

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC MEETING

+ + + + +

WEDNESDAY

APRIL 17, 2019

+ + + + +

The Regular Public Meeting 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 9:37 a.m., Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

PETER MAY National Park Service Designee

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

HILLARY LOVICK, ESQ.

The transcript constitutes the minutes from the Public Meeting held on April 17, 2019.

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

(9:37 a.m.)

CHAIR HILL: Ladies and gentlemen, we're located in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W. This is the April 17, 2019 public hearing of the Board of Zoning Adjustment, District of Columbia.

My name is Fred Hill, Chairperson. Joining me today is Carlton Hart, Vice-Chair; Lesyllee White, board member; and representing the Zoning Commission is Peter May, and Anthony Hood on a decision case.

Copies of today's hearings agenda are available to you and are located in the wall bin near the door. Please be advised this proceeding is being recorded by a court reporter and is also webcast live.

Accordingly, we must ask you to refrain from any disruptive noises or actions in the room. When presenting information to the Board, please turn on and speak into the microphone, first stating your name and home address. When you're finished speaking, please turn off your microphone so that your microphone is no longer picking up sound or background noise.

All persons planning to testify either in favor or in opposition must raise their hand and have been sworn in by the Secretary. Also, each witness must fill out two witness cards. These cards are located on the table near the

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1 door and on the witness table. Upon coming forward to the
2 Board, please give both cards to the reporter sitting at the
3 table to my right.

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

11 The order of procedures for special exceptions and
12 variances as well as appeals are also in the bin, as you come
13 walking in through the hall.

14 The record shall be closed at the conclusion of
15 each case except for any materials specifically requested by
16 the Board. The Board and the staff will specify at the end
17 of the hearing exactly what is expected and the date when the
18 persons must submit the evidence at the Office of Zoning.

19 After the record is closed, no other information
20 shall be accepted by the Board. The Board's agenda includes
21 cases set for decision. After the Board adjourns, the Office
22 of Zoning, in consultation with myself, will determine
23 whether a full or a summary order may be issued.

24 A full order is required when the decision it
25 contains is adverse to a party, including an affected ANC.

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

6 The District of Columbia Administrative Procedures
7 Act requires that the public hearing on each case be held in
8 the open for the public pursuant to Section 405(b) and 406
9 of that act. The Board may, consistent with its rules and
10 procedures and the Act, enter into a closed meeting on a case
11 for the purposes of seeking legal counsel on a case pursuant
12 to D.C. Official Code Section 2-575(b)(4) and/or deliberating
13 on a case pursuant to D.C. Official Code Section 2-
14 575(b)(13), but only after providing the necessary public
15 notice in the case of an emergency closed meeting after
16 taking a roll call vote.

17 The decision of the Board in cases must be based
18 exclusively on the public record. To avoid any appearance
19 to the contrary, the Board requests that persons present not
20 engage the members of the Board in conversation.

21 Please turn off all beepers and cell phones at
22 this time so as not to disrupt the proceeding. Preliminary
23 matters are those which relate to whether a case will or
24 should be heard today, such as requests for a postponement,
25 continuance or withdrawal, or whether a proper and adequate

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1 notice for the hearing has been given.

2 If you're not prepared to go forward with the case
3 today or if you believe that the Board should not proceed,
4 now is the time to raise such a matter.

5 Mr. Secretary, do we have any preliminary matters?

6 MR. MOY: Good morning, Mr. Chairman, members of
7 the Board.

8 I do have a brief announcement related to today's
9 docket. And that would be attended to -- Case Application
10 Number 19972 of Catholic Charities. This application has
11 been postponed at the request of ANC 5C and the applicant.
12 And the reschedule date is May 22nd, 2019.

13 Other than that, there are individual preliminary
14 matters to specific cases, and I think it's best for the
15 Board that we address those when I call the case.

16 CHAIR HILL: Okay great. Thank you, Mr. Moy.
17 Welcome back, by the way.

18 MR. MOY: Thank you.

19 CHAIR HILL: If anyone is here wishing to testify,
20 if you wouldn't mind please standing and take the oath
21 administered by the Secretary, to my left.

22 MR. MOY: Good morning. Do you solemnly swear or
23 affirm that the testimony you're about to present in this
24 proceeding is the truth, whole truth and nothing but the
25 truth? Ladies and gentlemen, you may consider yourselves

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1 under oath.

2 CHAIR HILL: All right, I think you guys are all
3 getting new agendas in terms of the order, and so we are
4 going to follow the order as is the new order that you're
5 just receiving right now. So, Mr. Moy, we will follow this
6 new order, okay?

7 And then the first decision case, you can call it
8 whenever you like.

9 MR. MOY: Thank you, Mr. Chairman. So this would
10 be Case Application Number 19944, of 3554 10th Street, LLC.
11 This is a request for special exception under the Residential
12 Conversion Requirements of Subtitle U, Section 320.2, which
13 would construct a three-story rear addition to an existing
14 semi-detached principal dwelling unit and convert it to a
15 three-unit apartment house, an RF-1 zone, at 3554 10th Street
16 NW, Square 2832 Lot 52.

17 This was last heard by the Board at its hearing
18 on April 10th, 2019. Participating on the decision making
19 is Chairman Hill, Vice-Chair Hart, Ms. John and Mr. Hood.

20 CHAIR HILL: All right, great. Thank you. Is the
21 Board ready to deliberate?

22 VICE-CHAIR HART: Sure.

23 CHAIR HILL: Would someone like to go?

24 VICE-CHAIR HART: Sure. So after reviewing the
25 full record and hearing the testimony of everyone, and I

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1 guess we've gotten some documents following our meeting, and
2 it looks as though the parking issue has been resolved and
3 the ANC is now in favor of the project.

4 I believe that the applicant had provided
5 sufficient information to demonstrate how they meet their
6 criteria for Subtitle U 320.2. And I'll just note a few
7 things, that the project is no more than 35 feet, which is
8 one of the criteria. There are only three units, so there
9 are no IZ requirements.

10 It is an existing residential building. There are
11 2,727 square feet in the lot, which is more than the 900
12 square foot per unit that's required, so that's good. It
13 would not block or impede a chimney or external vent. It
14 would not interfere with the operation of an existing solar
15 energy system.

16 They're not changing the existing rooftop
17 elements. And it will not have a substantially adverse
18 effect on the use of an adjacent property.

19 I thought the design was respectful of the
20 neighborhood and was well executed, so I didn't believe that
21 we needed to add any conditions regarding the building
22 materials.

23 Finally, I believe that the applicant has also
24 demonstrated how they meet the need of the general special
25 exception criteria, that the building will be in harmony with

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1 the general purpose and intent of the zoning regs on the map,
2 as it is a building that would fit into the existing
3 neighborhood. This is a low-density area, and this is a
4 fairly low-density building.

5 And lastly, it would not tend to adversely affect
6 the use of neighboring property. I'll not that the ANC
7 stated originally that the onsite parking space that was once
8 proposed would adversely impact the neighborhood because it
9 would have removed existing street parking spaces.

10 And, as I noted earlier, this is no longer a
11 concern for the ANC in terms of this particular project
12 because the parking has since been removed from the plans.
13 And that's shown in Exhibit 55.

14 There is parking relief that's now requested. And
15 I believe that the applicant had provided sufficient
16 information for us to be able to approve that aspect of the
17 relief as well.

18 I think there was one condition that the ANC was
19 looking for, which was that the existing curb cuts should be
20 removed and no off-street parking would be permitted on the
21 property. And this is kind of dealing with that adverse
22 impact issue that the ANC raised regarding the project.

23 So I would be voting in support of the
24 application. And I'm -- be happy to hear comments from my
25 other board members.

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1 MEMBER WHITE: Thank you, Mr. Vice-Chair. I agree
2 with your comments as well. As you mentioned, you know, the
3 case was deliberated on during last week's hearing. At the
4 end of the hearing, we asked them for a revised plan showing
5 whether or not the curb cut had been removed along, with an
6 updated self-certification of the burden of proof for the
7 parking relief special exception.

8 So they complied. The submitted the information.
9 And the ANC responded, indicating, as you indicated, that
10 they are in approval including the original application,
11 relief. The ANC is asking for a condition in the final order
12 that will prevent the property from ever having off-street
13 parking.

14 ANC-1A's letter stated that they are in support
15 of the newly requested parking relief and the original relief
16 as long as the condition is met. And they want this
17 condition to be communicated to the Public Space Committee.

18 I will kind of defer to OAG to kind of give us
19 some guidance on how the condition should be written. And
20 as you indicated, I think that we should have a condition in
21 there that indicates that the existing curb cuts shall be
22 removed and no off-street parking will be permitted on the
23 property.

24 ANC-1A was in support. The vote was 11 to zero.
25 Reviewing the letter that was in Exhibit 58, dated Tax Day,

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1 April 15th. They provided that information for us. And the
2 Office of Planning is also recommending approval. They state
3 that they are in support of the applicant's request for the
4 special exception relief pursuant to Subtitle C 703.2 from
5 the minimum parking space requirement, Sub C 701.5, and
6 request that it be included in the Board order as a condition
7 for approval and that the condition be communicated to DDOT's
8 Public Space Committee.

9 ANC supports all the other relief. And I think,
10 as you indicated, that the special exception criteria was
11 met. And ANC also stated that, while the relief from the
12 off-street parking will have an impact on surrounding
13 neighborhood parking relief, it is still in the best interest
14 of the surrounding community to support the special exception
15 relief that they're seeking.

16 I can support the application, provided that
17 condition is including, for that particular relief as well
18 as for the relief for residential conversion. There was no
19 community opposition in the record that I could see regarding
20 the application.

21 And in Exhibit 14, there was also a letter from
22 the adjacent owner that I just wanted to note, that's
23 adjacent to the property, that is in support of the project.
24 And also indicated that the relief that they're seeking is
25 not going to have an adverse impact on the light, air or

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1 privacy and fits within the character of the neighborhood.

2 So for those and other reasons, I would be in
3 support of the application.

4 CHAIR HILL: I'm sorry. Yes, no, I agree with
5 both my colleagues, and I thank you for your deliberation.
6 I would agree with your comments.

7 VICE-CHAIR HART: So I would make a motion to
8 approve Application Number 19944 of 3554 10th Street, LLC.
9 And since I wasn't sure if the Secretary actually read the
10 entire -- I'll just read the entire whatever.

11 MR. MOY: Attachment.

12 VICE-CHAIR HART: Attachment, thank you. So as
13 amended, pursuant to 11 DCMR Subtitle X Chapter 9, for a
14 Special Exception under the Residential Conversion
15 Requirements of Subtitle U 320.2 and under Subtitle C 703.2
16 from the minimum parking requirements of Subtitle C 701.5,
17 to construct a three-story rear addition to an existing
18 semi-detached principal dwelling unit and convert it to a
19 three-unit apartment in the RF-1 Zone at premises 3554 10th
20 Street NW, Square 2032, Lot 52, with the condition that the
21 existing curb cuts shall be removed and no off-street parking
22 will be permitted on the property.

23 And that's the motion.

24 MEMBER WHITE: Second.

25 CHAIR HILL: Motion made and seconded. All those

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1 in favor say aye.

2 MEMBER WHITE: Aye.

3 CHAIR HILL: Aye. All those opposed? Motion
4 passes. Mr. Moy?

5 MR. MOY: Before I give the final vote count, Mr.
6 Chairman, we do have an absentee ballot vote from Anthony
7 Hood, who participated. And his vote is to approve the
8 application with such conditions as the Board may impose.
9 So that would give a final vote of 4-0-1.

10 This is on the motion of Vice-Chair Hart to
11 approve the application for the amended relief requested with
12 one condition, as he has cited. Seconding the motion, Ms.
13 White. Also in support, Chairman Hill and, of course, Mr.
14 Hood. No other board members participating. Motion carries.

15 CHAIR HILL: Thank you, Mr. Moy.

16 MR. MOY: All right, thank you, Mr. Chairman. So
17 if we could have parties to the table, this is to Case
18 Application Number 19982, Montello 1723 LLC. This is a
19 request for special exceptions under Subtitle C Section
20 703.2, from the minimum parking requirements of Subtitle C
21 Section 701.5 and under Subtitle G Section 409.121201 from
22 the Lot Occupancy requirements of Subtitle G Section 404.1,
23 Rear Yard requirements of Subtitle G Section 405.2 and
24 pursuant to Subtitle X Chapter 10 for variance from the Non-
25 Conforming Structural requirements of Subtitle C Section

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1 202.2 to construct a two-story addition and penthouse to an
2 existing one-story commercial building and convert it to an
3 eight-unit apartment house MU-4 Zone. This is 1723 Montello
4 Avenue NE, Square 4052, Lot 180.

5 And, Mr. Chairman, as you're aware, there is a
6 preliminary matter that's a request to postpone to May 22nd,
7 2019.

8 CHAIR HILL: Okay. Thank you, Mr. Moy. Could you
9 introduce yourself for the record, please?

10 MR. SULLIVAN: Yes, thank you, Mr. Chair. My name
11 is Marty Sullivan, with Sullivan & Barros, on behalf of the
12 applicant.

13 CHAIR HILL: Okay. Hi, Mr. Sullivan. So there's
14 been a request for a postponement, and so you're aware of
15 this request and you're in agreement with this request?

16 MR. SULLIVAN: Yes, we made the request.

17 CHAIR HILL: Okay, well, there you go. I thought
18 it was the ANC for a second. I thought the Commissioner was
19 here.

20 MR. SULLIVAN: Well, it was at their request.

21 CHAIR HILL: Oh, okay. I thought the Commissioner
22 was here. But maybe I was mistaken. Okay, so it doesn't
23 matter. All right, so the new proposed date is -- the ANC's
24 in agreement to that proposed date?

25 MR. SULLIVAN: As far as I know. We needed one --

1 we've been to several meetings. We think we need one more
2 meeting --

3 CHAIR HILL: Okay.

4 MR. SULLIVAN: -- to wrap it up.

5 CHAIR HILL: All right. Mr. Moy, what day is that
6 that we're going to postpone this to?

7 MR. MOY: The request is for May 22nd. And I
8 believe that -- I think that's a doable date, Mr. Chairman.

9 CHAIR HILL: Okay, great. So unless the Board has
10 any issues, we'll go ahead and postpone to May 22nd. All
11 right, Mr. Sullivan, we'll see you on May 22nd.

12 MR. MOY: Okay, before the Board is Case
13 Application Number 17861-A, of Bright Beginnings, Inc. This
14 is a request for a modification of significance to BZA Order
15 Number 17861, to add a special exception under the use
16 provisions of Subtitle U, Section 203.1 G to establish a
17 daytime care facility at an existing private school. This
18 is at R-2 District at 3640 Martin Luther King Jr., Avenue SE,
19 Square 6090 or six-zero-nine-zero, lots 32, 8, 10 and 813.

20 CHAIR HILL: Great, thank you, Mr. Moy. Okay,
21 good morning. Give the applicant a minute. If you'll please
22 introduce yourself for the record.

23 MR. FERRIS: Yes, Lawrence Ferris from the law
24 firm of Goulston & Storrs here with the applicant.

25 MS. DEAN: Marla Dean, Executive Director of

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1 Bright Beginnings.

2 CHAIR HILL: Okay, great. Mr. Ferris, I guess
3 you're going to be presenting to us?

4 MR. FERRIS: Yes, sir.

5 CHAIR HILL: Okay. I'm going to go ahead. I don't
6 have, particularly, any questions right away for you, so I'm
7 just going to go ahead and let you start your presentation.
8 I'm going to go 15 minutes on the clock so I know where we
9 are, and you can begin whenever you like.

10 MR. FERRIS: Good morning, Chairman Hill and
11 members of the Board. We are here for the application of
12 Bright Beginnings for a modification of significance, BZA
13 Order Number 17861 in order to permit special exception for
14 a child development center at 3640 Martin Luther King, Jr.
15 Avenue SE in the Congress Heights neighborhood.

16 The Board's original approval is for a private
17 school for 80 students and 18 staff, and we're asking for
18 relief to add a daycare center with no increase in the number
19 of students or staff.

20 As outlined in our application materials, we
21 believe we believe we meet the standards for the relief
22 requested. I'll note that we have reports in support from
23 the Office of Planning, from DDOT and from ANC-8C as well.
24 With that, I'll hand it over to Dr. Marla Dean, executive
25 director with Bright Beginnings, to give you some background

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1 about the organization and the proposed daycare.

2 CHAIR HILL: You need to press the microphone
3 button there. Okay.

4 MS. DEAN: Good morning. Bright Beginnings is a
5 two-generation non-profit organization that's been around in
6 the city since 1990. We offer a two-generation approach,
7 early childhood education and adult learning for families
8 experiencing homelessness.

9 And so our approach is to provide childcare for
10 the parents while the parents have an opportunity to learn.
11 And then we support them with wrap-around services to move
12 from crisis to self-sufficiency.

13 So we've been doing this work since 1990. We were
14 originally located at the Perry School on M Street, New
15 Jersey and New York Avenue. And we recently built a large
16 facility on 4th Street SE, and that's our main location. And
17 this location, we're just asking for the ability to have
18 flexibility because you don't necessarily know what will be
19 the ages of the children you'll receive.

20 And so right now, we can only have Pre-K 3 and 4.
21 We would like to have the opportunity to have a wider range
22 of students if the necessity happens. We don't anticipate
23 it, but it's just for the purposes of serving the families
24 that we would like to have flexibility.

25 MR. FERRIS: With that, we're happy to rest on the

1 record and the materials submitted and happy to answer any
2 questions the Board may have. Thanks.

3 CHAIR HILL: Okay, great. Thank you. Does the
4 Board have any questions for the applicant?

5 VICE-CHAIR HART: Just to kind of make sure that
6 we are getting all of the criteria, it looked like that you
7 pretty -- I understood how you could -- you met three of the
8 criteria. But the fourth one -- and it just talked about
9 kind of the other facilities in the area.

10 Could you talk a little bit about the other types
11 of daycare in the area and how this may be different from
12 them? And just a little bit more about that would be
13 helpful, kind of like how close they are and all that.

14 MS. DEAN: So I can talk explicitly about that.
15 We are -- our actual other center is located in the area.
16 We're on the backside of Ballou there, on the front side of
17 Ballou. The closest childcare center is also NCC. They
18 service students who generally have special needs.

19 We are the only childcare center exclusively
20 servicing families experiencing homelessness. And that is
21 the express need that we meet that's very different from any
22 of the childcare centers.

23 There are smaller family centers and homes, but
24 again, we are NACI certified, and we are the only one that
25 expresses addresses children and families experiencing

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1 homelessness. There's no other organization like ours in the
2 city.

3 VICE-CHAIR HART: Thank you.

4 MEMBER WHITE: It sounds like you're doing,
5 providing a wonderful service to the community, so I just
6 want to just indicate that. So, but as Mr. Hart said, there
7 are the four criteria that you have to just make sure that
8 you have information supporting the request, as indicated,
9 within the regulation that, for special exception uses.

10 So can you just indicate or provide a little bit
11 more information that supports the argument that there aren't
12 going to be any adverse impacts as a result of the
13 establishment of this particular use in that neighborhood?
14 I know you have experience.

15 I don't see anything in the record that seems to
16 indicate any specific concerns, but I just wanted you to just
17 kind of weigh in on that a little bit so that I can feel
18 comfortable in that --

19 MS. DEAN: I totally understand.

20 MEMBER WHITE: Yes, in terms of controlling things
21 like noise, you know, things, negative things that could be
22 perceived by the neighbors.

23 MS. DEAN: Yes. So the reason why you don't have
24 anything negative in the record is because we have another
25 facility in the area, and we are a good neighbor. And

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1 oftentimes when people hear about families experiencing
2 homelessness, they wonder about how it's going to impact
3 their community.

4 We don't have that. We don't have loitering. We
5 don't have any outbursts or any types of violence or anything
6 that some people become concerned about. It is a quiet, well
7 maintained facility and organization. And we work in service
8 not only -- we service the community and we have a good
9 relationship with the community, and so none of those issues
10 are there.

11 We have the staff. We have the support systems
12 to make sure that the needs of our families are being met.
13 And so, therefore, we are never impacting. And we're not
14 changing the number of children that are coming to the
15 center. That would not change, and so the traffic would not
16 change, none of those things.

17 So they will see no increased pattern of traffic,
18 because none of those things are changing, to the community
19 either.

20 MEMBER WHITE: But you feel as though this is a
21 service that is needed, that you need to make this request
22 because there's a need for it?

23 MS. DEAN: Unfortunately, in the District of
24 Columbia, there's 2,700 children under the age of five
25 experiencing homelessness. And Bright Beginnings, in total,

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1 only gets to service about 300 of them, so the need is
2 definitely there.

3 MEMBER WHITE: Okay, thank you.

4 CHAIR HILL: Okay, anyone else?

5 VICE-CHAIR HART: Just a final question. Dr.
6 Dean, do you have kind of the hours of operation for the
7 childcare aspect of this?

8 MS. DEAN: Yes, we open at 7:00 in the morning and
9 we close at 11:30 because, when our parents start to get
10 work, we are open for non-traditional hours so that they may
11 work also.

12 VICE-CHAIR HART: Thank you.

13 CHAIR HILL: Okay, great. I'm going to turn it
14 to the Office of Planning.

15 MR. MORDFIN: Good morning. I'm Stephen Mordfin.
16 And the Office of Planning supports this application, finding
17 that it's in conformance with the criteria, and stands on the
18 record. Thank you.

19 CHAIR HILL: Okay, great. Thank you. Does the
20 Board have any questions for the Office of Planning?

21 Does the applicant have any questions for the
22 Office of Planning?

23 MR. FERRIS: No, sir.

24 CHAIR HILL: Is there anyone here wishing to speak
25 in support? Please come forward. You can come forward all

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1 the way to the microphone up here. Please go ahead and have
2 a seat. Did you get sworn in earlier?

3 MS. WILLIAMS: Not at the time.

4 CHAIR HILL: Okay, if you wouldn't mind, Mr. Moy,
5 if you could just -- no, you can sit right there. I'm sorry.
6 You don't have to get up. That's all right -- or move over,
7 I suppose. Mr. Moy, can you please swear in the witness?

8 MR. MOY: Yes, with pleasure. You may stand,
9 please. Do okay great solemnly swear or affirm that the
10 testimony you're about to present in this proceeding is the
11 truth, whole truth and nothing but the truth?

12 MS. WILLIAMS: Yes, sir.

13 MR. MOY: Thank you. You may be seated.

14 CHAIR HILL: Okay, great. If you could just push
15 the button there and the microphone will come on. If you can
16 just give us your name and address for the record.

17 MS. WILLIAMS: Good morning. My name is Rosetta
18 Williams. I own property, jointly with my husband, at 3615
19 Martin Luther King, Jr. Avenue SE, which is 86 feet from the
20 entrance of the Bright Beginnings facility.

21 CHAIR HILL: Okay, great.

22 MS. WILLIAMS: Okay.

23 CHAIR HILL: Well, Ms. Williams, thank you for
24 coming down. You'll have three minutes to give your
25 testimony. Mr. Moy, if you can just put three minutes on the

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1 clock -- you did. And the clocks are on either side,
2 although that clock isn't working, for some reason, over
3 there. So I guess your three minutes are over there.

4 MR. MOY: Yes, mine shows over here.

5 MS. WILLIAMS: Okay, I see right here.

6 CHAIR HILL: And then just follow that -- okay,
7 great.

8 MS. WILLIAMS: Okay.

9 CHAIR HILL: And you can begin whenever you like.

10 MS. WILLIAMS: Okay. I'm here this morning
11 because of two things. I have seen the Bright Beginnings
12 signs. I have watched the development of the Bright
13 Beginning facility over on 4th Street.

14 I'm not in support of the Bright Beginning
15 facility operating. My two major concerns is the impact that
16 it will have to the residential street parking that we have.
17 And my second concern is it is an extremely small facility.

18 Prior to my husband and I buying a home, the
19 Bishop Walker School for Boys was there. And it, they had
20 about 56 students, and the facility was not adequately able
21 to contain the young men that were attending the school. And
22 with a number of 80, I don't see that that being possible.

23 Since Bright Beginning has been an operation
24 there, we have had -- we have street parking on Martin Luther
25 King, Jr. Avenue. Several of the service providers will park

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1 in the street parking, making challenges for the residents
2 to park. And again, it's just back to the -- this is a
3 residential area. I don't think a school, a facility the
4 size that Bright Beginning is anticipating is comfortable in
5 a residential neighborhood such as mine.

6 CHAIR HILL: Okay, great. Thank you, Ms.
7 Williams. Does the Board have any questions for the witness?

8 COMMISSIONER MAY: Yes, just a question. When you
9 started talking about parking, it wasn't totally clear to me
10 that you were saying that there's now -- there is currently
11 a parking issue. Is that right?

12 MS. WILLIAMS: On certain occasions there are no
13 parking -- there are no parks available on a street that
14 normally have adequate parking because of the residents. I'm
15 sorry, because of the staff members and the service providers
16 that report to the Bright Beginnings facility.

17 COMMISSIONER MAY: And this is on Martin Luther
18 King?

19 MS. WILLIAMS: This is in the 3600 block of Martin
20 Luther King, Jr. Avenue, yes.

21 COMMISSIONER MAY: Okay. So, and is that -- is
22 there a residential parking restriction on that avenue?

23 MS. WILLIAMS: We do have the residential Ward 8
24 parking, but --

25 COMMISSIONER MAY: Parking fee?

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1 MS. WILLIAMS: Yes, we do.

2 COMMISSIONER MAY: Yes. And so service vehicles
3 can only park there for up to two hours anyway?

4 MS. WILLIAMS: Yes, that is what is stated.

5 COMMISSIONER MAY: Right. I imagine there may not
6 be -- there may be an enforcement issue there.

7 MS. WLLLIAMS: It is, indeed, an enforcement
8 issue.

9 COMMISSIONER MAY: Yes? Okay. And is there
10 parking around the corner or anything like that on the side
11 streets?

12 MS. WILLIAMS: There is parking. If you're
13 looking at the map, there is parking down Upsal Street.

14 COMMISSIONER MAY: Yes.

15 MS. WILLIAMS: I don't know how it's used. And
16 Bright Beginning does -- well, the facility does have a rear
17 parking lot and if -- I don't know, the director maybe could
18 help me with that. I think it's only -- I think it's ten
19 parking spaces there.

20 COMMISSIONER MAY: Yes, I'm not as concerned with
21 that than the availability of parking on the street because
22 that is an impact that I think we'd have to think about.

23 But it seems like there in is, on Upsal Street.
24 At least in this photograph there's a fair amount of parking
25 that's available and around the corner on Horner. I mean,

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1 given the density of the neighborhood, it seems like it may
2 be an issue -- it may not be an issue of not finding a space,
3 but it might be an issue of having to walk around the corner
4 in terms of getting a parking space.

5 MS. WILLIAMS: For who to walk around the corner?
6 The residents that pay property taxes?

7 COMMISSIONER MAY: Anybody. Anybody who needs a
8 parking space.

9 MS. WILLIAMS: Oh, okay.

10 COMMISSIONER MAY: I mean, does that -- is that
11 fair to say? I mean, do you ever have a problem when you
12 can't find a parking space?

13 MS. WILLIAMS: Yes, sir, I do.

14 COMMISSIONER MAY: And within what radius?

15 MS. WILLIAMS: If you're looking at the map, I've
16 had to go towards Sterling Street, so which would be going --
17 I guess it would be going west of -- no, east of the Bright
18 Beginning, actually going further toward the city.

19 COMMISSIONER MAY: Okay. Thank you.

20 CHAIR HILL: Okay, Ms. Williams, I just have a
21 real quick question. Did you go to the ANC meeting when they
22 were talking about this?

23 MS. WILLIAM: I did attend the ANC meeting, and
24 the one challenge that I did have, they got support from the
25 ANC Commissioner of ANC-C04. And they did not receive -- the

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1 Bright Beginning facility is actually in ANC-D04.

2 CHAIR HILL: Okay, that's okay. Well, thanks.
3 Okay, anyone else? All right, does the applicant have any
4 questions for the witness?

5 MR. FERRIS: No.

6 CHAIR HILL: Okay. All right, Ms. Williams.
7 Thank you so much.

8 MS. WILLIAMS: Thank you.

9 MEMBER WHITE: I had a clarification --

10 CHAIR HILL: With this one? All right, does the
11 Board have any other questions for the applicant?

12 MEMBER WHITE: So could you just tell me again.
13 Are you -- this application, are you requesting an increase
14 in the number of children and staff? Or -- you're asking to
15 expand the use, but you're not increasing the numbers. Is
16 that fair to say?

17 MS. DEAN: Yes, that's correct. We're not
18 increasing the numbers or -- the number of children or the
19 number of staff, none of that.

20 MEMBER WHITE: Okay.

21 VICE-CHAIR HART: I also recall that DDOT raised
22 some issues. Are you equipped, aware of that Mr. Ferris?

23 MR. FERRIS: So they had just asked that we work
24 with DDOT throughout the permitting process to make sure that
25 we had some signage installed to direct pickup and drop-off

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1 coordination. Is that what you're referring to?

2 VICE-CHAIR HART: Well, yes. They asked that the
3 applicant to continue to coordinate with them, sharing its
4 middle split data as well as the safe routes to school issue.

5 MR. FERRIS: Right, so the middle split data is
6 already a condition that the applicant will be complying
7 with.

8 VICE-CHAIR HART: That's fine. And if you could
9 talk a little bit about the parking situation so that we
10 understand that a little bit better.

11 MS. DEAN: I believe that the committee members
12 said that there's been certain occasions, so if we've had
13 something like an event there, that's been the reason for the
14 parking. But on a normal day there's never -- there's not
15 an issue. We don't fall onto Upsal or Martin Luther King.
16 People park mainly in our parking lot.

17 VICE-CHAIR HART: So you're just saying the staff
18 and other service providers that may come there. I'm
19 assuming there may be some folks that come there periodically
20 during the day?

21 MS. DEAN: Right. And what I don't know what she
22 means by service provider, so I guess that would be clarity.
23 Do you mean -- because I'm not sure.

24 VICE-CHAIR HART: Anyone that's not a staff member
25 but is not bringing their child there. But they may be doing

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1 something else there. And I don't know what that is. I'm
2 just, I'm understanding this.

3 MS. DEAN: I don't know who those people are
4 because we don't have a large number of -- I mean, we might
5 have the truck that drops off the food in the morning. But
6 that's largely the case. We don't have other service
7 providers coming.

8 VICE-CHAIR HART: It's just -- you're saying it's
9 just staff that are coming there to -- regular staff that
10 would be coming there on a daily basis?

11 MS. DEAN: It is.

12 VICE-CHAIR HART: Okay.

13 MS. DEAN: It is.

14 CHAIR HILL: Okay, well, I got a little confused
15 there. Was there anyone else wishing to speak either in
16 support or in opposition? Okay. Is there anything else
17 you'd like to add, Mr. Ferris, at the end?

18 MR. FERRIS: No.

19 CHAIR HILL: Okay. All right. Okay, let's see,
20 is the Board ready to deliberate? Okay. Okay, I mean, I can
21 start. I mean, I'm -- the -- I didn't have an issue with the
22 application. I thought that the -- I would agree with the
23 analysis that prepare by the Office of Planning as well as
24 the fact that they are not adding -- asking for any
25 additional students in this application. And so I didn't

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1 have an issue with it or any concerns, and I will be voting
2 in support. Would anyone else like to add anything?

3 MEMBER WHITE: Mr. Chair, I would concur with your
4 comments. I think they met their criteria for a special
5 exception use under U 203.1, if I'm correct with that
6 section.

7 I think they met the four criteria and that the
8 main issue that we were just trying to clarification on was
9 whether or not there would be any cumulative negative impact
10 from having this additional use included for Bright
11 Beginnings.

12 And I posed a number of questions. I understand
13 the concerns of the neighbor in terms of parking. But I do
14 think that it's partly an enforcement issue. But I think,
15 with the applicant working with DDOT in terms of the pickup
16 and the drop-off plan, I can support this application for a
17 special exception, so I'll be in support.

18 CHAIR HILL: Okay, I'm going to go ahead and make
19 a motion then to approve Application Number 17861A, as
20 captioned and read by the Secretary, and ask for a second.

21 VICE-CHAIR HART: Second.

22 CHAIR HILL: Motion made and seconded. All those
23 in favor say aye.

24 VICE-CHAIR HART: Aye.

25 CHAIR HILL: Aye. All those opposed? Motion

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1 passes. Mr. Moy?

2 MS. DEAN: Thank you.

3 MR. MOY: Staff would record the vote is 4-0-1.
4 This is on the motion of Chairman Hill to approve the
5 application for the relief requested. Seconded the motion
6 is Vice-Chair Hart. Also in support, Ms. White and Mr. Peter
7 May. No other board members participating, motion carries.

8 CHAIR HILL: Okay, thank you, Mr. Moy. Thank you
9 very much.

10 MR. FERRIS: Thank you.

11 MR. MOY: All right, I believe that the next
12 application before the Board is Application Number 19872
13 Rupsha, R-U-P-S-H-A 2011 LLC, as amended for a special
14 exception under the new residential developments of Subtitle
15 U Section 421.1 to construct a new eight-unit apartment house
16 in R-A1 zone. This is at 1735 28th Street SE, Square 5635,
17 Lot 44.

18 And I believe, Mr. Chair, that as both the
19 affidavit of posting and affidavit of maintenance, a waiver
20 would be required to be addressed by the Board.

21 CHAIR HILL: Okay, if you could please introduce
22 yourselves for the record?

23 MR. SECK: Yes, Oumar Seck representing Rupsha
24 2011, LLC.

25 MR. DAVIS: Adam Davis, District Properties.

1 CHAIR HILL: Okay, so, Mr. Seck, you're here
2 again, I guess, talking with us. And so I always get a
3 little confused with the different names that you guys use.
4 But, so Rupsha and then also, then, you're here again for
5 another District Properties case later. Correct?

6 MR. SECK: Yes. Yes.

7 CHAIR HILL: And so last week there was a bunch
8 of issues with the waivers and the waiver in terms of the
9 affidavit of posting as well as the affidavit of maintenance.
10 And we ended up sending you back out because it was unclear
11 to us as to whether or not you had met the requirements for
12 both the posting and the maintenance.

13 So are you able to tell me whether or not you have
14 met the requirements for the posting and the maintenance and
15 why the waiver is needed?

16 MR. SECK: There was a confusion -- good morning,
17 everyone, Mr. Chairman Hill.

18 The affidavit of maintenance and posting have been
19 uploaded. And we did not ask, even on the previous case that
20 you mentioned, for a waiver. And it was confusing when I
21 talked to Sara who handles the paperwork with BZA. She never
22 requested a waiver for posting. And she did contact Mr., I
23 think Robert -- forgot his last name, who does the
24 scheduling.

25 So they were resolving that issue. And now this

1 coming up is to my surprise. But we are posting the signs
2 as required and sending people to maintain it.

3 CHAIR HILL: Hey, I'm going to turn it to OAG then
4 because I was getting a little bit confused there. Mr.
5 Rupsha -- I mean, not Mr. Rupsha -- Mr. Seck, it's not
6 whether or not you're necessarily requesting a waiver. I
7 believe you're late. And so the fact that you're -- you
8 know, so I'm going to turn to OAG to help me explain this.

9 MS. LOVICK: Yes, the issue in this case was that
10 the affidavit of posting was actually posted on April 10th.
11 The affidavit of posting is supposed to be posted on the
12 property 15 days prior the scheduled hearing date.

13 So in this case, posting on the 10th means that
14 you were late posting the sign on the property. That is the
15 date that is on the signed, sworn affidavit that was
16 submitted into the record.

17 There was, as of last I checked, no affidavit of
18 maintenance in the record.

19 VICE-CHAIR HART: There is now.

20 MS. LOVICK: There is now?

21 VICE-CHAIR HART: Yes.

22 MS. LOVICK: All right. Yes, but that affidavit
23 of maintenance is basically saying that you have complied
24 with the requirements of posting and that the notice has been
25 on the property for 15 days, which, in this case, is not, in

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1 fact, the case.

2 CHAIR HILL: Okay. Well, the affidavit doesn't
3 say that it's been posted for 15 days here. It says --

4 MS. LOVICK: The date on the affidavit, if I'm
5 remembering correctly, is April 10th. If you look down at
6 the signature block.

7 VICE-CHAIR HART: And the affidavit of maintenance
8 says April 12th on it.

9 MS. LOVICK: Yes.

10 CHAIR HILL: Okay, so, Mr. Seck, do you
11 understand?

12 MR. SECK: Yes, Chairman Hill, I understand very
13 clearly.

14 CHAIR HILL: No, no, no. I'm being serious
15 because I don't think you understand. Because every time you
16 come here, you don't understand and I have to try it again --
17 because I don't necessarily understand and I have to try it
18 again.

19 So you have to post for 15 days, right? And you
20 have to post, you have to send an affidavit of posting 15
21 days prior to the hearing, okay -- 15 days prior to the
22 hearing. And if you don't post it 15 -- if you don't send
23 us an affidavit of posting 15 days prior to the hearing,
24 you're then late, okay?

25 And, therefore, you have to ask for a waiver and

1 explain to us why you're late, okay? And so, then, the
2 affidavit of maintenance, now that can come at any time. It
3 just says that you've maintained it for 15 days. Correct?

4 MS. LOVICK: Yes, it can come in anytime between
5 -- basically up until the date of the hearing, but you're
6 saying in that affidavit that you have complied with the
7 posting requirements.

8 CHAIR HILL: Right, so the affidavit says that
9 it's been on the property for 15 days, okay, 15 days prior
10 to the hearing.

11 MS. LOVICK: You're saying that you posted it 15
12 days prior to the hearing date. So it may not necessarily
13 have been on the property 15 days, at that point. But you're
14 saying that, by the time your hearing comes up, it will have
15 been on the property for at least 15 days.

16 CHAIR HILL: Okay, and so are you telling us that
17 your posting has been on that property for 15 days prior to
18 this hearing?

19 MR. SECK: Yes.

20 CHAIR HILL: Okay.

21 VICE-CHAIR HART: But that's -- I guess the issue,
22 we're saying is, that's not what this -- what the information
23 that you've supplied us says.

24 So right now we're on the 17th. The 10th, which
25 is 7 days ago, was when your affidavit of posting is dated.

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1 So that means that you -- that it wasn't 15 days. It was
2 actually 7 days. So you are 7 days or 8 days less than what
3 it should have been.

4 So you can sit here and tell us that's what you
5 think it is, but what this document tells us is something
6 that's different. And so, that's the problem. We're just
7 trying to understand why it is late.

8 MR. SECK: Yes --

9 VICE-CHAIR HART: So, and I understand that you,
10 personally, may not be doing this but somebody that's in your
11 organization is doing it. And it is causing ripple effect
12 problems because we're like, well, we don't know how long
13 this has been and we don't know if there's been adequate
14 posting on the property to let anybody know, that's walking
15 by, that, oh, I need to go to there on that date to be able
16 to, you know, be in support or against or whatever.

17 And so we have these rules so that we have that
18 proper notification for the public so that they have ample
19 opportunity to be able to -- and equal opportunity to be able
20 to come to us to give their comments or whatever in a timely
21 fashion.

22 So the reason that this is becoming an issue is
23 that it's not just this case. This has been a number of
24 cases. And that's what the chairman had raised earlier, is
25 that we can't do this with every case, to go through a

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1 waiver, when it is a mistake and not something that, you
2 know, it had got knocked down or whatever.

3 We just don't know. But right now it just seems
4 very strange, so we're just trying to get a handle on it so
5 we don't have to deal with this at every case.

6 CHAIR HILL: Ms. White?

7 MEMBER WHITE: The only thing I wanted to point
8 out that is kind of in addition to what Vice-Chair Hart and
9 Chair Hill said, is that there's no response from the ANC or
10 any of the neighbors with respect to this application. Not
11 to say that there has to be, but it can also be inferred that
12 maybe, possibly, they're not aware of it, but, you know,
13 there is an ANC report?

14 MR. SECK: Yes. I was going to wait until you
15 finished and respond to that, yes. As a matter of fact,
16 there's --

17 MEMBER WHITE: That just came in. Thank you.

18 MR. SECK: If I may, Ms. White --

19 MEMBER WHITE: Yes.

20 MR. SECK: The Commissioner -- yes, they're aware.
21 I've been to the ANC. And they'd get their support with one
22 condition that they were asking. And as of last night, the
23 Commissioner, after requesting multiple times the support
24 letter, posted, sent me this application with her comments
25 on it. I don't know if she posted it on the web or, I mean,

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1 or I can pass it on, that has her comment.

2 They did hear the case. And in reference, if I
3 can go back to Vice Chair Hart's comment, I believe our
4 problem is -- and I'm not going to say Sara, but I'll put it
5 as our problem is that the affidavit of posting, needed, as
6 Chairman Hill said, to be filed 15 days in advance.

7 I believe that Sara filed it late. But the signs,
8 when we get them, we make sure these signs are posted in
9 advance. The ANC members are aware of this and they heard
10 the case in their last meeting. I believe it was last month.

11 So this is something I need to sit down with her
12 again and correct it and to make sure that these affidavit
13 of posting are posted on time, on the IZ, and then it won't
14 create this kind of problem. And I do apologize for this
15 confusion twice in a row.

16 If you don't have this from the ANC --

17 CHAIR HILL: No, we got it. We got it.

18 MR. SECK: Oh, okay.

19 CHAIR HILL: I mean, we just got it, Mr. Seck.

20 And I know. I mean, I'm just --

21 MR. SECK: I understand.

22 CHAIR HILL: Last week -- and this is the problem.

23 Last week, you were here for two cases for the same issue.

24 And we had to postpone them. And it just backs up our

25 docket, right? And so then -- you know, I think you have

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1 another one later on today. And I haven't looked, but I
2 think you have an issue with that one as well.

3 I can't remember. I hope you don't, but I -- you
4 know, right. So I don't know. What does the Board think?

5 COMMISSIONER MAY: Sara is somebody who is an
6 employee of yours?

7 MR. SECK: Yes, she coordinates all the
8 applications, filing, et cetera, yes.

9 COMMISSIONER MAY: Is she available to testify
10 that she posted it before April 10th?

11 MR. SECK: Through the phone, but she --

12 COMMISSIONER MAY: No.

13 MR. SECK: I mean, okay.

14 COMMISSIONER MAY: No, we don't do that.

15 MR. SECK: Oh, okay. I'm sorry, but she's not
16 here with us.

17 COMMISSIONER MAY: She's not here?

18 MR. SECK: She's not here.

19 COMMISSIONER MAY: How quickly could she get here?

20 MR. SECK: I can find out, maybe --

21 COMMISSIONER MAY: I mean, I don't know. I mean,
22 I think one option is that -- I mean, essentially what you've
23 testified to is that the affidavit of posting is incorrect.
24 And she signed this, and it's notarized or whatever.

25 And so, I mean, if that's incorrect, I mean, for

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1 what it's worth, if she were to come in and say, no, I posted
2 it, you know, back in March some time, that might be an
3 alternative -- if you're saying that it's simply a matter of
4 there being an error of that affidavit of posting.

5 MR. SECK: Yes.

6 COMMISSIONER MAY: But if there's, if it's not an
7 issue -- I mean, I don't know what the Board thinks. I mean,
8 I would be perfectly fine with postponing the case, although
9 I don't really want to load up the docket later on.

10 CHAIR HILL: Yes, I mean, does this have to be
11 notarized? It is usually notarized on the day, correct, that
12 they are -- because there are two different people that are
13 signing this -- the person that is putting it forward and
14 then the notary. The notary also dated it on April 10th.

15 MS. LOVICK: The idea is that you're affirming --

16 CHAIR HILL: Yes.

17 MS. LOVICK: -- under oath that you posted it on
18 that day and that, you know, pins that date down for you.

19 CHAIR HILL: Yes, so that's what I'm wanting to
20 say. I don't see that -- and I understand what you're
21 saying, Commissioner May, having her come in to do that. But
22 is just seems like that's what we have here as the document
23 so.

24 COMMISSIONER MAY: Okay, I mean, the other -- I
25 mean, not that it relates to this case, specifically, but it

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1 doesn't seem there's a problem with the other case. That
2 one's posted earlier.

3 CHAIR HILL: You mean the --

4 COMMISSIONER MAY: Which sort of undercuts the
5 theory that this is an error in --

6 CHAIR HILL: Yes, you weren't here last week.

7 COMMISSIONER MAY: I wasn't.

8 CHAIR HILL: So, okay, I mean, I guess I could
9 argue this either way. I mean, if we didn't have any -- I
10 mean, we'd hear the case. We can decide what we want to do
11 whether or not we want to decide on it or just wait until the
12 affidavit posting has been corrected or at least verify, you
13 know, because there has been information from the ANC, okay.

14 So I guess we could at least hear the testimony
15 and then determine later or, you know, I mean, the thing that
16 I'm, Mr. Seck, again, just -- and this is where I, again, try
17 to have to work through this through my brain, I just don't
18 think you understand, right.

19 And so -- and I don't mean any offense to this.
20 You say that you understand and yet, you know, and I have to
21 work it through again and again. The affidavit says that you
22 posted this 15 -- you're supposed to have an affidavit that
23 says you posted this 15 days -- at least 15 days prior to
24 this hearing.

25 Your affidavit says that you posted it on April

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1 10th, which is only seven days before this hearing, right.
2 Therefore, you would have to ask for a waiver from us, right,
3 for that issue. Then the affidavit of maintenance, I guess
4 there's no waiver necessary now because now it's been
5 provided. Correct?

6 Okay. And so, and usually the affidavit of
7 maintenance, and now -- and again, the only reason why I'm
8 getting a little excited about this is that last week we
9 talked about this, right. So the affidavit of maintenance,
10 you guys were late again, right. So -- and you come here
11 with projects all the time.

12 And this is just paperwork. This is just like,
13 you know, this is just proof that you're doing what you're
14 supposed to be doing. And so I guess I don't -- I'm kind of
15 -- I mean, I don't want to back this thing up again. So, I
16 mean, I guess we can just go ahead and hear it and then
17 decide whether -- I mean, what to you all think about the
18 affidavits and the waiver?

19 MEMBER WHITE: Yes, well, I mean, looking at, you
20 know, Subtitle Y 101.9, it's my understanding, you know, that
21 you can grant a waiver for good cause. So the question is,
22 has good cause been shown?

23 But you also have to make sure that the waiver
24 will not cause any prejudice to the rights of any party and
25 is not otherwise prohibited by law. So the question is, does

1 it meet that provision? I could argue it either way as well
2 since we do have some feedback from the ANC, even though it
3 just popped in.

4 CHAIR HILL: Okay, my vote would be let's go ahead
5 and hear the case. And if we feel like there's been enough
6 notice and we don't feel uncomfortable about the notice, then
7 we can go ahead and decide about the waiver at the end of the
8 hearing. Is that good?

9 MEMBER WHITE: Yes.

10 COMMISSIONER MAY: Yes. I think that's okay, but
11 I do have one upfront question about the notice. So the
12 major reason why properties are posted is so that people who
13 live around it or frequent that area are aware that this is
14 happening. So have you done direct outreach to the neighbors
15 immediately in that vicinity?

16 MR. SECK: No, Commissioner May, I did not
17 directly go around the neighborhood except the ANC meeting
18 where there was a good presence of neighbors and they heard
19 the case.

20 COMMISSIONER MAY: A presence -- there were people
21 at the ANC meeting who were there about this case?

22 MR. SECK: What I'm saying is the ANC meeting --

23 COMMISSIONER MAY: Oh, I know that the ANC
24 meetings can be well attended.

25 MR. SECK: Oh. Right.

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1 COMMISSIONER MAY: But were there any -- was there
2 anybody there who was specifically interested in this
3 project, as far as you know?

4 MR. SECK: I had questions, yes, about --

5 COMMISSIONER MAY: From the ANC? I mean, at the
6 ANC meeting there were residents who were asking questions.

7 MR. SECK: Yes.

8 COMMISSIONER MAY: Okay.

9 CHAIR HILL: OAG just pointed out something to me,
10 that I thought was interesting. They said if you go ahead
11 and hear the hearing you've basically granted the waiver. So
12 I guess we can have this discussion right now.

13 I mean, so, Mr. Seck, I guess, for the record and
14 for -- just for my -- and I appreciate that you're honest,
15 which is interesting. I mean, Mr. May just asked you a
16 question and you could have lied.

17 MR. SECK: No, I don't do that.

18 CHAIR HILL: Well, that's good. But then get your
19 office straight, back at the helm.

20 MR. SECK: Yes.

21 CHAIR HILL: I mean, so, all right, so you're
22 stating that this posting was posted 15 days prior to you
23 being here, even though the affidavit said it was only posted
24 on the 10th?

25 MR. SECK: That is correct.

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1 CHAIR HILL: Okay, that's your testimony?

2 MR. SECK: Yes.

3 CHAIR HILL: Okay. And it went to the ANC. And
4 I don't want to back this thing up again because we've
5 already got two more of those. And so I'll go ahead and,
6 what do you think? We'll grant the waiver?

7 COMMISSIONER MAY: I have one last question.

8 CHAIR HILL: Yes.

9 COMMISSIONER MAY: So I'm wondering -- I mean, I
10 wasn't here last week. Maybe I should go back and watch the
11 video. But if you had this issue a week ago and then
12 coincidentally, suddenly, this other property that's on the
13 docket today gets posted.

14 So if I were somebody who thought, you know, who
15 just thought that way, I might say, well, you got -- you had
16 some trouble last week and so you ran out and quickly posted
17 it and got that affidavit done. You're telling me that's not
18 what happened, that it had been posted long before that?

19 MR. SECK: Yes, Commissioner May, that's not what
20 happened. You see, there's two things. One, I learned
21 myself last week, which was the affidavit of maintenance.
22 I've been here for a few years presenting cases -- never
23 heard of affidavit of maintenance.

24 But for some -- yes, myself. And for some reason,
25 I asked Sara. This affidavit of posting I was aware for many

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1 years I've been coming here. Then she pulled out one sign
2 that we had and two forms were attached. And she said that
3 when she goes to load the affidavit of posting it doesn't
4 show where you can load the affidavit of maintenance.

5 Now I don't look at that side of the website. I
6 said, well, you figure it out. You call Mr. Robert who does
7 scheduling, try to get this thing because they said we have
8 to do the maintenance on a regular basis, probably every five
9 days that the sign is still there, until the hearing.

10 So I had an extensive meeting with her, along with
11 one of our senior permit officers, Mr. Taylor, who also used
12 to attend this. So this thing was addressed then and we just
13 a week apart. That's why I would say the affidavit of
14 maintenance for this particular project may have been posted
15 only one time and maybe late for the maintenance.

16 But the affidavit of posting, why she signed it
17 on the 10th when the thing was done before -- and she knows,
18 we all know it has to be 15 days. Sometimes we even put it
19 there way before 15 days when we get it. Why wait? Because
20 we get it in advance. Why wait for that long? So we post
21 it in there.

22 And our guys go routinely to maintain the grass
23 or et cetera. And we --

24 COMMISSIONER MAY: Okay, that's fine. Thank you.

25 CHAIR HILL: Okay. All right, I'm now back to I

1 don't what to do, to a certain extent. Because like, you
2 know, like I'm just -- this is taken longer than the hearing,
3 okay. And so I'm just like, you know, so what is -- I can
4 go either way now. At this point, I'm just like tired.

5 And so we can go ahead and like go back -- you're
6 coming back here for those other two anyway, okay, the other
7 ones that you didn't post correctly, okay? And the
8 maintenance thing, it's in every file. Every file has an
9 affidavit of maintenance.

10 So if you've been doing this for years, then
11 whoever would have been doing it for you has never told you
12 about it. It's in every application, right. So --

13 COMMISSIONER MAY: Mr. Chairman?

14 CHAIR HILL: Yes?

15 COMMISSIONER MAY: I think that it's a relatively
16 straightforward case and I hope that if it were postponed
17 that it wouldn't take very long and maybe it'll be on a day
18 when I'm here. Maybe, you know, there'll be somebody else
19 here.

20 But there is a question that I would ask of the
21 applicant to be better prepared next time around based on the
22 letter that we got from the ANC. I'm not asking the
23 applicant to answer it. I'm just asking that the applicant
24 be prepared to answer that.

25 Is that something that I can --- so the ANC report

1 had mention of two conditions or concerns. I forget how they
2 phrased it. One had to do with the side yard setback. I
3 think that was addressed. The other one was about the
4 parking. And they asked that there by four parking spaces
5 instead of two.

6 So if we had had the hearing today, I would have
7 asked whether they could address that and whether they could
8 actually put four parking spaces in. And I think that would
9 require a drawing which would mean that we couldn't make a
10 decision today anyway.

11 CHAIR HILL: All right, this is what I claim.
12 Okay, so let's go ahead. I'm not to grant -- I wouldn't be
13 in favor of granting the waiver. I'd sort of kick this thing
14 back to whenever Mr. May is back here again, okay?

15 And then you can go ahead and the ANC -- you know,
16 I mean, you can talk, you can speak to this right now, if
17 you'd like, Mr. Seck, which is that the ANC had asked for
18 four off-street parking spaces. And do you know whether
19 you're going to be able to provide that?

20 I haven't even gotten into the merits of the case.
21 I'm just quickly asking this question.

22 MR. SECK: Yes, I understand. And they way you're
23 doing it, Chairman Hill, is fine.

24 CHAIR HILL: Okay. Thank you. I'm glad you're
25 still happy.

1 MR. SECK: Yes, no problem.

2 CHAIR HILL: Yes, sure. I understand, Mr. Seck.
3 I'm just tired. Like this is -- because last week, it was
4 just so confusing and now this week it's confusing again.

5 MR. SECK: Right.

6 CHAIR HILL: And so, you know, and you guys
7 do a lot of interesting work and you got those infill
8 projects --

9 MR. SECK: Yes.

10 CHAIR HILL: -- and people come and argue about
11 it all the time. And so you're not necessarily even an easy
12 applicant overall, okay. So, you know, so --

13 MR. SECK: Yes, we deal with very complex lots.

14 CHAIR HILL: Right, I agree. And I understand.
15 So --

16 MR. SECK: And that's why I want to introduce Mr.
17 Adam. He's going to take over and you'll probably see --

18 CHAIR HILL: Hello, Mr. Adam. I can't wait for
19 you to take over for you. That's okay. So, but, Mr. Seck
20 give me one second.

21 MR. SECK: Yes.

22 CHAIR HILL: So to the four off-street parking
23 spaces, do you know if you're going to be able to provide
24 that?

25 MR. SECK: Chairman Hill, we looked at it and

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1 basically the property, the building is sitting in a corner
2 of two alleys.

3 CHAIR HILL: So you don't know. Are you saying
4 no?

5 MR. SECK: I'm sorry?

6 CHAIR HILL: Can you provide the four spaces or
7 not?

8 MR. SECK: No, we cannot.

9 CHAIR HILL: You cannot?

10 MR. SECK: No.

11 CHAIR HILL: Okay, so you don't think you're going
12 to be able to provide the four spaces. How many spaces are
13 you going to provide off-street?

14 MR. SECK: Two.

15 CHAIR HILL: Okay, so then -- how many -- so then
16 the ANC, are they in opposition if you can't provide four
17 off-street parking spaces?

18 MR. SECK: Well, I wouldn't be able to say if they
19 are or not, but I do that the young lady, Tiffany Brown, the
20 commissioner is in support of the application. And she --

21 CHAIR HILL: Okay.

22 MR. SECK: -- just said --

23 CHAIR HILL: That's okay Mr. Seck.

24 MR. SECK: Okay.

25 CHAIR HILL: I'm just going to cut you off because

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1 I thought we were going to have a short day today.

2 MR. SECK: Oh, I think you will.

3 CHAIR HILL: Yes, no. Thank you, I'm sorry.
4 You're not helping my short day, Mr. Seck, but I appreciate
5 --

6 MR. SECK: Well, no, but the next case is a two --
7 one-minute case.

8 CHAIR HILL: Right. Oh, we're going to sit you
9 at the end, Mr. Seck. No, I'm just kidding. So we're going
10 to come -- when's Mr. May back here?

11 MR. MOY: May 8th.

12 CHAIR HILL: Pardon me?

13 MR. MOY: May 8th.

14 CHAIR HILL: May 8th? Mr. May is back in May?
15 May 8th, okay, so then May 8th, that means that if you could
16 come back, okay, make sure -- change your affidavit of
17 posting.

18 MR. SECK: Yes.

19 CHAIR HILL: Well, I guess you wouldn't need to
20 know because it'll be -- it won't -- you don't need to change
21 it. You're going to be -- it's okay now, okay, because you
22 said the 10th.

23 MR. SECK: Right.

24 CHAIR HILL: And now, the next time you're going
25 to be back here is more than 15 days later, okay, so you

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1 don't have to change --

2 MR. SECK: You will need maintenance though.

3 CHAIR HILL: I will need maintenance, yes.

4 MR. SECK: Correct. So, you see, I understand.

5 CHAIR HILL: Right. Okay. All right, okay, well,
6 Ms. White will not be here on the 8th, so she's going to miss
7 the fun. All right.

8 MR. SECK: But I would to ask him a question, if
9 you don't mind.

10 CHAIR HILL: Not, wait, sure. Okay. Of course.
11 So if you, when you do come back and we actually get to hear
12 this case, the -- if you can get something from the ANC as
13 to currently -- and I'm just breezing through this report
14 because we just got it yesterday or whenever or this morning.
15 I don't even know when it came in.

16 That it seems as though they want four off-street
17 parking spaces for their support, okay. So I need a little
18 clarification from you, okay. If they're only in support for
19 four and you're only going to provide two, are they still in
20 support, okay? I need some clarity on that, okay?

21 So that's clear enough. I'm asking you. Correct?

22 MR. SECK: Yes.

23 CHAIR HILL: And you'll be back with us?

24 MR. SECK: Yes.

25 CHAIR HILL: Okay, so I'm just -- I just need to

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1 know that answer, okay.

2 MR. SECK: Yes.

3 CHAIR HILL: So what is your question to Mr. May?

4 MR. SECK: Well, since he pointed out the four
5 parking space and I have not dealt with Mr. May before, I
6 know he's pretty savvy on the zoning and space uses, et
7 cetera, do you have, by looking at this site plan, any
8 recommend -- we looked at it because the fact that it's
9 sitting on a corner, I just want to address that here in case
10 I don't get the support.

11 If he has some suggestions or any kind of comment
12 that I can deal with at the same time. I don't know if it
13 is appropriate to ask for it now.

14 CHAIR HILL: You can ask.

15 MR. SECK: Since he brought it up because --

16 CHAIR HILL: You just asked.

17 MR. SECK: Because we have to provide a parking,
18 as you can --

19 CHAIR HILL: Just ask your question real quick so
20 Mr. May can answer it.

21 COMMISSIONER MAY: I got the gist of the question.

22 CHAIR HILL: Okay, all right, great. Let Mr. May
23 answer your question.

24 COMMISSIONER MAY: So let me just say this. I
25 don't know -- I'm not sure what you would, whether you have

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1 to do anything to set back from the property line from your
2 parking spaces. But your back property line is 35 feet 11
3 inches. So a parking space is 9 by 19, and you could
4 theoretically do a compact parking space.

5 So if you had four spaces in a row back there,
6 it seems to me that they might fit. Plus, you have a giant
7 driveway leading to the trash dumpster --

8 MR. SECK: Yes.

9 COMMISSIONER MAY: -- which I also don't
10 understand. Why does it have to be set back so far from the
11 alley? Wouldn't you want it closer to the alley and away
12 from the abutting property?

13 I mean, there's just, the way you have laid out
14 the rear yard doesn't make any sense. Not that I really love
15 to have parking, but, you know, the whole case here is about
16 putting an apartment building in a zone where that is a
17 special exception, not a matter of right.

18 MR. SECK: Correct.

19 COMMISSIONER MAY: And in order to do that, you
20 have to demonstrate that it's not going to have impacts. And
21 if the ANC thinks that parking could be an impact, having
22 those parking spaces is one way to make sure that you don't
23 have a problem with the ANC.

24 So I think you should take another look at that
25 because I think it may be possible. Again, you know, I don't

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1 know what the rules are for doing compact spaces, but you
2 could talk to the Office of Planning. Maybe they can help
3 you on that.

4 Your property line, and, you know, it looks like
5 you're including a bunch of alley space within the property
6 because you've rounded the corner there. That may be a
7 practical consideration because of trucks rounding corner or
8 cars rounding the corner, but there are ways to deal with
9 that too.

10 I mean, why not make full use of your property
11 rather than donating it to the alley? So, anyway.

12 MR. SECK: Okay. I appreciate your thoughts.

13 COMMISSIONER MAY: I think you can look at that
14 more carefully.

15 MR. SECK: Thank you.

16 CHAIR HILL: Okay, so Mr. -- go ahead, sure,
17 please.

18 VICE-CHAIR HART: Yes. Just one point to bring
19 up. Mr. Seck, when you come back to us, could you more fully
20 explain how this project would be in harmony with the
21 surrounding zoning district.

22 You don't really, and this is the general special
23 exception criteria. You don't really have a lot of
24 explanation as to how you -- you just kind of state that it's
25 in harmony, but there's no kind of information how that is.

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1 Are there similar buildings? Are there, you know, is it all
2 single-family? You know, give us the context and how this
3 would be in harmony with that.

4 And if there are any kind of impacts -- light, air
5 impacts for neighbors, it'd be helpful as well. Just go
6 through their criteria and mark off their criteria as you --
7 okay, we've added this in our explanation. We've added this
8 -- sufficiently added it, not, you know, we meet that. It's
9 this is how we meet that.

10 MR. SECK: Okay.

11 VICE-CHAIR HART: Okay?

12 MR. SECK: Okay.

13 VICE-CHAIR HART: Thank you.

14 CHAIR HILL: So, Mr. Seck, you got all that?

15 MR. SECK: Yes, Chairman Hill.

16 CHAIR HILL: Okay, and it sounds like the parking,
17 you know, it seems like you might be able to figure out a way
18 to do it and that you wouldn't have to get -- you could still
19 then still possibly have the approval of the ANC, okay?

20 MR. SECK: Yes, if it is, we'll definitely be glad
21 to do it.

22 CHAIR HILL: Okay, great.

23 MR. SECK: My designer, when we met, we looked at
24 it with the GAR and all that stuff. It was a problem.

25 CHAIR HILL: Okay, great. And I'm sure -- I hope

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1 Mr. May will send you a consultant's fee also.

2 COMMISSIONER MAY: You know there's --

3 MR. SECK: Yes, I've heard.

4 COMMISSIONER MAY: I mean, it's probably -- you
5 have so much pavement there because of the dumpster.

6 MR. SECK: Yes, yes.

7 COMMISSIONER MAY: Right? You know, I mean, some
8 of that pavement could be allocated to the parking space.
9 And there's also issues, you know, there's possibilities of
10 doing pervious pavement and things like that, so.

11 MR. SECK: Right, we'll look at it. But, you know,
12 when trucks back into a driveway, they've got to have, they
13 have to line up with the dumpster before they can pick it up.
14 That's probably why that driveway was elongated. But we'll
15 take a second look.

16 COMMISSIONER MAY: A lot of that would depend on
17 the width of the alley and the ability of the truck to swing
18 in there.

19 MR. SECK: Yes.

20 COMMISSIONER MAY: So, I mean, you also have the
21 fact that you are on an intersection like that. That can
22 actually work to your advantage because you can use that, the
23 T-shape that's formed, to be able to have the back -- the
24 truck back in and straighten out without having to make a
25 hard turn. They're kind of sliding in like that.

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1 MR. SECK: Okay. All right.

2 COMMISSIONER MAY: Lots of ways to look at it.

3 MR. SECK: Okay, thank you.

4 CHAIR HILL: I'm going to bill you out about like
5 \$500 a minute.

6 COMMISSIONER MAY: Right. I mean, the other thing
7 about this is if I turn out to be completely wrong, which is
8 entirely possible, then you just need to come in and explain
9 to us --

10 MR. SECK: Too much.

11 COMMISSIONER MAY: -- why it is impossible. And
12 truck-turning diagrams can be very helpful for that. Civil
13 engineers should be able to do that for you.

14 MR. SECK: Yes, it won't be easy to prove you
15 wrong, but we'll see.

16 CHAIR HILL: Okay. All right so, yes, okay. All
17 right, so we'll see you back here on May 8th. Was it May
18 8th?

19 MR. MOY: Yes, it would May 8th, Mr. Chairman, but
20 --

21 CHAIR HILL: May 8th.

22 MR. MOY: I would like to add considering what may
23 be quite a bit of additional information if applicant can
24 make their filing by Monday, April the 29th, if that's okay
25 with the Board.

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1 CHAIR HILL: Mr. Seck, do you understand?

2 MR. SECK: Yes, Chairman Hill.

3 CHAIR HILL: Okay, great. Okay, great.

4 MR. SECK: Yes.

5 CHAIR HILL: Okay, we'll see you later today.

6 MR. SECK: But the next case is mine.

7 CHAIR HILL: Yes, we're going to take a break.

8 MR. SECK: Okay.

9 CHAIR HILL: They tell me we're going to take a
10 break, so that's fine. Okay.

11 MR. SECK: All right. Thank you.

12 CHAIR HILL: All right, we'll still see you later.
13 Okay, we're going to take a quick break. Thank you.

14 MR. SECK: I've seen tougher cases than this with
15 you, but mine is not the usual stuff. Okay, thank you.

16 (Whereupon, the above-entitled matter went off
17 the record at 10:49 a.m. and resumed at 11:01 a.m.)

18 CHAIR HILL: All right, Mr. Moy, we're going to
19 get started again.

20 MR. MOY: Thank you, Mr. Chairman. The Board is
21 back with its hearing, and it is about 11 o'clock a.m. If
22 I can have applicants to the table to Case Number 19972 of
23 David Do as amended for special exceptions from the penthouse
24 requirements under Subtitle --

25 CHAIR HILL: I thought we -- and I'm sorry, Mr.

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1 Moy. There was the -- they gave us the new schedule, and the
2 new schedule re-inserted District Properties into, in-between
3 whatever it was. So, yes, so now we've got District
4 Properties, and then I think we're back on the same schedule.

5 MR. MOY: All right, thank you, Mr. Chairman.
6 Talking about change, okay. So it's Case application Number
7 19963 of District Properties.com. And this is a request for
8 area variances from the lot dimension requirement Subtitle
9 D Section 302.1 and the side yard requirements of Subtitle
10 D Section 307.1 to construct a new detached principal
11 dwelling unit, R-2 zone, at 5705 Eads Street, E-A-D-S Street
12 NE, Square 5228, Lot 19.

13 CHAIR HILL: Could you please introduce yourself
14 for the record?

15 MR. SECK: Yes, Chairman Hill. Oumar Seck
16 representing District Properties.

17 MR. DAVIS: Adam Davis, District Properties.

18 CHAIR HILL: Okay. All right, well, Mr. Davis,
19 welcome. Mr. Seck, so the reason why I remembered talking
20 about this, there were preliminary matters still for this
21 case as well. And so it's not a waiver, thankfully.

22 But did anyone reach out to you in terms of the
23 relief that you're requesting and how you might not need some
24 of it, and that you referenced D 206.2 -- or no, I'm sorry.
25 The Board should ask the applicant to correct their request

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1 for relief by removing the lot width D 302.2 and correct the
2 side yard relief request to D 206.2 from D 307.1. Do you
3 know about this?

4 MR. SECK: No, Chairman Hill.

5 CHAIR HILL: Okay. So let me try to figure this
6 out. So who can help me? Is OAG going to help me? Office
7 of Planning going to help me?

8 MS. LOVICK: Okay, so the issue with this was per
9 OP and the code relief from the lot area and width was not
10 required because the lot was in existence before the ZR16
11 went into place. So that's the first issue.

12 Second issue, the citation to D 307 is no longer
13 valid after the Zoning Commission's latest text amendment.
14 So the correct citation is the D 206.2. So basically what
15 we're asking the applicant to do is go back and correct the
16 case caption of the relief that's being requested so that it
17 accurately reflects the code.

18 CHAIR HILL: Okay, so where would the applicant --
19 who would the applicant go to to get some kind of clarity on
20 this?

21 MS. LOVICK: OZ would probably be the best people
22 to go talk to. They can let the applicant know what
23 documents need to be submitted, how to go and amend the
24 caption and all of that.

25 CHAIR HILL: Okay, that's just across the hall,

1 correct?

2 MS. LOVICK: Yes.

3 CHAIR HILL: Okay. All right, so, Mr. Seck, I'm
4 kicking you back down the road again, okay? So if you want
5 to go over to the Office of Zoning, okay, and they can help
6 you understand how this is incorrectly applied for, okay?
7 And then does the Office of Planning have any comment on
8 anything that's just been said?

9 MS. THOMAS: No, that was correct. And I'll just
10 note, in our report, we also, as I said that the lot width
11 is not required because it's an existing lot of record. And
12 he should note that for other applications as well because
13 a lot of the applications that come in that are existing lots
14 of record, they're asking for that relief. So he should
15 check his other --

16 CHAIR HILL: Okay. Ms. Thomas, are you around for
17 another five minutes or so? Okay. Mr. Seck, if you could
18 talk with the Office of Planning right after this -- and Mr.
19 Seck and Mr. Davis, I know that you just started and
20 everything. And, Mr. Seck, you seem relatively pleasant,
21 okay, and I'm just saying this.

22 If you guys come forward and it's any kind of way
23 messed up, I'm just going to immediately kick it to the end
24 of the line, okay, meaning months later, okay. Because
25 whatever the end -- like, Mr. Moy, you are now currently

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1 scheduling for which date, please?

2 MR. MOY: Oh, the previous case?

3 CHAIR HILL: No, no. In general, when are you --

4 MR. MOY: Oh.

5 CHAIR HILL: -- starting to schedule for cases.

6 MR. MOY: Oh, okay. Just a second. It would be
7 June the 12th.

8 CHAIR HILL: Okay, so the next time you guys come
9 in and either the affidavit of maintenance isn't done or the
10 affidavit of posting isn't done or you're filing for the
11 wrong thing, I'm just going to put you back to whatever the
12 next date is, okay?

13 And just because it messes up our schedule. Like
14 I now spent a lot of time, everybody's spent a lot of time
15 to review this case, and then it's not the way it's supposed
16 to be, right? And then the affidavit of maintenance isn't
17 filed or the affidavit of posting isn't -- and I'm just
18 saying it just messes us up.

19 You know what I mean? Like it just completely
20 throws off our entire schedule and then we end up doing this
21 all day. So --

22 MR. SECK: I totally agree.

23 CHAIR HILL: Okay. All right, thank you. So then
24 I don't even know if, when Mr. May comes back again, if this
25 could then be straightened up by -- did that make sense? Do

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1 you know, OAG, if they could probably straighten this up by
2 the time May 8th comes around?

3 MS. LOVICK: It really shouldn't take that long
4 to correct. It's mostly changing the case caption and
5 submitting the documents that reflect the correct relief, so
6 it should not be a long case.

7 CHAIR HILL: Okay. And those questions can be
8 answered over in the Office of Zoning across the hall?

9 MS. LOVICK: That's correct.

10 CHAIR HILL: And also with the guy, the help of
11 OP who's actually here. Correct?

12 MS. LOVICK: Yes.

13 CHAIR HILL: Okay, great. So then, Mr. Seck, I'm
14 going to stick you back here on Mr. May again, which is May
15 8th. Is that correct?

16 COMMISSIONER MAY: It doesn't have to be me
17 because --

18 CHAIR HILL: Oh, no, you get to hang out with all
19 of us for May 8th. You know, might as well, right, you know,
20 there's no need to introduce somebody new to the whole story.

21 So May 8th we're going to have you come back
22 again. Yes, Mr. Seck?

23 MR. SECK: No, I was going to say, to consider
24 that I have the ANC's support on this, yes.

25 CHAIR HILL: That's great. I'm really thrilled.

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1 Okay. So go ahead and meet with the Office of Planning, and
2 we'll see you on May 8th.

3 MR. SECK: Okay.

4 CHAIR HILL: Thank you.

5 MR. SECK: Thank you.

6 CHAIR HILL: Oh, boy. All right, Mr. Moy.

7 MR. MOY: Okay, unless I'm mistaken, I believe now
8 we're at Case Application Number 19972 of David Do. This
9 application, the caption has been amended for special
10 exceptions for the penthouse requirements until Subtitle C
11 Section 1500.4 and under Subtitle C Section 1504 from the
12 penthouse setback requirements of Subtitle C Section 1502.1
13 to construct a third floor with a roof deck and a penthouse
14 enclosure on an existing two-story flat, RF-1 zone, at 1449
15 through 1451 Holbrook Street NE, Square 4075, Lot 182.

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

18 MR. DO: Hi. My name is David Do, the owner of
19 the property, and this is Charles Almonte, our architect.

20 CHAIR HILL: Okay, sir, I'm sorry. You have to
21 introduce yourself for the record.

22 MR. ALMONTE: Hi. My name is Charles Almonte.
23 I'm the architect for the property of the 1449-1451 Holbrook
24 Street.

25 CHAIR HILL: Okay, great. Mr. Do, are you going

1 to be presenting to us?

2 MR. DO: Yes, quickly.

3 CHAIR HILL: Okay, great. Let's see, so -- pardon
4 me? Yes, I think so. You guys have both been sworn in.
5 Correct?

6 MR. DO: No, I haven't.

7 CHAIR HILL: All right, well, there you go. If
8 you could please stand up and take the oath administered by
9 the Secretary to the left. And if anybody else hasn't been
10 sworn in, please stand and take the oath. Thank you.

11 MR. MOY: Do you solemnly swear or affirm that the
12 testimony you're about to present in this proceeding is the
13 truth, whole truth and nothing but the truth?

14 MR. DO: Yes.

15 MR. MOY: Thank you. You may be seated.

16 CHAIR HILL: Okay, Mr. Do. I'm going to go ahead
17 and put 15 minutes on the clock there, which is up on either
18 side or at least one of them should be functioning, the one
19 to your right, and then I guess the one in the middle there.

20 And if you could just kind of walk us through what
21 you're trying to do and how you're meeting the standards for
22 us to grant the application. Also, I didn't see an ANC
23 report. So if you could speak to that issue as well, and you
24 can begin whenever you like.

25 MR. DO: Sure. I'll start with the ANC report.

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1 So I presented this in October of last year. And so there
2 was, I guess, a change in the ANCs in November and they
3 didn't take it up again until March, where I presented one
4 more time -- in-between the October and March of this year,
5 I presented at several of the SMD meetings for 5D07.

6 And then I got a vote last Tuesday, and it was a
7 vote of 6 and zero in favor of the application. But the
8 chairman of the 5D has not posted it on IZIS yet. And there
9 was no changes to what I was proposing for my house.

10 CHAIR HILL: Okay, do you know if they're planning
11 on posting it?

12 MR. ALMONTE: I mean, I've been trying to push
13 them since last week, since the vote, and I haven't heard
14 from him yet.

15 CHAIR HILL: Okay.

16 MR. DO: I emailed him on his ANC email and his
17 Gmail, but he hasn't been responsive.

18 CHAIR HILL: Okay. I mean, unfortunately, like
19 I would need something from the ANC in terms of -- and I
20 guess we can go ahead and hear the case. And then we can
21 keep the record open for the ANC report before deliberating,
22 if that's the way the Board would like to go. Does that
23 sound like a thought? Or what does the Board say?

24 COMMISSIONER MAY: I mean, let's -- why don't we
25 hear the case first and then figure it out?

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1 CHAIR HILL: That's fine. I'm just trying to
2 figure it out now. But, I mean, I'm just trying to figure
3 out how to move forward. Okay. All right, so go ahead, Mr.
4 Do.

5 MR. DO: So I think this is probably a pretty
6 straight-forward case. I'm just asking for a roof deck for
7 my house. But within that roof deck, it needs a continuing
8 staircase to the roof for mechanical purposes. We couldn't
9 find another area for mechanical.

10 I'm asking for a special exception under Title 11
11 of Zoning Code 1500.4. That says that you all can approve
12 the penthouse, as a special exception, under Subtitle X
13 Chapter 9, providing it's no more than 10 feet in height and
14 that it contains only a stair or elevator access to the roof
15 and with a maximum of 30 square foot of storage space.

16 And I'm also asking a 1502.1 on setbacks. I meet
17 the setbacks for the front and back which is the west and
18 east side. I don't meet the setbacks for the, I think, the
19 south side -- or the, sorry, the north side because my width
20 of my house is 17 feet and the height is about eight, nine
21 feet on the penthouse.

22 The penthouse I'm proposing is just for mechanical
23 equipment, and I think it's okay, within the zoning rules.
24 And the staircase housing is an extension of just the
25 existing stairs within the home. It allows for safe access

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1 to the roof instead of just like a hatch. And also the
2 mechanical space.

3 And then also, I have asked for both my north side
4 neighbor's and south side neighbor's approval. And the south
5 side neighbor's gave approval, signed a notification form and
6 said it looked beautiful. The north side, it's a foreclosed
7 house, and I've been trying to get in contact with the
8 owners, but they have had a \$72,000 lien on their property,
9 so I haven't been able to be successful.

10 I not only reached out to the OTR website address
11 but also through other means including trying to get
12 historical data, and I wasn't able to.

13 Within my, I think, Form 135, I meet all the
14 requirements including the lot occupancy. It's maximum for
15 unit, it's about 60 percent. But I'm at 55 percent. And
16 also the height of the roof is, by right, at 35, and I'm at
17 33.2 -- 33 feet and 2 inches.

18 So that's what I'm asking. More specifics, my
19 architect can answer regarding the burden of proof.

20 CHAIR HILL: So does anyone have any questions for
21 the applicant?

22 MEMBER WHITE: I have one quick question. With
23 respect to the ANC meeting, did they give the approval
24 subject to any conditions or, you know, alternative types of
25 solutions to deal with any community concerns -- since I

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1 don't have it in writing, I'm just wondering.

2 MR. DO: Yes, so there were no community concerns,
3 I think, for other like cases that were presented to them
4 that evening. This is just a -- this is a duplex unit. It
5 continues to be a duplex unit. And it continues to have a
6 parking spot in back.

7 I think when I was hearing other concerns at the
8 ANC it was around parking, and I meet the parking
9 requirements here as well. And so there was no issues. I
10 mean, it's going from two units to two units. I'm just
11 trying to add a floor and a roof deck to my unit.

12 MEMBER WHITE: Thank you.

13 CHAIR HILL: Okay, anyone else?

14 COMMISSIONER MAY: Yes, so I'm a little puzzled
15 by the rationale that the mechanical space has to be on the
16 roof. I mean, basically, what you're trying to do is
17 something that the Zoning Commission really wanted to avoid
18 in row house neighborhoods.

19 And I'm sure you've seen them around that
20 neighborhood and elsewhere where you have a third story
21 addition and then, you know, that extra little penthouse or
22 stairway access to go up to the top because a lot of those
23 were built before the rules were changed.

24 MR. DO: Yes.

25 COMMISSIONER MAY: And that's a condition that we

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1 try very hard to avoid. And I, you know, to -- and, you
2 know, I think since we put in those regulations, there have
3 been some, I think, some very smart developments in how
4 people can get roof access through hatches that'll allow you
5 to have a stair running up to a hatch, that'll flip open and
6 let you out.

7 Sometimes those require relief, depending on where
8 they're positioned. Then, and the other, you know, another
9 solution, of course, is to put a stairway off the back. I
10 saw that you had decided you didn't really want to do that.

11 The issue I have is why it's necessary to put
12 mechanical up top because that -- it seems to me that that's
13 what's driving having this big box popping up above your
14 popup. So maybe you want to speak to that?

15 MR. DO: So I'll speak to that and then my
16 architect can speak to the specifics of the burden of proof.
17 And I'll speak candidly and honestly here.

18 So we went through the design process, and I was
19 not familiar with the zoning rules and requirements. We
20 built it -- it costs about 25, almost \$30,000 to get all the
21 plans ready. We went through the DCRA process, and it
22 stopped at structural. And it said I have to go through the
23 Zoning commission. And that's where, I think, where lies the
24 rub.

25 And so it would, I think, be cost prohibitive for

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1 me. And I wouldn't be able to do it if I was now going to
2 have to like redraw everything within the plans.

3 And then my architect can speak to why he's tried,
4 actually, to reposition the mechanical inside the home, and
5 it just didn't work. And we tried that even before asking
6 for this relief. So I'll let him speak a little bit more on
7 that.

8 MR. ALMONTE: Yes, we looked at other options,
9 putting it on the third floor basically, in the new third
10 floor. But it's such a small space. You know, it's like 15
11 feet -- basically 17 feet is the property line, basically
12 from the --

13 COMMISSIONER MAY: Okay, so I -- let me just tell
14 you. Small is relative, and I've lived in 14-foot wide
15 houses and 18-foot wide houses. And the main section of my
16 current house is 17 feet wide. And I know that you can have
17 a living space and a hallway space in a 17-foot wide house.

18 So, you know, be as specific as you can because
19 I know something about this.

20 MR. ALMONTE: Okay. One of the things that we
21 were required, or according to our mechanical engineer that
22 we were required, was to have an energy recovery unit, which
23 takes up a lot of space. And maybe -- I don't know if that
24 is what is required in this scope of work, but the energy
25 recovery unit --

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1 COMMISSIONER MAY: Yes, and whether it's required
2 or not, you know, it's, I mean, you can chose to put that in,
3 but that's not really the issue. It's just, you know, tell
4 me more about this space. I mean, it's hard to judge because
5 we don't have plans of them, of the units. All we have is
6 the plan of the roof, right?

7 MR. ALMONTE: Right.

8 COMMISSIONER MAY: And we have the elevations and
9 so on.

10 MR. ALMONTE: Right, right, right. We, the
11 mechanical room right now is going to house two air handling
12 units and the energy recovery unit and a hot water heater to
13 serve the second and third floor.

14 So we've made it as compact as possible. A 7-foot
15 by 4-foot space is what we came up with that would allow us
16 to have the units there and also all the clearances that's
17 required for maintenance and access and all that stuff.

18 Putting that on the third floor would eat into the
19 two bedrooms/two bathrooms that we're designing.

20 COMMISSIONER MAY: You have three floors and
21 you're having -- and the third floor is two bedrooms and two
22 bathrooms.

23 MR. ALMONTE: Correct.

24 COMMISSIONER MAY: And then the living space for
25 that unit is the floor below?

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1 MR. ALMONTE: On the second floor, right.

2 COMMISSIONER MAY: Right.

3 MR. ALMONTE: A living room, dining room and a
4 kitchen.

5 COMMISSIONER MAY: Living room, dining room and
6 a kitchen.

7 MR. ALMONTE: Yes.

8 COMMISSIONER MAY: And it couldn't be on the
9 middle floor either?

10 MR. ALMONTE: No, no.

11 COMMISSIONER MAY: And what's the width of the --
12 it's the -- so the width of the lot is 17 feet?

13 MR. ALMONTE: Correct.

14 COMMISSIONER MAY: And they're party walls, right?

15 MR. ALMONTE: Correct, yes.

16 COMMISSIONER MAY: Okay, so you really, you have
17 closer to 16 feet clear on the inside.

18 MR. ALMONTE: I think we measured like 15'4" is
19 finish to finish, yes, so, plaster wall to plaster wall.

20 COMMISSIONER MAY: Interesting.

21 MR. ALMONTE: Yes.

22 COMMISSIONER MAY: Must be very thick party walls.
23 And what's the depth of the house?

24 MR. ALMONTE: The house, because we're also adding
25 an addition in the back --

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1 COMMISSIONER MAY: Right.

2 MR. ALMONTE: -- so --

3 MR. DO: The addition is 10 feet.

4 MR. ALMONTE: Yes, so that --

5 COMMISSIONER MAY: I figured it'd be the maximum
6 that you could do.

7 MR. ALMONTE: Forty-three, 43 feet.

8 COMMISSIONER MAY: Forty-three feet?

9 MR. ALMONTE: Yes.

10 COMMISSIONER MAY: Forty-three -- I forget what
11 I said. I mean, that's a fairly typical three-room deep --
12 it's very hard for me to understand how you could not have
13 fit that in. I understand that it's a hardship now because
14 you had designed it and you hadn't anticipated that. That was
15 helpful information.

16 But, you know, if your argument is going to rest
17 on something like, there's not enough room for this
18 equipment, then you have to demonstrate that there's not
19 enough room for this equipment. And I, you know, just
20 knowing what it takes to condition a house at that size, even
21 on the two-floor unit that you're talking about, it very
22 clearly could be done. You have to give up
23 something, but it could be done. So, I mean, again, I
24 appreciate having heard that this is a hardship for you and
25 that you had gone down this path not knowing that you would

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1 have this complication and it was a late-breaking
2 complication. And I'm glad you're here to do the right
3 thing, and I'm glad the ANC is in support, but this is not
4 the sort of thing that I really ever want to approve.

5 CHAIR HILL: Okay, so we'll see what happens next.
6 Does anybody have any more questions? Okay, Office of
7 Planning?

8 MR. MORDFIN: Good morning. I'm Stephen Mordfin.
9 And the Office of Planning supports the two requests for
10 special exception relief. One, to permit fan tabs on the
11 roof. OP finds that it's in conformance with the criteria
12 for that. And the second one for the relief from the setback
13 from one side or the other. It is best conformed with front
14 to back.

15 OP finds that, because of the height of the
16 structure, it would be difficult to locate it in, directly
17 in the middle and still make it conform because the
18 property's only 17 feet wide. So by placing it on one side,
19 OP finds that, because it is an internal unit of a row of
20 units, a row of six units, building structures, some of it
21 had structure -- I'm sorry flat -- that that would have
22 minimal impact.

23 And also OP did support the mechanical equipment
24 on the roof because the applicant had informed OP that, you
25 know, there was no other place to put and you couldn't put

1 it into the rear yard. So therefore, OP found that that was
2 acceptable and supports the application. Thank you.

3 CHAIR HILL: Okay, does the Board have any
4 questions for the Office of Planning? Okay, I have a
5 question for the Office of Planning.

6 So with regard to some of the comments that
7 Commissioner May mentioned, I mean, I do know, and this is
8 just for the applicant as well, I mean, for, while I have
9 been here, I haven't seen a lot of these necessarily getting
10 approved insofar as there's like always been discussion about
11 the hatches and other ways of doing this.

12 So why did the Office of Planning think that this
13 was something that they could get behind, given that, in the
14 past, there's been different ways that this has been
15 accomplished?

16 MR. MORDFIN: Well, there have been different
17 ways. OP also supported this because it aligned the
18 stairwells without creating a stairwell in a different part
19 of the house. And, because of the existing stairwell, it's
20 there today, going from, you know, the existing stairwell
21 proposed today.

22 It doesn't have a stairwell from the second floor
23 to the third, but placing it in the middle, we thought that
24 that would break up the room in the middle, by having a
25 staircase in the middle, because it's not a wide room. It's

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1 not a wide structure.

2 CHAIR HILL: Okay. All right, does anybody have
3 any other questions for the Office of Planning? No? Mr.
4 May, you had a question for the applicant?

5 COMMISSIONER MAY: Yes, did you do any -- make any
6 attempt to assess the visibility of the penthouse from the
7 street?

8 MR. ALMONTE: Right. We do have some renderings
9 to show that.

10 COMMISSIONER MAY: Were they in the record?
11 Because I didn't see them in the record.

12 MR. ALMONTE: I don't think so.

13 COMMISSIONER MAY: Okay.

14 MR. ALMONTE: I don't think so.

15 COMMISSIONER MAY: So if you show them to us,
16 you're going to have to give them to us.

17 MR. ALMONTE: Okay, sure.

18 COMMISSIONER MAY: Okay.

19 CHAIR HILL: Mr. Almonte?

20 MR. ALMONTE: Yes.

21 CHAIR HILL: There's a camera right there. And
22 maybe you can show it real quick to the camera, and then I
23 don't know whether that goes up on the screen or not, Mr.
24 Moy.

25 MR. MOY: Yes, if you like, we have an easel

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1 that's propped against the wall. Do you see it? And you
2 could set your boards on that easel. And if you could set
3 the easel in front of my camera, from where you're standing.
4 And, as Peter May said, that after the hearing you should
5 submit those drawings into the record. Thank you.

6 COMMISSIONER MAY: You didn't know you were going
7 to have to do an easel setup test, did you? Fortunately,
8 that wasn't on the exam.

9 (Off mic comments.)

10 CHAIR HILL: You need the microphone, Mr. Moy.

11 MR. ALMONTE: Thank you. So these are two
12 renderings that's basically viewed from the street level of
13 the property, one coming from the east side and one coming
14 from the west side, basically. So --

15 COMMISSIONER MAY: All right, so, I mean, where
16 we're starting to see it on the --

17 MR. ALMONTE: Yes, if you're coming from this side
18 of the street, from Queen Street, I believe is the --

19 MR. DO: That's from the north.

20 MR. ALMONTE: From the north.

21 COMMISSIONER MAY: All right, so wait a minute.
22 So can you, on the top one, it's that thing that's sky-
23 colored.

24 MR. ALMONTE: Correct. Well, I mean, yes, it's
25 white.

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1 COMMISSIONER MAY: Yes, okay.

2 MR. ALMONTE: They can see it like right across
3 the street.

4 COMMISSIONER MAY: Yes, it is quite visible from
5 across the street. I mean, first of all, I'll see it looks
6 like that perspective view was taken from about 10 feet off
7 the ground, like as if your eyes were 10 feet off the ground
8 as opposed to being at, you know, more like 5 feet.

9 MR. ALMONTE: Six or seven feet, yes.

10 COMMISSIONER MAY: But does -- I don't think it
11 matters because I think it would be highly visible then. I
12 mean, this is, it's -- see, there's certain circumstances
13 where the Zoning Commission thought that it would be okay to
14 do penthouses like this would be, circumstances when you're
15 up against another three-story building or if it were -- if
16 you were only putting this penthouse on top of your two-story
17 building.

18 And, because with that sort of a setback or even
19 a 10-foot setback it's not highly visible. It's when you
20 have that pop-up plus something on top of it that it became
21 a lot more visible. So it's still, I think, problematic.

22 I would also recommend that you look at darker
23 colors because a lot people think that --

24 MR. ALMONTE: Height.

25 COMMISSIONER MAY: -- of the lighter color for a

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1 penthouse makes it blend in with the sky.

2 MR. ALMONTE: Oh, okay.

3 COMMISSIONER MAY: But it doesn't really. It's,
4 and if you just look around at penthouses around the city,
5 it doesn't usually come up in discussions about flats or
6 homes. But typically the ones that are darker colored are
7 less visible. They're just less bright. And so you see them
8 less. And then that dark color tends to recede even though
9 it's against a light background.

10 So, all right. Well, I appreciate seeing that.
11 Thank you.

12 CHAIR HILL: Okay, anyone else have any questions
13 for the applicant? All right, anyone here wishing to speak
14 in support? Anyone here wishing to speak in opposition?

15 All right, I'm kind of unclear as to where we are
16 in terms of if we want anything more from the applicant. I
17 know Mr. May might want more things from the applicant, but
18 does anyone else want anything from the applicant?

19 I got a no over here, a no over there. So, Mr.
20 May?

21 COMMISSIONER MAY: So, I mean, I think the ANC
22 report is critical before we make a decision. And I don't
23 think I really want to see the plans at this point because
24 if I look at the plans I'm going to start, you know --

25 CHAIR HILL: Can you guys drop your microphones

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1 there? I'm sorry, there -- it feeds back. Thank you.

2 COMMISSIONER MAY: You know, I'm going to get
3 caught up in thinking about how it's actually not necessary,
4 so I'll limit my inquiry to the question of whether the ANC
5 supports it. So if we can get that into the record and we
6 can go straight to deliberation when we get that.

7 CHAIR HILL: Okay, all right.

8 COMMISSIONER MAY: That make sense?

9 CHAIR HILL: Sure. So, I'm fine with that, and
10 I know which day we're going to do this. So, Mr. Do, can
11 you please have the ANC submit their report? And if you have
12 any issues as we get closer to May 8th, which is when we're
13 going to deliberate on this, perhaps you can reach out to the
14 Secretary.

15 And, Mr. Secretary, you could possibly call the
16 ANC as well. I don't know if that is possible or not. But
17 just try to get that ANC report in, okay?

18 MR. DO: I will.

19 CHAIR HILL: Okay. And so then we'll go ahead and
20 do deliberations on the day that I'm going to take off which
21 is May 8th. If that's correct. Is that correct, Mr. Moy?
22 May 8th is when Mr. May is back?

23 MR. MOY: That's correct. I thought you were
24 referring to yourself.

25 CHAIR HILL: Yes, I was referring to myself, but,

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1 yes, I'm making a joke. I will be here May 8th. Yes, okay.
2 Are we good? All right.

3 MR. DO: Do we come back?

4 CHAIR HILL: You do not have to come back. You
5 can watch it on the little screen.

6 MR. DO: All right, thank you.

7 CHAIR HILL: Okay? Sure, certainly. You need to
8 go ahead and speak in that microphone if you're going to
9 speak. Sorry.

10 MR. ALMONTE: Do I need to upload the images?

11 COMMISSIONER MAY: Yes, please.

12 MR. ALMONTE: Okay.

13 COMMISSIONER MAY: As soon as you can.

14 MR. ALMONTE: Okay.

15 CHAIR HILL: All right, so we're going to -- so
16 just to be clear, we are closing the hearing. We're closing
17 the record except for the report from the ANC and the images
18 from the architect. Okay? So the record's closed. The
19 hearing is finished. Now we're going to deliberate on May
20 8th.

21 MR. DO: Thank you.

22 CHAIR HILL: All right, Mr. Moy.

23 MR. MOY: Thank you, Mr. Chairman. So if we can
24 have parties to the table for Case Application Number 19977
25 Winston Cox. This application has been amended for special

1 exceptions under the use provisions of Subtitle U Section
2 421.1 and under the inclusionary zoning requirements of
3 Subtitle C Section 1001.2 (e)(3). This will construct an
4 apartment house in a R-A1 Zone. This is at 2814 28th Street
5 SE, Square 5729W, Lot 8. That's it.

6 CHAIR HILL: Okay, great. If you could please
7 introduce yourselves for the record.

8 MR. COX: Yes, my name Winston Cox, the owner.

9 MS. ANGJELI: Hi, my name is Anila Angjeli. I'm
10 the architect of record of A-Line Architecture.

11 CHAIR HILL: Could you spell your last name,
12 please?

13 FEMS. ANGJELI: Spelled A-N-G-J-E-L-I.

14 CHAIR HILL: Angjeli?

15 MS. ANGJELI: Angjeli.

16 CHAIR HILL: Angjeli. Can you say it again?

17 MS. ANGJELI: Angjeli.

18 CHAIR HILL: Angjeli. Okay. All right, Mr. Cox.

19 So, you're going to be presenting to us?

20 MR. COX: No, I don't have anything to present.
21 I was going to, I guess, talk about it probably based on the
22 items already submitted.

23 CHAIR HILL: Okay, well that's a presentation, so

24 --

25 MR. COX: Oh, okay.

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1 CHAIR HILL: So that's okay. So I'm going to give
2 you 15 minutes on the clock, Mr. Moy, if you wouldn't mind.
3 And, Mr. Cox, again, what you can do is just go ahead and
4 tell us about your application and what you're trying to
5 achieve. And then either you or your architect can talk
6 about the standard of review.

7 And OAG has a comment perhaps?

8 MS. LOVICK: Yes, Mr. Chairman, there is a
9 preliminary matter about waiving the 21-day filing deadline.

10 CHAIR HILL: Oh, okay. So I thought that that was
11 -- but I thought it was all in the -- everything was in the
12 record. What was the filing deadline for it again? I'm
13 sorry.

14 MS. LOVICK: So this is for the revised self-
15 certification and burden of proof at Exhibit 39. The revised
16 documents were filed on April 10th. Our comment on this was
17 they reflect changes that have been in the record longer than
18 that. So we didn't really think it would be a major issue,
19 but just to get it on the record that it's being excepted.

20 CHAIR HILL: Okay. All right, I think that I am
21 comfortable with waiving the 21-day filing deadline. Does
22 the Board have any issues with that?

23 MEMBER WHITE: No.

24 CHAIR HILL: Okay. All right, so we're going to
25 go ahead and waive the 21-day filing deadline. And then, so,

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1 Mr. Cox, again, if you want to walk us through what you're
2 trying to propose and how you're meeting the standards for
3 use to grant the relief. And I'll let you begin whenever you
4 like.

5 MR. COX: Okay, this property, I purchased the lot
6 from the Vacant to Vibrant Program that was put forth by the
7 Mayor last year. It's located in a --

8 CHAIR HILL: What was the program again?

9 MR. COX: Vacant to Vibrant.

10 CHAIR HILL: Okay, right. Thank you.

11 MR. COX: Okay. So this lot is located in an area
12 where we already have existing multi-families on the side and
13 across the street. The whole entire street is multi-
14 families.

15 So I'm proposing to build a 8-unit apartment
16 building. Inside the -- the makeup would be seven 3-
17 bedroom/2 baths and one 4-bedroom/2 bath. I'm proposing to
18 have the 4-bedroom to be IZ unit. And it'd be located on the
19 second floor.

20 I will say, also, this probably will have two
21 parking spaces located in the back. I think that's all I
22 have unless you want to add anything to it?

23 MS. ANGJELI: So we understood that the special
24 exception was required as part of the approval. Everything
25 else is going through permit review and is according to

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1 building code and other compliant zoning codes.

2 We have two parking spaces. One is the regular
3 9 by 19 and the other one is an Accessible space. And we've
4 creatively staggered so that it works and had had challenging
5 design exercises to make the ADA Accessibility work to the
6 main entrance and not cause unnecessary -- it's a pretty
7 steep terrain and it had geographic, topographic challenges
8 to avoid having, you know, retaining walls or too much
9 excessive or basically to avoid being unfeasible.

10 So I think we're pretty happy with the process
11 that we've gone through for the design. And the special
12 exception was just one, I think, requirement, we understood,
13 is needed for new construction.

14 CHAIR HILL: Okay. So there were some, four
15 suggested design changes that the Office of Planning has
16 made. Have you seen those changes?

17 MS. ANGJELI: So we worked with the Office of --

18 CHAIR HILL: Can you lean into the microphone just
19 a little bit more? I'm sorry.

20 MS. ANGJELI: We worked with the Office of
21 Planning in carefully selecting the materials suggested and
22 color changes. And we feel it's fitted and it's fresh and
23 new.

24 CHAIR HILL: So you went ahead -- you and the
25 Office of Planning are on the same page in terms of those

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1 four issues that they brought up?

2 MS. ANGJELI: Yes.

3 CHAIR HILL: Yes, okay. And then did you provide
4 plans that show those proposed changes?

5 MS. ANGJELI: Yes.

6 CHAIR HILL: Okay. And then there are also some
7 comments from DDOT. Are you aware of those comments from
8 DDOT?

9 Porch and ramp projections are limited 10 feet
10 along 28th Street. The existing sidewalk along the frontage
11 on the property's frontage on 28th Street should be expanded
12 from 3 feet to 4 feet to allow adequate pedestrian sidewalk
13 clearance. All other building elements, bay windows and
14 canopies in the right-of-way are subject to public space
15 approval.

16 MR. COX: Yes, I'm aware.

17 CHAIR HILL: You're aware of all those?

18 MR. COX: Yes.

19 CHAIR HILL: Okay. All right. Okay, I'm going
20 to turn -- does anybody have any questions for the applicant?

21 VICE-CHAIR HART: Just if you -- if the applicant
22 -- I don't know if it's Ms. Angjeli or Mr. Cox -- you could
23 just describe how you're meeting the general special
24 exception criteria.

25 And basically what we're talking about is how does

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1 this project fit within the overall neighborhood? So, you
2 know, is this a single-family neighborhood? Is this a multi-
3 family neighborhood? This, the required criteria talks about
4 that the project should meet that criteria, should be a
5 similar type of development. I just wanted you to discuss
6 that a little bit.

7 MR. COX: Yes, this property is, the current
8 makeup of the street and the entire neighborhood is
9 multi-family. We do have a slight mix of single-families,
10 I think to the south of the building. But the majority of
11 the location is predominantly multi-families from four units
12 all the way to 13 units within the same block.

13 VICE-CHAIR HART: You also said that there was
14 some -- there's single families that are also in this same
15 block as well?

16 MR. COX: Yes, there's single families on the same
17 block. I believe it's the street -- I can't recall the
18 street, but on one side there are single families. But right
19 across, on that same street, it's multi-families. And across
20 the, in front of the building, of my lot, is also, the entire
21 street is multi-families, so.

22 VICE-CHAIR HART: Okay. Thank you.

23 MEMBER WHITE: Just one question. How is the
24 trash going to be stored and collected?

25 MR. COX: In the back, plan to have the trash cans

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1 located in the back in that we do have alley access for the
2 truck to be able to maneuver within the alley and pick up the
3 trash.

4 MEMBER WHITE: Okay. And there's exterior
5 lighting on the building? Is that part of the plan?

6 MR. COX: Yes, we plan to have exterior lighting
7 on the building and also have an additional lighting in the
8 back, near the parking spaces.

9 MEMBER WHITE: Okay. And that won't cause any
10 adverse impacts to --

11 MR. COX: Neighbors.

12 MEMBER WHITE: -- neighboring properties?

13 MR. COX: Yes, I actually, I met with the
14 neighbors, actually at the ANC. And at the ANC I met with
15 neighbors three times at the location. We walked the
16 property several times, and they asked questions about
17 lighting, cameras and things of that nature.

18 And I told them any lighting will not be pointed
19 directly into their windows. And they seemed to be on board
20 with that.

21 MEMBER WHITE: It seems like the largest unit is
22 the IZ unit. Is that correct? Or one of the largest ones?

23 MR. COX: Well, actually -- the, probably the
24 number of bedrooms is the IZ unit, yes.

25 MEMBER WHITE: Okay.

1 MR. COX: And the reason behind that, I noticed
2 that whenever -- it was hard to find a 4-bedroom unit in D.C.
3 anyway, let alone 3-bedroom units. I thought that if the IZ,
4 I noticed that a lot of families can't find 3 and 4-bedroom
5 units in D.C. So I thought I'd provide the largest units to
6 the IZ.

7 MEMBER WHITE: Okay, thank you.

8 CHAIR HILL: With that, Mr. Cox, just the reason
9 why Board Member White is asking for that is that's very
10 thoughtful on your part. Okay, anybody in terms of the
11 Office of Planning?

12 MS. THOMAS: Good morning, Mr. Chair, members of
13 the Board, Karen Thomas for the Office of Planning. We
14 worked with this applicant to satisfy the special exception
15 request and to have him apply the sensitivity to the property
16 with respect to the IZ unit. And we are happy that he
17 considered including an IZ unit in this project, in this
18 neighborhood.

19 We believe that he satisfied -- the special
20 exception criteria has been satisfied and we will stand on
21 the record of our report. And I'll be happy to take any
22 questions. Thank you.

23 CHAIR HILL: Okay, great. Does the Board have any
24 questions for the Office of Planning? Does the applicant
25 have any question for the Office of Planning?

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1 MR. COX: No.

2 CHAIR HILL: Is there anyone here wishing to speak
3 in support? Is there anyone here wishing to speak in
4 opposition? Does the Board have any final questions for the
5 applicant? Does the applicant have anything they'd like to
6 say at the end? Oh, sorry. Go on.

7 COMMISSIONER MAY: I'm sorry. Maybe I missed it,
8 but the ANC, oh, we did the ANC report earlier. Got it.
9 Okay. It's hard to keep up with all the cases. But you have
10 a report in favor based on the prior design and the, with the
11 relief requested and all that?

12 MR. COX: Correct. Yes.

13 COMMISSIONER MAY: Have you shown it to them since
14 it was revised?

15 MR. COX: Yes, I talked to the neighbors, but I
16 don't have an updated letter from the ANC. I felt that I
17 didn't need it because he was in favor of the variance.

18 COMMISSIONER MAY: Right. You know, I mean, I
19 don't think that was as critical. I mean, having that early
20 review which required more relief is okay.

21 But that's just the -- what we have is a letter
22 from your ANC, the SMD representative. I'm not seeing a
23 report that we can give great weight to. But then, again,
24 they don't have concerns, so I guess we don't have to worry
25 about giving great weight.

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1 It doesn't all -- do you know what the vote was?
2 Because I don't see the vote in this letter.

3 MR. COX: Yes, everyone was in favor of this
4 project.

5 COMMISSIONER MAY: So it was unanimous?

6 MR. COX: Unanimous, yes.

7 COMMISSIONER MAY: Okay.

8 MR. COX: And it was my understanding, when I went
9 to the meeting, it was a big deal who wrote the letter. And
10 it seemed that, at that meeting, they made it, since it was
11 a single-member district, it had to come from him.

12 COMMISSIONER MAY: Yes, and they have their own
13 rules of doing of things. We have our rules as well. And
14 if we have to see that it was, that the letter from ANC is,
15 that it includes the vote and the number that constitutes a
16 quorum and that a quorum was present.

17 And we don't have all that information in this
18 letter, but in this case it doesn't really matter because
19 they're not raising concerns. Our obligation is to give them
20 great weight -- great weight to any concerns they would have.
21 If they support it, that's reassuring, but it isn't critical
22 that we have their vote in order to appreciate that, I guess.

23 CHAIR HILL: Okay. Anything else? All right, I'm
24 going to go ahead and close the record. Is the Board ready
25 to deliberate? Okay. I can begin. I am comfortable with

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1 the presentation that the applicant has put forward.

2 I'm also in agreement with the analysis that the
3 Office of Planning has provided. I am, although we did not
4 get the report, as Commissioner May has pointed out, in terms
5 of being able to give the ANC great weight, I am comforted
6 by the report from the SMD in terms of the community
7 outreach.

8 And I also, as Ms. White has pointed out, am
9 pleased to see about the large unit for the IZ unit. I do
10 think that they have met the criteria for us to grant the
11 special exception, and I will be voting in favor. Does
12 anyone else have anything else they'd like to add?

13 I'm going to go ahead and make a motion to approve
14 Application Number 19980 as caption read by the Secretary and
15 ask for a second.

16 MEMBER WHITE: Second.

17 CHAIR HILL: Motion made and seconded. All those
18 in favor say aye.

19 (Chorus of aye.)

20 CHAIR HILL: All those opposed? Motion passes.

21 Mr. Moy?

22 MR. MOY: Staff would record the vote as 4-0-1.
23 This is on the motion of Chairman Hill to approve the
24 application for the relief being requested. Seconding the
25 motion is Ms. White. Also in support of the motion is Vice-

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1 Chair Hart and Mr. Peter May. We have no other board members
2 participating today. Motion carries.

3 CHAIR HILL: Okay, great. We're just going to
4 take a quick 3-minute break, and we'll be right back. Thank
5 you all very much.

6 (Whereupon, the above-entitled matter went off the
7 record at 11:47 a.m. and resumed at 11:48 a.m.)

8 CHAIR HILL: I was moving forward in my -- so now
9 I was moving forward in the docket. And so I made the motion
10 on the next case that's coming up. And actually I meant to
11 read the case that was actually before us, do does OAG have
12 any thoughts as to how I should fix this?

13 I can reopen the record, rescind the vote.

14 MS. LOVICK: Yes, I would recommend reopening the
15 record, resubmitting the vote and just clarifying that this
16 is for 19972.

17 CHAIR HILL: Okay. 19977, right? Okay, that's
18 right. So I'm going to reopen the record, okay? So you all
19 introduce yourselves, just quick, again.

20 MS. ANGJELI: Anila Angjeli with A-Line
21 Architecture, architect of record.

22 MR. COX: Weston Cox, the owner.

23 CHAIR HILL: Okay, great. All right, well, I
24 appreciate the audience members' help there because it was
25 their case that I was approving, although they would rather,

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1 probably be like, hey, that's fine. Then we're all good.

2 So we had deliberated -- I made an error in the
3 case number because I was looking forward to the next case.
4 So we had our hearing. I'm reopening the record so that we
5 can rescind the vote? I don't need to rescind the vote?
6 Okay, I'll go ahead and rescind the vote.

7 So we'll rescind my previous vote, and the Board
8 is fine with that?

9 MEMBER WHITE: Yes.

10 CHAIR HILL: Okay, so I will go ahead now and make
11 a motion to approve to approve Application Number 19977 as
12 caption read by the Secretary and ask for a second.

13 MEMBER WHITE: Second.

14 CHAIR HILL: The motion had been made and
15 seconded. All those in favor say aye.

16 (Chorus of aye.)

17 CHAIR HILL: All those opposed? The motion --
18 this motion passes. Mr. Moy?

19 MR. MOY: Yes, and for the record again, the vote
20 count is 4-0-1 on the motion of Chairman Hill to approve the
21 application. Seconding the motion of Ms. White. Also in
22 support Vice-Chair Hart, Mr. Peter May. No other members
23 participated. The motion carries.

24 CHAIR HILL: Okay, great. Thank you, guys, once
25 again. And we're going to take a 3-minute break.

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1 (Whereupon, the above-entitled matter went off the
2 record at 11:50 a.m. and resumed at 11:57 a.m.)

3 CHAIR HILL: All right, Mr. Moy, please call our
4 last case when you have an opportunity.

5 MR. MOY: Thank you, Mr. Chairman. The Board is
6 back in session, so this is Case Application Number 19980 of
7 HIP, or H-I-P, DC LLC as amended for a special exception
8 under the new residential development provisions of Subtitle
9 U Section 421.1 to construct a rear addition to an existing
10 detached principal dwelling unit and convert it to a 5-unit
11 apartment house, RA-1 Zone, at 2421 Shannon Place SE, Square
12 5788, Lot 821.

13 And, again, I believe, Mr. Chairman, there's a bit
14 of a timing issue on the affidavits for both posting and
15 maintenance.

16 MS. LOVICK: Those actually do into the record,
17 so there are no preliminary issues on this case.

18 MR. MOY: Oh, then we're good?

19 MS. LOVICK: Yes.

20 CHAIR HILL: One second. Okay, sir, if you could
21 introduce yourself for the record.

22 MR. LINN: Andrew Linn, and I'm here with BLD
23 Architects and representing HIP DC, LLC.

24 CHAIR HILL: Okay, great. Well, Mr. Linn, thanks
25 for joining us. Thank you for helping with that previous

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1 case. And I'm glad that the ANC has submitted information
2 on your behalf because I was kind of -- this is one of the
3 things that was lacking on the record.

4 I'm going to go ahead and put 15 minutes on the
5 clock for you to give us your presentation as to what exactly
6 you're trying to do and how you're meeting the standards for
7 us to grant the application. The one note I will mention,
8 as I see all of the conditions that the ANC has put forth in
9 their report, maybe you could speak to all those conditions.
10 And you can begin whenever you like.

11 MR. LINN: Thank you for hearing this project
12 today. So this is a project that is near the Anacostia Metro
13 Station. It's an RA-1 Zone, and our property is the last RA-
14 1 property before an RF-1 Zone starts, so we're at the seam.

15 We are the first residential property from the
16 Metro, and we're adjacent to a church and across the street
17 the Savoy Elementary School. The houses down the street from
18 us are all single-family homes.

19 This is an existing, vacant brick shell that we
20 are maintaining. And we're adding an addition onto the back,
21 trying to increase the number of units for the property from
22 one to five. So everything else about the property, it's
23 massing, its bulk, is by right. And actually we were about
24 to submit our permits in December, before the U-421 rule came
25 into effect.

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1 And so we're here today to discuss increasing the
2 number of units. Like I said, the footprint is underneath
3 the maximum footprint that we could have. The FAR is under
4 the maximum FAR --

5 CHAIR HILL: Mr. Linn?

6 MR. LINN: Yes?

7 CHAIR HILL: I'm just going to interrupt you one
8 second because I just remembered something again, like there
9 was a discrepancy between the number of units. Like
10 somewhere it says seven and somewhere it says five, so if you
11 could also speak to that as well. Thank you.

12 MR. LINN: Yes, will do. Yes, so we initially
13 intended for this to be a seven-unit addition with two units
14 in the basement. After speaking to the ANC, some of the
15 neighbors and getting our soils report, we decided to scratch
16 the two basement units, so we reduced it to five units.

17 So these are four single-family -- single-bedroom
18 units and one 2-bedroom unit on the top floor. The roof is
19 only accessible from the upper unit. And there's a common
20 stair core with a hatch that opens to the roof for access to
21 the mechanical services.

22 The -- we've been working with the Office of
23 Planning. And there were a few changes, a few issues that
24 we -- a few changes that we've addressed with them, a few of
25 the outstanding issues that just haven't made it into the

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1 plans yet.

2 One is that they were asking for bike parking
3 locations. Those are on our architectural plans, but they
4 are not on the landscaping plans yet. The trash location has
5 not been indicated yet. But that should be in the back of
6 the building between the four parking spaces and the building
7 itself. And the alley, the backyard is accessible from an
8 alley, so trash can be picked up back there.

9 And then, for the lighting features, we have
10 indicated on our site plan and on the elevations that we will
11 be having step lighting along the path that leads to the
12 front door. And we'll have a light on the terrace on the top
13 floor, on the front of the building that will not be casting
14 light down onto the street.

15 And then we'll have a light that is missing from
16 the elevations, but it will make it into the plans, over the
17 rear door in the back of the building. And one final note
18 that I'll make about this is that we were -- before I speak
19 to the ANC's comments, we were hoping to save this brick
20 shell.

21 We are doing so, and we're actually pushing the
22 new construction back a few feet within the brick shell to
23 provide a sort of court to take the bulk of the construction
24 off of the street frontage since most of the street is
25 single-family houses.

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1 And, yes, so the ANC approved of the project.
2 They were supportive and we -- I walked the neighborhood with
3 our ANC council member -- the Commissioner, sorry. The ANC
4 Executive Committee was asking for either an IZ unit or
5 relationship to be formed with Savoy Elementary School,
6 across the street.

7 So HIP DC, LLC has agreed to contribute \$4,000
8 to Savoy's Field Day event within three months from the start
9 of construction. They agreed to advertise rental units to
10 teachers and parents at the block party.

11 They've agreed to provide 10 percent discount for
12 teachers or parents that decide to rent the units on the
13 property. They've agreed to install cameras. And then, like
14 I said, we are trying to preserve the brick shell -- we are
15 preserving the brick shell. We're providing four parking
16 spaces.

17 The developer will provide an internship
18 opportunity to high school students during construction.
19 We'll provide a point of contact during construction for the
20 school to meet with. And the developer has committed to work
21 with local contractors on the project.

22 CHAIR HILL: Okay, just a couple of things real
23 quick, Mr. Linn. So in terms of the Office of Planning's
24 report, like, you know, you spoke to the bicycle parking and
25 the landscaping plan. You also spoke to the materials

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1 revised -- I'm sorry, the application being revised to show
2 how trash for the building would be handled, and you spoke
3 to where that was going to be.

4 Then you also spoke to the lightings and the
5 fixtures for the external lighting. I guess, usually, and
6 I don't know where we're going to get with this one because
7 we just kind of keep kicking things down the road today.

8 But seeing plans for all of those things, like
9 that's something that we always need to see, but we'll see
10 where this goes with the Board. So that was one -- it's
11 okay. I'm just kind of talking first, and then I'll give you
12 an opportunity.

13 Then in terms of the conditions, I mean, a lot or
14 some of those conditions are things that kind of are outside
15 of our purview that, you know, we believe, now that you've
16 kind of committed to do some of these things, that you will
17 do them.

18 However, the things that the Board usually ties
19 itself to, it doesn't usually tie itself to financial matters
20 or things such as unit discount and things of those -- well,
21 actually, that's not true. We have done discounts, I think,
22 before, but now I can remember.

23 But, so the ones that I would be and think that
24 the Board would try to tie the applicant more to, and I'm
25 going to speak to this on the record now, would be that the,

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1 one, the applicant shall advertise rental units at Savoy
2 Elementary School's annual block party, giving teachers and
3 parents of students at schools within ANC-8A boundaries the
4 opportunity to rent any available units before advertising
5 them publicly. Correct?

6 MR. LINN: Correct.

7 CHAIR HILL: Applicant shall install security
8 surveillance cameras on the property including at all
9 entrances and exits of the building. Correct?

10 MR. LINN: Correct.

11 CHAIR HILL: Applicant shall use best efforts to
12 preserve the historic brick shell and incorporate it into the
13 new design. Correct?

14 MR. LINN: Correct.

15 CHAIR HILL: Applicant shall provide four parking
16 spaces at the rear of the property accessible through the
17 rear alley. Correct?

18 MR. LINN: Correct.

19 CHAIR HILL: Applicant shall provide a point of
20 contact for the project and seek to minimize any negative
21 impacts to the surrounding neighbors during
22 pre/post-construction. Correct?

23 MR. LINN: Correct.

24 CHAIR HILL: Applicant shall commit to work with
25 8A and/or Ward 7 contractors on construction opportunities

1 at the site of the proposed development. Correct?

2 MR. LINN: Ward 8, but, yes, correct.

3 CHAIR HILL: Ward 8 and Ward -- I'm sorry, Ward
4 8 and/or Ward 7.

5 MR. LINN: Correct.

6 CHAIR HILL: Okay. All right, so those are those
7 comments that I had. Does the Board have any questions for
8 the applicant?

9 VICE-CHAIR HART: Just, if you could, Mr. Linn,
10 just describe, as the previous applicant that was before us,
11 but if you could just describe how you think you're meeting
12 the general special exception criteria and its -- you know,
13 are you at harmony with the neighborhood?

14 Just could you just explain that a little bit?
15 I know you've talked about it a little bit earlier, but just
16 let us know how you think you're doing that.

17 MR. LINN: Yes, so we think that we are in harmony
18 with the neighborhood because we are providing two setbacks
19 rather than the required one setback. And the secondary
20 setback is maintaining the current setback of the existing
21 brick shell to -- it says, 6-foot, 4-inch existing side yard,
22 so we're setting back on both sides.

23 We are not maximizing FAR. We're pulling the new
24 construction back off of the street. And so we've minimizing
25 and reducing the amount of bulk in the footprint of the

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1 property as much as possible.

2 VICE-CHAIR HART: And the surrounding buildings
3 are similar in scale, in massing?

4 MR. LINN: Well, yes, so this is a strange site
5 because it's next to a large church property that's much
6 larger than the rest of the buildings in the neighborhood.
7 And it's across the street from Savoy and Thurgood Marshall.
8 So our context on three sides is much larger than our
9 building, but the rest of Shannon Place are single-family
10 homes with only a few examples of flats down the street.

11 So we're in this seam between two very different
12 scales. And so we're the only multi-unit apartment building
13 on the street, but that's why we're taking these efforts to
14 reduce the bulk and the footprint.

15 VICE-CHAIR HART: Thank you.

16 MEMBER WHITE: How close are you to the school?

17 MR. LINN: We're directly across the street. And
18 from the principal's office you can see our property.

19 MEMBER WHITE: Okay. Great. Thank you.

20 CHAIR HILL: Okay, anyone else? Okay, I'm
21 curious, so now you're keeping the shell? I mean, so I'm so
22 I'm just kind of curious as to how you got programmatically
23 to this design. Like how did you decide -- why are you
24 keeping the shell? I mean, is there a significance to it,
25 meaning in terms of are you getting some -- why are you

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1 keeping the shell?

2 MR. LINN: The lack of people speaking here today
3 in opposition to the project, I think, is because we decided
4 to keep the shell. The shell means something to the people
5 in the neighborhood, and it retains the sort of context of
6 the block.

7 It's not an historic district, but many people on
8 Shannon believe that Shannon should be in the Anacostia
9 Historic District. So we were sort of treating it as such.
10 That being said, we didn't want to build out within the
11 historic shell. We thought that it was an interesting
12 opportunity to make a sort of garden of the front third of
13 the shell.

14 CHAIR HILL: Yes, and I think it's really
15 interesting. I mean, I think that, you know, you did go
16 about it in a way, again, trying to keep the -- I mean, I
17 think the design's really interesting. I mean, so that, so
18 there's balconies on the second floor as you kind of walk
19 into that little courtyard. Is that right?

20 MR. LINN: Correct. There's an outdoor space
21 associated with every unit.

22 CHAIR HILL: Okay, all right. Anyone else? Okay,
23 Office of Planning, please?

24 MR. JESICK: Thank you, Mr. Chairman and members
25 of the Board. My name is Matt Jesick. And, as the Board

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1 noted, the Office of Planning had a few outstanding issues
2 or concerns in our report. We feel that just with the
3 applicant addressing those verbally today, on the record,
4 we're satisfied with those responses.

5 Other than that, we had no outstanding issues.
6 And I'd be happy to take any questions. Thank you.

7 CHAIR HILL: Okay, does the Office of Planning
8 have any questions -- does the Board have any questions for
9 the Office of Planning?

10 VICE-CHAIR HART: So you're also saying that you
11 don't need to have the updated drawings? I mean, there were
12 conditions that it seemed like you were adding. So are you
13 saying that you don't need those conditions because the
14 applicant has testified today that they were or presented
15 today that were going to be including those?

16 MR. JESICK: That's correct. We were satisfied
17 with the verbal descriptions of where those objects were
18 going, such as the trash containers or the lighting.

19 VICE-CHAIR HART: Okay, thank you.

20 CHAIR HILL: Okay, does the applicant have any
21 questions for the Office of Planning?

22 MR. LINN: No, thank you.

23 CHAIR HILL: Okay, is there anyone here wishing
24 to speak in support? Is there anyone here wishing to speak
25 in opposition? Does the applicant have anything they'd like

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1 to add at the end?

2 MR. LINN: No, thank you.

3 CHAIR HILL: Okay, before I close the hearing, I
4 mean, I am -- I'm actually comfortable with just, again,
5 because I just want to get something done today, that, you
6 know, but also I think I'm comfortable with the fact that the
7 applicant has, you know, they've kept the shell of the
8 building.

9 I think the design's very well thought out. I
10 think that, you know, they will do what they have proposed
11 to do with regard to the Office of Planning. I don't know
12 if we want to keep the record open for revised drawings. The
13 OAG has --

14 MS. LOVICK: Mr. Chairman, I would recommend
15 either holding final approval until the plans are received
16 or something of that nature since the Board's approval is
17 going to be tied to whatever the last set of drawings is.

18 So if those plans are not what ultimately ends up
19 getting built, even if it's a minor issue like, you know,
20 additional parking spaces or the trash location, that would
21 technically then require the applicant to come back for
22 modifications.

23 So I would recommend holding off final approval
24 until those plans are received into the record.

25 CHAIR HILL: Okay, well, Mr. Linn, I tried. So --

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1 COMMISSIONER MAY: Well, hold on a second.

2 CHAIR HILL: Sure.

3 COMMISSIONER MAY: I'm just going to push back a
4 little bit on that because the -- there has to be trash
5 somewhere and they have to -- I mean, the parking spaces are
6 shown. I mean, I don't see how any of the issues that OP had
7 raised actually relate to the relief.

8 And the drawings are pretty simple. And I just,
9 I mean, I certainly don't want to delay making a decision
10 about it. I just feel like, you know, they're going to have
11 to deal with these things and, you know, we know generally
12 how they're going to do it.

13 I don't think it's going to be an issue when they
14 go to -- you know, if they go to permit and they have a
15 complication then, I just -- it seems pretty far-fetched that
16 there would be a complication because there's not a drawing
17 that shows where the trash cans are going to be or the
18 dumpster or whatever.

19 CHAIR HILL: Okay.

20 COMMISSIONER MAY: So I'm -- I would perfectly
21 comfortable going ahead based on what we have right now.

22 CHAIR HILL: So, okay, so I'm fine. We can
23 continue to talk with the Board. I mean, I'm actually now,
24 I hate to do this flip flop back, but, you know, I'm back
25 with the Office of OAG only in terms of like we never -- we

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1 always seem to be like we've always been consistent. We've
2 always seen the plans.

3 And the fact that people didn't give us the plans,
4 we always leave the record open for the plans. And so the --
5 right, okay, you know, the applicant has a question. Can you
6 -- the applicant has a comment?

7 MR. LINN: Our lighting features are in the plans.
8 Our bike parking is in the plans. The bike parking did not
9 make it into a landscaping plan, and the trash is not in the
10 plan. So the real glaring issue is the trash location, and
11 that's it.

12 VICE-CHAIR HART: And where did you say the trash
13 was going to be located?

14 MR. LINN: It's going to be back here, against the
15 back of the house.

16 VICE-CHAIR HART: So, because right now you have
17 in the plan that -- in Exhibit 32 we have -- Exhibit 32, on
18 Page 4, I think. I don't what page. Page, I guess it's A03?

19 MR. LINN: Yes.

20 VICE-CHAIR HART: There is an image that shows
21 where four parking spaces are. And you just need to have
22 like a little area that says where trash is. I mean, it's
23 one thing when it's an architectural thing. I'd be more
24 concerned about it. But I don't know. I just, I mean, can
25 we get a drawing in five minutes about where this is and we

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1 take a short break?

2 CHAIR HILL: We can do that too.

3 MS. LOVICK: Mr. Chairman?

4 CHAIR HILL: Yes, sure.

5 MS. LOVICK: You could also, I think, handle it
6 as a condition saying that the applicant will submit revised
7 drawings showing the final locations of trash and parking on
8 the applicable plans and do it that way.

9 CHAIR HILL: Okay, well, Ms. White, you had a
10 question real quick or comment?

11 MEMBER WHITE: I think I'm comfortable now, but
12 I just had questions about where the four parking spaces
13 were. So that wasn't clear on that drawing that you just
14 showed, but --

15 CHAIR HILL: Office of Planning is trying to say
16 something.

17 MR. JESTICK: It actually shows on A03. I don't
18 know if you can pull that up.

19 MR. LINN: Well, I think --

20 MR. JESTICK: Oh, and this may be an earlier
21 version.

22 MR. LINN: This is the earlier version, before we
23 revised it with OP.

24 MR. JESTICK: Yes.

25 MR. LINN: But on A03 is does show four parking

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1 spaces at the rear of the property.

2 CHAIR HILL: Which exhibit is that in, do you
3 know?

4 MR. JESTICK: 32.

5 CHAIR HILL: Okay, 32. Okay so just to clarify,
6 the -- hold on a second. Right, the bicycle parking and the
7 landscaping plan, that has it, that's nowhere in the record,
8 or it is?

9 MR. LINN: It is.

10 CHAIR HILL: It is in the record? Okay, and then
11 the trash is the only issue. The lighting fixtures and the
12 external lighting are in the record. Correct?

13 MR. LINN: Correct, except for the rear light
14 above the rear door. That is not in the elevations.

15 CHAIR HILL: Okay. Okay, I'm just, John, that's
16 fine. So I'm looking at everybody. You know, I mean, I know
17 --

18 COMMISSIONER MAY: I think these issues are all
19 not significant.

20 CHAIR HILL: That's fine. So, and I'm not trying
21 to -- I mean, I appreciate OAG actually telling us their
22 opinion. And so the -- again, I'm -- I'm perfectly fine to
23 be outvoted or not be outvoted. I mean, the only reason why
24 I stumble is that, again, we've always asked for plans of
25 exactly what's going on.

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1 If Board Member John were here, I think that maybe
2 there would be another vote. So, but nonetheless, so you guys
3 are comfortable with everything the way it is and not needing
4 to get any more drawings. And that -- I don't remember
5 putting a condition before like that in terms of like --

6 COMMISSIONER MAY: So I was going to say, you
7 know, this is such a simple matter that, if we could, you
8 know, get a printout of A03 and you draw a box around where
9 the trash is and that goes into the record, I think that
10 would suffice.

11 CHAIR HILL: Okay, can you do that now?

12 MR. LINN: Yes.

13 CHAIR HILL: Okay, we're going to take a five-
14 minute break.

15 (Whereupon, the above-entitled matter went off the
16 record at 12:18 p.m. and resumed at 12:25 p.m.)

17 CHAIR HILL: Okay we're back. Mr. Moy, you don't
18 have to say we're back or we'll be back.

19 MR. MOY: You just did, Mr. Chairman.

20 CHAIR HILL: Okay, great. All right, so, Mr.
21 Linn, as I understand it, you've gone ahead and changed the
22 drawings in the way that we have requested in terms of the
23 trash. Correct?

24 MR. LINN: Correct.

25 CHAIR HILL: And they've been uploaded into IZIS

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1 standard. Correct?

2 MR. LINN: As I understand it.

3 CHAIR HILL: Great. All right, does the Board have
4 any final questions for the applicant? Okay, I'm going to
5 go ahead and close the record and the hearing. Is the Board
6 ready to deliberate? Would someone else like to start?

7 VICE-CHAIR HART: Yes, Mr. Chairman, after
8 reviewing the record and listening to the presentation that
9 the applicant provided today, and reviewing the OP report,
10 I would also be in -- which is in support of the application
11 -- I would also be in support of the application.

12 I would note that the applicant has now submitted
13 some revised plans showing where the trash areas would be
14 located. That was one of the things that the Office of
15 Planning had discussed as part of their concerns that they
16 had -- not concerns, but the issues that they had for the
17 project.

18 But I thought that the project was in keeping with
19 the and meeting the criteria for Subtitle U 421.1 to
20 construct a rear addition to an existing detached principal
21 dwelling unit and convert it to a five-unit -- it says five-
22 unit -- five-unit apartment house in an RA-1 Zone.

23 And I'd be in support of the application.

24 COMMISSIONER MAY: Mr. Chairman, I just have a
25 question. I mean, you read all of the conditions. And I

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1 think some of them relate to the zoning question before us,
2 but not all of them do.

3 So I'm wondering what are we -- I mean, do we --
4 are we just going to reference the fact that there's an
5 agreement to do all these things? Or are we going to
6 incorporate every single one of them?

7 CHAIR HILL: When I was reading through it, I
8 mean, we can have the discussion. When I was reading through
9 it, it was my intent to incorporate them as conditions.

10 COMMISSIONER MAY: Okay. Well, I think I need to
11 look, take one more look. Okay, thank you. So -- all right,
12 I'm -- based on what OAG has advised, I think that's okay to
13 incorporate them. I would, I could quibble with a couple of
14 them, but I won't.

15 CHAIR HILL: Okay. All right, great. May I have
16 my piece of paper back? Thank you. All right, I would also
17 agree with the comments that Vice-Chair Hart has made
18 including just adding that I would agree with the analysis
19 that the Office of Planning has provided and also the
20 analysis that the ANC has provided.

21 There were conditions that we have just kind
22 spoken about that were read into the record that the
23 applicant has agreed to. And I would also be in support of
24 the application.

25 I thought, as I mentioned in the discussion or

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1 whatever, that I think it's a very interesting design and I'm
2 glad to see that the applicant has made such an effort to
3 keep that brick facade because I think it's really it's a
4 really neat design.

5 And so I commend the applicant for that, and I'll
6 be voting in favor. Ms. White?

7 MEMBER WHITE: Yes, Mr. Chair. I will be voting
8 in favor as well. I do like the design. I think you have
9 satisfied the criteria and that the way that you've designed
10 this project and the way that you've been working with the
11 community, it's clear to me that there's, there are no
12 adverse impacts from this particular project.

13 So I will be voting in favor as well. I think
14 what you're also doing in terms of integrating some of the
15 activities with the school and with the students in terms of
16 job training, construction and things of that nature are also
17 very neat.

18 So I will be in support of this particular
19 application. And I think they've clearly satisfied the
20 criteria. And I commend them for working closely with the
21 Office of Planning to make sure they were satisfied with the
22 development. So good luck.

23 CHAIR HILL: Okay, great. And I'll make a motion
24 to approve Application Number 19980 as captioned and read by
25 the Secretary for the five-unit apartment house and ask for

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1 a second.

2 VICE-CHAIR HART: With the --

3 CHAIR HILL: Yes, with the conditions that I had
4 stated before from the ANC and read into the record, and ask
5 for a second.

6 VICE-CHAIR HART: Second.

7 CHAIR HILL: Motion made and seconded. All those
8 in favor say aye.

9 (Chorus of aye.)

10 CHAIR HILL: All those opposed? The motion
11 passes. Mr. Moy?

12 MR. MOY: Staff would record the vote as 4-0-1.
13 This on the motion of Chairman Hill to approve the
14 application for the relief requested along with the
15 conditions as the Board has cited off the ANC report.
16 Seconded the motion, Vice-Chair Hart. Also in support, Ms.
17 White, Mr. Peter May. No other board members present, motion
18 carries.

19 CHAIR HILL: Okay, great. Thank you, Mr. Moy.
20 Thank you very much. And, let's see, Mr. Moy, do we have
21 anything else before the Board?

22 MR. MOY: Not from the staff today, sir.

23 CHAIR HILL: Okay, great. Then we stand adjourned.

24 (Whereupon, the above-entitled matter went off the
25 record at 12:31 p.m.)

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: DC BZA

Date: 04-17-19

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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