

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

NOVEMBER 20, 2019

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBERS PRESENT:

ROBERT MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary  
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.  
ALEXANDRA CAIN, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

BRANDICE ELLIOTT  
ANNE FOTHERGILL  
ELISA VITALE  
MATT JESICK  
MAXINE BROWN-ROBERTS  
CRYSTAL MYERS  
KAREN THOMAS

The transcript constitutes the minutes from the  
Public Hearing held on November 20, 2019.

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

(9:42 a.m.)

CHAIR HILL: All right, good morning, everyone. The hearing will please come to order. We are located in the Terrily R. Kress Memorial Hearing Room at 441 4th Street, N.W. This is the November 20th, 2019 public hearing of the Board of Zoning Adjustment in the District of Columbia.

My name is Fred Hill, Chairperson. Joining me today is Carlton Hart, Vice Chair; Lorna John, Board Member; and representing the Zoning Commission, Rob Miller.

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

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

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

1 door and on the witness table. Upon coming forward to speak  
2 to the Board, please give both cards to the reporter sitting  
3 at the table on 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 Zoning  
9 located across the hall. Please remember to collate your set  
10 of copies.

11 The order of procedures, special exceptions and  
12 variances is also listed as you come into the room. The  
13 record shall be closed at the conclusion of each case except  
14 for any materials specifically requested by the Board.

15 The Board and the staff will specify at the end  
16 of the hearing exactly what is expected and the date when the  
17 persons must submit the evidence to the Office of Zoning.

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

23 A full order is required when the decision it  
24 contains is adverse to a party including the affected ANC.  
25 A full order may also be needed if the Board's decision

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

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

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

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

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

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

5           SECRETARY MOY:     Good morning, Mr. Chairman,  
6 members of the Board. I do have a brief announcement for the  
7 transcript. First, Case Application Number 20065 of Dilan  
8 Investments, LLC has been postponed and rescheduled to  
9 January 29th, 2020.

10          And there are other preliminary members, Mr.  
11 Chair, but staff would suggest that you address those when  
12 I call the case.

13          Other than that, there is one administrative item  
14 before the Board which is a tended, a roll call vote on  
15 closed meetings for the month of December.

16          CHAIR HILL:   Okay, if we're going to have a roll  
17 call vote, let's see, I'm going to make a motion as Chairman  
18 of the Board of Zoning Adjustment for the District of  
19 Columbia and in accordance with Section 405(c) of the Open  
20 Meetings Act.

21          I move that the Board of Zoning Adjustment hold  
22 closed meetings by telephone conference at 3:00 p.m. on the  
23 following dates:     Monday, December 2nd, 2019; Monday,  
24 December 9th, 2019; Monday, December 16th, 2019.

25          The purpose of the closed meeting will be to

1 receive legal advice from the Board's counsel and to  
2 deliberate, but not vote, on the cases, contested cases per  
3 Section 405(b)(4) and (13) of the act, D.C. Official Code  
4 Section 2-575(b)(4) and (13) scheduled for the Board's public  
5 meeting and/or hearing the following Wednesday.

6 D.C. Official Code Section 1-207.42(a), no  
7 resolution, rule, act, regulation or other official action  
8 shall take place except at an open public meeting. The  
9 closed meeting will be electronically recorded pursuant to  
10 D.C. Official Code Section 2-578(a). Is there a Second?

11 VICE CHAIR HART: Second.

12 CHAIR HILL: Motion was made and seconded, Mr.  
13 Secretary, could you please take a roll call vote?

14 SECRETARY MOY: Thank you, Mr. Chairman. If  
15 members would please respond with a yes or a no when I call  
16 your name, Zoning Commissioner Rob Miller?

17 COMMISSIONER MILLER: Yes.

18 SECRETARY MOY: Ms. John?

19 MEMBER JOHN: Yes.

20 SECRETARY MOY: Vice Chair Hart?

21 VICE CHAIR HART: Yes.

22 SECRETARY MOY: Chairman Hill?

23 CHAIR HILL: Yes.

24 SECRETARY MOY: That completes the roll call, sir.

25 CHAIR HILL: All right, Mr. Moy, as it seems that

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1 the motion has passed, I request that the Office of Zoning  
2 provide notice of this closed meeting in accordance with the  
3 act.

4 Okay, all right, if there's anybody here that  
5 wishes to testify, either in favor or in opposition or for  
6 any reason, if you would please stand and take the oath  
7 administered by the Secretary, to my left.

8 SECRETARY MOY: Good morning. Do you solemnly  
9 swear or affirm that the testimony that you're about to  
10 present in this proceeding is the truth, whole truth and  
11 nothing but the truth?

12 GROUP: Yes.

13 SECRETARY MOY: Ladies and gentlemen, you may  
14 consider yourselves under oath.

15 CHAIR HILL: Okay, well, welcome. We just saw  
16 somebody else getting sworn in up on Capitol Hill a minute  
17 ago. If you're streaming, keep it in the back.

18 Okay, Mr. Moy, you can call our first case  
19 whenever you'd like.

20 SECRETARY MOY: Thank you, Mr. Chairman. If we  
21 can parties to the table to Case Application Number 20156 of  
22 Mysa, M-Y-S-A, School, Inc., as amended for special exception  
23 under Subtitle U Section 420.1(a), Subtitle U 320.1(a) from  
24 the Use Provisions of Subtitle U, Section 203.1(1) or (1) --  
25 make it 1 and under the private school plan provision

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1 Subtitle X Section 104, end of school plan requirements  
2 Subtitle X Section 105 to permit a private school use serving  
3 100 students and eight staff members, existing building in  
4 a RA-4 Zone. This is at 1500 Harvard Street, N.W., Square  
5 2577 Lot 48 -- 43.

6 CHAIR HILL: Great. Thank you, Mr. Moy. If you  
7 please introduce yourselves for the record, from my right to  
8 left?

9 MR. WRAY: Good morning, Michael Wray, ANC 1-A.

10 MS. HUGHES: Good morning, Traci Hughes, executive  
11 director All Souls Church.

12 MR. JORDAN: Lloyd Jordan, Motley Waller, attorney  
13 for Mysa Church -- Mysa School, excuse me.

14 MS. FISKE: Hi, Siri Fiske, head of Mysa School.

15 CHAIR HILL: All right, well, Chairman Jordan,  
16 welcome back. I'm sure all the members are just flooding  
17 over, over you, watching over you. I assume you're going to  
18 be presenting to us?

19 MR. JORDAN: That's correct.

20 CHAIR HILL: Okay, so, Mr. Jordan, if you can just  
21 go ahead and walk us through your client's application and  
22 what they're trying to achieve and how you believe they meet  
23 the standard for us to grant the special exception.

24 There was some question, I suppose, in terms of  
25 some of the conditions that the -- or, not conditions -- some

1 of the things that the Office of Planning had kind of listed  
2 within their report that, I believe, maybe the ANC might be  
3 able to speak to.

4 But I'm going to go ahead and put 15 minutes up  
5 on the clock, Mr. Moy, just so I know where we are. And, Mr.  
6 Jordan, you can begin whenever you like.

7 MR. JORDAN: Thank you, Mr. Chair, members of the  
8 Board. We seek, Mysa School seeks a special exception to  
9 convert a public school use, a present public school use, to  
10 a private school use in an R-4 district at 1500 Harvard  
11 Street at All Souls Unitarian Church.

12 The record is actually full of support, Mr. Chair.  
13 We have the support of the Office of Planning, the support  
14 of the Department of Transportation and the support of a  
15 wonderful ANC and neighbors to this matter.

16 I did not think there was any issue that arose to  
17 the level that we needed to actually do full presentation  
18 unless the Board wanted to. But I believe that the record  
19 and the pleadings show that we meet the requirements for the  
20 relief requested.

21 And unless the Board wants to do something  
22 differently, I would just submit that we can rest on the  
23 record and answer questions, I think, if -- and to be  
24 respectful of the Board's time. But I think the record is  
25 full in regards to this matter.

1 CHAIR HILL: That's fine. Does the Board have any  
2 questions for the applicant?

3 VICE CHAIR HART: Yes, thank you. So, Mr. Jordan,  
4 I was looking at the OP report and your information, but one  
5 of the things I was just trying to understand, currently you  
6 have approximately 25 students? Is that right?

7 MR. JORDAN: About 25, 26. Correct.

8 VICE CHAIR HART: The OP report is looking at a  
9 hundred students?

10 MR. JORDAN: Well --

11 VICE CHAIR HART: And, if you could, one, kind of  
12 talk about the -- that issue. Also, relative to that are the  
13 number of staff that we're talking about, you know,  
14 commensurate with the increase from 25 to a hundred.

15 I'd like to also understand something about the  
16 time limits that we're talking about in terms of the start  
17 time and end time, if there was some change or at least some  
18 minor change in the drop-off for where the students would be  
19 dropped off and just understand that a little bit further.

20 I think that's it for now. If you could just kind  
21 of respond to some of those, that'd be very helpful.

22 MR. JORDAN: Thank you, Member Hart -- excuse me,  
23 Vice Chair Hart. The school presently has about 25, 26  
24 students, and they've been operating on a temporary C of O  
25 because there is a full permanent C of O on the property for

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1 a public school.

2 And there's been several schools at the location  
3 for years and years and years. If you -- really date back  
4 since 1971, there was a private school use. Then there was  
5 a missing, some years, and then, since 2015, et cetera, there  
6 has been a public school certificate of occupancy for a  
7 hundred students and eight teachers.

8 So presently, Mysa has 26 students and eight staff  
9 people. The request for -- is not to alter that, which is  
10 already in place. There was a slip at the time of the school  
11 opening where it was believed that the present C of O would  
12 be sufficient for Mysa School.

13 Someone didn't understand that Mysa School is a  
14 private school versus a public school and this already has  
15 a public school C of O. And so it was required, under  
16 regulations, for any district, any zoning district in the  
17 District. We are required to have special exception relief  
18 for a private school.

19 And so that's what brings here. The 100  
20 limitation for a hundred students, eight staff is that the --  
21 there is hope for growth along some point in the future that  
22 we reach a hundred, but because it presently has 100  
23 students, and there is a plan that within, you know, some  
24 years that they will grow to 100. So that's in regards to  
25 the 100.

1           The time period at the school goes from 8:00 a.m.  
2 to 3:00 p.m. or so?

3           MS. FISKE: To 3:30.

4           MR. JORDAN: To 3:30 p.m. And the issue about  
5 pickup/drop-off, after meeting with DDOT Safe Schools, having  
6 a conversation with DDOT Safe Schools, initially -- let me  
7 go back a second.

8           The school actually, once it's been in operation  
9 since September, has learned that the initial thought that  
10 pickup and drop-off would occur on both, on the Harvard  
11 Street side and on the 15th Street side. But the small  
12 number of people that are actually doing pickup and drop-off,  
13 like maybe four or five vehicles which pull in/pull out with  
14 teacher supervision, you know, takes about three or four  
15 minutes a day, that only Harvard is being used.

16           And in the interim, Safe Schools went out and took  
17 a look at the school and the area and had recommended that  
18 pickup and drop-off with some changes to RPP, et cetera,  
19 would occur on 15th Street and recommended the pickup/drop-  
20 off on Harvard.

21           And subsequently, having conversations with Safe  
22 Schools, they are very comfortable with the present process.  
23 And the pickup -- only pickup and drop-off location is on  
24 Harvard side of the street. And everyone's happy with that,  
25 and there's no touching of RPP on 15th Street, et cetera.

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1           VICE CHAIR HART: So the reason I was asking about  
2 the students was just to understand. Twenty-five to a  
3 hundred is four times as much. And I don't know, you know,  
4 it seems a little bit -- while I understand that it has, the  
5 site has a C of O for a hundred -- or you stated that they  
6 have a C of O of a hundred for a public school.

7           I just was trying to understand. Is it 50 that  
8 we should be looking at? Is it, you know, why that number?  
9 And I didn't know if it was a plan. Typically with schools  
10 you have a progressive plan to add either, you know, to grow  
11 the school and add a class per year or whatever that is to  
12 be able to get to that point.

13           I didn't know if you were actually seeking to do  
14 that or if it was a -- just a number that you were looking  
15 at. So I was just curious as to understand that.

16           And then with the commensurate change in the  
17 number of staff that would be necessary for that hundred  
18 because, not -- I'm just curious.

19           MR. JORDAN: So the way the -- well, let me first  
20 address the -- there's a five-year plan to get to a hundred.  
21 And there would be a need to come back and do modification  
22 and things short. And if we wanted to change any of that.

23           But the eight staff is comfortable to handle a  
24 hundred in the way that the Maysa School is operated. It's  
25 a, kind of a one-room school and the proportion of how the

1 students are proportioned with the staff, which provides a  
2 very efficient ratio all the way across the board, with eight  
3 staff, even if there's a hundred students.

4 And there's a lot of Internet and other kind of  
5 training and schooling that goes on with these students.

6 VICE CHAIR HART: And the hours of operation, you  
7 said 8:00 to 3:30?

8 MR. JORDAN: Thirty, correct.

9 VICE CHAIR HART: And so we're looking at, I think  
10 the -- when the OP was looking at it, they were thinking of  
11 8:00 to 6:00, and I didn't know if they were. Are there  
12 after school things that happen? And, you know, how does  
13 that kind of play into the timing?

14 What I'm trying to understand is, is 6 o'clock the  
15 time that you all need? Or is there some other time that  
16 we're -- that may be necessary for programs, whatever, after  
17 that time period? And it would help you because if someone  
18 doesn't -- if someone has some issue with the school, then  
19 they can look at things like, well, your operations are this,  
20 and I know you had programs until this time.

21 And I'm just trying to understand what the end  
22 time is. I can understand the beginning, but the end time,  
23 I just -- more, a little bit more information would be  
24 helpful.

25 MS. FISKE: So currently, the --



1 VICE CHAIR HART: Turn on your mic. Thanks.

2 MS. FISKE: So currently, the school ends at 3:30  
3 for all students. And two days a week, we have PE for the  
4 middle and high school students, after school, until 4:30.  
5 And so I imagine that will continue.

6 But there's only a handful of students who are  
7 doing the PE, and they are mostly taking the Metro so that  
8 doesn't really impact the drop-off and pickup.

9 MR. JORDAN: And additionally, just for additional  
10 information for the Board, there's been a, just until  
11 probably the latter part of a year, year and a half ago,  
12 maybe, there was a school that actually operated with a  
13 hundred students and there's been no impact to the  
14 neighborhood or community.

15 And so the 6 o'clock is there just to give us some  
16 leeway to be in and out.

17 VICE CHAIR HART: Thank you.

18 CHAIR HILL: Okay, anyone have any questions?  
19 Commissioner Wray, do you have any comments?

20 MR. WRAY: So the Commission voted in support as  
21 was already stated. The only concern that we mostly focused  
22 on was the pickup and drop-off of the students, especially  
23 as they increased that number.

24 We didn't have the benefit at the time of the DDOT  
25 report, but we've since been able to read that and see that

1 they do support the Harvard Street side. Currently, the  
2 Harvard Street side signage is no parking any time, so that  
3 is a lane of traffic that students would be stopping in in  
4 order to get picked up and dropped off.

5 So the part about the DDOT report that we most  
6 want to support is that the signage needs to change to be  
7 explicit that pickup and drop-off will be happening at a  
8 particular time of day so that there's no question about  
9 that.

10 And that would be the only -- I don't know that  
11 it would be a condition, but it's certainly something that  
12 we would want to make sure that gets accomplished quickly.

13 CHAIR HILL: Okay.

14 MR. WRAY: That's it. Thank you.

15 CHAIR HILL: And again, Mr. Jordan, for your  
16 client there, it does, DDOT does mention the applicant should  
17 work with DDOT on installation of proper drop-off and pickup  
18 signage at the required locations. And you guys are in  
19 agreement with that. Correct?

20 MR. JORDAN: In fact, we've -- it's all been  
21 worked out.

22 CHAIR HILL: Okay.

23 MR. JORDAN: Yeah.

24 CHAIR HILL: Okay. All right, does anybody have  
25 any questions for the Commissioner? Okay, then turning to

1 the Office of Planning?

2 MS. ELLIOTT: Thank you, Mr. Chairman. Good  
3 morning, board members. I'm Brandice Elliott representing  
4 the Office of Planning.

5 We are recommending approval of the relief that  
6 has been requested, to operate a private school. We've  
7 provided the parameters of the school on the cover sheet of  
8 our report so you can see what we're recommending. And we  
9 also support the applicant continuing to work with the ANC  
10 regarding the drop-off and pickup, but I'm happy to answer  
11 any questions you have.

12 CHAIR HILL: From your report, what I thought was  
13 that -- I mean, we have all the list of the things. They  
14 weren't necessarily conditions, correct? They were just  
15 recommendations?

16 MS. ELLIOTT: It's intended to simplify so that --  
17 we're trying to show clearly what we reviewed for the school.  
18 And they're not intended to be conditions, but certainly if  
19 the Board wanted to go that direction, you could.

20 And they've been formatted so that you could  
21 convert them to conditions quite easily, but that wasn't our  
22 intent. We were just trying to make sure that it was clear  
23 as to what we reviewed and what we are supporting.

24 CHAIR HILL: Okay, so the question I have, I  
25 guess, is somewhat for the applicant. I mean, you've seen

1 the conditions -- or not conditions, the recommendations that  
2 the Office of Planning put forward. And I guess, and the  
3 Board can, we can kind of determine whether or not we think  
4 many of these necessarily should be conditions.

5 And, Commissioner Wray, I guess you've seen the  
6 Office of Planning's report and the recommendations. You  
7 have?

8 MR. WRAY: Yes.

9 CHAIR HILL: And so, I guess, Mr. Jordan, is your  
10 client agreeing to these recommendations?

11 MR. JORDAN: Well, certainly we agree with the  
12 recommendations, but they're not conditions. And the Office  
13 of Planning has said that these were in place for conditions  
14 that needed to happen in regards to this application.

15 We can certainly live within these  
16 recommendations, but I think, you know, I wouldn't believe  
17 that they would be necessary to be included in the order.  
18 But we would not be opposed to these recommendations because  
19 we would live within those anyhow.

20 CHAIR HILL: Okay. I'm just trying if you guys  
21 are actually willing -- right, if you are in agreement with  
22 the recommendations. And I guess, then, Commissioner, if you  
23 understand, we, the Board get to determine whether or not we  
24 think that these are recommendations that need to be turned  
25 into conditions to avoid any kind of adverse impact, right?

1 But if they're not conditions and they're not in  
2 the order, then that means that they don't have to do it.  
3 Do you understand that?

4 MR. WRAY: I do, which is, again, why I think we  
5 focused in on the DDOT, which I think --

6 CHAIR HILL: The sign.

7 MR. WRAY: The signs.

8 CHAIR HILL: The sign. That's the ANC --

9 MR. WRAY: So that's the only one -- yeah.

10 CHAIR HILL: Okay. All right, so then after that,  
11 we, the Board can talk about this in a second.

12 Is there anybody here wishing to speak in support?  
13 Is there anyone here wishing to speak in opposition? Okay,  
14 so then I'm going to just turn it to us.

15 What do we want to do -- and, I mean, I love that  
16 DDOT made these recommendations. It's great, thanks. Are  
17 we -- do you guys have any thoughts on these being -- on any  
18 of these necessarily being conditions?

19 MR. JORDAN: Mr. Chairman, if I may, I have DDOT's  
20 kind of --

21 CHAIR HILL: Sure. No, that's all right. Mr.  
22 Jordan, that's okay. We got it, I think. What are you  
23 trying to ask?

24 MR. JORDAN: No, I was just going to show you  
25 where -- the front of the --

1 CHAIR HILL: Oh, the sign?

2 MR. JORDAN: Yeah.

3 CHAIR HILL: Yeah, no, the sign, I think we are  
4 in agreement that you guys are going to -- you've already  
5 installed the proper drop-off and pickup signage. I'm just  
6 -- is that correct?

7 MR. JORDAN: No, that's for DDOT, but we've all,  
8 in agreement that the city will put the sign there.

9 CHAIR HILL: Okay. Okay. I'm just trying to  
10 understand, from the Board here, whether or not we think any  
11 of these recommendations need to be turned into conditions.  
12 So I'm turning to the Board?

13 COMMISSIONER MILLER: Thank you, Mr. Chairman --  
14 and welcome. Good to see some former colleagues at the table,  
15 Ms. Hughes and Mr. Jordan and welcome to everybody else.

16 You know, we've sat, all of us have sat on --  
17 well, I think all of us have sat on private school cases and  
18 certain campus client cases at the Zoning Commission.

19 And these are the recommendations that are  
20 included in the Office of Planning report and the DDOT, the  
21 one DDOT report are typical of use parameters that we have  
22 placed in orders that I'm familiar with for private schools  
23 and colleges and university campus plans.

24 So that's the use that we're permitting through  
25 this special exception process. And I think that it should

1 be outlined in the order and they have a plan to -- the  
2 applicant has no problem. That's their plan to live with  
3 within those use parameters.

4 So I would be supportive of including that within  
5 the order. I think they make sense. That's the use that  
6 we're permitting. But I welcome the views of my other  
7 colleagues.

8 VICE CHAIR HART: I would support that. I think  
9 that it's -- we have had schools come through here before,  
10 and we have had some conditions that we have -- and these are  
11 very much in line with those conditions. I'd be in support  
12 of including them. I think the applicant has already noted  
13 that they would kind of be doing these anyway.

14 And I just think that it's -- it would be of help  
15 to anyone. If the community had some concerns or whatever,  
16 having this in the order itself would be a way to say, well,  
17 this is what, you know, they were allowed to do with the  
18 number of students, the hours of operation, you know, where  
19 the drop-off area is.

20 CHAIR HILL: Sure.

21 VICE CHAIR HART: All these things are in keeping.  
22 And, you know, the zoning regs give -- they provide some  
23 guidance to us in terms of what we should be thinking about,  
24 and I think that these are ways in which we can address some  
25 of the regulations that are before us. So I'd be in support

1 of doing that.

2 CHAIR HILL: Okay. Ms. John?

3 MEMBER JOHN: I'm in support of including the  
4 conditions because, as we have done in the past, these  
5 conditions would ameliorate any adverse impact on the  
6 community.

7 I did have some questions about the drop-off and  
8 pickup, but I believe those have been answered. And my only  
9 question is, is the description of the drop-off and pickup  
10 location accurate in the condition, as stated, because there  
11 was some change later on to the Harvard Street side.

12 And so one of the conditions says the drop-off and  
13 pickup will be at the corner of 15th Street and Harvard  
14 Street. So is that still accurate?

15 MR. JORDAN: And thank you for that, Member John.  
16 Yes, I think we might need to make that between 15th and 16th  
17 Street and Harvard so it's not at the corner. It's in the --

18 MEMBER JOHN: Right.

19 MR. JORDAN: -- between 15 and 16. Thank you.

20 MEMBER JOHN: That was my concern because I'm very  
21 familiar with that location. And when you make that left-  
22 hand turn from 15th onto the Harvard, that, I agree, might  
23 be a better location. Whereas, coming into 15th Street, to  
24 me, there's always sort of a bottleneck right there. So  
25 we're saying it will be on Harvard between 15th and 16th

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1 Streets?

2 MR. JORDAN: That's correct.

3 MEMBER JOHN: Okay.

4 MR. JORDAN: And just, as a small note, that  
5 Harvard is one-way going back east, so you can only make a  
6 right turn, if I'm correct, from there. But it's fine.  
7 That's why Harvard works out so beautifully. It's a one-way  
8 street and that lane has already been no parking.

9 CHAIR HILL: Okay. All right, so Mr. Jordan,  
10 just so your client understands, like we're going to turn all  
11 these into conditions, the ones that are in OP's report,  
12 Exhibit 44. And we're going to change the -- you know, and  
13 then we're going to start to deliberate as to actually the  
14 case itself.

15 But in terms of Condition Number 5, drop-off and  
16 pickup would occur on Harvard in-between 15th and 16th Street  
17 where on-street parking is prohibited except for on Sundays.  
18 And so keep that part. Okay. All right.

19 COMMISSIONER MILLER: And do you want to add to  
20 that one, with appropriate signage --

21 CHAIR HILL: Yeah, with the DDOT --

22 COMMISSIONER MILLER: -- just for reference the  
23 DDOT --

24 CHAIR HILL: Okay.

25 COMMISSIONER MILLER: -- and what they're already

1 doing.

2 CHAIR HILL: Okay. All right, does anybody have  
3 any more questions for the applicant? Is there anything the  
4 applicant would like to add at the end?

5 MR. JORDAN: No, just thank you to the Board for  
6 giving us this time and to, certainly, again, to state how  
7 appreciative we are, working with the wonderful ANC.

8 And we would ask that the Board approve the  
9 request for relief and issue a summary order, please.

10 CHAIR HILL: Okay. Unfortunately now, they've  
11 changed it. We can't -- nobody can ask for summary orders  
12 anymore. So afterwards, we sit down and try to figure out  
13 who can get a summary order. But if we can give summary  
14 orders out, we do our best to do it that way.

15 So let's see, so I'm going to go ahead and close  
16 the hearing. Is the Board ready to deliberate? Okay, I  
17 mean, I can start. I mean, I think that the analysis that  
18 the Office of Planning has provided, I thought, was very  
19 thorough.

20 I also appreciated the analysis that was provided  
21 by DDOT and would agree with their recommendation, again,  
22 concerning the drop-off and pickup. We did get the report  
23 from ANC 1A and had an opportunity to hear from the  
24 Commissioner.

25 I do think that all of the conditions, as pointed

1 out -- or not conditions, the recommendations that we're now  
2 going to adopt as conditions are helpful to ameliorate any  
3 kind of adverse impact that the community might have and that  
4 also provides more of an outline.

5 So I would be in favor of this application. Is  
6 there anything anyone else would like to add?

7 VICE CHAIR HART: No, I think I would be in  
8 support of the application as well. I think the Office of  
9 Planning provided me with information and the testimony that  
10 we heard today provided me with sufficient information to be  
11 able to support the application.

12 I think they've met the zoning regs as they are  
13 written and would also support the recommendations in the OP  
14 report that we are now turning into conditions with the  
15 caveat that Number 5 is, you know, had some language change.  
16 But I'm fine with that too.

17 CHAIR HILL: Okay. All right, I'm going to go  
18 ahead and make a motion to make a motion to approve  
19 Application Number 20156, as captioned and read by the  
20 Secretary including the conditions or the recommendations  
21 that we're turning into conditions from the Office of  
22 Planning's report in Exhibit 44.

23 However, as I mentioned before, Condition Number  
24 5, drop-off and pickup would occur on Harvard Street, in-  
25 between 15th and 16th Street where on-street parking is

1 prohibited except for Sundays, including the DDOT condition  
2 that the applicant work with DDOT at installation of proper  
3 drop-off and pickup signage at the required locations and ask  
4 for a Second.

5 VICE CHAIR HART: Second.

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

8 (Chorus of ayes.)

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

11 SECRETARY MOY: Staff would record the vote as 4  
12 to 0 to 1, and this is on the motion of Chairman Hill to  
13 approve the application for the relief requested as well as  
14 the conditions as he has cited in his motions and, of course,  
15 with the revision to the language under Condition Number 5.

16 Seconding the motion is Vice Chair Hart. Also in  
17 support, Ms. John and Zoning Commissioner Rob Miller. No  
18 other members present today.

19 CHAIR HILL: Okay, thank you, Mr. Moy. Thank you  
20 all very much.

21 MR. JORDAN: Thank you. Thank you very much.

22 CHAIR HILL: All right, Mr. Moy. You can call our  
23 second case whenever you have a chance.

24 And just so everybody knows, we are going to  
25 follow the order of the agenda. We probably will take lunch

1 at some point. I don't know when that will be, but just  
2 giving you the heads-up.

3 So Mr. Moy, whenever you'd like.

4 SECRETARY MOY: Thank you, Mr. Chairman. So if  
5 parties could come to the table to Case Application Number  
6 20143 of Grand Realty LLC. This is captioned advertised for  
7 the special exceptions under the Residential Conversion  
8 Requirement Subtitle U Section 320.2 pursuant to Subtitle U  
9 Section 301.1(e) from the Use Requirement Subtitle U Section  
10 301.1(c)(1) and pursuant to Subtitle E Section 5201 from the  
11 lot occupancy requirement Subtitle E Section 5003.1 to  
12 convert the existing attached principal dwelling into two  
13 principal dwelling units and to construct a two-story  
14 accessory structure to be used as a third principal dwelling  
15 unit on an RF-1 Zone.

16 This is at 1117 Morse Street, N.E., Square 4070,  
17 Lot 136. And if I could ask the applicant to also confirm  
18 that I read the relief that's been captioned, whether that's  
19 correct.

20 CHAIR HILL: Okay. All right. If you could  
21 please introduce yourselves, gentlemen. I mean, we'll call  
22 everybody up at the different times. So if you could please  
23 introduce yourself for the record.

24 MR. SULLIVAN: Good morning, Mr. Chair and members  
25 of the Board. My name is Marty Sullivan, with Sullivan &

1 Barros, on behalf of the applicant.

2 MR. KEARLEY: My name is Gregory Kearley. I'm  
3 with Inscape Studio. I am the architect for the project.

4 CHAIR HILL: Okay. All right, Mr. Sullivan, I  
5 assume you're going to be presenting to us. And there are  
6 a couple of preliminary things that we need to get through.

7 Is the ANC here? Okay, if you could please come  
8 forward, Mr. Commissioner? Just, let's do the ANC and then  
9 the party status in opposition, the party status in  
10 opposition unit as well. Okay, if you'd please come forward.

11 This is just for -- so, okay, let's figure out  
12 whether -- who's who. If you could please introduce  
13 yourselves for the record, from my right to left.

14 You need -- I'll swear you in then. If you could  
15 please introduce yourself.

16 MR. LEE: Clarence Lee, ANC 5D Chairman.

17 MR. HORGAN: Kevin Horgan. I am a neighbor who's  
18 on the ANC Zoning Commission -- Zoning Committee.

19 MR. HAILES: My name is David Hailes, and I live  
20 at 1119 Morse Street, N.E., directly adjacent to the property  
21 that we're here for today.

22 CHAIR HILL: Okay. Mr. Hailes, are you the person  
23 that submitted for a party status in opposition?

24 MR. HAILES: Yes, sir, I was.

25 CHAIR HILL: Okay. If you wouldn't mind just kind

1 of telling us again why you think you -- and I don't know if  
2 you had a chance to kind of look at the regulations -- as to  
3 why you think you meet the -- all right, okay, thank you.

4 So I'm going to ask Mr. Moy to swear in anybody  
5 who missed getting sworn in. So, Mr. Moy, if you wouldn't  
6 mind. And if there's anybody else who came late, if you plan  
7 on testifying, if you wouldn't mind please standing and  
8 taking the oath administered by the Secretary, to my left.

9 SECRETARY MOY: Thank you.

10 CHAIR HILL: If you think you even might testify,  
11 just go ahead and stand up and swear in.

12 SECRETARY MOY: Yeah, please, as the Chair says,  
13 this is not going to hurt. Do you solemnly swear or affirm  
14 that the testimony you're about to present in this proceeding  
15 is the truth, whole truth and nothing but the truth?

16 GROUP: I do.

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

18 CHAIR HILL: Mr. Moy, that joke's your joke. I  
19 never make that joke. It might be very painful. I have no  
20 idea.

21 All right, so Mr. Hailes, could you please kind  
22 of walk us through why you think you meet the criteria for  
23 us to grant your party status?

24 MR. HAILES: Well, I live at 1119 Morse Street,  
25 and that's directly beside the property, 1117 Morse Street

1 and it would affect me profoundly.

2 CHAIR HILL: Okay, when you say you're -- I'm just  
3 trying to understand, again. Are you immediately next door  
4 or are you across the alley?

5 MR. HAILES: I'm immediately next door. I live  
6 at 1119 and the property's 1117.

7 CHAIR HILL: 1117?

8 MR. HAILES: Yes, sir.

9 CHAIR HILL: Okay, well then, you know, I don't  
10 know about how the Board feels, but that usually is enough  
11 for me. So I think that they meet the criteria for party  
12 status in opposition.

13 Mr. Sullivan, do you have anything, comments one  
14 way or the other?

15 MR. SULLIVAN: No, thank you.

16 CHAIR HILL: Okay. All right, Mr. Hailes, we're  
17 going to go ahead and give you party status, okay?

18 MR. HAILES: Okay, thank you.

19 CHAIR HILL: And I can explain what that means in  
20 a minute.

21 MR. HAILES: Yes, sir.

22 CHAIR HILL: I guess, Commissioner Lee, you're  
23 here, then, representing your ANC and, I guess, Commissioner  
24 Horgan?

25 MR. LEE: No.



1 CHAIR HILL: Oh.

2 MR. LEE: Mr. Horgan is Chairman of our Board and  
3 Zoning Committee. And he does all the investigations and  
4 handled -- he'll be presenting our case.

5 CHAIR HILL: Got you. But I'm saying he's a  
6 commissioner also?

7 MR. LEE: No, he's not.

8 CHAIR HILL: Oh, no, no. He's --

9 MR. LEE: He's Chairman of our Board and Zoning  
10 Committee.

11 CHAIR HILL: Oh, you don't have to be a  
12 Commissioner for that at the ANC?

13 MR. LEE: No.

14 CHAIR HILL: You have volunteers that do that  
15 there within your --

16 MR. LEE: There as well, but very good policy.

17 CHAIR HILL: You can have the people that re-  
18 wrangle other people in there?

19 MR. HORGAN: We adopt inquiries.

20 CHAIR HILL: Okay. If, by the way, just if you  
21 all could have one microphone on at a time down there because  
22 otherwise I get feedback up here. So whoever's speaking at  
23 the time, you can go ahead and do that.

24 So what that means now, Mr. Hailes and  
25 Commissioner, because I know you've been here before in terms

1 of your ability to be a party, so what happens is the  
2 applicant's going to have an opportunity to give their  
3 presentation.

4 Then you, as the party status in opposition and  
5 also the ANC, will have an opportunity to ask any questions  
6 of the presentation -- not anything else, just of the  
7 presentation. And then you'll have an opportunity, Mr.  
8 Hailes, to also give a presentation as well as the ANC.

9 The applicant would then have an opportunity to  
10 ask you questions. And then there will be an opportunity for  
11 the applicant to have a rebuttal. And then there will be an  
12 opportunity for you all to have a conclusion and then also  
13 conclusion from the applicant.

14 At some point, in the middle of that, we're going  
15 to go over to the Office of Planning where the Office of  
16 Planning will give their presentation. And you'll have an  
17 opportunity to ask questions of the Office of Planning as  
18 well. Okay?

19 All right, so, Mr. Sullivan, that being the case,  
20 this is going to be probably the last case before our break.  
21 So you can go ahead and start with your presentation whenever  
22 you would like.

23 If you could, again, just kind of tell us or walk  
24 us through kind of what your applicant is trying -- your  
25 client is trying to do and again, how you believe you're

1 meeting the criteria for us to grant the relief requested.

2           And I'm going to put 15 minutes on the clock, just  
3 again, so I know where we are. And, gentlemen, as you know,  
4 however much time the applicant gets is how much time you'll  
5 get, okay? And you can begin whenever you like.

6           MR. SULLIVAN: Thank you, Mr. Chair and members  
7 of the Board. Again, my name is Marty Sullivan with Sullivan  
8 & Barros on behalf of the applicant.

9           We're here today to ask special exception relief  
10 in three areas: one for a conversion to three principal  
11 dwelling units under U-320; also to ask for special exception  
12 relief to have a principal dwelling unit in a newly  
13 constructed accessory building, which is a separate area of  
14 relief under U-301.1(e); and also to have that accessory  
15 building exceed the lot occupancy. Where 450 feet is  
16 permitted we're requesting 558 feet.

17           We are doing a rear addition as well and a third-  
18 story addition. The rear addition would go back less than  
19 seven feet. The idea here, generally, was to move some of  
20 the space back to the carriage house and move it away from  
21 the house itself with an attempt to mitigate impacts on the  
22 immediately adjoining property.

23           And so, rather than have four stories at ten feet  
24 or longer in the back, we wanted to move the space to the  
25 carriage house and actually have a habitable unit within the

1 carriage house.

2           In addition to that, we have access through, from  
3 the parking spaces, all the way to the principal units which  
4 helps with trash collection and also helps with parking so  
5 that people that live in the main building can use the  
6 parking in the back. So I'll turn it over to the architect  
7 to explain the project. Thank you.

8           MR. KEARLEY: All right, Mr. Chair and Board,  
9 through the directive of our client, we were -- the problem  
10 is to create what we wanted to do was family style housing.  
11 So what we have is two 3-bedrooms in the main part of the  
12 house and a 2-bedroom at the carriage house.

13           As Marty suggested, we, instead of going back the  
14 ten feet, we're going back 6.5 feet on the addition to the  
15 house, so what we feel would better serve the adjacent  
16 properties instead of going back ten feet, to go back 6.75  
17 feet. The carriage house, then, is we took that mass and  
18 moved it to the carriage house, what we did, we actually  
19 dropped the carriage house down a foot and a half.

20           We dropped the floor below grade so that we would  
21 have a less of an impact with the carriage house. The  
22 carriage house goes up to 18 and a half feet instead of the  
23 maximum 20 feet that's allowed. So what we were doing is  
24 creating family style housing, trying to minimize the impact  
25 on the neighboring properties.

1           We did some sun studies. Well, if we go to the --  
2 we can show the -- can we go through that? So this is  
3 showing the proposed with a matter of right. You can see,  
4 at the main house, we have a matter of right to actually  
5 extend farther back than what is proposed.

6           And with the carriage house, we are adding some  
7 mass, but taking that mass and bringing it towards the alley,  
8 not towards the adjacent houses, as you see the diagram for  
9 proposed and matter of right.

10           We also have a series. Here is a view of the main  
11 house, looking from the courtyard and looking back towards  
12 the carriage house. And if I go through this quickly, sorry,  
13 there at the rear of the property, we did do a series of sun  
14 studies that show the proposed plan with the existing  
15 conditions and the proposed plans with the matter of right.

16           So the impact of the additional massing that we're  
17 doing on the carriage house has really little or no impact  
18 in terms of sun to the neighboring properties. And so we did  
19 this --

20           CHAIR HILL: Is that the shadow that falls on Mr.  
21 Hughes' lot? Is he on that side?

22           MR. KEARLEY: Yeah, when you're looking at this  
23 at the spring/fall equinox, that the -- well, which is --  
24 that is not -- he is to the north. So his has no impact.

25           CHAIR HILL: The shade, you mean?

1 MR. KEARLEY: Oh, his is to the north? Okay, so  
2 it does. So you can see the red-dotted line.

3 CHAIR HILL: I just want to know where we were.

4 MR. KEARLEY: Yeah.

5 CHAIR HILL: Okay.

6 MR. KEARLEY: And so what we're showing  
7 graphically is the difference between what is proposed and  
8 what is a matter of right.

9 CHAIR HILL: I understand.

10 VICE CHAIR HART: And if we could, because these  
11 don't actually have north arrows on them, so you're saying  
12 north is to the left on these plans?

13 MR. KEARLEY: Yes or no?

14 VICE CHAIR HART: I'm sorry, north is to the top?

15 MR. KEARLEY: North is to the right. It's to the  
16 street, Morse Street. Everything, the properties run south  
17 to north, right?

18 VICE CHAIR HART: Okay.

19 MR. KEARLEY: So that north is at Morse Street.  
20 The alley is south. And then --

21 VICE CHAIR HART: Okay.

22 MR. KEARLEY: -- east and west are on either side.

23 VICE CHAIR HART: Okay, so the party in opposition  
24 is actually west of the, of this property. Is that what  
25 you're telling us?

1 MR. SULLIVAN: That's correct.

2 VICE CHAIR HART: Okay.

3 MR. SULLIVAN: Yeah, sorry, north on the --

4 VICE CHAIR HART: Yes.

5 MR. SULLIVAN: As you -- it'd be east and west,  
6 yeah.

7 VICE CHAIR HART: Yeah, so I mean, it's just very  
8 hard when we don't have north arrows to then understand where  
9 things are when we're talking about north and south. And  
10 because some of these plans kind of rotate, it's --

11 MR. SULLIVAN: Sure.

12 VICE CHAIR HART: -- always hard trying to figure  
13 that out. But I think I understand. So the impacts, really,  
14 are to the west for --

15 MR. KEARLEY: There's a slight impact to the west,  
16 yes. One of the reasons the impact is fairly negligible is  
17 because of the orientation of the buildings. With the sun  
18 being in the south, you're not getting as much impact as you  
19 would if had a different orientation.

20 MEMBER JOHN: Could I ask you to point out Mr.  
21 Hailes' property and speak directly to the impact on his  
22 house, because some of us have real difficulty with the  
23 north/south-east/west orientation. So if you could speak  
24 particularly to his house, that would be helpful.

25 MR. KEARLEY: Okay, let me go through this. This

1 is the spring and fall equinox. And if you're looking at the  
2 --

3 CHAIR HILL: I think you can circle on that thing,  
4 right?

5 MR. KEARLEY: I -- it doesn't --

6 MR. SULLIVAN: It's not up for --

7 CHAIR HILL: Okay. There you go. Okay, but  
8 that's a -- I thought it was --

9 (Off mic comments.)

10 MR. SULLIVAN: Is it not on? Yeah, I did that.  
11 That's why. Yeah.

12 MR. KEARLEY: Yeah, I don't have an image here.

13 MR. SULLIVAN: If you touch once, the thing, it  
14 should come on.

15 MR. KEARLEY: Well, look at this.

16 MR. SULLIVAN: Yeah, so then what you're talking  
17 about is this area. That's the property we're talking about.

18 MR. KEARNEY: Yes, that is 1119.

19 MR. SULLIVAN: And the additional parts you're  
20 talking about are these areas that are here from what is  
21 matter of right.

22 MR. KEARLEY: Yes, exactly.

23 MR. SULLIVAN: In this spring/fall equinox, as  
24 opposed to other times of the year.

25 MR. KEARLEY: Yeah, I think Marty --



1 CHAIR HILL: All right, now I'm lost. In your  
2 fourth slide, 119 is, if you're facing the front of the  
3 house, 119 is the house to the left?

4 MR. KEARLEY: That is correct. I think Marty  
5 misspoke.

6 CHAIR HILL: So you're looking at the shade that's  
7 going to be at 115?

8 MR. KEARLEY: Yes. So in terms of 1119, what  
9 we're showing is that there's no impact.

10 CHAIR HILL: All right, so this is --

11 MR. KEARLEY: This is the property right there,  
12 which I just spoke about.

13 CHAIR HILL: That's 1119?

14 MR. KEARLEY: That's 1119.

15 CHAIR HILL: All right, please continue.

16 MR. KEARLEY: Which there -- if you look at the  
17 sun studies --

18 CHAIR HILL: There's no shadowing impact.

19 MR. KEARLEY: There is no shadowing impact.

20 CHAIR HILL: Yes, okay, according to these sun  
21 studies.

22 MR. KEARLEY: Yes.

23 CHAIR HILL: Okay. Okay, please continue.

24 MR. KEARLEY: So -- yeah, let's look at that so  
25 we can be clear. If you look at this, your property is the

1 red property to the left. Is that correct? So, and that is  
2 1119. You can see the property, the blue property which we  
3 have, it's just to --

4 CHAIR HILL: Yeah, your fourth slide --

5 MR. KEARLEY: -- distinguish.

6 CHAIR HILL: Yeah, your fourth slide actually has  
7 the numbers in the back.

8 MR. KEARLEY: Yeah.

9 CHAIR HILL: Go back one.

10 MR. KEARLEY: It has it in the front and back, so  
11 right here.

12 CHAIR HILL: Yeah, I'm saying that is where -- but  
13 any case, so continue with your --

14 MR. KEARLEY: Exactly.

15 CHAIR HILL: -- discussion.

16 MR. KEARLEY: Well, those were the sun studies.  
17 So we're --

18 CHAIR HILL: Okay. Mr. Sullivan, you want to go  
19 back to maybe how you're meeting the criteria?

20 MR. SULLIVAN: Sure. So first is the general  
21 requirements of 91.2, that the addition be in harmony with  
22 the general purpose and intent of the zoning regulations and  
23 zoning maps. Property is located in the RF-1 zone.

24 The zoning regulations permit two units and use  
25 of a new accessory building via special exception. So the

1 proposed use was contemplated by the Zoning Commission and  
2 enumerated in the 2016 zoning regulations. The addition will  
3 not tend to affect adversely the use of neighboring property.

4 The project was designed to limit impact on  
5 neighbors. We attempted to transfer space to the back, where  
6 it wouldn't create as much shadow impact. Instead of  
7 proposing the larger four-story addition on the principal  
8 building at ten feet, we're asking for additional space in  
9 the carriage house at just 18 and a half feet high.

10 The accessory building will be separated from the  
11 adjacent principal structures by the required rear yard  
12 distance of 20 feet. And we're only proposing one more  
13 dwelling unit than would be permitted as a matter of right.

14 There's some additional information on 91.2. I'll  
15 pass through that and get to the specific criteria of  
16 U-320.2. We meet the height requirement of 35 feet. The  
17 proposed addition will increase from one to three, so we  
18 don't have any inclusionary zoning units.

19 There is an existing residential structure on the  
20 property right now, of course. The addition will not extend,  
21 shall not extend further than ten feet past, so we're not  
22 asking for a waiver of the ten-foot rule.

23 We are not blocking any chimney or impeding the  
24 functioning of a compliant vent. And we're not interfering  
25 with the operation of an existing solar system.

1           Regarding the rooftop architectural elements, we  
2 have asked for a waiver of this. The Office of Planning, I  
3 think, has said it wasn't required, but just to be safe we  
4 wanted to request that. And if you would like more  
5 information on the design of the front or any changes to the  
6 front, the architect can talk about that.

7           The third story is set back six feet from the  
8 front facade. As you've seen from the shadow studies, the  
9 addition does not have a substantially adverse effect on the  
10 use of enjoyment of any abutting property by unduly affecting  
11 light and air or privacy. There's no windows on the side of  
12 the building. There's no roof deck on the accessory  
13 building.

14           What do we have? Regarding the relief for the lot  
15 occupancy on the carriage house, from the same shadow  
16 studies, it doesn't affect the light and air available to  
17 neighboring properties because of where it's positioned. And  
18 it's just an additional 110 square feet with a lower height  
19 than the matter of right height, although it's just one and  
20 a half feet lower than the matter of right.

21           And again, we think this is just space that was  
22 transferred from the front to the back. Same requirements  
23 for 5201 for the lot occupancy of the accessory building  
24 regarding light and air and privacy.

25           And I think that's it. The Office of Planning is

1 recommending approval. And we believe we meet the criteria  
2 for the approval of the three areas of special exception  
3 relief. I can answer any other questions the Board has.

4 CHAIR HILL: Okay, I got a couple of quick  
5 questions. So, Mr. Sullivan, I mean, this is -- we've seen  
6 other proposals like this before in terms of how the massing  
7 is getting pushed back as opposed to going back farther with  
8 the actual building.

9 And so I'm just kind of curious, in terms of how  
10 you guys came up with, in terms of the, your client came up  
11 with the program for this. Like you're not going back the  
12 ten feet, like why did you go back six and a half feet? You  
13 know, why didn't you go -- you didn't go up 20 feet.

14 You're, you know, you've given us an indication  
15 that -- so I'm actually asking for how you got to this point  
16 because I'm trying to learn, I guess, whether this is now  
17 something that we're going to see more of.

18 So the three questions were, one, why did you go  
19 back -- and this is maybe for the architect, whatever the  
20 program is, right -- why did you only go back six and a half  
21 feet, right, and not the ten, okay?

22 And then you did mention that you're only going  
23 up 18 and a half, not the 20. And the reason that you're  
24 giving is that you are trying to have less height, right.  
25 Like you intentionally did this, right, okay, because you

1 wanted to create less of an impact, right? And so that's my  
2 second question.

3 And then the third question is, if you did the  
4 matter of right, which is the -- you know, you don't get the  
5 -- you wouldn't get the 558 square feet. You'd get the 450  
6 square feet. What does that do to your program?

7 Or like if you did the matter of right, you  
8 wouldn't be here and you could have gone back ten feet and  
9 then you could have gone with the accessory building, and  
10 you'd only be here for the conversion, right?

11 So I asked a bunch of questions. You can go ahead  
12 and take a crack at them.

13 MR. KEARLEY: Well, I think it really comes down  
14 to creating family style units and larger units.

15 CHAIR HILL: Okay, you mentioned family style a  
16 bunch of times. What does family style mean to you?

17 MR. KEARLEY: Well, it means to me that we have  
18 3-bedroom units in the front. So it's more conducive to --  
19 as opposed to if we had just stacked the units in the front,  
20 we would have a number of 1-bedroom units instead of  
21 3-bedroom units.

22 So that was, you know, that was part of -- put  
23 into the equation, right?

24 CHAIR HILL: So they're all -- there are three  
25 3-bedroom units?

1 MR. KEARLEY: No, it's 3-bedroom units in the  
2 front, two 3-bedrooms.

3 CHAIR HILL: Right.

4 MR. KEARLEY: And then the rear unit is a  
5 2-bedroom.

6 CHAIR HILL: Got it. Okay.

7 MR. KEARLEY: Okay, and so we intentionally didn't  
8 go back the ten feet because we wanted to minimize the impact  
9 to the adjacent neighbors. And we were still able to get the  
10 three unit -- two 3-units within that building envelope.

11 So we wanted to get it as tight as possible to get  
12 the 3-bedrooms. And then, by not going back, we actually  
13 sunk the floor of the rear unit so we would have less of an  
14 impact with height for the carriage house, what we're calling  
15 the carriage house.

16 So instead of 20 feet, we're at 18 feet 6" on  
17 that. And we actually dropped the floor down in order to do  
18 that. So, and intentionally, we wanted to have a 2-bedroom  
19 instead of a 1-bedroom there. So if we went for -- if we  
20 went to the 450 --

21 CHAIR HILL: Matter of right.

22 MR. KEARLEY: -- then we would be limiting the  
23 size because we do have a pass-through, right. So you have  
24 a pass-through that allows you access to parking, and that  
25 allows access to trash, which we felt you have to have,

1 right?

2           So that was part of the reasoning why we're  
3 shifting some of the mass. Instead of going back to ten  
4 feet, we're shifting it to the carriage house in order to get  
5 the necessary square footage for a 2-bedroom in the carriage  
6 house so we can have one 2-bedroom and three -- and two  
7 3-bedrooms.

8           MR. SULLIVAN: And if I could add to that too,  
9 a lot of these are designed as a collaborative process with  
10 us. The client comes to us and says, what will be acceptable  
11 to the community and the neighbors?

12           And they want to design something the first time  
13 that will do it because there's value in that, of course. As  
14 you know, there's value in not having opposition and trying  
15 to design something that other people appreciate. So that's  
16 also driving that as well.

17           CHAIR HILL: Right, so there's a bit of strategy  
18 involved in terms of --

19           MR. SULLIVAN: Sure.

20           CHAIR HILL: Right, okay. And so then -- right,  
21 because you could have still had your 3-bedroom units. You  
22 would have gone back ten feet, right, and then you would have  
23 a 1-bedroom with the carriage house without -- you know, if  
24 you'd had the matter of -- I'm just trying to understand.

25           You had the matter of right, the different options



1 that you could have done, right, and you'd still be here for  
2 the conversion. So that's what you would -- you'd be here for  
3 the conversion.

4 Okay, does anybody have any questions for the  
5 applicant?

6 MEMBER JOHN: Can you go back to the slide that  
7 shows the matter of right option and the proposed?

8 MR. KEARLEY: The diagram that we have, right  
9 here?

10 MR. SULLIVAN: Yes.

11 MEMBER JOHN: So as I look at this, can you show  
12 me where the pass-through would be, to the rear? Or maybe  
13 it's another diagram.

14 (Off mic comments.)

15 VICE CHAIR HART: Your mic's not on.

16 MR. SULLIVAN: Excuse me. There is the  
17 pass-through. You can see it going through the carriage  
18 house to the rear, right there. That is the pass-through  
19 that allows access to parking and allows access to the trash.

20 And so you're looking from the main structure  
21 through the courtyard to the rear.

22 MEMBER JOHN: Thank you.

23 VICE CHAIR HART: And -

24 MR. SULLIVAN: That's it in elevation.

25 VICE CHAIR HART: And how do you -- do you have

1 a roof deck as well? You have an espoused stair to get up  
2 to the roof deck in the back?

3 MR. KEARLEY: On the main house, yes, that is  
4 something that we do have to get to a roof deck on the front  
5 structure.

6 VICE CHAIR HART: And that's -- both units can  
7 access that?

8 MR. KEARLEY: No, that is solely for the upper  
9 unit. It's not proposed to be a public deck for the building  
10 to share. It's specifically for the upper unit on the main  
11 floor.

12 VICE CHAIR HART: Okay. I'm just saying it just  
13 goes down to the bottom. So I was just wondering how they  
14 --

15 MR. KEARLEY: There would be some type of gate  
16 that doesn't allow you to move from the lower level to the  
17 upper level, some type of keying device that allows you to  
18 have that security. And it would be written in the by-laws  
19 as well.

20 VICE CHAIR HART: Okay.

21 CHAIR HILL: Mr. Sullivan, that roof deck's matter  
22 of right?

23 MR. SULLIVAN: As long as you can get to it and  
24 still have your setbacks. It is on a 3-unit building. It's  
25 not on a 2-unit building. But the reason why it's difficult

1 to do, usually you can't access it even with a hatch anymore  
2 because of the setback. But you can from a stairway external  
3 to the roof.

4 CHAIR HILL: Okay.

5 MR. SULLIVAN: Your railings need to be setback.

6 CHAIR HILL: Okay, thank you. Anyone else?

7 COMMISSIONER MILLER: Yes.

8 CHAIR HILL: Please.

9 COMMISSIONER MILLER: Thank you, Mr. Chairman.  
10 Thank you all for being here. So I'm focused on what the ANC  
11 was focused on, was that the conversion that's the provision  
12 of the regulation -- and I don't have the particular cite,  
13 but you're all familiar with this language.

14 The conversion and any associated additions as  
15 viewed from the street, alley and other public way shall not  
16 substantially visually intrude on the character, scale and  
17 pattern of houses along the subject street or alley.

18 And I think the ANC, if I read their letter  
19 correctly -- and they'll correct me or amplify if I'm wrong  
20 -- was focused on the carriage house not being -- being built  
21 in the middle of the yard versus toward the end of the  
22 property abutting the alley. And they said that's the way  
23 it is in other carriage houses that they've supported in the  
24 neighborhood.

25 They didn't -- I don't think their letter

1 mentioned, but I certainly noticed it from your first slide,  
2 that third-floor addition does seem to be out of character.  
3 Maybe, do you have a better, do you have -- can you show me  
4 a slide that shows the material and the -- I mean, that's  
5 like a classic pop-up that doesn't try to fit into the  
6 neighborhood.

7               So I don't understand why it's designed that way  
8 unless there's some more detail somewhere. Can you -- so can  
9 you respond to my --

10              MR. KEARLEY: Sure.

11              COMMISSIONER MILLER: -- that that is breaking up  
12 the pattern of the neighborhood as viewed from the street,  
13 from the front of the house?

14              And from the back of the property, can you address  
15 why it's not breaking up the pattern or character of the  
16 neighborhood by placing the carriage house in the middle of  
17 the yard?

18              Did the ANC emphasize that it supports, you know,  
19 additional units, family sized units, as do I? We have a  
20 housing shortage crisis in the city, but there seems to be  
21 a visual character of the neighborhood issue here. So if you  
22 could address that.

23              MR. KEARLEY: Well, one thing that we did was we  
24 set back the addition on the third floor at the front by six  
25 feet, so it would be a backdrop. The -- I guess the simple

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1 design of it, what we wanted to do was not try to replicate  
2 something else but have it as a backdrop to it so it's  
3 clearly not part of the original house, which it isn't.

4           So, I mean, we would be glad to work with ANC and  
5 other folks in terms of the language of that, but we did set  
6 it back six feet so it was a backdrop. And the design is  
7 intentionally sparse so it doesn't conflict with the language  
8 of the existing houses.

9           So that was the reasoning behind that.

10           COMMISSIONER MILLER: I hesitate to get into  
11 detail of the design, but I think if it were darker it would  
12 be less --

13           MR. KEARLEY: And that is something that I'm --

14           COMMISSIONER MILLER: -- puffy.

15           MR. KEARLEY: -- sure that the choice of material  
16 and the tone of that, to try to minimize the impact on that.  
17 It is a matter of right, what we're doing, and we're setting  
18 it back. But we would be glad to work with the community and  
19 other folks to mitigate that.

20           The reason we didn't go to the alley with the  
21 carriage house is two-fold. We would not get the required  
22 parking. Once you start going in, and we have a 20-foot lot,  
23 not a 25-foot lot.

24           I think there's an example in the ANC report where  
25 you had a wider lot where you could go all the way back and

1 have a person door and then the garage doors. We don't have  
2 that luxury. When you have a 20-foot lot and you give up the  
3 thickness of the walls of the structure, you would not have  
4 a pedestrian passage through to that.

5 So that was part of the reasoning why we  
6 positioned it where we are. We went back as far as we can,  
7 which leaves 18'6" for the parking between the rear structure  
8 and the alley. And then we have the 20-foot requirement as  
9 the rear yard between the main house and the carriage house.

10 So we were trying to sort of balance how we deal  
11 with parking, how we deal with trash, how we access the  
12 building. So, and also dealing with, if we go all the way  
13 back and we give up 20 feet of that structure for parking,  
14 then we give up the unit.

15 If we turn over the majority of that, 450, or what  
16 we're asking for, 558, to a first level of parking, then we  
17 have no unit in the back. So we are trying to balance all  
18 those things.

19 COMMISSIONER MILLER: I just have one more  
20 question, Mr. Chairman. I think the adjacent neighbor's  
21 letter made reference to the property currently being used  
22 as an Airbnb without anybody -- without the owner being in  
23 there.

24 But what is the intent of this intended use? Is  
25 this going to be three condominiums, or is it going to be

1 owner occupant? What is -- is it going to be, a rental?  
2 What is the intended use of the property?

3 MR. KEARLEY: It's my understanding, and I can't  
4 speak solely for the client, that he told us this was for  
5 condos. It's not for owner occupancy.

6 COMMISSIONER MILLER: Thank you.

7 VICE CHAIR HART: So, kind of connecting to  
8 Commissioner Miller's question, do you have any other images  
9 of what the -- any renderings or anything that show what  
10 this, the front of this building looks like from the street?

11 I mean, right now we're kind of looking, I guess,  
12 somewhat across the street. And it just seems like it's a  
13 little bit, you know, visible. And is it because you've --  
14 I mean, in one of the slides, Slide 5, you have, you know,  
15 what this site is versus where the other sites kind of --  
16 yeah, you just passed by it. Oh, you're looking for another  
17 image.

18 (Off mic comments.)

19 VICE CHAIR HART: It was really just trying to  
20 understand what this kind of looks like. I mean, this is --  
21 what you're showing us is something that is across the street  
22 from it.

23 MR. KEARLEY: It almost looks like an elevation  
24 when you're looking at that. I don't think the impact would  
25 be quite as great in terms of if you're moving -- especially

1 if you're moving on that side of the street. We don't have  
2 a rendering from the sidewalk directly in front of 1117.

3 VICE CHAIR HART: And you don't have any sections  
4 that are through here either?

5 MR. KEARLEY: We have the elevations through that.

6 VICE CHAIR HART: Yeah.

7 MR. KEARLEY: And we have the axons showing the  
8 project, like --

9 VICE CHAIR HART: And actually, with the  
10 elevations, I think they're mislabeled. Shouldn't the right  
11 one be the north elevation? Because that's the north side  
12 of the building. I mean, it's looking to the south, but it's  
13 not --

14 MR. KEARLEY: That --

15 VICE CHAIR HART: Am I correct on that? I was a  
16 little bit confused by this.

17 MR. KEARLEY: We're looking south on that.

18 VICE CHAIR HART: Well, but it's the north side  
19 of the building itself.

20 MR. KEARLEY: It would be the north elevation.

21 VICE CHAIR HART: Yes. So -- and I think this was  
22 kind of somewhat why I was having somewhat of a difficulty  
23 with understanding where things were because I was trying to  
24 figure out where all of this -- all these buildings were.

25 But be that as it may, I just didn't know if you



1 had any other -- I couldn't find any in there with the  
2 section --

3 MR. KEARLEY: We don't have another rendering  
4 which shows it from the sidewalk, adjacent to the building  
5 as opposed to across the street.

6 VICE CHAIR HART: Okay. Can I move to the  
7 accessory building? So I have the two elevations, but I'm  
8 not really sure what the -- and I think it's the same issue  
9 with right, north and south, but that's fine.

10 What is on the -- there's a courtyard that's kind  
11 of created -- or not a courtyard. There's an area of  
12 indentation, I guess, in the accessory building. And --

13 MR. KEARLEY: That is what you're looking at?

14 VICE CHAIR HART: Yeah, that's -- no, the area  
15 that I'm looking at is the area that's right here. And so  
16 are there like -- are you doing that so you can have windows  
17 on the side? I just wasn't sure --

18 MR. KEARLEY: No, that's the passageway which  
19 leads you from --

20 VICE CHAIR HART: No, no, no. I understand that.  
21 What I'm asking about is the elevation itself. So there's  
22 a bottom level which is, I'm assuming, just flat. There's  
23 not window. And then there's the second level. And that has  
24 a -- are there windows or something on the side?

25 (Off mic comments.)

1           MR. KEARLEY: Yeah, it is. When you go -- let's  
2 go to the plans of this. So there's a cut-out which you see  
3 which brings natural light into that passageway. And so you  
4 have the passageway and then upstairs, where you have these  
5 two areas right here, that goes from property line to  
6 property line.

7           But this area is open to below which brings light  
8 down into that passageway as you're moving from -- if you're,  
9 when you're moving through here.

10          VICE CHAIR HART: Well, that's fine, but I guess  
11 I'm --

12          MR. KEARLEY: And we're actually dropping the  
13 living space down. So you see the stairs right here? You  
14 come and you go down two stairs. That's why we're lowering  
15 the height of the building by the foot and a half because you  
16 come down and then the patio, here, is actually recessed as  
17 well.

18          VICE CHAIR HART: Okay.

19          MR. KEARLEY: So if you're looking at the  
20 elevations and you see the, you see it as below grade, it  
21 actually is below grade slightly. And we did that purposely  
22 so we would actually be able to bring the structure down  
23 slightly.

24          VICE CHAIR HART: Okay. I guess the part I'm  
25 trying to get to -- can you go to Slide 14? So what I'm

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1 looking at is there's an indentation that's right here.

2 MR. KEARLEY: Mm-hmm.

3 VICE CHAIR HART: This looks like it's somewhat  
4 flat, but because this is more of a massing diagram, a  
5 massing image, as opposed to an actual architectural drawing  
6 --

7 MR. KEARLEY: Yeah.

8 VICE CHAIR HART: -- there are no articulations  
9 of any windows on this face, on that face. I don't know  
10 what's going on on the north or on the east side, but I just  
11 don't know what's going on from --

12 MR. KEARLEY: There are not any windows right  
13 here.

14 VICE CHAIR HART: And any -- can you show that  
15 again?

16 MR. KEARLEY: If you're looking at that facade --

17 VICE CHAIR HART: Yeah, yeah.

18 MR. KEARLEY: -- there's no windows.

19 VICE CHAIR HART: Okay.

20 MR. KEARLEY: There's one window right here which  
21 is from the bathroom that looks into that cut-out right  
22 there.

23 VICE CHAIR HART: Okay. I mean, typically --

24 MR. KEARLEY: And that's --

25 VICE CHAIR HART: Typically, we find that people

1 will do something like that so that they can bring light into  
2 the -- you know, and not have an at-risk window. And I was  
3 trying to figure out if you were doing that or not. But  
4 you're not saying that. You're saying that this is --

5 MR. KEARLEY: We're not doing that because we're  
6 -- part of that had to do with privacy for the neighboring  
7 units, that we're not looking down into the neighboring units  
8 from that structure. So we purposely did not do that. We  
9 do not have windows at that location.

10 VICE CHAIR HART: Okay, all right.

11 (Off mic comments.)

12 VICE CHAIR HART: So in that image, we were also  
13 trying to figure out, it's kind of -- this is an actual clear  
14 area. It's not a conditioned space?

15 MR. KEARLEY: It's not a conditioned space.

16 VICE CHAIR HART: So the walk-through is totally  
17 unconditioned?

18 MR. KEARLEY: You see it right there. You can  
19 look right through it. There's no --

20 VICE CHAIR HART: Okay.

21 MR. KEARLEY: It's --

22 VICE CHAIR HART: I'm saying this is somewhat hard  
23 to read in the images that we have because it really isn't  
24 clear as to where -- you know, typically you could do  
25 something and you'd have something on top of it, a roof over

1 it, so you'd kind of walk through it and part of it would be  
2 conditioned on top of it.

3           You may not be conditioned going through a  
4 conditioned space through -- through the walk-through, but  
5 I was trying to understand what's happening on top of it.

6           MR. KEARLEY: Yeah, you can see the two parts that  
7 are conditioned, right --

8           VICE CHAIR HART: Yeah.

9           MR. KEARLEY: -- which are where those two  
10 bathrooms are.

11          VICE CHAIR HART: Yes.

12          MR. KEARLEY: And then we have it open to above  
13 to bring light down there so when you're walking through  
14 that, the residents are walking through, they're not walking  
15 down a tunnel, that it brings natural light into that space.

16          VICE CHAIR HART: Okay.

17          CHAIR HILL: And, Mr. Sullivan, so the reason that  
18 you guys didn't put windows there is because -- are there  
19 windows on the other side as well? I mean, are there no  
20 windows on the other side as well? Is it because you were  
21 concerned about privacy for the neighbor?

22          MR. SULLIVAN: Or, yeah, and they also would be  
23 -- I think they're at-risk windows at that point too. But  
24 generally, in the conversion cases, we always avoid windows  
25 facing the side --

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1 CHAIR HILL: So there's no windows on the other  
2 side because they're at-risk windows?

3 MR. SULLIVAN: Right.

4 CHAIR HILL: As I look at that.

5 MR. SULLIVAN: Right.

6 CHAIR HILL: And so, and I'm just trying to think  
7 through again, kind of how this discussion came about when  
8 your client was trying to figure this out, that again, you  
9 didn't put windows -- because you could have put windows  
10 there now, right? They wouldn't be at-risk windows. You  
11 would have that light well. So --

12 MR. KEARLEY: We could have, but it's where the  
13 stair is, in the hallway --

14 CHAIR HILL: Okay.

15 MR. KEARLEY: -- and it's not in a primary use of  
16 it, so we --

17 CHAIR HILL: Okay, but you didn't --

18 MR. KEARLEY: -- didn't do it.

19 CHAIR HILL: -- do it because you were concerned  
20 about privacy necessarily.

21 MR. KEARLEY: We felt that if we had windows  
22 looking into people's yards, that would not be something they  
23 would want. And we didn't want --

24 CHAIR HILL: They, meaning the community?

25 MR. KEARLEY: Well, adjacent, you know, the two

1 neighbors to either side.

2 CHAIR HILL: Got it.

3 MR. KEARLEY: And so we did not put windows there  
4 purposely.

5 CHAIR HILL: Got it.

6 MR. KEARLEY: On the one side it would be at-risk.  
7 The other side would bring light into the hallway, but we --  
8 it was just something we didn't think was in the best  
9 interest of all parties.

10 CHAIR HILL: Okay, anybody else? Okay, let's see.  
11 All right, so Mr. Hailes, so you're going to have an  
12 opportunity to give a presentation, just as they did, in  
13 terms of what your concerns are as a party in opposition.

14 However, did -- before we get there, did you have  
15 any questions concerning what you have heard already from the  
16 applicant?

17 MR. HAILES: I think that these two have addressed  
18 some of these issues, but I think the impact of a carriage  
19 house, that's a irreversible impact on my wife and myself.

20 CHAIR HILL: Okay. No, I mean, you'll have an  
21 opportunity to give your presentation. I'm just saying, did  
22 you have any questions concerning their presentation --

23 MR. HAILES: No.

24 CHAIR HILL: -- to the applicant?

25 MR. HAILES: No, I've spoken to the homeowner on

1 a couple occasions. He's came, as my wife's in the house and  
2 he sat down and discussed certain issues. I have -- I  
3 expressed my opposition at that time.

4 CHAIR HILL: Okay. All right, so you don't have  
5 any questions of them at this point?

6 MR. HAILES: No.

7 CHAIR HILL: Commissioner Lee, do you have any  
8 questions of the applicant concerning their presentation?

9 MR. LEE: No, we do not.

10 CHAIR HILL: Okay. All right, so then, Mr. Hughes  
11 -- or Mr. Hailes, I'm sorry. I'm going to give you 15  
12 minutes -- Mr. Moy, if you could put 15 minutes on the clock,  
13 please, to give your presentation. And you can begin  
14 whenever you like.

15 MR. HAILES: Okay. Yes, sir. Thank you. Yes,  
16 we -- I'm speaking -- especially my wife, as actually, she's  
17 the homeowner. I'm just here -- I mean, she's my boss. All  
18 married men understand that.

19 CHAIR HILL: Amen.

20 MR. HAILES: Yes, so we are David and Jerilyn  
21 Hailes and reside at 1119 Morse Street NE in Washington, D.C.  
22 We have lived at this address for over 27 years, and we have  
23 enjoyed our neighborhood and the life we have built here.

24 The property next door at 1117 Morse Street was  
25 newly acquired by Grand Realty L-company. And we recently



1 learned that the Grand Realty Company applied for a variance,  
2 special exception for the property next to our home.

3 At this meeting on October 19th, 2020 (sic) we  
4 attended an ANC zoning meeting, 5D-06 meeting regarding the  
5 development of that area. Through our discussions with Mr.  
6 Martin, a managing member of the Grand Realty LLC, we learned  
7 of their plans to build on the single property at 1117 NE,  
8 which, again, is next to our home.

9 Mr. Martin informed that he intended to turn the  
10 property into a 3-unit dwelling and a carriage house in the  
11 rear of the property. And this causes us great concern as  
12 the plans proposed for the property will alter the ambience  
13 and beauty of our peaceful neighborhood and negatively impact  
14 our living space.

15 The proposed multi-family dwelling and carriage  
16 house will block the sunlight, breeze and view adding to the  
17 attractiveness of our comfortable home. In addition, the  
18 newly planned structure would mitigate and drastically reduce  
19 airflow and breeze and potentially increase rodent problems,  
20 decreasing the comfort and benefits we have enjoyed for so  
21 many years.

22 We sit outside -- however, when we sit outside,  
23 the proposed over-stated 3-unit and carriage house would  
24 emphatically impede on our privacy and become an eyesore on  
25 our street and to the rest of the community and possibly

1 reduce the value of our property.

2 Furthermore, and in closing, 1117 Morse Street is  
3 an Airbnb operating without a permit. And my wife and I  
4 emphatically oppose the impending plans for the property at  
5 1117 NE. Again, it would be demonstratively lower the  
6 property value of existing homeowners in our neighborhood.  
7 It would only benefit Grand Realty.

8 Therefore, we respectfully request that you do not  
9 propose the proposed plans to build a 3-unit dwelling and  
10 carriage house by increasing the height of the property at  
11 1117 NE. Thank you, and please feel free to contact for any  
12 further information.

13 CHAIR HILL: All right, Mr. Hailes. Thank you  
14 very much.

15 MR. HAILES: Yes, sir.

16 CHAIR HILL: Does the Board have any questions for  
17 the party in opposition?

18 VICE CHAIR HART: So, and I'm trying to also  
19 understand -- and, Mr. Hailes, thank you very much for  
20 coming.

21 MR. HAILES: Yes, sir.

22 VICE CHAIR HART: And I was trying to understand  
23 if you are opposing the three units, just the idea of having  
24 three units there.

25 MR. HAILES: I think the most obnoxious thing to

1 my wife and I is the carriage home in the rear.

2 VICE CHAIR HART: Well, I'm not getting to the  
3 carriage house.

4 MR. HAILES: I'm sorry.

5 VICE CHAIR HART: If they could do three units and  
6 have -- in the building itself.

7 MR. HAILES: Yes, sir.

8 VICE CHAIR HART: And so if they didn't do the  
9 carriage house and they wanted to do a building, they could  
10 do some sort of, you know, project that --

11 MR. HAILES: Right, by right. I understand that.

12 VICE CHAIR HART: Well, they can't do it by right.  
13 For three units, they need to have a conversion. So there  
14 is a special exception that they need for that.

15 But I'm trying to understand if you are -- if they  
16 were to do a different configuration but had their units,  
17 would you be in support of that?

18 MR. HAILES: Well --

19 VICE CHAIR HART: Or is it that you are in support  
20 -- if you -- are you not in support of the 3-unit -- having  
21 three units?

22 MR. HAILES: I'm not in support --

23 VICE CHAIR HART: Okay.

24 MR. HAILES: --- of three units.

25 VICE CHAIR HART: That's fine. And if they are

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1 -- I know I'm doing hypotheticals, so I --

2 MR. HAILES: Yes, sir.

3 VICE CHAIR HART: I appreciate your --

4 CHAIR HILL: Mr. Sullivan, could you pull up Slide  
5 Number 15 in your presentation, please?

6 VICE CHAIR HART: Thank you. What you see here,  
7 this image here, is something that they call -- that is the  
8 development -- the applicant, that is the Grand Realty, they  
9 could propose this, the area that's in red and the image that  
10 you see.

11 MR. HAILES: Mm-hmm.

12 VICE CHAIR HART: So the area that's in red on  
13 this side as well as the -- see the lines in red on this  
14 side?

15 MR. HAILES: Yes, sir.

16 VICE CHAIR HART: That's what they could do under  
17 the current zoning that we have. So they wouldn't need to  
18 come to BZA. They could just do that.

19 They couldn't do the number of units. They  
20 couldn't change that to three units, but they could do two  
21 units and do what you see here that's outlined in this red  
22 area. Are you opposed to that?

23 MR. HAILES: Yes, sir, I am.

24 VICE CHAIR HART: Okay. I mean, that's something  
25 that they can do. They don't have to come to us to get that.

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1 MR. HAILES: I understand, sir.

2 VICE CHAIR HART: Okay. And I just wanted to make  
3 sure that you were aware of that.

4 MR. HAILES: Yes, sir.

5 VICE CHAIR HART: And so what we're having to  
6 decide upon is what they're proposing, which is the area  
7 that's in kind of the blue shade is -- some of that is less  
8 and is less than what is, than what they are allowed.

9 But there is some part of that that is a little  
10 bit more, which is this little area here on the accessory  
11 unit. And so we're trying to kind of think about that. And  
12 I wasn't sure where you were, and you're just saying you're  
13 just opposed to having a building back -- in the back like  
14 they're proposing?

15 MR. HAILES: Yes, my wife and I are.

16 VICE CHAIR HART: Okay.

17 MR. HAILES: Yes, sir.

18 VICE CHAIR HART: Yeah, when I say you, I'm saying  
19 both of you, not just --

20 MR. HAILES: Yes.

21 VICE CHAIR HART: -- you sitting here. But thank  
22 you very much.

23 MR. HAILES: Yes, sir. I have one other request.  
24 I'm kind of confused, and I'm sure you'll help me clarify  
25 this. When a person purchases a property in the District,

1 do they automatically have a right to build? I mean, does  
2 the Zoning Board and the Planning Board have -- I'm just  
3 confused. How does that work? I mean, if you want to just  
4 --

5 CHAIR HILL: Okay, sure.

6 MR. HAILES: Yeah, please explain it to me.

7 CHAIR HILL: There's -- within zoning, you're  
8 allowed to do certain things. So that's matter of right,  
9 right? They don't have to -- it's already zoned that way.

10 MR. HAILES: Okay.

11 CHAIR HILL: And why they're here is because they  
12 need to get a special exception, first of all, for the  
13 conversion, to go to three units. And then also they're  
14 trying to go -- anyway, larger carriage house in the back,  
15 and then -- I forget what the one was.

16 MR. HAILES: But I think maybe I didn't state my  
17 question correctly. The Office of Planning, right, they can  
18 just authorize a plan without any input from a neighbor or  
19 any -- just as my opinion. I'm not well versed on these  
20 issues. But I'm just wondering, how does the Office of  
21 Planning approve a plan that --

22 CHAIR HILL: That's okay.

23 MR. HAILES: Can you understand?

24 CHAIR HILL: Mr. Haile -- I mean, Mr. Hailes,  
25 sorry. Again, you're allowed to do stuff to your property,

1 right?

2 MR. HAILES: Right.

3 CHAIR HILL: Like you can put on an extension to  
4 whatever, to within ten feet. You know, you don't want the  
5 Government telling you everything, right?

6 MR. HAILES: That's correct.

7 CHAIR HILL: And so you can go ahead and do what  
8 you want to do within the zoning code as it currently exists,  
9 right?

10 MR. HAILES: Okay.

11 CHAIR HILL: The reason why we're here is because  
12 people need a special exception, which also means that it's  
13 actually in -- they have the ability to do it if they meet  
14 certain criteria. And that's what we're trying to figure  
15 out, as to whether or not they've met the certain criteria  
16 for a special exception.

17 Then there's a variance, which actually they're  
18 not here for. And you did mention a variance before, which  
19 is that we have to change the regulation so that they're not  
20 having something taken away from them in terms of their  
21 right. And that's a bigger hurdle for them to get through.

22 But to this particular slide that's on the screen,  
23 thank you, they would be able to do the red as a matter of  
24 right, okay. They'd be able to go up 20 feet in the carriage  
25 house. They'd be able to make that carriage house. They'd

1 be able to go back ten feet from that wall.

2 But they wouldn't be able to do the three units,  
3 they'd have to stick with two units. Matter of right, like  
4 that's already within the regulations. So they'd be able to  
5 do that.

6 So really what oftentimes we struggle with is the  
7 difference between the matter of right and whatever is  
8 actually proposed. And sometimes -- well, that's a longer  
9 discussion, but that's kind of why we're here, meaning the  
10 Board. Did I explain a little bit of it?

11 MR. HAILES: Yes, sir. Thank you for the  
12 clarification.

13 CHAIR HILL: Okay. Yeah, the Office of Planning,  
14 they just give recommendations.

15 MR. HAILES: I understand.

16 CHAIR HILL: And then we have to determine whether  
17 or not we think the recommendations as well as everyone  
18 that's here before us is meeting the criteria for us to grant  
19 the relief requested.

20 Okay, so that being the case, the only questions  
21 I had, again, Mr. Hailes, was, again, if you understood what  
22 they could do without coming here.

23 MR. HAILES: Yeah, thank you for the clarity.

24 CHAIR HILL: And what was clarified is that now  
25 you at least do understand what they could do without coming



1 here, and you would be opposed to that as well, which is  
2 within your right -- but you would be opposed to that as  
3 well.

4 Does anyone have any more questions for Mr.  
5 Hailes? Okay, Mr. Hailes, if you wouldn't mind turning off  
6 your microphone there. Thank you.

7 MR. HAILES: Mm-hmm.

8 CHAIR HILL: And, Commissioner, so I'll give you  
9 15 -- oh, I'm sorry. Do you have any questions for Mr.  
10 Hailes, Commissioner?

11 MR. LEE: No, I do not.

12 CHAIR HILL: Okay. Mr. Sullivan, do you have any  
13 questions?

14 MR. SULLIVAN: No.

15 CHAIR HILL: Okay, then, Commissioner Lee, I'm  
16 going to go ahead and put up 15 minutes on the clock for you.  
17 Welcome back, by the way. You haven't been here for a while.  
18 And I'm sorry, every time you're here it's a time that, you  
19 know, it's like everything. Whenever you're here, nobody's  
20 happy, right.

21 And so, you know, I wish you were here when you  
22 were happy, but every time I see you -- and I got to tell  
23 you, I can already see the things that are down -- whatever  
24 direction that is, that went all the way back. And I'm sure  
25 we were here talking about that as well because you happen

1 to be in this -- you're the SMD? Is that correct as well,  
2 or no?

3 MR. LEE: No, I'm the chairman.

4 CHAIR HILL: Okay, so you happen to be in the ANC  
5 where these big lots are, right. And so that's why we  
6 constantly are having this discussion. So I'm going to put  
7 15 minutes on the clock there, and you can begin whenever you  
8 like.

9 MR. LEE: Okay, I'm going to have Chairman --

10 CHAIR HILL: Sure.

11 MR. LEE: -- of our Zoning Commission, Mr. Horgan,  
12 speak.

13 CHAIR HILL: Sure, that's fine.

14 MR. HORGAN: Hi. My name is Kevin Horgan. I'm,  
15 I would say, co-chair, one of the -- our Zoning Committee is  
16 led by both the ANC Commissioner and a neighbor, myself.

17 So before I say negative things about the project,  
18 I actually want to say there's a lot of really positive  
19 things about this project they have delivered.

20 They're proposing family sized units. Inscape  
21 Studios clearly cares about design. It's a beautiful piece  
22 of architecture. There really is a lot to talk about this.  
23 Commissioner Miller, compared to many developers, they  
24 actually, I think they were very respectful and sympathetic  
25 to the front facade on the block.

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1           They did recess that third pop-up. If a third  
2 pop-up means the units become family sizes, that's a good  
3 thing. You know, the ANC wants family sized units. And the  
4 main building has two 3-bedroom units. So that's fantastic.

5           What they've done is -- is, in this project, the  
6 main building only goes back 6 point -- 6 feet 9 inches. So  
7 in exchange for removing 3.25 feet square footage that end  
8 up being -- they removed 62 square foot that they could have  
9 done by right.

10           And in exchange for removing 62 square feet, they  
11 want a 558 square foot accessory building. And that's a good  
12 deal, if you can get it.

13           I think the -- a lot of the neighbors who were  
14 concerned about this, really, they just felt that this was  
15 another -- it's a 33-foot long house. And I know they've  
16 done some beautiful interesting things with design, but it's  
17 still kind of in the middle of the rear yard.

18           And people just get worried that, even though this  
19 is a beautiful design, a future developer might come in and  
20 propose something more cost-effective but of the same --  
21 going back as far.

22           You know, right here there's only a 20-foot  
23 interior courtyard. You know, that's meeting the 20-foot  
24 rear setback requirement for the main building. One of the  
25 things that we looked at is we were like, what if, you know,

1 Mr. Hailes wants to sell in the future.

2 Well, a developer will look and say, if he goes  
3 back ten feet, it's a matter of right. Well, let's say a  
4 developer comes before you -- on either side of this proposed  
5 project -- and they want to do a 15-foot addition, which is  
6 very reasonable and the BZA often approves.

7 Well, as those start going back, unit of credence  
8 clear courtyard at the proposed project, where there's not  
9 much light at all getting into the rear yard that you're  
10 being asked to approve, so it just kind of created this weird  
11 -- you know, and if somebody wanted to do, on either side,  
12 they wanted to go back 20 feet, they would literally be  
13 almost be touching the sides of the facade of this project.

14 So think that was really one of the main things  
15 that the Zoning Committee -- and by the way, there's  
16 architects in the Zoning Committee, and honestly, all of them  
17 really loved the design.

18 I think the main concern was the placement of the  
19 building. And, you know, I think if this was more in  
20 character with other carriage houses in the neighborhood and  
21 it was pushed to the rear -- and I understand there's  
22 challenges with, you know, the width of the lot perhaps not  
23 allowing another parking space to come in.

24 But, you know, that might have been something that  
25 the ANC and the community could have considered. Like, if

1 this building was pushed to the far rear of the lot and only  
2 one parking space was available -- you know, I know  
3 communities care about parking, but would they have preferred  
4 that option to where there's only one parking -- if the  
5 building was pushed to the far rear such that the parking was  
6 enclosed in a -- I called out a BZA case recently, two weeks  
7 ago you approved up in Dupont where basically the parking was  
8 -- it was kind of a tiered design.

9           If this design was something more akin to that,  
10 even if there was only one parking space, you know, would  
11 that be more palatable as a, you know, precedent to the  
12 community than placing the building in the middle of the  
13 yard? And I don't know.

14           I think that wasn't presented. I think that would  
15 -- I wish we had a little bit more time to consider, you  
16 know, alternative options.

17           Let's see, what I have in my notes. You know, we  
18 did talk a little bit about, you know, the idea of  
19 development in the alleys of D.C., is rather new. You know,  
20 the regulations to support and allow that only recently  
21 started.

22           So we were actually excited to see more, you know,  
23 alley-dwelling unit, alley-lot developments and accessory,  
24 you know, primary dwelling units built at the rear of the  
25 lots.

1           Just one block down from this, every year,  
2           Trinidad has this annual Art in the Alley event. And it's  
3           really cool. I'm not sure when the next one is coming up.  
4           Rob, behind me, might know. But it's really great. It  
5           fosters community.

6           By placing this 19 feet inward, you know, where's  
7           there's going to be -- what we'll see when we walk down the  
8           alley is a roll-up gate. I think, you know, we'd like to  
9           promote, support more development in the alleys. It's not --  
10          we're not opposed to that.

11          It's just that if the BZA is going to, you know,  
12          support and give the zoning relief, we'd like to see more  
13          benefit to the community. And in this case, we'd like to see  
14          it something that would activate the alley, that would create  
15          more foot traffic.

16          I think that's most of my technical concerns. I  
17          think I'm going to pass it over to Chairperson Lee, unless  
18          you have questions for me.

19          CHAIR HILL: We'll come back if they're ready.

20          MR. LEE: And also just what I'd like to speak on  
21          is that as the ANC, we are supposed to be given great weight.  
22          And we're finding what does that mean. It seems to be more  
23          intangible, but the impact of the building being three units,  
24          it's not in character with the community because the  
25          community is now just becoming more family-friendly.

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1           When I say more family-friendly, I mean  
2 economically family-friendly. You can purchase a home in  
3 Trinidad, believe it or not, for \$500,000, which is now about  
4 the median of a housing price in D.C., but these proposals  
5 with the condominiums that will be selling for roughly  
6 \$600,000 a piece, doesn't lend to more family friendly.

7           Lends to more -- our neighborhood is changing more  
8 to having more children. Our schools are getting better  
9 because we're having more families buying into the  
10 neighborhood, families when I say, single family homes,  
11 because they're more invested to stay longer and they come  
12 to these things that we have, the amenities we have in the  
13 neighborhood.

14           These designs as far as converting to a three-unit  
15 does increase the density. They are family-sized. You have  
16 to decide what a family is, but they are not what we would  
17 be more attracted to families who like to stay and invest in  
18 the city and be long-term residents and even help.

19           We're having people come into the neighborhood now  
20 who are really getting involved, and we're finding that. And  
21 we have home sales up to \$900,000, single family homes, so  
22 we know we have an economic impact. But we can be like a  
23 Columbia.

24           We can have some lower class or lower income  
25 people, middle class income people and upper class income

1 people. So that would make us more of a building a community  
2 together because we're changing and everything is melding,  
3 but these units, when we, you know, these one blocks, these  
4 two blocks with these large lots, and you know, once it's  
5 opened up this way, it's just going to cause the whole block  
6 to go the same way.

7           We had the larger units before with matter of  
8 right. They took up 60 percent of the lots, and those  
9 buildings are there. You saw them in the pictures. You can  
10 see them in the diagrams. Those pictures are there.

11           But we want to -- we're trying to get more --  
12 we've trying to give more protection to bring more single  
13 family homes and maintaining those single family homes in the  
14 neighborhood because having that large lot is an asset for  
15 a family.

16           That means your children can play. You can put  
17 a little swimming pool in the backyard. These are the things  
18 we're looking for to make our neighborhood better and safer.  
19 We have more families in there who are more invested into the  
20 neighborhood.

21           That would make it safer neighborhood also because  
22 we are having some improvements in safety. We have a lot of  
23 improvements making Trinidad very attractive, which also  
24 means that's why people want to do these units because we are  
25 becoming a very attractive neighborhood again.



1           So the ANC is opposed to it. The technical  
2 things, what I speak on is not really what the Board is on,  
3 it's really concentrating on because these are things you  
4 can't qualify with numbers and zoning. You can qualify what  
5 we're asking for, but just that impact that's coming to the  
6 neighborhood and the changes that --

7           We have people who are, like I say, investing in  
8 the neighborhood. We have neighbors here that side by side  
9 by families in two homes, so we're still getting -- we want  
10 to get back to that, the way Trinidad was when it was a  
11 viable neighborhood.

12           And it is turning back to that, so that is what  
13 my statement is mostly. And like I said, what is our great  
14 weight. What does our great weight mean? You know, we never  
15 seem to get what we want because like you say, every time I'm  
16 here it's always a major opposition.

17           But what does great weight mean, and I think it  
18 should mean something more because we'll be back again if  
19 this passes because we're going to oppose each one as they  
20 come up.

21           And so, you know, if it passes well, but if it  
22 doesn't pass maybe the developers will come back and start  
23 looking at us and saying that let's just build a nice single  
24 family home. So that's all I have to say. If you've got any  
25 questions for me, I'll take them.

1 CHAIR HILL: Commissioner, you said a lot of  
2 stuff, you know, and so I guess -- there's at least three  
3 commissioners here in the room. In terms of great weight,  
4 you guys get great weight. Again, I've been here now a  
5 number of years, and what that means is that -- and I have  
6 to look it up in the regulations what it technically means.

7 You get a seat at the table, and we have to listen  
8 to you, right. And then you've been here before and a couple  
9 of the other commissioners have been here before. And then  
10 you know what our responsibility is. And that's just to look  
11 at the standards.

12 Everybody gets a chance to look at them, and then  
13 we get to determine whether or not the applicant is meeting  
14 those standards in order to grant the relief requested,  
15 right. And those standards are in the regulation.

16 What a family is, whether the people want to make  
17 a swimming pool, what we think a family unit is supposed to  
18 look like, that's not what we're looking at. That's not in  
19 the regulations, right, which by the way, that seems like --  
20 I don't even know if it's a Zoning Commission thing or a City  
21 Council thing.

22 I mean, as you know, many, many people are moving  
23 into the city and the city needs housing, right. And so this  
24 is just an opportunity for -- again, as you've been here  
25 before, there's the matter of right option, which is within

1 zoning, which they already are able to do.

2           So your lot, as the way they are, they're able to  
3 handle this type of density, right, but there's only two  
4 units with a carriage house on the side. And to your -- I  
5 forgot the gentleman's name. I'm sorry.

6           Mr. Horgan's points, that again is something I  
7 don't know, that might have gotten to whether or not the --  
8 and I know again we have seen a lot of different things in  
9 terms of architecture and whether or not that was a  
10 discussion that you guys might have had with the applicant  
11 to try to somehow get --

12           I don't know whether the ANC would have bought off  
13 on if the unit was pushed to the back and if there was -- to  
14 activate the alley more or at least the way you'd like to  
15 have the alley activated. I didn't have a question other  
16 than to answer your question I guess on what great weight is.

17           I mean honestly, I truly believe we give the ANCs  
18 great weight, and it's not that -- we just listen to you just  
19 as much as we listen to the Office of Planning, just as much  
20 as we listen to the applicant and it just kind of ends up  
21 wherever it ends up.

22           I mean we've been here -- unfortunately not for  
23 you, Mr. Lee, but we've been here where the ANC has won many  
24 times and also have been able to create working relationships  
25 with the applicant in terms of changing the way to design

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1 comes in.

2 Like it comes in the ANC, we give them great  
3 weight, and then the applicant has to work with the ANC more  
4 to get to where they're on the same page or at least closer  
5 to what the ANC wants. So at least I answered one question.  
6 But a lot of the others one I don't have the answer to.

7 COMMISSIONER MILLER: May I -- can I?

8 CHAIR HILL: Sir, please go ahead. Of course.

9 COMMISSIONER MILLER: I just want to add to  
10 Chairman Lee, and when we don't -- when this body or this  
11 Zoning Commission does not end up agreeing with the ANC or  
12 the Office of Planning for that matter -- we have to give  
13 them great weight, too -- we have to address each of the  
14 issues that you raise. And we will address them one way or  
15 the other.

16 But I don't know how this case is going to go, but  
17 it will be addressed in the order if the body, the Zoning  
18 Commission or the BZA, did not agree with the ANC. Each of  
19 your issues which addressed the zoning aspects of the case  
20 would have to be addressed as to why we did not agree. And  
21 I'm not talking about this case. I'm talking about in  
22 general.

23 CHAIR HILL: Go ahead.

24 VICE CHAIR HART: Thank you very much Commissioner  
25 Lee or Chairman Lee I guess we should say. So, and I hear

1 you say that you'd be opposing these. When these projects  
2 come in and they seek to do something that's similar, whether  
3 it's accessory building or what not on the alley, it sounds  
4 like there's just an opposition to the idea of having that  
5 accessory building on the alley all together.

6 MR. LEE: No, we're not against that. I'm not  
7 against that. I don't think the neighbors are against that.  
8 We're just against the massing, the extra massing of the  
9 units. But it's a matter of right, so we wouldn't be opposed  
10 to anything if it was a matter of right.

11 VICE CHAIR HART: But okay. You're not opposed  
12 to the accessory building, but you're opposed to the massing.  
13 How are they different?

14 MR. LEE: In the placement. It's larger, but as  
15 a matter of right it's not larger.

16 VICE CHAIR HART: So just if we're moved down, if  
17 this building right here were moved down so it was right  
18 here, right at the -- on the alley itself, there would be --  
19 that would be better condition because it would provide more  
20 space between where the buildings are and then where the  
21 existing houses and accessory building.

22 MR. LEE: Yes, because there's already buildings  
23 like that in that alley.

24 VICE CHAIR HART: Okay. And are you -- do you  
25 think that the ANC is opposed to this third unit?

1 MR. LEE: Yes.

2 VICE CHAIR HART: Yes, so okay. I mean it's --  
3 the third unit is -- they have to come to the Zoning  
4 Commission, the BZA --

5 CHAIR HILL: Commissioner Miller was just  
6 mentioning -- and I'm sorry. Can you turn off -- thanks --  
7 that the written letter didn't say anything about the third  
8 unit.

9 VICE CHAIR HART: Yeah, I was just trying to  
10 understand. I asked the same question of Mr. Hale about just  
11 if it's the third unit, if it's the building and I'm  
12 understanding that a little bit further. But you've  
13 answered. You said that you would be or I guess the ANC  
14 would be in opposition to that third unit.

15 MR. LEE: The third unit within the house or the  
16 accessory building?

17 VICE CHAIR HART: Either one.

18 MR. LEE: More on the accessory building as a  
19 third unit.

20 VICE CHAIR HART: Okay, so if they were to push  
21 back on the -- similar to what they've done in here -- I'm  
22 not saying to that extent but having a building that was  
23 longer but no accessory building would be -- and having three  
24 units would be preferable?

25 MR. LEE: No.

1 VICE CHAIR HART: Okay. All right. Thank you.

2 MEMBER JOHN: Mr. Chairman, can I ask a question?

3 CHAIR HILL: Sure. Please.

4 MEMBER JOHN: So if you were to move this back  
5 here, move the accessory building back, could you still  
6 accommodate two parking spaces on the first floor and have  
7 an apartment on the second floor? What would that do to your  
8 design? You would have to bump it up to 20 feet, which would  
9 increase the height?

10 MR. KEARLEY: I don't think we would have to bump  
11 it up to 20 feet. If we pull the carriage house to the  
12 alley, we would need relief on parking because wouldn't have  
13 the required two parking spaces, so we would need relief from  
14 parking.

15 And we would need a greater footprint because we would  
16 be giving up the whole first floor. Just to get up to the  
17 second floor, you need a stair. You need something on the  
18 first floor, so instead of 558, we very well might need 650  
19 or something because we're giving up 400 square feet for the  
20 passageway and for the parking.

21 And we would need relief from the required parking  
22 because two is required. Is that correct? So two is  
23 required and two is being provided. So we would need -- it  
24 would be a different massing of that. It would be a larger  
25 massing for that carriage house if we were to do that.

1 MR. SULLIVAN: And one of the things that we did  
2 -- I'm sorry.

3 MEMBER JOHN: That's okay.

4 MR. SULLIVAN: One of things we did discuss was  
5 going to a 10-foot addition and not asking for a lot of  
6 occupancy relief and going to the 450. That's one thing  
7 actually the owner is willing to do, but as you heard, I  
8 don't think it matters to the ANC whether we do that or not  
9 because they don't want the three units.

10 But in that case, this wouldn't -- the matter of  
11 right thing, the building would actually go back five and a  
12 half feet. It wouldn't go closer to the house, so it would  
13 create more room.

14 MR. KEARLEY: I drew a line there. It would --  
15 if we did 450, that's not exactly where it would be, but  
16 instead of a 20-foot setback, we would have a 25 and a half  
17 foot setback. I think it's approximately five and a half  
18 feet.

19 MR. SULLIVAN: Well, we'd have more on the  
20 building.

21 MR. KEARLEY: Yeah, you'd have more on the  
22 building. So you're just shifting it slight.

23 MR. SULLIVAN: We would gain 2 feet. We would net  
24 2 feet. We'd have three more in the back, five and a half  
25 more in the yard, and the accessory building would look



1 smaller, too. This was what we thought worked to move space  
2 back there. We didn't realize it wouldn't be welcomed.

3 CHAIR HILL: Okay. That's -- yes.

4 MEMBER JOHN: If I may follow up because I'm still  
5 not clear. With the matter of right option, this is 25 feet  
6 wide, the lot?

7 MR. SULLIVAN: 20 feet.

8 MEMBER JOHN: 20 feet. So you could not get --  
9 if you were just to put parking on the first floor and  
10 whatever sized dwelling on the top, you would lose room for  
11 a second car, right? You'd have to put stairs there or  
12 something, and parking next to it. And there would be no  
13 access from the rear because you wouldn't have the  
14 walkthrough.

15 MR. KEARLEY: We could have the walkthrough, but  
16 we would lose a spot. We would lose a parking spot. Since  
17 we have 20 feet and not 25 feet, there's not enough room for  
18 structure. When you build the structure all the way back,  
19 you're looking at 8 to 12 inches of structure on each side,  
20 so that reduces the width.

21 And then you need 3 feet for a passageway, so you  
22 would not have the width for two parking places. You would  
23 only have one parking space, so we would need relief for that  
24 parking space if we go all the way back.

25 MEMBER JOHN: And you would end up with a one-

1 bedroom upstairs within the 450 square feet?

2 MR. KEARLEY: Yeah, and it wouldn't even be one  
3 bedroom. It would be an efficiency at best. You'd have  
4 maybe -- if you think about a stair coming up within there  
5 and the thickness of the walls, you might have 350 square  
6 feet in that back until because the perimeter of the  
7 building, the structure would encroach on that 450 square  
8 feet as well as a stair going up from the first floor to the  
9 second floor would encroach on that 450 square feet. We  
10 might be left with 300 square feet.

11 MEMBER JOHN: And so the net result would be two,  
12 three-bedroom units in the main building and an efficiency  
13 in the accessory building.

14 MR. KEARLEY: Sort of a microunit in the accessory  
15 building.

16 MEMBER JOHN: Right. And one parking space.

17 MR. KEARLEY: And one parking place.

18 MEMBER JOHN: And I hate to ask this question, but  
19 what would that do economically to the project, the  
20 difference between the matter of right and what you've  
21 proposed?

22 MR. SULLIVAN: So, and I'm sorry that the owner's  
23 not here. He's out of the country, but that doesn't work  
24 economically, but the 450 footprint works economically  
25 without having the parking underneath it.

1           And I would add the matter of right massing of the  
2 accessory building applies both to the size and to the  
3 placement. The Zoning Commission has a 20-foot rear yard  
4 requirement and they specifically noted -- the Zoning  
5 Commission and the BZA through precedent has determined that  
6 the rear yard is measured from the building back rather than  
7 from the property line in.

8           And under the 2016 regulations, there's a new  
9 provision that says an accessory building can be located in  
10 a required rear yard provided you do A and B. And A is that  
11 it only be a 100 square foot footprint and B that it's only  
12 10 feet high.

13           So they basically said we don't want accessory  
14 buildings in the required rear yard, and the required rear  
15 yard is 20 feet. So the matter of right placement is 20 feet  
16 or more back in addition to the 450.

17           And then of course we've got the parking  
18 requirement, so we're trying to fit what we thought was the  
19 ideal configuration within the existing zoning regulations.

20           CHAIR HILL: Okay. Mr. Sullivan, this is another  
21 little test case for us. You guys sat down. You really  
22 thought hard about how you're going to figure this out and  
23 see if you can get everyone to sign off on it. I'm going to  
24 go ahead and turn to the Office of Planning.

25           MS. ELLIOTT: Thank you, Mr. Chairman, members of

1 the Board. I'm Brandice Elliott representing the Office of  
2 Planning. The Office of Planning is recommending approval.  
3 And just to clarify, we don't approve anything. We only make  
4 recommendations.

5 That was an earlier conversation. I just want to  
6 get that in there. So we are recommending approval of the  
7 conversion and also the lot occupancy as it relates to the  
8 accessory building and then of course occupancy of that  
9 accessory building because that's a special exception relief  
10 as well.

11 The additions that are proposed with the exception  
12 of lot occupancy for the accessory structure, do you comply  
13 with development standards? So the third story for the front  
14 dwelling complies with height requirements for the RF-1 zone.

15 The rear addition complies with the rear addition  
16 requirements in the RF-1 zone, so those additions are  
17 essentially matter of right. The accessory structure, while  
18 we appreciate what the ANC is trying to achieve by pushing  
19 it to the rear property line.

20 It meets the locational requirements in the RF-1  
21 zone. It's providing -- a rear yard setback is being  
22 provided and there's still space behind that to provide the  
23 required.

24 What doesn't comply in terms of development  
25 standards is the lot occupancy for the accessory structure,

1 which because it's being added to the back, we didn't find  
2 that it created or resulted in undue impact to the neighbors.  
3 And the applicant provided a shadow study demonstrating that.  
4 So overall we are supportive of this project, but I'm happy  
5 to answer questions that you have.

6 Oh, I'm sorry, one more thing that I wanted to  
7 bring up. I noticed in the ANC report that there was  
8 reference to the removal of the metal awnings and the porch.  
9 Just to clarify, OP is not supportive of the removal of the  
10 porch.

11 We did note that in our report. There is mention  
12 of the porch. We're supportive of the removal of the metal  
13 awnings but not the porch.

14 CHAIR HILL: All right, Mr. Sullivan. I'm going  
15 to have to ask you to response to that in a minute. So my  
16 quick question is to the Office of Planning. So there was  
17 some testimony from Mr. Horgan in terms of like -- and I know  
18 how you guys kind of think through this in terms of what  
19 might happen next, right.

20 I know that's not what you're supposed to do and  
21 that's what you do, do, but I'm curious your thoughts as to  
22 if you remember from the testimony, I'm even trying to figure  
23 out what might happen next.

24 And now I'm asking if I'm thinking through this  
25 correctly, which is that now let's just say this were to go

1 through. Then the property to the left of this diagram here,  
2 they could go 10 feet back by right and no, just from that  
3 wall, right?

4 I'm thinking this through myself. Did you have  
5 any thoughts about any of the testimony that the applicant  
6 gave, Mr. Horgan, in terms of thinking through what might  
7 happen to this block?

8 MS. ELLIOTT: You know, there have been plenty of  
9 BZA cases on Moore Street, and I don't think OP could have  
10 predicted the way these types of configurations would go.  
11 I mean we've seen massive rear additions, 50 feet or more on  
12 this current block that predated our current regulations.

13 And then we've seen that tapered. Well, they're  
14 in the image there. We've seen that tapered down to smaller  
15 rear additions, 20 feet or less. So I don't know that we can  
16 predict the way things are going.

17 We certainly try to gauge public opinion and  
18 revise the zoning text as needed, and that's kind of what  
19 you're seeing evolve on this block, but.

20 CHAIR HILL: That's okay. I was just curious.  
21 Okay. All right. And in terms of the -- some of the  
22 discussion that has been going on about trying to figure out  
23 how the community might have had a better buy in on this.

24 I mean if you're opposed to a third unit, then  
25 you're opposed to the third unit, so it doesn't matter where

1 that accessory dwelling thing is going to end up, but if  
2 there were like -- if the building did get pushed back and  
3 you lose parking, right, you don't know if the Office of  
4 Planning would have been in approval of that.

5 MS. ELLIOTT: No. We review the proposal as  
6 provided to us, as submitted in the application, so we didn't  
7 do any evaluation regarding parking for this particular case.

8 CHAIR HILL: Got it. One second, Commissioner.  
9 You'll have a chance to get answers to your questions. Does  
10 anybody have any more questions for the Office of Planning?  
11 Okay. Does the applicant have any questions for the Office  
12 of Planning?

13 MR. SULLIVAN: No, thanks.

14 MR. KEARLEY: Can I have one comment on the porch?

15 CHAIR HILL: You can have a question. Sure.

16 MR. KEARLEY: It's a question on the porch, and  
17 we are not carrying out the porch itself. We're keeping the  
18 brick columns right here and the porch, and what we're doing  
19 is we're adding the balcony above. So we're not proposing  
20 that we alter the porch.

21 We're putting in a new rail, and then we're  
22 putting in the top part, similar to what you have next door  
23 with the door coming out from a balcony. So I just wanted  
24 to clarify that. We're not tearing out the brick columns and  
25 doing that.

1           Those are -- you can see those are consistent  
2 with the neighboring properties. Someone had a question on  
3 that, and you brought that up, so I just wanted to clarify  
4 that.

5           CHAIR HILL: Ms. Elliott, is this design the  
6 design that the Office of Planning has approved?

7           MS. ELLIOTT: We are recommending approval of the  
8 current design.

9           CHAIR HILL: No, I'm just confused because you  
10 clarified about the porch. So is this porch correct?

11          MS. ELLIOTT: Yes. Our understanding was always  
12 that the porch was going to remain intact. We just -- and  
13 awnings. Only the awnings were going to be removed. We just  
14 referenced the porch casually in our report.

15          CHAIR HILL: You're just providing clarification?

16          MS. ELLIOTT: I'm trying to clarify.

17          CHAIR HILL: Okay.

18          MS. ELLIOTT: But I may be causing more confusion.

19          CHAIR HILL: Okay. That's all right.

20          MS. ELLIOTT: There was a question in the ANC  
21 report, and I just wanted to make sure that it was clear that  
22 we were not supporting the removal of the porch.

23          CHAIR HILL: Got it. And the porch is not being  
24 removed. Thank you. Does the Commissioner have any  
25 questions for the Office of Planning?



1           MR. LEE: Oh, just on the note on the parking.  
2 We're not -- we don't -- we would allow some parking relief.  
3 It could be one spot.

4           CHAIR HILL: Okay. All right. And does the party  
5 in opposition have any questions for the Office of Planning?

6           MR. HAILES: I'm still a bit confused on what the  
7 relationship is. I'm trying to educate myself further. It  
8 seems to me don't take exception. It seems a little  
9 convoluted to me.

10          CHAIR HILL: Oh, Mr. Hailes. You have to worry  
11 about it. I've been here four years. It's convoluted. The  
12 Office of Planning provides their report, and they provide  
13 very specific reasons as to why they think this project  
14 should either be approved or denied.

15                So they have a report that's in the record that  
16 goes into exactly each one of the criteria of the standards  
17 and gives their opinion as to whether or not they think it  
18 should be approved or denied based on that standard.

19                So they just went through and said they think it  
20 should be approved per the standard that we have to look at.  
21 And so it's now you as a party in opposition has an  
22 opportunity to question the Office of Planning or ask any  
23 questions of the Office of Planning.

24                And that might be the confusing part because I  
25 don't know if you have any questions of the Office of

1 Planning.

2 MR. HAILES: May I have the opportunity -- excuse  
3 me.

4 CHAIR HILL: Sure. Of course.

5 MR. HAILES: I had the opportunity to come because  
6 I didn't realize that the Office of Planning approves a  
7 person. Just because they bought a property they have a  
8 right to build without any input from the neighborhood.

9 CHAIR HILL: Mr. Hailes, I'm just going to  
10 interrupt you one second.

11 MR. HAILES: Sure.

12 CHAIR HILL: They don't approve anything. They  
13 give recommendations.

14 MR. HAILES: Okay.

15 CHAIR HILL: We approve or deny.

16 MR. HAILES: Okay.

17 CHAIR HILL: And so, and the feedback that the  
18 community has is as the Commissioner will let you know, you  
19 know, the applicant has to come to the ANC and present before  
20 them. They have to notify the neighbors.

21 They have to notify people within 200 feet if they  
22 need to do something that's not matter of right. They're  
23 doing something that's not matter of right. If they did  
24 something that's matter of right, they don't have to come  
25 before anybody.

1           They're allowed to do that because it's allowed  
2 to be done within the zoning code, and the Office of Planning  
3 wouldn't be involved at all.

4           MR. HAILES:   Okay.

5           CHAIR HILL:   So let me just ask you a quick  
6 question again.  Do you have any questions for the Office of  
7 Planning?

8           MR. HAILES:   I think you clarified that.  But  
9 since Trinidad, we're in a spot in the news that we're one  
10 of the most sought after neighborhoods in the city, we've  
11 become overwhelmed by the people just moving in the  
12 neighborhood for profit not just to have a neighborhood.

13           It just doesn't look the same.  It's just, people  
14 spend years and years there, and they expect a particular  
15 part of their life.  I don't think we should be looked at as  
16 an economic opportunity as opposed to a neighbor.

17           Right now we're just I think -- this gentleman  
18 comes from New Jersey.  We have people from all parts of the  
19 country simply because we're sought after with no regards to  
20 the people that's been in the neighborhood 20, 30, 40 years  
21 paying their taxes.  I think I'm the oldest there.

22           Since the gentrification, suddenly, our sidewalks  
23 and our streets become paved.  All the years we've been  
24 living there, we struggled.  We asked for certain things.  
25 We didn't get it.  I understand money moves things, but I

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1 think the neighborhood wasn't taken into a consideration.  
2 We're just like looked upon as an object.

3 CHAIR HILL: All right, Mr. Hailes. I'm sorry.  
4 You're back into other things that Mr. Lee was talking about.

5 MR. HAILES: I'm sorry.

6 CHAIR HILL: It's all right because we're just  
7 here for zoning and such.

8 MR. HAILES: I understand.

9 CHAIR HILL: And in terms of the changes, I mean  
10 I've also been in this area now for my whole life, which is  
11 50 years. Your community has changed a lot, right, good and  
12 bad. Your property value has gone up a tremendous amount,  
13 which is because of the neighborhood changing and things  
14 changing.

15 But anyway, we're here just for zoning issues.  
16 And I'm sorry to get off track. So you didn't have any  
17 questions for the Office of Planning? Oh, I'm sorry. Mr.  
18 Horgan, you had questions for the Office of Planning?

19 MR. HORGAN: It wasn't a question for the Office  
20 of Planning. I just wanted to follow up on a statement  
21 Commissioner Lee just mentioned about parking relief. In a  
22 project like this, I think the ANC is basically saying if  
23 this building was pushed to the rear -- we understand inscape  
24 was challenged by the fact that they can't get two parking  
25 spaces in the back.

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1 But that was really a debate of if that building  
2 was pushed back, much more likely that the neighbors -- well,  
3 not all neighbors but some neighbors who were opposed may  
4 have supported this project if it looked like the other  
5 carriage houses.

6 And even if that means that the ANC had to give  
7 parking relief, that might have been a better trade. We had  
8 more time to go through that exercise, but I'm not sure if  
9 the applicant needed more time to consider that. But I think  
10 that is something Commissioner Lee just offered. They would  
11 be willing to consider that, if that meant --

12 CHAIR HILL: I'm sorry to interrupt you. Is there  
13 anybody here wishing to speak in support? Is there anybody  
14 here wishing to speak in opposition? Okay. So I've got one  
15 person. I just wanted to see where we were because we're  
16 getting closer and closer to lunch, and I didn't know it was  
17 going to happen this way.

18 So Mr. Horgan, I guess if you guys are going to  
19 be here, meaning in your community for a while, you'll see  
20 how this all continues to play out. The Office of Planning,  
21 I just asked them what they thought might happen.

22 And I think that they probably sit around the  
23 coffee table and actually make plans as to what they think  
24 might happen, but apparently they don't really know, right?  
25 And so you all are like saying you maybe take a parking space

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1 for something else.

2 That's something that you actually had an  
3 applicant that really is trying, right. And so, I don't  
4 know. I mean you may -- we might get back to this, but the  
5 thing that confuses me about even the applicant trying to  
6 work with you all anymore at all is that you don't want the  
7 third unit.

8 So like the ANC, if the ANC is going to vote no  
9 anyway, then you might be at the no place anyway, right? So  
10 no, no, that's okay. I'm just saying we'll see what happens  
11 at the end of this. So a person wants to speak.

12 Nobody wants to speak in support. Yeah, nobody  
13 ever wants to speak in support. Does anyone want to speak  
14 in opposition? If anybody wants to speak in opposition, come  
15 on up here and take seat to the left of this table.

16 Is there one more person? Okay. If you could  
17 please introduce yourself for the -- you both were sworn in.  
18 Correct? Okay. If you could please introduce yourself for  
19 the record first, sir, we'll start with you.

20 MR. SCHAFFER: Rob Schafer. I live on the same  
21 side of the same block on Moore Street.

22 CHAIR HILL: Okay.

23 MS. ROGERS: Frances Rogers. I live 1116 Moore  
24 Street.

25 CHAIR HILL: Hi, Ms. Rogers. You've been here

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1 before, right?

2 MS. ROGERS: Yes.

3 CHAIR HILL: Okay. All right. Well, okay. Mr.  
4 Schafer, we'll start with you. So each member of the public  
5 gets three minutes to give their testimony. And there's a  
6 clock I think all over the place, and so you can start  
7 whenever you'd like.

8 MR. SCHAFFER: Should I give you --

9 CHAIR HILL: If it's a written testimony, Mr. Moy  
10 -- yeah, do you have copies?

11 MR. SCHAFFER: I just have one copy here. I can  
12 always submit it.

13 CHAIR HILL: Why don't you read it? You have to  
14 read it, right?

15 MR. SCHAFFER: No.

16 CHAIR HILL: Oh, okay. Then you can --

17 SECRETARY MOY: I can make copies as he's giving  
18 his testimony.

19 CHAIR HILL: Go ahead.

20 MR. SCHAFFER: If I email it --

21 CHAIR HILL: Just go ahead and give it to Mr. Moy  
22 right there. Okay. You can go ahead and start.

23 MR. SCHAFFER: Thank you. I hope you'll take into  
24 consideration the testimony, but it'll take longer than three  
25 minutes to read. So I'll be as succinct as I can, especially

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1 because we're holding up lunch.

2 Thank you to all of you for taking the time to so  
3 thoroughly consider this application. It means a lot to us  
4 as neighbors. And I also want to thank Mr. Sullivan and Mr.  
5 Kearley because they have been working with the community,  
6 which is greatly appreciated.

7 And I think they're opening salvo is aesthetically  
8 not as displeasing as some have been. We greatly appreciate  
9 that as well. As Mr. Sullivan said, it's helpful. I'm here  
10 really to focus the Board's attention if I can on the -- and  
11 I'd love to focus the Office of Planning, too, but I don't  
12 see her there -- on the economic effect that this has and how  
13 that ties into as you say the thing that you are all -- the  
14 purpose you're here for, which is enforcing the zoning rules.

15 So if the standard is, for the special exception,  
16 is that it has to be in harmony with the purpose and intent  
17 of the regulations, I have heard anyone state what the  
18 purpose and intent of the regulations is.

19 But if I can quote from Subtitle E, 300.1, the  
20 purpose of the RF-1 zone, which is what this falls into, is  
21 to provide for areas predominantly developed with attached  
22 row houses on small lots within which no more than two  
23 dwelling units are permitted.

24 My focus today is on the three-unit conversion.  
25 This is not the first time since the 2016 change that a

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1 developer has proposed this. We have been successful in the  
2 past in convincing you all to let them have two but not  
3 three.

4           The reason it's so important to us as neighbors  
5 and part of the community is that we are emphatically not  
6 anti-development. I own one house, and my mother-in-law  
7 actually takes care of my children and owns the house next  
8 to us.

9           If we wanted to develop, I don't want to preclude  
10 that possibility, right? So we are not anti-development.  
11 The three units, the concern for me is that it will create  
12 economic incentives for other developers going far beyond  
13 this specific case so that the next time a neighbor puts  
14 their house on the market, we have extremely deep lots in  
15 Trinidad.

16           It's our great natural resource. That's why we  
17 have so many families. That's why the community is as strong  
18 as it is as Mr. Lee testified to earlier. And if developers  
19 are already competing with single families and others who are  
20 interested in taking advantage of those deep lots, if  
21 currently they're bidding 500 or 600 to buy and then flip and  
22 that works out a certain way for their calculations because  
23 of what they can sell two units for.

24           What they would be able to sell three units for  
25 is significantly more. And my concern is we will no longer

1 see anybody but developers acquiring houses as they come on  
2 the market. That's the main thrust of my remarks. And I  
3 think that, just to tie it into the standard, ultimately the  
4 decision that you make today will, because of the economic  
5 dynamic, go against the intent and purpose of the regulation  
6 and of the RF-1 zoning.

7 CHAIR HILL: Okay.

8 MR. SCHAFER: That's all.

9 CHAIR HILL: Thank you.

10 MR. SCHAFER: Yes.

11 CHAIR HILL: Ms. Rogers?

12 MS. ROGERS: Hello. I wrote a bunch of stuff or  
13 a few points that I was going to mention. However, everybody  
14 else has already brought it up. But I think the one main  
15 concern I have is taking a two -- he read the same citing  
16 that I read, that our neighborhood is zoned for two units.  
17 And you have to have an exception for three units.

18 And I am opposed to three units. The three units,  
19 to me, doesn't seem to bring in family people. There are  
20 several people living, I think, in the same unit. Well, I  
21 think of family as children. I don't care who has them, but  
22 they're children. And these people don't have children.

23 The houses that have been recently remodeled as  
24 single family homes have families. They've been there a few  
25 years. They've gotten pregnant and stuff, but the three

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1 units also demand more money. And I think that knocks out  
2 middle income people who can't buy an \$800,000, \$900,000  
3 condo.

4 But I guess my main focus is that I'm opposed to  
5 the three-unit conversions. By right is by right, so we have  
6 to go with that. I may have some issues about some of those,  
7 but no, existing owners can also benefit from the by right.  
8 They can add to their home in the zone.

9 We can't knock that, but I'm just truly against  
10 the three units. And because you have to have an exception,  
11 that should carry weight and not be approved. And that's it.  
12 That's all I think I have --

13 CHAIR HILL: Okay.

14 MS. ROGERS: -- because everybody has said  
15 everything that I had written down already.

16 CHAIR HILL: No, Ms. Rogers. That's all right.  
17 I don't have any -- does anybody have any questions for the  
18 witnesses? Okay. My only comment to you guys as far as --  
19 I mean the special exception, we have -- well, not have to.

20 If we think the criteria is met for the special  
21 exception, we're supposed to grant the special exception.  
22 It's whether or not we think the criteria is met for the  
23 special exception.

24 MR. SCHAFER: Can you --

25 CHAIR HILL: Sure. It's all in U320.2. And

1 that's where all the criteria is, okay. And the applicant  
2 did go through why they believe they've met the special  
3 exception criteria, and the Office of Planning has given  
4 their opinion as to why they've met the special exception  
5 criteria.

6 Then we can decide whether or not they've met the  
7 special exception criteria. And even if we don't like the  
8 project, we're still supposed to approve it because we're not  
9 -- we don't change the regulations and so just to kind of  
10 state those things.

11 Okay. Thank you guys for coming. Oh, please.  
12 You can go ahead. Ms. Rogers? Oh, sorry. Thank you.

13 MS. ROGERS: I did read OP's report, and they did  
14 go through every step why they recommend, what the regulation  
15 is and how the developers met or didn't meet or whatever.  
16 So I understand that.

17 And initially, I tried to address all the points,  
18 too, but my main concern in reading the report is unduly,  
19 substantially, significantly, adversely are adjectives that  
20 are subjective, and I don't know how that can be improved  
21 upon, if it can.

22 But a person living next to something that they  
23 don't like are adversely affected. And that's all I wanted  
24 to say.

25 CHAIR HILL: That's okay. And you can -- they've

1 been trying to struggle with that a long time. There's not  
2 a number. Those adjectives that you used are exactly  
3 correct. If somebody doesn't like you next door, but it  
4 could be like -- who knows, it could be like a foot, you  
5 know, and I just don't like it.

6 And they get -- not they, we get to determine  
7 whether or not that's adversely affected. Maybe that person  
8 is just being unreasonable, right. So in any case, thank you  
9 all very much. Oh, I'm sorry. The -- don't go anywhere.  
10 The parties get to ask question of the witnesses.

11 Does the applicant have any questions of the  
12 witnesses?

13 MR. SULLIVAN: No, thank you.

14 CHAIR HILL: Okay. Does the party status in  
15 opposition have any questions of the witnesses, of their  
16 testimony?

17 MR. HAILES: No, sir, not at this time.

18 CHAIR HILL: Okay. Commissioner, you have a  
19 question of the witnesses?

20 MR. LEE: I just have a final statement.

21 CHAIR HILL: Okay. Then you don't have any  
22 questions. Okay. Excuse me. Okay. You guys are excused.  
23 Thank you.

24 VICE CHAIR HART: I have a question.

25 CHAIR HILL: Okay. Vice Chair, you have a

1 question?

2 VICE CHAIR HART: Yes. This is for Mr. Sullivan.  
3 Can you talk about -- we've talked about Mr. Hailes property,  
4 which is one side. Can you talk about the other side as well  
5 and kind of what they have -- where they are -- where the  
6 owner is with this proposal? Are they supportive? Are they  
7 -- did you reach them? Are they not supportive?

8 MR. SULLIVAN: I'd rather -- so the owner has  
9 spoken with them several times, and they have remained  
10 neutral. They didn't express any concerns, but also didn't  
11 express a wish to openly support it.

12 MR. HAILES: Excuse me?

13 CHAIR HILL: Give me one second. Can you turn  
14 your microphones? Thanks.

15 MR. HAILES: Excuse me.

16 CHAIR HILL: Give me one second. Just he was  
17 asking a question of the applicant. Give me one second.

18 MR. HAILES: I'm sorry.

19 CHAIR HILL: That's all right.

20 VICE CHAIR HART: So I'm just trying to think of  
21 what neutral -- they declined to make any --

22 MR. SULLIVAN: Statement.

23 VICE CHAIR HART: -- statement in favor or --

24 MR. SULLIVAN: They are aware of this and he has  
25 spoken to them. It's a new owner that I think recently

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1 renovated that house as well.

2 VICE CHAIR HART: Okay. All right. That's it for  
3 me.

4 CHAIR HILL: Okay. Mr. Hailes, you'll have an  
5 opportunity to make a closing statement, but did you have a  
6 comment?

7 MR. HAILES: Yes, sir. My wife and I had the  
8 opportunity to speak to the owner at 1115, and he expressed  
9 to us that he was opposed to the project.

10 CHAIR HILL: Okay. So that's -- I don't have  
11 anything. Hearsay, I guess it is.

12 VICE CHAIR HART: Yeah, for right now, because we  
13 don't have anything that is in the record that said it is for  
14 or against -- I understand you may have had a conversation  
15 with them. The applicant also said they had some  
16 conversation with them and that they were going to remain  
17 neutral.

18 To the property owner, I don't know if it's being  
19 rented out or if the property owner actually lives there.  
20 And it looks like we have a comment.

21 MR. SULLIVAN: To be clear, they didn't say I'm  
22 remaining neutral. I just assumed that from their lack of  
23 input.

24 VICE CHAIR HART: I'm sorry. I shouldn't have  
25 characterized it that way.

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1 MR. SULLIVAN: No, but that was my mistake.

2 VICE CHAIR HART: We don't have anything in the  
3 record, so we don't know where they are with it, but there  
4 have been some conversations with this person --

5 MR. SULLIVAN: They are aware, yes.

6 VICE CHAIR HART: -- with the owner of the  
7 property.

8 CHAIR HILL: Okay. I'm trying to get through this  
9 quickly. Mr. Horgan, have you got a quick comment?

10 MR. HORGAN: Yeah, I've spoken to the owner  
11 several times just to keep them informed. They're very well  
12 aware. When I spoke to them, they were just like they're  
13 okay as long as it doesn't decrease their property value.

14 CHAIR HILL: So again, it doesn't matter. Like  
15 you can't speak on their behalf anyway, so that's fine.  
16 Okay. So we're going to go ahead. And anybody have any more  
17 questions? Sure.

18 COMMISSIONER MILLER: Thanks. Just one question  
19 of the applicant. Is the applicant willing to go back to the  
20 ANC and see if you can reach an agreement on this, the  
21 location of the accessory structure, understanding that it  
22 would require additional different relief from this Board?

23 MR. SULLIVAN: We cannot go back to the property  
24 line. And, in fact, we'd need more than just parking relief.  
25 We'd need relief from the middle --

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1 COMMISSIONER MILLER: What is the relief you would  
2 need?

3 MR. SULLIVAN: We would need relief from the  
4 center line setback from the alley as well, but it's not so  
5 much the relief --

6 COMMISSIONER MILLER: Would that be special  
7 exception or variance?

8 MR. SULLIVAN: I think that one's still a  
9 variance, but often granted. I wouldn't be concerned about  
10 the relief. I'm more concerned about the economics. I think  
11 it makes it unable to make a third unit back there.

12 And then in that case, they would prefer to have  
13 a larger addition in the front and not have an accessory  
14 building. Or you could do an accessory buildings. The  
15 things have been talked about is just doing two units or  
16 getting three in the front and having a matter of right  
17 accessory building just for incidental use for the three  
18 units, which could still be 20 feet and 450 square feet in  
19 the same location.

20 So that works better than -- it kills the  
21 economics to have a parking space underneath the unit.  
22 There's not enough room to make that work.

23 COMMISSIONER MILLER: No, I was just talking about  
24 with the parking relief though.

25 MR. SULLIVAN: No. Well, even with the parking

1 relief, it doesn't work economically.

2 COMMISSIONER MILLER: Okay.

3 MR. SULLIVAN: But, and we have discussed this  
4 before as a compromise to do the 10 foot addition and move  
5 5 feet back. We'd be happy to take the time to do that even  
6 if it causes continuance, which it will. But I don't have  
7 any indication that they prefer that.

8 CHAIR HILL: Okay. I was going to get to this at  
9 the end. So you answered Mr. Miller's question. I'm going  
10 to sum up, but thank you because I did want to get to that  
11 at the end anyway.

12 So Commissioner Lee, you're going to get a couple  
13 minutes here for a closing and so are you, Mr. Hailes. And  
14 that, by the way, isn't in the regulations but what we do  
15 here or what I do here, so you can go ahead and give us a  
16 closing.

17 MR. LEE: Okay, yes. Just like in closing, we are  
18 willing to negotiate and same with the economic impact on the  
19 applicant, we would also like to state the economic impact  
20 on the neighbors.

21 And driving the costs of their property value up,  
22 not only for real estate tax purposes, but we are willing to  
23 negotiate if we can get a compromise. We understand we have  
24 to compromise. So I can't make a blanket statement as the  
25 chairman and say no, I cannot accept. This property is not

1 in my ANC. I would defer to the Commissioner and those  
2 neighbors, and we all have to vote. And we have three  
3 Trinidadian ANC commissioners, and it's a seven-member ANC.  
4 So it would have to be voted on by the whole body.

5 CHAIR HILL: Got it. Okay. Is that your  
6 conclusion?

7 MR. LEE: That's my conclusion.

8 CHAIR HILL: Okay. Mr. Hailes, do you have  
9 anything to say at the end?

10 MR. HAILES: I'm not a staunchly opposed person  
11 to any type of development. I understand change is  
12 inevitable. I just want it done in I think a responsible  
13 fashion. And I'm willing to talk to these gentlemen at some  
14 future point. Maybe we could come to some sort of solution.

15 CHAIR HILL: Sure. Okay. So, Mr. Sullivan, I'm  
16 going to give you a conclusion, and Mr. Miller just stole my  
17 thunder a little. So I don't know. Like I don't think we're  
18 going to vote today. And this is the problem that I'm even  
19 having.

20 I don't want to get too involved in this, I guess,  
21 is that the ANC was opposed to the third unit, right, so even  
22 if you went back and tried to figure out how you could maybe  
23 take another bite of the apple with ANC and get what you  
24 need, it sounds like there is some kind of configuration that  
25 you might be able to do coming back for different relief to

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1 somehow maybe get the ANC's approval.

2 I'm not saying that you necessarily need to do  
3 that. I'm saying that probably we're going to take a little  
4 time to think about this. And if you do think that you would  
5 be interested in working with the ANC some more, then we  
6 might have a continuance.

7 And so, that I guess is what I'm asking I suppose  
8 in terms of if you think there is any kind of effort that the  
9 client might be interested in continuing to work with the ANC  
10 or if you think you'd just like to leave it the way it is.  
11 And I don't think we're going to vote today.

12 I need time to think about all this. We've taken  
13 a lot of testimony. And so we'll keep it with the  
14 application, and then we'll vote later. Do you have a  
15 thought?

16 MR. SULLIVAN: I think that the issues raised by  
17 the ANC are mostly what I call zoning commissioner arguments  
18 or comp plan arguments. They're more macro arguments, and  
19 so I don't know that we can satisfy them. But we would like  
20 the opportunity to work with Mr. and Mrs. Hailes.

21 And I think even if they end up not supporting it,  
22 they might like it better, a little better than what we're  
23 proposing, because that is an option for us, to go back  
24 another five, to shrink. And we would actually be removing  
25 relief, not adding relief.

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1           Like I said, we can't go all the way back, but we  
2 can go back a little bit and then add more to the principal  
3 building.

4           CHAIR HILL: I understand.

5           MR. SULLIVAN: But that is more macro. They might  
6 not like that, but we're willing to take that chance.

7           CHAIR HILL: That's fine. That's good. Do you  
8 have anything in conclusion because then --

9           MR. SULLIVAN: Not at this point. Would that be  
10 a continued hearing?

11           CHAIR HILL: We'd have a continued hearing. So  
12 we're going to go ahead and have a continued hearing. We're  
13 going to reschedule this and have an opportunity for the  
14 applicant to go ahead and work with the ANC and the party  
15 status and see where we get the next time we're here. Okay.

16           And so it's a continued hearing limited only to  
17 any changes that the applicant might have to their  
18 application. And that would mean then going back to I guess  
19 the Office of Planning, perhaps, which -- God, and the full  
20 ANC.

21           So Mr. Sullivan, I mean if you thought -- how long  
22 do you think you might need? Obviously, the best thing is  
23 that somebody removes their opposition. If you could somehow  
24 get everybody's blessing, it would be worthwhile, right. So  
25 you think that -- how much time do you think you need to

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1 redesign, go back to the ANC, go back to the Office of  
2 Planning, and come back to us.

3 MR. SULLIVAN: If I can have 30 seconds to talk.  
4 The ANC meeting is December 10th, and we believe we can have  
5 the redesign done in enough time before then to go to the ANC  
6 then and talk to the Hailes.

7 CHAIR HILL: And then based upon that you would  
8 then go to the Office of Planning or not?

9 MR. SULLIVAN: Well, the Office of Planning, I  
10 think I'm not concerned about them. I assume their schedule  
11 would fit in with that schedule.

12 CHAIR HILL: I'm just trying to figure it out.  
13 If you're going to come back for different relief and now --

14 MR. SULLIVAN: I think it would be -- yeah, I  
15 think the proposal would be less relief. But I understand  
16 if it's different relief that might take more time for the  
17 Office of Planning.

18 CHAIR HILL: Okay. All right.

19 MR. KEARLEY: The only relief I think we would  
20 need at that point would be, if they accept what we're  
21 looking to make, would be the three, conversion to three.

22 MR. SULLIVAN: And the habitability of the third,  
23 too. We'd be wiping out the lot occupancy.

24 CHAIR HILL: You'd still be able to keep the  
25 parking? Never mind. Figure out where you need to go. So

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1 go ahead. The 10th is the ANC. Mr. Moy, then when would we  
2 be back here?

3 SECRETARY MOY: In a very quick way then, if the  
4 ANC meeting is December 10th, we do have a hearing on  
5 December 11th. If you believe December 11th is too quick for  
6 a continued hearing, the next date would be December 18th.

7 CHAIR HILL: I think December 18th if I were  
8 because you've got to get some -- like I don't know where  
9 we're going to be. I think December 18th is probably the  
10 quickest. What does December 18th look like?

11 SECRETARY MOY: This would be the 12th case, but  
12 you know, it's a round number.

13 CHAIR HILL: Okay. Let's do it then. And then  
14 all right. So then you guys go ahead and go back. So this  
15 is the only thing that I want to do, if there are no changes,  
16 then we just need to have a decision.

17 Okay. So you can just go ahead and finish your  
18 conclusion right now, Mr. Sullivan. Is there anything else  
19 you need to add if there's no changes and you're just going  
20 to rest on the record?

21 MR. SULLIVAN: Just for the record, I would say  
22 that there's, our shadow studies are primary evidence showing  
23 there's no impact to shadow on the Hailes property and a  
24 minor impact on the property to the west and no windows, so  
25 we meet the special exception requirements.

1 Focusing on the special exception requirements and  
2 talk about regarding character, I think the building meets  
3 the placement. It has the rear yard requirements of the  
4 accessory building, and you saw three doors away is a 50 foot  
5 addition that's 40 feet high.

6 So I don't think it's out of character with the  
7 area back there. And it's set back in the front 6 feet,  
8 which the Board has typically said we don't need to have that  
9 third story be invisible. We just need it to be set back a  
10 bit. And I would actually refer to the ANC's committee's  
11 comments on that, that they actually like the design in the  
12 front of the building. So that's all I have.

13 CHAIR HILL: Okay. So I'm going to go ahead and  
14 close the record, except for anything you might have to add  
15 with regard to your meetings with the ANC and the party in  
16 opposition. If you come back with the same design, I suppose  
17 if you could submit something into the record that speaks to  
18 Mr. Miller's question about the color of the third story, and  
19 that's if you keep the original design.

20 And then we'll leave the record open for that.  
21 And then I guess then you'd have to leave the record open,  
22 and this is where this is an odd hybrid for me, in that if  
23 they came back with the same design and they would submit  
24 something into the record, the ANC would have to have an  
25 opportunity to respond to whatever was submitted into the



1 record on that same design? And that's a question for Mr.  
2 Moy.

3 SECRETARY MOY: I think there would be no harm in  
4 allowing that.

5 CHAIR HILL: Okay. So then that means -- I'm  
6 trying to get a date here for when Mr. Sullivan would submit  
7 something to the record if this was the same design.

8 MR. SULLIVAN: It might be best to say the 11th,  
9 the day after the ANC meeting and that still gives them a  
10 week to respond.

11 CHAIR HILL: Before the next thing. Okay. So  
12 Commissioner, there's two tracks here, and I'm shocked that  
13 I can keep this going on an empty stomach, is that you're  
14 going to go to the ANC meeting again on the 10th. On the  
15 11th, we'll see what happens, right.

16 They might come back here with the exact same  
17 design and submit something into the record stating so, which  
18 then means we will just have a decision on the 18th, okay.  
19 However, you will have an opportunity to submit something to  
20 their submittal from the 11th.

21 And in terms of the time, and this is also for the  
22 party in opposition, in terms of the time, we'll be back here  
23 on the 18th. So you'll have until I guess a couple days  
24 before the 18th. If you can get it to us, that would good.  
25 Is that clear? Okay. Is that clear, sir? Okay, great.

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1 All right. Then we're done, and we're going to  
2 take a quick break. We're probably going to try to make it  
3 through at least one case depending on who they -- if my  
4 colleagues beat me up. And then we're going to take lunch.  
5 Okay. Thank you very much for coming. Yes, Mr. Moy?

6 SECRETARY MOY: Just for my records --

7 CHAIR HILL: Sure.

8 SECRETARY MOY: So you're allowing responses to  
9 the applicant's filing after the ANC meeting, so if you allow  
10 responses from the ANC and the party in opposition, do you  
11 want to give a deadline to that prior to the December 18th?

12 CHAIR HILL: Well, I mean the problem is they have  
13 to have seven days, do they not?

14 SECRETARY MOY: Yes.

15 CHAIR HILL: So the deadline is the day of the  
16 hearing.

17 SECRETARY MOY: Okay. That's it.

18 CHAIR HILL: So I suppose then also now that we're  
19 going to keep talking about this, Mr. Sullivan, then you're  
20 going to submit -- if there was a new design, you would  
21 submit that on the 11th as well because you would have  
22 presented to the ANC on the 10th?

23 MR. SULLIVAN: Yes.

24 CHAIR HILL: And then the Office of Planning, if  
25 they had any comments on that new design, you could get that

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1 to us again by -- as soon as possible? Okay. All right.  
2 Mr. Moy, did that make sense?

3 SECRETARY MOY: I have it. This is fine, sir.

4 CHAIR HILL: Okay. All right. Thank you all very  
5 much.

6 MR. SULLIVAN: Thank you.

7 (Whereupon, the above-entitled matter went off the  
8 record at 12:16 p.m. and resumed at 12:33 p.m.)

9 CHAIR HILL: All right, Mr. Moy. Let's see where  
10 we go. Let's see where we get.

11 SECRETARY MOY: Thank you, Mr. Chairman. The  
12 Board is back in recess. The time is at or about 12:30 p.m.  
13 So if I can have the applicant to the table for case  
14 application number 20145 of Andrew and Courtney Briggs.

15 Caption advertised was special exceptions under  
16 Subtitle E, Section 5201 from the lot occupancy requirement,  
17 Subtitle E, Section 304.1 from the rear yard requirement,  
18 Subtitle E, Section 306.1 to construct a two-story rear  
19 addition to an existing attached principal dwelling unit, RF-  
20 1 zone. This is at 717 Kentucky Avenue SE, Square 1077, Lot  
21 0076.

22 CHAIR HILL: Okay. Can you please introduce  
23 yourself for the record?

24 MS. FOWLER: Good afternoon. I'm Jennifer Fowler.  
25 I'm the architect representing the homeowners.

1 CHAIR HILL: Okay, Ms. Fowler, since you've been  
2 here a number of times, I'm just going to get right to some  
3 of the issues or questions that I have.

4 I mean I've looked through the application as well  
5 as all of the analysis that we've gotten before us. Can you  
6 tell me a little bit about why there's no ANC report, or did  
7 that get put in the record, and I missed it?

8 MS. NAGELHOUT: It's Exhibit 37.

9 CHAIR HILL: Okay. So give me one second. So  
10 then could you speak to -- yeah, I guess you could speak to  
11 the application and also, again, some of the criteria for the  
12 application. I see that the Capital Hill Restoration Society  
13 had some concerns. If you would speak a little to their  
14 concerns, and go ahead and begin whenever you'd like.

15 MS. FOWLER: Okay. Thank you. Okay. So this is  
16 a modest rear addition. We are expanding 14 feet on the  
17 first floor and 18 feet on the second floor, so there's kind  
18 of a covered porch on the lower level.

19 On the first floor, we're actually aligning with  
20 the property at 719 Kentucky, and on the 715 Kentucky, we're  
21 going to be extending about seven feet past. We -- the  
22 purpose of the project was to add a bedroom on the second  
23 floor, so that was kind of the driving force between the --  
24 for the size of the addition.

25 What we've created is a very modest master bedroom

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1 with a bathroom, and we converted the rear bedroom into a  
2 closet space. We also decided to keep the open court between  
3 the two houses, and that was to kind of allow for some of the  
4 light to continue to access the house, the bedroom that's  
5 existing as well as to reduce the impact on the adjacent  
6 neighbor at 715.

7           So again, we're asking for the lot occupancy, and  
8 I think the thing that the restoration society had concerns  
9 with was the rear setback. The setback is going to be  
10 between 11 foot 7 on one corner and 16 foot 4 on the other  
11 corner because it's an angled rear property line.

12           So the average is 13.9 feet. In order to meet the  
13 standard of the setback if we were going to set back the 20  
14 feet, we would lose 5 feet on that second floor space. And  
15 looking at the plans, it would pretty much make it impossible  
16 to do what the client is hoping to achieve.

17           The first floor is really only going to be in the  
18 setback by 1 foot because we pushed that wall back. I think,  
19 you know, we are kind of within the 10 feet rear setback  
20 requirement.

21           We're not going more than 10 feet past the  
22 adjacent neighbors. Really the issue here is you have an  
23 angled alley where the lots get pinched as you move toward  
24 the north where properties to the south of this project have  
25 much deeper rear yards and the potential to add on much

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1 deeper additions.

2 CHAIR HILL: Okay. All right. Does the Board  
3 have any questions for the applicant?

4 COMMISSIONER MILLER: Quick question. You've been  
5 before HPRB or that's --

6 MS. FOWLER: This is not in an historic district.

7 COMMISSIONER MILLER: It is not a historic  
8 district. Okay.

9 MS. FOWLER: No, and we do have support from the  
10 ANC, and we have support from the adjacent neighbors as well.

11 COMMISSIONER MILLER: Yeah, I saw that.

12 CHAIR HILL: Okay. I'm going to turn to the  
13 Office of Planning.

14 MS. FOTHERGILL: Good afternoon. I'm Anne  
15 Fothergill for the Office of Planning, and we recommend  
16 approval of the two special exceptions. We find they meet  
17 the review criteria of Subtitle E, Section 5201 and rest on  
18 the record. And I'm happy to take any questions.

19 CHAIR HILL: Okay. Does anybody have any  
20 questions for the Office of Planning? Does the applicant any  
21 questions to the Office of Planning?

22 MS. FOWLER: No, thank you.

23 CHAIR HILL: Is there anybody here who wishes to  
24 speak in support? Is there anyone here who wishes to speak  
25 in opposition? Is there anything you'd like to add at the

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1 end?

2 MS. FOWLER: No, thank you.

3 CHAIR HILL: Okay. I'm going to close the  
4 hearing. Is the Board ready to deliberate? As I mentioned,  
5 I did not have any issues with this application necessarily.  
6 I had a couple of questions about outreach, and I do believe  
7 that I think they meet the criteria for us to grant the  
8 application.

9 I agree with the analysis that was provided by the  
10 Office of Planning as well as that now with the ANC 6B in  
11 support, and I will be voting. DDOT has no objections. And  
12 I will be voting in favor. Is there anything anyone would  
13 like to add?

14 I'd make a motion to approve Application Number  
15 20145 as captioned and read by the Secretary and ask for a  
16 second.

17 VICE CHAIR HART: Second.

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

20 (Chorus of ayes.)

21 MS. WALLACE: All those opposed? Motion passes.  
22 Mr. Moy?

23 SECRETARY MOY: Staff would record the vote as  
24 four to zero to one, and this is on the motion of Chairman  
25 Hill to approve the application for the relief requested.

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1 Seconding the motion is Vice Chair Hart. Also in support is  
2 Ms. John and Zoning Commissioner Rob Miller. No other member  
3 is present.

4 CHAIR HILL: Okay, great. Thank you, Mr. Moy.  
5 Thank you very much. We're going to try to get through  
6 actually -- we're going to try to get through two more, and  
7 so we'll see what happens. Mr. Moy, you can call our next  
8 case.

9 SECRETARY MOY: If we could have the applicant to  
10 the table to case application number 20147 of Christopher  
11 Lobb and Paola Barbara. Caption advertised for special  
12 exception under Subtitle E, Section 5201 from the lot  
13 occupancy requirements, Subtitle E, Section 304.1 non-  
14 conforming structures requirements, Subtitle C, Section 302.2  
15 to build a one-story rear addition and a two-story side  
16 addition to an attached principal dwelling unit, RF-1 zone  
17 at 148 11th Street SE, Square 989, Lot 26.

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

20 MS. FOWLER: Hi. I'm Jennifer Fowler. I'm the  
21 architect representing the homeowner.

22 CHAIR HILL: Okay, Ms. Fowler. As I know that you  
23 have been here before with us, I reviewed the entire record  
24 and I don't really have a lot of questions about this  
25 particular case.



1 I guess you can tell us a little bit briefly about  
2 the application in terms of what you're trying to achieve and  
3 how you're meeting the criteria for us to grant the relief  
4 requested. Please begin whenever you'd like.

5 MS. FOWLER: Okay. Thank you. So the two  
6 components of the project is there's a rear sun porch,  
7 actually a screened in porch that exists now, but it is non-  
8 conforming because we've over the 60 percent coverage.

9 So the idea would be to remove the porch and  
10 rebuild it into a conditioned space, which would be an  
11 expansion of their kitchen. It's going to be in the exact  
12 same footprint as the existing structure, and it will have  
13 the same height as well, only a one-story. So really just  
14 crossing over into a conditioned space there.

15 The second component is that we're adding an  
16 elevator shaft to the house in the existing dogleg. So we're  
17 hoping to add an elevator that accesses the first floor to  
18 the second floor.

19 We've created a seven foot kind of extension at  
20 the back of the court to allow for that. So the idea is that  
21 the homeowners are hoping to age in place and are planning  
22 for a future adaption to the house.

23 We have support from both neighbors. The neighbor  
24 to the north at 146 has supported the project. They do have  
25 windows kind of facing the rear yard in the dogleg, but they

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1 do not have any windows on kind of the wall that goes  
2 parallel to the property line.

3 So the impact will be minimal in terms of the  
4 sunlight to that neighbor. And there's going to be no  
5 windows actually at all looking onto their property. We are  
6 proposing some kind of faux windows just so that it's not  
7 like a blank brick wall, but it will be an outline elevator  
8 shaft there. That's all I have. I'll open it up to  
9 questions.

10 CHAIR HILL: Okay. Does the Board have questions  
11 for the applicant? I'm going to turn to the Office of  
12 Planning.

13 MS. THOMAS: Good afternoon, Mr. Chairman and  
14 members of your Board. Karen Thomas for the Office of  
15 Planning. We will rest on the record of our report. We  
16 believe the applicant has met the standards for special  
17 exception relief. Thank you.

18 CHAIR HILL: Does the Board have any questions for  
19 the Office of Planning? Does the applicant have any  
20 questions for the Office of Planning?

21 MS. FOWLER: No, thank you.

22 CHAIR HILL: Is there anyone here wishing to speak  
23 in support? Is there anyone here who wishes to speak in  
24 opposition? Ms. Fowler, is there anything at the end you'd  
25 like to add?

1 MS. FOWLER: No, thanks.

2 CHAIR HILL: Okay. I'm going to close the  
3 hearing. Is the Board ready to deliberate? Okay. As I  
4 mentioned at the onset, I thought this was relatively  
5 straightforward and I didn't have a lot of questions about  
6 it.

7 I do agree with the analysis the Office of  
8 Planning has provided as well as that of the applicant. I  
9 also am glad to see that the ANC 6B submitted a report in  
10 support as well as CHRS has given us a recommendation of  
11 support.

12 However, as I stated before, I believe they've met  
13 the standard for relief. To grant the relief requested, I'll  
14 be voting in favor. Is there anything anyone would like to  
15 add? I'm going to go ahead and make a motion to approve  
16 application number 20147 as captioned and read by the  
17 secretary and ask for a second.

18 VICE CHAIR HART: Second.

19 CHAIR HILL: Motion has been made and seconded.  
20 All those in favor say aye?

21 (Chorus of ayes.)

22 CHAIR HILL: All those opposed? The motion  
23 passes. Mr. Moy?

24 SECRETARY MOY: Staff would record the vote as  
25 four to zero to one, and this is on the motion of Chairman

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1 Hill to approve the application for the relief requested.  
2 Seconding the motion is Vice Chair Hart. Also in support,  
3 Ms. John and Zoning Commissioner Rob Miller. No other  
4 members present.

5 CHAIR HILL: Thank you, Mr. Moy. Thank you very  
6 much. All right. Let's see, Mr. Moy, if we can get through  
7 one more. Otherwise, I don't know if they're going to get  
8 through. We'll see what happens. If you want to go ahead  
9 and call the next one.

10 SECRETARY MOY: All right. Thank you, Mr.  
11 Chairman. So that would be Application Number 20149. This  
12 is of George Ingram and Lynn Hart, caption is for a special  
13 exception under Subtitle E, Section 5201 and then from the  
14 lot occupancy requirements, Subtitle E, Section 30411 to  
15 construct a two-story accessory structure at the rear of the  
16 existing detached principal dwelling unit, RF-1 Zone at 138  
17 11th Street SE, Square 989, Lot 31.

18 CHAIR HILL: Could you please introduce yourself  
19 for the record?

20 MS. FOWLER: Hi again. I'm Jennifer Fowler with  
21 Fowler Architects. I'm representing the homeowner.

22 CHAIR HILL: Hi, Ms. Fowler. Okay. So, and I'm  
23 repeating all this again because every time they just go to  
24 the case number they just see the same thing as before. So  
25 you've been here obviously several times before.

1           We have had an opportunity to review the record  
2 as well as the burden of proof that you have submitted. Is  
3 the tree still there?

4           MS. FOWLER: The tree is still there. There is  
5 an application pending with DDOT, and both the owner 138 and  
6 136 have kind of jointly applied for the tree. It actually  
7 is on the property 136, I believe.

8           The homeowner at 136 also intends to build a  
9 garage and will be coming to your Board in the next few  
10 months to get that approval as well. I do know that the  
11 Office of Planning has conditioned their support on the tree  
12 being removed. And obviously we understand that that needs  
13 to happen before this gets permitted.

14          CHAIR HILL: Okay. So you did apply for the  
15 permit to remove the tree?

16          MS. FOWLER: Yes.

17          CHAIR HILL: And both neighbors -- I'm sorry. The  
18 neighbor that has the tree is in agreement with removing the  
19 tree?

20          MS. FOWLER: Yes.

21          CHAIR HILL: All right. Okay.

22          MS. FOWLER: That's correct.

23          CHAIR HILL: All right. Then I suppose if you  
24 wanted to go ahead and tell us a little bit about the project  
25 as well as how you're meeting the criteria to grant the

1 relief and then begin whenever you'd like.

2 MS. FOWLER: Okay, great. So this is a two-story  
3 carriage house. We're merely asking for lot occupancy  
4 relief. We're not looking to add any living space. It's  
5 really more for garage and storage space on the second floor.

6 We are asking for -- it's within the 20-foot  
7 height limitation from the yard measurement and meets all the  
8 other requirements.

9 CHAIR HILL: One minute, Ms. Fowler. Just to let  
10 everybody know, we are going to take a break after this case.  
11 We're going to have lunch, and lunch will probably last at  
12 least 45 minutes, so just wanted to let everybody know.  
13 Thank you. Sorry to interrupt you, Ms. Fowler.

14 MS. FOWLER: No problem. So it is kind of in  
15 keeping with the rest of -- with many of the garages on the  
16 alley. I did submit photographs into the record that show  
17 there are numerous carriage houses, many that are original.

18 And there's also several that have been built in  
19 recent years. So it is in keeping with the alleyscape. It's  
20 a 30-foot wide alley, and there also are a number of  
21 habitable carriage houses on that alley.

22 Again, we have support from both neighbors. The  
23 neighbor next door plans to do an identical garage. And  
24 there's a number of other letters in the record. It's a  
25 pretty straightforward project.

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1           The only other thing I wanted to mention is we  
2 have historic approval, and they will be placing on the  
3 consent agenda, the historic, but they have conditioned that  
4 we drop the height to 20 feet from the yard.

5           So we will be reducing the height by one foot, but  
6 this all came about too late to really change the record at  
7 this point. So we will be reducing the height. And I don't  
8 know if we need to ask for some minor flexibility in your  
9 approval to make that change or we possibly just go through  
10 the modification form during permitting.

11           VICE CHAIR HART: When do you think that you'll  
12 --- When does the HPRB meet?

13           MS. FOWLER: I think it might be next week.

14           VICE CHAIR HART: So would you have the drawing?  
15 Did you say that you might have to change the height or that  
16 you would change the height?

17           MS. FOWLER: We will change. They will approve the  
18 project with the condition that it be 20 feet from the alley.

19           VICE CHAIR HART: Yeah.

20           MS. FOWLER: Right now it's 20 feet from the yard,  
21 so there's a one foot difference. But they were not  
22 requiring revised drawings. They're really just putting it  
23 into their staff report at this point.

24           VICE CHAIR HART: And does that mean that you  
25 would -- okay. And I guess what you're saying is you've

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1 learned this fairly recently.

2 MS. FOWLER: Yes.

3 VICE CHAIR HART: So correcting the drawings and  
4 then submitting the drawings was just -- it was just a time  
5 issue.

6 MS. FOWLER: Yes.

7 VICE CHAIR HART: Because I think that I'm a  
8 little bit concerned about the tree issue, and I think that  
9 that somehow that needs to be a better resolution to that or  
10 at least an understanding of what's going on with that.

11 MS. FOWLER: Okay.

12 VICE CHAIR HART: Because in some ways if the  
13 tree stays, then there may be a change of the --

14 MS. FOWLER: Totally different design. Exactly.

15 VICE CHAIR HART: Yeah, so it just seems like  
16 you're kind of betting on getting that approval.

17 MS. FOWLER: Okay.

18 VICE CHAIR HART: And this design would stay the  
19 same.

20 MS. FOWLER: Right.

21 VICE CHAIR HART: But if you don't get approval  
22 to remove the tree, then I'm not sure what the plans would  
23 be. And I'm not sure what your timing is for that tree to  
24 understand when that tree will be removed. And I don't know  
25 if you know that.

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1 MS. FOWLER: Right. I don't know that. But yeah,  
2 I think essentially the garage would probably not be built  
3 if that tree -- it's a very -- it's a big tree, and it's  
4 right along the property line.

5 VICE CHAIR HART: Is that a heritage tree or a  
6 special tree or something?

7 MS. FOWLER: I'm not really sure what the status  
8 of the tree is.

9 VICE CHAIR HART: I guess I can ask the Office of  
10 Planning. They seem to be --

11 CHAIR HILL: They want to go to lunch, too.

12 MS. FOWLER: Sorry to throw this wrench into it.

13 VICE CHAIR HART: Ms. Brown-Roberts looks like she  
14 wants to answer that, so.

15 CHAIR HILL: Okay. Do you have anything else to  
16 add, Ms. Fowler?

17 MS. FOWLER: No. Thank you.

18 CHAIR HILL: Okay. Turn to the office of  
19 planning, please.

20 MS. BROWN-ROBERTS: Yes. Good afternoon, Mr.  
21 Chairman and members of the Board. Maxine Brown-Roberts from  
22 the Office of Planning. I will go right into addressing the  
23 tree issue. I spoke to the arborist, subsequent to a report.  
24 And he informs me that the tree is a special tree and that  
25 they are going to grant the permit for it to be taken down,

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1 provided the applicant -- there's a fee the applicant has to  
2 pay for removing it. So provided the applicant pays that  
3 fee, they can remove -- they'll be able to remove the tree.

4 VICE CHAIR HART: Yeah, thank you. And I know  
5 that the fee is based on the size of the tree.

6 MS. BROWN-ROBERTS: Right, yes.

7 VICE CHAIR HART: And they'll figure out how to  
8 calculate that?

9 MS. BROWN-ROBERTS: Yeah. I think it's somewhere  
10 in the region of \$17,000.

11 VICE CHAIR HART: Did you have any idea on --  
12 that's a lot of money. Did you have any idea on what the  
13 timing is for that? I mean did they --

14 MS. BROWN-ROBERTS: I think they were supposed to  
15 send a letter to the applicant because he filed for the  
16 permit. They were going to send the letter stating their  
17 finding, and then the applicant could decide when he wants  
18 to pay to get it removed.

19 CHAIR HILL: Okay. Does anybody have any  
20 questions for the Office of Planning?

21 MS. BROWN-ROBERTS: Otherwise, we stand on the --  
22 Otherwise, the applicant has met the requirements for the  
23 special exception, and we recommend approval.

24 CHAIR HILL: Okay. And in terms of I guess, and  
25 I don't know if this is for the Office of Planning or the

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1 Board. In terms of the flexibility, so the design wouldn't  
2 change, so that wouldn't have any changes in the Office of  
3 Planning's recommendation, in terms of the one foot, is it  
4 lower?

5 MS. FOWLER: Correct. It would be a reduction in  
6 height.

7 CHAIR HILL: Reduction in height of one foot. So  
8 that doesn't change the Office of Planning's --

9 MS. BROWN-ROBERTS: No, it would not. We're fine  
10 with that.

11 CHAIR HILL: Okay. Does anybody have any further  
12 questions for the Office of Planning? Does the applicant  
13 have any further questions for the Office of Planning?

14 MS. FOWLER: No, I just want to thank her for the  
15 extra leg work with the arborist. Thanks so much.

16 CHAIR HILL: Before I move to close the hearing  
17 or determine whether we're going to deliberate, I mean does  
18 anybody have any issues with flexibility to work with the  
19 HPRB and the lowering the height by one foot?

20 VICE CHAIR HART: I don't. I just want to  
21 understand what I'm -- so the building height is -- there's  
22 a slope to the site, a one foot slope in the site?

23 MS. FOWLER: Yes, that's right.

24 VICE CHAIR HART: Because I was like this actually  
25 says 20 feet. But it says --

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1 MS. FOWLER: Yeah, the yard is slightly higher  
2 than the alley. And I've heard in the past I've heard people  
3 ask for flexibility for historic approvals, and I'm not sure  
4 if that's something you still do.

5 I know there is also a form that we can fill out  
6 during the permit process to note the changes and we can kind  
7 of notify all the parties. So that's another way to handle  
8 it.

9 VICE CHAIR HART: What I'm trying to think about,  
10 too, is and I understand what you're saying. Yes, we have  
11 had some flexibility. We tend to try to be very specific as  
12 to what that flexibility is.

13 This is a little bit strange in that we typically,  
14 you know, this is getting less height, less impactful if you  
15 may. So I don't know. I'm just -- I'm thinking about that.

16 COMMISSIONER MILLER: While Vice Chair Hart is  
17 thinking about that, I'll ask an unrelated question. Which  
18 exhibit is the letter of support from the adjacent neighbor?  
19 Is there a letter of support from the adjacent?

20 MS. FOWLER: Yeah, there's a letter from William  
21 Cromer and Elizabeth Rubacky.

22 COMMISSIONER MILLER: I see.

23 MS. FOWLER: They actually own 136 and 134, and  
24 then there is also the letter of --

25 COMMISSIONER MILLER: Okay. I saw -- that's what

1 confused me, because it didn't have the 136 on there, and  
2 that's what I was looking for. So they own 136?

3 MS. FOWLER: They own both. Yeah, there's at  
4 least two families that own multiple properties on that  
5 stretch.

6 COMMISSIONER MILLER: I see. Okay. You don't  
7 happen to have a copy of the tree permit application here  
8 with you?

9 MS. FOWLER: I don't. Unfortunately, my clients,  
10 they just got in from being out of the country, and that's  
11 why they're not here today.

12 COMMISSIONER MILLER: Okay.

13 MS. FOWLER: They have all the information.

14 COMMISSIONER MILLER: The Office of Planning  
15 testimony on that tree permit status satisfies my concern,  
16 and I had no problem with flexibility.

17 CHAIR HILL: Okay. Anyone else? Okay. Ms.  
18 Fowler, are you doing the next door neighbor's garage?

19 MS. FOWLER: Eventually, yes.

20 CHAIR HILL: Okay. Good. Let's see. I'm going  
21 to close the hearing. Is the Board ready to deliberate.  
22 Okay. I can start. I did not have a lot of issues with the  
23 relief being requested.

24 There was again the issue with the tree that we  
25 were trying to work through as well as now there is

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1 apparently an issue with flexibility to work with HPRB  
2 concerning lowering the height by one foot. And I would be  
3 comfortable with that.

4 I would also agree with the analysis that was  
5 provided by the Office of Planning, the support of ANC 6B as  
6 well as the support that they do have from a bunch of  
7 neighbors as well as CHRS.

8 However, again, as I mentioned in the beginning,  
9 I believe they meet the criteria for us to grant the relief  
10 being requested and I'll be voting in favor. Is there  
11 anything else anyone would like to add?

12 VICE CHAIR HART: Only that I appreciate the  
13 information from both the applicant and the Office of  
14 Planning in understanding this application and the, as you've  
15 noted Mr. Chairman, the tree issue. I am now comfortable  
16 about -- and I guess we would add that as a condition as you  
17 said.

18 (Off mic comments.)

19 Okay. So it is -- forget the issue about the tree  
20 then. I still would be in support of the application and I  
21 think the Office of Planning provided the information that  
22 I would be relying on as well as the applicant's information.  
23 So that's it.

24 CHAIR HILL: Okay. Let me just provide a little  
25 bit of clarification. I mean there was I guess an issue with

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1 the tree, but now we've kind of worked our way through that.  
2 And so, however, we couldn't -- yeah, so I'm not going to add  
3 it as a condition. I'm satisfied with how this has been  
4 talked through.

5 So I'm going to make a motion to approve  
6 application number 20149 as captioned and read by the  
7 secretary and also allow the applicants flexibility to work  
8 with HPRB concerning lowering the height by one foot and ask  
9 for a second.

10 VICE CHAIR HART: Second.

11 CHAIR HILL: Motion made and seconded. All those  
12 in favor say aye.

13 (Chorus of ayes.)

14 CHAIR HILL: All those opposed? The motion  
15 passes. Mr. Moy?

16 SECRETARY MOY: Staff would record the vote as  
17 four to zero to one, and this is on the motion of Chairman  
18 Hill to approve the application with the relief being  
19 requested as well as the language that's been cited by the  
20 chair in his motion. Seconding the motion, Vice Chair Hart.  
21 Also in support, Ms. John and Zoning Commissioner Rob Miller.  
22 No other members present.

23 CHAIR HILL: All right. Thank you, Mr. Moy.  
24 Thank you very much. Everybody, we're going to lunch. It'll  
25 take at least 45 minutes, so 1:45. Thank you.

1 (Whereupon, the above-entitled matter went off the  
2 record at 12:57 p.m. and resumed at 1:51 p.m.)

3 CHAIR HILL: All right, Mr. Moy. Whenever you  
4 like.

5 MR. MOY: Thank you, Mr. Chairman. For the  
6 record, the Board is back from recess and the time is about  
7 1:50 p.m. If I can call parties to the table to Case  
8 Application Number 20004 of General Services, Inc.

9 This is captioned and advertised for a use  
10 variance from a use restrictions, Subtitle U, Section 201.1  
11 to construct a new three story, mixed use building with  
12 ground floor office and storage space in the R-2 Zone. This  
13 is at 5415 through 5417 Eads Street, E-A-D-S, Northeast,  
14 Square 5231, Lot 16, 17 and 18.

15 CHAIR HILL: All right. Thank you, Mr. Moy.  
16 Actually, I -- Mr. Hart, started this one. I have read in  
17 but I'm going to let Mr. Hart just continue to lead this one.  
18 Thank you.

19 VICE CHAIRMAN HART: Thank you, Mr. Chairman.  
20 Welcome everybody, back from lunch. If we could introduce  
21 ourselves from my right to left.

22 MR. SULLIVAN: Good afternoon, Mr. Chairman and  
23 members of the Board. My name is Marty Sullivan on behalf  
24 of the applicant.

25 MR. TEASS: Good afternoon. My name is Will



1 Teass, a principal at Teass Warner Architect, here on behalf  
2 of the applicant.

3 MS. AKINLEYE: Good afternoon. Monreti Akinleye,  
4 General Services.

5 VICE CHAIRMAN HART: And can you spell your name  
6 -- your last name, please?

7 MS. AKINLEYE: First name is M-O-N-R-E-T-I and  
8 last name is A as in apple, K-I-N-L-E-Y-E.

9 VICE CHAIRMAN HART: Thank you.

10 MR. AKINLEYE: Good afternoon. My name is  
11 Olushela Akinleye, from General Services, Inc. And it's  
12 spelled O-L --

13 VICE CHAIRPERSON HART: Is it the same -- the last  
14 name spelled the same way?

15 MR. AKINLEYE: Yes.

16 VICE CHAIRMAN HART: Okay. Thank you.

17 MR. AKINLEYE: Okay.

18 VICE CHAIRMAN HART: Yes. If you could hit the --

19 COMMISSIONER GAFFNEY: Oh, I'm sorry.

20 VICE CHAIRMAN HART: It's okay.

21 COMMISSIONER GAFFNEY: Good afternoon, Mary  
22 Gaffney ANC Commissioner.

23 VICE CHAIRMAN HART: Welcome Commissioner. So Mr.  
24 Sullivan, we're back here. And I know that we've had a  
25 number of kind of fits and starts with the project so far or

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1 at least it's been on the agenda a number of times. And I'm  
2 struggling with a few things and I hope to understand this  
3 a little further or if you could just enlighten me.

4 I know that we were kind of looking for some --  
5 looking for some resolution to some of the things that were  
6 being discussed at the last hearing that we had. And with  
7 regard to the, I guess, the type of use that's going to be  
8 on the -- on that first floor because there was quite a bit  
9 of discussion about that. The Office of Planning is still  
10 in opposition to the -- to a portion of this relief. And I  
11 just need to understand where we are with it.

12 We -- I thought we were -- we might be getting  
13 some updated drawings, but those -- we haven't gotten those  
14 as well, so I'm little bit concerned that we have not  
15 proceeded, or at least I'm not -- I'm unsure as to where we  
16 are right now given some of the things that were discussed  
17 at the last hearing. And I'm not really sure why.

18 So if you could start with just an understanding  
19 of what the status is, that would be helpful in terms of the  
20 discussions that I think you were going to have with the  
21 Office of Planning or least understand how to -- how you're  
22 dealing with that, that'd be helpful for, I think, the Board.

23 MR. SULLIVAN: Okay. On -- regarding the Office  
24 of Planning, I did have some discussions with Mr. Mordfin on  
25 that. And to the end of would the Office of Planning be open

1 to supporting multi-family that, in place of the commercial,  
2 went to a considerable number of units in order to make  
3 development economically feasible. And they wouldn't support  
4 that any more than three units.

5 And also we've had further discussions with the  
6 ANC and they're very much in favor of the proposed use rather  
7 than a multi-family use. And so for those reasons, nothing  
8 has changed from the original request. And --

9 VICE CHAIRMAN HART: I think somebody's phone is  
10 going off.

11 MR. SULLIVAN: And so one thing we wanted to do  
12 here today, we could provide more information on the type of  
13 use, but also Dr. Gaffney, the ANC commissioner, is here as  
14 well to give their reasoning for why they support the  
15 commercial use over the residential use and to provide any  
16 more information regarding this specific proposal.

17 I know we were -- we have a hill to climb because  
18 of the Office of Planning's position on the variance relief  
19 but this is the only plan that works for them. So they kind  
20 have to stick to this and do the best we can with that  
21 argument. And we thought maybe if you heard from Dr. Gaffney  
22 that might be helpful too.

23 VICE CHAIRMAN HART: We have a question, please?

24 MEMBER JOHN: For Mr. Sullivan, excuse me. It's  
25 been some time, so could you explain again why it's not

1 possible to have residential space on the first floor, apart  
2 from the -- just from an architectural point of view? Could  
3 the first floor be raised sufficiently to create first floor  
4 residential use? Would that be one potential solution?

5 MR. SULLIVAN: I can have the architect answer  
6 that.

7 MR. TEASS: So I've brought up the presentation  
8 that we had in June. And I think it speaks to one -- a  
9 couple of the issues.

10 The first is the site is entirely within the flood  
11 plain. What's called the design flood elevation is  
12 approximately 18 inches above grade. So there's a solution,  
13 a design solution that you could elevate that ground floor --  
14 I'm sorry, you could elevate the lowest level of the building  
15 out of the flood plains to achieve a residential use.

16 I think there is an issue within the zoning  
17 regulations themselves that prohibit single -- or one and two  
18 family uses within the flood plain. And so there's a bit of  
19 a contradiction there.

20 I think the larger issue is that the single  
21 family, three individual units, from a use perspective, does  
22 not work for the owner. I don't know if that helps clarify  
23 that or not.

24 VICE CHAIRMAN HART: It doesn't -- it doesn't work  
25 economically, you're saying?

1 MR. TEASS: I think from -- in terms of the --  
2 what they see as the development potential of the site,  
3 correct, yeah, economically.

4 MEMBER JOHN: So I thought the Office of Planning  
5 approved the variance for the three unit residential  
6 building. So that would take care of one part of the  
7 objection, right?

8 MR. TEASS: Yes, that's correct.

9 MEMBER JOHN: Okay. And so what's left is the  
10 denial of the use variance for the office space. And that  
11 could be achieved by raising the ground floor. Do I  
12 understand it correctly?

13 MR. TEASS: Yes.

14 MEMBER JOHN: I'm just trying to understand what  
15 the issue is.

16 MR. TEASS: Sure. The issue is -- I mean the  
17 issue is fundamentally use. And so it's both from the  
18 owners' perspective of the non-commercial or non-residential  
19 use, but also from the ANC's perspective that -- from their  
20 -- and I won't put words in Dr. Gaffney's mouth. I'll let  
21 her speak to that. But the issue is the ANC support  
22 unanimously the mixed use proposal and it's my understanding  
23 they're not in favor of the alt residential option.

24 MEMBER JOHN: Okay. Thank you.

25 VICE CHAIRMAN HART: Okay. So I'm assuming, Mr.

1 Sullivan, that you're planning on going through the  
2 presentation because we've heard, at least my problem is that  
3 we've gone so many -- had so many kind of starts with this  
4 that we have seen -- at least I remember seeing quite a  
5 number of the aspects of the design and I didn't know if you  
6 were going to go through that. If you were going to focus  
7 more on the -- on this use variance that Board Member John  
8 just spoke of.

9 MR. SULLIVAN: We thought it might be a good idea  
10 to hear from the ANC first, hear their position. And then  
11 we can close with a summary of -- and it would go towards the  
12 use variance, yes, that's what we're focused on because we  
13 know the Office of Planning is supportive of the residential.  
14 So if that works for the Board, if we could hear from Dr.  
15 Gaffney and then --

16 VICE CHAIRMAN HART: Yeah, I don't have a problem  
17 with that. I just wanted to understand what you were -- how  
18 you were looking to go through the presentation, or your  
19 presentation for us.

20 MR. SULLIVAN: I think it was a summary of --

21 VICE CHAIRMAN HART: Okay.

22 MR. SULLIVAN: -- the points that we raised  
23 before.

24 VICE CHAIRMAN HART: Okay.

25 MR. SULLIVAN: Not to do a full presentation.

1 VICE CHAIRMAN HART: Okay. Commissioner Gaffney,  
2 thank you very much for coming. It looks like we're --  
3 you're up. If you could, provide us some information as to  
4 the viewpoint of the ANC on this application and why you're  
5 supportive of it.

6 COMMISSIONER GAFFNEY: Yes, I will do that.

7 VICE CHAIRMAN HART: Thank you. And can you move  
8 the mic down a little bit? It's a little hard to hear.

9 COMMISSIONER GAFFNEY: Could you hear me now?

10 VICE CHAIRMAN HART: Yes, thank you.

11 COMMISSIONER GAFFNEY: Thank you. Yes, the  
12 applicant came to three meetings in the community and at  
13 different organization in the community and made their  
14 presentations. After the presentation, where you know there  
15 are questions and whatnot asked and what have you. And to  
16 the conclusion that we supported them with this application,  
17 in the community there are funeral homes there. There are  
18 nurseries there and then there are schools in the community.

19 And with them having this program, a training  
20 program for the community, that helps engage the community  
21 in activities for those persons who want to learn how to  
22 participate or be trained to do certain professional jobs  
23 down the line. And we thought this was a good idea because  
24 in the community we don't have such program. We have to go  
25 such a distance in order to trying to find a program to

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1 engage the young ones. And some of the middle age who would  
2 like to pursue or continue a career.

3 So I thought this was, personally and community-  
4 wise, all the community, they thought this was a great idea  
5 for this type of program to be implemented in the community.  
6 There are many other programs. There are no training  
7 programs, no more than school and churches and what have you.

8 And we don't have anything. We even don't have  
9 a store, grocery store in the community. And we were, you  
10 know, all of those things we are deprived of. So here comes  
11 something worthwhile to help educate us coming in the  
12 community so we highly recommend approval for this.

13 VICE CHAIRMAN HART: Okay. Thank you. Are there  
14 any questions for the Commissioner.

15 CHAIR HILL: I'm sorry I -- I again read in, but  
16 I can't remember now. When you say the program, what was the  
17 program that's coming in?

18 COMMISSIONER GAFFNEY: The training.

19 CHAIR HILL: Is that in -- that's in the retail?

20 COMMISSIONER GAFFNEY: That's commercial.

21 CHAIR HILL: In the commercial.

22 COMMISSIONER GAFFNEY: Oh, excuse me.

23 MS. AKINLEYE: Yes, sir. Basically, the training  
24 programs that would be common there would be geared towards  
25 healthcare, IT and hospitality. And --

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1 CHAIR HILL: Right. But those -- I mean, I guess,  
2 just the Commissioners, you know that something -- that if  
3 the program were to change, we're making a variance for --  
4 it doesn't matter, it could be a different -- if they left  
5 and somebody else came in, they -- it would still be office  
6 use. You're aware of that, correct? Okay. You said yes.  
7 Okay.

8 MR. SULLIVAN: Well we would be happy to have it  
9 conditioned for that use. I think the Board can specifically  
10 condition use --

11 VICE CHAIRMAN HART: We can't --

12 MR. SULLIVAN: -- variances.

13 VICE CHAIRMAN HART: I mean I can ask our Office  
14 of Attorney General, but I don't think that we can condition  
15 it to a -- I think we condition -- it could be a commercial  
16 use. I'm not sure how much more we can, you know, limit that  
17 and --

18 MR. SULLIVAN: Well we've had some approved --

19 VICE CHAIRMAN HART: I'm actually waiting for the  
20 --

21 MR. SULLIVAN: Okay.

22 VICE CHAIRMAN HART: -- to --

23 MS. NAGELHOUT: You can. You can't limit it to  
24 a particular user but you can limit it to a category of uses  
25 such as what the applicant is proposing here.

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1 VICE CHAIRMAN HART: Okay. Are there any other  
2 questions for the Commissioner, Commissioner Gaffney, or, I  
3 guess, the applicant?

4 COMMISSIONER MILLER: I think it'd be helpful just  
5 for the record and in refreshing our own recollections and  
6 the public, to just go in for a couple minutes about the  
7 training program and who's being targeted in the community  
8 and how helpful it will be and how many people. And all --  
9 just if you can give a very over -- brief overview, even  
10 though you've done that before, and it's in the record.

11 MS. AKINLEYE: Actually, the training program will  
12 be geared towards youth empowerment as well as community  
13 empowerment. And just like Dr. Gaffney right here said  
14 earlier, it's equally geared towards middle age and senior  
15 citizens as well, basically everyone.

16 In the areas of healthcare is geared primary  
17 towards the youth in that we have a high school right in  
18 front of the training program and we are praying and hoping,  
19 and have actually met with some of the instructors in the  
20 school, HD Woodson, as well as some of the students. And a  
21 lot of them were very receptive to the program.

22 A lot of them would be trained too in healthcare  
23 as certified nursing assistant, homecare nursing assistant,  
24 homecare aides, and leading to -- becoming registered nurses  
25 or going to medical school if they so want. And moving to

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1 physical therapies and so many other areas of healthcare  
2 practices as well.

3 And in the areas of IT, we have students that  
4 might graduate and then they want to information technology  
5 and become trained as competent workers in the IT field in  
6 numerous areas. And in the areas of hospitality we have  
7 people that would choose to become food manager, ServSafe and  
8 all those things, and alcohol safety training.

9 COMMISSIONER MILLER: And how many folks are there  
10 to do the training on a daily basis?

11 MS. AKINLEYE: Well we --

12 COMMISSIONER MILLER: Or is it self-training?

13 MS. AKINLEYE: Yes. No, it's -- we're going to  
14 have instructors there.

15 COMMISSIONER MILLER: Right. So how many  
16 instructors would be on site?

17 MS. AKINLEYE: Personally, I am an instructor and  
18 I'm also an instructor-trainer in those areas as well. And  
19 I have committed co-staff and friends and associates that are  
20 ready to help -- to join hands in moving this forward as  
21 well, both in the healthcare field and the IT, as well as in  
22 hospitality.

23 COMMISSIONER MILLER: And how many --

24 MS. AKINLEYE: Students that can be --

25 COMMISSIONER MILLER: -- people can you train and

1 have in that space at any one time?

2 MS. AKINLEYE: In the -- depending on the -- once  
3 the building is built, we have ratio of one instructor to ten  
4 students.

5 COMMISSIONER MILLER: Ten students?

6 MS. AKINLEYE: But you can have maximum of one --  
7 ratio of 1 to 15 but we're trying to insure that those  
8 students really grasp the knowledge that they need so we are  
9 limiting this to ratio of 1 to 10 per class, per session.  
10 And we will be having both day classes and evening classes,  
11 as well as weekend, which is basically Saturday.

12 COMMISSIONER MILLER: And you anticipate that many  
13 people who will take -- avail themselves to this training  
14 would be walking to the facility or coming by foot or by car  
15 or by public transportation?

16 MS. AKINLEYE: Yes. Some maybe -- especially if  
17 -- most of the youth that I've spoken with --

18 COMMISSIONER MILLER: Yeah, the students across  
19 the street would obviously, might just be walking --

20 MS. AKINLEYE: Yes, mostly --

21 COMMISSIONER MILLER: -- across the street.

22 MS. AKINLEYE: -- they'll be walking across, yes,  
23 sir. And some of the neighborhood residents that I've spoken  
24 with are willing to walk to the area. But we might have some  
25 students that would commit or drive, whichever way they

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1 choose to --

2 COMMISSIONER MILLER: How do-- I'm sorry. I didn't  
3 mean to interrupt.

4 MS. AKINLEYE: No problem.

5 COMMISSIONER MILLER: And how do you -- you have  
6 this program operating elsewhere right now or no? This is  
7 a new program?

8 MS. AKINLEYE: It's a new program.

9 COMMISSIONER MILLER: Okay.

10 MS. AKINLEYE: In other dealings I have taught in  
11 some schools and also right now I'm an instructor for -- I'm  
12 a -- no, I've actually been an American High School Taxation  
13 instructor for over 20 years. And I've -- I'm currently  
14 hospitality instructor as well. And -- but this particular  
15 program is just beginning here at this location.

16 COMMISSIONER MILLER: And how do you think you  
17 will link up those being trained with -- these are jobs that  
18 are -- do seem to be abundant in the --

19 MS. AKINLEYE: Yes.

20 COMMISSIONER MILLER: -- in this city and in the  
21 region.

22 MS. AKINLEYE: Yes.

23 COMMISSIONER MILLER: But how would you link those  
24 being trained with actual job opportunities?

25 MS. AKINLEYE: Yes. We will be ready to assist

1 in job placements. In the healthcare field, I have  
2 personally, myself, I've worked in numerous hospitals across  
3 D.C., Maryland and Virginia. And I also -- we also have a  
4 pool of numbers of homecare agencies that are actually  
5 seriously looking for healthcare workers, competent and well-  
6 trained healthcare workers to fill those position.

7 There would be job placement opportunities for  
8 them that would be provided to the students, ones that  
9 graduate and after they become certified by D.C. Government,  
10 Board of Licensing. As well as in the IT field also we will  
11 help them with job placement as well.

12 COMMISSIONER MILLER: Just a couple more  
13 questions, Mr. Chairman. Do you have to get a business  
14 license or you already have a business license to do this  
15 type of training or do you -- or do you know that yet?

16 MS. AKINLEYE: Yes, I will have to get business  
17 license in the district. Nevertheless, having a location  
18 that is officially qualified to do that kind of -- to provide  
19 that kind of service in the district is part of the criteria  
20 they use to approve of the program.

21 COMMISSIONER MILLER: And what is, if you happen  
22 to know it, what is the unemployment rate in Ward 7? I know  
23 it's much higher than the citywide average. And so this is  
24 fulfilling a need that exists in the community.

25 MS. AKINLEYE: Yes. Basically, the last time I

1 checked, which was around August, Ward 7 and Ward 8 has the  
2 highest unemployment rate in the district, even as of today.  
3 I'm definitely sure of that.

4 COMMISSIONER MILLER: Did you -- you don't know  
5 the number -- the percentage though?

6 MS. AKINLEYE: I don't have that right --

7 COMMISSIONER MILLER: Okay.

8 MS. AKINLEYE: -- offhand.

9 COMMISSIONER MILLER: All right. Thank you very  
10 much for your -- my, everybody's indulgence to my questions  
11 about that.

12 VICE CHAIRMAN HART: No, it's fine. Actually, I  
13 think it's very helpful to have that. But I -- how many  
14 students are you looking to do? I didn't hear an actual  
15 number. Do you know?

16 MS. AKINLEYE: Well right -- to begin with we're  
17 looking at least 100 students that we can easily accommodate  
18 based on morning classes and evening classes, as well as  
19 Saturday classes.

20 COMMISSIONER MILLER: But you did say like 10 to  
21 15 at a time?

22 MS. AKINLEYE: No, per class, a ratio of 1 to 10.

23 COMMISSIONER MILLER: Oh, ratio was 1 to 10.

24 MS. AKINLEYE: Yes.

25 COMMISSIONER MILLER: Okay.

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1 VICE CHAIRPERSON HART: Okay. And I think the --  
2 Mr. Sullivan, I need -- I would like for you to step through  
3 the -- this variance test for me so that I can kind of  
4 understand further, or more fully, why this particular  
5 location, you kind of need to do that at this location.

6 Because while I understand that there may be --  
7 that there are other locations -- there are other uses in the  
8 vicinity, I have a hard time getting over the why this has  
9 to be here as opposed to, you know, two blocks to the north  
10 or -- and I understand that the owner, that the property --  
11 that the applicant may not own that property. I'm just  
12 saying that we have to have some way of understanding that  
13 beyond what we have right now. That's one thing.

14 Mr. Teass, I remember -- recall from, and I'm not  
15 exactly sure which meeting it was, but one of them there was  
16 a discussion about the entrance for the residential unit, the  
17 -- for the residences. It's on the, I'll call it that back  
18 of the building because it's not on the street side of the  
19 building.

20 And I think there was a discussion, or at least  
21 I had a request about having that not be on the back because  
22 it is, you know, people are trying to get into the building.  
23 It's just a little, it's an odd, you know, scenario. It's  
24 not an interior, you know, connection, it is an exterior  
25 connection which I just think -- I thought needed to be

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1 reconsidered. So if you could also address that. But first  
2 we can get to the zoning aspects of it, then we'll get to  
3 that question.

4 MR. SULLIVAN: So I'll have --

5 VICE CHAIRMAN HART: Do my board members, other  
6 board members have any other questions as well?

7 MEMBER JOHN: Yes. If Mr. Sullivan in his review  
8 would discuss OP's objection to the second variance because,  
9 you know, as you know, OP's recommendations and analysis are  
10 entitled to a great weight. So for the Board to grant the  
11 variance, we would need to have a basis to overcome OP's  
12 recommendation.

13 VICE CHAIRMAN HART: And, I'm sorry, I know I'm  
14 kind of tacking on all this stuff. There was a discussion,  
15 or at least I'm trying to remember where I saw this now, but  
16 the parking that you're putting in, you're putting in a lot  
17 of pavement for this site because of the parking requirement.  
18 And if you could just kind of describe that as well. Yes.  
19 It basically -- DDOT had, you know, that's some concern that  
20 they have, so. I guess DDOT and maybe DOEE. So that's it.  
21 If you could move through each one of those, Mr. Sullivan,  
22 that'd be very helpful.

23 MR. SULLIVAN: Okay. Thank you. I'd like to turn  
24 it over to the architect to go through the information we  
25 have on the record for the variance test and then at the end

1 of that I can summarize and discuss the Office of Planning's  
2 objection.

3 MR. TEASS: I think it's worthwhile to reexamine  
4 the existing context of the property. So this is the aerial  
5 photo that shows HD Woodson High School to the north, to the  
6 South Watts Branch. There is a -- it's U.S. federal property  
7 to the west and then to the east is an existing apartment  
8 building. So there's really not a pattern of single family  
9 development around this particular property which goes, I  
10 think, to the uniqueness of the particular site.

11 There is an existing paper alley and I'll come  
12 back to that in the discussion of site -- vehicular site  
13 circulation. As you move east down Eads Street there are  
14 some single family developments but there's also a large  
15 church and the daycare facility that the ANC commissioner  
16 previously alluded to. Again the aerial photos depict what  
17 was seen in the overhead in that there's really, you know,  
18 there's just not that single family pattern of development  
19 here.

20 Some views of the site of the existing apartment  
21 building which is technically a non-conforming use. The  
22 existing site plan -- one thing I do want to call your  
23 attention to is there is a paper alley at the south property  
24 that acts as this 55th Street. This is related, I think to  
25 the DDOT comment about their preference for, instead of

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1 having a curb cut off of Eads Street is that introducing  
2 vehicular traffic through the alleyway.

3 And I think the request was that they wanted to  
4 see the alley paved. I think the challenge that you see here  
5 in the aerial view is that that paper alley really overlaps  
6 with Watts Branch, Marvin Gaye Park and so reintroducing --  
7 there is a curb cut along 55th Street. However, you know,  
8 introducing that as opposed to introducing the curb cut off  
9 of Eads Street where you've already got, you know, parking  
10 access for the school and some service access, we felt  
11 strongly that it was more appropriate to have that --

12 VICE CHAIRMAN HART: Is that where the curb cut  
13 is?

14 MR. TEASS: Correct, where you circled that.

15 VICE CHAIRMAN HART: Where it's circled? Okay.

16 MR. TEASS: Yes. And there's a, sort of a  
17 concrete jersey wall barrier you can see in the lower right  
18 hand image, blocking that, preventing vehicles from driving  
19 down.

20 VICE CHAIRMAN HART: Okay.

21 MR. TEASS: So the proposal as it stands currently  
22 is a new three story structure with the curb cut off of Eads  
23 Street, providing six parking spaces at the rear. We did  
24 have some discussion at the previous hearing about the  
25 entrance to the building and I, you know, certainly

1 understand the concerns about access.

2           And I think certainly the plans can be amended to  
3 provide a more -- the residential access be more oriented to  
4 Eads. And I think we'd be willing to do that. However, I  
5 think we do feel strongly that the curb cut off of Eads  
6 Street is a more appropriate solution given that the paper  
7 alleyway is currently part of the park system.

8           The section here --

9           VICE CHAIRMAN HART: Could you go -- could you go  
10 back to the --

11           MR. TEASS: Yes, sir.

12           VICE CHAIRMAN HART: So Eads Street is to the  
13 north of this.

14           MR. TEASS: Correct.

15           VICE CHAIRMAN HART: And 55th is to the east.

16           MR. TEASS: Correct.

17           VICE CHAIRMAN HART: Okay.

18           MEMBER JOHN: And could you point out the curb  
19 cut?

20           MR. TEASS: So the existing curb cut off of 55th  
21 Street exists here. That curb cut doesn't -- it opens simply  
22 to the sidewalk. And then there's a jersey barrier that  
23 prevents anybody from traveling further down. Going back to  
24 the aerial, you can see the existing paper alley, note right  
25 here. Does that answer the question?

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1 MEMBER JOHN: I still don't know how this would  
2 work. So if you could sort of map out for me how --

3 MR. TEASS: Certainly.

4 MEMBER JOHN: Yeah.

5 MR. TEASS: So I think DDOT's vision is that cars  
6 would enter in off of the -- you know, the paper -- the alley  
7 would be paved and that you would enter the site from the  
8 rear as is fairly typical. And that you would eliminate the  
9 curb cut onto Eads Street.

10 And the preference would be to maintain the curb  
11 cut off of Eads, but if it was something the Board felt that  
12 needed to be addressed by introducing the paper alley -- or  
13 making the paper alley a true alley, I think we'd certainly  
14 be willing to consider that. I just -- it seems  
15 counterintuitive to take green space away from a park to do  
16 that when you can have a perfectly reasonable solution from  
17 Eads.

18 The section of the building here shows the non --  
19 the office training facility use at the lower level. We also  
20 depict here what's called the BFE, which is the Base Flood  
21 Elevation. That's the probable location of where the flood  
22 waters would rise, so there is a possibility to raise the  
23 lowest level of the building and the flood regulations  
24 dictate that you need to be at least 18 inches above that.

25 So you still could do -- there was some discussion

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1 about the, you know, the number of stories at the previous  
2 hearing. It's still possible to have a three story building.  
3 You would just have to raise that lowest level out of the  
4 flood plain.

5           One of the comments that came up during our  
6 numerous community meetings was the vocabulary of the  
7 exterior. There was some -- originally we were looking  
8 something more toward matching the brick of the adjacent  
9 three story building. And the community felt strongly that  
10 that wasn't an appropriate response. And so we redesigned  
11 the façade to take some inspiration from Woodson with both  
12 the material and color pallet.

13           But again, showing the extent of -- at the lower  
14 level of the, you know, really a commercial store front that  
15 would really open up the lower level training facility to the  
16 street. As I mentioned, I think we can certainly accommodate  
17 a residential entry, you know, within that system to address  
18 Commissioner Hart's concerns.

19           Some of additional elevations of the space. This  
20 is that access at the rear which would go away in the event  
21 of reconfiguration of the internal circulation. Showing that  
22 ground floor right now without any sort of demising or  
23 bathrooms or anything like that. Just understanding that  
24 there is space down there to conduct those training  
25 facilities. Thinking about a residential unit that's two

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1 levels, a lower level and an upper level. Thinking about  
2 some of the exterior materials.

3 This is -- the top two images are the images of  
4 Woodson and the bottom two are some precedence that we took  
5 to the community that were responded well to. And I think  
6 already spoke to some of the uses previously, but we've  
7 included them in the Power Point as well.

8 At this point I'd like to conclude my portion of  
9 the testimony and happy to answer any questions or go to Mr.  
10 Sullivan.

11 VICE CHAIRMAN HART: Yes. I'm sorry. I -- as I  
12 recalled from the last meeting, I was really trying to have  
13 a -- I mean, have an entrance for the -- if you're looking  
14 to have this building front on -- or at least the, you know,  
15 the building front on Eads Street, it just seems like a  
16 disservice to have the stairs on the rear of the building.

17 I'm not -- I haven't even gotten into the use  
18 issue yet, but, and maybe I missed the information in the  
19 record. Is there information in the record about the  
20 financial issue with the -- the economics of this? Because  
21 from reading this, you elevate the -- a single family house.  
22 I understand that you're saying that there are not other  
23 single family houses on this portion of this street, but they  
24 are in the neighborhood.

25 If you elevated three feet then you are, you could

1 build a house above that. A foot and a half, which is the  
2 BFE, and then another foot and a half which is -- seems like  
3 it's not insurmountable. I can understand if this were --  
4 if the BFE were, you know, ten feet and that you're adding  
5 another foot and a half above that. Then you're kind of  
6 losing a story and I can kind of understand that.

7 But in this instance, you're -- the, you know,  
8 zoning is saying that wherever the Base Flood Elevation is,  
9 the BFE is, you're adding another foot and a half on top of  
10 that, 18 inches on top of that. Then you get to, again, I'm  
11 just adding them together. It's-- it seems like it's three  
12 feet. And above that, then you could, you know, build three  
13 single family homes. And I'm not getting the why that can't  
14 that happen.

15 And right now you're asking for something that is  
16 beyond what is allowed in zoning. And the commercial use,  
17 which I understand there may be some -- there are some, you  
18 know, very interesting training opportunities that could  
19 happen here. But I'm not seeing why those training  
20 opportunities can't happen, again, three blocks to the north  
21 or, you know, some other location. Because, you know, what's  
22 being requested here is outside of what is, excuse me,  
23 outside of what is allowed under zoning.

24 And those two pieces are just not, and maybe I'm  
25 just being a little thick today, but I just don't get that.

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1 And I understand that there are -- there's some economic  
2 issues that's there but I don't know what that economic, you  
3 know, issue or problem is. Or at least it has not been  
4 described to me in any detail.

5 MR. SULLIVAN: I think there's two areas that  
6 we're trying to focus on for a possible rationale for a use  
7 variance. Admittedly, neither one of them overwhelming. But  
8 I hear your point about the residential.

9 I think the exceptional condition -- and it's not,  
10 our position isn't that the -- necessarily that the use  
11 itself has to be here, but it's that the residential doesn't  
12 work. Not just because of the flood plain, and I think we  
13 might lose some ceiling heights which would be maybe a  
14 difficulty, not a hardship. But it's -- if you could bring  
15 up the overview. It's that this location here with  
16 everything around it, it's kind of a dead end outpost that  
17 makes the matter of right residential more difficult. And  
18 argues for the addition of a more active populated use, I  
19 guess I would say, that does maybe makes the residential  
20 safer or more marketable. And we would -- you would probably  
21 -- if that's where we're going, if there's any opportunity  
22 for that, maybe you would need more information from a real  
23 estate agent or something like that. But that's another  
24 aspect of it besides the flood plain issue which has just --  
25 limits our ceiling heights, I think. And limits the ability

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1 to go as high as you would or to fill out a building at 35  
2 feet and three stories. And also, it prohibits doing a lower  
3 level which might have some impact on that too. Thank you.

4 VICE CHAIRMAN HART: So you're -- you would have  
5 -- you could possibly do three stories and if you're looking  
6 at any -- but no basement. And so you would -- but you could  
7 do three units. But you're saying that there some other  
8 issue with regard to -- and Mr. Teass you brought this up  
9 earlier, with regard to your reinterpretation of the zoning  
10 regs that noted that there couldn't be a single family or two  
11 family dwelling units in a flood zone, a flood plain. Did  
12 I --

13 MR. TEASS: Right. There's prohibited uses there  
14 in the zoning regulations, singles and flats are prohibited.

15 VICE CHAIRMAN HART: Can you describe that a  
16 little bit more?

17 MR. SULLIVAN: Sure. I can find the provision of  
18 the regulations that addresses that. It's in subtitle -- let  
19 me see where it is.

20 MEMBER JOHN: C 1100, is that one you're asking?

21 MR. SULLIVAN: Right. It's in the waterfront  
22 zones of the general rules. Thank you.

23 MEMBER JOHN: So while you're looking for that,  
24 so even with the office use would you still have to raise the  
25 building above the flood plain? What if there's a flood?

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1 The office would still get flooded, right? Just a practical  
2 question.

3 MR. TEASS: Sure. I'd be happy to answer that.  
4 So there are two ways when you deal with non-residential  
5 construction. You can either design the building out of the  
6 flood plain, raising it 18 inches above the Base Flood  
7 Elevation, or you can design the building to be -- to coexist  
8 with the flood. And so there's a series of details that are  
9 -- sort of allow water to come in and out of a building.  
10 It's really up to the owner as to how they want to -- the  
11 design solution that they want to employ.

12 Whether or not you want to think about, you know,  
13 I think the most practical application would be to locate  
14 the, you know, the entire ground floor out of the flood  
15 plain. But there's also a perfectly legitimate design  
16 solution that says you can allow water to flood and  
17 everything just has to be made out of, you know, for example,  
18 you can use wood and you have to -- you assume the building's  
19 going to flood. And then you have to make sure there's a way  
20 for the water to get out.

21 MEMBER JOHN: So just spit balling, the cost of  
22 doing residential units on that first floor would really be  
23 more expensive then the least intrusive, no not intrusive,  
24 then just letting the water run out, that option? So if you  
25 built the first floor so the water could run out and you

1 didn't raise the level of the first floor, right? That would  
2 be a less expensive option, just spit balling, then building  
3 it so it could accommodate residential use with all of the  
4 more -- the residential code requirements for that first  
5 floor?

6 MR. TEASS: Yes, I think that's a fair statement,  
7 correct.

8 MEMBER JOHN: Okay. Thank you.

9 MR. SULLIVAN: And it's 112 -- C 1102.4 says the  
10 following uses are prohibited within a 100 year flood plain  
11 and residential uses with only one or two dwelling units are  
12 on that list.

13 VICE CHAIRMAN HART: 1100. --

14 MR. SULLIVAN: Yeah, Subtitle C, 1102.4.

15 VICE CHAIRMAN HART: Thank you. What else are we  
16 -- We'll be starting -- I think you're still responding to  
17 the use issue or we -- have we concluded with that?

18 MR. SULLIVAN: No, I don't think we have anything  
19 else on that.

20 VICE CHAIRMAN HART: Are there any questions for  
21 the applicant? Okay. Let's move to the Office of Planning.  
22 He looks excited over there. Good afternoon.

23 MS. THOMAS: Good afternoon, Mr. Chair. As  
24 presented, we would have to stand on the record of our  
25 report. I'd just like to flip the script a little bit. This

1 is -- what is essentially being proposed here is a -- seems  
2 to be, and I'm not the zoning administrator, it's a mixed use  
3 building. It's a mixed use in a low density, residential  
4 zone. So that, on the face of it, whether flood plain or  
5 not, I don't see how that could have been permitted.

6           What the applicant has said here today seems quite  
7 different to what a typical commercial use is usually laid  
8 out as, office use or something. What I see from here is,  
9 like I said I'm not the zoning administrator, but I see a  
10 community based use. I think it could have one, but it can't  
11 have both within that facility. If you have a -- or they  
12 could move that community based use possibly to the church  
13 next door.

14           That community based use would carry different  
15 types of criteria for an evaluation. I heard 100 people  
16 coming in. When we look at what a community based use is in  
17 a community facility in the zoning regs, you have different  
18 criteria. So the way I'm looking at that is as, you know,  
19 a separate entity. Excuse me. A community based use is  
20 permitted as a special exception in this zone.

21           And so maybe they need to get some type of  
22 clarification from the zoning administrator. And I don't  
23 know if they did, but as to what that use is they're  
24 proposing for the ground floor. From here I don't see it as  
25 a -- what we would see as a commercial use. But what they're

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1 describing is a more educational use, sort of like a  
2 community based facility.

3 I'm not sure if I'm using the terms correctly, but  
4 I think they would have to evaluate that because you're  
5 telling me 100 people coming and going, classroom situation.  
6 Those types of uses are typically permitted and we see them  
7 in churches or in other type of institutional use which is  
8 permitted as a special exception. So I would not recommend  
9 them going -- I would still stand in record of this report.  
10 But I would ask them to evaluate that use.

11 MEMBER JOHN: So I have a question for OAG. If  
12 we were to grant the application, could we condition it as  
13 a community based use to fit that -- whatever that criteria  
14 is? Because if we just granted commercial use, it could be  
15 any commercial use.

16 COMMISSIONER MILLER: I would -- well I would ask  
17 Board Member John if -- well the OAG can answer your  
18 question, should answer your question. But I think we should  
19 even -- I mean I was supportive of this going forward. I saw  
20 exceptional conditions on the property and the neighborhood  
21 and the school across the street justified this type of use.  
22 But I think we should limit it -- the OAG already answered  
23 that we could limit it to this specific computer based -- or  
24 not computer -- did you call it computer training?

25 MS. AKINLEYE: Community.

1 COMMISSIONER MILLER: No, no. But you called --  
2 your -- what -- how would you --

3 MS. AKINLEYE: No, training center.

4 COMMISSIONER MILLER: A training center, community  
5 training center.

6 MS. AKINLEYE: Community --

7 COMMISSIONER MILLER: And I think that's what we  
8 should limit it to, not just whatever -- I don't know what  
9 the zoning regulations -- Ms. Thomas is not prepared to say  
10 what the community based -- we should limit it to exactly the  
11 uses that are being proposed, which don't seem to have an  
12 adverse impact on the community. In fact, our being welcomed  
13 by the community. And fit in with the uses in the  
14 surrounding community, especially across the street, this  
15 high school. But so if we were going to limit it, I didn't  
16 want -- I want you to get an answer to your question, but I  
17 wanted to interrupt you to say we should -- we prepared to  
18 go forward with a much, even more restrictive use than  
19 whatever community based use is.

20 MEMBER JOHN: I get your point. So I am inclined  
21 to support the application primarily because of the location  
22 and I'm saying this without knowing what future development  
23 will be. Could be that there will be a bunch of residential,  
24 single family homes, you know, built in the area in the next  
25 year or two, but I don't know that. We have to go on what's

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1 there now. Based on what's there now, I accept the argument  
2 that because of the particular location of this property,  
3 that there are challenges in, you know, meeting the  
4 regulation. And, of course, no two cases are  
5 alike, but so I see that there is some difference here. And  
6 I like the suggestion of the Office of Planning that perhaps  
7 if this were to be a more narrowly defined, non-residential  
8 use then that might be an option. Hence my question to OAG,  
9 which I think is that we could limit the use to what's been  
10 proposed which is a training facility, or not?

11 MS. NAGELHOUT: One of my concerns is that  
12 eventually it's going to have to get a C of O for a use  
13 that's used in the zoning regulations and I'm not sure  
14 exactly if the applicant is actually proposed a particular  
15 use of that sort. And I was looking at the regulations for  
16 community based -- or a community center and that kind of  
17 thing, which I think is a special exception use in some  
18 zones. And it has certain requirements and I'm not sure  
19 those requirements are being met here. So it's not something  
20 I'm prepared to answer off the top of my head here.

21 MEMBER JOHN: I mean, I recall we had something  
22 similar recently in a residential zone where the applicant  
23 revised the application to meet what the regulations said.  
24 And that might be one option. But, of course, it's a -- it's  
25 not a blanket non-residential use. It's a limited non-

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1 residential use.

2 VICE CHAIRMAN HART: I mean, I think that I'm --  
3 I mean, I'm somewhat inclined to hear from the applicant in  
4 terms of seeing if there is an avenue or if they've thought  
5 about this avenue. It looks like there are a number of  
6 things that are prohibited from in this -- well in 100 year  
7 flood plains. One of them is a community based institutional  
8 facility. One of them is a residences -- residential uses  
9 with only one or two dwelling units. So I don't know what,  
10 you know, how that impacts any of this.

11 And I almost feel like there needs to be further  
12 conversation with the Office of Planning to kind of get there  
13 because while I understand that the applicant is, you know,  
14 has this very interesting training facility that they're  
15 trying to move forward with, I just have a hard time with the  
16 what is allowed as a -- what we should be approving for  
17 variances.

18 And I continue to ask why is this necessary for  
19 this location as opposed to some other place, you know. The  
20 facility can be in another building. There seems to be an  
21 ability to build something here, but I am -- and this is a  
22 residential zone. I just don't know why the residential part  
23 of this is being kind of pushed to the side or at least  
24 negated. And then this is the use that has to move forward  
25 with, you know, for right now.

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1           So again, I think that that -- I would like to  
2 have that understanding from the Office of Planning to -- the  
3 discussion between the applicant and the Office of Planning  
4 to at least understand that. I'm assuming that you've had  
5 some discussions about this already. But Mr. Sullivan, if  
6 you could just give me a little bit more information as to  
7 where that is.

8           MR. SULLIVAN: Sure. I think at the heart of it  
9 is that it won't be built as, first of all, residential  
10 singles and flats. The -- what's permitted there is  
11 prohibited. So that's the ironic thing about the zoning  
12 regulations are to only permit singles and flats and that's  
13 actually a specifically prohibited use in the 100 year flood  
14 plain.

15           And so to do anything here, the three residential  
16 units won't be built. As you can see, not much is built over  
17 in this area. And there has been a lot more interest in this  
18 area and the 100 year flood plain seems to come up a lot more  
19 for me. And so the job training use facilitated the  
20 development of the residential use, essentially, in a way  
21 that it doesn't work without it, economically. And maybe you  
22 would need more information on that if that was a  
23 possibility.

24           And, you know, we're searching. And I appreciate  
25 the feedback too because it is a -- it's a really good --

1 it's a good use. It'd be good for the community and the ANC  
2 likes it and everybody seems happy with it. So we are trying  
3 our best to find a way that that fits within your  
4 interpretation of what an undue hardship is and the zoning  
5 regulations. Regarding the community service center, I mean  
6 we could use that definition to describe the use if that's  
7 helpful. That's not permitted here by special exception  
8 either, it starts in the RF zone and we'd have to be a non-  
9 profit, which this currently isn't. So but maybe we could  
10 use that definition as a guide for a description of how the  
11 commercial use would be.

12 CHAIR HILL: Okay. Thanks. Thanks, Mr. Chairman.  
13 This is for the Office of Planning. So just if you can kind  
14 of run through this with me again just because I wasn't here  
15 and I just get the record to read through. So you said this  
16 is basically like, you know, it's a mixed use now, meaning  
17 the way it is, it's got like retail on the bottom and you  
18 have three residentials on the top, right? So what you were  
19 just suggesting, however, is that you lose the residential  
20 and you have now the training facility. And then that's what  
21 it would be. So it'd be the use variance for the office use,  
22 correct, that's in your --

23 MS. THOMAS: Yes. Like I said, I think this  
24 should start -- they should go back to the beginning and go  
25 to the zoning administrator and determine what type of use

1 would be -- what types of --

2 CHAIR HILL: That's okay. I'm just --

3 MS. THOMAS: -- function --

4 CHAIR HILL: From reading your report, there are  
5 three residential units. That variance you're in agreement  
6 with?

7 MS. THOMAS: Yes.

8 CHAIR HILL: Right?

9 MS. THOMAS: That can be fine.

10 CHAIR HILL: Right. And so -- and you're -- and  
11 I read through the record and based upon -- I understand the  
12 rationale. The office use, however, so I'm just trying to  
13 clarify my understanding of this, is that you think that they  
14 could possibly go back to the zoning administrator and see  
15 whether or not the Office of Planning could continue to get  
16 behind the three residential units and now there could  
17 possibly be a community service center in --

18 MS. THOMAS: Or some --

19 CHAIR HILL: Or something like that in the first  
20 floor. So it would be the exact same --

21 MS. THOMAS: And that might be --

22 CHAIR HILL: -- design.

23 MS. THOMAS: That might be a special exception  
24 from the way I reading it -- I'm reading it. So --

25 CHAIR HILL: Okay

1 MS. THOMAS: -- it depends. So, like I said, I'm  
2 not a zoning administrator sitting up here. But they should  
3 be a little bit clearer as to what types of services they're  
4 going to be providing, how many people going to be coming in  
5 and out. There's certain criteria that would have to be met.  
6 What kind of parking impact they --

7 CHAIR HILL: Right, right.

8 MS. THOMAS: -- anticipating.

9 CHAIR HILL: So it'd be -- I mean, I see the  
10 zoning administrator here now but still, that's a longer  
11 conversation than --

12 MS. THOMAS: Right.

13 CHAIR HILL: -- you know, be like this kind of,  
14 you know, on the spot type of thing. So the -- okay. So  
15 then, all right, then I think that's where we're at.

16 MS. THOMAS: Because if you look at the  
17 regulations in the R-2 then what is permitted within the R-2  
18 in group -- use group B, or something like that, and those  
19 things are allowed to special exception.

20 CHAIR HILL: Okay.

21 MS. THOMAS: Types of uses like that, but like I  
22 said, I'm not a zoning administrator.

23 CHAIR HILL: Sure, sure. So Mr. Hart --

24 MS. THOMAS: You'll have to --

25 CHAIR HILL: -- I don't know. It sounds as though

1 --

2 MS. THOMAS: -- clear that up.

3 CHAIR HILL: -- you know, he might be back, we  
4 might be back to having another discussion about this. I  
5 mean it is, you know, I would agree with the Office of  
6 Planning that it's retail on the bottom and residential on  
7 the top, you know. And so --

8 VICE CHAIRMAN HART: Yeah, I mean -- and that's  
9 kind of the conundrum that I'm in right now is -- and it  
10 seems as though Mr. Sullivan, the argument that you're making  
11 is we really don't have a matter of right development here.  
12 You --

13 MR. SULLIVAN: Right. It's impossible to do a  
14 right of--

15 VICE CHAIRMAN HART: --So basically, anything that  
16 you're doing would require some sort of relief?

17 MR. SULLIVAN: Correct.

18 VICE CHAIRMAN HART: And the thing that you just  
19 kind of got to is this is the proposal that works for the  
20 client, and so we're moving forward with that because of this  
21 -- the community seems to be supportive of this, the client  
22 is, of course, you know, they're fine with this as well.

23 And the zoning regs don't allow -- they really  
24 don't allow, I don't want to say anything because I don't  
25 know everything, but I don't what else they would allow. And

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1 that's somewhat where I'm, you know, trying to -- kind of  
2 spinning my wheels because I feel like I don't know what that  
3 other thing, you know, is. If there is, well you could do  
4 this.

5 MR. SULLIVAN: Well I think, that's a good point.  
6 I think -- I don't think there's any question there's an  
7 exceptional condition and an undue hardship. The question  
8 is does how we solve the undue hardship offend something in  
9 the zoning regulations. And I think that could go -- how we  
10 resolve it goes more to prong three, I think. So there is  
11 that present. The fact that we're solving it with commercial  
12 rather than residential may be splitting hairs that don't  
13 need to be split, I think.

14 VICE CHAIRMAN HART: Yes. I mean I think that I'm  
15 -- I think that I would like another, something further that  
16 kind of gets me -- gets a little bit more information on  
17 this. I don't think I'm deciding this today. I understand  
18 my colleagues are kind of okay with part of that.

19 I just feel like I don't think the record is --  
20 right now we're going -- if we were to approve this, we don't  
21 have, I don't think, enough information for us to be saying  
22 why the Office of Planning, you know, report is -- we're not  
23 moving forward with that. But I think if you -- if we get  
24 further information that would help.

25 And really, along that, you know, the -- it's

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1 really about that use and, you know, what's the matter of  
2 right here. And this is what you're doing instead of the  
3 matter of right because really, in your mind, there is no  
4 matter of right. And I don't know why that's the case, but  
5 it's where we are.

6 But I'm just trying to understand this. And  
7 that's the part that I'm trying to get to is that I don't  
8 understand that aspect of it. And I think having a little  
9 bit more information would be -- would help me move that --  
10 in that direction.

11 Given that, Mr. Teass, about the entrance, I --  
12 and I don't know, you stated something about being able to  
13 possibly have an entrance for the residential that was not  
14 in the back of the building. I, like I said, I just don't  
15 just like that, you know, that idea. And I don't know what  
16 to tell you to propose something different. Usually the  
17 entrances are within the building and so there is no, you  
18 know, kind of back door that you're trying to get in to get  
19 up there.

20 And I'm not really sure what you might be  
21 proposing to correct that, but that would be helpful for me  
22 to see. So that would be some other drawing that says this  
23 is what we, you know, would be doing instead of what is being  
24 proposed at this point. I think that's it, so. Anybody else  
25 have any other -- and I don't know if you want to have

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1 further discussion or if it's just setting a meeting, date  
2 for this, once we get this information in.

3 Well I guess we would need something from the  
4 Office of Planning if the applicant has -- can provide us  
5 with this information, I think, if you could send it over to  
6 the Office of Planning as well so that they can at least  
7 understand and have a response for that. Because they may  
8 say well, okay, we have this and this is sufficient. I'm not  
9 really sure where they're going to be on that. But do you  
10 think we all -- we need to have a continued hearing or a  
11 meeting?

12 MEMBER JOHN: I would say limited hearing just on  
13 the submissions. I, just to say where I am, you know, I am  
14 in support of the application. I agree we're at the third  
15 prong in terms of what would be suitable at that location  
16 given the -- what's the context of the building.

17 So that's what I would like to see and perhaps a  
18 summary of the rationale given for not being able to do the  
19 residential component on the first floor. Why it would be  
20 a financial hardship and how to deal with the flood plain  
21 issue in terms of building -- constructing a building where  
22 the water could run through. Because I think that's all part  
23 of your rationale which has to be set out in the record.

24 And then perhaps some further discussion with OP.  
25 Collectively there may be some kind of agreement as to what

1 could be put there within the, you know, the contours of the  
2 zoning regulations. Okay.

3 MR. SULLIVAN: Okay. Thank you.

4 MEMBER JOHN: That would be what I'm looking for.

5 MS. THOMAS: I think --

6 VICE CHAIRMAN HART: We're listening.

7 MS. THOMAS: Yes. I didn't get into too much,  
8 yeah, I want to be a little bit clearer in the sense that we  
9 would like to hear from the applicant what exactly the uses  
10 are, you know, traffic, you know, number of students, number  
11 of people, that type of thing. But just not a broad context,  
12 well it will be a commercial use and I don't think that would  
13 be appropriate. We will still have the same position.

14 VICE CHAIRMAN HART: And did you hear that, Mr.  
15 Sullivan?

16 MR. SULLIVAN: Yes, I think so. More specifics  
17 about the --

18 VICE CHAIRMAN HART: About the actual --

19 MR. SULLIVAN: -- use and how --

20 VICE CHAIRMAN HART: -- the commercial use.

21 MR. SULLIVAN: -- and that it won't be --

22 VICE CHAIRMAN HART: Yeah.

23 MR. SULLIVAN: -- objectionable to neighboring  
24 property owners or reasons why it won't be and --

25 VICE CHAIRMAN HART: I mean, we heard some

1 information about the number --

2 MR. SULLIVAN: Right.

3 VICE CHAIRMAN HART: -- of students, the number  
4 of faculty, whatever, trainers --

5 MR. SULLIVAN: Definitely need a lot more  
6 specifics about --

7 VICE CHAIRMAN HART: Yeah. I think that that  
8 would help --

9 MR. SULLIVAN: -- that.

10 VICE CHAIRMAN HART: -- to fill out the record and  
11 have us --

12 MR. SULLIVAN: Right.

13 VICE CHAIRMAN HART: -- understand that.

14 MR. SULLIVAN: Okay.

15 VICE CHAIRMAN HART: So where I think we are is,  
16 I think we're going to have a continued, limited scope,  
17 continued hearing. It looks like we have Commissioner Miller  
18 back in -- at the middle part of -- I guess our last --

19 COMMISSIONER MILLER: I'll come back whenever is  
20 convenient for everybody.

21 VICE CHAIRMAN HART: Well then we can talk about  
22 it. I know that we have a lot of cases on the 18th of  
23 December. I don't know if we're going to do it on that date,  
24 but I'll look to Mr. Moy to see if there's another -- and I  
25 don't know how much time you need, Mr. Sullivan. Two weeks?

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1 MR. SULLIVAN: Yes, that's fine.

2 VICE CHAIRMAN HART: So can we look at either the  
3 4th or the 11th, Mr. Moy, of December?

4 MR. MOY: Well given the guidelines the chair has  
5 given me, I'd say none of the dates are good. But given this  
6 is a limited scope hearing then, yeah, you can put it on  
7 December 4th or December 12th -- well, December 11th.

8 VICE CHAIRMAN HART: Let's give them -- let's say  
9 the 11th only because I think that we need to have the  
10 applicant provide information to and have conversation with  
11 the Office of Planning. And then have some sort of report  
12 from them. And seeing as the Office of Planning person is  
13 actually not here today. Thank you Ms. Thomas for being  
14 here, it sounds like you may be trying to fight a cold or  
15 something, so I do appreciate the time.

16 But given that, I think that the 11th may be a  
17 better date only just to get all of that, you know, all the  
18 ducks in a row for that. It -- you're nodding, Mr. Sullivan,  
19 so it looks like the 11th is -- work for you --

20 MR. SULLIVAN: That'd be --

21 VICE CHAIRMAN HART: -- all.

22 MR. SULLIVAN: -- great. Thank you.

23 VICE CHAIRMAN HART: So Mr. Moy, if we could just  
24 get some dates as to -- if we kind of work back from the  
25 11th. I'm guessing, I don't know, we're on the 20th now of

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1 November.

2 MR. MOY: If we're working backwards from the  
3 limited scope hearing on December 11th, then if you were  
4 interested in having OP file a supplemental by a week before  
5 the 11th of December which would be December 4th, right?  
6 Then maybe if the applicant can make their filing when?

7 VICE CHAIRMAN HART: I don't know. Ms. Thomas,  
8 how many -- how much time do you think with a supplemental?  
9 A couple of days? I know Thanksgiving vacation is going to  
10 be -- or break is going to be a little bit -- but that's  
11 happening next week. And so the following week is the week  
12 of the 4th, so I don't know if it makes sense to have the  
13 applicant provide something to us on the 2nd and then the OP  
14 report on the 6th or 5th, which is Thursday or Friday of that  
15 week. Looks like people are nodding, so why don't we look  
16 at that.

17 So the applicant, have their report or their  
18 information by December 2nd and then OP, let's say the 5th,  
19 which is a Thursday.

20 COMMISSIONER MILLER: Before you close out the  
21 hearing, I just wanted to --

22 VICE CHAIRMAN HART: I'm not going to close the  
23 hearing, so.

24 COMMISSIONER MILLER: I mean before you close this  
25 --

1 VICE CHAIRMAN HART: Yeah, stop.

2 COMMISSIONER MILLER: -- today's hearing --

3 VICE CHAIRMAN HART: Yeah.

4 COMMISSIONER MILLER: -- on this case. I wanted  
5 to ask OP a question.

6 VICE CHAIRMAN HART: Go right ahead.

7 COMMISSIONER MILLER: And even though Ms. Thomas  
8 is struggling to speak today. Or at least make a comment  
9 about the property. I think with what we've heard today, it  
10 may need -- the property may need to be rezoned to R-A --  
11 some R-A category to make the existing apartment building  
12 conforming and to allow more permitted uses. It's probably  
13 designated low density residential in the comp plan, this  
14 whole area, and I don't know. But --

15 MS. THOMAS: Yes, I don't know.

16 COMMISSIONER MILLER: But you have comp plan  
17 amendments that you're putting out there right now too. I  
18 don't know if the community would even want something more  
19 than low density residential on the comp plan land use map  
20 designation, but it seems we have an opportunity if the  
21 community supports more intensive use of this property that  
22 could be -- make -- because they're doing this community --  
23 for profit computer training, to make something economically  
24 feasible.

25 You were opposing more units because of it's R-2,

1 you barely got that three. So it may somebody needs to look  
2 at, with the community, whether the land use map or end  
3 zoning map need to be adjusted to make what's there now  
4 conforming and allow something more productive to work. So  
5 I just throw out there, not to create work --

6 MS. THOMAS: Okay.

7 COMMISSIONER MILLER: -- for people, but it just  
8 seems as the zoning commissioner here staring at me in the  
9 face.

10 VICE CHAIRMAN HART: Thank you, Commissioner  
11 Miller. So Mr. Sullivan, is everything clear on this?

12 MR. SULLIVAN: I think so.

13 VICE CHAIRMAN HART: Okay. Thank you all very  
14 much and I -- I'll hand it back over to the chairman.

15 CHAIR HILL: All right, Mr. Moy, you can call our  
16 next when you get a chance.

17 MR. MOY: Thank you, Mr. Chairman. So that would  
18 be applicant and parties to the table to Case Application  
19 Number 20142 of 746 Irving Street, LLC. Captioned and  
20 advertised for special exception under Subtitle E, Section  
21 5201 and 205.5 from the rear wall extension requirements of  
22 Subtitle E, Section 205.4 to construct a two story rear  
23 addition to an existing attached principal dwelling unit, RF-  
24 1 Zone at 746 Irving Street NW, Square 2890, Lot 59.

25 CHAIR HILL: Okay. Please introduce yourselves

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1 for the record from my right to left.

2 MR. WRAY: Michael Wray, ANC 1-A.

3 CHAIR HILL: You need to push the button.

4 MS. SCUDDER: Traci Scudder, representing the  
5 applicant.

6 MR. MOBLEY: Clarence Mobley, architect.

7 CHAIR HILL: Okay. Could you spell your last name  
8 for me, sir? Oh, you need to push it once, the button. No,  
9 push the button once on the microphone.

10 MR. MOBLEY: M-O-B-L-E-Y.

11 CHAIR HILL: Okay. Great. Thank you, sir. Ms.  
12 Scudder, I guess you're going to be presenting to us? All  
13 right.

14 MS. SCUDDER: Yes, sir.

15 CHAIR HILL: And Commissioner Wray, you've been  
16 here a long time now, you have a -- you have another one  
17 still here today. Okay. Well good, well you're getting your  
18 money's worth then. Let's see, now Ms. Scudder, I don't have  
19 a recommendation from the Office of Planning. You know this,  
20 right?

21 MS. SCUDDER: Yes, sir.

22 CHAIR HILL: Okay. And yet you still waited here  
23 the whole time?

24 MS. SCUDDER: Yes, I did.

25 CHAIR HILL: Okay. All right. So -- okay. I

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1 mean I've read through your burden of proof and okay. Well  
2 I'll go --let's see where you go then. So I'm going to go  
3 ahead and put 15 minutes on the clock. And you can go ahead  
4 and tell us about your application and how again you -- and  
5 Mr. Mobley, if you could just turn off your microphone. I'm  
6 sorry, if there's more than one microphone on we get  
7 feedback. Thank you.

8           The -- if can just walk us through your  
9 application and also how you believe you are meeting the  
10 standard for us to grant the relief requested. And I'm going  
11 to put 15 minutes on the clock, as Mr. Moy just did, and you  
12 can being whenever you'd like.

13           MS. SCUDDER: Thank you, sir. Good afternoon  
14 Chairman Hill and members of the Board. Again, my name is  
15 Traci Scudder and I'm representing the applicant this  
16 afternoon in Case Number 20142.

17           And just as a preliminary matter, there is a  
18 gentleman that is here that has to leave in a few minutes,  
19 Mr. Peter -- I can't pronounce his name. But he did write  
20 a letter in support of this application because he thought  
21 he's going to have to leave before you called the case, so  
22 I don't know if this is something --

23           CHAIR HILL: Sure.

24           MS. SCUDDER: -- you could accept --

25           CHAIR HILL: That's fine.

1 MS. SCUDDER: -- into the record.

2 CHAIR HILL: That's fine. Sure. We'll actually  
3 -- we'll take the testimony. Is the gentleman here?

4 MS. SCUDDER: Yes, he is.

5 CHAIR HILL: Okay. If you could -- sir, did you  
6 get sworn in earlier?

7 MR. AKINSANYA: Yes, sir, I was.

8 CHAIR HILL: Okay. You can come on forward then.  
9 You're going to speak in support. Is there anyone else here  
10 wishing to speak in support? Okay. If you just want to come  
11 in, sir, and just have a seat over there to my left. Just  
12 sit down there.

13 MR. AKINSANYA: Yes, because I'm about to leave.

14 CHAIR HILL: Sure. I understand. Oh, you're  
15 really about to leave. You have three minutes?

16 MR. AKINSANYA: Yes.

17 CHAIR HILL: Do you have three minutes?

18 MR. AKINSANYA: Yes.

19 CHAIR HILL: Then have a seat. Okay. If you just  
20 speak in the microphone and give us your name and address,  
21 please.

22 MR. AKINSANYA: Yes. My name is Pastor Peter  
23 Akinsanya, A-K-I-N-S-A-N-Y-A. I live at 727 Irving Street  
24 NW, Washington, D.C. 20010. I just live opposite the address  
25 that -- where you're going to be having the project and I

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1 received a letter --

2 CHAIR HILL: Okay.

3 MR. AKINSANYA: -- advising --

4 CHAIR HILL: Mr. -- I mean, pastor, thank you for  
5 joining us. There's -- you'll have three minutes and it's  
6 on the clock there, for any, I believe --

7 MR. AKINSANYA: Yeah. I'm looking at the time.

8 CHAIR HILL: -- to give your testimony. You can  
9 start whenever you like.

10 MR. AKINSANYA: Okay. So I received a letter  
11 about a project and I'm here to give my strong support for  
12 what he, my neighbor is trying to do. And I've met the  
13 architect, Mr. Mobley, and I totally represent him, the  
14 project.

15 So I just want you to know that our neighborhood,  
16 Irving Street, is changing. A lot of projects is going on.  
17 People are remodeling, modernizing, they are building. Most  
18 of the houses on Irving Street, you know, they're maybe 70  
19 years old or longer, you know. So we are trying to come to  
20 the 21st Century.

21 So -- and I also like the idea that -- because I  
22 came early this morning, so I sat in through some of the  
23 presentations. So we like this bit of community, family,  
24 coming together, you know. I've gone through the  
25 presentation on the website. I saw the sign of the

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1 architects and I like it. As a matter of fact, I'm  
2 considering using him for our projects, you know, because  
3 maybe shortly we'll be coming before you to present our own  
4 case too to remodel and to, you know, upgrade to our facility  
5 of our building.

6 So I want to just say this kind of development is  
7 needed in our neighborhood and I want to just say that I  
8 support it, my wife support it. And I also want to say that  
9 I appreciate the visionary leadership of this zoning  
10 committee, what you are doing.

11 And I just pray that you'll continue to move  
12 Washington, D.C. forward so that we'll continue to be a city  
13 that encourage visitors and new people coming and praising  
14 our vision and our prosperity. So I want to thank you for  
15 allowing me to say something. And I hope you can understand  
16 what I just said. Thank you, God Bless.

17 CHAIR HILL: Thank you. Thank you, pastor. And  
18 thank you for the compliments, it's very kind of you. Does  
19 anybody have any questions for the witness? Does the  
20 applicant have any questions for the witness?

21 MS. SCUDDER: No, sir. Would you like for me to  
22 hand this letter to Mr. Moy?

23 CHAIR HILL: Mr. Moy, there's a handwritten  
24 submission. Yes, sure, you can go ahead and give it to Mr.  
25 Moy. Okay. Great. Thank you, sir.

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1 MR. AKINSANYA: Thank you.

2 CHAIR HILL: Thank you.

3 MR. AKINSANYA: God bless.

4 MS. SCUDDER: Thank you, sir.

5 CHAIR HILL: All right. I do see that some of the  
6 stuff that it seems the Office of Planning was requesting,  
7 they have. It wasn't there when I was kind of reviewing it  
8 so I don't know if there was enough time for the Office of  
9 Planning to review it all.

10 I'm going to come back to you. I just want to  
11 know if we have -- if the Office of Planning has a  
12 recommendation now. Okay? You're nodding yes. So we'll see  
13 what that is when we get to them. Okay. So let's see. All  
14 right. Ms. Scudder, again, you can go ahead and start  
15 whenever you like.

16 MS. SCUDDER: Okay. The Applicant is requesting  
17 a special exception from the rear yard requirements of  
18 Subtitle D, specifically the Applicant requests a special  
19 exception pursuant to Subtitle 10, Chapter 9, to permit the  
20 construction of a two-story rear addition at the rear of an  
21 existing single family road dwelling extending more than ten  
22 feet beyond the farthest rear wall of the adjoining principal  
23 residential buildings on the properties, adjacent in the RF-1  
24 Zone.

25 A couple of things to note. We are keeping the

1 height of the structure consistent with the other, well, most  
2 of the other homes on the block. And this addition does not  
3 require any other variances or special exceptions.

4 We are meeting all of the other zoning  
5 requirements. So, with that being said, I'm going to turn  
6 it over to the architect, and then I'll come back and, you  
7 know, talk more about the criteria for approval.

8 CHAIR HILL: Okay. Actually, why don't you just  
9 keep talking about the criteria for approval if you don't  
10 mind.

11 MS. SCUDDER: Oh, okay.

12 CHAIR HILL: And we'll ask the architect if we  
13 need to get him. I've got nine cases today, so --

14 MS. SCUDDER: No problem, no problem.

15 CHAIR HILL: That's all right.

16 MS. SCUDDER: So we believe that this special  
17 exception will be in harmony with the general purposes and  
18 intent of the zoning regulations and will not adversely  
19 affect the use of the neighboring properties.

20 And we have done some community outreach. We have  
21 met with our neighbors and our, both neighbors on each side  
22 of this house have provided letters of support. We have also  
23 presented this project to the local ANC and the ANC is also  
24 in support. And we have met with the Plaines, Pleasant  
25 Plaines Civic Association and they also voted unanimously to

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1 approve this application.

2 CHAIR HILL: And as I'm kind of looking at some  
3 of the contents, I mean, both adjoining neighbors support it,  
4 is that correct?

5 MS. SCUDDER: Yes, sir. Both adjoining --

6 CHAIR HILL: Adjacent neighbors, I mean.

7 MS. SCUDDER: Yes.

8 CHAIR HILL: Okay. All right. Thank you. Okay,  
9 does the Board have any questions for the Applicant? All  
10 right. I'm going to turn to the Office of Planning.

11 MR. JESICK: Thank you, Mr. Chairman and members  
12 of the Board. My name is Matt Jesick. The Office of  
13 Planning can now recommend approval of the application. We  
14 want to thank the Applicant for submitting their shadow study  
15 and rendering that we requested. They were instrumental in  
16 us fully evaluating the application.

17 As can be seen from the shadow study, even in the  
18 existing condition, the large addition at 752 Irving Street  
19 already casts significant shadow over the rear of the  
20 adjacent properties. One property in particular that we were  
21 concerned about was 744 Irving Street.

22 And certainly the proposed addition would increase  
23 the amount of shadow on that property, but we felt that the  
24 amount would not have a substantially adverse effect.  
25 Although the matter of right scenario is not included in the

1 shadow study, one can infer from the shadow study that the  
2 amount of shadow for a matter of right project would not be  
3 significantly different from what is proposed.

4           So because of the depth of the addition, which is  
5 maybe greater than we see in some cases, we did want to take  
6 a close look at these exhibits. And again, we thank the  
7 Applicant for providing them and we feel that the addition  
8 also would not be out of character necessarily with the  
9 block.

10           Even in the shadow study and rendering, you can  
11 see there are a number of rear additions. And then in the  
12 aerial photo in the Office of Planning report, you can see  
13 further down the block, there are even more rear additions  
14 of significant depth.

15           So the block does have a varied character, but  
16 with several deep rear additions. So this addition would not  
17 be out of that character. So again, we can recommend  
18 approval and I'd be happy to take any other questions. Thank  
19 you.

20           CHAIR HILL: That 752, that was done before the  
21 regulations change probably, right?

22           MR. JESICK: Correct.

23           CHAIR HILL: Yes. Okay. All right. Does anybody  
24 have any questions for the Office of Planning? Okay. Do you  
25 have any questions for the Office of Planning?

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1 MS. SCUDDER: No, sir.

2 CHAIR HILL: Is there anybody here wishing to  
3 speak in support? Is there anybody here wishing to speak in  
4 opposition? Mr. Miller, did you have a question? It looked  
5 like you had a question. No? No, did you have, no, Mr.  
6 Miller, did you, you looked like you had a question. I  
7 didn't say Mr. Moy. I said Commissioner Miller. I'm sorry.  
8 Okay. Is there anything else you'd like to add in  
9 conclusion?

10 COMMISSIONER WRAY: Can I ask a question?

11 CHAIR HILL: Oh, I forgot. You know, it's so  
12 funny. I thought you were the architect and that's what, I  
13 was like, the architects should talk, and for some reason,  
14 I don't know how that happened.

15 So, right, Commissioner Wray, you've been waiting  
16 here the whole time. No, that's all right. Please, I mean,  
17 as you know, when we first started this, we didn't have any  
18 recommendation from the Office of Planning. So now,  
19 Commissioner Wray, please. I don't want you to wait, you  
20 know, even though you're going to wait for the next one, what  
21 would you like to say about this project since you are here?

22 COMMISSIONER WRAY: Thanks. We are in support of  
23 the project. Obviously 30 feet is a long distance. I do  
24 want to put it out there for the other developers or land use  
25 attorneys in the room, we would not have necessarily thought

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1 that 30 feet would be approved on just any block, but this  
2 particular block having had such substantially long back  
3 yards and the homes themselves being so small already that  
4 this seems to make a lot of sense, and I would hope that this  
5 would become sort of the yard stick for any future  
6 development, that they would use this home and the other  
7 homes at that level to be their future development.

8 And the reason that we had put in place the  
9 reservation about whether or not any neighbors would come  
10 forward, we had not yet spoken directly to anyone at 748 or  
11 744, and the Civic Association had not yet voted.

12 And so we just wanted to make sure that if somehow  
13 that came forward that we would be able to work with them.  
14 But that has not happened, so we are completely in favor of  
15 this and we are happy that the Office of Planning is, too.

16 CHAIR HILL: Okay. Thank you, Commissioner. I  
17 mean, I, and I saw you nodding, it's funny, that that one  
18 752, so that was done before the regulation changed, correct?

19 COMMISSIONER WRAY: Correct.

20 CHAIR HILL: Yes. And so, and this is now to the  
21 Office of Planning, and I hope this doesn't change your  
22 opinion, although you've already taken a vote and you're not  
23 the whole ANC.

24 What happens now, and I always get somewhat  
25 confused, is that, so, 746 is going to go out now, right?

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1 And so 744 is the one that is down in that little pocket,  
2 okay? So 744 would be able to go ten feet past whatever 746  
3 or 742, whatever is the closest wall, correct?

4 MR. JESICK: Yes, that's correct.

5 CHAIR HILL: I mean, that's why this whole this  
6 is so wanky, you know, after a while. I mean, and now I'm  
7 just going to continue this one as the Zoning Commissioners  
8 over here continue this again, which is that how these blocks  
9 tend to kind of fill out.

10 The Office of Planning doesn't necessarily know  
11 because it's too difficult to kind of foresee, but eventually  
12 then, wait a minute. I'm just trying to figure out, like,  
13 what I always find fascinating about this, and now I'm just  
14 having a conversation, I think, with myself, is that, if 746  
15 was done before the regulations change, there could be an odd  
16 situation where it kind of jumped around to where they all  
17 somewhat eventually evened out, correct?

18 MR. JESICK: I think that's a fair assumption.

19 CHAIR HILL: Okay. Look at that, I got an answer  
20 from the Office of Planning. It was kind of a hypothetical,  
21 right? All right. Is there anything new, or, I'm sorry, is  
22 there anything else you would like to add, Commissioner?

23 COMMISSIONER WRAY: No, thank you.

24 CHAIR HILL: All right. Is there any questions,  
25 further questions for the Commissioner?

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1 VICE CHAIR HART: Not the Commissioner. Just had  
2 a question about, we don't need a new OP report? We have had  
3 the OP giving their --

4 MALE PARTICIPANT: Are you looking at me?

5 VICE CHAIR HART: I'm looking at OAG.

6 MS. NAGELHOUT: You don't need an OP report. No,  
7 you're supposed to give great weight to the recommendation  
8 of Office of Planning. But no, it doesn't have to be in a  
9 report.

10 VICE CHAIR HART: Yes, the only question I was  
11 asking was because we have a report that says one thing and  
12 the OP is now giving us a actual recommendation, I didn't  
13 know if we needed to have something actually in the record  
14 that said, oh, after reviewing this, da-da-da, or if that's  
15 handled within the order itself.

16 MS. NAGELHOUT: If it's a full order, it would be  
17 in the order itself. It's also in the transcript, which is  
18 part of the record. So, yes.

19 CHAIR HILL: I think we've asked for stuff from  
20 OP before, though.

21 VICE CHAIR HART: I'm just saying, right now we  
22 have no recommendation from them, and I was just trying to  
23 figure out if we needed to have something in the record, a  
24 document in the record, that wasn't a transcript or whatever.

25 CHAIR HILL: Yes. So we can ask, I'm now just

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1 answering because I feel more comfortable. I mean, the  
2 Office of Planning can just supplement something into the  
3 record that states your current recommendation, correct?

4 MR. JESICK: If that's the Board's request, we're  
5 happy to do that.

6 CHAIR HILL: Okay. Let's go ahead and do that,  
7 okay? All right --

8 SECRETARY MOY: Mr. Chair?

9 CHAIR HILL: Yes?

10 SECRETARY MOY: Just for the record, because this  
11 has occurred before, and what we have done in the office is,  
12 should this become a summary order or even a full order, but  
13 a summary order, we would document position of Office of  
14 Planning where they have oral testimony on the day of the  
15 hearing in the body of the report.

16 CHAIR HILL: Okay, so now we're going to continue  
17 to talk about this. I thought in the past, we had asked for  
18 further clarification from the Office of Planning to put  
19 something into the record. And Mr. Moy, you're contradicting  
20 that statement saying we've done both ways, or I guess we've  
21 done it both ways.

22 SECRETARY MOY: It's at the discretion of the  
23 Board.

24 CHAIR HILL: Okay. Mr. Moy, if you'd, Mr. Jesick,  
25 if you wouldn't mind just adding something into the record.

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1 Okay. All right. Are you done? Okay. All right. Is there  
2 anything like that at the end?

3 MS. SCUDDER: No, sir. Just to say thank you.

4 CHAIR HILL: Okay. Let's see. All right. So is  
5 the Board ready to deliberate?

6 VICE CHAIR HART: Yes.

7 CHAIR HILL: Okay. I would agree with the  
8 analysis that was provided by the Office of Planning. I  
9 think that it's a very interesting project, actually. I'm  
10 glad that the Commissioner was here and able to kind of talk  
11 through this a little bit in terms of that block.

12 I mean, I think that, what I continue to find  
13 interesting about how this now works, is that now there's a  
14 matter of right situation that the ANC might now be aware of.  
15 And so I've always been fascinated by that.

16 But nonetheless, I do agree with the analysis that  
17 was provided by the Office of Planning. I thank them for  
18 their effort to be able to supplement the record additionally  
19 later, as well as their testimony today.

20 I appreciate and am in agreement with the burden  
21 of proof that was provided by the Applicant. And I'm going  
22 to be voting in favor. Is there anything else that anyone  
23 would like to add?

24 VICE CHAIR HART: Yes, I'd just add that I would  
25 be in support of the application given the information that

1 was provided by the Applicant and given the Office of  
2 Planning's recommendation today to approve the application.

3 I'll just note that the OP report did not provide  
4 a recommendation, but they have provided the recommendation  
5 the dais today. And I felt the sun study that was provided  
6 by the Applicant more recently, I think it was yesterday or  
7 maybe Monday, that they provided, was very helpful for me to  
8 be able to get to this point.

9 I think it's Exhibit 48, as well as the aerial  
10 rendering, Exhibit 47, that showed what the impacts from the  
11 addition would be, the shadow and light and air impacts would  
12 be from this addition.

13 I'll also note that this is a very, very narrow  
14 site. The lot is 12 feet wide, which is extremely narrow.  
15 And so, understanding that the addition to the rear is kind  
16 of, needed to be a little longer because of the narrowness  
17 of that site. But I, again, would be in support of the  
18 application and will be voting as such.

19 COMMISSIONER MILLER: Mr. Chair, just briefly.  
20 I concur with all the comments that you and the Vice Chair  
21 have made, and I just want to thank the Applicant and the  
22 architect, Mr. Mobley, for working with the ANC and the  
23 neighbors and the Pleasant Plains Civic Association on  
24 getting their support.

25 CHAIR HILL: Okay. With that, I'll go ahead and

1 make a motion to approve Applicant Number 20142 as captioned  
2 and read by the Secretary and ask for a second.

3 VICE CHAIR HART: Second.

4 CHAIR HILL: Motion made and seconded. All those  
5 in favor say aye.

6 GROUP: Aye.

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

9 MR. MOBLEY: May I say one thing?

10 CHAIR HILL: Sure, one second. You need to push  
11 the microphone, sir.

12 MR. MOBLEY: May I say one thing?

13 CHAIR HILL: Of course.

14 MR. MOBLEY: Many years ago, I've been an  
15 architect for many years in the city. I've only been before  
16 the Board twice, and both of the times going before the  
17 Board, I passed. And so, I was batting a thousand and I went  
18 to Mr. Moy here about two years ago and asked him about a  
19 project I was working on, and he said, well, that's  
20 questionable. So I didn't present it to you guys. So it's  
21 beautiful that my record remains at a thousand.

22 COMMISSIONER MILLER: Mr. Mobley, I want to  
23 congratulate you on your batting record, and also thank you  
24 for your service to the city in many capacities.

25 MR. MOBLEY: Thank you. Thank you very much.



1 CHAIR HILL: Thank you.

2 SECRETARY MOY: Mr. Chairman, Staff would record  
3 the vote of four to zero to one, and this is on the motion  
4 of Chairman Hill to approve the application for the relief  
5 being requested. Second motion is Vice Chair Hart. Also in  
6 support, Ms. John and Zoning Commissioner Robert Miller. No  
7 other members present.

8 CHAIR HILL: Thank you, Mr. Moy.

9 SECRETARY MOY: Also, my final remark, Mr. Chair,  
10 is I did not intend to contradict you, that was further  
11 information. So that's my sworn testimony for the record.

12 CHAIR HILL: I understand. Thank you, Mr. Moy,  
13 for the clarification.

14 SECRETARY MOY: Okay, I believe the next case  
15 application before the Board is number 20148 of John Coplen,  
16 C-O-P-L-E-N. Caption advertised for special exception under  
17 Subtitle E, Section 206.2, and 5203.3 for the rooftop  
18 architectural elements, Subtitle E, Section 206.1(a), to  
19 expand the existing roof on an existing semi-detached  
20 principal dwelling unit, RF-1 Zone, at 149 Rhode Island  
21 Avenue Northeast, Square 3537, Lot 001.

22 VICE CHAIR HART: Thank you, Mr. Moy. We'll wait  
23 a second while the Chairman gets back here.

24 CHAIR HILL: All right, if you'd please introduce  
25 yourself for the record.

1           MR. COPLEN: My name is John Coplen. I'm the  
2 homeowner for 149 Rhode Island Avenue.

3           CHAIR HILL: All right, Mr. Coplen. Okay. If you  
4 want to go ahead and kind of walk us through your project and  
5 what you're trying to accomplish, and also how you believe  
6 you're meeting the standard for which we can grant the  
7 request for relief. I'm going to put 15 minutes on the  
8 clock, Mr. Moy, so we know where we are, and you can begin  
9 whenever you like.

10          MR. COPLEN: Sure. There's a separate building  
11 permit that is already underway, that is to, and we're well  
12 down the road on construction, so we did underpin and dug  
13 down the basement to make a rental unit and my residence will  
14 be above that.

15               And then we did also add a third floor. So we've  
16 complete that permit process. As I'm sure you're aware of,  
17 D.C. has an interesting rule about architectural rooftops  
18 related to porch and roof lines that require a special  
19 exception. So to remove that front porch roof at all or to  
20 modify it I have to come, of course, here.

21               We did expand the porch base and put a bedroom  
22 underneath the porch if that makes sense. And in doing so,  
23 what I'm trying to do is match the porch roof with the porch  
24 base below it.

25               The existing front porch was about seven feet, and

1 we're bringing it out to ten foot eight, and that was all by  
2 right to do the base. So really what we're talking about  
3 today is relief to match the roofline above.

4 There will be no deck or anything above it. We'll  
5 architecturally match, kind of, what was there before. The  
6 only other change really is I was recommending or proposing  
7 to put on a kind of lavender green roof on top of it, so it  
8 looked nice from the bedroom windows on top.

9 CHAIR HILL: Okay. Is that your full  
10 presentation?

11 MR. COPLEN: Well, I mean, I don't know what else  
12 to get into because it's kind of an, I don't how to explain  
13 relief on the specific thing because I'm asking for relief  
14 to expand the roof.

15 It's kind of a strange thing. The architect and  
16 I went back and forth on it. I did present to the ANC last  
17 night and I do have that form for you guys to submit to you  
18 all.

19 CHAIR HILL: Where in the ANC report?

20 MR. COPLEN: I have it. It was last night, so they  
21 handed it to me.

22 CHAIR HILL: Oh. Can you give that to the  
23 secretary, please?

24 MR. COPLEN: Yes. The agency did vote to support  
25 it, so there was no opposition to it at all. I don't know

1 how else to keep on going on about it, because it's really  
2 just specific to the front porch roof.

3 CHAIR HILL: No, I understand. People are here  
4 oftentimes for this relief, and it's not necessarily all that  
5 easy for us to grant, so I'm glad that you were able to get  
6 information from the ANC. I'm glad you had a successful day  
7 at the ANC. Okay, I'm going to just turn to the Office of  
8 Planning.

9 VICE CHAIR HART: Can I ask a question?

10 CHAIR HILL: Sure, of course.

11 VICE CHAIR HART: So, Mr. --

12 MR. COPLEN: It's Coplen.

13 VICE CHAIR HART: You're putting a green roof on  
14 top of that?

15 MR. COPLEN: Yes, and it will be a low, kind of  
16 a low CM roof. I mean, you likely won't see it from the  
17 street, but yes.

18 VICE CHAIR HART: It just shows up really strongly  
19 in the drawings, and I was trying to figure out, is that a  
20 requirement that you're doing that, or you're just doing it  
21 because you want to?

22 MR. COPLEN: No, I was just doing it so that, out  
23 of the second, out of the bedrooms it had a better view, not  
24 just of a roof. It shows up strongly, let's see, on part of  
25 the drawings.

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1 I mean, it shows up strongly on the drawings, but  
2 would not protrude up that far, because they're really just  
3 trays that lay on that roof, if that makes sense. I mean,  
4 they're kind of --

5 VICE CHAIR HART: No, I understand what they are.  
6 I just was trying to figure out what was, kind of, what had  
7 prompted that, if there was something that you were kind of  
8 doing for that. There wasn't one on there, so I was --

9 MR. COPLEN: Well, I mean, it's certainly a more  
10 green aspect to things, so you're creating water runoffs by  
11 creating that on purpose.

12 VICE CHAIR HART: That's fully understandable.

13 MR. COPLEN: So that piece is important to me.  
14 So, and in addition to that, it also makes it a little bit  
15 nicer looking down upon that roof instead of just a black tar  
16 or fully adhered TPO down there.

17 VICE CHAIR HART: Okay.

18 MEMBER JOHN: So just to clarify, everything  
19 remains the same, the design of the porch remains the same,  
20 you're just pulling out a few.

21 MR. COPLEN: Yes, it's coming from, exactly.  
22 Seven feet, we're going from seven feet out, I think it was  
23 ten foot eight --

24 MEMBER JOHN: Right.

25 MR. COPLEN: -- if I'm right.

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1           MEMBER JOHN:   And this is not in a historic  
2 district?

3           MR. COPLEN:    No, Eckington's not a historic  
4 district.    And I did present to the Eckington Civic  
5 Association and the ANC.   Now the only difference is the  
6 existing porch had on those, like, sort of iron replacement  
7 posts at some point.   So we'll put back the nicer wood  
8 wrapped posts to make it look more contiguous with what's  
9 there.

10          CHAIR HILL:    Okay.    Turn to the Office of  
11 Planning, please.

12          MS. VITALE:    Good afternoon, Mr. Chair, members  
13 of the Board. Elisa Vitale with the Office of Planning. I'm  
14 sitting in for my colleague, Mr. Kirschenbaum.

15          But the Office of Planning is recommending  
16 approval of the requested special exception relief from the  
17 rooftop or upper floor additions provision.

18          I will add, I believe, DDOT had noted some public  
19 space issues in its initial report.   I believe DDOT has  
20 submitted a supplemental to the record today that indicates  
21 that DDOT no longer has issues with respect to the  
22 projections in public space.   So that item has been  
23 addressed. With that, I'll conclude my report, and I'm happy  
24 to answer any questions.   Thank you.

25          CHAIR HILL:    All right.   Does the Board have any

1 questions for the Office of Planning? Does the Applicant  
2 have any questions for the Office of Planning?

3 MR. COPLEN: No, I don't.

4 CHAIR HILL: Is there anyone here who would wish  
5 to speak in support? Is there anyone who would wish to speak  
6 in opposition? Okay. Mr. Coplen?

7 MR. COPLEN: Yes.

8 CHAIR HILL: Mr. Coplen, I was, like, trying to  
9 look through. I mean, this is going to be, is this your  
10 home?

11 MR. COPLEN: Yes.

12 CHAIR HILL: And now I'm just curious. Like, how  
13 long ago did you find it? And when did you decide to go  
14 ahead and go through this process?

15 MR. COPLEN: I bought it about three years ago.

16 CHAIR HILL: Okay.

17 MR. COPLEN: Excuse me, and then we did about a  
18 year of planning and then, of course, there's the permitting  
19 part.

20 CHAIR HILL: Right.

21 MR. COPLEN: And then you start construction.

22 CHAIR HILL: Because I was looking through, like,  
23 kind of trying to find more of the architectural plans, and  
24 now I'm just curious. How many bedrooms are you going to  
25 have?

1 MR. COPLEN: The upper unit is three bedrooms and  
2 three and a half bath, and the lower unit is two bedroom, one  
3 bath.

4 CHAIR HILL: Got it. You're going to live in the  
5 upper unit?

6 MR. COPLEN: Yes.

7 CHAIR HILL: Well, good for you. All right.  
8 Let's see. You want to add anything at the end?

9 MR. COPLEN: No, that was it. Thank you.

10 CHAIR HILL: Does anyone else have anything they  
11 would like to add from the Board? Okay. I'm closing the  
12 hearing. Is the Board ready to deliberate? Okay.

13 I am comfortable with the analysis that was  
14 provided by the Office of Planning. I would be in agreement  
15 with that. I am glad to see the ANC 5e has actually had an  
16 opportunity to weigh in, and they don't have any objections  
17 to the project.

18 I'm glad to see that DDOT now has no more concerns  
19 concerning public space. And I do appreciate the application  
20 and the Applicant and the burden of proof that they put  
21 forward, so that again, I do think that they've met the  
22 standard for us to grant the requested relief, and I will be  
23 voting in favor of this application.

24 Is there anything anyone would like to add? Going  
25 to go ahead and make a motion to approve Application number

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1 20148, as captioned and read by the secretary, and ask for  
2 a second.

3 VICE CHAIR HART: Second.

4 CHAIR HILL: Motion made and seconded. All those  
5 in favor say aye.

6 GROUP: Aye.

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

9 SECRETARY MOY: Staff would record the vote as  
10 four to zero to one, and this is on the motion of Chairman  
11 Hill to approve the application for the relief requested and  
12 seconding the motion is Vice Chair Hart.

13 Also in support of the motion, Ms. John and Zoning  
14 Commissioner Rob Miller. No other members present.

15 CHAIR HILL: Okay. Great. Thank you, Mr. Moy.  
16 Thank you very much. We are going to take a quick five-  
17 minute break. All right. Actually we'll do one more and  
18 we'll take a break. And so, Mr. Moy, if you want to go ahead  
19 and call our next case.

20 SECRETARY MOY: Yes, thank you, sir. That would  
21 be Case Application Number 20150 of Kenyon 7, LLC, captioned  
22 advertised as special exceptions under Subtitle G, Section  
23 1200, from the Lot Occupancy Requirements of Subtitle G,  
24 Section 404.1, side yard requirements, Subtitle G, Section  
25 406.1, and Section 1201 from the rear yard requirements of

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1 Subtitle G, Section 405.2, to construct a two-story addition  
2 to an existing two-story attached building, MU-4 Zone. This  
3 is at 3117 Georgia Avenue Northwest, Square 3041, Lot 127.

4 CHAIR HILL: Okay. If you could please introduce  
5 yourselves to the record from my right to left.

6 COMMISSIONER WRAY: Michael Wray, ANC One A.

7 MS. ROTTMAN: Emily Rattman, Square 134  
8 Architects.

9 MR. SULLIVAN: Marty Sullivan, on behalf of the  
10 Applicant.

11 MR. SCHNECK: Ron Schneck, Square 134 Architects.

12 COMMISSIONER HILL: Okay. Mr. Sullivan, I assume  
13 you're going to be presenting to us when you get a chance.

14 MR. SULLIVAN: Yes.

15 CHAIR HILL: And Commissioner Wray, we took you  
16 before the break just because, you know, you've been here all  
17 day. I want credit for that. Commissioner Bates, is he in  
18 your ANC?

19 COMMISSIONER WRAY: He's our Chair.

20 CHAIR HILL: He's your Chair. Okay, well, you  
21 tell him we tried to get you out of here as quickly as  
22 possible, the next time he's down here.

23 COMMISSIONER WRAY: He will appreciate that.

24 CHAIR HILL: Okay. Is it not working?

25 MR. SULLIVAN: It's not showing up there.

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1 CHAIR HILL: Oh, here we go.

2 MR. SULLIVAN: Here it comes.

3 CHAIR HILL: All right, Mr. Sullivan. You can go  
4 ahead and please walk us through your presentation and what  
5 your --

6 SECRETARY MOY: Mr. Chair?

7 CHAIR HILL: Yes?

8 SECRETARY MOY: Sorry to interrupt.

9 CHAIR HILL: That's all right.

10 SECRETARY MOY: I think we have a --

11 CHAIR HILL: Oh, I forgot. Thanks. They made  
12 the, I have been sworn in motion when they came up. If you  
13 would please stand and take the oath administered by the  
14 Secretary, as well as anyone else who hasn't been sworn in  
15 yet, if you could go ahead and take the oath administered by  
16 the Secretary, that would be wonderful. Thank you.

17 SECRETARY MOY: Do you solemnly swear or affirm  
18 that the testimony you're about to present in this proceeding  
19 is the truth, the whole truth, and nothing but the truth?  
20 Thank you. You may be seated.

21 CHAIR HILL: Okay, great. So, Mr. Sullivan,  
22 again, as I started to say, if you could please walk us  
23 through what your client is trying to do, as well as why you  
24 believe you are meeting the standard for us to grant the  
25 application.

1           There was a little bit of clarification, perhaps,  
2 I guess, as to, I get, is it the balconies that are driving  
3 the need for some of the relief? Like, that's some of the  
4 question I think that we had.

5           And then the other was that I was, the ANC and the  
6 ANC's here, but, like, you know, is the material for the back  
7 rails similar as to what they're speaking to in the front,  
8 which is I guess something they kind of spoke to.

9           With all that being said, I'm going to put 15  
10 minutes on the clock, and you can begin whenever you like.

11           VICE CHAIR HART: And Mr. Sullivan, was there some  
12 revision that happened as well as some change in the design  
13 since the ANC approved the design?

14           MR. SULLIVAN: I think there were some related to  
15 design and not to the massing or anything related to the  
16 relief, but there --

17           VICE CHAIR HART: Okay. If you could just point  
18 that out as you're going through, that would be --

19           MS. ROTTMAN: I believe the submission was just  
20 a more refined version of plans and elevations. I believe  
21 the first submission we didn't have elevations yet. So I  
22 think that's what the changes were.

23           VICE CHAIR HART: Yes, I was just trying to  
24 understand that a little further. So thank you.

25           MR. SULLIVAN: Thank you. Marty Sullivan with

1 Sullivan and Barrows, on behalf of the Applicant. This is --

2 CHAIR HILL: Hold on. I went through  
3 introductions, right? Yes, I did the introductions. I'm  
4 sorry. You're reintroducing yourself, so it's confusing me.  
5 So, please, Mr. Sullivan, go ahead.

6 MR. SULLIVAN: For the record, yes.

7 CHAIR HILL: It's been a long day for you, too.  
8 I know.

9 MR. SULLIVAN: 3117 Georgia Avenue Northwest. And  
10 the architect will go into the project in detail. I'll just  
11 note the areas of relief.

12 And yes it does mostly relate to just the  
13 balconies. Two areas of relief relate to the balconies, the  
14 rear yard special exception and the lot occupancy.

15 And the other area of relief is, there's currently  
16 a court there, and the plan is to use the existing building  
17 and to build up on that court. Normally, we would be asking  
18 for relief to expand an existing nonconforming court.  
19 However, in the MU Zone, there's a provision that says any  
20 portion of a building that's set back from a lot line is  
21 considered a side yard and not a court. It's effectively  
22 eliminated courts in a way, so we're asking for side yard  
23 relief instead of court relief.

24 But that's why we're doing it. We could close it  
25 and just go all the way to the lot line and we wouldn't need

1 that relief, but we wanted to have that space opened. And  
2 so, since we had to come to BZA for that, we thought we could  
3 put balconies on.

4 And the balconies go into the rear yard and go  
5 over the maximum permitted lot occupancy. Both of those are  
6 special exception relief as well. So I'll turn it over to  
7 the architect to present the project. Thank you.

8 MS. ROTTMAN: Than you. So the existing  
9 conditions of the building, is a two-story hair salon, and  
10 you can see the front façade and rear façade. If you note  
11 from the existing condition, there are rear windows and the  
12 building is significantly set back along the alley. And both  
13 sides of the building happen to have an existing dog leg, but  
14 we are interested in building up along this existing wall for  
15 the proposed project.

16 The elevations of the building are a combination  
17 of masonry, probably a cement fiber panel, and also some  
18 siding. And as noted, the ANC did request that we provide  
19 more of a mesh style on the balconies to add some additional  
20 privacy off the rear yard of the building. And this is what  
21 the proposed project would look like from Georgia Avenue, to  
22 really point out the relief, we are asking to have side yard  
23 relief to build up along that existing wall and provide  
24 additional windows and lighting.

25 And because we do not have the availability to

1 provide rooftop or public amenity up above, we were proposing  
2 to add balconies for the rear units.

3 And as noted, the rear yard relief is really just  
4 for the balconies, and we are setting back further from that.  
5 And just to point out, the proposed building is actually  
6 setting back further than the existing building, so we are  
7 actually providing more light and air in the alleyway. And  
8 unto that, I will bring you back to Marty. Thank you.

9 MR. SULLIVAN: Thank you. I'll go over the  
10 special exception criteria. Again, the relief is lot  
11 occupancy. The maximum permitted is 75 percent. The  
12 proposed is 80.7 percent. The existing was 77 percent, so  
13 it was already over lot occupancy. The building is getting  
14 scaled back a little bit, but the balconies, then, are  
15 extending the lot occupancy back out.

16 Side yard, pursuant to Subtitle G 406.3, any  
17 portion of a building set back from a side lot line shall be  
18 considered a side yard and not a court. And the side yard,  
19 while not required here, if it's provided it must at least  
20 two inches per one foot of building height. Of course we  
21 don't meet that if we leave the court there, so we're  
22 building up on that and we need that relief. The rear yard  
23 relief is required for the balconies.

24 The main wall of the building is not within the  
25 required rear yard. So the special exception, the general

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1 requirements, we believe that it's quite clear that the  
2 addition and the project is in harmony with the general  
3 purpose and the intent of the zoning regulations and maps.

4           The relief is very minor. Rear yard relief,  
5 there's very specific special exception criteria for the rear  
6 yard relief and the thing that comes up most often, and is  
7 the most difficult to meet sometimes, is the requirement that  
8 no apartment window shall be located within 40 feet directly  
9 in front of another building.

10           And we have clarification from the Zoning  
11 Administrator that we don't need to ask relief from this  
12 requirement. We meet this requirement because any windows  
13 on the property are not within the required rear yard, and  
14 that this provision should only apply to windows that are  
15 extending into the rear yard.

16           No office window shall be located within 30 feet  
17 of another building. There is no office use here. And then,  
18 in buildings that are not parallel to the adjacent buildings,  
19 the angle of sightlines and distance, penetration of the  
20 sightline into habitable rooms shall be considered.

21           Again, the windows are not in the required rear  
22 yard, but we can provide more information on that if the  
23 Board would like to see that. And provisions shall be  
24 included for service functions including parking and loading  
25 access. Since this just applies to the balconies, we do have

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1 a parking space, so we'll need the parking requirement.  
2 There's no loading requirement.

3 There's nothing different about the rear of the  
4 property as a result of this, as far as anything that could  
5 be put there for parking and loading. And that's it, if the  
6 Board has any questions on that.

7 CHAIR HILL: I'm looking at this letter in  
8 opposition that came in, I guess yesterday. I don't know if  
9 you had a chance to look at it, Mr. Sullivan.

10 MR. SULLIVAN: Yes, we have.

11 CHAIR HILL: And how deep are the balconies?

12 MS. ROTTMAN: The balconies are six feet deep.

13 CHAIR HILL: Okay. And was that always been the  
14 case? I think there was some confusion at some point as to  
15 how deep the balconies were. Was that because there was  
16 different plans around the slides at some point?

17 MS. ROTTMAN: There was a typo in the slide  
18 itself, but the balconies have always been at six feet deep  
19 and as shown on the site plan.

20 CHAIR HILL: Okay. But I'm saying, that's what  
21 you also presented to the ANC and what the Office of Planning  
22 recommended or gone through to review?

23 MS. ROTTMAN: Yes.

24 CHAIR HILL: Okay. All right. Is there any  
25 question for the Applicant? Sure, please go ahead.

1           COMMISSIONER MILLER: Just a comment. Thank you  
2 for being here. Thank you for bringing forth this adaptively  
3 reused residential project. It's very attractive, and I  
4 commend the Applicant for doing ten units, triggering the  
5 inclusionary zoning requirement. You sometimes see, nine  
6 units being proposed to avoid it. And so I hope that will  
7 continue to be an important part of the project.

8           CHAIR HILL: I echo that, Mr. Miller. We always  
9 see right up to the IZ unit. It's funny how that one always  
10 gets cut out. Let's see. Is there anything that the ANC  
11 would like to question with the Applicant and also would you  
12 like to add to the presentation?

13           COMMISSIONER WRAY: I don't have any questions.  
14 As the Applicant pointed out, they did make a change, and  
15 actually the changes that happened were between our first and  
16 second meetings, and that's probably why there might have  
17 been some confusion.

18           We met with the Applicant twice, and it was at  
19 that first meeting we made some recommendations on how that  
20 sort of mesh style handrail could be incorporated. The  
21 original drawings showed just a very thin line handrail along  
22 the back, and you always had that sort of mesh in the front.

23           And so our recommendation was, okay, if there is  
24 this question about the distance of the windows to the  
25 neighbors, then why don't we bring that mesh to the back to

1 kind of add at least some screening?

2 I think many of us, as we walk through the  
3 alleyways of the neighborhood, when you have these new  
4 developments with the very large windows, you can see  
5 straight in, you can see straight out, and you're kind of  
6 overtop of the neighbors.

7 And so this would give something that, if you're  
8 seated in your living room and you're kind of looking, you're  
9 at least looking through that meshing and vice-versa, in  
10 terms of adding some level of privacy to the neighbors in the  
11 alley, because it's such a relatively small alley that then  
12 backs up to R-1 Zone homes.

13 And as was already noted, we appreciate that  
14 really most of the relief is fairly minor. They're going  
15 right up to the height that is allowed. We, in fact,  
16 encouraged them to try to add a penthouse if they could, but  
17 they're stopping where they are, which is fine.

18 I did read the letter in opposition this morning,  
19 as well, and I would note the height was a question. And as  
20 we said, we actually would prefer them to even go higher.  
21 The balconies, we feel that that screening is adding some  
22 privacy, which was one of the concerns, and that that side  
23 yard is entirely on their property, and they are the only  
24 ones that would be coming and going through it, so we don't  
25 see how that would be a neighborhood concern. So, beyond

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1 that, I'll leave it there for your questions.

2 CHAIR HILL: Okay. Does anybody have any  
3 questions for the Commissioner? Okay. You guys would have  
4 wanted to see a penthouse?

5 COMMISSIONER WRAY: We're going for as much  
6 density as we can, so the idea is that if they could get  
7 another unit by adding a penthouse on the top, then we would  
8 have supported that as well, which I believe is allowed in  
9 this particular zone.

10 CHAIR HILL: Yes, I just don't usually hear that  
11 coming out of a Commissioner's mouth.

12 COMMISSIONER WRAY: Well, we're not like all  
13 commissions in 1A.

14 CHAIR HILL: Yes. Okay. Can we hear from the  
15 Office of Planning?

16 MS. MYERS: Good afternoon. Crystal Myers with the  
17 Office of Planning. The Office of Planning is recommending  
18 approval of this case, but I would like to note a staff  
19 report correction.

20 Height is not an issue in this case, but the  
21 report does say that it's a third-floor addition. It's  
22 actually a third- and fourth-floor. I just wanted to note  
23 that it's a two-floor addition.

24 But again, height is not an issue in this case.  
25 They are complying with the height requirement. And with

1 that, Office is Planning is recommending approval of the case  
2 as it stands on the record of the staff report.

3 CHAIR HILL: Okay. Does anybody have any question  
4 for the Office of Planning?

5 VICE CHAIR HART: No, just it seemed like the  
6 letter that we got in opposition, that was one of the things  
7 that they raised was around that. I'm glad that you  
8 corrected it. It's fine. But I appreciate the information.

9 CHAIR HILL: Does the Applicant have any questions  
10 for the Office of Planning?

11 MR. SULLIVAN: No.

12 CHAIR HILL: Does the ANC have any questions for  
13 the Office of Planning?

14 COMMISSIONER WRAY: No.

15 CHAIR HILL: Is there anyone here who wishes to  
16 speak in support? Is there anyone here who wishes to speak  
17 in opposition? Mr. Sullivan, is there anything you'd like  
18 to add at the end?

19 MR. SULLIVAN: No, thank you.

20 CHAIR HILL: Is the Board ready to deliberate?  
21 I'm closing the hearing.

22 VICE CHAIR HART: Sure.

23 CHAIR HILL: Okay.

24 VICE CHAIR HART: So, how about I start, Mr.  
25 Chairman? So after listening to the testimony today, thank

1 you very much, Mr. Wray, or Commissioner Wray, for coming and  
2 providing us with your thoughts from the ANC on this, and  
3 also reviewing the Office of Planning report, I would be in  
4 support of the application.

5 I think that it is a good project in an area that,  
6 and it of course meets the zoning regulations or the zoning  
7 requirements. And, you know, it is an area that, you know,  
8 it's a mixed-use area and it's a little higher density area  
9 along Georgia Avenue, and I think this would be a good  
10 addition to that area.

11 I understand that there, you know, that we've  
12 gotten one letter in opposition to this case, but I didn't  
13 think that, I didn't necessarily agree with them on this  
14 case, and it would be in support. And those are my thoughts.

15 CHAIR HILL: Okay. I will agree with that  
16 analysis actually and would only, you know, add that I agree  
17 with the analysis as provided by the Office of Planning, as  
18 well as the testimony and the, I appreciate very much the  
19 Commissioner staying here this long, and the testimony of the  
20 Commissioner, and I'll be voting to approve the application.

21 Is there anything else from anyone else? Going  
22 to make a motion to approve Application Number 20150 as  
23 captioned and read by the Secretary and ask for a second.

24 VICE CHAIR HART: Second.

25 CHAIR HILL: Motion made and seconded. All in

1 favor say aye.

2 GROUP: Aye.

3 CHAIR HILL: All those opposed? The motion  
4 passes, Mr. Moy.

5 SECRETARY MOY: Staff would record the vote as  
6 four to zero to one, and this is on the motion of Chairman  
7 Hill to approve the application for the relief requested.  
8 Seconding the motion is Vice Chair Hart. Also in support,  
9 Ms. John and Zoning Commissioner Rob Miller. No other  
10 members present.

11 CHAIR HILL: Okay. Thank you, Mr. Moy. Okay, now  
12 we will actually take a break. Thank you.

13 (Whereupon, the above-entitled matter went off the  
14 record at 3:53 p.m. and resumed at 4:14 p.m.)

15 CHAIR HILL: All right, Mr. Moy. Whenever you get  
16 a chance.

17 SECRETARY MOY: Thank you, Mr. Chairman. The  
18 Board is back in session after a quick recess. The time is  
19 about 4:14 p.m. If we can have parties to the table to Case  
20 Application 20146 of Caesar, C-A-E-S-A-R, Junker, captioned  
21 advertised as variance for the use restrictions, of Subtitle  
22 U, Section 201.1, to convert an existing beauty shop use to  
23 an office use in an existing building, R-20 Zone. This is  
24 at 1510 31st Street, Square 1270, Lot 57.

25 CHAIR HILL: All right. Good evening. If you

1 could please introduce yourselves for the record.

2 MR. SULLIVAN: Good evening, Mr. Chairman, members  
3 of the Board. Marty Sullivan, Sullivan and Barrows on behalf  
4 of the Applicant.

5 MS. WINSTON: Good evening, Mr. Chairman, members  
6 of the Board. My name is Bess Winston. I'm the contract  
7 purchaser and I'm also the managing director of the Winston  
8 Agency.

9 CHAIR HILL: Okay, great. All right, Mr.  
10 Sullivan, I assume you're going to be presenting to us?

11 MR. SULLIVAN: Yes.

12 CHAIR HILL: Okay. If you can kind of just walk  
13 us through what you're trying to do. Ms. Winston, if you  
14 just wouldn't mind turning off your microphone when you're  
15 not talking. Otherwise I get feedback. Sorry.

16 If you could just tell us what your client is  
17 trying to achieve and how they're meeting the standard for  
18 us to grant the variance. I'll put 15 minutes on the clock  
19 just so I know where we are, and you can begin whenever you  
20 like.

21 MR. SULLIVAN: Thank you, Mr. Chair, members of  
22 the Board. This is 1510 31st Street Northwest. We're here  
23 requesting use variance relief in order to convert an  
24 existing hair salon into a small office use.

25 And Ms. Winston is the contract purchaser of the



1 property. I'll go over a little bit about the building with  
2 an overview, and then she can talk about the nature of her  
3 operation.

4 The property's currently improved with a one-story  
5 building. It's been used as a beauty shop for at least 60  
6 years according to the certificates of occupancy. The  
7 Applicant's proposing to convert the existing nonconforming  
8 use to another nonconforming use, the office use.

9 So accordingly, we're requesting use variance  
10 relief from the R Zone use requirements in order to convert  
11 the property to office use for Winston Consulting LLC.  
12 Winston Consulting is a small full-service communications  
13 firm specializing in sustainability, communications, and  
14 their hours of operation are proposed to be 9:00 a.m. to 6:00  
15 p.m. Monday through Friday, with up to four employees.

16 And they are intending to make minor internal  
17 changes, including a new kitchenette and a half-bath for  
18 employee use, and this is located in Georgetown Historic  
19 District, and they will go to Old Georgetown Board where  
20 they'll be doing some maintenance to the building as well.  
21 So I'll turn it over to Ms. Winston to talk about the  
22 operation.

23 MS. WINSTON: Thank you. It's a pleasure to be  
24 here. I want to just share with you a little bit about our  
25 firm, the Winston Agency. We are a boutique communications

1 firm that I founded about seven years ago, and we create  
2 communications and public relations for many local  
3 organizations, nonprofits, associations, and companies in  
4 D.C.

5 Our clients include, for example, Meals on Wheels  
6 America, the ALS Association, Calvary Women's Service, just  
7 to name a few. We're a small firm, intentionally so. We  
8 don't want to change. We've been successful being small.  
9 We like being small. It's a bit of a competitive advantage  
10 for us.

11 And our success has been, you know, it's resulted  
12 in the need for office space, and we don't want to rent  
13 office space because we want to invest in the community that  
14 we serve. We want to be of the community in D.C. and we want  
15 to feel like we're part of the community.

16 Because we're so small, it's challenging to find  
17 what we need, until we found this exact, perfect space for  
18 us, this commercial property in Georgetown. It's a bit of  
19 a unicorn. It's really small, 1200 square feet. Can't do  
20 much with that, except put in something like what we intend  
21 to do.

22 As Mr. Sullivan said, the space is used  
23 sporadically as a beauty salon. We want to use it as  
24 professional office space. We have been welcomed by the  
25 neighborhood, by the ANC. We will have minimal footprint,

1 probably less so, in fact, than the beauty salon, because  
2 we're not going to be there on Saturdays, we're not cutting  
3 hair, obviously.

4 But we intend to be owner occupied, which is a  
5 little bit different than, the current owner right now is  
6 renting space to the salon. And it's our intent to, I mean,  
7 I'll be there every day. It's my little workshop where I'm  
8 going to be with a few folks that work with me. And as I  
9 said, we want to be of the community.

10 So we'll be there every day and the neighbors were  
11 very appreciative of that and liked that approach and that  
12 plan. The property, I think, just to point out to you,  
13 again, the unicorn nature of it, it was put on the market in  
14 November of 2018. No takers. It's a tough sell, I think.

15 So, unicorn that it may be, it is perfect for us,  
16 and we would very much appreciate an opportunity to be a part  
17 of the community there.

18 CHAIR HILL: Thank you.

19 MR. SULLIVAN: So regarding the requirements of  
20 the use variance test, the property is affected by  
21 exceptional size, shape, or topography. It's faced with  
22 exceptional conditions relating to its existing and  
23 historical configuration as a commercial use and its very  
24 small size. It's been used as a beauty shop since 1955 and  
25 is the only building in this square used for commercial

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1 purposes.

2           And there's no evidence that the building was ever  
3 used for residential purposes, and the existing building is  
4 too small to be used for residential purpose. And it's not  
5 located in an area with heavy pedestrian traffic, which might  
6 ably support another retail or service use, which might still  
7 require use variance as the only nonresidential use permitted  
8 here, as a salon-type use or another personal service type  
9 use that's permissible now as a continuing use of the  
10 existing use.

11           So the owner, which as Ms. Winston is the contract  
12 purchaser, would suffer undue hardship if the zoning  
13 regulations were strictly applied because they would have to  
14 convert it to residential use or find a tenant that would fit  
15 in hair salon use, and they haven't been able to do that.

16           So finally, and the variance would not cause  
17 substantial detriment to the public good. The building's  
18 been used for commercial purposes since at least '55.  
19 Arguably, the hair salon is maybe more disruptive than an  
20 office use because you have people coming and going to visit  
21 the use. The office does not expect daily visitors.

22           And the Applicant's not proposing any external  
23 changes to the building. And the nature of the office use  
24 with hours of operation from 9:00 to 6:00 makes it likely  
25 that the neighbors will be gone before employees arrive and

1 employees will be gone for the day, so it shouldn't have any  
2 impact on parking.

3 And I would note, too, that the ANC had no  
4 objection. They voted unanimously no comment, which is what  
5 Georgetown ANC tends to do when they are in support of a  
6 project. And that's it. So if the Board has any questions  
7 --

8 CHAIR HILL: All right. Does the Board have any  
9 questions for the Applicant? All right. I'm going to turn  
10 to the Office of Planning.

11 MS. VITALE: Good afternoon, Mr. Chair, members  
12 of the Board. Elisa Vitale with the Office of Planning. The  
13 Office of Planning is recommending approval of the requested  
14 use variance. And I'm happy to rest on the record. I can  
15 answer any questions. Thank you very much.

16 CHAIR HILL: Sure, please go ahead, Commissioner.

17 COMMISSIONER MILLER: Thank you, Mr. Chairman.  
18 Thank you, Ms. Vitale, for your report, which I agree with  
19 the recommendations that you're making.

20 I just have a generic question related to this  
21 case and related to another pending case that I had to sit  
22 on on the BZA a few weeks ago.

23 But it's my understanding that this type of use  
24 variance relief for commercial use in a residential zone, for  
25 a purpose-built commercial building that's been that way

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1 since it was built over a hundred years ago or whatever, that  
2 it was a special exception relief under the 1958 regulations,  
3 and that somehow it got changed, I think inadvertently.

4 But if it wasn't inadvertent, I think we need to  
5 be advertent to change it back. So I would like to ask you  
6 and your colleagues to look at that issue.

7 It seems more appropriate as a special, the  
8 adverse impact seems to be the real issue to focus on and,  
9 well, I think the adverse impact is the issue to focus on and  
10 special exception would get at that type of relief and  
11 involve the community. And variance seems to be a lot of  
12 hoops that, for these purpose-built commercial buildings,  
13 seems to be too burdensome.

14 MS. VITALE: Just to respond to that, the change  
15 between the '58 and 2016 regulations was intentional, but I  
16 appreciate the feedback with respect to the variance  
17 requirement, and that's something we can certainly look --

18 COMMISSIONER MILLER: And I'm just speaking for  
19 myself. I don't know what that, the feeling of my fellow BZA  
20 members or my Zoning Commissioners, but I think it's  
21 something to look at.

22 MS. VITALE: We're happy to do that.

23 COMMISSIONER MILLER: Thank you.

24 CHAIR HILL: Along those lines with Commissioner  
25 Miller, I suppose it's this increased use that seems to be

1 where I seem to be focusing kind of my attention, either on  
2 this particular application or on the other ones that are  
3 coming before us now, because, you know, this apparently now,  
4 the use is, thank you, less intense, at least as far as, you  
5 know, that's what the argument tends to be, right? Is it or  
6 isn't it less intensive, right?

7 I mean, you know, I mean, the communications  
8 company maybe, excuse me, they seem like a very nice  
9 communications company, but maybe they wouldn't be such a  
10 nice communications company and instead there would be  
11 protestors there all the time or other things like that,  
12 could be a whole different discussion.

13 So, I'm just also, to what the Commissioner  
14 mentioned, kind of understanding is this a variance or is  
15 this a special exception, if it's still commercial? There's  
16 no question there, I guess. Okay, does anybody have a  
17 question for the Office of Planning? Does the, oh, sorry.

18 VICE CHAIR HART: The hours? Just normal hours  
19 that you were looking at?

20 MS. VITALE: Based on the Applicant's information  
21 provided in their submittal, they had indicated 9:00 a.m. to  
22 6:00 p.m. So, you know, we did propose that that be made a  
23 condition of the approval that would mitigate any potential  
24 impacts as the Applicant's attorney mentioned.

25 Those hours are compatible with the surrounding

1 residential use. Employees would likely be arriving after  
2 folks that lived in the neighborhood may have left for work,  
3 so we did recommend that hours of operation be a condition  
4 of approval.

5 VICE CHAIR HART: Thank you.

6 CHAIR HILL: So now, Mr. Sullivan, the language  
7 that, excuse me, the language in terms of the condition, I  
8 guess, would be something along the lines of, hours of  
9 operation shall be limited to 9:00 a.m. to 6:00 p.m. Monday  
10 through Friday. Is that something that the Applicant would  
11 understand?

12 Yes, and to me, actually, now that I talk about  
13 it, like, well, there was different words that were, any of  
14 them you can use. If you like limited to, not to exceed, I  
15 guess. But the problem that I'm having with that now that  
16 we're actually talking out loud is that, you know, it's a  
17 communications firm, it's a small communications company.  
18 Are they supposed to leave at 6:00 o'clock and the building's  
19 supposed to be empty?

20 I don't understand the condition. It seems a  
21 little bit, it's only 1200 square feet. I mean, how many  
22 people can you, I actually don't think I'd be able to agree  
23 with the, I don't necessarily know that I'd be able to agree  
24 with the wording of it.

25 I mean, it seems as though, you know, they have



1 to, it's a communications firm. You're working until 9:00  
2 o'clock, you know, at some time, if you have to fill a  
3 client's need. You know, what are they supposed to do? What  
4 did the Office of Planning think? They're not retail.

5 VICE CHAIR HART: I was only trying to figure out  
6 where they had gotten it from. I mean, I understand they had  
7 gotten it from that. I didn't know if it was because they  
8 were, you know, thinking that's kind of normal business hours  
9 or if there was some other reason or rationale for it.

10 CHAIR HILL: All right. So now that is the  
11 question for the Office of Planning.

12 MS. VITALE: That came from the Applicant. We'd  
13 indicated just hours of operation shall be from 9:00 a.m. to  
14 6:00 p.m. Monday through Friday. I think that establishes  
15 a reasonable timeframe.

16 I don't think that would preclude someone working  
17 late on occasion. This was more of a general hours of  
18 operation for the business, not that they would be there  
19 from, you know, 8:00 a.m. until 10:00 p.m. every day with all  
20 employees.

21 CHAIR HILL: Mr. Sullivan, where did you get those  
22 --

23 MR. SULLIVAN: It's descriptive, I mean, of a  
24 normal practice. And so, sure, there will be times where  
25 it's later than that and I think, you know, a lot of times

1 when I think we hear about uses like this in the community,  
2 they want it active at night, too. So I don't think it's a  
3 bad thing to be there late, but the idea was, I don't think  
4 we would like to have it as a condition because it might  
5 cause confusion, but that's --

6 CHAIR HILL: No, right. Unless the Board thinks  
7 that it is necessary, I don't, I mean, you know, I mean, I  
8 guess, if you really wanted to specify, you could say general  
9 public hours of operation should be.

10 I mean, I don't, you know, so, or just forget it  
11 and then, you know, I mean, I just saw Ms. John make a,  
12 seemed to be nodding, so I'm trying to read all the faces up  
13 there at the same time, so --

14 VICE CHAIR HART: Well, the thinking for me is  
15 that, you know, when you have a business that is a retail  
16 business, I understand that the, cutting that time off is a  
17 way to keep people that are trying to get there there.

18 You know, and nothing, I'm not trying to say  
19 anything about the particular business that Ms. Winston has,  
20 but it's not about having, you know, a hundred people come  
21 there, you know, during the day. It is something that you  
22 need to basically, three or four people, however many your  
23 staff are, come in and they work and they work and they work  
24 and then they leave.

25 And so it's, that amount of people is much less

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1 than it would be for a retail, you now, situation, which I  
2 think limiting the hours may make more sense. This didn't  
3 seem like it, you know, made sense, this limitation.

4 CHAIR HILL: Unless the rest of the Board, and I'm  
5 trying to, we still have one more case left, I don't have  
6 any, I don't think the hours of operation are necessary  
7 unless the Office of Planning is really, has strong feelings  
8 about that in this particular case.

9 MS. VITALE: We do not have strong feelings.

10 CHAIR HILL: Okay. All right. I'll leave that  
11 one alone. All right. Okay. All right. So, Ms. John?

12 MEMBER JOHN: I don't have strong feelings,  
13 either. I was going to offer a suggestion that you say  
14 normal business hours, which would mean that there could be  
15 abnormal business hours. But I'm fine with leaving it out.

16 CHAIR HILL: Is that like an irregular channel?  
17 Okay. All right. So, I'm going to say let's just stick with  
18 regular channels. So, okay. Is there anything else? Okay,  
19 is there anyone here who wishes to speak in support? Is  
20 there anyone here wishing to speak in opposition? Mr.  
21 Sullivan, is there anything you'd like to add at the end?

22 MR. SULLIVAN: No, thank you.

23 CHAIR HILL: Okay. I'm going to go ahead and  
24 close the hearing. Is the Board ready to deliberate? Okay.  
25 I'm comfortable with what the Applicant has put forward. I'm

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1 also comfortable with the analysis that the Office of  
2 Planning has provided.

3 I do find it, and I do find it, yes, in fact, I'm  
4 going to reopen the record just to get this clear for me.  
5 The ANC, like, this particular ANC, they do sometimes vote,  
6 they voted to not take a vote, right? And so, I'm sorry,  
7 they voted to not --

8 MR. SULLIVAN: To have no comment.

9 CHAIR HILL: They voted to have no comment, right?  
10 And you, Mr. Sullivan, just kind of mentioned that this ANC  
11 tends to, can do it that way, right?

12 But I've seen them do it all different ways,  
13 right? This is one where, anyway, so you have seen them  
14 approve and deny and not take a stand, which is what this one  
15 was, correct?

16 MR. SULLIVAN: Yes, but at the end --

17 CHAIR HILL: No, I'm just curious if, I just want  
18 to understand.

19 MR. SULLIVAN: That's correct.

20 CHAIR HILL: That's all I needed. Okay. So I'm  
21 closing the record again. Going back to deliberations. And  
22 I again am glad to see that the Office of Planning is in, I  
23 would agree with their analysis.

24 The ANC, I am glad to see they, I assume, do not  
25 think that this is a more intense use, and therefore they are

1 not taking a strong position one way or the other with it.  
2 But I can understand their position as well.

3 And I also would agree with the argument that the  
4 Applicant has put forward and the attorney in terms of how  
5 they're meeting the use variance standard. So I'll be voting  
6 to approve. Is there anything else anyone would like to add?

7 VICE CHAIR HART: I'd be voting also to approve  
8 the application. I do not think that they need to have a  
9 hours of operation associated with it. And that's it.

10 CHAIR HILL: Okay. I'm going to make a motion to  
11 approve Application Number 20146 as captioned and read by the  
12 Secretary and ask for a second.

13 MEMBER JOHN: Second.

14 CHAIR HILL: Motion made and seconded. All those  
15 in favor say aye.

16 GROUP: Aye.

17 CHAIR HILL: All those opposed? The motion  
18 passes, Mr. Moy. We'll give that second to Ms. John, Mr.  
19 Moy.

20 SECRETARY MOY: Staff would record the vote as  
21 four to zero to one, and this is on the motion of Chairman  
22 Hill to approve the application for approving the relief  
23 requested. Seconding the motion is Ms. John. Also in  
24 support, Vice Chair Hart and Zoning Commissioner Rob Miller.  
25 No other members present.

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1 CHAIR HILL: All right. Thank you, Mr. Moy.  
2 Thank you very much. Good luck.

3 (Whereupon, the above-entitled matter went off the  
4 record at 4:35 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC BZA

Date: 11-20-19

Place: Washington, DC

was duly recorded and accurately transcribed under  
my direction; further, that said transcript is a  
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