22 Office of Planning has pointed out and is not necessarily  
23 even within our purview. And it seems as though it kind of  
24 came -- we have had questions from ANCs before concerning  
25 water issues, but it's something that I don't think that has

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1 been -- necessarily something that we've addressed.

2 So I would go ahead and again be voting in  
3 support. Is there anything anyone else would like to add?

4 COMMISSIONER MILLER: Thank you, Mr. Chairman.  
5 I would just note that we -- maybe this has already been said  
6 and I missed it, but we do have letters of support I believe  
7 from one of the next door neighbors and -- well, at 5608  
8 Field Place and also a neighbor at 5715 Clay Street, N.E.

9 CHAIRPERSON HILL: Okay. Thank you, Commissioner  
10 Miller. I did not mention that, so thank you so much.

11 So I'll go ahead and make a motion to approve  
12 Applicant No. 20059 as captioned and read by the secretary  
13 and ask for a second.

14 MEMBER WHITE: Second.

15 CHAIRPERSON HILL: Motion made and seconded. All  
16 those in favor, say aye?

17 (Chorus of aye.)

18 CHAIRPERSON HILL: All those opposed?

19 (No audible response.)

20 CHAIRPERSON HILL: Motion passes, Mr. Moy?

21 MR. MOY: Staff would record the vote as five to  
22 zero to zero. This is on the motion of Chairman Hill to  
23 approve the application for the relief requested. Seconding  
24 the motion Ms. John. Also in support Ms. White, Vice Chair  
25 Hart and Zoning Commissioner Robert Miller.

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1 CHAIRPERSON HILL: Ms. White seconded. I don't  
2 know if you said Ms. John or not.

3 MR. MOY: Oh, I'm terribly sorry. So seconding  
4 would be Ms. White and -- well, given that we'll change  
5 places with Ms. John.

6 CHAIRPERSON HILL: Okay, Mr. Moy. So we're ready  
7 for our next one as well.

8 MR. AJIBOYE: Thank you.

9 CHAIRPERSON HILL: Thank you, Mr. Ajiboye.

10 MR. MOY: The next hearing case is Case  
11 Application No. 20068 of William -- is it pronounced Pecau?  
12 P-E --

13 MEMBER WHITE: Pecau.

14 MR. PECAU: -- Pecau, thank you, P-E-C-A-U, and  
15 Linda Berkeley. Caption advertised for a special exceptions  
16 under Subtitle D Section 5201, from the lot occupancy  
17 requirements, Subtitle D Section 1204.1, and from the rear  
18 yard requirements, Subtitle D Section 1206.2. This would  
19 construct a rear addition to an existing attached principal  
20 dwelling unit, R-20 Zone. This is at 1228 27th Street, N.W.,  
21 Square 1215, Lot 81.

22 CHAIRPERSON HILL: All right. Great.

23 Thank you, all. We got IT support here. If you  
24 could just kind introduce yourselves from my right to left,  
25 please?

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1 MR. PECAU: Well, I was going to say good morning,  
2 but good afternoon. My name is Will Pecau. I'm an owner-  
3 applicant at 1228 27th Street, N.W.

4 MS. BERKELEY: Hi, my name is Linda Berkeley and  
5 I am also an owner-applicant at 1228 27th Street, N.W.

6 MS. BROWN: Carolyn Brown with the law firm of  
7 Donohue & Stearns on behalf of the applicants.

8 MR. CABRERA: Michael Cabrera from the law firm  
9 of Donohue & Stearns for the applicants.

10 MR. HUGHES: Mark Hughes with Harrison Design  
11 Architects working with the applicants. We're in 1054 31st  
12 Street, N.W.

13 CHAIRPERSON HILL: Okay. Great. Thank you, Mr.  
14 Hughes.

15 Ms. Brown, are you going to be presenting to us?

16 MS. BROWN: Yes, sir. We have one witness, the  
17 architect, and we're going to be making an opening statement  
18 to set the stage for the criteria that you need to use to  
19 evaluate the application based on the letters in opposition  
20 that are in the record.

21 CHAIRPERSON HILL: Okay. Ms. Brown, I'm going to  
22 throw 15 minutes on the clock just so I know where we are.  
23 And you've been here before, so you can start whenever you  
24 like.

25 MS. BROWN: Great. Thank you so much. We're here

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1 today seeking special exception relief for rear yard and lot  
2 occupancy requirements in order to enclose an existing rear  
3 porch and pergola at the back of the house at 1228 27th  
4 Street, N.W.

5           We're very pleased to have the OP report  
6 recommending approval. The project also enjoys support from  
7 the immediately abutting neighbors to the west and to the  
8 north, and those letters are in the record. And in fact the  
9 owners to the west who will actually see this enclosed porch  
10 volunteered to come down to the hearing to testify in person,  
11 but they are traveling in Ireland right now. So they regret  
12 they could not be here today.

13           There are six other neighbors in support. The Old  
14 Georgetown Board Commission of Fine Arts has endorsed the  
15 concept design. The ANC took no position. And while we  
16 understand that there are four neighbors in opposition to  
17 this addition that live farther away from the house; and I  
18 believe two are here today to speak, we do not believe that  
19 their objections pertain to the standard that the Board  
20 applies in granting the requested relief.

21           And that standard is that the requested relief  
22 will not unduly affect the light and air available to  
23 neighboring properties or unduly affect the privacy and use  
24 and enjoyment of neighboring properties, and that the  
25 addition as viewed from the street or public way shall not

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1 substantially visually intrude on the character, the pattern  
2 of houses along the subject street frontage. And we believe  
3 we set forth clearly in our prehearing statement, and again  
4 as the Office of Planning report states, we fully meet that  
5 standard.

6           If we could go to the next slide. I think it's  
7 important in evaluating those standards that you must apply  
8 to understand the neighborhood. This is an aerial view of  
9 the vicinity. At the lower right-hand corner is the subject  
10 property. The Phillips Row development extends along the  
11 right-hand side of the screen up four houses. Then it goes  
12 along the bottom of the slide, along Olive Street to the  
13 west, or the left to the corner and then up an additional  
14 four houses. In the center you see the common shared parking  
15 lot that is used by all of the Phillips Row homeowners except  
16 the applicant's residence and the neighbors to the west.  
17 They each have their own private driveway.

18           If we could go to the next slide. This is a site  
19 plan that we borrowed from the Office of Planning report.  
20 You'll note that the property lines for several of the houses  
21 in Phillips Row extend into that parking lot area. That is  
22 the shared common easement area for those houses. The lower  
23 right-hand corner of course is the property in question. And  
24 you see slightly the green border on the right and lower  
25 right-hand side of the slide, and that is all Rock Creek

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1 Park.

2           Go to the next slide. And I thought it would be  
3 helpful to see what the surrounding area looks like. This  
4 photograph was taken a little bit farther north along 27th  
5 Street looking south. The subject property is between the  
6 trees in white and the red brick row houses adjacent to that  
7 going to the right in the slide is Phillips Row.

8           You'll note that the end unit is where one of the  
9 opponents lives. There are windows on the north, on the east  
10 facing Rock Creek; and that's the green area in the left part  
11 of the slide, and at the rear. So there's light coming into  
12 that residence on three sides. Another opponent lives mid-  
13 block that will have windows on the front and back side.

14           You can go to the next slide. This is just  
15 another view. Again, those subject properties to the left  
16 in the slide, white, and the rest of the row.

17           Next slide. We're going down the street, 27th.  
18 Again, the subject property in the foreground and the  
19 remainder of Phillips Row to the right. This is the area in  
20 question. This is a view from Olive Street on the south side  
21 right where Rock Creek Park ends and the new house begins.  
22 You'll see the pergola on the left. That belongs to the  
23 adjacent homeowner to the west, Dr. Orlowsky and Mr. McNulty.  
24 And in the right you see the subject property.

25           That pergola area and -- that's partially visible,

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1 the porch, that's the area that will be enclosed. And you'll  
2 see that there is a brick wall separating that area from the  
3 street, a gate. And you'll see the tree at the corner there.  
4 So it's very shielded from the area.

5 CHAIRPERSON HILL: Ms. Brown, you guys have the  
6 support of that neighbor? I just can't remember from the  
7 record.

8 MS. BROWN: Yes, we do, and I'll find the exhibit  
9 number for you. I believe it's submitted by Dr. Orlowsky.  
10 And we'll get that for you in a moment.

11 If you're on the same side of the street, that's  
12 what you see: the gate, the brick wall, the vegetation. You  
13 see a slight corner of the pergola that will be converted to  
14 an enclosed area.

15 You can go to the next slide. And this, if you're  
16 walking west along Olive Street, those are the immediate  
17 neighbors whose entrance you see. And you see the gate and  
18 brick wall that's for the applicant's property. Immediately  
19 beside that is the driveway entrance to the neighbor's  
20 property.

21 Again, I'm taking you back to the aerial  
22 photograph because I want to point out in particular at the  
23 -- I don't know if we use the arrow. You'll see the green  
24 shrubbery at the north corner of the subject property there.  
25 I think it's important to see that.

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1           And then if we go to the next slide, this is what  
2 it looks like from the back yard of the applicant's property.  
3 The slide on the left is standing on that pergola porch area  
4 that will be enclosed. And we are looking up at that  
5 screened vegetative wall. That's probably 25 feet tall.  
6 Could be taller because it goes up to the third floor of the  
7 neighbor's house. It is separated from that whole parking  
8 area by a brick wall, the vegetation, the walled-in area of  
9 the neighbor's property to the north. And that letter is  
10 into the record as well.

11           And then we have another view of that from the  
12 parking area looking back toward the subject property, which  
13 you can't see behind the brick wall of the neighbor's  
14 property and the vegetative screening. So as you see it  
15 extends all the way up to the top of the roof of the  
16 neighbor's property.

17           And the point of that is is that the area that is  
18 going to be enclosed is extremely secluded. It is a very  
19 private space. And I think that's important to note because  
20 it will not be visible to anyone except the neighbors to the  
21 west who will look onto it who are in full support of it.  
22 And the neighbor to the north, it's a blank lot line wall  
23 except at the very top. He has a recessed porch area that  
24 if he went over to the edge and looked over, he could  
25 probably see the roof of it. But it's a very modest

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1 addition.

2           So those are the important contexts for  
3 understanding this project and why it does not unduly affect  
4 the light, air, privacy, or use and enjoyment of neighboring  
5 properties.

6           So with that I'll turn it over to the architect  
7 to walk through the drawings.

8           MS. HUGHES: The site is located in Georgetown on  
9 a corner lot with Rock Creek Park directly across 27th and  
10 Olive Streets. It is zoned R-20. The property is currently  
11 improved with a three-story row house with a pergola and  
12 masonry terrace in the rear yard.

13           This is an image taken from inside the rear yard.  
14 The pergola and terrace to be enclosed are shown on the right  
15 of the image. In the background is the adjacent home of 1230  
16 27th Street, which does not have windows on the south  
17 elevation facing the property. Also shown in the background  
18 is a vegetative screen and privacy wall which block  
19 visibility from the parking lot and the --

20           (Simultaneous speaking.)

21           CHAIRPERSON HILL: Mr. Hughes, can I interrupt you  
22 for just one second? Just don't forget where you are.

23           Just to let everybody know, we're going to  
24 definitely take lunch after this. And so I'm going to say  
25 that -- I don't know how much longer this case is

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1 particularly going to go on, but you'd say it might go on for  
2 a little while, and then we might take, you know, I don't --  
3 I mean, so I guess everybody's welcome to stay as long as  
4 they want, but 2:15 is the earliest we're going to be back  
5 here again. And so just to let everybody know, and don't  
6 make a lot of noise as you leave.

7           Okay. Please go ahead, Mr. Hughes.

8           MS. HUGHES: On the left side of the image is the  
9 pergola of the adjacent neighbor at 2705 Olive Street. Both  
10 adjacent neighbors have submitted letters of support to the  
11 record.

12           This image shows the existing basement plan. A  
13 storage room presently exists in this space underneath the  
14 existing terrace. The second image shows the existing main  
15 level plan with the terrace and pergola.

16           Just back to the basement plan I just want to note  
17 that that is part of the footprint of that existing house.  
18 We are not increasing the footprint of the existing house.  
19 We're building on top of that projection to the left. Okay?

20           MEMBER WHITE: So that means you're not increasing  
21 the -- the pergola includes the lot occupancy?

22           MS. HUGHES: It does not because the terrace  
23 actually is less than three feet. And one of those quirks  
24 with the zoning, the way they look at it --

25           MEMBER WHITE: Yes.

1 MS. HUGHES: -- it's not part of the lot occupancy  
2 count.

3 MEMBER WHITE: Okay.

4 MS. HUGHES: Okay? So you can go to the  
5 elevations. The existing elevations are shown here in the  
6 next few slides. There's the rear. You can see the pergola  
7 we're enclosing there.

8 Okay. So this image shows the main level plan  
9 which has been approved by the Old Georgetown Board. The  
10 terrace and pergola will be enclosed to create a modest  
11 single-story breakfast room. It will only be visible to the  
12 adjacent neighbor to the west, the owners of which supports  
13 this proposal, and partially visible from the street. The  
14 modest scale of the addition will not intrude upon the light  
15 and air available to any neighbor.

16 The enclosure will be set back 9.3 feet from the  
17 west property line. We are requesting rear yard relief to  
18 allow that condition.

19 We are also requesting relief to increase lot  
20 occupancy to 65.3 percent. The Board may permit up to 70  
21 percent lot occupancy in this zone.

22 The addition will have a door which exits onto the  
23 stoop with stairs leading down to the yard. The addition is  
24 separated from the adjacent properties ensuring the privacy  
25 of the use and enjoyment of the neighboring properties will

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1 not be unduly compromised.

2           These are the approved proposed elevations. Here  
3 is the elevation view from the south. This is from -- where  
4 you see from Olive Street. The single-story enclosure is on  
5 the left. The elevation view from the rear shows the  
6 proposed addition, stair and railing. Again, this design has  
7 been approved by the OGB. The only people that can see this  
8 directly are the neighbors to the west.

9           Finally, the elevation view from the north is  
10 shown here. The neighbor to the north does not have windows  
11 facing the property, so there will be no impact on privacy.  
12 As we have stated there is no view of the property from the  
13 parking lot in the interior of the square due to the privacy  
14 wall and vegetative screen. That's it. Thank you.

15           MS. BROWN:           That concludes our direct  
16 presentation, and the letters of support from the immediately  
17 adjacent neighbors are at Exhibit 7 and Exhibit 49.

18           CHAIRPERSON HILL: Okay. Does the Board have any  
19 questions for the applicant?

20           (No audible response.)

21           CHAIRPERSON HILL: Okay. Going to turn to the  
22 Office of Planning.

23           MS. VITALE: Good afternoon, Mr. Chair, members  
24 of the Board. Elisa Vitale with the Office of Planning, and  
25 we will rest on the record. Our recommendation is approval

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1 of the requested special exception relief for lot occupancy  
2 and rear yard. This concludes my report and I'm happy to  
3 answer any questions.

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

6 (No audible response.)

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

9 MS. BROWN: No, sir.

10 CHAIRPERSON HILL: Is there anyone here wishing  
11 to speak in support?

12 (No audible response.)

13 CHAIRPERSON HILL: Is there anyone here wishing  
14 to speak in opposition? You can please come forward.

15 You guys can just take the last two here, if you  
16 don't mind.

17 Did you all get sworn in earlier?

18 (No audible response.)

19 CHAIRPERSON HILL: Oh, okay. If you could both  
20 -- and if anybody here still needs to be sworn in, if you  
21 could just go ahead and stand now.

22 But if you both wouldn't mind standing and getting  
23 sworn in my Mr. Moy here, the secretary to my left. You  
24 don't have to leave. Just -- you can stand just right there.  
25 You can stand right there. Sure. It doesn't matter. Thank

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1 you though.

2 MR. MOY: Just stand there, please.

3 (Whereupon, the witnesses were sworn.)

4 MR. MOY: You may be seated.

5 CHAIRPERSON HILL: Okay. Great. Thank you. I'll  
6 just wait until you get -- oh, you have some exhibits for us?

7 MR. CARR: I have some exhibits --

8 CHAIRPERSON HILL: Okay.

9 MR. CARR: -- to hand out, if I may.

10 CHAIRPERSON HILL: Sure. Do you have enough  
11 copies for everyone?

12 MR. CARR: What does --

13 CHAIRPERSON HILL: What?

14 MR. CARR: What does everyone need?

15 CHAIRPERSON HILL: There was -- well, there was  
16 -- I think it's 12 that we request, but why don't you just  
17 go ahead and go to the -- okay, why don't you hand it there  
18 to the secretary and then maybe we can pass some over there  
19 to the applicant as well?

20 (Off microphone.)

21 CHAIRPERSON HILL: I'm sorry, you have to talk  
22 into the microphone. That's -- just give me one second here  
23 and then I'll let you introduce yourself in a minute as well.  
24 But just give me one moment.

25 (Pause.)

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1 CHAIRPERSON HILL: Okay. Let's just go ahead and  
2 start. If you could please just introduce yourselves for the  
3 record?

4 MR. CARR: Yes, my name is Robert Carr. I live  
5 at 1236 27th Street, N.W., three houses up from the  
6 applicant.

7 CHAIRPERSON HILL: Okay.

8 MS. JECKLIN: Lois Jecklin, I live in Phillips Row  
9 at 27th Street, 1232, one house up from the applicant.

10 CHAIRPERSON HILL: Okay. Could you spell your  
11 last name for me again?

12 (No audible response.)

13 CHAIRPERSON HILL: Could you spell your last name?

14 MS. JECKLIN: J-E-C-K-L-I-N.

15 CHAIRPERSON HILL: Okay. I'm sorry, Ms. Jecklin.  
16 You said you were a little hard of hearing, so that's why I'm  
17 kind of yelling. I'm not meaning to be loud. Oh, that's  
18 okay. I'll speak louder.

19 So, Mr. Carr, why don't you go ahead? And as a  
20 member of the public you'll get three minutes to speak and  
21 provide your testimony.

22 MR. CARR: Right.

23 CHAIRPERSON HILL: Those clocks are located on  
24 either side there at the top.

25 MR. CARR: Yes.

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1 CHAIRPERSON HILL: Ms. Jecklin, could you turn off  
2 your microphone for me?

3 (Pause.)

4 CHAIRPERSON HILL: Thank you. We get feedback if  
5 there's more than one microphone on at a time.

6 Mr. Carr, so you can begin whenever you like.

7 MR. CARR: Thank you, Mr. Chairman, members of the  
8 Board. Thanks for the chance to speak to you today.

9 I've been in the real estate business in  
10 Washington for 43 years. I've developed 35 projects in the  
11 downtown area. I've learned to respect zoning and what  
12 zoning means and I think in particular in this use category,  
13 or one of the preambles of this zone is to create space that  
14 protects all the residents that exist there.

15 Personally I treasure this open space. If I can  
16 show you my first photograph here, this is actually taken as  
17 a view of the human eye. This is a 50-milligram shot, not  
18 like the applicant's photographs. So this shows you the real  
19 relationships that exist. And I submit to you that half of  
20 this trellis is visible from the street.

21 I personally walk by this open space four to five  
22 times a day, and I have for 18 years. It's something I very  
23 much enjoy. I like the light that exists here and it's a  
24 very pleasant relief from the built structure on either side.

25 I'd also like to point to you the overhead map

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1 that is very similar to what Carolyn submitted to you.  
2 Phillips Row is a community of 11 town houses and three  
3 single-families arranged on these three street fronts. There  
4 are clusters of town houses on 27th, Olive Street and 28th.  
5 Each cluster is ended with a single-family home and between  
6 each building block the architect put open space.

7           This is Suman Sorg who designed this project and  
8 has won 17 AIA design awards. You can see how she put back  
9 to back the rear yards of the applicant's house and the  
10 applicant -- and the neighbor across the way. So you have  
11 this space of about 40 feet there that is open to the air,  
12 which is intended to provide relief from the built structure.  
13 And we all walk here in this neighborhood, and I enjoy it  
14 every much. I think it's unusual that a rear yard exists on  
15 the public street. It's not really hidden in back of the  
16 building.

17           Finally, I'd like to share with you my third  
18 photo, which is of trellises behind other houses. Every  
19 house in Phillips Row was built with a trellis. None of them  
20 were intended to comply with zoning. None of them were  
21 intended to be occupied. They were simply treated as an  
22 ornament to the buildings that are there. Suman Sorg  
23 designed this to give a certain special character to our  
24 community and use it as an ornamentation and a sense of  
25 design annuity from one home to the other. So no porch

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1 exists. This is simply a trellis like every other house has  
2 a trellis. Those are my thoughts.

3 CHAIRPERSON HILL: Okay. Thank you, Mr. Carr.

4 Does the Board have any questions for Mr. Carr?

5 (No audible response.)

6 CHAIRPERSON HILL: Okay. Ms. Jecklin?

7 MS. JECKLIN: Yes.

8 CHAIRPERSON HILL: Mr. Carr, could you turn off  
9 your microphone, please? Sorry.

10 MR. CARR: Oh, yes. Sorry.

11 CHAIRPERSON HILL: Thank you.

12 MS. JECKLIN: I support Bob's thoughts, but I  
13 wanted to present some additional ideas.

14 I've owned that property, our property since it  
15 was completed and I've lived there for 15 years and hope to  
16 continue living there. Hope to continue living.

17 Prior to living in Washington, D.C. we lived in  
18 Iowa, where we built a number of properties, working closely  
19 with zoning requirements for those projects. And when we  
20 bought our home in Phillips Row the zoning was extremely  
21 important to us because it is established to protect the  
22 enjoyment of one's property and to protect one's investment  
23 in that property.

24 Any exception that's granted to zoning  
25 requirements weakens this protective fabric and opens the way

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1 for further exceptions with the possibility of changing the  
2 nature of the neighborhood. Phillips Row is a beautiful  
3 thoughtfully planned set of buildings with a coherent  
4 consistent aesthetic, and it's my desire to see that  
5 maintained as part of it, the open space, views of greenery  
6 and the light and air we now enjoy. And I thank you very  
7 much for your attention to our thoughts.

8 CHAIRPERSON HILL: Thank you. And thank you both  
9 for coming down.

10 MR. CARR: Mr. Chair, I --

11 One second. You have to -- let me just ask real  
12 quick of the Board, because I do have a couple of questions.

13 But does the Board have any questions for Ms.  
14 Jecklin?

15 (No audible response.)

16 CHAIRPERSON HILL: Okay. Mr. Carr, you were  
17 trying to say something additionally? You need to push the  
18 microphone.

19 MR. CARR: I also have testimony from one of the  
20 two other opponents I could submit into the record. He  
21 wasn't able to come today.

22 CHAIRPERSON HILL: Is that the same testimony  
23 that's already in the record?

24 MR. CARR: It's similar.

25 CHAIRPERSON HILL: It's similar?

1 Mr. Moy, or OAG, I forget out this works when  
2 somebody comes with testimony like that.

3 MS. NAGELHOUT: Well, the record is open so it  
4 could be accepted as a submission from a person.

5 CHAIRPERSON HILL: Okay. Mr. Carr, you want to  
6 give those to the secretary? And please give a copy to the  
7 applicant as well.

8 (Pause.)

9 CHAIRPERSON HILL: While Mr. Moy is passing that  
10 out, either to Mr. Carr or Ms. Jecklin, did you guys go to  
11 the ANC meeting when they were discussing this?

12 MR. CARR: Yes, we both did and our presence was  
13 one reason why the ANC did not vote to consent to this.

14 CHAIRPERSON HILL: Okay. So they -- I mean, well,  
15 they didn't vote to deny or to approve. They basically voted  
16 not to vote.

17 MR. CARR: Right.

18 CHAIRPERSON HILL: And so that's one question I  
19 had.

20 And then you are from familiar with -- and I don't  
21 know whether you had an opportunity, either one of you, to  
22 read through the Office of Planning's report when they're  
23 speaking to how they believe the zoning criteria has been  
24 met. Have you had a chance to read that report?

25 MR. CARR: Yes, I've read it and I spoke to the

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1 Office of Planning representative at length. And I think I  
2 can understand her perspective when perhaps looking at one  
3 single house, but this is one single house as part of a 14-  
4 unit development plus a condominium. It's all designed as  
5 one place. And I think it's also unusual that we can see  
6 this open space from the street. We can enjoy it every  
7 single day. So just to say it's not seen from my house up  
8 the block to me is not particularly relevant to the  
9 situation.

10 CHAIRPERSON HILL: Okay.

11 MR. CARR: Yes.

12 CHAIRPERSON HILL: Okay. But I'm just -- and I  
13 appreciate your testimony and your opinion, but I was just  
14 kind of understanding -- so you did have a chance to look at  
15 the Office of Planning's report?

16 MR. CARR: Yes, sir.

17 CHAIRPERSON HILL: Okay. And then also the Old  
18 Georgetown Board and the CFA?

19 MR. CARR: They spoke only to the design, not the  
20 issue at hand.

21 CHAIRPERSON HILL: Okay. All right. Okay.

22 All right. Anymore questions of the witnesses  
23 from anyone?

24 MEMBER WHITE: I'm just curious what the  
25 applicant's position is on their concerns about the relief

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1 changing the character of the neighborhood with the removal  
2 of the trellises and the pergola.

3 MS. BROWN: I'll turn it over to the architect in  
4 a moment, but number one, Old Georgetown Board Commission of  
5 Fine Arts did review this. They had comments on it. They  
6 reviewed it extensively. They're the original body that --  
7 the only one who looked at this for design purposes. They  
8 approved it in 1999 and 2000. And then we came back and they  
9 approved it again because they thought it was consistent with  
10 the character of the historic district. And I'm sure that  
11 they looked at the elements of the Phillips Row as well in  
12 understanding this.

13 Number two, it's still open. It's not being  
14 filled in completely. You just won't be able to see through  
15 where the porch is, but it will be an enclosed space, but  
16 otherwise it is still open all the way from Olive Street to  
17 20 feet where the porch begins. And everything around it  
18 that you see is open around -- open to the sky as well. So  
19 it's just one small portion that's going to be covered.

20 And third, I would note that the applicants have  
21 been in the house since the construction of Phillips Row,  
22 too, so they're one of the original owners as well and they  
23 have a great affinity for this place and love the beauty of  
24 it and its location immediately across from Rock Creek Park.  
25 It's one of the rare gems in Georgetown to have that much

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1 public parkland directly across the street from you.

2 MR. CARR: If I might just say, this pergola --

3 CHAIRPERSON HILL: Just -- Mr. Carr, hold on one  
4 second. I'm just trying to make sure our Board -- my Board  
5 member gets her question answered.

6 MR. CARR: Fine.

7 CHAIRPERSON HILL: If you could just turn off that  
8 mic for me again, for me.

9 MR. HUGHES: Can I answer that question?

10 CHAIRPERSON HILL: Yes, I don't -- I thought the  
11 architect was going to answer for it, but go ahead.

12 MR. HUGHES: Yes, yes, yes. So the OGB was  
13 concerned about the -- us maintaining the pergola, the look  
14 of the pergola, so we -- that's what we did. So the design  
15 is simply to maintain the look of the pergola. It's an in-  
16 fill with glazing windows and a little bit of wall. It's  
17 mostly glass. So the pergola is still visible basically on  
18 the outside. It makes the decoration of the addition. And  
19 it is dimensionally the same as the pergola. It's no smaller  
20 than larger.

21 MEMBER WHITE: Thank you.

22 CHAIRPERSON HILL: Again one second, Mr. Carr.

23 Does the Board have any further questions of the  
24 applicant?

25 (No audible response.)

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1 CHAIRPERSON HILL: Okay. Mr. Carr, I'm going to  
2 let you respond and then I'm going to ask you guys to go  
3 ahead and step away, because you're just actually members of  
4 the public. You're not actually party members. And then the  
5 applicant is going to have a chance to end anyway. But you  
6 had a comment you wanted to make?

7 MR. CARR: I just wanted to mention that this  
8 pergola occupies 35 percent of this rear yard, so one can say  
9 it's not visible, but it's a third of the space.

10 CHAIRPERSON HILL: Okay. All right.

11 Okay. Any more questions for the witness?

12 (No audible response.)

13 CHAIRPERSON HILL: Okay. All right. Thank you  
14 all very much.

15 Okay. All right. Nobody has anything else for  
16 the Office of Planning, nobody has anything else for the  
17 applicant.

18 Ms. Brown, do you have anything you'd like to add  
19 in conclusion?

20 MS. BROWN: No, sir. I think that we have fully  
21 stated our case.

22 CHAIRPERSON HILL: Okay. All right. I'm going  
23 to go ahead and close the hearing. Is the Board ready to  
24 deliberate?

25 (No audible response.)

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1 CHAIRPERSON HILL: Okay. I can start. I mean,  
2 it's disappointing that we don't have -- well, I shouldn't  
3 as it's disappointing. I mean, I'm sorry that there are  
4 people here that are in opposition to this project. I think  
5 that the Office of Planning in terms of their analysis, in  
6 terms of whether or not this is unduly comprised -- I think  
7 that I would agree with the Office of Planning's analysis.  
8 I think that they, the applicant, are meeting the standards  
9 for us to grant the application under the regulations.

10 It's not necessarily something again that we get  
11 to decide one way or the other whether we like it or not,  
12 however, I do think that they have met the -- as I said, the  
13 standards for us to grant this special exception. It's not  
14 a variance, but a special exception.

15 In addition to the analysis that was provided by  
16 the Office of Planning, DDOT did not have any objection.  
17 There are support from the adjoining neighbors that would  
18 have probably the most to do in terms of their light and air  
19 being affected. And so I also think that since the CFA and  
20 the OGB have, both not have any objections with the concept  
21 design, I would -- I'm going to go ahead and be in support  
22 of this application.

23 Does the Board have anything else they'd like to  
24 add?

25 COMMISSIONER MILLER: Thank you, Mr. Chair. I

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1 would concur with your -- with all of your comments.

2 CHAIRPERSON HILL: Okay. I'm going to go ahead  
3 and make a motion then to approve Application No. 20068 as  
4 captioned and read by the secretary and ask for a second.

5 VICE CHAIR HART: Second.

6 CHAIRPERSON HILL: Motion made and seconded. All  
7 those in favor, say aye?

8 (Chorus of aye.)

9 CHAIRPERSON HILL: All those opposed?

10 (No audible response.)

11 CHAIRPERSON HILL: The motion passes, Mr. Moy?

12 MR. MOY: Staff would record the vote as five to  
13 zero to zero. This is on the motion of Chairman Hill to  
14 approve the application for the relief requested. Seconding  
15 the motion, Vice Chair Hart. Also in support Ms. John, Ms.  
16 White and Zoning Commissioner Robert Miller.

17 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy.

18 Thank you all very much.

19 So we're going to go ahead and take lunch. As I  
20 said, we're going to try to come back maybe around 2:15, but  
21 we'll see how that goes. Thank you. I would suggest  
22 everybody get back at 2:15.

23 (Whereupon, the above-entitled matter went off the  
24 record at 1:35 p.m. and resumed at 2:36 p.m.)

25 CHAIRPERSON HILL: Alright, Mr. Moy, if you could

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1 go ahead and, and get us started back again, please.

2 SECRETARY MOY: Thank you, Mr. Chairman.

3 So, the Board is back in session and, the time is  
4 about 2:38.

5 And, I believe the next application up at the  
6 table would be Case Application No. 20007, of Winsor  
7 Properties, LLC.

8 This application is captioned and advertised for  
9 special exception under Subtitle D, Section 5201 from the lot  
10 occupancy requirement Subtitle D, Section 1 -- Section 1204.1  
11 to construct a two-story rear addition, and a one-story side  
12 addition to an existing attached principal dwelling unit R-20  
13 Zone.

14 This is at 3011 P Street Northwest, Square 1269,  
15 Lot 365, and I believe, Mr. Chairman, there is a party status  
16 request.

17 CHAIRPERSON HILL: Okay, great. Let's do this  
18 first.

19 If you could please introduce yourselves for the  
20 record.

21 MS. SHIKER: Yes, good afternoon, Chairman,  
22 members of the Board. My name is Christine Shiker with the  
23 law firm of Holland & Knight, representing the applicant.

24 MR. BARNES: Good afternoon. My name is Ankie  
25 Barnes, of Barnes Vanze Architects, and I'm the architect

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1 working for the applicant.

2 MR. DETTMAN: Good afternoon. Shane Dettman,  
3 Director of Land Use Services, Holland & Knight.

4 CHAIRPERSON HILL: Okay, is the party status  
5 person here? If you could, please come forward.

6 If you could please also introduce yourselves for  
7 the record.

8 MS. PARASHER: Thank you very much. My name is  
9 Kimberly Parasher, and I live at 3009 the letter P Street  
10 Northwest.

11 CHAIRPERSON HILL: Okay.

12 MS. THEMAK: And, Tracy Themak with Donohue &  
13 Stearns. We're representing the party in opposition.

14 CHAIRPERSON HILL: Could you say your last name  
15 again for me?

16 MS. THEMAK: Themak, T-H-E-M-A-K.

17 CHAIRPERSON HILL: Okay, so Ms. Themak, I assume  
18 you're representing your client here today?

19 MS. THEMAK: Yes.

20 CHAIRPERSON HILL: So, if you could just briefly  
21 explain to us why, and I think I understand why, but if you  
22 could please briefly explain how you're meeting the standard  
23 for party status as how you're uniquely affected?

24 MS. THEMAK: The proposed in-fill for the addition  
25 is going to actually adjoin Ms. Parasher's party wall.

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1 She'll have a direct line of sight to it and she is the  
2 immediate adjacent neighbor to the east.

3 CHAIRPERSON HILL: Okay. There isn't anyone else  
4 here requesting party status, correct? Just checking.

5 Did everybody get sworn in today?

6 MS. SHIKER: No, Mr. Barnes needs to.

7 CHAIRPERSON HILL: Okay, great, okay.

8 MS. SHIKER: And --

9 CHAIRPERSON HILL: Okay. If there is anyone who  
10 has missed getting sworn in and would like to testify today,  
11 if you wouldn't mind please standing and taking the oath  
12 administered by the Secretary to my left.

13 (Witnesses sworn.)

14 CHAIRPERSON HILL: Okay, so let's see. So, I  
15 think that, you know, this is the immediate adjacent  
16 neighbor. I think that Ms. Parasher -- Parasher, Parasher,  
17 thank you. Ms. Parasher, I would think, qualifies for the  
18 party status request and, meets the standard unless the Board  
19 has any other items that they would like to discuss?

20 Okay. I doubt the applicant has any problems with  
21 them having party status?

22 MS. THEMAK: We have no objection.

23 CHAIRPERSON HILL: Okay. All right. So, then Ms.  
24 Themak?

25 MS. THEMAK: Yes.

1 CHAIRPERSON HILL: Okay. So, were you here  
2 earlier when there was the whole party status thing? Were  
3 you here for the morning case?

4 MS. THEMAK: I was.

5 CHAIRPERSON HILL: Okay, well I'm sorry to hear  
6 that.

7 So, let's see. So, then you know what we're going  
8 to do in terms of the process and everything.

9 Ms. Shiker, I know you've been here before and you  
10 know the process, but just so you know Ms. Parasher -- I'm  
11 sorry if I don't say your name correctly -- that the  
12 applicant's going to present, your attorney, and you will  
13 have an opportunity to ask questions of the applicant and  
14 turn it into a presentation.

15 You'll then have an opportunity to present. They  
16 will also have an opportunity to ask you questions of your  
17 presentation. We're then going to go to the Office of  
18 Planning, you'll have questions for the Office of Planning.  
19 We're going to come back, I forget rebuttal happens somewhere  
20 along there, and then we'll have conclusions and we're just  
21 going to hear the whole case and hear what everybody has to  
22 say.

23 So, Ms. Shiker, I'm going to go ahead and put 15  
24 minutes on the clock just so I know where we are. However,  
25 if you take longer than that, that is fine. I just want to

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1 let you know where we are.

2 And, if you could go ahead and walk us -- in fact,  
3 in fact, yes, just put 15 minutes up there, Mr. Moy, but I  
4 do want you to take your time. I mean, normally you know,  
5 sometimes we're brief. But since there is someone here who's  
6 in opposition, I'd like to kind of flesh it out a little bit  
7 more.

8 So, if you could please go ahead and walk us  
9 through your presentation in terms of what your client is  
10 trying to achieve, as well as how you're meeting the criteria  
11 for the standard.

12 Before we do it, has Mr. Barnes been admitted as  
13 an expert before?

14 MS. SHIKER: Yes, he has.

15 CHAIRPERSON HILL: Okay, all right, great. So,  
16 then we'll go ahead with that and then that being the case,  
17 Ms. Shiker, you can start whenever you like.

18 MS. SHIKER: Thank you.

19 Good afternoon again, Chairman Hill, members of  
20 the Board.

21 I'm Christie Shiker with the law firm of Holland  
22 & Knight. We are representing the applicant in this case.

23 The application today before you is for 3011 P  
24 Street. This is in Georgetown and, it is also part of the  
25 old Georgetown Board jurisdiction.

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1           We are requesting a special exception to add a  
2 small two-story bay addition, as well as in-fill an L on the  
3 east side of the site. The total of all parts of the  
4 addition, the L as well as the two-stories, is about 150  
5 square feet. So, fairly modest in size.

6           Because the lot occupancy increases from 59.3% to  
7 65.4%, we are here for a special exception under that  
8 provision. We are pleased to have the Office of Planning  
9 support, the DDOT support, and ANC 2E has issued a letter of  
10 no objection. We also have many letters of support in the  
11 record.

12           Unfortunately, we have not been able to come to  
13 an agreement with Ms. Parasher, who is the adjoining neighbor  
14 to the east, and this is primarily with respect to the extent  
15 of the L addition.

16           I'd like to address two initial points and then  
17 I'm going to have Mr. Barnes and Mr. Dettman walk through  
18 their testimony.

19           First, there's a lot in the record about some  
20 concerns about when plans were shown, and we want to just  
21 make sure that there is no dispute, from our point of view,  
22 that we showed the earlier plans to Ms. Parasher when she  
23 submitted her letter of support.

24           It was inadvertent that another set of plans was  
25 submitted and, it caused concern and confusion and, and we

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1 regret that. But, we, we are all on the same page. She  
2 reviewed and initially supported the October plans, the March  
3 plans that are submitted and for you today, are what we're  
4 going to present.

5 And, upon learning of this error, Holland & Knight  
6 entered an appearance into the case, and we requested a  
7 postponement to make sure that we'd have time to walk through  
8 the plans that were being presented to the Board.

9 Our applicant's team met with Mrs. Parasher, Ms.  
10 Parasher and her consultants two different times, May 30 and  
11 June 6. Mr. Barnes also taped the outline of the addition  
12 on the floor and on the walls so she would have a better idea  
13 of what was happening, so we could make sure that all of the  
14 information was out there.

15 Ms. Parasher asked that we go back to the ANC so  
16 she'd have an opportunity to express her concerns to the ANC.  
17 Therefore, we submitted a second request for postponement  
18 from our June hearing date to this hearing date today. And,  
19 we went back to the ANC in July. The ANC did not change its  
20 position and again, stated no objection in their letter.

21 So, while there was initially a procedural error,  
22 we do believe that we have taken numerous steps to rectify  
23 that error, and we believe that all the parties have an  
24 opportunity to talk and have looked at the plans that are  
25 before you today.

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1           Second, I do want to point out that though the  
2 window that is one of the primary issues here is an at-risk  
3 window. A window that is built on a property line is at risk  
4 and can be blocked as a matter of right. We are here not  
5 because of that window, we are here because of the lot  
6 occupancy. And, so, it's important that the Board recognize  
7 the status of that window.

8           In past cases, even recently, the Board has  
9 approved special exceptions which fully cover at-risk windows  
10 because the Board concluded that the loss of light is not  
11 related to the special exception, but rather, to the at-risk  
12 nature of the window.

13           That being said, the applicant has sought to  
14 strike a balance between getting a functional addition on the  
15 first floor, working with some of the historic guidance that  
16 OGB staff has provided, while at the same time protecting  
17 that at-risk window. So, at this point, the L addition is  
18 about a foot south of that window. It doesn't block the  
19 window. It doesn't change in the window in terms of what it  
20 faces. The window still faces about six and a half feet away  
21 from a blank wall.

22           The doors of the addition have been designed to  
23 swing in, so they will at no point cover the at-risk window.  
24 And, it is important to note that this is a higher window so  
25 the bottom of the sill of that window is about approximately

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1 6.5 feet above grade. So, the view of the people walking in  
2 and out through this corridor that is already used as an  
3 access point, that really won't change at all.

4 So, therefore, as a result, we believe that the  
5 applicant does not -- the application does not unduly affect  
6 the light and air of the adjoining neighbor's home, or  
7 compromise the use, the enjoyment or the privacy, which are  
8 the primary components of the special exceptions standard.

9 At this point, I'd ask Mr. Barnes to talk you  
10 through the design, and then Mr. Dettman will go through in  
11 detail each element of the special exception. Thank you.

12 MR. BARNES: Thank you. If you look at the slide  
13 in front of you, you'll see that this house, together with  
14 two of its neighbors, and the subject property that we're  
15 representing is the one at the bottom of, of your screen,  
16 3011.

17 These three houses were designed in a very typical  
18 Georgetown manner, fairly simply to get light and air from  
19 the rear and the sides. So, they have a wing that extends  
20 to the left in this case, which is north, and they have an  
21 open court to the east side.

22 The red lines indicate where the windows in all  
23 these houses face. The original windows. They all face the  
24 rear and they face the side, and so they look at each other's  
25 blank party walls and it means that they have both privacy

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1 and light and air ensured.

2           The little L is six and a half feet wide. It's  
3 not particularly wide. It's about 25 feet deep as you see  
4 there.

5           If we can now go to slide 8. If you look at this,  
6 this is a view from our applicant's windows that are on her  
7 east side towards her neighbor Ms. Parasher's house, and you  
8 see the small window there, that is the at-risk window that  
9 was mentioned earlier, which was added not by Ms. Parasher,  
10 apparently by an earlier resident of the house.

11           There's also an addition to Ms. Parasher's house  
12 to the left. Ours is original in shape. The broken lines  
13 and the dark lines that you see represent the earlier and the  
14 later scheme that we're now presenting.

15           If I can go to the plans now, I'll discuss the  
16 attributes of the plan. This plan shows you comparatively,  
17 the initial scheme which we first presented, that was  
18 supported by Ms. Parasher, and that's the plan on the right.  
19 And, then it shows in the shaded area on the left, the plan  
20 that we're actually applying for today.

21           If you were to approach the house from the garage,  
22 which is typical for all the owners in this row because they  
23 all have parking on the alley. So, the owners use the rear  
24 for access all the time. The choices on this house, as I  
25 think with most of them, is to either go into the kitchen or

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1 breakfast room, or to go to the stair that goes down to the  
2 basement, or up in to the dining room as you see on the plan.

3           If we were to build the smaller scheme which we  
4 first drew, you'll notice that when the door swings in, the  
5 curved landing with the first step down, right there, makes  
6 it virtually, or pretty much impossible to put a piece of  
7 furniture there. And, of course, it's not particularly safe.

8           And, it was really this shortcoming of this plan  
9 that after we had been through the OGB concept approval and  
10 received their report, support of the neighbors, and the ANC  
11 no-objection, that we evaluated the status of the plan and  
12 decided for a useful amenity of a mud room and a place where  
13 you could store things when you came into your house, that  
14 we should add more space to it.

15           You'll notice that the shaded area is four and a  
16 half feet deep and, it stops short of the neighbor's window.  
17 It's really this area that is in contention with the  
18 neighbor. Lower down on the right of the plan you'll see the  
19 bay window, which is three feet deep and about nine feet  
20 wide. And, all it really does is move the French doors which  
21 exist in the plane of the back wall now, in such a way that  
22 you're not blocking and running into the furniture when you  
23 come into it.

24           If we can change to the other elevation, that one.  
25 Thank you. This is now looking back at the east wall of our

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1 client's house and you can see there are three windows above  
2 and there used to be four windows below. Three of them have  
3 been filled in, one of them is still active.

4           When OGB staff came to the site before we designed  
5 anything, they took note of our plan to not cover the at-risk  
6 window and stop our addition short of it to be respectful to  
7 the neighbor. And, appreciated that; they also pointed out  
8 that they would like us to respect these old arches which  
9 remain in the wall. They're brick arches, which are remnants  
10 of the old windows. And they said please, just respect this  
11 architecture and do not bisect these arches with you new  
12 plan. We know that you're going to cover some of them over  
13 with the addition.

14           So, really in conclusion, we think the additions  
15 are modest and in scale and, retain the character of the  
16 project.

17           When we proposed the longer addition, which you  
18 see in this Section and in the earlier plan, we sent this  
19 proposed alternative bigger scheme back to OGB staff and,  
20 they looked at it and said that they felt it was materially  
21 barely different and, they did not feel we needed to go back  
22 through the design review process with them, and that we  
23 should just come to BZA, seek for our relief and then go  
24 through to the permit process.

25           I think that's all my testimony. Thank you so

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1 much.

2 MR. DETTMAN: Good afternoon, Mr. Chairman and  
3 members of the Board. For the record again, my name is Shane  
4 Dettman, Director of Planning and Land Use Services at  
5 Holland & Knight.

6 What I'll do briefly in my testimony this  
7 afternoon, is to walk the Board through the relevant  
8 provisions for the requested special exception from the lot  
9 occupancy requirement under Subtitle D, Section 1204.1.

10 In order to meet the burden of proof for the  
11 requested relief, the applicant needs to show that it meets  
12 the general special exception criteria of Subtitle X, Chapter  
13 9, as well as those specific criteria in Subtitle D, which  
14 I'll again will briefly step through.

15 Beginning with the general special exception  
16 criteria under Subtitle X, 901.2A says that the requested  
17 relief can be granted so long as it would be in harmony with  
18 the general purposes and intent of the Zoning Regulations and  
19 the zoning map.

20 And, just to -- for the Board's convenience, just  
21 to comment on a couple of the general purposes and intent of  
22 the Zoning Regulations. I won't touch upon all of them, but  
23 generally, the Zoning Regulations exist to promote such  
24 things like public health, safety, convenience, order and the  
25 general welfare, as well as to provide adequate light and air

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1 and prevent undue concentration of population in the  
2 overcrowding of land.

3 I think as was presented by Mr. Barnes, the  
4 proposed two-story bay addition at the rear, as well as the  
5 one-story L addition, are very modest in size. It's a very  
6 small increase in lot occupancy. So, I think in and of  
7 itself, the sheer size of it can be said to be in harmony  
8 with the general purposes and intent of the Zoning  
9 Regulations.

10 It also will not result in any increase in density  
11 or concentration of people on the subject property. It will  
12 increase the applicant's convenience to enjoy its own  
13 property, as well as it will not impact the general welfare,  
14 or the light and airs in neighboring properties, which I'll  
15 touch upon in a moment.

16 Secondly, under Subtitle 9, the -- you have to  
17 demonstrate that the relief will not tend to adversely affect  
18 the use of neighboring property in accordance with the Zoning  
19 Regulations and the map.

20 The subject property is located in the R-20 Zone,  
21 and the purpose of the R-20 Zone is to retain and reinforce  
22 the unique mix of housing types, including detached, semi-  
23 detached, and row dwellings in the, in the small lots and  
24 include areas where attached houses are mingled with detached  
25 houses, and semi-detached houses.

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1           One of the other purposes of the R-20 is also to  
2 retain the character of the historic Georgetown Historic  
3 District.

4           So, in terms of the design of the proposed  
5 addition as Ms. Shiker mentioned, this has been reviewed and  
6 given concept approval by the Old Georgetown Board, noting  
7 in their letter that it is compatible with the historic  
8 district and the architecture of the surrounding area.

9           Its small size is not going to result in undue  
10 impact of light, air or noise and that the existing L, as Mr.  
11 Barnes mentioned, exists in order to provide light and air  
12 to the applicant's property, and not to any other neighboring  
13 property.

14           As Ms. Shiker mentioned, the neighbor's window is  
15 an at-risk window that's not original to the structure. Mr.  
16 Barnes mentioned that when these houses were constructed,  
17 they were all provided with an L, or what's often called a  
18 dog leg, with the opposite wall being constructed face-on-  
19 line.

20           The applicant also, and the Board is well aware  
21 that there is no right to light, air or views across anyone's  
22 property unless that view or air or light, is expressly  
23 prescribed through an easement provided by the owner of a  
24 particular property. No such easement exists in this  
25 situation.

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1           And, that the rear wing of the neighbor's house  
2 has windows on the east side that exist to provide light and  
3 air to their property, similar to the windows that are along  
4 the east side of the L on the applicant's property.

5           And, this is just a diagram that Mr. Barnes has  
6 already shown you, but it does demonstrate very clearly the  
7 historic fabric in terms of how the buildings were  
8 constructed with an L, in this case along the east side of  
9 the rear wing of these three properties. The air existed in  
10 order to provide light, air to those particular properties,  
11 and not across someone else's property.

12           Quickly getting into some of the specific criteria  
13 under Subtitle D, Section 5201.3. Again, touching up on  
14 light and air, that the light and air available to  
15 neighboring properties shall not be unduly affected.

16           The two-story bay addition will project very  
17 minimally from the rear of the applicant's property. And,  
18 that the neighboring properties on both sides actually  
19 project further beyond the proposed two-story bay addition.

20           And, that the one-story in-fill will not block any  
21 neighboring windows. As Mr. Barnes and Ms. Shiker testified  
22 that in terms of designing the project, we're trying to  
23 balance the need for a functional space, the guidance  
24 provided by OGB, as well as the neighbor's comments about  
25 wanting to protect the view and the light and the air that

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1 they currently have through that existing window. And, as  
2 you see in the plans, the proposed plan will not in any way  
3 block or obstruct that window.

4 In terms of privacy, use and enjoyment of  
5 neighboring properties, there will not be an increase in  
6 views into neighboring properties. As Ms. Shiker mentioned,  
7 that the window on the neighbor's property is actually fairly  
8 high up from grade, and so in terms of people that are  
9 currently walking into the L to get into the property.  
10 Whether it's the smaller addition or the current proposed  
11 plan, there's not going to be any kind of increase in views  
12 into that neighboring window. There also will not be  
13 increased views from the neighbors' upper terrace, which is  
14 at the rear of their property.

15 The potential impacts to views and noise of the  
16 earlier design as I've mentioned, are the exact same as the  
17 proposed design. So, there's really no difference between  
18 what was shown earlier to the neighbor, and what's currently  
19 proposed for the Board.

20 The addition or accessory structure together with  
21 the original building as viewed from the street shall not  
22 substantially visually intrude upon the character, scale and  
23 pattern of houses on the subject street frontage.

24 As I've mentioned, it's already has been given  
25 concept approval by OGB. The proposed design has been

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1 informed by the surrounding context, it's consistent with the  
2 scale and pattern of the surroundings. We have letters in  
3 support from a neighbor that's directly behind that lives  
4 actually on the alley behind the subject property. We've  
5 submitted adequate drawings in the record that clearly show  
6 how the subject property and proposed addition meet the  
7 standard of review.

8 And, finally under 5201.3E, the BZA may approve  
9 a lot occupancy up to 70% under the requested special  
10 exception. And we are, in fact, below that.

11 In fact, in designing -- in terms of showing how  
12 the applicant went about trying to balance those three  
13 interests, the applicant's interests for a functional space,  
14 OGB's guidance, as well as the neighbor's desire to retain  
15 the window that's there, the applicant, in terms of designing  
16 the project, could have actually completely filled in the  
17 existing L and still been below the 70% lot occupancy that's  
18 permitted under the requested special exception. But as you  
19 can see in this diagram, that green line is where the north  
20 wall of the one-story in-fill addition is, is now currently  
21 proposed and you can see how it is pulled away from that  
22 existing window on the neighbor's property.

23 And, so in conclusion, I would submit to the Board  
24 that the proposed project is consistent with the purposes and  
25 intent of the zoning regulations, will not result in undue

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1 impact to neighboring properties, nor impact light, air or  
2 views to any adjacent properties.

3 It's compatible with the character, scale, and  
4 pattern of the historic context in the Georgetown Historic  
5 District, and that the proposal balances the applicant's need  
6 for additional space that's functional with the neighbor's  
7 desire to maintain the at-risk window, and the Old Georgetown  
8 Board's guidance to respect the historic fabric.

9 MS. SHIKER: Thank you. Just two additional  
10 points and then we'll conclude our presentation.

11 I wanted to make sure that you do know that we do  
12 have a letter of support in the record from the adjacent  
13 neighbor on the west side, who also has a window on a second  
14 story that looks into the backyard.

15 And, I did want to also clarify when Mr. Dettman  
16 testified, that we have OGB support. The concept approval  
17 was for the initial October scheme, which is the further  
18 setback. But prior to filing for the BZA, the architects did  
19 go back to OGB staff who indicated that a new concept design  
20 would not be required, that it would be consistent, and that  
21 could come in at permit time.

22 So, the team did go to OGB staff to clarify that  
23 before submitting the original BZA application, and that was  
24 back in February. And, if there's any issues with that, we  
25 have copies of email correspondence for the record, if

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1 needed.

2 And with that, we would conclude our direct  
3 testimony and are happy to answer any questions. Thank you.

4 CHAIRPERSON HILL: Okay, thank you.

5 Does the Board have any questions for the  
6 applicant? I guess I've got a couple.

7 So, the, just so we're clear, I mean the ANC, at  
8 least well, what I could read by the ANC I mean, you said  
9 that they had no objection. I just kind of -- and we can see  
10 I'm sure the other party might have a different take as well,  
11 it just seems like they didn't take a position. I don't  
12 know, that seems to be kind of the writing of the letter.

13 MS. SHIKER: So, the very first vote when we did  
14 have support from both property owners on either side was a  
15 vote of no objection, and they maintained the same position.  
16 ANC 2E often takes positions of no objection and in fact, an  
17 earlier case that you heard today, they also took a position  
18 of no objection.

19 So, that is not an unusual position for them to  
20 take and I don't believe that it signals that there were  
21 additional concerns between the two votes because it was the  
22 exact same vote when we had unanimous support from the  
23 neighbors, and when we had concerns from the adjacent  
24 neighbor.

25 CHAIRPERSON HILL: Okay, well we'll see how it --

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1 I mean just my reading of the letter was like, it's a push.  
2 But that's okay.

3 So, then the other was just that as you had  
4 mentioned, there was an earlier design and the neighbor was  
5 in support. Now, the neighbor's not in support of this  
6 design. So, the neighbor -- I'm just, just getting clear.  
7 The neighbor's not in support of this design, so that's what  
8 we have currently before us?

9 MS. SHIKER: That is correct.

10 CHAIRPERSON HILL: Okay.

11 MS. SHIKER: Certainly, I, think it was they're  
12 here to testify --

13 CHAIRPERSON HILL: Sure.

14 MS. SHIKER: -- but it's the four and a half foot  
15 extension of the L addition that I understand caused the  
16 concern.

17 CHAIRPERSON HILL: Sure, okay. All right, so now  
18 does the applicant have any questions on the testimony from  
19 the -- I'm sorry, does the party in opposition have any  
20 questions of the applicant?

21 MS. THEMAK: We do. Just one.

22 We've been curious as to the change in design from  
23 the original design to this additional four feet. As is on  
24 the record, we were originally in support. Am I correct that  
25 the door and the entrance will still function -- would still

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1 function properly according to the original design?

2 MR. BARNES: To be able to enter the building?

3 Yes.

4 MS. THEMAK: Yes. And, this isn't the only  
5 entrance way into the home. There is still a front entrance  
6 with furniture available to be placed there?

7 MR. BARNES: Yes, but the point of moving the  
8 addition is to create some storage at this house.

9 MS. THEMAK: Storage space. Okay. That's all I  
10 had.

11 CHAIRPERSON HILL: Okay, great. Thank you. All  
12 right, so, Ms. -- oh, sorry, sure. Mr. Hart?

13 VICE CHAIRPERSON HART: Just to clarify.

14 The ANC in a previous case that we heard was --  
15 they actually voted no comment. They did not vote no  
16 objection. And, just to make sure that that's clear.

17 MS. THEMAK: Thank you.

18 CHAIRPERSON HILL: Okay. Yes, I mean we've had  
19 this ANC before us quite a bit so we know just kind of when  
20 we get one way or another with them.

21 So, Ms. Themak, same thing goes with you. They  
22 went 17 minutes, you're welcome to go 17 minutes.

23 Mr. Moy, if you could put that on the clock for  
24 us and you can begin whenever you like.

25 MS. THEMAK: Again, thank you for the opportunity

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1 to be here. I'm accompanied by Kimberly Parasher, and she  
2 is the neighbor that is the most directly impacted by this  
3 proposal.

4 I think we -- there are a significant number of  
5 letters in support, but I think that all of those letters are  
6 from people that are further removed distance-wise from the,  
7 from the application.

8 I'd really like to begin by noting that Kimberly  
9 is not in opposition to this proposal in total. She was in  
10 support originally and it's our position that there's a  
11 compromise available here that was represented in the  
12 original design, that would offer a rear entrance for that  
13 purpose. The three foot bump out in the rear for the bay  
14 windows at both the breakfast room and master bedroom levels,  
15 and Kimberly was in complete support of that. It is the  
16 change here that we are in opposition to.

17 So, we're not here to block the project as a  
18 whole. It's -- we believe there's a compromise that doesn't  
19 require the battle that is, that has ensued here.

20 The extended in-fill of this L dramatically  
21 changed the view from Ms. Parasher's kitchen window. We  
22 submitted a statement in support that showed you a few  
23 pictures of what currently is there, and what -- there's a  
24 blue painter's tape line that shows where the new wall, which  
25 is not an architecturally historic part of the building,

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1 where Kim currently looks over at an original wall of that  
2 structure, will be placed.

3           So, it won't be just looking at her neighbor's  
4 wall, it will now be looking at a glass wall about 12 inches  
5 from the edge of her kitchen window.

6           This, in conjunction with the fact that, that  
7 there is an extension to the rear yard on two-stories, that  
8 is also impacting the light and air that is available to that  
9 now-not filled in L space.       These two combine to  
10 significantly impact partially the light and air to her  
11 second story patio that is in existence, and also to the view  
12 and the light and air afforded to this kitchen window.

13           I think that Kimberly was okay with the rear bump  
14 out when the in-fill was not to the degree it is, but it  
15 seems to be being squeezed now from both sides, and that made  
16 a significant difference to her in her view she had from her  
17 kitchen where she spends a, a great majority of her time.

18           It also -- the glass wall that will now be  
19 approximately 12 inches from her window will have a door.  
20 And, while currently people who access the home from the rear  
21 of the property walk further past the window to enter, the  
22 entrance will now be directly under that window. And, it is  
23 not high enough that you will see the tops of people's heads  
24 walking by and stopping there to enter the home.

25           This will create additional noise there, where

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1 originally the rear entrance was closer to the stairwell  
2 portion of Ms. Parasher's home. So, there wasn't the noise  
3 and privacy issue where with the original design's placement  
4 of the rear entrance. So, we would argue that this glass  
5 wall, the combination of the, of the view from this window,  
6 as well as the entrance being located directly now underneath  
7 the window, does in fact, have significant impacts to light,  
8 air and privacy.

9           It is our position that, that the applicant has  
10 not met the burden to demonstrate that there is not undue  
11 impact to the light and air and privacy of the adjoining  
12 property owner's enjoyment of and use of her property. We  
13 believe that there is a solution here where there would be  
14 an impact, but a livable impact, and one that would allow  
15 both parties to continue to enjoy their properties.

16           There's been a lot of discussion about the at-risk  
17 window. As the applicant noted in their case, this window  
18 was in place when Ms. Parasher bought the property in 2007.  
19 In fact, it was a major reason that she bought the property  
20 that she did. After looking at several homes in the area,  
21 coming into the kitchen and seeing the sunlight that came in  
22 from both windows in this particular room, really sold it for  
23 her and she can testify later to the fact that she spends the  
24 majority of her time at home in this room. So, an impact to  
25 this view in this particular room is substantial for her.

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1           And, there was also mention of, of a by right in-  
2 fill here. I understand that the applicant -- I believe  
3 intended that to be that they could cover the window and  
4 still be within the 70% lot occupancy and therefore, not  
5 requiring a variance from you. But, it wouldn't be by right.  
6 They would still have to come and get your permission and  
7 special exception relief to go even more over the 60% maximum  
8 occupancy. So, I -- this is not something that they could  
9 do by right. They would still have to come and seek  
10 approvals to do so.

11           I would agree that in terms of the, the community  
12 support that is represented in the pre-hearing statement, I  
13 believe it was said that there was unanimous support by the  
14 ANC and, I don't believe that to be true.

15           We had a lot of direct contact with Gwen Lohse  
16 from the ANC, and in order to attend the July 1st meeting  
17 where Ms. Parasher could make her concerns known. And, the  
18 ANC did state at that meeting that given the close proximity  
19 of these homes in Georgetown, they appreciate that this is  
20 a very sensitive issue for both neighbors, and that they were  
21 going to take the position of no comment. And, I believe  
22 that is because they can see both sides of the story here.

23           Our position is that for either hooks or a bench  
24 and what has been called I think, programmatic or functional  
25 reasons, there hasn't been a specific justification that we

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1 find justifies the impact to Ms. Parasher's view from this  
2 window. I think it -- I think a balancing test of the  
3 negative impact to the utility of the proposal is appropriate  
4 here. And, I believe that the original design was a very  
5 good solution that met both goals. This seems to have been  
6 pushed too far towards an impact to Ms. Parasher's property.

7 I understand the need -- also I think in the plans  
8 that were just shown, there is the proposal for a skylight  
9 over the, the mud hall that is being proposed. And, it was  
10 explained to us that that will be for additional light. They  
11 will be building this extension so that it will now cover one  
12 of the kitchen windows at the applicant's property. So, they  
13 are adding a skylight to add additional sunlight to the  
14 stairway.

15 We had inquired as to their concerns about  
16 covering the kitchen window with this, with this in-fill  
17 addition, and the response was that it wouldn't be as  
18 impactful because they would be opening up the rear part of  
19 the breakfast room with a bay and gaining sunlight that way.

20 So, I think that, the party in opposition here,  
21 Ms. Parasher, feels that they are increasing lot occupancy  
22 to gain light and air to their property. And, it's at the  
23 detriment of losing light and air to the neighbor's property.

24 So, it's been our request since we've had these  
25 meetings and since we returned to the ANC, that we strike a

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1 balance that provides the applicant the utility they are  
2 seeking for the rear entrance, but also does not so greatly  
3 impact Ms. Parasher's property.

4 Both the extension out and the height of the roof  
5 at that in-fill has also increased. So, as the pictures  
6 demonstrate fairly clearly, this is a significant change to  
7 this view that has been enjoyed by the party for, going on,  
8 12 years now.

9 So, we're happy to compromise and we would be in  
10 full support as Ms. Parasher demonstrate by -- demonstrated  
11 by her original letter of support for the original design.  
12 We just feel that, that increasing the ask here for  
13 additional lot occupancy when coming so close to her window,  
14 and providing access at a place directly below and of her  
15 kitchen window, is just too much. So, we would ask for a  
16 better balance of interests here.

17 But, I'll just give Kimberly a few -- I can't  
18 speak to the, the personal nature of this to her and the use  
19 of that room, so I think she can do that better, too.

20 MS. PARASHER: Thank you very much.

21 This immediately adversely impacted area is the  
22 heart of our home. It includes not only the cooking area,  
23 but our seating area just at the window for eating. And, I  
24 work directly across from this window all the time.

25 And the window, I'm not sure if the measurement

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1 is accurate in terms of six feet, five inches above grade.  
2 I would have -- and I think it's demonstrated in one of the  
3 images that Ms. Themak included, that the window is  
4 substantially lower. It is a first level window and, if you  
5 could please view of the picture, it, so the, the cross, the  
6 cross-traffic that would becoming there will not only -- the  
7 point where the line is, because if when I traverse from the  
8 south end in, you can see this entrance. It's going to be  
9 a glass door, completely glass immediately abutting 10 to 12  
10 inches, I was told.

11 But, as you're approaching from the south side all  
12 the way through this area that I utilize constantly all of  
13 our time, my family's time is spent in this area, you would  
14 be seeing this window and seeing directly into the  
15 applicant's home, as well as into my home from the view that  
16 this door would now provide.

17 And, that is a huge intrusion of privacy, and not  
18 only with the roof line being increased from what was  
19 proposed as a covered entrance with a nine-foot low sloping  
20 roof past my window, 5-1/2 feet from my window, now raised  
21 to 13.4 with another 4-1/4 inch projection for the skylight,  
22 12 inches from the window is a substantial and a very, very  
23 adversely impactful change to an area that our family has  
24 always enjoyed the most.

25 This, I can just tell you, if I can share briefly.

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1 When we entered our home, I remember -- it's impossible to  
2 forget -- and it's probably impossible to describe accurately  
3 -- seeing the sunlight coming through this window when we  
4 were walking down the corridor because these houses are so  
5 long. They're like, you know, they're like caves, if you  
6 will. And, when we saw that and enjoying that, that was love  
7 at first sight. I mean that sold us. This is an inherently  
8 valuable attribute of our home. And, we have enjoyed it  
9 greatly so.

10 And, while I want to support my neighbor, I want  
11 to be a good neighbor. I want to give her everything that  
12 she could possibly want. There has never been a mention of  
13 a safety issue with respect to distance allowance. That has  
14 -- this is the first I'm hearing that. That has never been  
15 a concern raised.

16 We have implored them to justify these changes.  
17 And, there have been no rational justifications provided.  
18 The neighbor that you cite on the other side of Ms. Winsor,  
19 also sent an email to me that she was very upset that she  
20 too, had not been provided changed plans. And, she sent an  
21 email to me. Though Ms. Winsor was, was very heavily  
22 soliciting support but that she sent an email to me  
23 indicating that she and her husband completely understood why  
24 I would be upset as these changes relate to me. And, I  
25 thanked her for that, as did the neighbors across the alley,

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1 who did not provide support.

2 And, the support that was provided, was from  
3 neighbors who were significantly removed from this and  
4 completely unimpacted. As --

5 CHAIRPERSON HILL: Ms. Parasher?

6 MS. PARASHER: Parasher, yes.

7 CHAIRPERSON HILL: Parasher, I'm sorry. And, I  
8 didn't mean to interrupt you.

9 MS. PARASHER: Not at all.

10 CHAIRPERSON HILL: I guess in terms of testimony  
11 that you're giving, we can only listen to the stuff that  
12 you're actually giving to us, otherwise it's just kind of  
13 hearsay.

14 MS. PARASHER: I'm sorry.

15 CHAIRPERSON HILL: That's okay.

16 MS. PARASHER: I wanted to upload that, but I  
17 conferred with my counsel and I wanted to upload many  
18 pictures of this, but she said we have to keep this simple  
19 for them. You'll be overwhelmed and you've had enough of  
20 that today for sure.

21 But the other and final point that I would like  
22 to make is in addition to increasing that distance at the  
23 window where again, I must repeat, you as walking through,  
24 it's right there and it's glass. It's all completely non  
25 private any longer because you will be looking into each

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1 other's homes directly from that glass window at 12 inches.

2 And, in addition to the patio change up top, which  
3 will be now -- I have no objection to anything else. I,  
4 again I fully supported that and I want to be a good neighbor  
5 and there was one final point and I'm sorry, it just escaping  
6 me. But, it was -- I'm so sorry. I don't remember.

7 CHAIRPERSON HILL: That's all right. If you  
8 remember again, you can come back. That's okay. That's all  
9 right.

10 Okay, does the Board have any questions of the  
11 party in opposition? Okay. All right, we might have some  
12 questions. Oh, you remembered?

13 MS. PARASHER: I did.

14 CHAIRPERSON HILL: Okay, go ahead.

15 MS. PARASHER: The Office of Planning did not note  
16 that this was a glass -- completely glass wall and door that  
17 whereby there would be absolutely no privacy preserved or  
18 provided with respect to this, at this point.

19 CHAIRPERSON HILL: Okay. All right, does the  
20 applicant have any questions of the party in opposition?

21 MS. SHIKER: No, we don't have any questions but  
22 we will have rebuttal.

23 CHAIRPERSON HILL: Okay. All right, so all right,  
24 you guys don't have any questions? All right, so I've got  
25 some questions.

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1           So, the window again, and, and somebody can just  
2 pull it up for me because I know we're talking about where  
3 the window is, and I know that there was the window that  
4 like, you know, there's the at-risk window. And you're not  
5 blocking the at-risk window. And, then there's also the  
6 windows that -- I guess you can go back one, all right? You  
7 maybe can go back one more slide.

8           So, that window, it looks like you're blocking a  
9 window. I'm confused by that diagram.

10           MS. SHIKER: That, this is the diagram looking at  
11 the addition in section with Ms. Parasher's home in the --

12           CHAIRPERSON HILL: Okay, so that window --

13           MS. SHIKER: -- distance.

14           CHAIRPERSON HILL: -- so that's the distance  
15 currently between the, the at-risk window and what you're  
16 proposing to do. And, the glass wall is, I guess, the  
17 extension?

18           MR. BARNES: Yes.

19           CHAIRPERSON HILL: And, so that's going into  
20 whatever, I guess the family room is there something?

21           MR. BARNES: No. It's going into a back entrance  
22 with a small mud room area.

23           CHAIRPERSON HILL: No, no, I'm sorry. It sounded  
24 as though there was like, that window when you look out --  
25 when you're looking out of that window, what do you look at?

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1 MS. SHIKER: She looks at a wall, a blank brick  
2 wall --

3 CHAIRPERSON HILL: Currently a blank wall.

4 MS. SHIKER: -- that's 6.5 feet away.

5 CHAIRPERSON HILL: So, the glass that you're  
6 speaking of Ms. Parasher, is the glass door that people are  
7 going to walk into, correct? Okay. And, then the, the heads  
8 that you're talking about right, you're talking about people  
9 coming in and out of that entryway?

10 MS. PARASHER: Absolutely.

11 CHAIRPERSON HILL: And, then the top floor, the  
12 top floor windows? There's the skylight that I don't see in  
13 Section there, or maybe I do. Maybe that is on there.

14 MR. BARNES: It's right there.

15 CHAIRPERSON HILL: So, then is there a window up  
16 against that? I'm just trying to understand where the top  
17 story windows are in with regard to this section.

18 MR. BARNES: Yes, if you look at the picture  
19 looking the other way, you'll see that the second story  
20 windows of the applicant look over the roof of this proposed  
21 addition, as does the second floor window looking out towards  
22 the rear, which you see in Sections.

23 CHAIRPERSON HILL: But what are the windows --  
24 where are the windows from the party in opposition's home?

25 MR. BARNES: She has no windows on the second

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1 floor. But she does have an open porch on the roof of an  
2 earlier addition with the rail shown right there.

3 CHAIRPERSON HILL: So, there's no windows on that  
4 upstairs?

5 MR. BARNES: There are no windows on the upstairs.

6 CHAIRPERSON HILL: Okay, there's just that one  
7 window that we're talking about there? Okay.

8 All right, does anybody have any other -- you  
9 didn't have questions before, does anybody have any questions  
10 more now?

11 Okay, please, Mr. Miller.

12 COMMISSIONER MILLER: Thank you, Mr. Chairman.

13 So, Ms. Parasher, or Ms. Themak, if I understand,  
14 you're opposed to the, the design that's before us that's  
15 four and a half feet extended beyond where the original  
16 design is if I've described that correctly. Was there a  
17 discussion between you and the applicant about something in  
18 between? You know, when it comes down to a numbers game,  
19 there's always a number in between that maybe is a  
20 compromise. You mentioned you're open to compromise.

21 Is there -- was there discussion about something  
22 in between the original design, which would be zero extension  
23 beyond the original side, and 4-1/2 feet. Was there some  
24 discussion that would mitigate some of the adverse impact  
25 that you're alleging?

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1 MS. THEMAK: Yes, there was. We met on site. We  
2 had the applicant in, in Ms. Parasher's kitchen so that we  
3 could see the view and then the architect, Mr. Barnes,  
4 explained that in accordance with OGB, they did not want to  
5 take the wall to split one of the blocked in windows on the  
6 applicant's property.

7 So, we were hoping to just move it back even one  
8 or two feet to give some clearance from the edge of her  
9 window. And, the applicant stated that OGB had directed --  
10 and they can answer that better, that they couldn't cut one  
11 of the blocked in windows of the applicant's property in two.  
12 They would have to cover it completely, or be at the  
13 beginning of it, which is why we thought the original design  
14 was optimal.

15 COMMISSIONER MILLER: Okay. When you say cut the  
16 window, cut the closed -- what was --

17 MS. THEMAK: Yes, what was --

18 COMMISSIONER MILLER: -- was a window?

19 MS. THEMAK: -- a window. The blocked in window.  
20 They didn't want the wall to extend into a halfway point so  
21 they wanted them all covered or not covered.

22 COMMISSIONER MILLER: This is why people call it  
23 hysterical preservation.

24 (Laughter.)

25 VICE CHAIRPERSON HART: Just out of curiosity, how

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1 do -- and maybe I'm asking this for Ms. Shiker. How do  
2 people get it -- how do the neighbors -- how does the  
3 applicant get into their house now?

4 MS. SHIKER: So, these houses back up to an alley  
5 and they mostly have garages.

6 VICE CHAIRPERSON HART: I mean get into the house  
7 house, not into --

8 MS. SHIKER: Oh, okay. So, but from the garage  
9 when she would park?

10 VICE CHAIRPERSON HART: Yes.

11 MS. SHIKER: There is a door that is off the L  
12 that goes into a tiny hallway that accesses into the, the  
13 kitchen. Or, she could go through her breakfast room and the  
14 doors would open into the breakfast table and, you know, have  
15 to walk around that.

16 But typically as a practical matter, she uses the  
17 walkway through the L into the door.

18 VICE CHAIRPERSON HART: I was looking for the  
19 existing plan that showed that.

20 MS. SHIKER: Shane, could you put a plan up, or  
21 could you show right there? There. You can see it in that  
22 photograph right there. The walkway up to the back door.

23 VICE CHAIRPERSON HART: So currently, the  
24 applicant has to walk past this -- and I'll call it the at-  
25 risk window because that I think that we're really just

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1 talking about this particular window. So, they have to walk  
2 past there to get to a door if they're going in that, that  
3 way. But there is another way to get into the house?

4 MS. SHIKER: Well, there's a front door and then  
5 there --

6 VICE CHAIRPERSON HART: Well, but I mean an L --

7 MS. SHIKER: -- in the back. There are French  
8 doors but that is not the practical way. You don't typically  
9 walk into a breakfast room, you would walk through to the  
10 hallway that took you either into the house or down into the  
11 basement.

12 VICE CHAIRPERSON HART: Okay. And, do you have  
13 any scaled drawings that show what a, scaled drawings  
14 including like a person, like to see what the, you know,  
15 you're saying it's six-five. What's the --

16 MS. SHIKER: So, according to --

17 VICE CHAIRPERSON HART: -- what's, what's this?

18 MS. SHIKER: Let us, we, it was 77.75 inches and  
19 so this is, let me just confer really quick and get you the  
20 information.

21 VICE CHAIRPERSON HART: Thank you.

22 MR. BARNES: We did a field measurement from our  
23 client's yard. It was 77.5 inches to the sill of the window.

24 VICE CHAIRPERSON HART: So, 77.5 is from here to  
25 here.

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1 MR. BARNES: Yes, sir.

2 VICE CHAIRPERSON HART: Okay, so six feet is 72,  
3 so --

4 MR. BARNES: It's more than six feet.

5 VICE CHAIRPERSON HART: -- little more than six  
6 feet.

7 MR. BARNES: Right. So, the person walking into  
8 our client's backyard is not looking -- is not able to look  
9 into the window of the neighbor. You could look up and  
10 perhaps see the ceiling of the neighbor's kitchen, but you're  
11 not looking into the active area of the kitchen.

12 And, it exists and people walk by it today. That  
13 doesn't change.

14 VICE CHAIRPERSON HART: Okay. And, I'm assuming  
15 that that's also because, as you can see with the stairs  
16 here, the floor the of the of, I guess, both houses actually  
17 is higher so that, not higher but it's at a level that is  
18 higher than the existing grade of the back of the house?

19 MR. BARNES: This is true. Yes, sir.

20 VICE CHAIRPERSON HART: Okay. Thank you.

21 CHAIRPERSON HILL: So, when you go back if you  
22 could go back to the previous -- and just because I'm trying  
23 to understand.

24 When you walk in the door and then there's a glass  
25 door there, a fully, maybe you guys have a design? I'm just

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1 trying to understand it's a full glass door that the next  
2 door neighbor is speaking of. And, so that's -- I'm just  
3 trying to understand. It's a full I mean that's a wall of  
4 windows or something? It's a full glass door?

5 And, then when the person walks in, they're still  
6 going to be -- it's still -- the grade doesn't change meaning  
7 it's you're still, you have to be still over six-three or  
8 whatever it is to look into the window once you walk into the  
9 door?

10 MR. BARNES: Yes, this is correct. If you look  
11 at both plans, the arrangement of the door and there's a  
12 fixed French door and there's an operable --

13 VICE CHAIRPERSON HART: Do you have the elevation?  
14 Do you have the elevation for this, for this to show?

15 (Simultaneous speaking.)

16 MR. BARNES: There's the rear elevation. You can  
17 see. You can see the double story bay on the right, with  
18 three windows looking above and three doors below.

19 And, then you'll see on the left there's a pair  
20 of French doors. One is fixed and one is operable. It opens  
21 into the house. And, it was OGB's preference that as with  
22 most in-fill additions like this in the L, that it be  
23 lightweight, and that it essentially show the history of the  
24 house.

25 When Mr. Miller was speaking earlier and he was

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1 wondering about OGB's attachment to these arches, OGB is  
2 interested in the evident history of the houses being  
3 apparent, even when later additions are done. It's one of  
4 the things that follow the guidelines of historic  
5 preservation, which are federal guidelines.

6 So, not bisecting the arch with wherever the  
7 addition were to stop or start, and allowing the L, which  
8 used to be open, to have a glassy facade from the rear, are  
9 both things that they promote and like and approve of in this  
10 proposed design.

11 CHAIRPERSON HILL: All right, so OGB wanted those  
12 glass doors?

13 MR. BARNES: They wanted it to be light and  
14 glassy, yes. And, it's an entrance so one of them would be  
15 a door.

16 CHAIRPERSON HILL: Okay.

17 VICE CHAIRPERSON HART: And, you're also saying  
18 that because this, this closed window is here, it can either  
19 be here or here, but you couldn't be, you know, in the, in  
20 the middle of this because you would, you'd be in the middle  
21 of an existing -- sorry, of a window that used to be there?

22 MR. BARNES: Exactly. This was something that OGB  
23 staff noted and pointed out when we were there. And, so the  
24 notion of us unreasonably not wanting to meet halfway is  
25 really would only be possible if we are in defiance of the

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1 guidance of the OGB staff. And, I would imagine that it  
2 would be turned down in permit by OGB because of it.

3 So, we want to be on one side of the arch or the  
4 other. And, that's the size of the addition increase that  
5 we proposed.

6 VICE CHAIRPERSON HART: Okay.

7 MR. BARNES: It also gives you just enough room  
8 to have a piece of furniture and some utility for a mud room.

9 VICE CHAIRPERSON HART: Okay, and I'm assuming  
10 that what you mean by furniture is, is something that is  
11 affixed to the -- you don't, you don't mean like a chair,  
12 you're, you're saying a someplace for somebody to sit as a  
13 mud room, take your shoes off or boots off, to be able to  
14 then walk through?

15 MR. BARNES: Exactly. As you enter the long  
16 revision against the right wall there would be one place  
17 where you could put a bench or a chest of drawers -- take  
18 your boots off, put your gloves away.

19 VICE CHAIRPERSON HART: Okay, thank you.

20 CHAIRPERSON HILL: So, just to go back to that  
21 one, the door with the glass, and again, we're just kind of,  
22 we don't want to be just splitting hairs here and everything  
23 in terms of like we're going to get back to where we're  
24 talking about what is the zoning standards and the  
25 regulations of what we're actually looking to.

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1           But in terms of appeasement or trying to  
2 understand where there is some kind of a compromise, I mean  
3 you don't know if there's any way to do those doors, and --  
4 or, have talked to the party in opposition on how to do those  
5 doors that would make them feel more comfortable with those  
6 doors?

7           MS. SHIKER: I believe it was the depth of -- I  
8 mean the doors are still almost a foot away from the window.  
9 The doors are, you know, you have to kind of look out to see  
10 the doors. And, so it was more the depth of the addition.  
11 I am not aware --

12           CHAIRPERSON HILL: That's okay. Nobody's talked  
13 about the glass doors and I don't even know whether -- I'm  
14 not trying to get into a discussion whether or not. I'm  
15 saying no one has discussed glass doors and I'm just going  
16 to quickly as the party in opposition.

17           It wasn't -- the glass doors doesn't matter one  
18 way or the other to you? You need to push the button.

19           MS. PARASHER: The issue was two-fold. Thank you  
20 for asking.

21           The matter of the privacy issue with respect to  
22 the glass doors being immediately from again, approaching all  
23 the way around the scope -- the range, of the window. And,  
24 the blockage thereof of the sunlight that we have always  
25 enjoyed from that window immensely.

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1 My daughter's name means ray of sunlight, and the  
2 sun is a focal point of my life and enjoyment and in  
3 preventing seasonal affective -- I just enjoy the sun. And,  
4 we have treasured this window. This has been something that  
5 --

6 CHAIRPERSON HILL: Ms. Parasher, I'm sorry, I'm  
7 just trying to understand. That's okay.

8 So, you haven't thought about the -- because I'm  
9 just trying to understand. I mean, from and I'll get, we'll  
10 get to the Office of Planning and everything. So, I'm just  
11 trying to get my head around this window, right? I mean  
12 somebody would have to be over six-two or six-three for you  
13 to see the top of the head, at least as far as I understand  
14 this part. And, we can talk more about it later.

15 And, then also you had mentioned glass doors a lot  
16 in your opposition as if you were looking into those glass  
17 doors, or people are looking out into your window.

18 MS. PARASHER: I see.

19 CHAIRPERSON HILL: And, so I was asking if you had  
20 thought, you've discussed with the applicant in terms of, if  
21 they weren't glass doors, if that would have done anything  
22 for you. Because I understand the archway in terms of like  
23 OGB and what they won't let you do with the archway. And,  
24 so I don't know where we're going to get with this, I'm just  
25 trying to understand. You've never talked about glass doors

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1 with the applicant?

2 MS. PARASHER: No.

3 CHAIRPERSON HILL: And, you don't necessarily  
4 think that's going to help you one way or the other?

5 MS. PARASHER: Well, because the other issue that  
6 was involved in this was the -- at that point, at 13.4 feet,  
7 with the roof line being that substantially raised four feet  
8 from the original plans, the blockage of the sunlight --  
9 currently, if you can see from this picture and I -- the  
10 sunlight comes in at that direct angle right there directly.  
11 I have, I showed --

12 CHAIRPERSON HILL: Yes, that's okay. I'm going  
13 to go back to those pictures maybe later after we get Office  
14 of Planning, because I'm confused by the blue line that you  
15 guys are showing me with the window and I see it in there.  
16 Because I'm looking at their plans and if you, if you and I'm  
17 just looking at the slides that we're all looking at right,  
18 and I don't see anything blocking that at-risk window in  
19 terms of the wall unless I'm wrong.

20 And, so, you know, if you go back to -- if you  
21 could switch back one more slide there, Ms. Shiker. Two  
22 more. Yes, there you go. That's the end of the wall. And,  
23 so that's where the end of the wall currently is. So, that  
24 window still has like, what, six inches or something like  
25 that off of the window to the wall.

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1 MS. PARASHER: Ten to 12.

2 CHAIRPERSON HILL: Ten to 12 inches. Okay, and  
3 so I'm just trying to understand we're talking about the same  
4 thing. That's all I'm just trying to get at. And, so you've  
5 answered my question in terms of the glass door and we can --  
6 so that's all I was kind of curious of at that point.

7 So, all right, anything else before I turn it to  
8 the Office of Planning? Okay, can I turn to the Office of  
9 Planning, please?

10 MS. FOTHERGILL: Good afternoon. For the record,  
11 I'm Anne Fothergill with the Office of Planning.

12 And, the Office of Planning reviewed this  
13 application and found that it met the criteria of Subtitle  
14 B, Section 5201.1 for a special exception for lot occupancy,  
15 and I will rest on the record in support of the application  
16 and I'm happy to take any questions.

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

19 MEMBER WHITE: Well, just one question.

20 You know, just I keep hearing about the issue of  
21 the, the light and air, and obviously the neighbor is  
22 concerned about sunlight. And, I just wanted you to just  
23 state for me why this does not impede the neighbor's light  
24 and air from a Zoning Regulation-perspective of that, if  
25 that's your argument.

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1 MS. FOTHERGILL: The -- as the plans show and as  
2 the applicant has noted, the two-story rear addition projects  
3 three feet at the rear off the breakfast room, which would  
4 have a very -- we don't consider that would have an undue  
5 impact on the applicant's window.

6 I would note that the window is on the party wall.  
7 And, so the proposed in-fill of the L does not obstruct that  
8 window and the doors, as the applicant has noted, open into  
9 the new addition so they would not also -- when they were  
10 open, they would not come out in those 12 inches and obstruct  
11 the window.

12 So, the window, which is an at-risk window, would  
13 not be obstructed by the addition. The in-fill addition is  
14 one-story. That wall of the adjacent property is a party  
15 wall with no windows other than this one at-risk window, as  
16 you can see in this slide.

17 And the -- in our review, the two proposed  
18 additions are small, as the applicant noted, about 150 square  
19 feet, and would not have an undue impact on the adjacent  
20 owner's property, light and air, or privacy.

21 MEMBER WHITE: And again, the fact that it's an  
22 at-risk window means what? Just for the record.

23 MS. FOTHERGILL: So, it is on the party line --  
24 the property line, and could be obstructed by an addition by  
25 the subject property owner. It -- as you will see, there are

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1 no other windows on this wall and, and as the applicant's  
2 architect described, the way the L's were designed, the, the  
3 both light and air to the houses of these three in a row was  
4 on the applicant's side of the L, not the adjacent property  
5 owner, whereas the adjacent property owner has their L on the  
6 other side with the windows providing the light and air.

7 MEMBER WHITE: Okay, thank you.

8 VICE CHAIRPERSON HART: And, just one question  
9 regarding the issue about, kind of, impact and unduly  
10 affected. I mean unduly affected is, is within the Roning  
11 Regulation terminology.

12 And, could you just explain how that, how you  
13 think that that is, that this is not an undue impact as, or  
14 undue affect as opposed to, I mean it is -- I think you could  
15 say that it will have an impact. But how much is that? You  
16 know, what's the extent of that impact?

17 MS. FOTHERGILL: The, as the applicant's team has  
18 stated, property owner currently uses that back door on the  
19 L, so uses that route from the garage so that that is not  
20 going to be a change to that use in terms of privacy or  
21 impacts to the neighbor. The window is not being obstructed  
22 and in fact, as you can see in the slide, there is  
23 approximately 10 to 12 inches next to the window. The doors  
24 do not swing out and, all of those as you said, it is an  
25 impact, you know, an addition adjacent to a property has an

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1 impact but we do not find that it has an undue impact.

2 The window again, is an at-risk window, and it is  
3 not being obstructed by this proposed addition.

4 VICE CHAIRPERSON HART: Thank you.

5 CHAIRPERSON HILL: Okay. Does the applicant have  
6 any questions to the Office of Planning?

7 MS. SHIKER: We do not have any questions for the  
8 Office of Planning.

9 CHAIRPERSON HILL: Does the party in opposition  
10 have any questions for the Office of Planning?

11 MS. THEMAK: No, we do not.

12 CHAIRPERSON HILL: Okay. Is there anyone else here  
13 wishing to be speak in support? Is there anyone else here  
14 wishing to speak in opposition?

15 Okay, Ms. Shiker, you have an opportunity for  
16 rebuttal and then Ms. Themak, you'll have an opportunity to  
17 question anything that was from rebuttal, and then you'll  
18 have an opportunity for a closing statement, even though it's  
19 not really -- I always get a little confused as to whether  
20 the party status person gets closing statements or not, but  
21 I like to hear a little bit at the end, and then I know that  
22 the applicant gets a closing statement.

23 So, do you guys have anything you'd like to add  
24 in rebuttal?

25 MS. SHIKER: Yes, thank you. We are sympathetic

1 to the concerns of the party in opposition and as such, we  
2 have met several times in an effort to try to show what we  
3 believe will be a very negligible impact, up to and including  
4 taping it on the ground to show that the, the modest size of  
5 the addition. But unfortunately, as you know, we haven't  
6 come to that agreement.

7           We believe that the balancing has been that we are  
8 not covering the at-risk window. We have had that as a  
9 stated intent of this project not to cover that window, to  
10 maintain a setback from that window, despite the fact that  
11 it is an at-risk window. And, so we do believe that our team  
12 has, has worked hard to try to find this appropriate balance.

13           As Mr. Dettman and Mr. Barnes showed, the way  
14 these homes were built, the light and air for the property  
15 comes from that property owner's L. And Ms. Parasher's house  
16 has a variety of windows, as well as a large bay window on  
17 the end of her house. You can actually see the reflection  
18 of these windows in her cabinets in the pictures that they  
19 showed.

20           So, there is -- it's not like we're closing off  
21 the one window that there will be no light and air. She has  
22 several windows on her east facade, as well as her large bay.

23           She will still also have this window. So, to the  
24 extent that there is a negligible impact on that light that  
25 comes in, I do not believe that it rises to an undue impact.

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1 Especially when you balance it with the need for the  
2 function.

3 As Mr. Barnes testified, with the original  
4 proposal, you walk in and you hit basically a step. There  
5 is no room to traverse and to do a mud room addition, you're  
6 doing it to have just a bit of storage. They have kept it  
7 modest. And, as a result, we do believe that we have  
8 satisfied the standard fully, that there does not adversely  
9 impact the light and air, nor is there an undue impact on the  
10 privacy or the use and enjoyment of adjacent property owner's  
11 property.

12 And therefore, we'd ask that you'd consider this  
13 case.

14 Thank you.

15 CHAIRPERSON HILL: Okay, thank you. Ms. Themak,  
16 do you have any questions concerning the rebuttal?

17 MS. THEMAK: No, I do not.

18 CHAIRPERSON HILL: Okay. We'll go ahead and give,  
19 give you three minutes for a conclusion. I'll do the same  
20 for the applicant and then we'll see where we get.

21 MS. THEMAK: Okay. I think we understand the  
22 perspectives here. I think it's hard to really be able to  
23 digest the impact it has when you're not sitting on the  
24 window seat in Ms. Parasher's kitchen.

25 It may seem undue from an outside perspective, but

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1 it is truly her favorite spot and, it is going to create a  
2 detriment to the view that she has been experiencing.

3 I know that there was a question of what exactly  
4 the blue line and the blue tape in the center of that window  
5 indicated, and that was where the, that rear extension wall  
6 will connect to the applicant's wall.

7 So, essentially, Ms. Parasher will now be looking  
8 into a corner. So, it will, all of the, essentially all of  
9 the view that you see from the blue tape over to the left  
10 will be gone. There will be a wall there with the doors.  
11 That was the, that was the intent of having the applicant put  
12 the tape up.

13 Again, I understand also that, that this has been  
14 used as a rear entrance in the past. The difference being  
15 that now the entrance is right by the window as opposed to  
16 further back towards where all of the existing stairwells are  
17 on the interior of the home.

18 I think again, I think it's, I think it's a  
19 particular case where from the interior of this home, you,  
20 you see the impact here, and you see that the change is going  
21 to in fact, be significant.

22 I would close with that. And, I do appreciate the  
23 applicant's time in coming out and meeting with us and  
24 whereas they have, they feel that they have made the  
25 compromise by not completely covering the window, we feel

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1 that we had a, a good design at the beginning, at the outset.  
2 And, we feel that that would be a possible compromise as  
3 well.

4 So, we would close with that. Appreciate your  
5 time.

6 CHAIRPERSON HILL: Okay, thank you.

7 I'm just going to go back real quick. The exhibit  
8 that you're talking about is in your testimony, exhibit 57,  
9 and when you go into exhibit 57, and you scroll down and you  
10 see the blue tape in the windows, right?

11 So, you're trying to, in, and this is what I'm  
12 just trying to get at. Like, I see the and I don't know if  
13 you guys can pull it up or not, but the last photograph,  
14 which is on page 8 of your exhibit, it seems as though that's  
15 where you're trying to say the extension is going to go back.

16 Is that correct?

17 MS. SHIKER: You're looking at the aerial view  
18 down into that?

19 CHAIRPERSON HILL: Yes.

20 MS. SHIKER: I'm sorry, yes.

21 CHAIRPERSON HILL: That's okay.

22 MS. SHIKER: And, the blue tape on the right side  
23 is on the applicant's property.

24 CHAIRPERSON HILL: Right.

25 MS. SHIKER: So, the wall will be out to that line

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1 --

2 CHAIRPERSON HILL: Right, right.

3 MS. SHIKER: -- and as high as that line goes.

4 CHAIRPERSON HILL: And this, that's okay. And,  
5 so just out of curiosity, you guys put the blue tape up,  
6 meaning the applicant, right to try to indicate --

7 MR. BARNES: We did to help the --

8 CHAIRPERSON HILL: Okay.

9 MR. BARNES: -- neighbor understand.

10 CHAIRPERSON HILL: Okay, great.

11 And, so then the photograph that you're taking  
12 through the window is at an angle, so you can see the blue  
13 tape, correct?

14 MS. SHIKER: It's from several different  
15 perspectives.

16 CHAIRPERSON HILL: Yes, that's okay, I'm just  
17 saying --

18 MS. SHIKER: So yes.

19 CHAIRPERSON HILL: -- it's not blocking the  
20 window?

21 MS. SHIKER: Where that wall is.

22 CHAIRPERSON HILL: It's not blocking the window.

23 MS. SHIKER: Right.

24 CHAIRPERSON HILL: It's you're going to now say  
25 you're going to look at a corner now, is what you're trying

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1 to convey? Okay, all right. Okay, does the applicant have  
2 some concluding statements?

3 MS. SHIKER: We would again submit that we have  
4 satisfied the burden of proof. There is no undue impact.  
5 The window is not covered. We believe that we have worked  
6 to try to make a design that works well and we would ask the,  
7 the Board to consider this at its earliest convenience.

8 Thank you.

9 CHAIRPERSON HILL: Okay, does the Board have any  
10 final questions of anybody? Okay, I'm going to close the  
11 hearing. Is the Board ready to deliberate? Okay, I can start.

12 You know, I'm really sorry that Ms. Parasher, you  
13 know I mean I can see that you're distraught and I'm sorry  
14 that, that, you know, you're trying very much to come here  
15 and give your testimony in terms of the undue impact for  
16 your, your window and your light and air.

17 In my, I mean I'll just quick in that I'm going  
18 to be voting for in favor of the application because I think  
19 that the applicant actually has met the standard for us to  
20 grant the application.

21 And, really the reasons why are a few fold. I  
22 think that they've met the criteria in general in terms of  
23 just that one particular window.

24 We've had a lot of cases where there have been at-  
25 risk windows where the window has completely been blocked and

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1 taken out, and we've voted for those because they have again,  
2 continued to meet the criteria for us to do that.

3 I think that as the applicant, and we'll see what  
4 the other Board members say, I mean I'm just one vote, but  
5 as far as I would agree that the applicant has maybe already  
6 come to whatever that compromise might be.

7 I mean I don't know how, I mean I understand there  
8 was another design where it was still further back. I still  
9 think that, you know, you're still going to have access to  
10 the window. I still think that the applicant has done what  
11 they can to make it so that it is a small again, 150 square  
12 feet, extension.

13 They could have gone ahead and blocked the window  
14 if they wanted to design it a different way. They possibly  
15 could have even gone for blocking the window and still gotten  
16 a little bit more in terms of the area ratio to come back and  
17 try to, to get even closer to 70% rather than what they did  
18 do.

19 I guess the, yes, and then I guess, you know, as  
20 far as the, the OGB, I mean they're, they're you can't even  
21 have the discussion as was stated earlier, in terms of  
22 blocking that window that no longer exists because they don't  
23 want, OGB didn't want you to split that arch.

24 And so, unfortunately, I'm going to have to side  
25 with the applicant in this situation and vote in support of

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1 the application. Who else would like to go next?

2 MEMBER WHITE: I'll jump in. I'm very sympathetic  
3 to the whole issue of, of wanting sunlight, you know? And,  
4 I can understand why you're distraught about it. I remember  
5 a case that we, we heard where there was a, it was the window  
6 in the kitchen and it was an at-risk window, and there was  
7 some development and because it was at-risk, you know, the  
8 applicant had the right to completely cover it. And, I  
9 remember that feeling of, you know, the, the regulations  
10 being, you know, basically allowing that to happen.

11 But, I, at this particular point, I think that the  
12 design really doesn't increase the density. I think it's a  
13 modest addition. I think that the applicant did compromise  
14 in that they're not covering the window, and that the design  
15 was approved by the Old Georgetown Board.

16 And, you know, I believe that this particular at-  
17 risk window, I don't think it's original to this particular  
18 structure.

19 But, the -- you do have adjacent neighbor support  
20 on the west for this. And, the lot occupancy is below the  
21 70%. So, I think with this extension that they're doing  
22 here, I think I will be in support for it because I do think  
23 they met the criteria and the regulations.

24 But, I am again, you know, sympathetic to your  
25 concerns in terms of this being something that's going to be

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1 there that you're not accustomed to seeing. And, it does  
2 have an impact to, to your view.

3 But, I'll see how my other Board members vote.  
4 But at this point, I think especially with the Office of  
5 Planning's support and recommendation to support the  
6 application, I think I'm going to be in support of it as  
7 well.

8 VICE CHAIRPERSON HART: And I appreciate all of  
9 the, both the comments from both my colleagues here.

10 So, also look at this case and I, I think that I,  
11 I would also be in support of the case for the reasons that  
12 they've, they've outlined.

13 I would also like to just mention that in zoning,  
14 we are really looking at what is the, whether the application  
15 before us -- bless you -- will be able to meet, and if the  
16 applicant has provided sufficient information for us to be  
17 able to say that they are able to meet the criteria that's  
18 within the zoning regulations.

19 And, the reason that I was asking the question of  
20 the Office of Planning regarding the undue impact is the  
21 regulations describe and talk about and use the words undue  
22 impact in, in part of their criteria that we have to evaluate  
23 this particular application on.

24 And, the, so the, so the issue becomes what is an  
25 impact and what is an they say, undue, unduly affected? So,

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1 kind of what is the, what is the, what is the difference  
2 between those two?

3           And, I think that's becomes a, that's a harder  
4 piece to understand. But, it's in some ways you kind of know  
5 it when you see it. And, if they were possibly taking, you  
6 know, adding another floor or going out to the full extent  
7 of the building, you might be able to get to an undue impact.

8           And, I'm not saying that that's, I'd be in favor  
9 of that, I'm just saying that there is, there is levels of  
10 impacts that we have to evaluate and in this particular case,  
11 we have to look at whether or not how we believe this  
12 applicant has, what they're proposing, you know, does or does  
13 not meet the criteria that's, that's before us.

14           So, I do, do think that there will be an impact.  
15 I am, I do not believe that there is going to be an undue  
16 impact. And, that's really why I'd be able to support the  
17 application.

18           I do understand that, that this will affect the,  
19 the -- in your testimony that you provided for the party in  
20 opposition, the, I understand that you have stated that this  
21 window is something that does bring light and air into, or  
22 light into the, to your, to your -- the first floor. And,  
23 I understand that this is a, an addition that will affect  
24 that.

25           But, it is getting to the point of whether or not

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1 that's undue, and I just I can't get to the that I believe  
2 that that would be an undue. It's not a very large addition  
3 that's being proposed. And, I think that's part of the  
4 rationale that I have for coming to the conclusion that I  
5 have.

6 But, hopefully you will, will be able to continue  
7 having conversations about various aspects of this and,  
8 you're neighbors, so you will be seeing each other and, and  
9 living next to each other, so I would just wish you good luck  
10 in the future as you, as this particular project continues.

11 But again, I would be in, in support of the  
12 application.

13 MEMBER JOHN: So, I would also be in support of  
14 the application. And, for the reasons that have been noted  
15 by, by the rest of the Board. And, the reason is that this  
16 is a special exception. It's not a variance, so the standard  
17 is not as high as a variance would be.

18 And, this all boils down to what is an undue  
19 impact. And, there is no doubt that there will be some  
20 impact. You will lose the, the view, as, as you've said.  
21 But, you know, the, the regulations don't protect the view.  
22 They protect light and air.

23 And, for all of the reasons that have been  
24 discussed, there is no excessive impact in this particular  
25 case. And, so I, I appreciate your being here and to raise

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1 your concerns, but we also have to take note of the fact that  
2 the applicant did not close off the, you know, the at-risk  
3 window, which under the regulations, they could have because  
4 that's what happens with at-risk windows.

5           The Board also asked questions about whether or  
6 not the, the addition could be shortened, and I was, you  
7 know, thinking about that myself, what would be a good  
8 compromise? But then there's the, the Old Georgetown Board  
9 that, or the historic --

10           VICE CHAIRPERSON HART: Yes, it would be.

11           MEMBER JOHN: -- who would not, would not approve  
12 closing off a bit of the arch, which is unfortunate. I think  
13 that would have been a good compromise.

14           So, for all of those reasons, I would support the  
15 application.

16           COMMISSIONER MILLER: Thank you, Mr. Chairman.

17           I would, I would concur with Board member John and  
18 the other comments of my colleagues and, in terms of this  
19 application meeting the criteria for the zoning relief that's  
20 being requested.

21           And, you know, hopefully the design, which looks  
22 like it's very well designed, maybe will provide some  
23 reflection off of that glass that will mitigate the, what you  
24 perceive as a, the loss of sunshine coming, I guess from the  
25 south side. But, and maybe you can build another at-risk

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1 window further, further down. Or extend your bays so that  
2 you can get more light into that kitchen.

3 So, I will, I will be supporting the application,  
4 reluctantly.

5 CHAIRPERSON HILL: Okay, I'm going to make a  
6 motion approving application no. 20007 as captioned and read  
7 by the secretary, and ask for a second.

8 VICE CHAIRPERSON HART: Second.

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

11 (Chorus of aye.)

12 CHAIRPERSON HILL: All those opposed?

13 (No audible response.)

14 CHAIRPERSON HILL: Motion passes, Mr. Moy.

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

20 CHAIRPERSON HILL: Okay, thank you, Mr. Moy. Thank  
21 you all very much. And, we're actually going to take another  
22 five minute break.

23 (Whereupon, the above-entitled matter went off the  
24 record at 3:55 p.m. and resumed at 4:08 p.m.)

25 CHAIRPERSON HILL: All right, Mr. Moy. Whenever

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1 you're ready.

2 SECRETARY MOY: Thank you, Mr. Chairman.

3 So, the next application before the Board is no.  
4 20091 of Amani Enterprises, LLC. Caption advertised for a  
5 special exception under subtitle H, section 1200, from the  
6 designated use requirements of subtitle U, section 1107.1H2  
7 to operate an establishment that has as a principal use, the  
8 administration of massage in an existing mixed-use office  
9 building. NC-11 zone, this is at 609 H Street N.E., Square  
10 859, Lot 837.

11 CHAIRPERSON HILL: Okay, thank you, Mr. Moy.

12 If you could please introduce yourselves for the  
13 record?

14 MS. BLOOMFIELD: Good afternoon. Jessica  
15 Bloomfield with the law firm of Holland & Knight.

16 MS. BROWN: Good afternoon. Rosalyn Brown, I'm  
17 located at 1215 Sims Place N.E.

18 MS. McLEAN: Good afternoon. Danielle McLean, I'm  
19 located at 1122 8th Street N.E.

20 CHAIRPERSON HILL: Okay, great. Thank you.

21 Ms. Bloomfield, I assume you're going to be  
22 presenting to us? Okay, go ahead and get this out of the way  
23 quick. Is there anybody here speaking in opposition?

24 (No audible response.)

25 CHAIRPERSON HILL: Okay.



1 All right Ms. Bloomfield, why don't you go ahead  
2 and tell us about your project and what your client is trying  
3 to achieve, and then also how you're meeting the standard for  
4 us to grant the relief requested.

5 I'm going to put 15 minutes on the clock just so  
6 I know where we are, and you can begin whenever you like.

7 MS. BLOOMFIELD: Thank you very much.

8 I am Jessica Bloomfield, here with the,  
9 representing the owner of what we hope will be an, a massage  
10 establishment.

11 We are here requesting special exception to permit  
12 a massage establishment use in the existing building located  
13 at 609 H Street N.E. The property is located at the  
14 southeast corner of 6th and H, and it is zoned NC-11. It's  
15 an existing building with ground floor retail, office and  
16 residential above.

17 The NC-11 zone permits massage establishments but  
18 only if approved as a special exception, which is why we're  
19 here. There are no specific standards or criteria for the  
20 special exception, so it's just the general special exception  
21 standard of review that, that we need to meet.

22 We believe that the materials we've submitted  
23 clearly show that the application meets the general special  
24 exception standard, because the use is in harmony with the  
25 surrounding mixed-use retail and service environment on the

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1 H Street corridor, and because the use will not adversely  
2 affect neighboring property.

3 The massage establishment will have a small lobby  
4 entrance on H Street, and the rest of it will be in the below  
5 grade level of the building.

6 It will not create any unacceptable noise or light  
7 due to the nature of its services, its daytime operating  
8 hours and its below grade location.

9 There will be no adverse traffic or parking  
10 impacts either since the clientele will be residents of the  
11 immediately surrounding neighborhood, who will very likely  
12 simply walk to the site, or can take the numerous types of  
13 public transportation on and around the H Street corridor.

14 For those who choose to drive, including  
15 employees, there is ample public parking within the building,  
16 and located in very nearby public parking lots including  
17 directly across the street which, there's a Whole Foods.

18 We therefore, believe this special -- the  
19 application meets the test for special exception standard of  
20 review under subtitle X and H. We are pleased to have  
21 support from the Office of Planning and DDOT, ANC 6C, and the  
22 Capitol Hill Restoration Society, with no conditions in any  
23 of those reports. And, we would therefore, respectfully  
24 request that the Board approve our application.

25 We're happy to answer any questions. These two

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1 women are here to answer any questions about the massage  
2 establishment itself. They are residents of the surrounding  
3 neighborhood. And, that would conclude our direct  
4 presentation.

5 CHAIRPERSON HILL: Does the Board have any  
6 questions for the applicant?

7 MEMBER WHITE: So, is this a new business for you?  
8 Is this something that you're just establishing a new  
9 location? What kind of experience do you have and, what kind  
10 of feedback have you been getting from the neighbors?

11 MS. BROWN: It is a new business for us. It's a  
12 franchise, and so we're a franchise owner so it'll be the  
13 first location in the D.C. area.

14 It correlates with a number of the businesses in  
15 the health realm that already exist on that H Street corridor  
16 from Orange Theory, Core Yoga, there's a number of different  
17 cross-fits and so forth. So, within that same realm.

18 And, there's not a lot of businesses like ours  
19 that we're able to utilize as well. So, it's something that  
20 both of us enjoy, just doesn't exist in our neighborhood.

21 MEMBER WHITE: Okay, thank you.

22 CHAIRPERSON HILL: Ms. Brown, what's the name of  
23 the franchise?

24 MS. BROWN: MassageLuXe.

25 CHAIRPERSON HILL: How many -- I'm sorry?

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1 MS. BROWN: MassageLuXe.

2 CHAIRPERSON HILL: MassageLuXe? I mean, it looks  
3 as though you have quite a few bays, bays, I don't know,  
4 rooms, you know? And, so I mean it just looks like a good,  
5 a larger facility than I -- and so I'm just curious, we have  
6 a building nearby. And, so that was -- I could get a massage  
7 every now and again.

8 MS. BROWN: We hope that you would come.

9 CHAIRPERSON HILL: So, okay, well, we'll see if  
10 you pass.

11 All right, anybody else? No? Okay, Office of  
12 Planning, please.

13 MR. MORDFIN: Good afternoon. I'm Stephen Mordfin  
14 and, the Office of Planning stands on the record and  
15 recommends recommending support of the application and is  
16 available for any questions.

17 Thank you.

18 CHAIRPERSON HILL: Okay, does anybody have  
19 questions for the Office of Planning? Does the applicant have  
20 any questions for the Office of Planning?

21 MS. BLOOMFIELD: No.

22 CHAIRPERSON HILL: I started to do this but I'll  
23 do it again. Is there anybody here wishing to speak in  
24 support? Is there anybody here wishing to speak in  
25 opposition? Ms. Bloomfield, do you have anything you'd like

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1 to add at the end?

2 MS. BLOOMFIELD: I do not.

3 CHAIRPERSON HILL: Okay, we're going to close the  
4 record. Is the Board ready to deliberate? Okay, I didn't have  
5 any issues with this application. I thought that I would  
6 agree with the analysis that was provided by the Office of  
7 Planning in term of how they're meeting the general criteria  
8 for the special exception, as well as DDOT's no objection,  
9 as well as the ANC's letter of support, so I will be voting  
10 in support as well.

11 Is there anything else anyone would like to add?

12 MEMBER WHITE: No, I would just say that this  
13 seems like this type of business would be in harmony with  
14 the, the area with all the businesses popping up like Orange  
15 Theory, Whole Foods and others.

16 And, I think they've met their criteria and, I  
17 just wish them luck.

18 CHAIRPERSON HILL: Okay, great, thank you.

19 COMMISSIONER MILLER: And, I would just to add on  
20 to that, I concur with my colleagues and especially about the  
21 harmony comment because I think Amani, I looked it up, it  
22 just it had one of those meanings is harmony. So, I think  
23 there's some good karma going on there.

24 CHAIRPERSON HILL: All right, great. Well, then  
25 I will harmoniously make an application -- a motion to

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1 approve application no. 20091 as captioned and read by the  
2 secretary and ask for a second.

3 MEMBER WHITE: Second.

4 CHAIRPERSON HILL: Motion made and seconded.

5 All those in favor say aye.

6 (Chorus of aye.)

7 CHAIRPERSON HILL: All those opposed?

8 (No audible response.)

9 CHAIRPERSON HILL: Motion passes Mr. Moy.

10 SECRETARY MOY: Staff would record the vote as 4-  
11 0-1. This is on the motion of Chairman Hill to approve the  
12 application for the relief requested. Seconded the motion  
13 Ms. John. Also in support Ms. White and Zoning Commissioner  
14 Robert Miller. And, there is no other Board members present  
15 or participating.

16 CHAIRPERSON HILL: All right, thank you, Mr. Moy.

17 Thank you very much.

18 SECRETARY MOY: All right, the next application  
19 before the Board is no. 20095 of Mi Casa, Inc., caption  
20 advertised for special exception under the zone boundary line  
21 provisions of subtitle A, section 207.2 and pursuant to  
22 subtitle X, chapter 10, for variances, from the loading  
23 requirements of subtitle C, section 901.1, and from the zone  
24 boundary line requirements of subtitle A, section 207.1, to  
25 raise the existing detached principle dwelling unit,

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1 subdivide eight lots and, construct a mixed use building with  
2 24 residential units, retail space and non-profit office  
3 space.

4 This is in the MU-4 and RF-1 zone at 14 Florida  
5 Avenue N.W., Square 615, Lot 75, 148, 149, 150, 151, 152, 806  
6 and 825.

7 CHAIRPERSON HILL: Okay, great, thank you.

8 If you could please introduce yourselves from my  
9 right to left.

10 MS. ZURBRIGG: Hi, good afternoon. I am Elin  
11 Zurbrigg, Deputy Director of Mi Casa, Inc.

12 MR. POWE: Greg Powe, Powe Studio Architects.

13 MR. DeBEAR: Eric DeBear, Land Use Counsel from  
14 Cozen O'CONNOR.

15 CHAIRPERSON HILL: All right, Mr. DeBear. I  
16 assume you're going to be presenting to us?

17 MR. DeBEAR: I am. I'm actually going to let my  
18 client Elin Zurbrigg begin.

19 CHAIRPERSON HILL: Okay, great.

20 MR. DeBEAR: Just with a little background.

21 CHAIRPERSON HILL: Sure, no that's great.

22 If, just if you could just have one microphone on  
23 at a time down there, it's just helpful for feedback.

24 And, then I'm going to go ahead and put 15 minutes  
25 on the clock, Mr. Moy, just so we know where we are. Mr.

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1 DeBear, If you go longer than that, that's fine.

2 But if you could as normal or always I suppose,  
3 you haven't been here in a little while but so you've been  
4 here before, if you could kind of walk us through, once you  
5 get through a little bit of the overview, kind of walk us  
6 through the application, what your client is trying to  
7 achieve, and how they're meeting the standard for us to grant  
8 the relief that's being requested.

9 And, you can go ahead and take it away.

10 MS. ZURBRIGG: Thank you very much.

11 This is my second experience at a BZA hearing.  
12 We were here last year on a project to build affordable  
13 single-family homes in historic Anacostia, and it was  
14 approved, so we're hoping today is also a positive  
15 experience.

16 We have -- I'm here on behalf of our affordable  
17 housing project, which is located off of North Capitol and  
18 Florida Aves N.W. It is a vacant lot with one existing  
19 structure. It's been vacant for around 30 years, yes,  
20 there's a picture of existing conditions so you can see that  
21 the existing building has deteriorated. And there hasn't  
22 been anything on the site for some time.

23 It exists -- it consists of eight lots. These  
24 were awarded to Mi Casa in a competitive request for  
25 proposals in 2018. Although we've, we've previously tried

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1 to acquire the lot on other occasions because it's our  
2 mission and goal to produce and preserve affordable housing  
3 in the District for those who are most in need of it.

4 And we believe that there is enough housing  
5 available for people who have higher incomes, and that we  
6 need to work harder to preserve and produce affordable  
7 housing for people who are very low income, in particular,  
8 seniors and families who are desperately in need of larger  
9 units, and so that's what we're proposing to do at the lot.

10 Just a little about Mi Casa. I think I spoke on  
11 this before, but we've developed over 800 units with  
12 affordable housing throughout D.C. Some in Baltimore, as  
13 well.

14 And, we've mainly focused in the last 10 to 15  
15 years on small, multi, multi-family housing because D.C. has  
16 lost about 50% of its affordable housing stock in the last  
17 10 years. And, so the demand is there for more affordable  
18 housing, particularly to prevent the displacement of low and  
19 moderate income residents in the district.

20 So, we work with groups of tenants to help form  
21 coops, tenant associations and, then we also develop our own  
22 small, multi-family rental housing.

23 And, so that's what we're proposing to do at the  
24 site. Again, as I mentioned DHCD awarded the eight lots to  
25 Mi Casa in 2018 through a competitive RFP Property and

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1 Acquisition Disposition Division, or PADD, solicitation for  
2 offers.

3 And, our plan is to do a modest development that  
4 is in keeping with the scale of the neighborhood, to develop  
5 24 affordable rental units above first floor neighborhood  
6 retail. So, around 6,000 square feet of neighborhood retail.

7 We're able to put in a mezzanine in the rear of  
8 the retail space to get a little bit of office space that we  
9 hope to have house for non-profit office space. And, then  
10 above, there will be two-thirds of the residential building  
11 -- it will be a fully accessible building with elevators and  
12 green space in the front and the rear with adequate parking,  
13 and then our focus is really on building larger units.

14 So, we have two-thirds of the unit -- the units  
15 will be two and three bedrooms. And, then we've also  
16 exceeded the affordability requirements by making -- the  
17 project was only required to be 50% affordable. We are  
18 ensuring that it will be 100% affordable and that two-thirds  
19 of the units will be affordable to very low income  
20 households.

21 And, of that, we have some units that will be  
22 affordable to extremely low income households. So, we have  
23 a very, we think a very balanced mix of affordable housing  
24 that we're proposing to develop, that is also very much in  
25 scale with the neighborhood.

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1 So, with that -- oh, community outreach.

2 We've had a lot of support for the project because  
3 that site has been long vacant. We have, we have extended  
4 communication to neighborhood associations a long time ago  
5 in our first and second applications. So, we've been in  
6 conversation with community members for many, many years.

7 And, then more recently we've gone to, to both the  
8 Bates Street Civic Association and the Hanover Civic  
9 Association, and we, we received unanimous support at those  
10 meetings.

11 And, then we formally requested from ANC 5E their  
12 vote of support and their, and the form 129, which they did  
13 vote on last night at their meeting. And, I believe  
14 submitted for the record. It was a unanimous vote of support  
15 for, for the project.

16 Also, DDOT has no objections and the Office of  
17 Planning supports the project. Sorry.

18 So with that, I will pass it over to the technical  
19 brain here to talk more about the actual building.

20 MR. POWE: Good afternoon.

21 So, in this third issuance of the RFP, DHCD asked  
22 the neighborhood what they would like and, of course,  
23 affordable housing which is our mission, was key.

24 They also asked for neighborhood retail on the  
25 ground floor.

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1           So, that's our program. It is 100% affordable  
2 housing on three floors above ground floor retail, some  
3 residential amenities, and then we've been able to slip in  
4 a mezzanine as well because the retail is two stories tall  
5 in the front.

6           So, no, sorry, so the, the challenge is that we  
7 have to subdivide the eight lots to one, which is fine. But  
8 unfortunately, the, the zoning was inconveniently a split  
9 lot.

10           So, six of the lots fall to the east in MU-4,  
11 mixed-use 4, compatible with the North Capitol corridor and  
12 the Florida Avenue corridor. And, the last two lots to the  
13 west are currently RF-1.

14           So, everyone that responded to the DCHCD assumed  
15 that we would be able to consolidate and move the zoning line  
16 to correspond with the new lot, which is why we're primarily  
17 here today to ask that of you.

18           We've also requesting that instead of a formal  
19 loading berth because of the square footage of the retail,  
20 that we simply have a loading area with the, with the narrow  
21 alley and the tight site loading area, it works better.  
22 We're locating it, you can see in the bottom right corner  
23 where the two alleys intersect, which is useful also because  
24 I can see people cutting that corner.

25           We also really have a second loading area that

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1 leads to the back door of the residential, and to the trash  
2 and, and possibly to the retail as well.

3           So, those are the two requests. So, the ground  
4 floor as you can see, is retail. Then we have a mezzanine  
5 level, which will be not-for-profit office space. And, then  
6 the heart of the project is three floors of eight units per  
7 floor and, we're really pleased that two units per floor, the  
8 ones to the, to the west, are, are three bedrooms. Not many  
9 three bedrooms are developed anymore.

10           And, then we have four, two bedrooms per floor and  
11 then the other two are one-bedrooms, which we see this whole  
12 thing is family-oriented. We can see even the one-bedrooms  
13 being for an older couple.

14           And, on the top floor to make a gesture to scale  
15 down the building from the 50 foot height limit, to the 35  
16 foot RF-1, the flat zoning, we've dropped one of the, the  
17 third bedroom on one unit to scale it down, which you can see  
18 in this rendering. I think the rendering is next, is it?  
19 No, we've got the roof. Okay, click that.

20           Just FYI, we're striving for net zero. So, we're  
21 trying to do everything right. Any DHCD submission requires  
22 enterprise green communities, but we're, we're trying to go  
23 beyond that. I'm not sure we're going to make it because of  
24 the commercial component, and the commercial component is key  
25 to making the units more affordable. Because the retail can

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1 be a little more market rate.

2           So, the elevations pick up, the elevation you're  
3 seeing in front of you now, the diagonal elevation aligns  
4 with Florida Avenue, and the rhythm to break up the mass  
5 picks up the bays of the rooms above.

6           And, then as it goes around the corner aligning  
7 with Q Street, we pick up the bay front rhythm that is  
8 typical of historic, the neighborhood -- this one isn't  
9 technically historic, but -- of the neighborhood with the bay  
10 front rhythm coming across the building, and you can see  
11 that, that step down at the corner as a scale transition.

12           We're using again, the traditional materials on  
13 the front of brick and glass in the bay fronts in keeping  
14 with the neighborhood.

15           MR. DeBEAR: Thank you. So, I'll just run through  
16 the zoning relief as requested by Chair Hill.

17           As Mr. Powe alluded to, the primary reason we're  
18 here is for special exception relief under subtitle A to a  
19 7.2, and that's to request moving the boundary line that's  
20 the dividing lot from the MU-4 portion to the RF-1 portion.

21           In connection with that, we spoke with the zoning  
22 administrator and there's a preamble under 207.1 that  
23 requires to apply for the special exception you have to have  
24 all of your lots within single ownership as of May 12, 1958.  
25 So, we've requested variance relief from that preamble to

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1 apply moving the boundary line, and again, as Mr. Powe  
2 alluded to, we've requested loading relief in lieu of a  
3 formal loading berth, we're providing a 12 x 24 loading  
4 space.

5           And, this is generally the special exception under  
6 207.2 to move the boundary line. We do believe we meet the  
7 general special exception standard for that. It is  
8 harmonious with the purpose and intent of the zoning  
9 regulations. The MU-4 is certainly intended for moderate  
10 density, mixed-use development.

11           We are located on a major thoroughfare in Florida  
12 Avenue. We recognize obviously, that part of the project is  
13 on Q Street, but it's primarily on Florida Avenue. Florida  
14 Avenue is a major thoroughfare and a very wide roadway.

15           Right next to us to the east is a development  
16 called The Truxton that is very similar to what Mi Casa is  
17 proposing, minus perhaps as much residential affordable.  
18 And, across the street there is an approved PUD that's going  
19 to be mixed-use as well.

20           So, certainly, harmonious with the pattern of  
21 development along this section of Florida Avenue as it leads  
22 to North Capitol Street.

23           No adverse effects on the use of neighboring  
24 property. Again, as Mr. Powe said, it steps down towards the  
25 RF-1 portion on Q Street. There's a 32-foot of rear yard

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1 plus alley in back, so in terms of the neighbors across that  
2 alley, we believe that there would be no adverse impact.

3           The proposed retail and restaurant are primary  
4 located on the MU-4 portion of the site and are generally,  
5 the entrances are along the MU-4 portion on Florida Avenue.  
6 And, we exceed the parking requirement, which I know was an  
7 important point of emphasis for the community.

8           And, then there are several special conditions for  
9 the zone boundary line crossing a lot. You can only go to  
10 35 feet and lots 806 and 825, which are the RF-1 zoned lots,  
11 are only 29 feet in width, so we are within that.

12           In authorizing extension, the Board of Zoning  
13 adjustment shall require compliance with subtitle A to a  
14 7.1D. This concerns the administration of what FAR would  
15 apply for less dense zones.

16           OP did make a comment about that and we've  
17 discussed it in exhibit 40 in the record. We actually  
18 received confirmation from the zoning administrator this  
19 morning that we do not need relief from that section and, and  
20 I spoke with Mr. Kirschenbaum about that, but we can discuss  
21 later if the Board sees fit.

22           Either way, we are complying with that and then  
23 under subtitle C, the extension shall have no adverse effect  
24 upon the present character and future development of the  
25 neighborhood.

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1           We spoke already about, or I spoke already about  
2 some of these points. Again, it harmonizes with the pattern  
3 of development in this section of Florida Avenue.

4           We feel like we have been sympathetic to the homes  
5 on Q Street by stepping down toward that way, and then also  
6 developing architectural features that mimic the style of  
7 town homes that you see along Q Street. And again, we are  
8 buffered in the rear.

9           In terms of the variance relief, I'll try to be  
10 a little quicker on this. Again, we do believe that the  
11 reduced standard of review for a public service applies here.  
12 There are several recent court cases that the Board might be  
13 aware of. This simply allows the Board to consider basically  
14 the equities of the situation and certainly, the needs of Mi  
15 Casa to provide a very important civic duty of affordable  
16 housing.

17           And, in terms of the variance relief, we do  
18 believe the property is exceptional. It is an assemblage of  
19 eight lots as Ms. Zurbrigg spoke about. It was in one DHCD  
20 solicitation, so there's no opportunity to develop one or  
21 even multiple of these lots. It came in a full package.

22           Again, we are far down the road in the DHCD  
23 solicitation process and, Mi Casa was obviously the winning  
24 bidder of that through a competitive bidding process.

25           The lot line is angled along Florida Avenue. The

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1 property has long been vacant and again, the community has  
2 certainly been looking for this to be developed.

3           We have a relatively narrow alley running  
4 north/south along the side of the site, which would provide  
5 the loading access, and then the property is separated from  
6 other MU-4 property nearby.

7           In terms of practical difficulties, if we do not  
8 obtain relief from the preamble to apply for the zone  
9 boundary line relief, we would essentially lose six of our  
10 largest units and as Mr. Powe pointed out, the three bedrooms  
11 are located on the west side of the project, and that is  
12 where we meet the RF-1 zone.

13           We would have to greatly reconfigure the layout.  
14 What we'd essentially be left with is one flat because the  
15 remaining lots are 12 feet and 16 feet wide in the RF-1 zone.  
16 And, even to combine those you would only get one flat.

17           There would also be a accordant reduction in  
18 retail restaurant space, because we'd have to move all of the  
19 common elements on the ground level that we walked through  
20 in terms of the residential lobby, the stairwell, the  
21 elevator bay, over to the retail space, and that would result  
22 in the loss of significant retail space.

23           And, then certainly Mi Casa would face a great  
24 practical difficulty in that they could no longer really meet  
25 what they have proposed and have been granted by DHCD to

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1 develop this lot.

2           And, in terms of the loading, the rear of the lot  
3 between the building and the rear lot line is only 24 feet.  
4 So, to provide a full loading berth we'd again, have to cut  
5 into that retail space of such an important component of this  
6 in order to provide the deep levels of affordability that Mi  
7 Casa did propose, and to balance that out by having enough  
8 retail space that could be closer to market rate.

9           And, then no substantial detriment. I won't  
10 belabor this because I think we talked about it in connection  
11 with, with the special exception. But again, it's designed  
12 to taper down. It allows for family size affordable units,  
13 which is certainly a goal in the comprehensive plan, and  
14 amongst just district leaders.

15           And, it mimics nearby mixed-use properties and,  
16 it's going to activate a long vacant site that has really  
17 been of no use to the community and the broader public.

18           And, then in terms of the loading, we are as DDOT  
19 said, they have no objection to this relief. We are  
20 providing a 12 x 20 foot loading area which we do believe  
21 would be able to serve this size of, of retail and restaurant  
22 space. We are only 1,300 feet over the minimum requirement  
23 for a loading berth, which is 5,000 square feet. And, again,  
24 we have another loading space directly adjacent to the trash  
25 room to service trash.

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1           And, with that, I will open it up to the Board if  
2 they have further questions.

3           CHAIRPERSON HILL:     Does the Board have any  
4 questions for the applicant?

5           MEMBER WHITE:    Yes.   What retail space will be  
6 there?  You said it's going to, the relief is going to help  
7 you to preserve that retail space.

8           But, what, what are you locking in as far as  
9 retail space for this project?

10          MS. ZURBRIGG:   So, we have a partner that who is  
11 part of our application that we're currently negotiating  
12 with.

13          We need to get through some thresholds which we've  
14 just gotten through with the environmental approvals and then  
15 of course, BZA.   But we think, we think it will be to  
16 potentially split into two, so two smaller neighborhood scale  
17 retail 3,000 square feet each.  And, there, there's some back  
18 and forth discussion, we don't have a certain occupant yet  
19 but it --

20          MEMBER WHITE:    What type of business were you  
21 thinking?

22          MS. ZURBRIGG:   -- but it would likely be like a  
23 local store --

24          MEMBER WHITE:    Grocery stores?

25          MS. ZURBRIGG:   -- or grocery store or cafe or a

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1 small restaurant. Small sit down restaurant.

2 And, there's space in the front also for, for  
3 seating and the bay windows make up nice lighting for seating  
4 for a small restaurant or cafe.

5 MEMBER WHITE: Okay, thank you.

6 MEMBER JOHN: May I?

7 Do you have a diagram that shows the step down  
8 between the MU zone and the RF-1? Not the, not what you had.

9 MR. POWE: Yes. Is that it?

10 MEMBER JOHN: Okay, and can you walk me through  
11 this?

12 MR. POWE: So, the building, the main building  
13 height is 50 feet, which is the height limit for the MU-4.  
14 You can see the dividing line between MU-4 and RF-1 comes in  
15 about two and a half bays from the right-hand side of the  
16 building.

17 The height limit for RF-1 is 35 feet although  
18 actually if you were to combine, I think it's three  
19 townhouses or more you could actually get up to 40 feet. The  
20 old zoning allowed 40 feet.

21 So, you can see the 35 foot horizontal line there.  
22 You can see our 50 foot height limit, and then you can see  
23 the last bay closest to the townhouses, the one in the  
24 foreground. We're stepping it down one story so you go from  
25 50 to 40 to, to the neighbors that are roughly 35 feet.

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1 MEMBER JOHN: All right, thank you.

2 MR. POWE: When I say 35, in fairness, there is  
3 this little outlier, this, this little guy in between us.

4 COMMISSIONER MILLER: Thank you, Mr. Chairman.

5 I just wanted to commend Mi Casa and DHCD with  
6 coming forward with this all affordable needed housing  
7 project. And, especially the deeply affordable units and the  
8 family-sized units. And, putting to use I think you said 30  
9 year vacant, or 30 year vacant land?

10 So, that's an important revitalization and, I  
11 assume it's the development agreement you have with DHC lays  
12 out all those percentages that you, you talked about in terms  
13 of three bedroom, two bedroom and the, and the affordable  
14 levels?

15 MS. ZURBRIGG: Yes. We have, we currently have  
16 a disposition agreement that we signed and it was through the  
17 public hearing process, and it lays out all the affordability  
18 and unit sizes.

19 COMMISSIONER MILLER: Right, and say that was the  
20 third solicitation for this property, well maybe third I  
21 guess was three times the charm?

22 MS. ZURBRIGG: It was. Three times the charm,  
23 yes.

24 COMMISSIONER MILLER: What, I notice that you call  
25 this the Barnett-Aden development? I just out of curiosity,

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1 what is the meaning of that?

2 MS. ZURBRIGG: So, Barnett-Aden is a nod to one  
3 of the first Black owned and operated art galleries that was  
4 actually located in this community. There's an historic  
5 plaque for dedicated to recognition of that.

6 And, we have spoken with the Barnett-Aden family,  
7 who is actually very much in, in support of having a part of  
8 the, we have a community room that will be part of the  
9 residential area, and utilizing that as a place to show local  
10 artists.

11 So, they really want us to have some kind of a  
12 local art connection that facilitates and continues the  
13 legacy of that original art gallery in that neighborhood.

14 COMMISSIONER MILLER: Thank you for that  
15 information. I think that commemoration is certainly another  
16 commendable aspect to this important project. Thank you.

17 MEMBER JOHN: One more question.

18 Is there a diagram that shows the layout of the  
19 building in terms of Florida Avenue and is it Q Street? I'm  
20 having a hard time just visualizing it from that diagram.

21 MR. POWE: Let's see if the site line helps.

22 MEMBER JOHN: Okay.

23 MR. DeBEAR: This is Florida Avenue.

24 MR. POWE: So, Florida Avenue is that diagonal.

25 Q Street is the, along the top, parallel to the top. There's

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1 that big bump out as Q Street intersects Florida Avenue.

2 So, there's nothing across the street from us.  
3 The Q Street towns start to the -- to my left of, of our  
4 project. And, so there's this broad sidewalk and then we're  
5 widening the sidewalk as it comes to the diagonal across,  
6 across Florida Avenue.

7 Then, the east property is this very narrow alley  
8 that serves the backside of the North Capitol buildings in  
9 that block. And, then behind us is an east/west alley that  
10 serves the backs of the Q Street and the street next south  
11 to us, Bates.

12 There's another, is that useful as well?

13 MEMBER JOHN: Yes.

14 MR. POWE: And, we, we're building as is  
15 traditional in D.C., up to the property line, and the bay  
16 windows are part of the public space articulation that's  
17 typical of, of this neighborhood.

18 MEMBER JOHN: Okay, that helps. Thank you.

19 MR. POWE: Thank you.

20 CHAIRPERSON HILL: I'd like to echo, you know, my  
21 colleagues' and Commissioner Miller's in particular  
22 statements in terms of how this is a need, and how you guys  
23 were able to do these things and I think it's just  
24 commendable and great.

25 I am just kind of curious in terms of how, what

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1 drives, like, I mean 30%, 50% and 80% AMI? Like, how do you  
2 guys, I'm just, I mean again, this is just I'm curious real  
3 quick and I know we've been here a long day, so I'm going to  
4 just make it longer.

5 But, the, what drives that? Like, how do you  
6 figure out the levels of, and I mean I assume Mi Casa is  
7 trying to get as deeply as affordable as you can get. Like,  
8 I mean you're just trying to figure out how to make it work?

9 MS. ZURBRIGG: Yes, exactly. I mean, we have  
10 enough experience after 27 years to know what the need is,  
11 and, and most of the buildings that we work in, that, that  
12 is roughly the split. The majority of, of people that we  
13 work with in our buildings fall below 50% MFI or EMI.

14 And, that a good portion of those fall below 30%,  
15 and so we know the demand is incredible for that kind of  
16 housing. So, we work backwards. I guess backwards, you  
17 know, rather than a for-profit developer who might say how  
18 can I maximize profit or the number of units. We look at  
19 what are our goals for the project, what do we want in terms  
20 of affordability?

21 We want larger units, that means fewer units and  
22 we have to, and we don't necessarily get any more income for  
23 them. And, we want deeper affordability. So, we work sort  
24 of backwards into how are we going to finance that through  
25 a combination of sources.

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1           Some of it is, is public funding, and then some  
2 of it in this case, is the sale of the commercial space which  
3 actually enables us to, to fund a portion of the residential  
4 affordable.

5           CHAIRPERSON HILL: And, what does like, 30% AMI  
6 translate to?

7           MS. ZURBRIGG: So, roughly AMI for a family of  
8 four is about \$110,000.00, so 30%, \$33,000.00 for, that's for  
9 a family --

10          CHAIRPERSON HILL: family of four.

11          MS. ZURBRIGG: -- of four for a two person  
12 household might be \$24,000.00 or something roughly.

13          CHAIRPERSON HILL: Okay.

14          MS. ZURBRIGG: But, you know, it's difficult to  
15 find anyplace that you can afford to live on at an affordable  
16 rate --

17          CHAIRPERSON HILL: Sure.

18          MS. ZURBRIGG: -- which is considered like one-  
19 third of your income. Most households at that, at that  
20 income level, even at 50% AMI are rent burdened, which means  
21 they pay more than 50% of their income towards housing.

22                 So, that's really the issue we're trying to offset  
23 here.

24          CHAIRPERSON HILL: Okay, great. Thank you.

25                 All right, the Office of Planning, please.

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1 MR. KIRSCHENBAUM: Good afternoon, Chair Hill,  
2 members of the Board. Jonathan Kirschenbaum, from the Office  
3 of Planning.

4 We are recommending approval of the variance  
5 relief for loading requirements and, we recommend approval  
6 of the special exception relief for zoning boundary line  
7 crossing a lot.

8 And, we also regarding the issue with the FAR  
9 calculation that we had raised in our report, the applicant  
10 has submitted a determination from the zoning administrator  
11 at DCRA and who does, who says that there's not an issue with  
12 the zoning, sorry with the FAR calculation, and we defer to  
13 that determination.

14 We also will just say that we will be providing  
15 additional clarity in the future regarding how this section  
16 should be applied and interpreted.

17 Thank you. Please let me know if you have any  
18 further questions.

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

22 MR. DeBEAR: No.

23 CHAIRPERSON HILL: Is there anyone here who wishes  
24 to speak in support? Is there anyone here who wishes to speak  
25 in opposition? Mr. DeBear, you have anything you'd like to

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1 add at the end?

2 MR. DeBEAR: We thank the Board for its time and  
3 patience today.

4 CHAIRPERSON HILL: Okay, great. All right, I'm  
5 going to close the hearing.

6 Is the Board ready to deliberate?

7 MEMBER WHITE: I'll go. I mean I think that the  
8 applicant has clearly met the requirements for both the zone  
9 boundary line requirement and, the loading variance  
10 requirement for their particular application.

11 I'd like to commend them on the project as well.  
12 D.C. has one of the most severe affordable housing crisis in,  
13 in the country. So, I think the design is attractive. I  
14 think the AMI levels are going to help a lot of families.  
15 I think the, it's attractive to have family-sized units that  
16 are structured this way and, I think it also will fit well  
17 in this particular part of town.

18 So, with the Office of Planning support, as well  
19 as the ANC, I will be in support of this particular  
20 application.

21 MEMBER JOHN: Mr. Chairman, I can support the  
22 application as well, and I thought that the Office of  
23 Planning did a good job in describing how the applicant met  
24 the, the requirements for granting the relief requested.

25 I did have some question about the floor area

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1 ratio calculation and, that was cleared up with the  
2 submission of the letter from the zoning administrator.

3 So, based on all of the support, the community  
4 support that you had and the recommendation of the Office of  
5 Planning, I can support the application.

6 COMMISSIONER MILLER: Mr. Chairman, I, I would  
7 agree that the applicant and the Office of Planning have made  
8 the case for that the criteria has been satisfied for the  
9 zoning relief that's being requested for this very  
10 commendable all affordable housing project.

11 And, in addition to all the other commendations  
12 I meant to commend you, commend Mi Casa, for their community  
13 engagement in obtaining the support of Bates Civic  
14 Association, Hanover Civic Association, ANC 5E. It certainly  
15 makes our life a lot easier up here.

16 So, thank you.

17 CHAIRPERSON HILL: Okay, great. I won't echo any  
18 of the things my colleagues said. I mean as we know, that,  
19 you know, the current administration Mayor Bowser is pushing  
20 for as much affordable housing as we can get, and I think  
21 that I wish Mi Casa the best of luck for this project, as  
22 well as the other ones that came through the, the pipeline  
23 with us.

24 I'm going to make a motion to approve application  
25 no. 20095 as captioned and read by the secretary, and ask for

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1 a second.

2 MEMBER WHITE: Second.

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

5 (Chorus of aye.)

6 CHAIRPERSON HILL: All of those opposed?

7 (No audible response.)

8 CHAIRPERSON HILL: The motion passes Mr. Moy.

9 SECRETARY MOY: Staff would record the vote as 4-  
10 0-1. This is on the motion of Chairman Hill to approve the  
11 application for the relief requested. Seconded the motion  
12 is Ms. John. Also in support, Ms. White and Zoning  
13 Commissioner Robert Miller. No other Board members present  
14 or participating.

15 CHAIRPERSON HILL: Thank you, Mr. Moy.

16 Thank you very much.

17 SECRETARY MOY: All right, Mr. Chairman, the next  
18 application before the Board is 20108, of 1238 Wisconsin,  
19 Owner LLC, caption advertised for special exception under  
20 subtitle G, section 1201.1, for the rear yard requirements  
21 of subtitle G, section 405.2. This would expand and renovate  
22 an existing mixed-use building MU-4 zone.

23 This is at 1238 Wisconsin Avenue N.W., Square  
24 1218, Lot 102, and I believe Mr. Chair, that there's a  
25 request for expert status, which is under your exhibit 33B.

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1 CHAIRPERSON HILL: Okay, thank you.

2 If you could please introduce yourselves for the  
3 record.

4 MR. DETTMAN: Good afternoon, Mr. Chairman,  
5 members of the Board. Shane Dettman, Director of Planning  
6 Services with the law firm Holland & Knight.

7 MR. KLASS: Good afternoon. My name's Nate Klass.  
8 I'm here representing 1238 Wisconsin Owner, LLC.

9 MS. MYERS: Good afternoon. Mark McInturff, FAIA.  
10 McInturff Architects Bethesda.

11 CHAIRPERSON HILL: All right, Mr. Dettman, you  
12 have an expert witness you're trying to get approved, is that  
13 correct? Or it's already happened?

14 MR. DETTMAN: That would be me.

15 CHAIRPERSON HILL: Mr. Dettman?

16 MR. DETTMAN: Yes.

17 CHAIRPERSON HILL: You haven't been approved as  
18 an expert witness before?

19 MR. DETTMAN: I have. I think we proffering me  
20 as an expert witness. It has happened before, but I think  
21 as, as a matter of course we do that in every application.

22 CHAIRPERSON HILL: I see, okay.

23 Does the Board -- I do not have any problems with  
24 Mr. Dettman being admitted as an expert witness. Does the  
25 Board? Okay. All right, let's see. So, Mr. Dettman, go ahead

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1 and if you want, I assume you're going to present to us  
2 first?

3 MR. DETTMAN: I will.

4 CHAIRPERSON HILL: If you could go ahead and tell  
5 us about what your client is trying to achieve, I think that  
6 the record is relatively full. But, if you want to kind of  
7 walk us through how you're meeting the standard to meet the  
8 special exception.

9 I do see that, you know, this, we've had the same  
10 CF a lot today actually, and we don't have anything from  
11 them. Oh no, I'm sorry. We do have something from --

12 MR. DETTMAN: It's exhibit 26 in the record.

13 CHAIRPERSON HILL: Right, and so maybe you could  
14 speak a little bit to the outreach. I do appreciate that the  
15 model's here and we'll see whether we get to that. It's just  
16 really late in the day --

17 MR. DETTMAN: Yes.

18 CHAIRPERSON HILL: -- so every model.

19 So, go ahead and put 15 minutes on the clock, Mr.  
20 Moy. And, Mr. Dettman, you can begin whenever you like.

21 MR. DETTMAN: Thank you, Mr. Chairman, and I'll  
22 be brief in my, my introduction here.

23 We're here today for a special exception from the  
24 rear yard requirement of subtitle G, 405.2. The subject  
25 property is located at 1238 Wisconsin Avenue N.W. It's at

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1 the corner of Wisconsin and Prospect Street.

2           Currently, it's improved with an existing mixed-  
3 use building that has a vacant ground floor retail level  
4 right now. It is a contributing building to the Georgetown  
5 Historic District.

6           The proposal as shown in the plans that are  
7 submitted to the record, is to renovate and expand the  
8 existing building to include ground floor retail, office and  
9 residential uses.

10           Other than rear yard, which in this zone the  
11 subject property is zoned MU-4 that requires a minimum rear  
12 yard of 15 feet. Other than rear yard, the project will meet  
13 all other areas of the zoning regulations and the conditions  
14 in a prior 1980s BZA order. That is BZA Order 13473, which  
15 granted relief for parking and as well as it was an FAR  
16 variance to allow more commercial FAR than is permitted under  
17 the zone.

18           But other than the rear yard, will meet all the  
19 other areas of the zoning regulations and the conditions of  
20 the BZA order.

21           For this project, for this specific special  
22 exception, the burden of proof is the standards contained  
23 within subtitle X 901.2, that's the general special exception  
24 criteria, as well as the zone specific special exception  
25 criteria for rear yard contained in subtitle G of 1201.1.

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1           We've laid out in our pre-hearing statement in  
2 detail the manner in which we meet those specific criteria.  
3 We'll note that we have the Office of Planning support,  
4 exhibit 25, DDOT at exhibit 24. I've mentioned the ANC is  
5 in support of the application, exhibit 26.

6           I'll also note that we, the applicant has reached  
7 out to the adjacent neighbors and discussed the project, and  
8 we have their support. The two adjacent neighbors at letters  
9 of support at exhibit 19 and 20.

10           Mr. Chairman, I can leave it there and go to  
11 questions. Happy to rest on the rest of the record that we  
12 have, or we can go to a fuller presentation with the model  
13 and the architect.

14           CHAIRPERSON HILL: Okay, Mr. Dettman, thank you.  
15 Let's just see where we are with the, the questions from the  
16 Board.

17           Does the Board have any questions for the  
18 applicant?

19           (No audible response.)

20           CHAIRPERSON HILL: All right, I'm going to turn  
21 to the Office of Planning.

22           Can I hear from the Office of Planning, please?

23           MS. MYERS: Hello, Crystal Myers with the Office  
24 of Planning.

25           The Office of Planning is recommending approval

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1 of this case and it stands on the record of the staff report.

2 CHAIRPERSON HILL: Okay. Does anyone have any  
3 questions for the Office of Planning?

4 (No audible response.)

5 CHAIRPERSON HILL: Mr. Dettman, do you have any  
6 questions for the Office of Planning?

7 MR. DETTMAN: No questions.

8 CHAIRPERSON HILL: Is there anyone here who wishes  
9 to speak in support?

10 (No audible response.)

11 CHAIRPERSON HILL: Is there anyone here who wishes  
12 to speak in opposition?

13 (No audible response.)

14 CHAIRPERSON HILL: I wonder if you can hear by the  
15 tone of my voice how, how much I'm really interested in  
16 hearing questions.

17 Does the Board have any questions?

18 (No audible response.)

19 CHAIRPERSON HILL: Do you have anything to add,  
20 Mr. Dettman at the end?

21 MR. DETTMAN: Nothing to add.

22 CHAIRPERSON HILL: Okay. I'm going to close the  
23 hearing.

24 Is the Board ready to deliberate?

25 (No audible response.)

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1 CHAIRPERSON HILL: Okay, as I started to mention  
2 at the beginning, I thought that the record was actually  
3 pretty full with this. I do agree with the analysis of the  
4 Office of Planning. Also, the analysis that the ANC 2E has  
5 presented.

6 I think that the, the exhibits that the applicant  
7 has put together in terms of how they are meeting the  
8 standard with which for us to grant the relief requested, I  
9 think is well founded and I'm going to be voting in support.

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

11 (No audible response.)

12 CHAIRPERSON HILL: Going to make a motion to  
13 approve application no. 20108 as captioned and read by the  
14 secretary and ask for a second.

15 MEMBER JOHN: Second.

16 CHAIRPERSON HILL: Motion made and seconded. All  
17 those in favor say aye.

18 (Chorus of aye.)

19 CHAIRPERSON HILL: All those opposed?

20 (No audible response.)

21 CHAIRPERSON HILL: Motion passed to Mr. Moy.

22 SECRETARY MOY: Staff would record the vote as 4-  
23 0-1. This is on the motion of Chairman Hill to approve the  
24 application for the relief requested. Seconding the motion  
25 is Ms. John. Also in support, Ms. White and Zoning

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1 Commissioner Rob Miller. No other members present.

2 CHAIRPERSON HILL: Thank you, Mr. Moy.

3 Thank you, gentlemen.

4 MR. DETTMAN: Thank you, Board.

5 (Pause.)

6 SECRETARY MOY: Mr. Chairman, the next and I  
7 believe final application before the Board is application no.  
8 20110, of Alabama Apartments, LLC, captioned and advertised  
9 for special exception under the new residential development  
10 provisions, subtitle U, section 421, to construct 86-unit  
11 affordable housing units in a new 3-story building with 14  
12 surface parking spaces, RA-1 zone.

13 This is at 2483 through 2491 Alabama Avenue S.E.,  
14 Square 5730, Lots 7, 9, 11, 118 through 126, 800, 801, 861,  
15 863, 865, 867, 869, 871 and 918.

16 CHAIRPERSON HILL: Okay, great, thank you, Mr.  
17 Moy.

18 If you could please introduce yourselves from my  
19 right to left.

20 You need to push the button and speak into the  
21 microphone.

22 MR. JACKSON: Clarence, Clarence Jackson.

23 MR. DURRANI: Mustafa Durrani.

24 MR. KADLECEK: Cary Kadlecek, from the law firm  
25 of Goulston & Storrs on behalf of the applicant.

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1 MR. SPARHAWK: Greg Sparhawk, from GPS Designs.  
2 I'm the architect on the project.

3 CHAIRPERSON HILL: Mr. Kadlecek, are you  
4 presenting today?

5 MR. KADLECEK: Yes, we have a presentation  
6 although I'm not sure why it's not showing up on the screen.

7 CHAIRPERSON HILL: Okay. I'll let, is tech  
8 support please come out forward.

9 And, did everybody get sworn in earlier?

10 MR. KADLECEK: Yes, they were all sworn in.

11 CHAIRPERSON HILL: You guys were all sworn in this  
12 morning?

13 (Laughter.)

14 MR. KADLECEK: Been here for a while.

15 CHAIRPERSON HILL: All right.

16 (Pause.)

17 CHAIRPERSON HILL: Okay, Mr. Kadlecek. Before you  
18 get started again, if you could just kind of tell us about  
19 what it is your client's trying to achieve, and how you are  
20 meeting the criteria or the standard, I guess, for which we  
21 can grant the requested relief.

22 I did see that ANC 8B submitted something. It  
23 wasn't necessarily a report for great weight, but it least  
24 was something. And, so you could, I suppose, speak to that.

25 The only other thing that you could speak to I

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1 suppose, is the TDM plan. And, all I really want to  
2 understand is that the submission that you have in exhibit  
3 31 on page 18, basically is the TDM plan. I don't want to  
4 get too much into more detail than that if that's basically  
5 what you think the TDM plan is.

6 That being all said, Mr. Moy will put 15 minutes  
7 on the clock and you can begin whenever you like.

8 MR. KADLECEK: Good afternoon, almost evening,  
9 members of the Board. Again, Cary Kadlecek from Goulston &  
10 Storrs.

11 Just briefly, the proposed development here is for  
12 an all affordable 86-unit project on a site that's largely  
13 undeveloped right now. It's being developed in the RF, or  
14 the RA-1 zone rather. So, the only relief that's being  
15 sought is for new residential development in the RA-1 zone.

16 Otherwise, with respect to all the development  
17 standards, the project conforms to the matter of right zoning  
18 standards. So, it's solely for the, for the use in the RA-1  
19 zone that we're seeking relief.

20 The criteria for approval in the RA-1 zone of the  
21 new residential development is stated in subtitle U, section  
22 421.

23 The first criteria has to do with schools, public  
24 streets and recreation with respect to impact on those as a  
25 result of the new development.

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1           As the OP analysis describes in their report,  
2 there are no expected impacts on schools or recreation areas.  
3 We'll also note that the application was forwarded to the  
4 relevant agencies and, we have not received any comments  
5 specifically from them on that.

6           With respect to impact on the streets, we did  
7 submit a traffic study that is in the record. That analysis  
8 shows no adverse impact, as well as the DDOT report, which  
9 concurs no adverse impact in their report stating no  
10 objection to approval of the application.

11           The next criteria under U 421 is with respect to  
12 site plan and design. The architect, Greg Sparhawk, will get  
13 into that a little bit more, but as an overview, the design  
14 as you will see particularly for an all affordable building,  
15 is exceptionally high quality.

16           It responds to the topography of the sloping and  
17 unusually shaped site, provides ample open space and  
18 recreation areas, as well as many green features to limit its  
19 impact on the environment and be a sustainable building.

20           And, then the site design with respect to  
21 accessibility splits the, the some of the access through  
22 multiple alleys to limit any sort of impact with respect to  
23 that as well.

24           Regarding the TDM plan, that is stated in our  
25 traffic study and repeated in the DDOT report. And, the

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1 commitments made in our traffic study are the same as in the  
2 DDOT report. So, those remain and the commitment is there  
3 for those, for those TDM measures.

4 With that, I'll turn it over to Mr. Sparhawk to  
5 walk you briefly through the project design.

6 MR. SPARHAWK: Thank you, and thank you to all the  
7 Board members for your time today.

8 So, I've got a short presentation here that I will  
9 scroll through. This first slide just gives you the location  
10 again, as Cary had mentioned, the site is located on Alabama  
11 Avenue, directly. It's a conglomeration of many different  
12 parcels. We're looking to create access into the building  
13 off of what is currently a paper alley, which will be  
14 improved by the developer.

15 Let's see. Existing on the site, it's largely  
16 undeveloped. We will be removing one older building on this  
17 project site.

18 This is a overview of the site plan. The, at the  
19 top of the screen the public alley, the 20 foot public alley,  
20 as mentioned, is currently a paper unimproved alley, which  
21 we will be improving.

22 By zoning, we're required to have 14 spaces,  
23 parking spaces. We are in our meeting with ANC, they  
24 requested that we provide additional spaces in concern of  
25 burdening the streets around the perimeter. So, we are

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1 providing 21 parking spaces on site.

2           The site is accessed on the public alley vehicular  
3 into an inner courtyard, which has amenity spaces there.  
4 Also to the side is a tot lot. There's an existing bus stop  
5 on Alabama Avenue directly adjacent to the site and, we will  
6 also be including a bike share program along that street.

7           The building itself, this is actually a look down  
8 on the building. While we -- because of the grade of the  
9 site, the building will actually going to step down as it  
10 moves to the right on this plan to the east with the map.

11           And, we'll be with the roof itself, we have about  
12 10,000 square feet of green roof, as well as solar. This is  
13 just, this is actually the first floor floor plate. I didn't  
14 put them all in here.

15           But as was mentioned, this is 86 units. It's  
16 about, well, it is 30% three bedrooms, and 28% I believe, two  
17 bedrooms. And the remainder is one bedrooms.

18           The building has in, a laundry facility in the  
19 building, a exercise facility in the building, a lounge at  
20 the entry with the leasing offices, as well as community  
21 spaces that can be found for different uses on, on each  
22 floor.

23           I'll go to renderings a little bit later, but I  
24 put this elevation in just gives an example, or good  
25 representation of the materials.

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1           We'll be utilizing brick on a large portion of the  
2 building, siding. We've got a dark brick at the bottom to  
3 ground the building, create a base. Then as you go up to the  
4 third floor, we switch the materials to a metal siding, as  
5 well as a painted, a painted panel at the corners to  
6 highlight portions of the building.

7           In this you can see the, we're proposing large  
8 openings as well as very high quality materials.

9           This is the elevation from Alabama Avenue.

10          This site section I'll run through real quick,  
11 just shows the building scale as it relates to its neighbors.  
12 Up at the top is the neighboring buildings on either side of  
13 Alabama -- on either side of the building along Alabama  
14 Avenue.

15          The middle is actually a section through Alabama  
16 Avenue, so you can see the relationship of the size of our  
17 building to that across the street.

18          And, we, there is a 16 foot alley behind the  
19 building, and that's the section at the bottom shows that,  
20 that relationship. Because of that alley, we've got pretty  
21 large setbacks from building to building.

22          So, these are just some renderings looking,  
23 looking at the building itself. We've again, because of the  
24 siting of the building and we, the building does step down  
25 to the well, it's to the northeast, but the building steps

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1 down with the existing grade.

2           The upper image is a look from the 16 foot alley.  
3 That's where down below is actually where the, will be  
4 rubbish, recycling. That's also access to bike storage where  
5 we'll have 30 spaces for, for bikes.

6           These are both views from Alabama Avenue looking  
7 at the project.

8           I'm sure I missed some things.

9           MR. KADLECEK:     That's our conclusion of our  
10 presentation, but we're happy to answer any questions that  
11 the Board might have.

12           CHAIRPERSON HILL:   Okay, does the Board have any  
13 questions for the applicant?

14           MEMBER WHITE:   Just quick question.

15           The one, two, three bedrooms, is it, is it a  
16 mixture on each floor, or how did you configure that?

17           But first of all, just my initial observation is  
18 this looks like a very good project.   So, I'm again, proud  
19 that this is going to be potentially a, a really good  
20 affordable housing project in D.C.   But, I'm just curious how  
21 you're configuring the families.

22           MR. SPARHAWK:   They are, actually, I can scroll  
23 back to that.   They are split evenly around the, around the  
24 each floor.   The units all stack.

25           So each floor has -- this floor for example has

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1 seven one bedrooms, seven two bedrooms and seven three  
2 bedrooms all on the same floor. That was our intent not to  
3 kind of segregate families to one section with the smaller  
4 units to another section.

5 MEMBER WHITE: Yes, that's always good, yes.  
6 Thank you.

7 MEMBER JOHN: So, are these units for sale or  
8 lease, and how are you figuring, you know, the, the price  
9 point?

10 MR. DURRANI: This is going to be a LIHTC deal,  
11 so it's going to be 18 units at 30% AMI, 59 units at 50% AMI  
12 and 9 units at 60% AMI.

13 COMMISSIONER MILLER: Thank you for bringing this  
14 project forward. I think you have met the criteria for the  
15 zoning approval that's required for this project and, I would  
16 echo my colleague's -- Board member White about the  
17 attractiveness of the project and the all affordable aspect  
18 of the project, and commend you for the, for coming forward  
19 with this project that is serving a great need in the city  
20 at especially the deeply affordable units and the, and the  
21 family-sized units, the majority being two and three  
22 bedrooms. So, appreciate that.

23 CHAIRPERSON HILL: Okay, good. So, so you guys  
24 aren't non-profit, right? You're not a non-profit?

25 MR. DURRANI: Correct.

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1 CHAIRPERSON HILL: Correct, right?

2 So again, so I'm just curious. So again, you were  
3 able to put together a deal that somehow people were able to  
4 make money and at the same time, you know, provide affordable  
5 housing at these levels, correct?

6 MR. DURRANI: Correct.

7 CHAIRPERSON HILL: Yes? Okay. Going to learn  
8 more about it perhaps one day.

9 All right, Office of Planning?

10 MS. THOMAS: Yes, good afternoon Mr. Chairman,  
11 members of the Board. The Office of Planning is in well in  
12 support of this application. They worked very well with OP  
13 and with respect to its design and we were pleased with the  
14 results of this. And, we will stand on the record of our  
15 report.

16 Thank you.

17 CHAIRPERSON HILL: Okay, Ray, thank you.

18 Does the Board have any questions for the Office  
19 of Planning?

20 (No audible response.)

21 CHAIRPERSON HILL: Does the applicant have any  
22 questions for the Office of Planning?

23 MR. KADLECEK: No, thank you.

24 CHAIRPERSON HILL: Does the Board have more  
25 questions for the applicant?

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1 MEMBER WHITE: I was just curious about the ANC  
2 feedback on this project.

3 MR. JACKSON: They supported us. Yes, we got  
4 their support.

5 MEMBER WHITE: Great.

6 CHAIRPERSON HILL: Yes, but I got, well see I was  
7 a little confused. I didn't, you guys didn't actually get  
8 a formal support letter, right? You got like an email from  
9 the commissioner and I don't know if it was the SMD or not.

10 MR. DURRANI: No, we did get a, a email from --

11 CHAIRPERSON HILL: Do you know, Mr. Kadlecek --  
12 (Simultaneous speaking.)

13 MR. KADLECEK: There's a letter in the record at  
14 exhibit 30 from, it's from the SMD but he does note that the,  
15 that the Board voted, the ANC rather, voted --

16 (Simultaneous speaking.)

17 CHAIRPERSON HILL: And, I am glad you have that.  
18 I mean, I'm just in terms of our great weight --

19 MR. KADLECEK: Yes.

20 CHAIRPERSON HILL: -- is just what I was trying  
21 to understand. I don't know if OAG has a thought on this but  
22 again, I'm glad that we got the information and you are, you  
23 are stating that you went to the ANC, you got a vote in favor  
24 5-0-2. I mean two people were not in favor of this  
25 application?

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1 MR. KADLECEK: No, they were absent.

2 CHAIRPERSON HILL: Oh, they were absent? And  
3 then, but in terms of and now I'm just going to be curious  
4 again with OAG. In terms of what this is, this isn't, this  
5 is a letter for great weight? I got confused by when we were  
6 going through this.

7 MS. NAGELHOUT: I think, I think that one of the  
8 requirements for great weight is that the letter has to be  
9 signed by the chair or the vice chair of the SMD, I mean of  
10 the ANC. But, certainly it's a letter that you can take into  
11 account. It's a letter that's in the record.

12 CHAIRPERSON HILL: Yes, no, I mean you're not  
13 going to get any push back from us. I'm just kind of curious  
14 as that that was what I understood is that it's not  
15 technically something we give great weight to. However, it's  
16 something that obviously we're getting feedback from, and  
17 testimony from you guys that that's what the vote was from  
18 at the ANC meeting, correct? Okay.

19 All right, is there anyone here wishing to speak  
20 in support?

21 (No audible response.)

22 CHAIRPERSON HILL: Is there anyone here wishing  
23 to speak in opposition?

24 MS. PLATT: Me.

25 CHAIRPERSON HILL: Oh, please come forward.

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1 MS. PLATT: -- own person.

2 CHAIRPERSON HILL: Did you get sworn in earlier?

3 MS. PLATT: Yes, I've been here since this  
4 morning.

5 CHAIRPERSON HILL: Okay, all right, okay, all  
6 right.

7 So, go ahead. Could you state your name please  
8 for the record?

9 MS. PLATT: Sure. My name is Danielle Platt.

10 CHAIRPERSON HILL: Could you spell your last name  
11 for us, please?

12 MS. PLATT: P-L-A-T-T.

13 CHAIRPERSON HILL: Okay, and so as a member of the  
14 public Ms. Platt, you're going to go ahead and get three  
15 minutes to provide your testimony to the Board.

16 The clocks are up on the top of the wall and you  
17 can begin whenever you like.

18 MS. PLATT: Can I ask a question --

19 CHAIRPERSON HILL: Sure, of course.

20 MS. PLATT: -- before I get started?

21 If I can't read through the whole testimony, can  
22 I submit it so that you guys can see it?

23 CHAIRPERSON HILL: Yes, absolutely. Do you have  
24 copies of it now?

25 MS. PLATT: I have one copy that I'll read.

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1 CHAIRPERSON HILL: Okay. How long is it?

2 MS. PLATT: It'll probably be like five minutes.

3 CHAIRPERSON HILL: Okay, why don't you just go  
4 read the whole thing? Because other -- I mean, you have to  
5 get 12 copies for us, we'd have to have all the copies, and  
6 then it wouldn't be in the record for us if we do end up  
7 deliberating today.

8 So, I'd like to go ahead and hear the whole  
9 testimony. So, just go ahead and take your time and read it.

10 MS. PLATT: Sure,

11 CHAIRPERSON HILL: Uh huh.

12 MS. PLATT: Thank you.

13 Again, my name is Danielle Platt. I live at 2801  
14 Buena Vista Terrace S.E., which is a few, maybe just one  
15 block away from the project.

16 So, I'll read my testimony.

17 Affordable housing isn't the only answer to  
18 achieving stability and quality of life. A safe environment,  
19 quality education and economic opportunities also play a role  
20 in what the mayor has been laser focused in attempting to  
21 provide.

22 Exclusion of even one of these entities get you  
23 -- gets you just a place to stay, and research shows a higher  
24 probability that generations following will also find it hard  
25 to achieve the aforementioned.

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1           As it stands, Randall Heights isn't quite ready  
2 to deliver on the quality of life residents of the District  
3 of Columbia deserve. Surrounded by violence according to  
4 D.C. Witness as of September 2nd, there have been 118  
5 homicides in D.C., which is 13 more homicides and 12%  
6 increase from 105 homicides that occurred a year ago, and as  
7 I write this testimony on September 16, 2019, the tally has  
8 reached over 122.

9           Out of those 122, 41 have occurred under the watch  
10 of 7th District, which is the same district responsible for  
11 protecting the residents of the proposed project. Does that  
12 sound like a safe environment to you?

13           The Washington Post recently profiled Stanton  
14 Elementary, the assigned elementary school for future  
15 residents of the proposed project, and found that while the  
16 administration and teachers are doing everything to educate  
17 the whole child, they still fall short.

18           The students arrive to school each day having to  
19 overcome insurmountable opposition not because they don't  
20 have a place to stay, but because of the neighborhoods they  
21 call home.

22           Right across the street where the 4 to 11-year-old  
23 children will attend school, is a open drug market overrun  
24 by dealers and users. A former student of the school was  
25 killed earlier this year and never made it to middle school.

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1 Is that the environment that you want to bring an additional  
2 86 families in?

3 Numerous studies have shown that poverty is a  
4 catalyst for violence and to my, and should be all of our  
5 chagrin, this is the current environment for this small  
6 section of the city.

7 In conjunction with the violence, the achievement  
8 gaps between Ward 8 students, in comparison to students who  
9 live in the upper wards, is heartbreaking. I won't call out  
10 the low test scores at Stanton, Kramer Middle School,  
11 Anacostia High School, and I attended both Kramer and  
12 Anacostia almost 20 years ago, and the turtle-like progress  
13 is unacceptable.

14 Is this a scathing testimony to the current  
15 environment of the proposed project? It is and here's why.

16 I live less than 200 feet away from the project  
17 and residents, homeowners and renters alike constantly  
18 grapple with opposing views that residents east of the river  
19 can patiently wait their turn, as other parts of the city  
20 prosper far beyond our belief.

21 Is it the residents in the upper quadrants' faults  
22 that they have access to quality education, safe streets and  
23 amenities? Not at all. I am a graduate level educated  
24 homeowner in Randall Heights, and I've chosen to live there.  
25 Why not give lower income residents that same choice?

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1           Access, if you go to [www.dchousingsearch.org](http://www.dchousingsearch.org) and  
2 search how many affordable options there are in zip code  
3 20016, I did the, the work for you, and there's only seven  
4 as of September 16. Search for 20020 and 125 options. Don't  
5 you guys see an issue with that?

6           We aren't offering them choices. We are deciding  
7 for them. If most of every affordable housing project  
8 consists of apartments being erected in a area of the city  
9 that has a long way to go -- but has come a long way, but  
10 still has a way to go, not only are you allowing the history  
11 of redlining to continue, you're playing a role in it.

12           Ward 8 is bursting at the seams with affordable  
13 housing but you knew that when you conceived this project.  
14 What's wrong, aside from the financial implications, of  
15 building affordable houses that local working-class  
16 residents, teachers and public servants can afford? Home  
17 ownership builds generational wealth and in a city whose home  
18 prices have skyrocketed, you can do your part in contributing  
19 to a more economically diverse Ward 8.

20           Why not build affordable housing in upper  
21 northwest where parents have the choice of higher performing  
22 elementary, middle and high schools, and take away the added  
23 stress of families having to fret over how they would get to  
24 work and take their child to a school that is out of  
25 boundaries because they cannot sleep well at night knowing

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1 that their child may not get the education they deserve?

2           The local and Federal governments of Washington,  
3 D.C., through systematic racism created these environments  
4 of poverty, violence, health crisis and unsustainable  
5 housing, and it's our duty to fix it.

6           Stop concentrating low income housing in places  
7 that are already full of low income residents. That is  
8 unjust. Our children deserve better. Don't rob children of  
9 the right to a safe environment where they can learn and play  
10 without the threat of adverse childhood trauma, which comes  
11 as a result of an insustainable environment.

12           Every life has equal value and creating a city  
13 where everyone can thrive should be the number one concern,  
14 and not profit.

15           CHAIRPERSON HILL: Thank you, Ms. Platt. That was  
16 well said, and thank you for staying as long as you did.

17           Does the Board have any questions for the witness?  
18           (No audible response.)

19           CHAIRPERSON HILL: Okay, I don't have any  
20 questions, Ms. Platt. I wish I had some answers, I suppose,  
21 or some different answers.

22           I mean I don't know, and I, and I welcome all my  
23 Board members to say whatever they have to say if they have  
24 any comments on any of this because I just don't have a lot  
25 of answers about stuff like this.

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1 I mean you waited all day, right? And, you waited  
2 all day to read something that was like four minutes, five  
3 minutes long, and so I appreciate your reading that.

4 I mean what we're charged with is really a much  
5 more simpler thing in terms of just whether or not this  
6 particular project meets these particular standards. And,  
7 if you've been here all day, then you've seen that really  
8 we're just kind of going through the regulations.

9 However, I think you seem very passionate about  
10 what you're talking about, and so I don't know about like,  
11 you know, ANCs, running for ANC, getting involved in  
12 different ways. And, did you happen to go to your ANC  
13 meeting about this by any chance?

14 MS. PLATT: So, I know the ANC very well, and he  
15 decided to, to move forward without consulting with some of  
16 the other residents who received the letter about this  
17 hearing.

18 CHAIRPERSON HILL: Okay, all right.

19 But I do appreciate it. I don't have, I really  
20 do appreciate it and, I don't disagree with any of the things  
21 you said.

22 Anybody else?

23 MEMBER JOHN: I just wanted to thank you for your  
24 testimony and just to, to say that as the Chairman said, this  
25 body is, we can't solve some of those issues because we're

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1 limited to looking at each project to see if the project  
2 complies with the regulations as they're laid out.

3 So, it's a really very narrow focus.

4 But, in defense of this particular project, there  
5 is a mix of units. And, if I understood them correctly I  
6 believe it's for sale, or did you say lease? Okay, it's for  
7 lease.

8 Okay, so really what you're advocating is for more  
9 units for, that support home ownership. And, that's  
10 something that's not within our purview. Maybe the zoning  
11 commission or the city council, or the ANC, bodies like that.  
12 And, you know, can better advocate for those, those broader  
13 issues.

14 But, I thank you for your testimony and for coming  
15 down and waiting all day.

16 MEMBER WHITE: Ms. Platt, I also thank you of your  
17 testimony, too, and I can, I can respect your opinions about  
18 what this project may represent in terms of how it factors  
19 into some of the current issues going on in the community.

20 I will say that, I mean I may have a slight  
21 disagreement with, with what your opinions are in terms of  
22 the benefits of affordable housing, and how it's an important  
23 issue to kind of focus on in the District of Columbia.

24 I don't necessarily view the development, the new  
25 development of affordable housing as tying into redlining.

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1 I tie in affordable housing to being able to provide  
2 stability for families.

3 But, I know each community has their own  
4 individual issues. But, again, I would thank you for coming  
5 down, and I would encourage you, like Chair Hill suggested,  
6 to become actively involved with, with the community -- to  
7 continue to be actively involved with the community so that  
8 you can be a part of the some of the solutions that are badly  
9 needed in the community.

10 So, I would just say thank you.

11 COMMISSIONER MILLER: Thank you, Mr. Chairman.

12 Yes, I want to thank you also for your, for your  
13 testimony. I would concur with my colleagues' comments and  
14 just to ask the applicant as part of their rebuttal or  
15 closing statement, to, to address the Ms. Platt?

16 MS. PLATT: Uh huh.

17 COMMISSIONER MILLER: Ms. Platt's testimony and,  
18 a specific question that I guess I would have for you related  
19 to part of her testimony would be what's, would be what  
20 security safety measures you're installing at the -- as you  
21 can put, include that as part of your closing statement what  
22 security measures you're including in this site that will  
23 protect the residents, at least of this site. You can't  
24 necessarily protect the whole neighborhood or ward. But, if  
25 you can include that.

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1           And also, if you could just, I meant to ask  
2 earlier, I saw a reference to an alley closing that's  
3 required for the project. If you can just, that will go  
4 before the council. If you can just tell, this, tell us the  
5 status of that and that might be a place that Ms. Platt also  
6 wants to testify if that hasn't -- at that hearing and action  
7 hasn't already been taken.

8           CHAIRPERSON HILL: And, I guess just before you  
9 guys address that, just a final thing, I know that a lot of  
10 the things with the zoning commission has a little bit more  
11 influence in terms like, I know that the mayor is trying to  
12 push affordable housing into the different wards, as well,  
13 to create different places for affordable housing to be.  
14 And, as you can imagine, it's, it's a difficult thing to try  
15 to achieve.

16           But, again, I just can't, I do really, really do  
17 appreciate you coming down and speaking with us.

18           So, all right. Mr. Kadlecek, if you want to go  
19 ahead and provide a conclusion for us.

20           And, Ms. Platt, you can just go ahead and sit  
21 there if you like.

22           MS. PLATT: Okay.

23           MR. KADLECEK: I'll let the gentleman to my left  
24 speak about the specific security issues and any other  
25 issues, I'll speak to briefly as well.

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1 MR. JACKSON: As far as the security, I'm part of  
2 the development team. I'm part of the ownership of the  
3 project. I am a retired police officer from right here in  
4 Washington, D.C. I did 30 years, I retired five years ago.  
5 So I understand -- from 7D actually. I worked in 7D.

6 So, I understand her concerns about the crime in  
7 7, in 7, Ward 7.

8 We are going to be putting cameras all the way  
9 around the property. As you know, cameras will tell us a lot  
10 of what's going on, and give people some protection. That's  
11 one of the stages we're going to do.

12 If the crime is obvious, we will talk about hiring  
13 security, if that is necessary. But we want to start out  
14 with cameras around the property in and outside of the  
15 property. That's how we're going to start out with our  
16 security issues from there.

17 And, if we need to step it up, then we will step  
18 it up by hiring, hiring a security company to come in and  
19 assist us with that.

20 MR. KADLECEK: We appreciate Ms. Platt's comments  
21 as well. I think those are, are well taken and of course,  
22 no one is ignorant of the problems.

23 You know, unfortunately, no one project can solve  
24 much bigger societal problems, but I will, I think all we can  
25 say is that I think it's the development team's sincere hope

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1 that this project will be an asset to the neighborhood and  
2 it will help improve things.

3           As you heard from the architect, it's a project  
4 that they've invested a lot in terms of the design and making  
5 it high quality. I know Mr. Durrani has not cut corners in  
6 terms of choosing high-quality materials to make the building  
7 look nice. Certainly much more superior than you would might  
8 see in a typical affordable project and, I think that speaks  
9 to the commitment to make sure that this is a nice building  
10 for the neighborhood.

11           And, while, you know, they can't solve everything,  
12 hopefully this will be an example of something that the  
13 community can be proud of.

14           There's one last thing I wanted to state just for  
15 the record. Casey Trees we've spoken with. They have, we've  
16 corresponded with them, we actually had an nice conversation  
17 with them earlier today and, we told them that we would make  
18 a commitment on the record to meet with them and their  
19 arborist about working together to possibly preserve some  
20 more of the existing trees around the perimeter of the site.  
21 So, we are willing to make that commitment.

22           We're also willing to consult with them and their  
23 development team on a tree planting plan to help come up with  
24 some tree species that might increase the canopy on the site  
25 plan as well. So, we just wanted to make sure to honor our

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1 commitment to them that that's on the record as well.

2 With that, that concludes our testimony.

3 MR. JACKSON: I do want to make one more  
4 statement.

5 And, also, we will be doing some screening so it's  
6 just not like anyone is going to move into the building. So,  
7 I know that's part of her concern also. We'll do some  
8 screening on the people that move into the property also.  
9 So, okay.

10 CHAIRPERSON HILL: Okay, anybody else for the  
11 applicant?

12 MEMBER JOHN: Mr. Chairman.

13 CHAIRPERSON HILL: Sure, please go ahead.

14 MEMBER JOHN: Did we have a TDM plan with some  
15 conditions in that?

16 CHAIRPERSON HILL: So, as I stated kind of earlier  
17 at the beginning and what I believe I got clarification from  
18 was that, I mean as I understood that in terms of the  
19 condition that DDOT was speaking to, I wasn't going to get  
20 too involved in the details other than again, making the  
21 condition that the transportation report that is in exhibit  
22 31, with the TDM plan on page 18.

23 That is what would be put forward in the  
24 conditions and I believe the applicant spoke that that's  
25 correct?

1 MR. KADLECEK: Yes.

2 CHAIRPERSON HILL: Okay. Okay, all right.

3 All right with that, I guess I'll go ahead and  
4 close the record.

5 Oh, sorry.

6 COMMISSIONER MILLER: Did I, did you answer my  
7 question about status of the alley closing?

8 MR. KADLECEK: I'm sorry, I apologize.

9 Yes, we've applied for an alley closing as Greg  
10 mentioned. The alley that's sort of you see in the center  
11 of the drawing there, that's a paper alley. There's nothing  
12 there right now. So, that alley, the portion of it that's  
13 surrounded entirely by the site will be closed. It will  
14 still be used as access but it'll just be private property.

15 And, then the developer's also going to improve  
16 the alley out to where improvement already exists a little  
17 bit further up there that Greg's pointing out.

18 The application has been filed with the council.  
19 It's receiving reports from the various agencies right now.  
20 No hearing has scheduled and Mr. Miller, I know you know  
21 there's a little bit of uncertainty about when a hearing for  
22 an alley closing gets scheduled. So, we're just waiting for  
23 that to happen.

24 COMMISSIONER MILLER: Okay, thank you.

25 MEMBER WHITE: Okay. Just one question.

1           With Casey Trees, is there an agreement in place  
2 that the trees will be incorporated as part of the  
3 landscaping? Is that part of the TDM plan or?

4           MR. KADLECEK: No, no, no, it's separate. But  
5 it's just an agreement we reached with them to work together  
6 to preserve more of the existing trees to the extent  
7 possible, so that the project can still be built.

8           MEMBER WHITE: Okay. And, when is construction  
9 planned to start?

10          MR. DURRANI: We're hoping some time in 2021. We  
11 are applying for the DHCD RFP that's due end of the month,  
12 so sometime early 2021 is we're hoping to break ground.

13          MEMBER WHITE: Okay, thank you.

14          CHAIRPERSON HILL: Okay, Mr. Durrani, your  
15 microphone's still on.

16           And, I guess I don't know, Mr. Durrani, Mr.  
17 Jackson, I encourage you and you have a very young person  
18 here that seems very much involved in the community. You  
19 might want to get her number, you guys can exchange  
20 information and try to keep her apprised of what's going on.  
21 You never know, you might have an ally.

22           At the same time, Mr. Kadlecek, the, the alley  
23 closure. So, that will be something that would then be at  
24 the council level, correct? And, so Ms. Platt, there'll be  
25 time to give public testimony on the alley closure.

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1 I'm not necessarily, I mean you're talking about  
2 a lot of different things. I'm not necessarily sure, I'm not  
3 putting words in your mouth, how opposed you are to this  
4 particular project, or just a lot of things that are going  
5 on, but it is another opportunity to voice your thoughts at  
6 the council level one way or the other during the alley  
7 closure testimony.

8 So, maybe Mr. Kadlecek can give you an idea as to  
9 how that, you know, goes through, so I don't know. Meaning  
10 in terms of testimony even though you don't need another  
11 person in opposition there. But it sounds like you know, you  
12 might get at least some perhaps help.

13 So, let's see. All right, I'm going to go ahead  
14 and close the hearing.

15 Is the Board ready to deliberate?

16 MEMBER JOHN: Yes.

17 CHAIRPERSON HILL: Okay, I can start.

18 I think that -- I do think that for the most part,  
19 again, this, this, well, I think this -- the application's  
20 a good application. I think the project's a good project.  
21 I think that the applicant has shown that they're trying to  
22 build high-quality units at deeply affordable levels so that  
23 we can provide more affordable housing to the community.

24 I do, as we've already mentioned, that the witness  
25 has come forward to kind of share with us different concerns

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1 about larger issues that also hopefully, you know, we can  
2 afford affordable housing in other areas of the city. And,  
3 I know that again, that that's something that the mayor and  
4 the council are also trying to do as well.

5 So, however in terms of what's before us, I think  
6 that they've met the standard in order for us to grant the  
7 application. And, I will be voting in favor of the  
8 application.

9 Is there anything else anyone else would like to  
10 add?

11 MEMBER JOHN: Mr. Chairman, the only thing I would  
12 mention is that this is a fairly straightforward application  
13 and the applicant, the project meets all of the developmental  
14 requirements for this zone, and for relief under the new  
15 residential development provisions of section U 421.1.

16 And, so based on OP's analysis and the comments  
17 you have already made, I can support the application.

18 MEMBER WHITE: Yes, Mr. Chair, thank you.

19 I would also be in support of this application  
20 special relief, special exception relief for new residential  
21 development under subtitle U 421.

22 I think based on the information in the record,  
23 this appears to be a very good high-quality, sustainable  
24 project that will add value to the neighborhood adding 86  
25 units of affordable units, some of which are family sized

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1 units to the neighborhood. And, there's also a TDM, TDM plan  
2 in place that will provide some stability to the process  
3 through development. So, and then finally, there's 21 spaces  
4 that they're adding in as part of this project as well.

5 So, I think they've met the criteria and there  
6 seems to be a lot of community support. There are some  
7 concerns obviously, some of the concerns that were voiced by  
8 Ms. Platt, which were valid. But, I think all in all, that  
9 this is an application that, that I will support.

10 CHAIRPERSON HILL: Okay, I'll go ahead and make  
11 a motion to approve application no. 20110 as captioned and  
12 read by the secretary, including the condition that the  
13 applicant submitted their transportation report in exhibit  
14 31, and their TDM plan on page 18, and ask for a second.

15 MEMBER JOHN: Second.

16 CHAIRPERSON HILL: Motion made and seconded. All  
17 those in favor say aye.

18 (Chorus of aye.)

19 CHAIRPERSON HILL: All those opposed?

20 (No audible response.)

21 CHAIRPERSON HILL: Motion passed to Mr. Moy.

22 SECRETARY MOY: Staff would record the vote as 4-  
23 0-1. This is on the motion of Chairman Hill to approve the  
24 application for the relief requested, along with I believe  
25 the TDM measures and the exhibit 31. Seconding the motion

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1 Ms. John. Also in support Ms. White and Zoning Commissioner  
2 Mr. Miller and no other Board members voting.

3 CHAIRPERSON HILL: Okay, great. Thank you, Mr.  
4 Moy.

5 Thank you all very much.

6 MR. JACKSON: Thank you.

7 MR. KADLECEK: Thank you.

8 CHAIRPERSON HILL: Mr. Moy, is there anything else  
9 before the Board today?

10 SECRETARY MOY: Not from the staff, sir.

11 CHAIRPERSON HILL: All right, then we stand  
12 adjourned.

13 Thank you all.

14 (Whereupon, the above-entitled matter went off the  
15 record at 5:35 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: 09-18-19

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



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Court Reporter

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