

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

NOVEMBER 4, 2020

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 9:45 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. Hill, Chairperson
LORNA JOHN, Vice-Chair
CHRISHAUN SMITH, Board Member

ZONING COMMISSION MEMBER PRESENT:

ANTHONY HOOD, Chair
PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Zoning Data Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

DANIEL BASSETT, Esquire
MARY NAGELHOUT, Esquire
ALEXANDRA CAIN, Esquire
JACK RICE, Esquire

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The transcript constitutes the minutes from the
Regular Public Hearing held on November 4, 2020

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

(9:45 a.m.)

CHAIRPERSON HILL: Mr. Moy, you can hear me, correct?

MR. MOY: Yes, sir. Loud and clear.

CHAIRPERSON HILL: Okay. Great.

All right. The hearing will please come to order.

Good morning, ladies and gentlemen. We're convened and broadcasting this public hearing by video conference. This is the November 4, 2020 public hearing of the Board of Zoning Adjustment, District of Columbia. My name is Fred Hill, Chairperson. Joining me today is Lorna John, Vice Chair; Chrishaun Smith, Board member; and representing the Zoning Commission is Anthony Hood for one case and Peter Shapiro for the remainder of the day.

Today's hearing agenda is available to you on the Office of Zoning's website. Please be advised this proceeding is being recorded by a court reporter and is also webcast live via Webex and YouTube Live. The webcast video will be available on the Office of Zoning's website after today's hearing. Accordingly, everyone who is listening by Webex or phone will be muted during the hearing, and only persons having signed up to participate or testify will be unmuted at the appropriate time.

Please state your name and home address before providing oral testimony or your presentation. Oral presentations should be limited to a summary of your most important points. When you're finished speaking, please mute your audio so that your microphone

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1 is no longer picking up sound or background noise.

2 If you're experiencing difficulty accessing Webex or
3 your telephone call-in, or if you've forgotten to sign up 24 hours
4 to this hearing, then please call our OZ Hotline number, and I'll
5 repeat the number. 202-727-5471. Once again, 202-726-5471 to
6 sign up to testify and to receive Webex login or call-in
7 instructions.

8 All persons planning to testify either in favor or in
9 opposition should have signed up in advance. There will be --
10 they will be called by name to testify. If this is an appeal,
11 only parties are allowed to testify -- only parties are allowed to
12 testify. By signing up to testify, all participants complete the
13 oath or affirmation as required by Subtitle Y 408.7.

14 Requests to enter evidence at the time of an online
15 virtual hearing such as written testimony or additional supporting
16 documents other than live video, which may not be presented as
17 part of the testimony, may be allowed pursuant to Subtitle Y
18 103.13 provided that the persons making the request to enter an
19 exhibit explain how the proposed exhibit is relevant, the good
20 cause that justifies allowing the exhibit into the record
21 including their explanation of why the requestor did not file the
22 exhibit prior to the hearing pursuant to Y 206, and how the
23 proposed exhibit could not or would not unreasonably prejudice any
24 parties. The order of procedures for special exceptions and
25 variances are in Y 409. The order of the appeal is in Y 507.

1 The Board's agenda may include previous cases set for
2 decision. After the Board adjourns the hearing, the Office of
3 Zoning and consultation with myself will determine whether a full
4 or summary order may be issued. A full order is required when the
5 decision it contains is adverse to a party including an affected
6 ANC. A full order may also be needed if the Board's decision
7 differs from the Office of Planning's recommendation. Although
8 the Board favors the use of summary orders whenever possible, an
9 applicant may not request the Board to issue such an order.

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

20 Preliminary matters are those which relate to whether a
21 case will or should be heard today such as requests for a
22 postponement, continuance, or withdrawal or whether proper and
23 adequate notice of the hearing has been given. If you're not
24 prepared to go forward with the case today or believe that the
25 Board should not proceed, now is the time to raise such a matter.

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

2 MR. MOY: I don't have any report at this time other
3 than -- other than some preliminary matters that I can raise when
4 I call the specific case, sir.

5 CHAIRPERSON HILL: Okay. I know there seems to be a
6 bunch of little things going on some of the different cases. So,
7 again, Mr. Moy, just kind of remind me because as I've mentioned a
8 few times and will continue to mention throughout the day, I'm
9 having Internet issues. So that being the case, Mr. Moy, if you
10 could call our first hearing case?

11 MR. MOY: Yes. Thank you, Mr. Chairman. So this would
12 be Case Application No. 20289 of 400 Seward Square. That's S-E-W-
13 A-R-D Square, LLC. The caption advertised for area variance from
14 the lot area requirements of Subtitle E, Section 201.7 to permit
15 an addition of 3 units to the existing 14-unit apartment building
16 in the RF-3 Zone at premises 400 Seward Square Southeast, Square
17 819, Lot 28. As the Board will recall, this is continued from the
18 Board's last hearing on this case from October 28th.

19 CHAIRPERSON HILL: Okay.

20 Let's see. Mr. Sullivan, are you there?

21 MS. WILSON: Mr. Sullivan's not going to be joining.
22 But this is Ms. Wilson, and I'm here on behalf of the Applicant.

23 CHAIRPERSON HILL: Okay. Let's see. Ms. Wilson, who is
24 with you guys?

25 MS. WILSON: Matt Lee, the project architect, is with

1 us. And the owner Mr. Barley is unable to join. He's traveling
2 today as he didn't anticipate the hearing would be on November
3 4th.

4 CHAIRPERSON HILL: Okay. All right. Well, Ms. Wilson,
5 I'll let you go ahead. And I know that we had been here a couple
6 weeks before, and there was some work that had gone through the
7 Zoning Commission concerning this case. But if you want to go
8 ahead and present your case, I'm going to put 15 minutes on the
9 clock just so I know where we are. And you can begin whenever you
10 like.

11 MS. WILSON: Great. Thank you so much. And I would
12 first like to say thank you to the Office of Planning, the Zoning
13 Commission, and OAG for acting so quickly to correct the ambiguity
14 in the regulations, and to you all for being patient and working
15 with us. So we really appreciate that, and we're happy to move
16 forward knowing that this is the correct relief, and there won't
17 be any issues in the future. Mr. Young, could you please pull up
18 the presentation when you have a chance?

19 MR. YOUNG: Same presentation as last time?

20 MS. WILSON: Yes. There is a second one we submitted to
21 the record. I think it's Exhibit 39. Yeah.

22 MR. YOUNG: Okay. I'm going to need just a second --

23 MS. WILSON: Yeah.

24 MR. YOUNG: -- to pull it up.

25 (Pause.)

1 MS. WILSON: While Mr. Young is pulling that up, I'll
2 start and give some background. The building was constructed in
3 the early 1900's and is a purpose-built apartment building. When
4 Mr. Barley purchased the property, the C of O was only for 14
5 units even though there are 15 units in the existing building. I
6 even researched some old C of O's and found them dating back to
7 the 1970's showing only 14 units. So this condition has existed
8 for quite a while where the building has a 15th unit that isn't in
9 the C of O. And now we're requesting to make that 15th unit legal
10 which requires a variance from E 201.7 as we do not have the 900-
11 square foot per unit existing or proposed. In addition to making
12 the 15th unit legal, we are also requesting to add two units in
13 existing vacant space on the cellar level. And that space is not
14 being used for any purpose right now and has been proven difficult
15 to maintain.

16 CHAIRPERSON HILL: Ms. Wilson, can you hear me?

17 MS. WILSON: I can, yes.

18 CHAIRPERSON HILL: Can you just kind of argue a little
19 bit the first prong of the variance?

20 MS. WILSON: Sure.

21 CHAIRPERSON HILL: Thanks.

22 MS. WILSON: I do have some photographs that would more
23 clearly show this. But even though it's zoned R-3, the building
24 essentially fronts on Pennsylvania Avenue. It's at the
25 intersection of Pennsylvania, Seward, and 4th Street, and there

1 are a number of institutional buildings and commercial uses in the
2 area. So there's a gas station across from Pennsylvania Avenue, a
3 bank across 4th Street, and a number of restaurants and bars on
4 the block. It is a purpose-built apartment building which is a
5 main condition.

6 The fact that it's surrounded by commercial uses and
7 fronts on Pennsylvania Avenue on this corner there, combined with
8 the fact that it's a purpose-built apartment building that became
9 legally nonconforming, creates a unique condition. And there is
10 existing idle cellar space adjacent to those existing units.
11 There was a modernization of the building when Mr. Barley
12 purchased it, and so now all of the units have in-unit laundry and
13 storage space. So this space is currently vacant.

14 And there have been instances where someone -- there was
15 an instance where someone actually broke into the building. So
16 this space has become difficult to maintain. It's a security
17 issue likely due to its high visibility on the corner of Seward
18 and Pennsylvania and because of the commercial uses in the area.
19 There is a bar, a bank, and a gas station right there. So it's a
20 relatively high-traffic area, and there's already been a security
21 issue where someone broke in and gained access to that vacant
22 space and actually stayed overnight there. So there are proven
23 issues with maintaining this space.

24 And so instead of leaving it vacant, which would present
25 additional maintenance and security issues that they've already

1 had, the Applicant is proposing to take idle space and put it to a
2 higher and better use as additional housing. And the Applicant
3 can do all of that without the need for an addition, so it's not
4 disruptive to the adjacent neighbors and does not involve exterior
5 construction.

6 The Office of Planning is recommending approval. DDOT
7 has no objection. And ANC 6B supports the application. And I'd
8 also like to add that the adjacent neighbor at 404 Seward Street
9 Square Southeast has submitted a letter in support.

10 I think that's our old presentation because we addressed
11 that motion, I think, at the first hearing. It was just about the
12 public notice requirement. If you could go to the next slide?

13 MR. YOUNG: This was the Exhibit 39. Is this incorrect?

14 MS. WILSON: I apologize. It was Exhibit 42. But
15 that's fine. It's roughly the same presentation, if you could
16 just -- next slide please. Thank you.

17 So I've already given an overview and sort of run
18 through the variance requirement. We have the architect here, and
19 he can sort of explain what we're doing with the vacant space that
20 might give a better visual. But let me know if you have any
21 specific questions or if you would like us to run through the
22 whole presentation.

23 CHAIRPERSON HILL: Actually, Mr. Young, I'm sorry. Can
24 you just go ahead and drop that presentation?

25 You guys, I can kind of see you now a little bit. Do we

1 have -- do you guys have any questions right now for the
2 Applicant?

3 VICE CHAIR JOHN: I had a quick question. So the
4 remaining apartment buildings -- I'm sorry -- units, Ms. Wilson,
5 are they the same size as they were before the renovations?

6 MS. WILSON: Mr. Lee is on, and he can talk about those
7 existing apartment units.

8 MR. LEE: Good morning. This is Matt Lee, the architect
9 for the project. We're making a slight variation to one unit to
10 move a bathroom around. But it's maybe a five by seven bathroom
11 that's being shifted around. But for the most part, yes, they're
12 the same.

13 VICE CHAIR JOHN: Thank you.

14 CHAIRPERSON HILL: Anyone else have a question before I
15 turn to the Office of Planning? And if so, speak up because I
16 can't see anybody's face. Okay.

17 I'll turn to the Office of Planning.

18 CHAIRMAN HOOD: Mr. Chairman?

19 CHAIRPERSON HILL: Sure, Mr. Hood. Chairman Hood?

20 CHAIRMAN HOOD: Yeah. I just want to ask Ms. Wilson. I
21 do know in the case file, if I remember correctly, there was a --
22 she didn't mention -- she mentioned the support. She didn't
23 mention the opposition from Capitol Hill Restoration Society. Is
24 there still -- is that still in play, Ms. Wilson?

25 MS. WILSON: It is. So they reached out to us

1 initially, and then we reached out a couple times because we did
2 want to present, but they never got back to us. I'm not -- I
3 assume they're presenting virtually and holding meetings
4 virtually. But we didn't hear anything back until we saw the
5 letter, and it was submitted the Monday before. I'm happy to
6 address the substance of the letter if you would like.

7 CHAIRMAN HOOD: I was just -- no, I think the substance
8 -- I can deal with the substance. But I just wanted to make sure
9 that they have not reconsidered (audio interference) record. But
10 obviously -- I noticed you mentioned all the support. You didn't
11 say anything about the opposition. But I just wanted to note this
12 is still in the file, and I wanted to know where this played in
13 all of this. So I think I'm good. Thank you.

14 MS. WILSON: Thank you.

15 CHAIRPERSON HILL: Okay.

16 The Office of Planning?

17 MS. ELLIOTT: Good morning Mr. Chairman and members of
18 the Board. I'm Brandice Elliott representing BZA Case 20289 for
19 the Office of Planning at 400 Seward Square Southeast. And just
20 to clarify, I know that we had some issues regarding the relief.
21 And I know that the Applicant touched on this, but the Zoning
22 Commission did accept the emergency text amendment that we
23 presented last week. And so, you know, we can confirm that only
24 an area variance is required for this application and not the use
25 variance.

1 And so the Office of Planning is recommending approval
2 of the area variance relief that's been requested for this
3 application. The building is a purpose-built apartment house. It
4 was constructed prior to the 1958 zoning regulations. And then we
5 do often see this issue, you know, modernizing these buildings
6 over time where it does create, you know, some issues with the
7 floor plan. In particular, the Applicant has mentioned, you know,
8 the issues with maintaining that space because it's not being used
9 for anything. So in this case, you know, all of the laundry has
10 been relocated to individual units, and it's created this awkward
11 space in a prominent location of the building that's difficult to
12 maintain.

13 The Applicant has also provided floor plans showing the
14 location of load-bearing walls and how that vacant space cannot be
15 combined with other existing units. And then, you know, combining
16 it with upper units would create an issue as well because these
17 are small enough that a lot of that space would be eaten up by
18 circulation, and it would sort of defeat the purpose of
19 incorporating that space into some of the other upper units.

20 So the Office of Planning is recommending approval. I'm
21 happy to answer any questions that you have.

22 CHAIRPERSON HILL: Okay.

23 Does the Board have any questions for the Office of
24 Planning? And if so, please speak up.

25 Does the Applicant have any questions for the Office of

1 Planning?

2 MS. WILSON: Thank you.

3 CHAIRPERSON HILL: Mr. Young, is there anyone wishing to
4 speak in favor or in opposition?

5 MR. YOUNG: We do not have anyone.

6 CHAIRPERSON HILL: Okay.

7 Does anyone have any questions for anyone?

8 I'm going to close the hearing.

9 Mr. Young, if you could please excuse everyone except
10 for my Board members? I at least see Chairman Hood. So I'm going
11 to assume --

12 Are we ready to deliberate?

13 And Chairman Hood, you can nod your head if you are.
14 Okay. All right.

15 I can go ahead and start. I would agree with the
16 analysis that the Office of Planning has provided. I will also
17 agree with the analysis and the argument that the Applicant has
18 made in terms of how they're meeting the standard for us to grant
19 the application. And I am going to be voting in favor of the
20 application.

21 Chairman Hood, would you like to add anything?

22 CHAIRMAN HOOD: Yes, Mr. Chairman. I just want you to
23 know when I nodded my head, I saw -- I was looking at Vice Chair
24 John and others, and they nodded their heads. So I was nodding my
25 head for all of us to move forward.

1 I would agree with your assessment. I think Ms.
2 Elliott's report really convinced me and also the actions -- I'm
3 glad we were able to mitigate some of the actions that were not
4 actually noticed when the Commission first dealt with these
5 regulations. But I think -- on that related point, I think Ms.
6 Elliott actually mentioned and articulated in a very (audio
7 interference) be supporting this case. And I would also
8 incorporate the Office of Planning's recommendation as you
9 mentioned as well as the Applicant's response to moving forward
10 with this case. That's all I have on this, Mr. Chairman.

11 CHAIRPERSON HILL: Mr. Smith?

12 MEMBER SMITH: I'll second both of your comments about
13 this particular case. I think Ms. Wilson did a great job of
14 articulating the practical hardship of using that space in the
15 basement. And, also, that one of the units was a personal
16 apartment unit that was constructed prior to the implementation of
17 the 1958 zoning regulations. So I am in agreement with both of
18 you, and I will be supporting the variance.

19 CHAIRPERSON HILL: Ms. John?

20 VICE CHAIR JOHN: So I also support the application.
21 And I will give great weight to OP's analysis with respect to the
22 first prong, the exceptional condition that this is a purpose-
23 built apartment building from the early 1900's and that the excess
24 space is created because of an attempt to modernize the building
25 and to remove some of the utilities from the basement which is a

1 more efficient use of the building. And so I believe that there
2 are a number of factors that create this exceptional condition.
3 And I believe the Applicant has met the requirement for the
4 regulation, for relief on the regulation. So I -- as I said
5 before, I can support the application.

6 CHAIRPERSON HILL: Okay. They also make note that the
7 ANC had provided their input and was also in agreement with
8 supporting the application as well as DDOT.

9 So I'm going to make a motion to approve Application No.
10 20289 as captioned and read by the Secretary.

11 And ask for a second, Ms. John?

12 VICE CHAIR JOHN: Second.

13 CHAIRPERSON HILL: The motion made and seconded. Mr.
14 Moy, could you please take a roll call vote?

15 MR. MOY: Thank you, Mr. Chairman. When I call your
16 name, if you would please respond with a yes, or no, or abstain to
17 motion made by Chairman Hill to approve the application for the
18 relief they requested. The motion is seconded by Vice Chair John.
19 Zoning Commission Chair Anthony Hood?

20 CHAIRMAN HOOD: Yes to approve the motion.

21 MR. MOY: Mr. Smith?

22 MEMBER SMITH: Yes to approve.

23 MR. MOY: Vice Chair John?

24 VICE CHAIR JOHN: Yes to approve.

25 MR. MOY: Chairman Hill?

1 CHAIRPERSON HILL: Yes to approve.

2 MR. MOY: And we have a Board seat vacant. This would
3 give a final vote of 4 to 0 to 1. And this is on the motion of
4 Chairman Hill to approve the application for the relief being
5 requested, seconded by Vice Chair John. Also in support, Zoning
6 Commission Chair Anthony Hood, Mr. Smith, and of course Vice Chair
7 John and Chairman Hill. The motion carries, sir, 4 to 0 to 1.

8 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Moy.

9 CHAIRMAN HOOD: Mr. Chairman, I'll be cutting out. You
10 all have a great day.

11 CHAIRPERSON HILL: All right. Chairman Hood, thank you
12 for joining us.

13 CHAIRMAN HOOD: All right. See you all later.

14 CHAIRPERSON HILL: We're getting Commissioner Shapiro
15 added.

16 COMMISSIONER SHAPIRO: I'm here, Mr. Chair.

17 CHAIRPERSON HILL: Okay. Thank you, Commissioner.

18 People popping in and out. I mean, this is a very
19 (audio interference) issue for me.

20 Mr. Moy, you can call our next case when you get a
21 chance.

22 MR. MOY: All right. Thank you, Mr. Chairman. So this
23 next case before the Board is Application No. 20310 of Robert and
24 Stefanie Wehagen, I believe. W-E-H-A-G-E-N. Caption advertised
25 for a special exception under Subtitle E Section 5201 from the lot

1 occupancy requirements of Subtitle E Section 304.1. This would
2 construct a one-story rear addition to an existing attached flat
3 in the RF-1 Zone at premises 128 12th Street Northeast, Square
4 988, Lot 40.

5 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Moy.
6 Ms. Fowler, are you there?

7 MS. FOWLER: Yes. Hi everybody.

8 CHAIRPERSON HILL: Could you introduce yourself for the
9 record, please?

10 MS. FOWLER: Yes. I'm Jennifer Fowler. I'm the
11 architect on the case.

12 CHAIRPERSON HILL: Ms. Fowler, is there anyone else here
13 with you?

14 MS. FOWLER: No, just me today.

15 CHAIRPERSON HILL: Okay.

16 Before we begin, there was a deficient notice that had
17 taken place due to a technical issue on our side. And it was that
18 this was posted 19 days prior to the hearing in the D.C. Register
19 rather than the 40 days. I do think that all of the other notice
20 requirements have been fulfilled in terms of the ANC being
21 notified, the Office of Planning, all of the other District
22 agencies as well as property owners within the 200 feet as well as
23 the posting of the property. I, on my own motion, am going to
24 waive that motion for the D.C. Register as per Y 402.11. And
25 unless I hear one of my fellow Board members speak up, I will

1 assume that that is okay. And I will pause to hear from anyone.
2 All right. So we'll go ahead and waive that.

3 So Ms. Fowler, if you wouldn't mind walking us through
4 your application and why you believe we should grant the relief
5 requested. There's 15 minutes on the clock there, and you can
6 begin whenever you like.

7 MS. FOWLER: Okay. Thank you. So this is a one-story
8 rear addition at 128 12th Street Northeast. The homeowners are
9 just wanting to put a -- kind of a small sunroom, mudroom space
10 off the back of the house. The only relief that we're asking for
11 in this case is for lot occupancy. We're currently at 55 percent
12 and going up to 62.7 percent with the proposed addition. So it is
13 a very kind of modest request beyond the allowable 60 percent
14 coverage.

15 Again, it's one-story addition. We do have support from
16 both adjacent neighbors as well as the ANC. And it also has been
17 kind of preapproved by historic staff, so we weren't actually
18 requested to go through the formal process for this on that end
19 there. I think there's absolutely no impact to the neighbor to
20 the south because their wall actually extends deeper than this
21 proposed addition. The neighbor to the north shares a court, a
22 dog-leg with this property. So there is some small impact to the
23 light and air there, but that neighbor is comfortable and has
24 signed the letter of support which is in the record.

25 So at that, I will just leave it to questions because it

1 is a very straightforward case hopefully.

2 CHAIRPERSON HILL: Okay.

3 Does the Board have any questions for the Applicant?
4 And if so, please speak up.

5 COMMISSIONER SHAPIRO: No questions, Mr. Chair.

6 VICE CHAIR JOHN: No questions.

7 MEMBER SMITH: No questions, Mr. Chair.

8 CHAIRPERSON HILL: All right. I'm going to turn to the
9 Office of Planning.

10 MR. JESICK: Thank you, Mr. Chairman and members of the
11 Board. My name is Matt Jesick. The Office of Planning is happy
12 to rest on the record in support of the application. And I can
13 take any questions. Thank you.

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

16 COMMISSIONER SHAPIRO: No questions.

17 VICE CHAIR JOHN: No questions.

18 MEMBER SMITH: No questions.

19 CHAIRPERSON HILL: Does the Applicant have any questions
20 for the Office of Planning?

21 MS. FOWLER: No, thank you.

22 CHAIRPERSON HILL: Mr. Young, is there anyone here
23 wishing to speak in support or in objection?

24 MR. YOUNG: We do not.

25 CHAIRPERSON HILL: Okay.

1 Ms. Fowler, is there anything you'd like to add at the
2 end?

3 MS. FOWLER: No, thank you so much.

4 CHAIRPERSON HILL: All right.

5 I'm going to go ahead and close the hearing.

6 Mr. Young, can you please -- well, I guess actually Ms.
7 Fowler is here for the next one. So you can just leave her in
8 there for a second.

9 If the Board is ready to deliberate or is not ready --
10 I'm ready to deliberate. So I'm going to go ahead and start, and
11 then I'm going to go around the table and see where we are. I
12 believe that it was a relatively straightforward application. I
13 believe --

14 VICE CHAIR JOHN: Sorry to interrupt. Did you close the
15 record?

16 CHAIRPERSON HILL: I thought I did. But thank you, Ms.
17 John.

18 The record is closed. The hearing is closed. And now
19 we're entering the deliberation portion.

20 And I guess, actually, Mr. Young, if it's easy enough,
21 why don't you excuse Ms. Fowler and come back because I know that
22 the second case is that as well.

23 And I believe that it's -- as I was trying to say is
24 relatively straightforward, and I believe that the Applicant has
25 made their case as to why they're meeting the standard for us to

1 grant the application. So I will be voting in favor.

2 I'm going to go around the table starting with you,
3 Commissioner Shapiro.

4 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I agree.
5 I think this is pretty straightforward. They've made their case,
6 and I'll be supporting it as well.

7 CHAIRPERSON HILL: Mr. Smith?

8 MEMBER SMITH: I second Mr. Shapiro. I give great
9 weight to the staff report by OP. I do -- I do not see any
10 measurable adverse impacts on adjacent properties. And I will be
11 supporting this application.

12 CHAIRPERSON HILL: Ms. John?

13 VICE CHAIR JOHN: I'm in support of the application.
14 It's very straightforward, and I give great weight to OP's
15 analysis and also note that the relief requested is only a 2
16 percent increase.

17 CHAIRPERSON HILL: Okay. Thank you, Ms. John.

18 I'm going to make a motion to approve application No.
19 20310 as captioned and read by the Secretary.

20 And ask for a second, Ms. John?

21 VICE CHAIR JOHN: Second.

22 CHAIRPERSON HILL: The motion is made and seconded. All
23 -- oh.

24 Mr. Moy, if you could please take a roll call vote?
25 Thank you.

1 MR. MOY: Thank you, Mr. Chairman. When I call your
2 name, if you would please respond with a yes, no, or abstain to
3 the motion made by Chairman Hill to approve the application for
4 the relief requested and seconded by Vice Chair John. Zoning
5 Commissioner Peter Shapiro?

6 COMMISSIONER SHAPIRO: I vote yes.

7 MR. MOY: Mr. Smith?

8 MEMBER SMITH: Yes to approve.

9 MR. MOY: Vice Chair John?

10 VICE CHAIR JOHN: Yes.

11 MR. MOY: Chairman Hill?

12 CHAIRPERSON HILL: Yes to approve.

13 MR. MOY: We have a Board seat vacant, Mr. Chairman.
14 The staff would record the vote as 4 to 0 to 1. And this is on
15 the motion made by Chairman Hill to approve the application for
16 the relief that's being requested, seconded by Vice Chair John.
17 Also in support of the motion is Zoning Commissioner Peter
18 Shapiro, Mr. Smith, and of course Vice Chair John and Chairman
19 Hill. Board seat vacant. Motion carries, sir.

20 CHAIRPERSON HILL: Thank you, Mr. Moy. Mr. Moy you can
21 call our next case when you get a chance.

22 And then perhaps we'll take a break after that,
23 everyone.

24 MR. MOY: Okay. So the next case before the Board is
25 Application No. 20311 of Jennifer Duck. And this is captioned and

1 advertised for special exceptions under Subtitle E Section 5201
2 from the rear-yard addition requirements of Subtitle E Section
3 205.4, and from the lot occupancy requirements Subtitle E Section
4 304.1. This would construct a two-story rear addition to an
5 existing attached principal dwelling unit in RF-1 Zone. This is
6 at premises 646 E Street Northeast, Square 861, Lot 157.

7 On this application, Mr. Chairman, there is -- this
8 requires preliminary matters. There's a motion to waive the 21-
9 day filing requirement for revised plans as submitted by the
10 Applicant. I believe that was under Exhibit 28. My other note
11 for the Board is today, this morning, a little after 9 o'clock
12 this morning, there was a filing of a support letter from a
13 property owner at 648 E Street Northeast. Perhaps the Applicant
14 can address that. Of course, right now, that is not in the record
15 because of our 24-hour non-filing period.

16 CHAIRPERSON HILL: Okay.

17 Ms. Fowler, are you there?

18 MS. FOWLER: Yes, here I am.

19 CHAIRPERSON HILL: Could you introduce yourself for the
20 record, please?

21 MS. FOWLER: Hi, I'm Jennifer Fowler. I'm the architect
22 for this project.

23 CHAIRPERSON HILL: Ms. Fowler, are you here with anyone
24 else?

25 MS. FOWLER: No, just me today.

1 CHAIRPERSON HILL: Okay. Let's see. First of all, in
2 terms of the motion to waive the 21-day filing deadline, I see
3 that you changed the plans and the request of the ANC and
4 neighbors, or at least one -- I don't know -- the neighbors to
5 necessitate the late filing. Is that in the plans that you had
6 submitted to the Office of Planning?

7 MS. FOWLER: So the original plans that were revised
8 after the ANC meeting and uploaded, those were the October 12th
9 plans, the more recent one. And I believe that the Office of
10 Planning was able to review those plans. They did -- they did see
11 the new plans, I believe.

12 CHAIRPERSON HILL: Okay.

13 MS. FOWLER: And I can walk through the changes that we
14 did. But the reason for the late filing was because of the timing
15 of the ANC meeting. We had to file the day after the ANC made
16 requests for changes.

17 CHAIRPERSON HILL: Okay.

18 Mr. Mordfin, can you hear me?

19 MR. MORDFIN: Yes, I can.

20 CHAIRPERSON HILL: Did you review the plans that are
21 being filed late?

22 MR. MORDFIN: Yes, I did.

23 CHAIRPERSON HILL: Okay. All right.

24 So unless the Board has any issues, I'm going to go
25 ahead and allow those plans into the record.

1 And then the other is, Ms. Fowler, there's a letter, I
2 guess, from a neighbor in support. Is that the immediate next-
3 door neighbor?

4 MS. FOWLER: Yeah. We were really happy to receive a
5 letter of support from the owner of 648 E Street. And this is the
6 neighbor that, you know, definitely is more impacted where we have
7 -- we are extending more than the ten feet beyond their rear wall.
8 I'm happy to read it into the record, or we can submit it. I
9 don't know how you want to handle that.

10 CHAIRPERSON HILL: I understand. What does it say in
11 general?

12 MS. FOWLER: It's from the power of attorney for the
13 owner who's Ms. Pinkie McDowell. The power of attorney is her
14 daughter. And it just basically says that "Ms. Duck has shared
15 the drawings of proposed work. I reviewed the material and
16 support the proposed addition." They did make a comment that, you
17 know, this doesn't constitute any support for construction process
18 or construction methods because that was really the only thing
19 that they had concerns about, you know, kind of during the -- and
20 they did testify at the ANC meeting as well. But they -- they're
21 voicing their support for the proposal.

22 CHAIRPERSON HILL: Mr. Shapiro, were you trying to say
23 something?

24 COMMISSIONER SHAPIRO: I was. I was just trying to get
25 clarity if this is the neighbor that the Capitol Hill Restoration

1 Society had -- was expressing their concerns about. I just want
2 to make sure that we're talking about the same household.

3 MS. FOWLER: Yes. That is correct. And I was looking
4 at the Citytrust letter and noted that they were concerned that we
5 had not received a letter of support from that neighbor. And it
6 is 648 which is the house immediately to the east.

7 COMMISSIONER SHAPIRO: Thank you. That's all I wanted
8 to get clarification for.

9 CHAIRPERSON HILL: Okay.

10 So unless the Board has an issue, I'm going to go ahead
11 and allow that letter into the record, Mr. Moy. And so if anyone
12 speaks up, please let me know. Otherwise, we're going to allow
13 that into the record.

14 Ms. Fowler, if you want to go ahead and walk us through
15 your presentation.

16 MS. FOWLER: Okay.

17 CHAIRPERSON HILL: You have 15 minutes on the clock
18 there. And you can begin whenever you like.

19 MS. FOWLER: Okay. So this is a rear addition, two
20 stories at 648 E Street Northeast. Again, the relief we're asking
21 for is the lot occupancy and the rear yard setback. The rear yard
22 setback is complying with regards to 644 E Street where we're ten
23 feet beyond -- that house is slightly deeper currently. But we
24 are asking for the extra four feet along the 648 side.

25 What we've done is we have the first floor is the

1 screened-in porch, and the second floor is a kind of extension of
2 the living space. There's a bedroom up there. But at the second
3 floor, we've actually set the addition over four feet. And we did
4 that for a couple reasons. One was to mitigate any impacts on 648
5 E by not having -- it's not a two-story wall that's abutting their
6 property. It's a one-story with a setback of four feet. And the
7 other reason was really for kind of complying with the way
8 historic has been addressing these dog-leg infills. A lot of
9 times, they prefer that the second floor not be filled in so that
10 from the alley, you can actually leave the dog-leg. So we kind of
11 -- instead of trying to build all the way across, we made the
12 second floor smaller.

13 So we do feel like the proposal initially was -- we're
14 trying to be sensitive to the neighbor at 648. The original
15 application had a small four-foot addition on the first floor.
16 Basically, a little extension of the kitchen to be able to put
17 some bar stools on the end of the counter.

18 Per the request of 644, which is the neighbor to the
19 left, that neighbor actually said, I want to have -- I would
20 prefer to have all screens along that side. And you can see here
21 that David Perry did submit a letter. We have it in the record
22 where he specifically asked Ms. Duck to eliminate the enclosed
23 portion of the addition and go to all screens. And really his
24 motivation for that was to have more light and air, more open
25 space rather than a solid wall. When we went to the ANC, they

1 actually -- the Board members there and commissioners there were
2 preferring us to not have screens on the sides. But what we did,
3 we kind of compromised by putting the screens on the west side but
4 then high screens on the east side facing the neighbors at 648.

5 So, again, this is kind of a result of working with both
6 neighbors, working with the ANC. We've been able to line up
7 support from all of those groups, you know, with the exception of
8 the CHS which we already discussed had concerns about the letter
9 of support.

10 There is a shadow study in the filings, case number --
11 Exhibit No. 26. And that's a really helpful document to look at
12 because you can kind of see in 3D what this thing looks like. You
13 can see the setback on the second floor. I'm happy to go through
14 it, but I'm sure you all maybe already looked at that. You can
15 see that most of the shadows are -- you know, there's not a major
16 impact. I can go through it if you want me to. But there's some
17 yard shadow because of the way the additions on the north side of
18 the building, most of the shadows are being cast into the yards
19 because of the orientation of design.

20 So I will leave it at that, and just let me know if you
21 have any questions.

22 CHAIRPERSON HILL: Okay, Ms. Fowler. I thought -- I
23 mean, that shadow study was actually really helpful. It was very
24 easy to kind of understand what's going on.

25 Does the Board have any questions for the Applicant?

1 COMMISSIONER SHAPIRO: No, sir.

2 VICE CHAIR JOHN: No questions.

3 MEMBER SMITH: No questions.

4 CHAIRPERSON HILL: All right.

5 I'm going to turn to the Office of Planning.

6 MR. MORDFIN: Good morning. I'm Stephen Mordfin with
7 the Office of Planning. And the Office of Planning finds that
8 this application is in accordance with the requirements for the
9 granting of a special exception for the relief requested and,
10 therefore, recommends approval of the application and is available
11 for questions. Thank you.

12 CHAIRPERSON HILL: (Audio interference).

13 COMMISSIONER SHAPIRO: No, Mr. Chair.

14 MEMBER SMITH: No, Mr. Chair.

15 VICE CHAIR JOHN: No, Mr. Chair.

16 CHAIRPERSON HILL: This is great. We've adapted. Like,
17 you guys are actually now just verbalizing, and that's great
18 because I can't see anybody. So that's helpful. Let's see.

19 Does the Applicant have any questions for the Office of
20 Planning?

21 MS. FOWLER: No. I just wanted to thank Mr. Mordfin
22 for, you know, reviewing late-breaking plans. So I know that
23 probably messes up his deadline. So I appreciate that. Thank
24 you.

25 CHAIRPERSON HILL: Mr. Young, is there anybody wishing

1 to speak?

2 MR. YOUNG: Yeah. I have one person, Thomas McDowell,
3 who's calling in, and I am going to unmute him now.

4 CHAIRPERSON HILL: Okay.

5 Mr. McDowell, can you hear me? Can you hear me?

6 Did you let him in?

7 MR. YOUNG: He is unmuted. So he should be able to
8 speak.

9 MR. MOY: Just to let you know, Mr. Chairman, if he's
10 unmuted, there is (audio interference) as well.

11 MR. MCDOWELL: Hello?

12 CHAIRPERSON HILL: Hello. Can you hear me?

13 MR. MCDOWELL: I can hear you now. Yes.

14 CHAIRPERSON HILL: Okay. Could you please state your
15 name for the record?

16 MR. MCDOWELL: I am Thomas McDowell. This is Pinkie
17 McDowell's son.

18 CHAIRPERSON HILL: Okay. Could you tell me your
19 address, please?

20 MR. MCDOWELL: 4321 Hatties Progress Drive, Bowie,
21 Maryland.

22 CHAIRPERSON HILL: Okay. Okay. Mr. McDowell, you'll
23 have three minutes to testify, and you can begin whenever you
24 like.

25 MR. MCDOWELL: Okay. My concern is they mentioned

1 something about needing additional feet on my mother's property,
2 four feet or something like that? I didn't catch -- I didn't get
3 all of it when she was speaking about it. Am I right or wrong?

4 CHAIRPERSON HILL: I don't think there was additional
5 feet requested.

6 And, Ms. Fowler, I'm sorry. I can't see your face right
7 now. Are you able to hear the question?

8 MS. FOWLER: Yeah. The four feet I was referring to was
9 the fact that we're set away from the property at 648. There's
10 four feet. Basically, the first floor goes to the property line,
11 and then the second-floor steps back. So there's no -- it's all
12 on the side of 646. Is that -- does that help clarify?

13 MR. MCDOWELL: (Audio interference). Okay. (Audio
14 interference).

15 MS. FOWLER: Yeah. It's really -- it actually helps you
16 because it leaves more air space on the second floor. Her wall is
17 not going to be abutting your property line at the second floor.

18 MR. MCDOWELL: Okay. I know you mentioned before that
19 she's building a screened-in porch, right?

20 MS. FOWLER: Correct.

21 MR. MCDOWELL: And above that, she's building, like, an
22 apartment of some sort?

23 MS. FOWLER: No, it's just a bedroom. It's just going
24 to be a bedroom for her use. This is all going to be single
25 family.

1 MR. MCDOWELL: Is there a (audio interference) screen?
2 I mean, is it windows on that or what?

3 MS. FOWLER: The -- the bedroom of the second floor has
4 windows on the back facing the back property line. And then on
5 the side --

6 MR. MCDOWELL: Towards the alley?

7 MS. FOWLER: So towards the alley. Correct. And then
8 on the side facing your property, your mother's property, there's
9 high windows. So those are, like, you know, four and a half feet
10 above the floor so that it maintains privacy.

11 MR. MCDOWELL: Okay. That's a privacy issue because if
12 she's on the second floor, she can look down pretty much into my
13 mother's kitchen from that second floor.

14 CHAIRPERSON HILL: Mr. McDowell? Mr. McDowell, can I
15 just interrupt for one second?

16 So Ms. Fowler, this is the property that you just got
17 the letter in support for, correct?

18 MS. FOWLER: Yes, that's right. We do have a letter.

19 CHAIRPERSON HILL: Okay. And you got a letter from
20 whom?

21 MS. FOWLER: I got a letter from Ms. Pamela Fogan who
22 says she's the power of attorney for Pinkie McDowell.

23 CHAIRPERSON HILL: Mr. McDowell, are you aware of that
24 letter?

25 MR. MCDOWELL: Yes, I am. I am.

1 CHAIRPERSON HILL: Okay. The only reason I'm trying to
2 just cut you off here is that I think you could talk to Ms. Fowler
3 more directly like, you know --

4 MR. MCDOWELL: Yeah.

5 CHAIRPERSON HILL: -- I'm sure you have her number. And
6 you can get a little bit more clarity as to what is being built
7 there. I'm just not -- I'm just not clear. Are you speaking in
8 -- because it seems as though someone from your mother's property
9 has given their support to this application. Are you speaking
10 just because you want more clarity?

11 MR. MCDOWELL: More clarity, right.

12 CHAIRPERSON HILL: Okay. Then why don't you reach out
13 to Ms. Fowler --

14 MR. MCDOWELL: I will.

15 CHAIRPERSON HILL: -- and she can help you understand
16 the project a little bit better?

17 MR. MCDOWELL: Okay. (Audio interference), I wasn't
18 online yet. So I didn't see any schematics you had or diagrams of
19 the actual building and everything.

20 CHAIRPERSON HILL: Do you have Ms. Fowler's contact
21 information?

22 MR. MCDOWELL: Yeah, I have it.

23 CHAIRPERSON HILL: Okay. Okay. But just to be clear,
24 you're not speaking in opposition or support, you're just trying
25 to get more clarity.

1 MR. MCDOWELL: Right. Yeah.

2 CHAIRPERSON HILL: Okay. Then please reach out to Mr.

3 -- Ms. Fowler.

4 MR. MCDOWELL: Okay. I'll do that.

5 CHAIRPERSON HILL: Okay. Okay.

6 Let's see. All right. Mr. Young, is there anyone else?

7 MR. YOUNG: We have no one else.

8 CHAIRPERSON HILL: All right.

9 Ms. Fowler, you have anything else to add?

10 MS. FOWLER: No. I just wanted to, you know, make sure
11 Mr. McDowell understands. We're available. And a lot of the
12 concerns I know they had raised were construction issues. And
13 we're definitely happy, you know, once we get closer to filing for
14 permit, obviously, we'll share the drawings with them. And I know
15 that Jennifer -- Ms. Duck has been in communication with them as
16 well. So we'll continue that.

17 CHAIRPERSON HILL: Okay. All right.

18 MS. FOWLER: Thank you.

19 CHAIRPERSON HILL: Does the Board have any questions for
20 the Applicant?

21 COMMISSIONER SHAPIRO: No, sir.

22 VICE CHAIR JOHN: No questions, Mr. Chairman.

23 MEMBER SMITH: No questions.

24 CHAIRPERSON HILL: All right.

25 Ms. Fowler, you have anything else to add?

1 MS. FOWLER: No. Thank you very much.

2 CHAIRPERSON HILL: All right.

3 I'm going to close the hearing.

4 Mr. Young, if you could excuse everyone? Okay.

5 Ms. John, would you mind beginning the deliberations?
6 Just because I want to take a break.

7 VICE CHAIR JOHN: Sure, Mr. Chairman. So I am -- I'm in
8 support of this application. It's fairly straightforward. The
9 Applicant is seeking only four feet more than the ten feet that
10 are allowed as a matter of right. I think the Applicant has made
11 a good effort to communicate with the neighbors and to -- and has
12 received support from the neighbors as well. And so I'm going to
13 give great weight to the Office of Planning's analysis. And so I
14 will support this application.

15 CHAIRPERSON HILL: Okay.

16 Mr. Smith?

17 MEMBER SMITH: I second Vice Chair John's thoughts. I
18 do give great weight to OP's staff report here. I do believe that
19 OP in their analysis has shown that light and air wouldn't be --
20 wouldn't affect the neighboring properties. Or it wouldn't be an
21 exceptional impact to the neighboring properties in regards to
22 light and air, and also privacy. I want to thank the Applicant
23 for considering the neighboring property by putting up a screen to
24 protect the neighbor's privacy. So I do believe that this is a
25 straightforward application. And I will be in support of the

1 special exception.

2 CHAIRPERSON HILL: Commissioner Shapiro?

3 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I'd
4 associate myself with the remarks of the Board members. I'd also
5 say that I also would give great weight to the ANC 6C.
6 Specifically, they said in light of the design features that came
7 through this negotiation that they believe that the application
8 satisfies the requirements for Section E 5201 and related to air,
9 light, and privacy. And they support the request for relief.

10 And if I may take a point of personal privilege, Mr.
11 Chair, I would also say that it may be unusual for you to have
12 allowed a little bit of a dialogue during that section of the
13 public hearing between the Applicant's representative and the --
14 the neighbor to have that conversation. But I thought that was a
15 very productive thing to do, and I appreciate you doing that.
16 It's not normally a good idea, but in this situation, I think it
17 was really helpful.

18 CHAIRPERSON HILL: Thanks, Commissioner. I appreciate
19 it. Everybody likes a little bit of compliments at times. So
20 thank you.

21 Let's see. All right. I will agree with my colleagues
22 and the comments that you all made in terms of this application.
23 I am going to make a motion to approve Application No. 20311 as
24 captioned and read by the Secretary.

25 And ask for a second, Ms. John?

1 VICE CHAIR JOHN: Second.

2 CHAIRPERSON HILL: Motion made and seconded.

3 Mr. Moy, if you could take a roll call vote, please?

4 MR. MOY: Yeah. Very quickly, Mr. Chairman, if I may
5 for my own edification, did the Board -- or the Board did not
6 allow the support letter from the owner at 648 E Street Northeast?

7 CHAIRPERSON HILL: We did. We allowed the letter -- the
8 support letter in as well as the late filing.

9 MR. MOY: All right. Thank you. I just want to be sure
10 for the record.

11 CHAIRPERSON HILL: All right. Thank you.

12 MR. MOY: So -- let's see. So when I call your name, if
13 you would please respond with a yes, or a no, or abstain to the
14 (audio interference) by Chairman Hill to approve the application
15 for the relief requested, and the motion was seconded by Vice
16 Chair John. Zoning Commissioner Peter Shapiro?

17 COMMISSIONER SHAPIRO: Yes.

18 MR. MOY: Mr. Smith?

19 MEMBER SMITH: Yes.

20 MR. MOY: And Vice Chair John?

21 VICE CHAIR JOHN: Yes.

22 MR. MOY: Chairman Hill?

23 CHAIRPERSON HILL: Yes.

24 MR. MOY: We have a Board seat vacant. Staff would
25 record the vote as 4 to 0 to 1. And this is on the motion made by

1 Chairman Hill to approve the application, seconded by Vice Chair
2 John. Also in support, Zoning Commissioner Peter Shapiro, Mr.
3 Smith, and of course Vice Chair John and Chairman Hill. The
4 motion carries 4 to 0 to 1.

5 CHAIRPERSON HILL: Okay. Great.

6 Okay, guys. Let's go ahead and take 15 minutes. I'll
7 come back at 11:05 if that's good?

8 VICE CHAIR JOHN: Sure.

9 CHAIRPERSON HILL: Thank you.

10 VICE CHAIR JOHN: Thank you.

11 (Whereupon, the above-entitled matter went off the
12 record and then resumed at 11:14 a.m.)

13 MR. MOY: Okay. Thank you, Mr. Chairman. So the
14 hearing is back in session after a quick break, and the time is at
15 or about 11:14 p.m. or a.m., rather.

16 The next case for hearing before the Board is Case
17 Application No. 20288 of Shannon Perry. Captioned and advertised
18 for a special exception under Subtitle F Section 5201 from the
19 maximum lot occupancy requirement Subtitle F Section 604.1. This
20 would construct a three-story rear addition to an existing
21 attached principal dwelling unit and convert it into a three-unit
22 apartment house, RA-2 Zone at 1524 Kingman Place, Northwest,
23 Square 241, Lot 22.

24 And then, Mr. Chairman, there are two -- I have two
25 quick matters. One is that the Applicant filed the request to

1 postpone under Exhibit 43 dated October 27th. And I believe the
2 reason was because the full ANC meeting is tonight, November 4th.
3 And the other matter which I would ask the Applicant is apparently
4 he filed within the 24-hour period revised plans, sightline study,
5 and a lot coverage diagram. So that's it from the staff, sir.

6 CHAIRPERSON HILL: All right.

7 Is it Mr. Fowlkes?

8 MR. FOWLKES: Yes.

9 CHAIRPERSON HILL: Can you hear me?

10 MR. FOWLKES: Yes, I can hear you.

11 CHAIRPERSON HILL: Okay. Mr. -- is it pronounced
12 Fowlkes?

13 MR. FOWLKES: Yes, that's correct.

14 CHAIRPERSON HILL: Could you please introduce yourself
15 for the record?

16 MR. FOWLKES: My name is V.W. Fowlkes. I'm the
17 architect for the owner Shannon Perry who's not present.

18 CHAIRPERSON HILL: Okay. Who is here with you, Mr.
19 Fowlkes?

20 MR. FOWLKES: Sean Haislip who is a colleague of mine in
21 my office.

22 CHAIRPERSON HILL: So Mr. Fowlkes, a couple of things.
23 One, you filed some new plans today?

24 MR. FOWLKES: Yes. We did that just in the interest of
25 having everything in the record be the most up to date. But we

1 did not intend to get into them because we are here actually just
2 to request a postponement. The plans are very minor modifications
3 to what was originally submitted.

4 CHAIRPERSON HILL: Okay. And has the Office of Planning
5 reviewed those new plans?

6 MR. FOWLKES: No, they have not. They have not.

7 CHAIRPERSON HILL: Okay.

8 Ms. Vitale, can you hear me?

9 MS. VITALE: Yes, I can.

10 CHAIRPERSON HILL: Are you aware of the new plans and if
11 they're -- I haven't seen the new plan, so I don't know how minor
12 the modification may be; do you know?

13 MS. VITALE: I do not know. This is the first that I'm
14 hearing of it from the Applicant now.

15 CHAIRPERSON HILL: Okay. All right.

16 Mr. Fowlkes, when would the postponement work for you?

17 MR. FOWLKES: Any time after tonight because we have our
18 ANC meeting tonight, and we thought it prudent not to appear
19 before the BZA prior to getting ANC approval.

20 CHAIRPERSON HILL: Okay. I wouldn't necessarily have --
21 I would've been fine having the presentation and then holding off
22 to hear what the ANC had to say. And I guess we still might be
23 able to do that. I just don't know if the Office of Planning has
24 had enough time. Because of the access issues I am having right
25 now to the files, I can't see everything.

1 So Ms. Vitale, do you also need more time for the new
2 plans?

3 MS. VITALE: I have not reviewed the new plans, but I
4 don't know if they result in a change in the relief request. If
5 the relief request remains the same and they are just minor
6 changes, I'm happy to take a look quickly. But I don't -- if it
7 doesn't change the relief request, then, you know, I'd be
8 comfortable looking at them quickly and then proceeding.

9 CHAIRPERSON HILL: Okay.

10 Mr. Fowlkes, would you actually be able to present
11 today?

12 MR. FOWLKES: Yes. Let me just -- I want to point out
13 something to the Board because it may impact your position. We
14 are aware that there is a -- our next-door neighbor is going to be
15 -- we've spoken a lot to him, and he is going to be present at the
16 ANC meeting tonight. I pretty much know what he is going to say.
17 So I am hesitant to -- I think that he's going to --

18 CHAIRPERSON HILL: That's all right.

19 MR. FOWLKES: He's going to -- you know what I mean?

20 CHAIRPERSON HILL: Mr. Fowlkes? Mr. Fowlkes, I'm going
21 to interrupt you. That's fine. If it's more complicated, then --
22 it sounds more complicated than I had anticipated. So let's go
23 ahead and postpone.

24 Let's see when, Mr. Moy, might be a good time for us to
25 come back.

1 MR. MOY: Mr. Chairman, I think we -- the Board can
2 accommodate its docket for November 18th which is two weeks from
3 today.

4 CHAIRPERSON HILL: Okay.

5 And Mr. Shapiro does not have to come back for that, or
6 he does? He does not. He's shaking his head.

7 MR. MOY: We have not heard the case.

8 CHAIRPERSON HILL: Okay. You said 11/18?

9 MR. MOY: Yes, sir.

10 CHAIRPERSON HILL: Okay. All right.

11 So Mr. Fowlkes, we're going to go ahead and put you on
12 at 11/18.

13 And then, Ms. Vitale, if you need to submit anything
14 additional, if you could please let us know.

15 MS. VITALE: I would just note that the most recent
16 plans available in the record are dated September 23rd.

17 MR. FOWLKES: We tried -- we tried to submit the new
18 plans yesterday. We got a message back from Mr. Reed saying that
19 we weren't allowed to submit anything within 24 hours. So that's
20 probably why the old ones are still there.

21 CHAIRPERSON HILL: Okay.

22 So, Mr. Moy, if you could allow those plans into the
23 record because now, we're postponing. Okay.

24 MR. MOY: Yes, thank you.

25 CHAIRPERSON HILL: And, Ms. Vitale, just take a look and

1 then let us know if you have anything, any comments concerning the
2 additional plans. Okay?

3 MS. VITALE: Great. Thank you very much.

4 CHAIRPERSON HILL: Okay. All right.

5 Mr. Fowlkes, we'll see you on the 18th.

6 MR. FOWLKES: Thank you very much.

7 CHAIRPERSON HILL: Thank you.

8 All right. Mr. Moy, you can call our next one if you
9 like.

10 (Pause.)

11 MR. MOY: Okay. Sorry, Mr. Chairman. I'm just shifting
12 through paperwork here. All right. So before the Board is case
13 Application No. 20303 of Government Properties Income Trust, LLC.
14 Captioned and advertised for special exceptions under the
15 penthouse restaurant use requirements of Subtitle C Section
16 1500.3(c), and under the Capitol Security Sub-Area requirements of
17 Subtitle I Section 605.6 to renovate an existing office building
18 into a mixed-use building in the D-3 Zone at premises 20
19 Massachusetts Avenue, Northwest, Square 626, Lot 78.

20 And I suppose now that I have the floor, I should
21 mention, Mr. Chairman, that I have knowledge that there is an
22 unsigned letter from the Architect of the Capitol. So, of course,
23 that is not in the record.

24 CHAIRPERSON HILL: Okay.

25 If the attorney could please speak up?

1 MR. LEWIS: All right. This is Dave Lewis of Goulston &
2 Storrs on behalf of the Applicant which is an affiliate of the RMR
3 Group.

4 CHAIRPERSON HILL: Okay. Mr. Lewis, I can see a variety
5 of names. And rather than go through and introduce them, I
6 suppose if during the hearing you are planning on having testimony
7 from some of them, if you could just introduce them as they come
8 online?

9 MR. LEWIS: Sure.

10 CHAIRPERSON HILL: All right.

11 Let's see. There are -- there was a notice issue on our
12 side where in the D.C. Register, it was 19 days prior to the
13 hearing rather than the 40 days. And I believe that all of the
14 other notice requirements were satisfied including the ANC was
15 properly notified, the Office of Planning, all other D.C. agencies
16 as well as property owners within 200 feet. This was also posted
17 properly. I do not think that there's an issue with the 19 days
18 concerning the D.C. Register.

19 So I'm going to, on my own motion, waive that
20 requirement as per Y 402.11 unless any Board members have an
21 issue. And if so, please speak up. Okay.

22 I do not hear any issues. So, therefore, that has been
23 waived. Let's see.

24 I guess, Mr. Lewis, you can go ahead and walk us through
25 your presentation. I'll put 15 minutes on the clock just so I

1 know where we are. I suppose some of the things that I'd be
2 interested in hearing, I guess, are kind of, like, some of the
3 DDOT concerns including the TDM plan as well as some of the
4 outreach that you've had with the ANC's. And, also, then if you
5 just want to go ahead and walk us through the criteria as to why
6 you think we should grant the application. And you can begin
7 whenever you like.

8 MR. LEWIS: Thank you. So joining me today are Jesse
9 Abair of RMR, Irena Savakova of Leo A. Daly which is the
10 architect, and Dan VanPelt of Gorove Slade. So I'll take your
11 questions one at a time starting with ANC's. And then I'll have
12 Mr. Abair and Ms. Savakova talk about the project. And Mr.
13 VanPelt finally will finish up with a discussion of TDM. But just
14 to be clear, I believe (audio interference) support, and we have
15 an agreement on all the TDM measures.

16 Mr. Young, I sent a presentation or filed a presentation
17 on Monday. Could you pull that up? Go to the next slide, please.
18 So we're seeking two areas of special exception relief, one under
19 the Capitol Security Sub-Area and the second for rooftop or
20 penthouse eating and drinking establishment. We have support from
21 OP as I mentioned. We have support from DDOT. We have support
22 from two ANC's.

23 The property is located within ANC 6C. They met in
24 September and filed a letter of support earlier this week. And
25 then we are across the street, across Massachusetts Avenue from

1 ANC 6E. So they're an ANC -- an affected ANC party in this case
2 as well. We met with them in October. They're also in support.
3 ANC 6C, the conversation there revolved mainly around making sure
4 that if there were events or activities in the rooftop penthouse
5 space that those activities didn't have noise that was projected
6 from the outdoor terrace. We agreed with the idea that we'd have
7 a condition. We submitted language in our October 15th previewing
8 submission that would be used as the condition. I believe
9 Commissioner Eckenwiler's letter from earlier this week indicated
10 the same. It's Exhibit 32, I believe. So I think we're in good
11 shape with the ANC's but let me know if you want more details
12 there.

13 With respect to the Architect of the Capitol, it's news
14 to me that Mr. Moy received a letter. I guess it came in this
15 morning. I haven't seen it. I don't know what it said. But
16 we've been engaged in trying to get something from them for many
17 months now. We had a site visit with Architect of the Capitol
18 staff and U.S. Capitol Police staff back in June. That went very
19 well, and we didn't hear anything from them that suggested they
20 had any concerns. So I'd be curious to know what the letter says.

21 But, you know, hopefully it's not a barrier to move forward here.

22 So Chairman Hill, would you like us to walk you through
23 the presentation, or do you all want to skip straight to
24 questions?

25 CHAIRPERSON HILL: Mr. Lewis, how big is your

1 presentation?

2 MR. LEWIS: We can probably just kind of introduce you
3 all to the building and hit the highlights in terms of how we
4 satisfied the relief in five minutes or so if that works for you.

5 CHAIRPERSON HILL: That would be perfect. Thank you.

6 MR. LEWIS: In that case, I'm going to turn it over
7 directly to Ms. Savakova. And if you all have questions of the
8 Applicant at the end, you can come back to him.

9 MS. SAVAKOVA: Thank you. Thank you, Commissioners.
10 (Audio interference). It's a pleasure to be with you and be able
11 to serve the design concept. In brief, our team recognizes the
12 importance of this site location off Massachusetts Avenue, one of
13 the key diagonal (audio interference) part of the overall fabric
14 of Washington, D.C. The proposed development takes into account
15 the site proximity to both the National Capitol as well as Union
16 Station and all the (audio interference) corridors that it
17 contributes to. We trust that our proposed redevelopment of the
18 existing building site will be fitting to this important location.
19 It will be integrated harmoniously with this context and the area
20 of the city. So can we move to the next slide, please? Next one.

21 So this is the existing building. Just in summary, it's
22 approximately 90 feet tall and 331,000 square feet gross square
23 footage. Currently, it only features office use, and there's no
24 retail or any other activities as part of the building or the
25 public realm. The building has two stories of dual ground level

1 parking as well as loading that is provided from an alley between
2 the west side of the building and the adjacent structure. There
3 is no through building connectivity between F Street and
4 Massachusetts Avenue that is currently provided. The building
5 from Massachusetts Avenue and F Street with a really significantly
6 wide sidewalk along Massachusetts Avenue in excess of over 50 feet
7 and a bit less on the F Street side. So if we can move to the
8 next slide, please.

9 The new proposed building will feature hotel, office,
10 retail, and building services provided in the building. There are
11 no changes to the parking garage as currently presented as well as
12 the entry. The building will feature habitable penthouse space.
13 If we can move to the next one, please.

14 So you can get oriented in the site plan, you can see in
15 the upper right corner the entry into the parking garage, the
16 current entry from Massachusetts Avenue into the single tenancy
17 which is office use within the building. There is a loading dock
18 access with two (audio interference) that are accessed from F
19 Street, and they're located on F Street. So what you can very
20 likely see at most time of the day is that that part of the
21 sidewalk is blocked by vehicles that are parked outside along the
22 sidewalk. So if you can move to the next slide, please.

23 So there is no vibrancy, no activity of any kind at the
24 ground level of the building. The image on the left-hand side
25 shows you the frontage along F Street. The image in the middle

1 shows you the Massachusetts side and the current entry into the
2 building. And all the views are indicated down in the key plan
3 that you have had the opportunity to look at earlier. The image
4 on the right-hand side gives you a view along Massachusetts Avenue
5 in the approach with Union Station down at the view termination.
6 Next one, please.

7 Just to give you more images so you can get oriented
8 with the current context and the current experience. The image on
9 the left-hand side offers a view towards the service area and
10 entry into the parking garage, the area of connectivity between
11 the (audio interference) of the building, and the two-story
12 structure on the east is shown in the middle, and both on the east
13 side of the building.

14 So as you can see, the current building in its
15 representation, there's not really (audio interference). The
16 public realm doesn't offer any vibrancy. It does not really
17 (audio interference) connect to the adjacent context. So next
18 one, please. Additional views from the current height viewing
19 down towards Union Station and at the current rooftop. Next one,
20 please.

21 So the proposed new development adds two stories of
22 office space as well as a habitable roof. As I said, we have
23 taken as a team into consideration all the main corridors of this
24 new, improved, and revamped redevelopment structure will actually
25 address trying to make a cohesive and harmonious addition to the

1 urban fabric in the urban context. The building offers two-story
2 height retail space and a hotel lobby as well as more amenity
3 spaces up at the rooftop. Next one, please.

4 The following few images will give you an idea of how we
5 have resolved the mix of uses in this particular structure. There
6 will be a hotel structure. Hotel components that are added in the
7 middle of the building (audio interference). And there is a
8 hierarchy of entry points along Massachusetts Avenue. The
9 building offers a very clear definition from a distance of the
10 embellishment that is along Massachusetts Avenue that highlights
11 the entry point into the hotel. And an office entry will be at
12 the east -- towards the east part of the building. We'll provide
13 a through connectivity with visual actual connectivity, not just
14 programmatic connectivity, between Massachusetts Avenue and F
15 Street. Next one, please.

16 A few views for your review so you can get an idea of
17 the ambience that the new revamped redevelopment will provide. As
18 I was just describing, the clear identity between hotel entry
19 defined with color and the cascading structure that turns into a
20 canopy as well as the office and retail entry towards the east
21 side wrapping of the building. Next one, please.

22 View from F Street and the connectivity offered through
23 the public realm through the space between the east side of the
24 building and the adjacent structure. Next one, please. And to
25 illustrate the element that we're seeking exception for, the

1 | habitable penthouse level will provide building services and
2 | indoor/outdoor connectivity and amenity space, ballroom, meeting
3 | rooms, and potentially a restaurant type of connectivity. So you
4 | can see views that are included for the terraces. That will
5 | provide views towards the key locations as I described earlier in
6 | my presentation.

7 | So I would like to also offer the opportunity for Jesse
8 | as representative of RMR to offer a few comments on the intended
9 | uses for this building and the approach.

10 | MR. ABAIR: Good morning. And I'll be real brief. And
11 | I think Irena did a good job of describing the vision here, but,
12 | you know, from the owner's perspective, this is a really good
13 | opportunity for us to convert what is currently a really inwardly
14 | facing building into something that really is more public facing.
15 | And the use mix we think reflects that between the retail and the
16 | restaurant and the hotel uses. So, you know, we put a lot of
17 | thought into how this building kind of engages with the public
18 | realm.

19 | Hopefully, you saw some of that through the
20 | presentation. But that's kind of, I think, the overall picture
21 | here and our approach here is to really change this from something
22 | that is very focused on what the current tenant used to something
23 | that is much more, as I said, kind of public facing. And in terms
24 | of timing, ideally, we'd be in a position to start construction
25 | second quarter of next year and have the construction completed by

1 the end of 2022.

2 MS. SAVAKOVA: And we can move to the next slide --
3 through the next slides, please. So this is the penthouse
4 definition. And then we have a few more slides that we can share.
5 Next one, please.

6 MR. LEWIS: Irena, can we just stop there for a second?

7 MS. SAVAKOVA: Yes.

8 MR. LEWIS: I just want to recap where we are in terms
9 of satisfying this variance of relief. If you could go back, Mr.
10 Young, probably two slides. So I think Ms. Savakova and Mr. Abair
11 talked about all these prongs, but just to recap for the Board.
12 Mr. Hill, you asked us to discuss how we satisfy the standards.

13 So the first special exception standard is to (audio
14 interference) Sub-Area. There's five prongs there. We think this
15 building is very compatible with the neighboring buildings which
16 are similar height, similar density, similarly mixed-use. We
17 think this project is consistent with the Capitol Grounds Master
18 Plan. Without knowing what the Architect of the Capitol said, the
19 Capitol Grounds Master Plan talks about changes within the Capitol
20 Grounds and this project would not affect anything on the Capitol
21 Grounds today.

22 It also talks about expansion of the Capitol Grounds.
23 We have no knowledge that the grounds would be expanded across
24 several streets and more than a half mile away to this property.
25 So I don't think there's any concern here about consistency with

1 the Capitol Grounds Master Plan.

2 We met with Architect of the Capitol and U.S. Capitol
3 Police. They toured the building. They went up to the penthouse
4 level. There is a line of buildings between us and the Capitol
5 Grounds on F Street. So there's no visibility from this building
6 to the Capitol Grounds. So we think, you know, we satisfy the
7 third prong with no security risk to the Capitol.

8 And then the last two prongs of this special exception,
9 you know, the building doesn't require any zoning relief from a
10 dimensional perspective. So it's perfectly in line with what the
11 zoning regulations require, and we don't have any adverse impacts.
12 And we looked at transportation impacts with DDOT. We're in
13 agreement with their recommended TDM strategy. I think they're
14 fine with what we proposed.

15 We talked -- moving on to the second special exception,
16 we talked to ANC 6C about, you know, rooftop use, came to an
17 agreement on avoiding any, you know, application of live music
18 from the outdoor terrace. So we think we satisfy the second
19 special exception standards as well. And if you want to hear from
20 Mr. VanPelt, whom I'm sure you know very well, we can talk --
21 we'll talk through the TDM stuff. But it's pretty standard for an
22 office building of this size. We agree to DDOT's sort of standard
23 rideshare and bike parking and electric vehicle charging facility
24 recommendations, that sort of thing.

25 CHAIRPERSON HILL: Okay. Mr. Lewis, that's okay. You

1 don't have to go over the TDM plan right now. We'll see what
2 happens with our Board members when we get to questions.

3 MR. LEWIS: (Audio interference) presentation and just
4 take questions.

5 CHAIRPERSON HILL: All right. Let's see.

6 Do my Board members have any questions for the
7 Applicant? And if so, just please speak up.

8 COMMISSIONER SHAPIRO: I don't, Mr. Chair.

9 MEMBER SMITH: I don't, Mr. Chair.

10 VICE CHAIR JOHN: No questions from me, Mr. Chair. Can
11 you still not see us, Mr. Chair?

12 CHAIRPERSON HILL: Yes and no, in and out. It's --

13 VICE CHAIR JOHN: Okay.

14 CHAIRPERSON HILL: I can -- yeah. That's about what I
15 can -- I'm going to try to figure out how to do this the way it
16 is.

17 Let's see. Is the Office of Planning there? If you
18 could please give us a report?

19 MR. KIRSCHENBAUM: Good morning, Chair Hill, and members
20 of our Zoning Adjustment. Jonathan Kirschenbaum from the Office
21 of Planning. We recommend approval of the special exceptions that
22 were requested, and we rest on the record. Thank you.

23 CHAIRPERSON HILL: Okay.

24 Does the Board have any questions of the Office of
25 Planning?

1 VICE CHAIR JOHN: No questions, Mr. Chair.

2 COMMISSIONER SHAPIRO: No question.

3 CHAIRPERSON HILL: Okay.

4 Does the Applicant have any questions of the Office of
5 Planning?

6 MR. LEWIS: No, no questions.

7 CHAIRPERSON HILL: All right.

8 Mr. Young, are there people wishing to speak in support
9 or in opposition?

10 MR. YOUNG: We do not have anyone.

11 CHAIRPERSON HILL: Okay. I do have -- okay. All right.

12 Mr. Lewis, I don't know who can answer this, but I've
13 always been curious about that bank. Like, what is that bank
14 that's in the front of the building?

15 MR. LEWIS: That's on a separate lot, and it's
16 separately owned. I don't think RMR controls that.

17 CHAIRPERSON HILL: No. But does anyone know what it is?
18 I always forget.

19 MR. LEWIS: You mean like what -- I think it was a
20 SunTrust Bank.

21 CHAIRPERSON HILL: Yeah. Why is it still there? Why is
22 it historic?

23 MR. LEWIS: I don't know. I'm sorry.

24 CHAIRPERSON HILL: Nobody knows? Nobody from your team
25 knows? That's fine. Okay.

1 And then Mr. Abair -- is it Abair?

2 MR. ABAIR: Abair.

3 CHAIRPERSON HILL: Abair. How long have you guys had
4 the property?

5 MR. ABAIR: We've had this since the 90's. And it's
6 gone through a couple, you know, different types of tenancies, but
7 it's currently tenanted by Citizens and Immigration Services.

8 CHAIRPERSON HILL: Okay. Because it's a weird building.
9 It's been there, you know, a long time, and that's a weird
10 building. You know, the Irish Times and The Dubliner are right
11 next to that thing, and, like, you know, it sounds like a very
12 interesting project. I'm just -- I was just curious if you had it
13 for a while, and it sounds like you have.

14 MR. ABAIR: Yeah, we have. I think we're looking
15 forward to transitioning it into different types of tenants.

16 CHAIRPERSON HILL: Okay. And you don't know what that
17 -- the SunTrust Bank, why it's still there?

18 MR. ABAIR: I don't.

19 CHAIRPERSON HILL: Okay. All right. Okay.

20 And the Board -- if the Board doesn't have anything
21 else, then I'm going to go ahead and -- oh, wait. Hold on.

22 So, Mr. Lewis, the -- you have -- and this where I am
23 just, again, having Internet issues, so I'm having trouble pulling
24 up a lot of things. The exhibit in 32, that's -- Exhibit 32 are
25 the conditions with the ANC, and you guys are in agreement with

1 | those conditions, correct?

2 | MR. LEWIS: Correct.

3 | CHAIRPERSON HILL: And then you're in agreement with --

4 | MR. LEWIS: There's just one condition.

5 | CHAIRPERSON HILL: Right. The amplified music?

6 | MR. LEWIS: Correct.

7 | CHAIRPERSON HILL: Okay. And you don't know -- I saw in
8 | the record, like, whether it was going to be event space or a
9 | restaurant up there. And you still don't know for sure, correct?

10 | MR. LEWIS: The current -- the current plan is for event
11 | space that would support the hotel and office uses in the
12 | building. That's the current plan. You know, it's very likely
13 | that that event space will have, you know, food and beverage
14 | services which is why we're seeking that second special exception.
15 | We just didn't want to get into a situation with DCRA during
16 | permitting where, you know, we wanted to get an alcohol license or
17 | a certificate of occupancy that allowed food service uses without
18 | that relief.

19 | CHAIRPERSON HILL: Right. But my question is you're
20 | still leaving the possibility open that it could be a restaurant
21 | up there at some time?

22 | MR. LEWIS: Correct, yeah. That's not the current plan,
23 | but that's the idea. Correct.

24 | CHAIRPERSON HILL: All right. And the ANC knew about
25 | this and the possibility that it could be a restaurant at one

1 time, and that's why they were concerned about the amplified
2 music. In either case, I'm sure they were concerned about the
3 amplified music. But they knew about the possibility that it
4 could be a restaurant still at one time?

5 MR. LEWIS: Correct. Commissioner Eckenwiler is all
6 over this kind of stuff.

7 CHAIRPERSON HILL: Yes. Yeah. Okay. All right. Yeah.
8 The Commissioner is definitely a good commissioner. We are
9 familiar with Commissioner Eckenwiler who I'm sure is watching.
10 All right. Let's see. Okay. So that's all I wanted to clarify.

11 Does the Board have any other questions of the
12 Applicant?

13 Mr. Shapiro?

14 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I'm just
15 concerned around this issue around the Architect of the Capitol,
16 and even though there's, you know, we're -- you know, there is an
17 exhibit listing how the communications went. And, apparently,
18 there's something that has been filed but that we haven't seen,
19 and it's a letter, but it's not signed. And I'm just trying to
20 make sense of how we as a Board respond to that. I don't really
21 have anything but a little bit of confusion around that. So I'm
22 looking to you, our fellow Board members, your thoughts around
23 this as well. I have some concern -- some concern about moving
24 forward without some clarity from the Architect of the Capitol
25 related to security issues.

1 CHAIRPERSON HILL: Okay. And I'll -- Mr. Shapiro, I'll
2 ask Mr. Moy what is -- again, I'm having kind of accessibility
3 issues with my files. And so, you know, my own take real quick on
4 this was that the Applicant had reached out and has been
5 coordinating with the Architect of the Capitol and security. And
6 if they had any issues in the past, they have always made those
7 clear or stepped forward.

8 However, Mr. Moy, are you saying that there's something
9 from the Architect of the Capitol that's not signed but is not in
10 the record; is that correct?

11 MR. MOY: Yes. I can add to the -- add a little more
12 clarity on the status of that, Mr. Chairman. It was forwarded to
13 me very late afternoon yesterday. The letter was from the Capitol
14 Police. It is unsigned. I asked permission to submit it into
15 BZA's submissions. I did not receive any response to that, so I
16 took no action on that. Obviously, I hesitate to share any of
17 that with you because I -- it is unsigned. Until it's signed. So
18 the only suggestion I may give to the Board is whatever you do
19 today with this case, I would -- I suspect, as you already know,
20 Mr. Chair, may wish to keep the record open for that signed
21 letter.

22 CHAIRPERSON HILL: Can you tell us what it says? Or
23 you're not allowed to tell us that? Are you there?

24 MR. MOY: I hesitate because it's unsigned because until
25 it's signed, I don't know if that's going to change. I don't want

1 to give a misdirection. But all I know -- I can add one other
2 piece of information. They tried to get it signed before today's
3 hearing. Obviously, they were unable to do that --

4 CHAIRPERSON HILL: Okay. Well --

5 MR. MOY: -- before.

6 CHAIRPERSON HILL: -- before I move on -- because I
7 don't want to hold this up. I don't want to hold this up if we're
8 just waiting on something, and we don't know what the letter says.

9 Mr. Lewis, what is it that the outreach has happened
10 with the Architect of the Capitol as well as -- I guess is it, you
11 know, the security? I know that you said that you took a tour,
12 and people went up onto that penthouse level; is that correct?

13 MR. LEWIS: Correct. That was -- that was in June.

14 CHAIRPERSON HILL: Can you tell us who went on that
15 tour?

16 MR. LEWIS: Sure. Representatives from the Architect of
17 the Capitol, the U.S. Capitol Police, the Senate Sergeant at Arms,
18 there was representatives from RMR, and then there was one member
19 of the Leo Daly Architecture team. And so --

20 CHAIRPERSON HILL: And that was -- and that was in June.
21 That was in June.

22 MR. LEWIS: Correct. It was, you know, a couple weeks,
23 maybe a month or so after we filed our application. So they went
24 up. They toured the roof. They looked at plans for the expansion
25 of the building. They had no comments or concerns at that point.

1 About three weeks later, one of the members of the staff, the
2 Architect of the Capitol asked for additional plans, additional
3 drawings. We sent those to them, and then we didn't hear from
4 them again until October after I'd been emailing them, you know,
5 kind of weekly, every other week, asking if you guys have
6 something that you want to include in the record.

7 CHAIRPERSON HILL: And when you said you heard back from
8 them, what did you hear back from them in October?

9 MR. LEWIS: Right. So the chief security officer at the
10 Architect of the Capitol, her name is Valerie Hasberry, she said
11 that they would have a letter to submit before October 26th. And
12 then we never heard from them again.

13 CHAIRPERSON HILL: What did it say that the letter was
14 going to submit or say?

15 MR. LEWIS: She just said we'll have a -- she just said,
16 we'll have a package for you by October 26th.

17 CHAIRPERSON HILL: So the impression you got was that
18 that was going to be a package that didn't have any issues?

19 MR. LEWIS: Correct. I mean, we asked her again and
20 again, you know, do you have concerns? Are there things that we
21 want to talk about? Can we give you more information? You know,
22 Mr. Moy reached out in August. We gave them OP's information. We
23 gave them Mr. Moy's information. Tried to make it as easy for
24 them to provide comments, and we didn't hear anything
25 substantively.

1 CHAIRPERSON HILL: Mr. --

2 MR. LEWIS: I would just add, you know, the AOC is not a
3 party here, and OP didn't support, you know, didn't condition its
4 support on anything from the AOC. I feel like -- you know, we
5 initiated our outreach with the AOC in November of last year.
6 They've had lots of time to weigh in. I'm sure they're very busy.
7 They have a very important mission. But, you know, to your point,
8 we really would like to move forward with this project.

9 CHAIRPERSON HILL: Okay.

10 And, Mr. Moy, it's all right. I don't -- you don't need
11 to read that letter or whatever.

12 Mr. Shapiro, do you have any further questions about
13 your concerns or -- yeah. Do you have any further questions?

14 COMMISSIONER SHAPIRO: No, I don't. The communication
15 that's in the record between the Applicant and the Architect of
16 the Capitol is pretty clear. And so I don't have any doubt around
17 the intent of the Applicant to -- that they've been pushing for
18 the information. You know, it feels like a unique situation. And
19 I'm -- you know, there's a part of me that wants to give the
20 Architect of the Capitol one more bite, you know, to leave the
21 record open to allow for submission. And if we don't get it, we
22 don't get it.

23 MR. LEWIS: If I may just add one kind of historical
24 note? You all had before you about a year ago a project right
25 across the street, 50 F Street, in a similar posture. You held

1 the record open for a while to allow the Architect of the Capitol
2 to weigh in. They never weighed in. The application was
3 withdrawn. And so, you know, the occupiable penthouse space in
4 that building that would've contributed to F Street, would've
5 contributed to affordable housing, production trust fund with a
6 fee for the penthouse space, that application went away because
7 the Applicant there couldn't wait any longer.

8 We have a pretty sizeable penthouse contribution here.
9 There's a lot of benefits to this project. We really would like
10 to move forward with it.

11 CHAIRPERSON HILL: Yeah, that's all right, Mr. Lewis.
12 We're not talking about leaving anything open for a long time.

13 But Mr. Shapiro --

14 And I can't see anybody's face. So I have no idea what
15 you guys are looking like right now.

16 But Mr. Shapiro, I mean, I --

17 And we can go around the table, also. Like, I think
18 that the Architect of the Capitol --

19 So let me ask this question. Mr. Lewis, I mean, if you
20 had a decision next week, that doesn't affect you, correct?

21 MR. LEWIS: (Audio interference).

22 CHAIRPERSON HILL: What?

23 MR. LEWIS: Do you all meet next week? I thought --

24 CHAIRPERSON HILL: Yeah, we meet --

25 Well, don't we meet next week? I don't know. It's a

1 holiday.

2 MR. MOY: It will be the following week, Mr. Chairman,
3 so that they --

4 CHAIRPERSON HILL: So you're saying it would be two
5 weeks.

6 So two weeks is going to somehow be detrimental to your
7 project, Mr. Lewis?

8 MR. LEWIS: It would be very nice to have some certainty
9 that we're moving forward just given the timeline for construction
10 that Mr. Abair laid out. There's a lot that happens between now
11 and actually breaking ground.

12 CHAIRPERSON HILL: Okay. Okay. All right. Okay. All
13 right.

14 So let me go around the table a little bit.

15 Mr. Shapiro, I'll end with you.

16 I'm comfortable moving forward. The problem -- I don't
17 mind keeping the record open for something from the Architect of
18 the Capitol. Can I just then -- if we did get something from the
19 Architect of the Capitol that made us uncomfortable -- and I don't
20 even know whether we're going to vote today. I'm just kind of
21 talking through things. We could rescind our vote, reopen the
22 record, and reopen deliberations dependent upon what we got from
23 the Architect of the Capitol.

24 So that's one thing, Mr. Shapiro.

25 So I'm kind of interested in kind of moving forward.

1 And, again, I can't see anybody's face.

2 So I'm going to start with Mr. Smith. Do you have any
3 thought?

4 MEMBER SMITH: You said Mr. Smith?

5 CHAIRPERSON HILL: Yeah, Chrishaun. Mr. Smith?

6 MEMBER SMITH: Sorry. (Audio interference) for a
7 second. I agree with Mr. Shapiro. I would prefer to hear or to
8 give the Architect of the Capitol the (audio interference) bite
9 (audio interference), then I -- and I am sensitive to the concerns
10 of the Applicant. But from the standpoint of the federal
11 interests, I would prefer to see we can get something on the
12 record from Architect of the Capitol by the 18th.

13 CHAIRPERSON HILL: Ms. John?

14 VICE CHAIR JOHN: Mr. Chairman, I would support your
15 suggestion that we deliberate today and leave the record open for
16 something from the Architect of the Capitol. And I make that
17 suggestion because the Applicant has been trying since June to
18 coordinate and to get a response. And I think it's reasonable to
19 go ahead and, you know, since the Applicant is here and has made
20 the presentation to go ahead and deliberate today but leave the
21 record open. And if there's something that comes to us that
22 requires us to reopen the record, then I would support that
23 option.

24 CHAIRPERSON HILL: Mr. Shapiro, are you in agreement
25 with this process?

1 COMMISSIONER SHAPIRO: I am. I just want to make sure I
2 understand that practically we're treating this as a two-vote case
3 then. I mean, because the Applicant isn't really released until
4 the record is closed on the 18th.

5 CHAIRPERSON HILL: My suggestion -- I don't know the
6 record -- and I can ask later in a moment procedurally. I just
7 need to get through this first group first.

8 COMMISSIONER SHAPIRO: I'm with -- I'm with the strategy
9 that you've suggested.

10 CHAIRPERSON HILL: Okay. All right. So then I -- so
11 then -- okay.

12 So what I'm proposing is that we would go ahead and
13 deliberate. You know, and if we get to "no," then it doesn't
14 matter, right, because then it's rejected. But if we got to --
15 and, actually, even if we got to "no," I guess we'd still leave
16 the record open for something from the Architect of the Capitol.
17 What I'm proposing is that if we got to "yes," that we would leave
18 the record open for the Architect of the Capitol, and then once we
19 got that, if there was something that we thought we needed to do,
20 we would rescind. We would rescind our vote, and we would open
21 the case back up again. I mean, the record will --

22 So to follow your thought -- to understand what I'm
23 explaining to you, Mr. Shapiro, is that we would take a vote. We
24 would leave the record open for something from the Architect of
25 the Capitol. If after seeing that there was something that we

1 thought we needed to talk through more, we would rescind our vote,
2 reopen the hearing, and then have further hearing. Does that make
3 -- is that clear, Mr. Shapiro?

4 COMMISSIONER SHAPIRO: Yes. Yes, it is.

5 CHAIRPERSON HILL: Okay.

6 MR. RICE: Chairman Hill, if I can offer a point of
7 information. It may be a good idea for you to waive the
8 verification requirement that is preventing the current letter
9 from the Architect of the Capitol from entering. That way you can
10 at least get a hold at the current letter, and you can take a look
11 at that and make your decision based upon that if you don't -- if
12 the Architect of the Capitol is not able to provide a signed copy
13 of it within the time frame that's currently available.

14 COMMISSIONER SHAPIRO: I agree with that, Mr. Chair.

15 CHAIRPERSON HILL: Okay.

16 So, Mr. Rice, this actually makes something interesting
17 to me. So if we waive that now, can Mr. Moy read the letter? Or
18 can Mr. -- Mr. Lewis read the letter?

19 MR. RICE: I think if Mr. Moy were to go ahead and read
20 the letter right now, it gets a little close to the live video
21 prohibitions. So I would encourage you guys to waive the
22 requirements and go ahead and read it once it's entered into the
23 record on your own and kind of proceed as you were saying. You
24 know, if you guys want to deliberate today, that's fine.

25 But waive the requirement to allow it to enter into the

1 record, deliberate today, and then, you know, this afternoon or
2 this evening once you've all had the opportunity to look at what's
3 been entered into the record, afford the record -- afford the
4 letter the due deference that it has not been verified. And if
5 you guys decide that you want to rescind your prior vote or
6 anything, proceed like that. I think that would probably be the
7 best route.

8 CHAIRPERSON HILL: Okay. I kind of understand what
9 you're saying. And so this would be a question for me later, also
10 for OAG just to kind of like, you know, let me know, right? I
11 mean, if we were in our live hearing, right, Mr. Lewis would be
12 able to pull up the letter right now and testify to the letter,
13 right? If we allowed it into the record. So I'm just trying to
14 understand because I'm trying to be efficient on this, also,
15 right? I mean, it seems a little silly to me that, like, somebody
16 has something, and they can't tell us what it says. So, you know,
17 I mean, I understand --

18 MR. LEWIS: I don't have the letter.

19 CHAIRPERSON HILL: No, I understand.

20 MR. LEWIS: Okay.

21 CHAIRPERSON HILL: I understand, Mr. Lewis. But --
22 never mind. Mr. Lewis, you're a creative attorney. You could
23 probably pull it on the Internet somehow. I don't know.

24 So the point is I can -- all right. Let's do one thing
25 first. As OAG had just recommended, waive the timing requirement

1 to allow the letter into the record. Even though it's unsigned, I
2 definitely would like to take a look at it. Everyone is in
3 agreement, correct? And I am going to go around the horn.

4 Mr. Shapiro, you're in agreement, correct?

5 COMMISSIONER SHAPIRO: I am with one question, though.
6 I don't understand what the great risk is of not just allowing it
7 into the record but allowing it into the record and reviewing it.
8 I mean, in the previous case, we just did the exact same thing.
9 We allowed something into the record at the last minute, and we
10 reviewed it. We just did that, you know, what, 45 minutes ago.

11 CHAIRPERSON HILL: We allowed it into the record. And
12 Mr. Shapiro, again, I'm just having Internet issues. We allowed
13 it into the record, but you couldn't actually see it. Like, it
14 wasn't in the record. It doesn't happen that quickly.

15 COMMISSIONER SHAPIRO: I mean, maybe I'm having a senior
16 moment. But I thought the information that was in it was shared.

17 CHAIRPERSON HILL: Which one was that? I can't even
18 remember now.

19 COMMISSIONER SHAPIRO: Yeah. I just remember the -- I
20 remember the conversation. I don't remember the content.

21 CHAIRPERSON HILL: It was the letter -- it was the
22 letter from the neighbor next door. And the next-door neighbor
23 was saying, yes, we are in agreement. And, yes, they basically
24 testified to the content of that letter.

25 COMMISSIONER SHAPIRO: Right.

1 CHAIRPERSON HILL: But the person that testified was not
2 Mr. Moy. So that's the only thing that I'm having a little bit of
3 concern about or stuck with. It was, again, the Applicant. So if
4 Mr. Lewis had the letter, I would be perfectly happy with Mr.
5 Lewis telling us what was in the letter, right? And so this is
6 kind of getting -- we're getting, like, into the mechanics of this
7 because of this virtual world. So the first thing's first. You,
8 Mr. Shapiro are fine with us letting into the record the unsigned
9 letter, correct?

10 COMMISSIONER SHAPIRO: Yes.

11 CHAIRPERSON HILL: Mr. Smith, are you in support of
12 that?

13 MEMBER SMITH: Yes, I'm in support.

14 CHAIRPERSON HILL: Vice Chair John?

15 VICE CHAIR JOHN: Yes, I'm in support because the issue
16 is that the letter was not signed. So we're waiving the
17 verification as OAG recommended. So I am prepared to waive the
18 verification requirement. The issue is that it's not a signed
19 letter. So I'm prepared to waive that requirement and let it into
20 the record.

21 CHAIRPERSON HILL: Okay. Now I'm confused for a second.

22 I'll go back to OAG. There was two things. One is it's
23 inside the 24-hour period. So that's why I thought we were
24 allowing it into the record. And you, OAG, are saying because it
25 is unverified, that's another thing we have to waive?

1 MR. RICE: Yes, sir. Mr. Moy was saying that it hasn't
2 been entered into the record because it's not signed. And,
3 typically, a letter from an individual has to be verified for
4 evidence of signature in order for it to be accepted into the
5 record. So the only other way you could conditionally allow an
6 unverified document into the record would be if a member of the
7 Architect of the Capitol was present today as a witness. Then you
8 could place the letter in front of them and say, you know, did you
9 actually submit this letter?

10 So if you waive the verification requirement today, it
11 will certainly be able to be entered into the record. I would
12 encourage you guys to afford it, you know, the appropriate amount
13 of weight knowing that it's unverified, but it's probably still
14 going to be on the letterhead and everything else, and then
15 proceed. So, yes, it's two-fold. It's both 24 hours as well as
16 verification requirements.

17 COMMISSIONER SHAPIRO: So Mr. Chair, may I?

18 CHAIRPERSON HILL: Sure.

19 COMMISSIONER SHAPIRO: So what stops -- and maybe this
20 is a question for OAG, Mr. Rice. What stops us from reading the
21 letter and then doing everything that Mr. Rice just said, allowing
22 the two weeks to make sure that what the letter said is valid and
23 verified and signed? And if the Architect of the Capitol chooses
24 not to do that, we can, you know -- if they don't own up to the
25 letter, okay, they don't. But I -- you know, I would prefer to

1 have the information that's in that letter especially if we're
2 going to -- it's possible that we're going to take action today
3 and then wait to hear from the Architect of the Capitol within two
4 weeks. I'd rather see what's in it.

5 CHAIRPERSON HILL: Yeah. So what I'm saying is,
6 Commissioner, we are allowing it into the record. You will see
7 what's in it.

8 COMMISSIONER SHAPIRO: I want to see it before I vote.

9 CHAIRPERSON HILL: Right. Right. Right. Okay. Then
10 we're back to, then, the other thing which is that we're not
11 voting today. And so --

12 MR. LEWIS: Can we pause the hearing and come back and
13 vote on this later this afternoon and have people who have taken a
14 break and a chance to review the letter?

15 CHAIRPERSON HILL: How do we get the letter, Mr. Moy?

16 MR. MOY: The letter was for -- the draft letter
17 unsigned was forwarded to me from Zoning Commissioner Michael
18 Turnbull. It's on the letterhead of the Capitol Hill Police.

19 CHAIRPERSON HILL: Fine. So you can put that into the
20 record, and you can then forward that letter to us, correct?

21 MR. MOY: Yes. If that's what you want, I can forward
22 it to you.

23 CHAIRPERSON HILL: Right.

24 Mr. Rice, that's correct?

25 MR. RICE: That's fine.

1 CHAIRPERSON HILL: Okay.

2 MR. MOY: I can -- I can forward it to you now if you
3 wish.

4 CHAIRPERSON HILL: Yeah, yeah, yeah.

5 I'm down with -- I agree with the suggestion that came
6 from the peanut gallery. And so I'm going to go ahead and -- I
7 agree. Let's go ahead. And we won't close the hearing. We'll
8 just pause the hearing. We'll come back at the end of the day,
9 and we'll take a look at the letter. We'll come back after lunch
10 whenever we do have lunch. And then --

11 Mr. Shapiro, is that good with you?

12 COMMISSIONER SHAPIRO: Yes, sir. That's fine.

13 CHAIRPERSON HILL: Okay. All right. All right. Then
14 in that case --

15 VICE CHAIR JOHN: Mr. Chairman, Mr. Moy is waving his
16 hand.

17 CHAIRPERSON HILL: Oh, sorry, Mr. Moy.

18 MR. MOY: Yeah. Before you move forward, Mr. Chair, I
19 just want to (audio interference) a small minor point because I
20 thought we called Mr. Lewis raising his proffer of expert witness
21 status for architecture for Ms. Savakova and Mr. Duffy. They are
22 currently not in our expert witness book, and I believe it's under
23 Exhibit 32.

24 CHAIRPERSON HILL: Okay. All right.

25 Ms. Savakova and Mr. McDuffy -- McDuffy. Mr. McDuffy.

1 Mr. Duffy. You're both registered architects?

2 MR. DUFFY: Yes. And I'm the architect of record. I'm
3 licensed in D.C. and other jurisdictions. This is Tim Duffy.

4 MS. SAVAKOVA: I'm not licensed in the District of
5 Columbia.

6 CHAIRPERSON HILL: Okay.

7 Does the Board have any issues with them being admitted
8 as expert witnesses? I do not.

9 VICE CHAIR JOHN: I --

10 CHAIRPERSON HILL: Commissioner Shapiro?

11 COMMISSIONER SHAPIRO: No, no issues.

12 MEMBER SMITH: No issues.

13 CHAIRPERSON HILL: Okay. All right.

14 Thanks Mr. Moy. So we did that.

15 Mr. Young, I don't even remember. Was there -- did I
16 ask if people were here to support or in opposition?

17 MR. YOUNG: You did ask, and there's no one.

18 CHAIRPERSON HILL: Okay. All right.

19 So then we'll go ahead and continue this case after
20 lunch whenever we have lunch.

21 Mr. Moy, if you could allow that letter into the record
22 and then send it to the Board members?

23 And this is -- and Mr. Shapiro -- Commissioner Shapiro,
24 like I can't see you again, and we can discuss offline. What I'm
25 trying to figure out, Mr. Moy also, is that if we were in the

1 hearing room, you would be able to give us that letter right now
2 on the dais. And that's why, also, this is kind of confusing.
3 Okay. All right.

4 So we'll continue the hearing after lunch, all right?
5 Does that sound good with everyone?

6 Mr. Shapiro?

7 COMMISSIONER SHAPIRO: Yes, Mr. Chair, that sounds good.

8 CHAIRPERSON HILL: Mr. Smith?

9 MEMBER SMITH: Sounds good to me.

10 CHAIRPERSON HILL: Ms. John?

11 VICE CHAIR JOHN: Yes, that's fine.

12 CHAIRPERSON HILL: Okay.

13 You guys are all excused then. We'll continue this
14 after lunch. Thank you.

15 MR. MOY: And what time do you want to return, Mr.
16 Chair?

17 CHAIRPERSON HILL: I don't -- I mean, we're not going to
18 lunch yet. Like, are we --

19 MR. MOY: Oh, okay. I thought (audio interference).
20 Okay.

21 CHAIRPERSON HILL: I thought we were going to do -- I
22 thought we were going to do one more case unless --

23 And I can't see anybody's hands. I mean, do you all
24 want to take lunch now, or do you want to do one more case and
25 then take lunch? That was at least my vote.

1 COMMISSIONER SHAPIRO: My vote would be that we take one
2 more case as well.

3 CHAIRPERSON HILL: Okay.

4 Ms. John, is that good with you?

5 VICE CHAIR JOHN: That's fine, Mr. Chair.

6 CHAIRPERSON HILL: All right.

7 Mr. Smith (audio interference). I don't even need to
8 ask. I can't see your face anyway.

9 Go ahead, Mr. Moy, and call our next case.

10 MR. MOY: Okay. Here it is, Mr. Chairman. It is Case
11 Application No. 20304 of 721 Kenyon DCBS, LLC. Captioned and
12 advertised for special exceptions under Subtitle U Section 320.2
13 including a waiver from Subtitle U Section 320.2(e) and 320.2(h),
14 and under Subtitle E Section 5201 from the side yard requirements
15 of Subtitle E Section 207.3. This would construct a third story
16 and a three-story rear addition and to convert an existing semi-
17 detached principal dwelling unit into a three-unit apartment house
18 in the RF-1 Zone at 721 Kenyon Street, Northwest, Square 2892, Lot
19 839.

20 CHAIRPERSON HILL: Okay. Great.

21 Ms. Moldenhauer, can you hear me?

22 MS. MOLDENHAUER: I -- sorry. I can hear you now. I'm
23 just trying to get myself set up. How is everyone doing?

24 CHAIRPERSON HILL: Sure. Good. Thank you. I can't --
25 Ms. Moldenhauer, I can't see you. So I don't know if you're ready

1 or not. Just let me know when you're ready.

2 MS. MOLDENHAUER: All right. Yes, I am ready.

3 CHAIRPERSON HILL: Okay. Who is here with you today?

4 MS. MOLDENHAUER: My two clients are here with me today,
5 and Mr. Cohen and Payam Dastmalchi, and then also our architect.

6 CHAIRPERSON HILL: Okay. And who's your architect?

7 MS. MOLDENHAUER: Paul Dupnick --

8 CHAIRPERSON HILL: Dupnick. Okay. All right. That's
9 fine. I'm just trying to see who I got here in the room. Okay.
10 So Ms. Moldenhauer, are you going to be presenting to us?

11 MS. MOLDENHAUER: Yes, I will.

12 CHAIRPERSON HILL: Okay. Why don't -- I'm just going to
13 let you go ahead and present. And if you need anyone else to give
14 testimony as we're going through this, they can introduce
15 themselves as you need them. I'm going to put 15 minutes on the
16 clock just so I know where I am. I don't have anything specific
17 to ask about other than I just thought it was a, you know -- it's
18 an interesting project. I mean, you're going back really far
19 back. But if you want to go ahead and tell us how you believe
20 you're meeting the standard to grant the relief requested, and you
21 can begin whenever you like.

22 MS. MOLDENHAUER: Fantastic. Thank you very much. My
23 name is Meridith Moldenhauer from the law firm Cozen O'Connor on
24 behalf of the Applicant. We do have a PowerPoint that we filed in
25 the record 24 hours in advance of the hearing. Thank you, Mr.

1 Young, for bringing that up. So we'll just walk through the
2 application for the Board. Next slide.

3 The property is located in an RF-1 Zone. The property
4 -- both properties to the right of the lot that you can see are
5 both apartment buildings. And then the property abuts, obviously,
6 a commercial zone in the NC-7 Zone. Next slide.

7 See, the property both in the left image and the right
8 image, there's already a large rear addition. And you can see the
9 apartment buildings that are abutting this property that are also
10 in the RF-1 Zone to the right of the site. Next slide.

11 As identified by Mr. Moy, the property is a proposed
12 conversion of a residential building to an apartment house. It is
13 proposing three units. These are all going to be family size
14 units with four bedrooms. And it is a rear addition for a
15 proposal. Next slide.

16 The positive -- the community has positively received
17 this project. We have ten letters of support. Most importantly,
18 I just want to point out that we also have letters of support from
19 both abutting and adjoining property owners. ANC 1A unanimously
20 supported the project after discussions back and forth with them,
21 and we have just -- "We are satisfied with the project as proposed
22 will be in harmony with the surrounding neighborhood and that the
23 abutting neighbors are in support mitigating any concerns about
24 adverse impact on them." In addition, we have ANC support. Next
25 slide.

1 This is a site plan for the project. The current
2 building, as you can see, is set back on the front of the
3 building. There is a proposed court in the center of the proposal,
4 and then there is a -- the third unit is going to be in the rear
5 that has a cantilever on the second and third level. There is
6 parking that's going to be provided. Next slide.

7 (Audio interference) condition of the building. And
8 there is -- as you can see, there is a front porch that we are
9 proposing. We've always been proposing even from the original
10 design to remove the porch. There was a more modern design.
11 Based on conversations with the ANC and their subcommittee, we
12 went back and forth with them and modified the design to your
13 image on the right which is a more traditional design for the
14 facade. And that was the final proposal that was supported by the
15 ANC. Next slide.

16 You can see the setback on the bottom portion of the
17 image, and you can also see that these are larger units. We have
18 a shared bike room that is connecting the buildings with the
19 courtyard. Next slide.

20 Here you can see that the setback is in the front
21 portion of the building. But then on the second floor, we are
22 cantilevering over to connect the property to a (audio
23 interference) providing no side yard relief which is part of the
24 special exception relief that we're asking. Next slide.

25 A cantilever continues on the third floor. And you can

1 see the large courtyard and the setback. And, in fact, that these
2 are, you know, multiple bedrooms, as we said, four-bedroom units.
3 Next slide.

4 Here is a rendering of the front facade where you can
5 see that both the apartment building to our right as well as our
6 setback provide ample separation between the project. You can
7 also see the cantilever portion on the second and third floor in
8 the back of this image that are part of the side yard relief being
9 requested. Next slide.

10 Here, again, you can see that it is a cantilever with an
11 open air on the first floor that provides access to the two
12 parking spaces. And you can also see the setback along the side
13 that provides light and air both to our property and our abutting
14 apartment building. Next slide.

15 We are asking for two special exceptions, one for the
16 conversion to a three-unit project waiver of the ten-foot
17 requirement and the architectural elements for removing both the
18 front porch and having no setback on the third floor. We are also
19 asking for special exception for the eastern side yard. Next
20 slide as I'll walk through these.

21 The ten-foot rule, you know, obviously while we're
22 asking for relief from that, we have received letters of support
23 from the western property owner which is the only physical
24 abutting property owner. As I showed, there's a setback on the
25 eastern side which is the apartment side. But we have letters

1 from both. Office of Planning is supportive of the ten-foot
2 waiver. The existing condition of the property as you saw from
3 the first image already has a large 18-foot extension on it. And
4 these lots are extremely deep. It's 142.5-foot deep lot. And the
5 proposed height lot occupancy, the minimum (audio interference)
6 requirements are all being met and are consistent. Finally, there
7 is no wall of windows on the west-facing wall of the building thus
8 not creating any concerns of rights of privacy. Next slide.

9 The waiver in regards to the rooftop architectural
10 elements, this was specifically revised based on an iterative
11 process with the ANC and the community. Office of Planning is
12 supportive of this, and the new design we believe is consistent
13 with the federalist style of architecture as well as just
14 identifying that there is more modern designs up and down the
15 street including two lots to the west of the proposal and that
16 there is no consistent -- because of those modern designs and
17 other changes that there's really no consistent architectural
18 pattern that is unique to this specific block. Given those
19 factors, we believe that the proposal and the waiver of the
20 architectural embellishment is permitted and should be allowed by
21 the Board. Next slide.

22 Next slide. Is it me or is it Mr. Young? Sorry. Okay.
23 Before that. The one before. Slide 16. The side yard relief
24 that we're asking for, this is -- because the property is
25 currently detached and had a side yard on one side of the

1 property, we are asking to attach the third unit in the rear of
2 the design as a property line to property line. Again, this is
3 not occurring on the ground level but is only occurring on the
4 second and third level. And so because of that cantilever design,
5 we believe there would be no adverse impact to the abutting
6 properties. Also, the western property owner has -- there are no
7 windows along the front of the property. And the dog-leg at the
8 rear of the property to the west are set back having no impact for
9 this side yard relief.

10 That concludes our presentation, and we are open for any
11 questions of the Board. Thank you.

12 CHAIRPERSON HILL: Okay.

13 Mr. Young, could you drop the presentation? I don't
14 know if you have or not. Okay. Great. Perfect. Thank you.

15 I'm going to go around the table.

16 Commissioner Shapiro, do you have any questions for the
17 Applicant?

18 COMMISSIONER SHAPIRO: I don't think -- give me one
19 second. I just have one quick one, Mr. Chair. The very early
20 slide where you showed the original proposal and the current
21 proposal, you have a building -- I guess this is just a
22 perspective thing, Ms. Moldenhauer. But the space between the
23 current proposed building and the apartment building next to it,
24 that's just not accurate, right?

25 MS. MOLDENHAUER: I'm trying to pull up the PowerPoint

1 on my --

2 COMMISSIONER SHAPIRO: I see Mr. -- I see Mr. Wray
3 nodding. So --

4 MS. MOLDENHAUER: Correct, that is not accurate.

5 COMMISSIONER SHAPIRO: Okay. All right. I was
6 wondering. And then the other question is the front facade, the
7 brick-faced front facade in the federal style, does that carry
8 around to the side at all? Or is everything on the side that kind
9 of stark white?

10 MS. MOLDENHAUER: I'll let the architect answer that
11 question. I believe it does not carry around, but I just want to
12 make sure (audio interference) correct in making a statement.

13 MR. DUPNICK: Hello, this is Paul, the architect. Hi.
14 To answer your question, there is a one-foot turn of the brick
15 just so -- it's greater than the thickness of the veneer. But
16 it's a foot.

17 COMMISSIONER SHAPIRO: And did the ANC weigh in at all
18 around concerns around the side, the materials, the side
19 materials? I'm just curious. I know this isn't a design review
20 case. It's just I'm wondering how they felt about that. It's
21 actually going to be pretty visible.

22 MR. DUPNICK: I believe the ANC's only comment about the
23 side materials was that initially we were proposing metal panels,
24 and they were not necessarily fans of the metal panels. So we
25 replaced the material. But they had no comment regarding the turn

1 of the brick.

2 COMMISSIONER SHAPIRO: At the white wall?

3 MR. DUPNICK: Or the white wall. No.

4 COMMISSIONER SHAPIRO: Okay. And what material did you
5 end up with?

6 MR. DUPNICK: We're showing a Hardie panel. Not metal,
7 but a cement-like panel.

8 COMMISSIONER SHAPIRO: Okay. Thank you. That's all I
9 have, Mr. Chair. Thank you.

10 CHAIRPERSON HILL: Mr. Smith?

11 MEMBER SMITH: I don't have any concerns. I think the
12 Applicant has answered all of the questions asked.

13 CHAIRPERSON HILL: Ms. John?

14 VICE CHAIR JOHN: I don't have a concern, but I wanted
15 some clarification on how much of the rear wall at 723 is shared
16 with 721. (Audio interference) 3 is adjoining, but I don't
17 believe it's with a full length. I didn't quite understand the
18 last slide that Ms. Moldenhauer put up.

19 MS. MOLDENHAUER: The last slide that I have up speaks
20 to the side yard relief. So it does not speak to the ten-foot
21 relief, but it speaks more to the eastern side, not the western
22 side, the eastern side yard.

23 VICE CHAIR JOHN: But can you clarify the ten-foot
24 relief requirement?

25 MS. MOLDENHAUER: So the ten-foot relief requirement is

1 -- let me just do the math.

2 VICE CHAIR JOHN: Excuse me, Ms. Moldenhauer. If Mr.
3 Young could put up that last slide?

4 MS. MOLDENHAUER: So it's stated on -- also on -- this
5 is shown here, and you can do the math. It's also clearly stated
6 on slide 13 which says it's 64.4 feet beyond the western neighbor.
7 So here you can see it's the 16 feet plus the 20 feet plus then
8 the 28.4 feet which is a total of 64.4 feet beyond that neighbor.
9 And that neighbor has written a letter of support.

10 VICE CHAIR JOHN: Okay. All right. Thank you.

11 CHAIRPERSON HILL: Can you all hear me? Okay.

12 Can I turn to the Office of Planning?

13 MS. VITALE: Good afternoon, Mr. Chair, and members of
14 the Board. Elisa Vitale with the Office of Planning for BZA Case
15 20304. The Office of Planning is happy to rest on the record of
16 its report and supports approval of the requested special
17 exception relief from the side yard requirements and the
18 conversion requirements including the two requested waivers for
19 the ten-foot rule and for rooftop architectural elements. This
20 concludes my report, and I am happy to answer any questions.
21 Thank you.

22 CHAIRPERSON HILL: Okay.

23 Before I get to the questioning for the Office of
24 Planning, I neglected -- there was a notice, a deficiency notice
25 that was on our part concerning the D.C. Register and the 19-days

1 -- or I should say the 40 days. The 40-day requirement. This was
2 posted 19 days. I do believe, however, that all of the other
3 notice requirements were satisfied. The ANC was properly noticed,
4 the Office of Planning and other District agencies, also property
5 owners within 200 feet were notified, and the Applicant has posted
6 appropriately. So on my own motion, I'm going to go ahead and
7 waive that requirement, notice requirement, as per Y 402.11.
8 Unless any of my Board members speak up, I'll go ahead and waive
9 that. Okay. I don't hear anything from you.

10 So -- and after that, does anyone have any questions for
11 the Office of Planning?

12 Commissioner Shapiro?

13 COMMISSIONER SHAPIRO: No questions, Mr. Chair.

14 CHAIRPERSON HILL: Mr. Smith?

15 MEMBER SMITH: No questions.

16 CHAIRPERSON HILL: Ms. John?

17 VICE CHAIR JOHN: No questions.

18 CHAIRPERSON HILL: Ms. Moldenhauer, do you have any
19 questions for the Office of Planning?

20 MS. MOLDENHAUER: No questions. Thank you, Ms. Vitale,
21 for your time.

22 CHAIRPERSON HILL: Mr. Young, is there anyone here
23 wishing to testify?

24 MR. YOUNG: We had two people signed up. One I was told
25 is no longer testifying, and the other one does not seem to be in

1 the room. We had Mr. Reed reach out and left a voicemail. So --

2 CHAIRPERSON HILL: Okay. All right.

3 MR. WRAY: Chairman Hill, the ANC is here by the way.

4 CHAIRPERSON HILL: Oh, wow. Hey, Commissioner. I can't
5 see anything. Could you introduce yourself, Commissioner?

6 MR. WRAY: Sure. This is Michael Wray representing ANC
7 1A.

8 CHAIRPERSON HILL: Okay. Great. Commissioner, would
9 you like to provide any kind of testimony?

10 MR. WRAY: I'll just give my thanks to the Applicant.
11 They did work with us quite a lot and had a lot of meetings. They
12 also reached out to a number of the neighbors and got those
13 letters of support which made it much easier to support this.
14 Obviously, the shadowing on the abutting neighbor is, you know,
15 potentially a concern. But since that neighbor was in full
16 support of the project, we were satisfied. So I'm here in case
17 anybody has any other questions. But we're happy to see this move
18 forward.

19 CHAIRPERSON HILL: So Commissioner, I am a little
20 curious. I mean -- so you guys didn't have any big concerns with
21 the project it seems like.

22 MR. WRAY: No. I mean, it was more (audio interference)
23 in the beginning where we were just -- we are not particularly
24 happy when we remove porch grooves because we like porches in the
25 neighborhood. It helps bring a sense of community. So that was

1 the main reason for the discussion around the way in which the
2 front of the building was (audio interference).

3 CHAIRPERSON HILL: Okay.

4 Commissioner Shapiro, do you have any questions for the
5 other Commissioner? I was going to ask, Commissioner Shapiro, if
6 you had any questions for the Commissioner? Mr. Shapiro, can you
7 hear me? Can you hear me?

8 COMMISSIONER SHAPIRO: Mr. Chairman --

9 CHAIRPERSON HILL: Can you hear me?

10 COMMISSIONER SHAPIRO: -- I don't have any questions. I
11 was just going to comment. I can hear you. Can you hear me?

12 CHAIRPERSON HILL: Can you guys hear me?

13 COMMISSIONER SHAPIRO: Yes, we can hear you.

14 MEMBER SMITH: I heard you, Mr. Chair.

15 MR. MOY: Yeah, I can hear you. But for Mr. Shapiro
16 (audio interference).

17 CHAIRPERSON HILL: Can you hear me again? Go ahead,
18 Commissioner.

19 COMMISSIONER SHAPIRO: I can hear you, Mr. Chair. Can
20 you hear me?

21 UNIDENTIFIED SPEAKER: So all we're seeing right now is
22 little circles on the screen.

23 CHAIRPERSON HILL: I'll come back to Mr. Shapiro. Mr.
24 -- now I can. Do you have any comments, Commissioner Shapiro?
25 Mr. Smith, can you hear me?

1 (Audio interference).

2 MR. YOUNG: It looks like he jumped off for a second.

3 So --

4 MEMBER SMITH: I can hear you, and I don't have any
5 comments.

6 CHAIRPERSON HILL: Okay.

7 Ms. John, do you have any comments or questions?

8 VICE CHAIR JOHN: No, I have no comments or questions.

9 CHAIRPERSON HILL: Okay.

10 Ms. Moldenhauer, do you have any questions of the Office
11 of Planning? Did I ask that? I can't hear you. Ms. Moldenhauer,
12 do you have any questions or comments?

13 MS. MOLDENHAUER: (Audio interference) questions for the
14 ANC. Thank you.

15 CHAIRPERSON HILL: Mr. Shapiro, are you back with us --

16 MS. MOLDENHAUER: Can you hear me? No questions for the
17 ANC.

18 COMMISSIONER SHAPIRO: I'm back with you. Yes.

19 CHAIRPERSON HILL: Mr. Shapiro, do you -- can you hear
20 me?

21 COMMISSIONER SHAPIRO: No questions.

22 CHAIRPERSON HILL: Do you have any questions or comments
23 for the ANC? Okay.

24 Mr. Young, did you find that other additional person?
25 Are they still not here?

1 MR. YOUNG: Yes, I have them.

2 CHAIRPERSON HILL: Oh, okay. Great. What is their
3 name?

4 MR. YOUNG: It's Ariel Rattner.

5 CHAIRPERSON HILL: Okay.

6 Ms. Rattner, can you hear me? Or is it Mr. Rattner? I
7 don't know.

8 MR. RATTNER: Mr.

9 CHAIRPERSON HILL: Okay.

10 MR. RATTNER: And I don't have any comments.

11 CHAIRPERSON HILL: Okay. So you don't have any
12 testimony to give?

13 MR. RATTNER: No.

14 CHAIRPERSON HILL: Okay. Well, thank you for joining
15 us, Mr. Rattner.

16 Mr. Young, if you could please remove Mr. Rattner
17 because I'm concerned it's slowing things down.

18 Ms. Moldenhauer, do you have anything you would like to
19 add in conclusion?

20 MS. MOLDENHAUER: No. Thank you for your time. And we
21 believe that we satisfied for the special exception relief. And
22 thank you for the ANC coming after having worked with them.

23 CHAIRPERSON HILL: Okay.

24 I am going to go around the horn just because I want to
25 be certain.

1 Mr. Shapiro, you don't have any more questions, correct?

2 CHAIRPERSON HILL: No questions, Mr. Chair. No
3 concerns.

4 CHAIRPERSON HILL: Mr. Smith, you don't have any
5 questions, correct?

6 MEMBER SMITH: No, I don't have any questions.

7 CHAIRPERSON HILL: Ms. John, do you have any more
8 questions?

9 VICE CHAIR JOHN: I have no questions, Mr. Chair.

10 CHAIRPERSON HILL: Okay.

11 I'm going to close the hearing.

12 Mr. Young, could you please remove everyone except for
13 the Board? I don't know if that helps or not, but there's less of
14 us.

15 So I believe I'm ready to deliberate, but I'll be very
16 happy if someone else would like to talk for a little while.

17 So Commissioner Shapiro, can I start with you?

18 COMMISSIONER SHAPIRO: You can. I don't have much to
19 say. I think that they -- I don't have any concerns granting the
20 relief. I like the design of the project. I'm glad (audio
21 interference) ANC on board, the abutting neighbors. I really
22 don't have any concerns, and I'm happy to support this.

23 CHAIRPERSON HILL: Mr. Smith?

24 MEMBER SMITH: I don't have any concerns as well. I
25 think the Applicant has done a good job of mitigating impacts of

1 the proposed building (audio interference). The design of the
2 building, the size of the building is in character with the
3 surrounding properties. Matter of fact, the rear-wall of the
4 proposed addition would be in line with the apartment building to
5 the east. So I would like to thank the Applicant for coordinating
6 with the ANC and also reaching out to the neighbor. They would be
7 impacted by shadows onto their property, and they're on record as
8 supporting this. So I will support this request for special
9 exception.

10 CHAIRPERSON HILL: Vice Chair John?

11 VICE CHAIR JOHN: I'm also in support of the
12 application, and I will give great weight to the Office of
13 Planning's analysis which I thought did a good job of explaining
14 how the application meets the requirement. I normally don't like
15 to see these extensive additions, but in this case, I think the
16 Applicant did a good job of explaining how it can be justified.
17 And so I can move forward on this application.

18 CHAIRPERSON HILL: Okay. Thank you, Vice Chair John.

19 I will agree with all of your comments. Also, it's not
20 really something I'm (audio interference). When these are that
21 far back, it does concern me. But I do think that the Applicant
22 has made the argument as to how they should be granted the relief
23 requested. I would also note as well the analysis that the Office
24 of Planning has provided and would be in agreement with that as
25 well as it was nice of the Commissioner to actually come on and

1 share with us the ANC's thoughts.

2 So I'm going to make a motion to approve Application No.
3 20304 as captioned and read by the Secretary.

4 And ask for a second, Ms. John?

5 VICE CHAIR JOHN: Second.

6 CHAIRPERSON HILL: Mr. Moy, the motion has been made and
7 seconded. If you could please take a roll call?

8 MR. MOY: Yes. Thank you, Mr. Chairman. When I call
9 your name, if you would please respond with a yes, no, or abstain
10 to the motion made by the Chairman to approve the application for
11 the relief being requested and seconded by Vice Chair John.
12 Zoning Commissioner Peter Shapiro?

13 COMMISSIONER SHAPIRO: I vote yes.

14 MR. MOY: Mr. Smith?

15 MEMBER SMITH: Yes.

16 MR. MOY: Vice Chair John?

17 VICE CHAIR JOHN: Yes.

18 MR. MOY: Mr. Chairman?

19 CHAIRPERSON HILL: I vote yes.

20 MR. MOY: And we have a Board seat vacant. The staff
21 would record the vote as 4 to 0 to 1 on the motion made by
22 Chairman Hill to approve the Application for the relief requested,
23 seconded by Vice Chair John, and also in support Zoning
24 Commissioner Peter Shapiro, Mr. Smith, and of course Vice Chair
25 John and Chairman Hill. The motion carries, sir, 4 to 0 to 1.

1 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Moy.

2 So we're going to come back. And after lunch, we're
3 going to come back for our continued hearing on 20303. Everyone's
4 going to take a look at that letter from the Architect of the
5 Capitol. And then we have three more cases after that. Is --
6 it's 12:40. Like, is 1:25 fair?

7 Does that sound good, Vice Chair John?

8 VICE CHAIR JOHN: Yes, fine. That's fine.

9 CHAIRPERSON HILL: Okay. All right. Let's do that
10 then.

11 Mr. Moy, you have a question?

12 MR. MOY: No question. Just to confirm that I forwarded
13 that draft unsigned letter to you. So if you did not receive it,
14 give me a call, and I'll do it again.

15 COMMISSIONER SHAPIRO: (Audio interference) Mr. Moy.

16 MR. MOY: Thank you.

17 CHAIRPERSON HILL: Okay. Great. All right.

18 See you guys at 1:25.

19 (Whereupon, the above-entitled matter went off the
20 record at 12:40 p.m. and resumed at 1:30 p.m.)

21 CHAIRPERSON HILL: Mr. Moy, you can call our -- you can
22 call us back and call that continued hearing if you'd like.

23 MR. MOY: Thank you, sir. The Board is back in session
24 -- hearing session and the time is at or about 1:30 p.m. And I
25 believe, unless I'm corrected, we're back to case Application No.

1 20303.

2 CHAIRPERSON HILL: Okay. And Mr. Moy, you reached out
3 to the Architect of the Capitol also in terms of that signature?

4 MR. MOY: Yes, I did, during our lunch recess, but no
5 one picked up on the other end. I left a detailed message, but I
6 did make the attempt.

7 CHAIRPERSON HILL: Okay. Great. All right. So as I
8 had mentioned before we left -- oh shoot, never mind. You have to
9 let everybody in, Mr. Young, I'm sorry.

10 MR. YOUNG: Bring the attorney in or did you want --

11 CHAIRPERSON HILL: Well, let's just see. Mr. Lewis, can
12 you hear me?

13 MR. LEWIS: Yes, I can. Can you hear me?

14 CHAIRPERSON HILL: Yeah. I mean, I don't think we need
15 anybody else unless you had more -- unless we need to bring them
16 in for further testimony; is that good with you?

17 MR. LEWIS: Correct. Yes.

18 CHAIRPERSON HILL: Okay. So what I just had mentioned
19 was that Mr. Moy had reached out to the person that had submitted
20 the letter, just to kind of get verification on the signature.
21 However, as we've now -- the Board has gone ahead and added that
22 letter to the record and I guess my fellow Board members have had
23 a chance to review that letter. It has not changed my position,
24 I'm again, comfortable with where we are.

25 Commissioner Shapiro, have you had a chance to take a

1 look at the letter?

2 COMMISSIONER SHAPIRO: I have, Mr. Chair, and I concur,
3 I'm with where you are. I'm happy to proceed today.

4 CHAIRPERSON HILL: Okay. Mr. Smith, do you have any
5 thoughts?

6 MEMBER SMITH: No, I don't have any thoughts on it.

7 CHAIRPERSON HILL: Okay. Ms. John?

8 VICE CHAIR JOHN: You can proceed, Mr. Chair.

9 CHAIRPERSON HILL: Okay. So just to be clear, Mr.
10 Lewis, the condition that the ANC has is in Exhibit 32 and you are
11 in agreement to that, correct?

12 MR. LEWIS: Correct.

13 CHAIRPERSON HILL: And then the DDOT condition was to
14 implement the TDM plan and you are in agreement to that, correct?

15 MR. LEWIS: Correct.

16 CHAIRPERSON HILL: Okay. There was something about ANC
17 6E, but kind of the issues -- was it 6E? One of the ANCs were
18 kind of speaking about homelessness, but I don't think that that
19 was necessarily anything that we would be able to -- well, it's
20 not really in our purview actually. And so I'm just kind of
21 noting that for the record.

22 Mr. Lewis, do have anything that you would like to add
23 at the end?

24 MR. LEWIS: No. We're happy to move forward whenever
25 you all are. Thank you.

1 CHAIRPERSON HILL: Okay. All right. So I'm going to go
2 ahead and close the record, I guess, I mean, this is the part now
3 -- Mr. Lewis, we're going to go ahead and excuse you. Thank you.

4 I guess -- I can't see any faces, I mean, Mr. Shapiro,
5 since you had brought this up and, I think, you know, and also Mr.
6 Smith, I think, you know, we would leave -- Mr. Moy, I'll leave
7 the record open for a signed letter, okay. Or if you want to
8 pursue the Architect of the Capitol and see if they would like to
9 submit a signed letter, okay?

10 MR. MOY: Yes, sir.

11 CHAIRPERSON HILL: And we'll leave the record open for a
12 week. We'll leave the record open for a week from today, Mr. Moy,
13 for that signed letter. Okay?

14 MR. MOY: Yes sir, I got it.

15 CHAIRPERSON HILL: Okay. Great. So then after that I'm
16 just going to go ahead and close the record except for the signed
17 letter from the Architect of the Capitol, if they care to submit
18 one, they might not care to submit one. I mean, they haven't been
19 able to -- you know, we might just -- that might be all we're
20 getting. And so we'll see what happens. After that I am ready to
21 deliberate and can start.

22 And I do think that after reviewing all of the -- after
23 reviewing the record, I am comfortable voting in favor of this
24 application. I do believe that the Applicant has put forward all
25 of the arguments as to how they're meeting the criteria for the

1 relief requested. And also that I do note that there was a
2 condition from the ANC in Exhibit 32 that the Applicant has agreed
3 to as well as implementing their TDM plan that was one of DDOT's
4 conditions.

5 I do think that -- I think it's an interesting project.
6 I mean, I think that -- that's beyond the whole, you know, issues
7 concerning the standard with which we're reviewing the case, but
8 I'm going to be voting in favor. Commissioner Shapiro, could I
9 turn to you?

10 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I've
11 nothing further to add, I agree with you. I also think it's an
12 interesting project. I have no reservations or concerns, I'm
13 happy to move forward.

14 CHAIRPERSON HILL: Mr. Smith?

15 MEMBER SMITH: I don't have much to add as well. I do
16 believe that the Applicant has addressed the concerns with the ANC
17 by agreeing to the condition where there wouldn't be any outdoor
18 amplification of noise from the added space that would be in
19 house. I do support the special exception, so I really don't have
20 anything to add, I'm in support of it.

21 CHAIRPERSON HILL: Vice Chair John?

22 VICE CHAIR JOHN: I support the application and I agree
23 with all of the comments of the Board members and I agree that the
24 conditions from ANC to limit the use of any outdoor amplification
25 device is appropriate and will include that condition, as well as

1 agreement to implement DDOT's TDM recommendations. And I
2 appreciate the ANC's support of the application. And I would
3 give great weight to OP's analysis.

4 CHAIRPERSON HILL: Okay. Thank you. Mr. Shapiro, were
5 you about to say something?

6 COMMISSIONER SHAPIRO: No, sir.

7 CHAIRPERSON HILL: No. Okay. Also will add that, yes,
8 I do appreciate the analysis that was provided by the Office of
9 Planning and will agree with their report. I'm going to make a
10 motion to approve application number 20303 as captioned and read
11 by the Secretary, including the two conditions, one being the ANC
12 condition in Exhibit 32, as well as the implementation of their
13 TDM plan, and ask for a second, Ms. John.

14 VICE CHAIR JOHN: Second.

15 CHAIRPERSON HILL: The motion is made and seconded. Mr.
16 Moy, if you could please take a roll call vote?

17 MR. MOY: Thank you, Mr. Chairman. When I call your
18 name if you would please respond with a yes or no, or abstain to
19 the motion made by Chairman Hill to approve the application for
20 the relief requested and will the -- along with the conditions as
21 cited. I believe there were two conditions, one from the ANC and
22 the TDM that's noted in the DDOT exhibit. Seconded -- sorry, so
23 yeah. Zoning Commissioner Shapiro?

24 COMMISSIONER SHAPIRO: I'm voting yes.

25 MR. MOY: Mr. Smith?

1 MEMBER SMITH: I vote yes.

2 MR. MOY: Vice Chair John?

3 VICE CHAIR JOHN: Yes.

4 MR. MOY: Chairman Hill?

5 CHAIRPERSON HILL: Yes.

6 MR. MOY: We have a board seat vacant. Staff would
7 record the vote as 4 to 0 to 1 and this is on the motion to
8 approve made by Chairman Hill, seconded by Vice Chair John, also
9 supported by Zoning Commissioner Peter Shapiro, Mr. Smith, Vice
10 Chair John, and, of course, Chairman Hill. The motion carries 4
11 to 0 to 1.

12 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Moy.
13 Okay, Mr. Moy, you can call our next case when you like.

14 MR. MOY: So this would be case Application No. 20305 of
15 Florida 21, LLC. Captioned and advertised for a special exception
16 under Subtitle F, Section 5201, from the court requirements of
17 Subtitle F, Section 202.1. This would construct a partial fourth-
18 story addition to an existing attached principal dwelling unit and
19 convert it into a 4-unit apartment house in the RA-8 Zone at
20 premises 2152 Florida Avenue, N.W., Square 66, Lot 828. And I
21 believe there was a request to waive the 21-day filing deadline,
22 this from the Applicant under Exhibit 43.

23 CHAIRPERSON HILL: Okay. Before we begin, there, again,
24 is a deficiency notice -- notice -- deficiency notice, the notice
25 was deficient, wherein the D.C. Register -- we're supposed to post

1 40 days ahead, instead it was 19 days. It was a technical issue
2 on our side. I will note, however, that the other notice
3 requirements were fulfilled, such as everything was sent to the
4 ANC, the Office of Planning, all the other District agencies and
5 property owners were notified within 200 feet. This was also
6 posted properly.

7 I believe that there was enough notice and that I'm
8 going to waive that notice requirement there from D.C. Register
9 pursuant on my own motion to Section Y 402.11 unless any Board
10 member has an issue with and if so, please, speak up. Okay. All
11 right. So we've done that. After that, Mr. Sullivan, could you
12 please introduce yourself?

13 MR. SULLIVAN: Yes, thank you. Mr. Chair, members of
14 the Board, my name is Marty Sullivan on behalf of the Applicant.

15 CHAIRPERSON HILL: Okay. Mr. Sullivan, I'm having kind
16 of like some technical issues on my side, as well, today, so I
17 don't really see everyone. Who's with you here today?

18 MR. SULLIVAN: We have a representative of the property
19 owner, Mr. Beck Vissat and I don't think -- I think the architect
20 couldn't join, so it's just -- no, we do have a representative
21 from the architect too, (audio interference).

22 CHAIRPERSON HILL: Okay. All right. So, Mr. Sullivan,
23 I'm going to go ahead and just let you present your case and then
24 if you do need either of your witnesses to testify, I can allow
25 them to introduce themselves at that time. If you could go ahead

1 -- I'll put 15 minutes on the clock, you can kind of walk us
2 through your presentation. If you could speak a little bit to the
3 light and air and shadowing for the fourth-floor windows, that's
4 something that maybe I want to hear a little bit more about and
5 you can begin whenever you like.

6 MR. SULLIVAN: Sure. Thank you, Mr. Chair, members of
7 the Board. Again, Marty Sullivan with Sullivan & Barros, here on
8 behalf of the Applicant. This is 2152 Florida Avenue. If Paul
9 could put up the presentation, please? Thank you. Actually, if
10 you could go to the next page, that's the front of it there.

11 For a little overview, the property is currently a
12 single family. Applicant is intending to renovate and add a
13 fourth-floor addition and convert to a four-unit dwelling. And in
14 order to do that, we will need relief from the minimum court width
15 requirements and, essentially, this requirement comes about for
16 two reasons. One, we have an existing nonconforming court -- or
17 actually, I'm not even sure if it's nonconforming but it's -- when
18 the height is increased in the back, then the court width --
19 minimum court width is increased as well. In addition to that, we
20 are placing a circular stairwell inside the court and that
21 effectively reduces it to 5.7 feet. Next slide, please.

22 So this is the building. It's in the middle of these
23 two taller buildings, so maybe this will address some part of the
24 question about light and air with a four-story addition. Next
25 slide, please.

1 Here's the rear of the property. So you see the
2 existing -- on the photo on the left is the property that has that
3 roof deck on top and the court is in the area where those windows
4 are facing where you see that window unit. And then the picture
5 on the right, the court area is behind that fence, to the right of
6 that fence. Next slide, please.

7 There's the court. So the circular stairway is going on
8 the left side where the tree is. And the court itself is actually
9 not being reduced. Next slide, please.

10 Here's the plat. It shows you where the circular
11 stairway is. That stairway is 6-feet wide and that leaves a court
12 width of 5.7 there, so the relief revolves around just this court
13 area here with the stairway and the increased requirement.

14 So this area is joined by two buildings which are taller
15 than this building. The building on the left I think would be
16 about the same height, maybe a little lower once the fourth story
17 is done, but the one on the right is already four stories. And
18 both of those neighbors are in support of the relief. Next slide,
19 please.

20 This just shows you another view of this existing and
21 proposed. You see the stairway and the areaway and the court.
22 The areaway is near the courtyard. Next slide, please.

23 This is the proposed front elevation. Next slide. This
24 is the south elevation, so this is -- you see the stairway
25 straight ahead and you're looking at the court there. Next slide,

1 please. There's the rear elevation. Next slide, please.

2 So the special exception criteria -- there's a little
3 typo, it's not MU Zone, it's the RA-8 Zone. It is in harmony with
4 the general-purpose intent of those regulations, the RA Zone
5 regulations. Four units are permitted as a matter of right and
6 conversion is permitted as a matter of right. And courts are not
7 actually required, but if you do have a court, we are subject to
8 that minimum requirement. Next slide, please.

9 This relief is available to us because we are proposing
10 an addition. This was a recent amendment that the Zoning
11 Commission made. For some reason, the courts weren't originally
12 included in the special exception relief and now they are, so that
13 was corrected and so the court width is subject to this relief.
14 Next slide, please.

15 Regarding light and air, so the court width is virtually
16 unchanged from the existing and so there's really no impact on
17 light and air or privacy resulting from the fact that the court is
18 what amounts to a couple feet short of what the requirement is,
19 plus having the stairway inside it. And, again, both of the
20 properties adjacent to it extend well beyond that court and/or the
21 property to the right is just as tall as our building and those
22 neighbors are both in support. Next slide, please.

23 So -- and the only change in the court itself is the
24 proposed stair and so the reduced width for the stairway has no
25 impact on the privacy of any (audio interference). Next slide,

1 please.

2 As seen from the front, this can't be seen from the
3 front and it's landlocked, so you can't really see it from the
4 back either -- virtually landlocked, and it's also subject to
5 review by the Historic Preservation Review Board. And the ANC
6 supported both aspects of this application, the Historic Review
7 and the BZA. Next slide, please.

8 Applicant has complied with above by compiling these
9 plans and presentation. Regarding 5201.6, the proposed apartments
10 are a permitted use, and the lot occupancy, height and number of
11 stories are within what is authorized in this Section as a special
12 exception. Next slide, please.

13 Inclusion again, we have support from both adjacent
14 neighbors. ANC 2B unanimously supports it. There was some back
15 and forth with the ANC on the historic portion of it and we
16 actually made some revisions and scaled the upper floor addition
17 back in response to their concerns.

18 Also, I will address -- I noticed there are four letters
19 of objection in the file. Two of those come from the same
20 property and they're on R Street around the corner, and then
21 there's another one on R Street, and then there's one down the
22 street on Florida a few doors down. None of the concerns in the
23 letter address the court, it's just about the conversion itself.
24 There's an objection, in general, to multi-family use on the
25 street, which of course is permitted in this Zone. So they don't

1 really address the relief -- or they don't object to the relief.
2 And that's it. Are there any questions.

3 CHAIRPERSON HILL: Does the Board have any questions for
4 the Applicant? I'm going to start with you, Commissioner Shapiro.

5 COMMISSIONER SHAPIRO: I do not have any questions, Mr.
6 Chair.

7 CHAIRPERSON HILL: Mr. Smith?

8 MEMBER SMITH: I do have one question, which you kind of
9 touched on. In your submitted architectural plans, I think it's
10 Exhibit 6, it doesn't provide a conceptual analysis of the heights
11 of these adjacent buildings. Do you have those numbers handy?
12 What the height of the adjacent buildings are relative to your
13 fourth-floor addition for this (audio interference)?

14 MR. SULLIVAN: If the architect has that -- I'm not sure
15 if we do, but -- but the height portion of this is matter of
16 right, it's just the width of court --

17 MEMBER SMITH: Right.

18 MR. SULLIVAN: -- is the relief, because the court is
19 not even required. We could over all the way.

20 MEMBER SMITH: Right. It was just a question.

21 MS. SULLIVAN: Yeah. Kay, do you happen to know any
22 information on the actual height of the building, particularly to
23 the right, I would think?

24 MR. AKINSINDE: So we do not have an exact measurement
25 of that building, but we're estimating it's about -- about 4 to 5

1 feet taller than our fourth-floor addition.

2 MEMBER SMITH: Okay. Thank you.

3 CHAIRPERSON HILL: Ms. John?

4 VICE CHAIR JOHN: I don't have any questions.

5 CHAIRPERSON HILL: Okay. I'm going to turn to the
6 Office of Planning.

7 MS. BROWN ROBERTS: Good afternoon, Mr. Chairman and
8 members of the BZA. Maxine Brown Roberts from the Office of
9 Planning on Zoning Commission Case 20305. As stated in our
10 report, the proposed addition would not affect -- the proposed
11 addition will not be affected by the court area. And in our
12 discussion of Section 5201, we went over all the requirements of
13 that Section and I'd like to highlight that we did not find that
14 the proposed reduction in the court area would adversely affect
15 the light and air or the privacy of the adjacent properties, so
16 therefore, we recommended approval. Thank you, Mr. Chairman, and
17 I'm available for questions.

18 CHAIRPERSON HILL: Okay. Comments (audio interference).
19 Commissioner Shapiro?

20 COMMISSIONER SHAPIRO: I do not, Mr. Chairman.

21 CHAIRPERSON HILL: Mr. Smith?

22 MEMBER SMITH: I do not have any questions, Mr. Chair.

23 CHAIRPERSON HILL: Ms. John?

24 VICE CHAIR JOHN: I have no questions.

25 CHAIRPERSON HILL: Mr. Young, is there anyone here

1 wishing to speak?

2 MR. YOUNG: Yes, we do. I have two people and I believe
3 that they are on together.

4 CHAIRPERSON HILL: Hello? Is it LaPerch?

5 MR. LAPERCH: It is. Hi.

6 CHAIRPERSON HILL: Okay. Are there two people with you,
7 sir?

8 MRS. LAPERCH: Yes.

9 MR. LAPERCH: There is, my wife is also with me as well.

10 CHAIRPERSON HILL: Okay. Let me take you one at a time,
11 if I could. Could you please introduce yourself for the record?

12 MR. LAPERCH: Sure. My name is Rich LaPerch, I'm a
13 neighbor of the proposed property.

14 CHAIRPERSON HILL: Okay. Where exactly are you in
15 location of the property?

16 MR. LAPERCH: Sure. We're at 2127 R Street, which is
17 catty-corner to the existing property.

18 CHAIRPERSON HILL: Catty-corner from the front or the
19 back?

20 MR. LAPERCH: Front.

21 CHAIRPERSON HILL: Okay. And you'll have three minutes
22 to testify. I think -- do you see the clock on your screen?

23 MR. LAPERCH: I sure do.

24 CHAIRPERSON HILL: Okay. And you can begin whenever you
25 like.

1 MR. LAPERCH: Sure. Well, our concerns really revolve
2 around traffic and -- that this will create. Currently, there is
3 very little parking around the area. During the construction of
4 both that property and the property that is sitting next to it,
5 which I felt a little disingenuous saying that they approved this
6 new building because they're also building too, so I wouldn't
7 imagine that's really important to approval. But be that as it
8 may, since the closure of S Street all the overflow traffic is now
9 hitting R Street. And so our traffic, quality of life, and all
10 the few -- the very few parking spaces that are available are
11 being taken up by the construction vehicles even though they're
12 illegally parked. It's hard to get the people out here to police
13 that frequently.

14 So we feel like this would really impact, again, the
15 parking and additional traffic in an area that's already
16 overwhelmed with both traffic and parking.

17 CHAIRPERSON HILL: Okay. Thank you. Your concerns are
18 the traffic and the parking from the additional unit; is that
19 correct?

20 MR. LAPERCH: Correct. When you go from one to four
21 units -- the building right next to them, they just also created
22 four additional units that weren't there previously, and so now
23 we've got eight units in the area that will be added to the area.
24 That's in addition to an Airbnb that's next door that hopefully
25 will be illegal shortly and then a ten-person house that's being

1 rented out illegally across the street. So at some point we're
2 hoping they can bring some sanity to the area and worry about the
3 quality of life of the local residents in this area.

4 CHAIRPERSON HILL: Okay. Does -- well, first of all, is
5 there another person there wishing to testify?

6 MS. SINHA: Yes. I mean, I don't want to waste
7 everyone's time by reiterating the same points, but I want my
8 voice to be heard in terms of the quality of this neighborhood.
9 The neighborliness, the closeness, the single-family homes that we
10 thought we were moving into, all of a sudden we have those two
11 buildings on Florida that one, the gentleman we are referring to
12 has approved their building, it's tit for tat kind of. They're
13 also building a condo unit, so is the other one. There's an
14 Airbnb next door. The house across, it used to be a single-family
15 home and it is now renting to ten residents, who, granted, are
16 very nice; however, that is not the neighborhood that we moved
17 into. Now there's traffic, there's parties, there's parking, S
18 Street is closed, our house sounds like a freeway and it's just --
19 the neighborhood is not what it was and I feel like somebody needs
20 to listen to the people who are actually living there.

21 CHAIRPERSON HILL: Did both of you guys get a chance to
22 go to your ANC meeting?

23 MR. LAPERCH: No, we were not able to go to that.

24 CHAIRPERSON HILL: Okay.

25 MS. SINHA: And our ANC commissioner, apparently, just

1 suddenly --

2 MR. LAPERCH: Resigned.

3 MS. SINHA: -- resigned.

4 MR. LAPERCH: So I don't know how they got their
5 approval there.

6 MS. SINHA: I don't know where they got their approval
7 from.

8 CHAIRPERSON HILL: Yeah, they --

9 MR. YOUNG: Mr. Chair --

10 CHAIRPERSON HILL: Hello?

11 MR. YOUNG: Yes, if you could have -- I don't think that
12 the lady introduced herself, if she could do that.

13 MS. SINHA: Oh, sorry. My name is Abha Sinha.

14 CHAIRPERSON HILL: Okay. And your address, please?

15 MS. SINHA: Oh, 2127 R Street.

16 CHAIRPERSON HILL: Okay. Great. Thank you. Thank you,
17 Mr. Young. So, did you know about your ANC meeting?

18 MS. SINHA: No.

19 MR. LAPERCH: No, we didn't.

20 CHAIRPERSON HILL: Okay. Have you been to one of your
21 ANC meetings before?

22 MS. SINHA: We have been trying, but apparently our ANC
23 neighborhood commissioner lives two doors down, and when we went
24 to speak to him, he said he was stepping down and, in fact, on the
25 ballot it was left blank.

1 CHAIRPERSON HILL: No, I understand, what I'm saying is
2 you might not have an SMD, but you still have an ANC is all I was
3 just trying to --

4 MR. LAPERCH: Correct.

5 CHAIRPERSON HILL: So -- okay. All right. Does anybody
6 have any questions for the witnesses?

7 MEMBER SMITH: No questions, Mr. Chair.

8 COMMISSIONER SHAPIRO: No questions.

9 VICE CHAIR JOHN: No questions, Mr. Chair.

10 CHAIRPERSON HILL: Okay. All right.

11 MR. LAPERCH: Thank you very much.

12 CHAIRPERSON HILL: Yes. Thank you, guys, for your
13 testimony. Mr. Sullivan, do you have anything you would like to
14 add at the end?

15 MR. SULLIVAN: No, just -- I would -- just to make the
16 neighbors feel better about this application. The reason why a
17 renovation and conversion like this is being done is so it's not
18 used as an Airbnb and the condos will be sold to owners that will
19 live in the neighborhood and we think this makes this more
20 conducive to a neighborhood use. That's all.

21 CHAIRPERSON HILL: Okay.

22 MR. SULLIVAN: I don't have anything further to add.
23 Thank you.

24 CHAIRPERSON HILL: Okay. Does anybody have anything
25 further from the Board? Mr. Shapiro?

1 COMMISSIONER SHAPIRO: Nothing further, Mr. Chair.

2 CHAIRPERSON HILL: Mr. Smith?

3 MEMBER SMITH: No further questions from me, Mr. Chair.

4 CHAIRPERSON HILL: Vice Chair John?

5 VICE CHAIR JOHN: Nothing from me, Mr. Chair.

6 CHAIRPERSON HILL: Okay. All right. Then I'm going to
7 go ahead and close the record and close the hearing and excuse all
8 the parties except for the Board.

9 I can begin the deliberation. I mean, you know, I think
10 from the criteria that has been put forth within the regulations,
11 I'm comfortable with the argument that the Applicant has made as
12 to how they're meeting the criteria for us to grant the
13 application. I also will note and agree with the analysis that
14 the Office of Planning has provided in terms of why they believe
15 the Applicant has satisfied the regulations.

16 I would point out to the witnesses that are -- that came
17 to testify, that they can go back to the BZ -- I don't know if
18 they did actually or not, but go to the BZA case Application, you
19 know, 20305, in the record to be able to take a look at the
20 analysis that was provided by the Office of Planning, as well as
21 that that was provided by the ANC -- ANC 2B.

22 I've always been a little bit confused lately -- since
23 I've been here now, about, you know, what is considered kind of
24 like, you know, family use. I mean, you know, the regulations
25 state that this is something that a property owner can apply for

1 and if they meet the criteria, would be able to be granted. I
2 think that they've done that.

3 I think the thing interesting that I just want to share
4 about families is -- it seems so confusing to me is what a family
5 is, right? Like, people are always talking about families and
6 what a family is and the family size units. I mean, I think that
7 a family can be somebody that lives in a two-bedroom unit. I
8 mean, they're not not families because they don't have, you know,
9 children or, you know, whatever it is that people -- who knows
10 what different people think are families. So in any case, but I
11 understand that -- their concerns about traffic and additional
12 people in the neighborhood.

13 I think this one -- this application is not going to
14 necessarily add to that. But I am going to be voting in favor of
15 the application. Mr. Shapiro, would you like to add anything?

16 COMMISSIONER SHAPIRO: Nothing further, Mr. Chair.

17 CHAIRPERSON HILL: Mr. Smith?

18 MEMBER SMITH: I don't have anything further to add, I
19 would just note there was concern about light and air. This
20 particular property, as noted by the Applicant, is short on height
21 and the two adjacent properties. I think he said, the property to
22 the south is short about four feet and the property to the west of
23 the site, directly behind this property, is a commercial building.
24 So I do not believe that this proposed -- this proposal for the
25 Applicant (audio interference). And with that, I would support

1 the application.

2 CHAIRPERSON HILL: Ms. John?

3 VICE CHAIR JOHN: Just a couple things, Mr. Chairman. I
4 just would like to thank the witnesses for their testimony. And
5 note that the application is to add a unit to make this a four-
6 unit apartment house, which is allowed in this Zone. So the Board
7 is not doing anything that would not be allowed. And to clarify
8 that the other buildings are not before this Board, so the Board
9 couldn't do anything about the fact that there are other large
10 buildings, you know, in the immediate vicinity. And other than
11 that, I don't have anything more to add to what everyone said.

12 CHAIRPERSON HILL: All right. I'm going to go ahead and
13 make a motion to approve Application Number 20305 as captioned and
14 read by the Secretary and ask for a second, Ms. John.

15 VICE CHAIR JOHN: Second.

16 CHAIRPERSON HILL: Mr. Moy, the motion is made and
17 seconded. Could you take a roll call vote, please?

18 MR. MOY: Yes, thank you, Mr. Chairman. When I call
19 your name if you would, please, just follow with a yes, or no, or
20 abstain to the motion made by Chairman Hill to approve the
21 application for the relief requested. The motion is seconded by
22 Vice Chair John. Zoning Commissioner Peter Shapiro?

23 COMMISSIONER SHAPIRO: I vote yes.

24 MR. MOY: Mr. Smith?

25 MEMBER SMITH: Yes.

1 MR. MOY: Vice Chair John?

2 VICE CHAIR JOHN: Yes.

3 MR. MOY: Chairman Hill?

4 CHAIRPERSON HILL: Yes.

5 MR. MOY: And we have a Board seat vacant. Staff will
6 record the vote as 4 to 0 to 1 on the motion made by Chairman Hill
7 to approve the application for the relief requested. The motion
8 was seconded by Vice Chair John, also supported by Zoning
9 Commissioner Peter Shapiro and Mr. Smith and, of course, Vice
10 Chair John and Chairman Hill, motion carries 4 to 0 to 1.

11 CHAIRPERSON HILL: All right. Thank you, Mr. Moy.
12 Okay, whenever you're ready, Mr. Moy, we can go to our next one.

13 MR. MOY: And that would be Application No. 20306 of
14 1901 13th Street N.W., LLC. Captioned and advertised for area
15 variance from the lot area requirements of Subtitle E, Section
16 201.7. This would construct an additional apartment in an
17 existing 11-unit apartment house in the RF-1 zone at premises 1901
18 13th Street N.W., Square 274, Lots 838 and 839.

19 CHAIRPERSON HILL: Okay. Great. Let's see, Ms.
20 Moldenhauer, can you hear me?

21 MR. DEBEAR: It's me, Chair, Eric DeBear.

22 CHAIRPERSON HILL: Oh, hi Mr. DeBear, how are you?

23 MR. DEBEAR: I'm good. How are you?

24 CHAIRPERSON HILL: Good. I can't see you, Mr. DeBear, I
25 wish I could see your face.

1 MR. DEBEAR: You can't see me?

2 CHAIRPERSON HILL: I can't see you.

3 MR. DEBEAR: (Audio interference).

4 CHAIRPERSON HILL: I know. No, I'm having Internet
5 issues today.

6 MR. DEBEAR: Ahh.

7 CHAIRPERSON HILL: So. Is -- because I saw Ms.
8 Moldenhauer's name --

9 MR. DEBEAR: Yeah, I believe we both -- I think we both
10 signed up, but it's just me today on behalf of the Applicant.

11 CHAIRPERSON HILL: Okay. All right. All right. Let's
12 see, Mr. DeBear, who is here with you? Is anyone here with you?

13 MR. DEBEAR: No one's here with me today.

14 CHAIRPERSON HILL: Okay.

15 MR. DEBEAR: The Applicant could not be here,
16 unfortunately.

17 CHAIRPERSON HILL: Okay. All right. Mr. DeBear, why
18 don't you go ahead and kind of like walk us through your
19 application and how you believe that your Applicant is meeting the
20 requirements for us to grant the relief requested.

21 And I don't know how familiar you are with this, but,
22 you know, we had -- there was some discussion as to whether these
23 were also use variances and so now, you're arguing the area
24 variance. And if you could, obviously, just help us understand
25 how you're meeting the prongs for that variance, that would be

1 helpful.

2 In terms of -- I'm going to talk about something else,
3 we had a notice deficiency because of a technical issue on our
4 side. So the D.C. Register, this was published 19 days prior to
5 the hearing instead of the 40 days that are required. I do
6 believe that everyone else has been notified in terms of the ANC,
7 the Office of Planning, all the other District agencies as well as
8 the 200 footers, as well as this being posted. So on my own
9 motion, I'm going to waive that notice requirement as per Y
10 402.11, unless any other Board member has an issue and if so,
11 please speak up.

12 Okay. No one said anything. So all right, Mr. DeBear,
13 I'm going back to you then and I'm going to put 15 minutes on the
14 clock just so I know where I am, but please continue whenever
15 you'd like.

16 MR. DEBEAR: Thank you, Chair Hill. If Mr. Young could
17 pull up our brief PowerPoint presentation, I'll walk through it.
18 Again, my name is Eric DeBear from the law firm of Cozen O'Connor
19 here on behalf of the Applicant, 1901 13th Street Northwest, LLC.
20 The property is located at 1901 13th Street Northwest. Next
21 slide, please.

22 Just as a preliminary matter, actually two issues, both
23 were alluded to by Chair Hill. This is actually I believe a
24 separate motion that the Office of Zoning had requested that we
25 file. The motion is in the record at Exhibit 30 and it's to waive

1 the 40-day notice requirement to lessees of the property. That
2 notice was mistakenly not sent in a timely fashion by the Office
3 of Zoning. We did correct that by immediately hand delivering
4 notices to lessees, the Office of Zoning also mailed notices,
5 albeit on October 19th, so approximately 15 or 16 days prior to
6 this hearing. We do believe that the lessees have been given
7 appropriate notice and that a waiver of this requirement would be
8 warranted. In addition to all those forms and notices, we also do
9 have the publication in the D.C. Register, as well as the posters,
10 which I personally posted at the property. And so we would
11 request that the Board grant that motion as a preliminary matter
12 in addition to the motion that Chair Hill just made sua sponte.

13 CHAIRPERSON HILL: Okay. Mr. DeBear, I'm trying to
14 think, so this is again -- this is a different issue. So you guys
15 didn't notify the lessees on time; is that correct?

16 MR. DEBEAR: Correct. They were notified but late.

17 CHAIRPERSON HILL: And how late were they notified?

18 MR. DEBEAR: They were notified -- so the Office of
19 Zoning sent notices to lessees on October 19th, so that would have
20 been -- so today's November 4th, so that's about 16 days ago. In
21 addition to that, an authorized representative of the Applicant
22 hand delivered the notices to each lessee on October 20th, so that
23 was 15 days ago. And in addition to that, public notice was also
24 posted at the property on October 20th.

25 CHAIRPERSON HILL: Okay. Does the Board understand what

1 is being asked of it and do they have any issues with waiving the
2 posting -- or not posting, the notification? Commissioner
3 Shapiro?

4 COMMISSIONER SHAPIRO: I do not. I do not have any
5 concerns, Mr. Chair.

6 CHAIRPERSON HILL: Mr. Smith?

7 MEMBER SMITH: I don't have any concerns.

8 CHAIRPERSON HILL: Ms. John?

9 VICE CHAIR JOHN: I have no concerns, Mr. Chair.

10 CHAIRPERSON HILL: Okay. Then I'm going to go ahead and
11 waive that requirement, as again, per Y 402.11. Mr. DeBear, you
12 can continue.

13 MR. DEBEAR: Great. Thank you. So in addition to that,
14 just one preliminary matter, Chairman Hill did just bring up as
15 well. The Board heard this issue earlier today when they granted
16 BZA Case 20289, which seeks the same relief from the same RF-1
17 land area requirement, and they did process that as an area
18 variance. The Zoning Commission set down -- I'm sorry, Zoning
19 Commission Case 2025 (sic) to clarify that in the Zoning
20 Regulations.

21 So, again, we do believe, based on those two items that
22 this is an area variance and not a use variance. And we'll go
23 through the prongs of the variance test in a minute. Next slide,
24 please.

25 This is the property, located at the corner of 13th

1 Street and T Street Northwest, just a block away from U Street.
2 It's a corner lot and it's within the RF-1 Zone. Next slide,
3 please.

4 The project overview. The Applicant purchased this
5 building as an 11-unit apartment building that was constructed in
6 1953. The Applicant then renovated and modernized the building to
7 update it with modern amenities, including washer and dryer in
8 unit and each unit having enough square footage for storage space.

9 In conjunction with that, the -- there is an unused 600
10 square foot former laundry facility on the ground level and that
11 is the subject of this application. The Applicant requests this
12 area variance relief to convert that unused former laundry space
13 into a 12th unit. It would be a one-bedroom, den plus one
14 bathroom. And as part of this the Applicant is not proposing any
15 structural exterior changes to the building. Next slide, please.

16 And we have ANC 1B's unanimous support, which was
17 obtained back in July, that's in the record at Exhibit 13 and the
18 Office of Planning's support. Its report is in the record at
19 Exhibit 31. Next slide, please.

20 This is just a ground level site plan, you can see --
21 and I'll show in a minute that it is on the left-hand side. Next
22 slide, please. The unit, as you can see, formerly a laundry
23 facility is on the ground level and the Applicant again plans to
24 or is asking relief for -- to convert this to a 12th unit. Next
25 slide, please.

1 And so, as we discussed earlier, this is an area
2 variance under Subtitle E 201.7, as a purpose-built apartment
3 building. It cannot be renovated or expanded so as to increase
4 the number of dwelling units unless there's 900 square feet per
5 dwelling unit. And our property, as existing, only has 311.4
6 square feet per unit and proposed with a 12th unit, it would be
7 decreased to 285.4 square feet per unit. Next slide, please.

8 Going into the variance test, we do believe the property
9 faces exceptional conditions. First, there is the large and now
10 unused laundry room on the first level. Again, all units were
11 recently renovated and modernized to include in-unit washer and
12 dryer. As a purpose-built apartment building on a small lot, it
13 is unique for this area, that is primarily either single-family
14 row homes or purpose-built apartment buildings either on larger
15 lots or in a different zone. Also, its corner lot location makes
16 it unique, and I'll explain that in connection with the practical
17 difficulty, and the fact that it is existing tenanted building
18 which makes again any sort of combination or combining an existing
19 unit practically difficult. Next slide, please.

20 Again, the practical difficulties are if this relief
21 were not granted, 600 square feet of habitable above ground space
22 would remain under-utilized and not used. There is no current use
23 for it. Again, since no actual residents need it for any purpose,
24 that's about a third of the ground floor area. In reference to
25 the corner lot location, there is no ability to add land area.

1 This lot only abuts one other privately owned piece of property,
2 otherwise it abuts 13th Street, T Street and an alley. The
3 Applicant would have to acquire at least four, if not more row
4 home lots, which are all under different ownership to meet this
5 land area requirement. Again, there's no other alternative use
6 that is either appropriate or reasonable in this space.

7 And then, finally, as I just alluded to, it would be
8 practically difficult to combine with other existing units. First
9 off, there are tenants in the building. Second, it would
10 potentially reduce efficiencies and circulation. And then
11 finally, as an older building, it would be costly construction as
12 well as potentially building code and fire code issues. Next
13 slide, please.

14 There's no public detriment to the public good or zone
15 plan. Again, there are no external structural changes proposed.
16 It's only a minimal increase of density of one unit in an 11-unit
17 building. Without disturbing existing tenants through potentially
18 combining other units, this would avoid that. And I think in
19 terms of the zone plan, it's adding a housing unit on the U Street
20 neighborhood. It's a bustling neighborhood, mixed-use with plenty
21 of higher density along U Street and in the area. There's both
22 ANC and OP support and just to note that the Board has granted
23 this similar relief from -- for purpose-built apartment buildings
24 in the RF Zone, including these cases just this morning in Case
25 20289. Next slide, please.

1 And now I'll open it up to any questions the Board might
2 have.

3 CHAIRPERSON HILL: All right. Thank you, Mr. DeBear.
4 Commissioner Shapiro, do you have any questions for the Applicant?

5 COMMISSIONER SHAPIRO: I do not, Mr. Chair, no
6 questions.

7 CHAIRPERSON HILL: Mr. Smith?

8 MEMBER SMITH: Yes, I have a question. You alluded in
9 your PowerPoint presentation that you've done an analysis of this
10 vacant -- this laundry room space and your ability to convert it
11 to a different amenity space that would not necessitate the need
12 for this area variance (audio interference). Could you elaborate
13 on that analysis that you completed on arriving at the decision
14 that this was the highest and best easily owned -- only necessary
15 outcome for use of that space?

16 MR. DEBEAR: Sure. So what I alluded to earlier was
17 that there is no other by-right use, an alternative use for this
18 space. There aren't -- in the RF Zone you cannot have any sort of
19 commercial use. There's also no external entrance, so that was
20 the point that I alluded to before. But simply, I think that in
21 terms of any sort of accessory use to the apartment building, the
22 owner is just simply determined that it either wouldn't be used or
23 isn't desirable for residents.

24 MEMBER SMITH: So there wasn't a consideration for any
25 other (audio interference), such as -- like an office space or

1 storage for bikes, anything of that type of nature?

2 MR. DEBEAR: I think that in terms of the size of these
3 units, because it's in an older building, they're larger sized,
4 and so the owner felt that it was a better use of this space to
5 have another dwelling unit as opposed to common space where
6 residents might not need it because they have, you know, larger
7 units than say other buildings in the area that are newer that are
8 constructing smaller units, that again, have less space within the
9 unit for residents' needs.

10 MEMBER SMITH: Okay. Thank you.

11 CHAIRPERSON HILL: Ms. John?

12 VICE CHAIR JOHN: Mr. DeBear, what is the dimension of
13 this space?

14 MR. DEBEAR: It's approximately 600 square feet, Board
15 Member John.

16 VICE CHAIR JOHN: Yes, but can you elaborate -- what's
17 the -- do you have the exact measurements? The width and the --

18 MR. DEBEAR: Yes, if Mr. Young would pull back up the
19 PowerPoint presentation, it was on slide -- slide 7. You can see
20 -- I mean, they are chopped up, it's not the entirety, but you
21 can see if you scroll in. So the upper bedroom there is
22 approximately 12 feet and then -- oh, I lost it for a sec -- and
23 then you have the living area of approximately 14 feet. It
24 doesn't look like they're dimensioned the final little portion
25 with the bathroom and the other bedroom/den. The width is

1 approximately 18 feet it looks like. (Audio interference) square
2 feet. I'm just going to put this up on my calculator here. So
3 it's about 35 by 17 or 18.

4 VICE CHAIR JOHN: Okay. Thank you.

5 CHAIRPERSON HILL: Okay. I'll turn to the Office of
6 Planning.

7 MS. ELLIOTT: Good afternoon, Mr. Chairman, members of
8 the board, I'm Brandice Elliott representing the Office of
9 Planning for BZA Case 20306 for 1901 13th Street Northwest.

10 We had this discussion earlier with the previous case
11 and it has been touched on this for particular case, but the
12 Zoning Commission did set down an emergency text amendment, it's
13 Case 20-25, and it is currently effective. And it basically
14 renders these purpose- built apartment houses as conforming uses
15 as opposed to nonconforming and so use variances are not required
16 in order to expand purpose-built apartment houses.

17 So the relief that has been requested for this
18 particular application is an area variance from the 900 square
19 foot rule. OP does support the relief in this case. And, you
20 know, while it is similar to other cases that the Board has seen,
21 of course every case is reviewed on its own merits. And so in
22 this case we do find it is a purpose-built apartment building that
23 was constructed prior to the 1958 Zoning Regulations. And again,
24 over time, you know, similar to other projects it has been
25 modernized and so as a result the laundry area is now obsolete

1 | because all of the other units have their own washers and dryers.

2 | And so it has created a space on the ground floor in a
3 | prominent location that is difficult to maintain and that's, you
4 | know, creating some difficulties in maintaining the space, so.
5 | Additionally, the Applicant has provided floor plans showing some
6 | of the difficulties with combining the space with other units.
7 | You know, combining it with some of the other units could create
8 | some additional circulation issues and, again, could result in
9 | additional costs in order -- related to building and fire code
10 | issues. So, with that I'll go ahead and stand on the record of
11 | the rest of our report, but I'm happy to answer any questions you
12 | have.

13 | CHAIRPERSON HILL: Does anyone have any questions for
14 | the Office of Planning? May I start with you, Commissioner
15 | Shapiro?

16 | COMMISSIONER SHAPIRO: No questions, Mr. Chair.

17 | CHAIRPERSON HILL: Mr. Smith?

18 | MEMBER SMITH: No questions.

19 | CHAIRPERSON HILL: Ms. John?

20 | VICE CHAIR JOHN: No questions.

21 | CHAIRPERSON HILL: Okay. Mr. DeBear, do you have any
22 | questions for the Office of Planning?

23 | MR. DEBEAR: No questions.

24 | CHAIRPERSON HILL: Is there anyone here wishing to speak
25 | in support or opposition, Mr. Young?

1 MR. YOUNG: No, we don't have anyone.

2 CHAIRPERSON HILL: Okay. Mr. DeBear, is there anything
3 you'd like to add at the end?

4 MR. DEBEAR: We rest on the record and request that the
5 Board grant the application. Thank you for your attention today.

6 CHAIRPERSON HILL: Okay. Great. Thank you. All right.
7 Mr. Young, if you could excuse everyone from -- I'm going to
8 close the hearing and I'm going to close the record. Mr. Young,
9 if you could excuse everyone except for the Board.

10 Would someone else like to begin deliberations just
11 because? I'll start with you, Mr. Shapiro, if that's all right.

12 COMMISSIONER SHAPIRO: Yes, Mr. Chair, you can. I don't
13 have any concerns about this. I think it's pretty
14 straightforward. I think, yes, this is something that the Zoning
15 Commission has taken up. I feel that they're meeting the three
16 prongs of the variance test, so I'm -- you know, they're small
17 units and it feels pretty straightforward, so I don't have any
18 concerns or questions.

19 CHAIRPERSON HILL: Okay. Mr. Smith?

20 MEMBER SMITH: I don't have any concerns with the
21 application at hand. I thank the Applicant for addressing my
22 question because I did want additional clarification about the
23 practical difficulty question and I think the Applicant in stating
24 that (audio interference) a list of considerations that they
25 considered to convert this space into an amenity and they did

1 properly (audio interference) weight to try to figure out a way to
2 rearrange that space and this is the only measurable way that they
3 can convert an unusable space currently into a usable space. So I
4 would be in support of that Applicant.

5 CHAIRPERSON HILL: Ms. John?

6 VICE CHAIR JOHN: Mr. Chairman, I'm going to give great
7 weight to the Office of Planning's analysis of how the application
8 meets the criteria ,and I will note that the ANC is in support as
9 well as the ANC 2B -- yes, ANC 2B and DDOT, I misspoke.

10 CHAIRPERSON HILL: All right. I'm going to agree with
11 my colleagues. I'm going to agree with the analysis they have
12 provided, as well as that of the Applicant, as well as the
13 analysis of the Office of Planning. I am kind of going to mention
14 something now that I'm -- you know, there has been now more
15 discussion on our part lately about the use variance versus the
16 area variance, which now we have established it is an area
17 variance in this particular situation.

18 However, there seems to be more discussion again about
19 this particular area variance and I'm glad that the Applicant --
20 and I'm mentioning this for the community as a whole, that the
21 Applicant did speak to the area variance and how they're meeting
22 that requirement -- I'm sorry, that task and that, again, the area
23 variance is something that is not as high a bar as a use variance.

24 And so that is something that I do believe the Applicant
25 has addressed and I would continue to encourage all future

1 applicants to address that as well.

2 That being the case, I'm going to go ahead and make a
3 motion to approve Application No. 20306 as captioned and read by
4 the Secretary and ask for a second, Ms. John?

5 VICE CHAIR JOHN: Second.

6 CHAIRPERSON HILL: The motion made and seconded. Mr.
7 Moy, if you could please take a roll call vote.

8 MR. MOY: Thank you, Mr. Chairman. When I call your
9 name if you would please respond with a yes, no, or abstain to the
10 motion made by Chairman Hill to approve the application for the
11 relief being requested. It was seconded by Vice Chair John.
12 Zoning Commissioner Peter Shapiro?

13 COMMISSIONER SHAPIRO: I vote yes.

14 MR. MOY: Mr. Smith?

15 MEMBER SMITH: I vote yes.

16 MR. MOY: Vice Chair John?

17 VICE CHAIR JOHN: Yes.

18 MR. MOY: Chairman Hill?

19 CHAIRPERSON HILL: Yes.

20 MR. MOY: We have a Board seat vacant. Staff would
21 record the vote as 4 to 0 to 1 and this is on the motion made by
22 Chairman Hill to approve the application, seconded by Vice Chair
23 John, also support Zoning Commissioner Peter Shapiro, Mr. Smith
24 and, of course, Vice Chair John and Chairman Hill. The motion
25 carries, sir.

1 CHAIRPERSON HILL: Okay. Great. Thank you. You guys,
2 I know we just came back from lunch an hour ago, but this next
3 case may take a little bit of time, so why don't we just take a
4 quick five-minute break, if that's all right, and we'll come back
5 -- pardon me?

6 VICE CHAIR JOHN: Ten minutes?

7 CHAIRPERSON HILL: Yes, ten minutes. I'm sorry. Yeah,
8 let's go ahead and take a ten-minute break. I can't see anybody's
9 face, sorry. So we'll come back like 2:45, 15 minutes, we'll come
10 back at 2:45. Thank you.

11 (Whereupon, the above-entitled matter went off the
12 record and then resumed at 2:45 p.m.)

13 CHAIRPERSON HILL: Okay. You can go ahead and call our
14 next case then.

15 MR. MOY: Okay. This will be case Application No. 20308
16 of 4865 MacArthur Landlord, LLC. Captioned and advertised for
17 special exception under the use provisions of Subtitle U Section
18 203.1(g) to establish a continuing care retirement community in
19 the R-1-B and MU-4 Zones at premises 4865 MacArthur Boulevard,
20 Northwest, Square 1389, Lot 25.

21 Let's see, there is as a reminder to you Mr. Chairman,
22 that there was a -- the Applicant had filed a PowerPoint and
23 supplemental files within the 24-hour period, so currently that is
24 not in the record. And also where there was previously a request
25 for party status, I believe that has been withdrawn.

1 CHAIRPERSON HILL: Okay. Ms. Brown, is that you?

2 MS. BROWN: Yes, sir. Carolyn Brown here for the
3 Applicant.

4 CHAIRPERSON HILL: Okay. Just to let everybody know, I
5 can't -- I've had Internet issues all day, I can't see anyone. So
6 we'll just try to have to work through this as best we can. Ms.
7 Brown, how many people are with you today?

8 MS. BROWN: We have several people but only three
9 witnesses, Mr. Eric Fischer on behalf of the Applicant, Mr. Gary
10 Steiner, the architect and Mr. Erwin Andres, the transportation
11 consultant. And we would ask that both Mr. Steiner and Mr. Erwin
12 Andres be qualified as experts, they've been previously qualified
13 before the Board.

14 CHAIRPERSON HILL: Okay. I mean, if they're in the
15 book. I mean, I know Mr. Andres has been with us many, many times.
16 And Mr. Steiner, I just can't see your face, so I'm sorry. But if
17 they're both already in the book, then I think they're fine.

18 Let's see, -- Ms. Brown, I guess, if you want to go
19 ahead kind of and walk us through your application and why you
20 think that you're meeting all of the criteria for us to grant the
21 relief that's being requested.

22 I would note, if you could as you kind of go through --
23 I know that there was a party in opposition, it looks as though
24 that -- or I shouldn't say a party in opposition, there was a
25 party that requested party status in opposition and they have

1 taken away that request. But I suppose if you could speak a
2 little bit to kind of some of your actions with the ANC and any
3 different things that you all might have agreed to. And some of
4 those we might end up putting in as conditions, other might be out
5 of purview, but just kind of understanding what you all have
6 agreed to.

7 And I put 15 minutes on the clock, it might take you
8 longer, but you can begin whenever you like.

9 MS. BROWN: Great. Thank you very much. I'm going to
10 dispense with my opening statement only because of the lateness of
11 the day and the technical issues that you've been having, but each
12 of our witnesses will address the BZA standard. I will just
13 quickly remind the Board that this is a split zone site that is
14 both in the R-1-B portion --

15 CHAIRPERSON HILL: Ms. Brown -- Ms. Brown, let me just
16 interrupt you, again, I'm sorry. I just realized I have to deal
17 with this deficiency of notice.

18 So there was a technical issue wherein the D.C.
19 Register, this was noted 19 days prior to the hearing instead of
20 the 40-day requirement. I do believe all the other notice
21 requirements were satisfied, meaning the ANC was properly
22 notified, the Office of Planning, all of the District agencies, as
23 well as the property owners within 200 feet. I believe that
24 there's not an issue with the notice and I'm going to waive that
25 one requirement of the D.C. Register as per my own motion, as per

1 Y 402.11, unless any of the Board members have any issues and if
2 you do, please speak up.

3 Okay. I don't hear anything. So noting that Ms. Brown,
4 sorry to interrupt you, please continue.

5 MS. BROWN: Sure. I was stating that this site is split
6 zoned on MacArthur Boulevard with the R-1-B in the rear portion of
7 the site and the rest of the project of Lot 25 is in the MU-4
8 District. The project will span the entirety of Lot 25, but only
9 the R-1-B portion is before you. The proposed continuing care
10 retirement community use is a matter of right in the MU-4 District
11 as well as the grocery store that is being proposed as part of
12 that. So we are here for the R-1-B portion of the site.

13 So with that reminder I'm going to just go directly to
14 our first witness, Mr. Eric Fischer, on behalf of the Applicant.

15 MR. FISCHER: Good afternoon. First of all, can
16 everyone hear me okay?

17 CHAIRPERSON HILL: Yes.

18 MR. FISCHER: Well, first of all, I hope everyone is
19 well. And, again, my name is Eric Fischer and I'm a managing
20 director with Trammell Crow Company. I'm also the principal who
21 is responsible for the delivery of this CCRC project that we're
22 here to discuss.

23 Just briefly, Trammell Crow was founded in 1948. We're
24 one of the nation's leading developers and investors in commercial
25 real estate, specifically commercial office, mixed use multi-

1 family, medical office, Life Science Laboratories, senior living
2 residence and industrial distribution centers.

3 We have offices throughout the United States and the
4 United Kingdom. We've been here in Washington D.C. since 1974.
5 We have developed roughly 2,700 buildings at nearly \$65 billion
6 and over 590 million square feet.

7 We're going to jump quickly into the site and give an
8 overview of what we're here to talk about. Specific to the CCRC
9 project that we're here to present, we're proposing to develop a
10 project with approximately 135 to 140 units and 77 parking spaces.

11 The project will be composed of two wings. One wing
12 will be located in the MU-4 area of the site and contained
13 assisted living, independent living, and memory care units along
14 with the proposed retail grocery space, while the other wing will
15 be located in the R-1-B portion of the site and contain either
16 memory care or assisted living units. Depending on the ultimate
17 mix of assisted living and memory care units, the R-1-B wing will
18 have a maximum of 44 units.

19 The CCRC will be operated by Balfour Senior Living. As
20 far as background, Balfour is a best-in-class operator and has
21 truly embraced active engaged senior living. Balfour's founder
22 and CEO, Michael Schonbrun is a well-recognized national
23 healthcare and senior living leader, as well as and the reason why
24 we chose him, a very passionate advocate for those individuals
25 that suffer from Alzheimer's and other debilitating memory-related

1 diseases.

2 Our CCRC will offer a number of services and a broad
3 array of amenities to our residents. Some examples will include
4 dining, salon and personal care services, exercise and personal
5 fitness services. Of note, we will have a swimming pool contained
6 in the basement of the building as well as a full locker facility
7 and other amenities. A movie screening center, an academic
8 lecture center, as well as a library and importantly 24/7 valet
9 and drivers to address any transportation needs of our residents
10 of the CCRC.

11 We've been working on this project since March of 2019
12 and have engaged with the community from the start. We've been
13 working very closely with both the ANC and the Palisades Citizens
14 Association, which we refer to as the PCA. We've been working
15 with their leadership on our plans for the site and have made
16 numerous formal presentations to the community through public
17 meetings before both the ANC and the PCA.

18 I'd like to acknowledge that we're extremely grateful to
19 both the ANC, the PCA and the community overall for both their
20 formal and informal feedback as well as excellent input and
21 guidance. We believe that the project has improved materially
22 since its original concept and it's one that we can all be proud
23 of.

24 The outreach process has resulted in significant
25 feedback from the community. Notably, the PCA conducted a formal

1 survey in November of 2019 with over 700 community members
2 responding on what they desired for the project. More recently,
3 the PCA, the ANC leadership jointly negotiated a community
4 agreement as well as a construction management agreement
5 reflecting input from the community through these various venues.

6 The feedback heavily influenced our plan and some
7 examples include we increased the open air space; accomplished the
8 reduction of the building's footprint by approximately 3,000
9 square feet; we included a retail component of minimum 5,000
10 square feet, that is intended to accommodate a grocery store.
11 We've had extensive (audio interference) with the farmer's market
12 to minimize disruption to its operations during construction and
13 to support, more importantly, its future expansion.

14 We minimized building frontage on MacArthur Boulevard.
15 We created a dedicated 15 space surface parking lot to support the
16 retail space as well as other community -- surrounding community
17 retail. And we also expanded our below grade garage.

18 Beyond these items, there are a number of additional
19 items contained in the community agreement and in the construction
20 management agreement that are public benefit. They're included in
21 the report which is Exhibit 31 to the BZA record.

22 The ANC has requested that the community agreement be
23 incorporated into the BZA order and we fully support this request.
24 In our estimation, the two most important items to the community
25 were one, the inclusion of retail grocery, a grocery component;

1 and two, sufficient parking not only for the project but for
2 additional spaces to support neighboring retail business. And
3 more importantly, the underlying long-term viability of the
4 proposed retail grocer in our project.

5 We believe that this input has allowed us to arrive at a
6 project that both meets the needs of the community as well as the
7 future residents of our CCRC.

8 It's important to note that this is not a perfect
9 process, but we believe we have achieved a project that meets the
10 pressing wishes of the community. We also believe we successfully
11 aligned the objectives for the CCRC to be operationally viable and
12 achieve its goals of meeting pressing needs of additional memory
13 care and all levels of assisted living services.

14 In the end, the project meets a diverse array of
15 requests by the community, and as such, has garnered support and
16 approval. Specifically, both the PCA and the ANC voted to approve
17 the project. Of note, the PCA's vote of support was over 90
18 percent in favor.

19 With that, I am truly hopeful that the Board will
20 likewise choose to approve this project, and I appreciate the
21 opportunity to speak today. Thank you.

22 MS. BROWN: Thank you, Mr. Fischer. Mr. Young, if we
23 could get the slides and if it's appropriate now, Mr. Chairman, to
24 request the ability to submit the slides as well as the Affidavit
25 of Maintenance, in an authorization letter from my new law firm to

1 represent the Applicant and ask that those be added to the record.

2 CHAIRPERSON HILL: Sure, Ms. Brown. I don't mind adding
3 those to the record unless the Board has any issues with any of
4 those things.

5 Ms. Brown, I'm sorry, I just -- I overheard, you went to
6 a new firm; is that correct?

7 MS. BROWN: Yes, I'm with the Brown Law Firm now.

8 CHAIRPERSON HILL: Got you. Okay. And so your client,
9 however, already had entered you as their attorney, correct?

10 MS. BROWN: That's correct.

11 CHAIRPERSON HILL: Okay. I don't have any issues with
12 anything that you wanted to add into the record. So unless one of
13 my fellow Board members speak up, Mr. Moy, please go ahead and add
14 that into the record and please continue, Ms. Brown.

15 MS. BROWN: Thank you. I'm going to turn it over now to
16 Mr. Gary Steiner, the architect for the project with Perkins
17 Eastman.

18 MR. STEINER: Good afternoon, Chairman Hill, Members of
19 the Board. Can you hear me all right? Good. Great. Thank you.

20 I'm here to talk about our project, commonly known as
21 the site, the Palisades Safeway, now soon to be Balfour Palisades
22 Senior Living Community.

23 The vicinity map shows where we're located, which is off
24 of MacArthur Boulevard and 48th Place, where the Palisades
25 Farmer's Market often takes place on weekends. Next slide,

1 please.

2 As Ms. Brown has mentioned, it is a split zone site, the
3 pink showing the MU-4 site at the corner of MacArthur and U Street
4 and also 48th Place, and the R-1-B site at the corner of 48th
5 Place and (audio interference).

6 We are mostly going to talk about the R-1-B site today,
7 that is action that we're talking about (audio interference).
8 There are some pieces of information on the MU-4 that we're
9 including for reference and so you can see the coordinated effort
10 of the whole project as a single unit. Next slide, please.

11 This is an illustrative site plan showing the MU-4
12 project or building or wing on MacArthur Boulevard. And the R-1-
13 B, the north wing up on (audio interference).

14 The CVS parking lot, which is shown in gray in the
15 bottom right-hand corner with all the cars is not part of our
16 site. The wings are connected at the corner of the CVS parking
17 lot and our motor court. There is a central organizing element
18 for the site which is (audio interference) for the entire
19 community off of 48th Place and then the motor court which gives
20 access to the front door to the MU-4 and the front door to the R-
21 1-B, the loading and also the parking garage.

22 And for reference, at 7 o'clock sort of on the diagonal
23 is the entrance to MU-4. At 3 o'clock on the orthogonal is the
24 entrance to the R-1-B. Directly above the R-1-B entrance is the
25 parking garage and then below the R-1-B entrance is the loading

1 dock. The loading serves both wings of the community. The garage
2 is totally buried. Next slide, please.

3 Zoning criteria. Both by-right MU-4 zone and the R-1-B
4 Zone, we are compliant with all the zoning criteria that exists
5 for these sites. The only action that we're asking for is this
6 special exception to allow the CCRC in a residential zone. I can
7 answer any questions about the zoning criteria, but we feel
8 confident that we are compliant in every aspect. Next slide,
9 please.

10 This slide shows the ground floor so you can see the
11 motor court, which we talked about, and the entry points to both
12 wings of the project. And then the underground parking garage
13 which has been expanded from some 54 or so spaces up to 62 spaces
14 in response to request from the neighborhood to provide adequate
15 parking and make sure that neighborhood parkers who come to the
16 retail along MacArthur Boulevard have a convenient place to park.

17 The buildings are connected at the corner where the
18 (audio interference) parking lot frames in and -- both buildings
19 are able to make use of the loading dock and the parking garage.
20 We have 62 spaces. As I said, this garage is totally buried. The
21 only place where it daylights is where the entrance to the garage
22 itself in the R-1-B. Next slide, please.

23 At the second level, which is the first occupied floor
24 of the R-1-B, which also is roughly equivalent to the building
25 height measuring point, which is the mid-point of V Street, is the

1 first occupied level of the R-1-B building. Each will consist
2 largely of residential units, probably assisted living, perhaps
3 memory care and some amenity spaces to go with it.

4 The setbacks increase as you go on the east side from
5 south to north in deference of the single-family houses on V
6 Street. The 15-space parking lot is really dedicated for retail
7 use, it's accessed off of V Street. In the meetings with DDOT,
8 they actually asked us to narrow up the curb cut in that location
9 from where we had been, so it's a 18 foot wide curb cut, placed so
10 that we can avoid the two trees on the corner, which are heritage
11 trees that we fully intend on maintaining. Next, please.

12 As you move up in the building, it's a relatively
13 consistent stack of units. They range in size from about 400
14 square feet up to potentially 1,000 square feet and mix is yet to
15 be determined. We won't have any more than 44 units in the
16 building. And then last, on the top floor, more of the same and
17 then, finally, Mr. Young, can you please advance two floors,
18 please. That's the top floor and then the vegetated roof.

19 So for storm water management for GAR and for best
20 practices is (audio interference) of both of these roofs on both
21 buildings -- both wings of the building is vegetated as can be
22 aside from where we have mechanically. Next, please.

23 So a couple of aerial views of the community. The first
24 on at the top from the northeast. You can see the north end of
25 the R-1-B building, 3-stories tall, 35-feet in height, fronting on

1 V Street and then the taller 5-story plus occupied penthouse, the
2 MU-4 building behind that.

3 The inspiration for the architecture was the classic
4 apartment buildings on Connecticut Avenue and Wisconsin Avenue and
5 the language that we've chosen, an all brick building with accents
6 of different colored brick, bay windows and corners windows
7 reminiscent of many of the kinds of buildings of residential
8 nature on those two corridors that I mentioned.

9 The 3-story building which is the R-1-B sits actually, I
10 think because V Street slopes up as you go from west to east, the
11 corner of the R-1-B building actually sits down a few feet from
12 grade or from the street and so it does not provide an imposing
13 presence on V Street. It really is in scale with the single-
14 family house to the (audio interference). The view at the bottom
15 of the page is directly across 48th Place looking at the 48th
16 Place elevation and then the motor court off to the left. Next
17 slide, please.

18 This is a rendering of both views of the building from
19 the corner of MacArthur and 48th. See the R-1-B building sort of
20 behind the trees, which goes to (audio interference). Those are
21 the two heritage trees right up front and then there are some
22 other larger trees a little further to the east. And the next
23 slide would show what it's like with the trees fully leafed out.

24 The 15-space parking lot, which we refer to as the
25 surface lot, it's very close to the surface and it doesn't extend

1 up above grade very much, other than as 48th Place falls off from
2 the north to the south, the corner of the garage very southwest,
3 sticks out of the ground about 4 or 5 feet and then there's steps
4 down to grade so that the retail parkers go quickly from the
5 parking lot to the retail in the MU-4 building. Next slide,
6 please.

7 This is an elevation looking south at the V Street
8 frontage. We minimized the amount of frontage on V Street, that
9 the building would be respectful of the scale of the neighborhood.
10 There are terraces as you go from the 2nd to the 3rd floor, so the
11 setback further diminishes the presence of the building. And the
12 bay windows and the glass (audio interference) that we have on the
13 top floor help with the scale of the building and make it very
14 light and airy. Next, please.

15 This is a quick rendering from across the street from a
16 single-family house next to our site from the northeast. And you
17 can see at the corner of the building closest to us, actually sort
18 of nestles into the ground. Along the property line -- our east
19 property line, the single-family house west property line, is an
20 existing retaining wall that will remain. We actually sort of
21 nestle up to that retaining wall and really only expose about two
22 to two and a half stories of our building to the single-family
23 house. Next, please.

24 This is the elevation from the motor court looking
25 (audio interference). This is -- as I mentioned, this is the only

1 place where you really see any portion of the garage level. The
2 rest of it is all sort of buried beneath grade along V Street,
3 along the east property line and along the (audio interference).
4 The connecting link is on the ground floor heading off to the
5 right. Entry to the building we've (audio interference) -- entry
6 to the R-1-B building is right in front and then adjacent to that
7 is the garage entry. The loading is off to the right. Next
8 slide, please.

9 The materials that we've chosen are a (audio
10 interference) of brick, two different color varieties. The main
11 body of the building will be a tan-beige blend and then one of the
12 bricks in that blend -- an accent brick, that's the lighter color,
13 which will be used on the base of the building. Both of the wings
14 get the same treatment, both wings get the same windows. We have
15 two colors of windows. The bays will be a light putty color. The
16 rest of the punch windows, (audio interference), the brick view
17 will be a dark bronze color.

18 We will be using glass railings where we do have
19 terraces, which are primarily on the MU-4 building and then the
20 mechanical penthouse material (audio interference) something to
21 that effect.

22 CHAIRPERSON HILL: Mr. Steiner, can I interrupt you for
23 one second? Ms. Brown, do you know where your slide -- or -- I
24 mean, I appreciate all of the -- how the presentation is currently
25 speaking over all to the standards, is there some -- I -- I get --

1 I don't know how many slides you've got, that's what I'm trying to
2 figure out also.

3 MR. STEINER: Just a few more. I should be done soon.

4 CHAIRPERSON HILL: All right. Okay. Thanks, Mr.
5 Steiner.

6 MR. STEINER: Carolyn, do you want to answer that
7 question, though?

8 MS. BROWN: Yes. We don't have a slide that shows
9 specifically how we address the standard, but we're addressing it
10 through our testimony. I think we wholeheartedly endorse the
11 Office of Planning report, which does a great job of succinctly
12 summarizing how we meet the criteria.

13 CHAIRPERSON HILL: Okay. Mr. Steiner, so you're the
14 last presenter?

15 MR. STEINER: No, Mr. Torres (ph) from Gorove Slade.

16 CHAIRPERSON HILL: And Mr. Torres is speaking to what,
17 again?

18 MS. BROWN: I'm sorry it's Mr. Andres -- Erwin Andres.

19 MR. STEINER: Oh, that's right. I'm sorry.

20 CHAIRPERSON HILL: Transportation?

21 MR. ANDRES: Yes. Chairman Hill, I need about two
22 minutes.

23 CHAIRPERSON HILL: All right. Mr. Steiner, go ahead and
24 finish your side and then we'll get to Mr. Andres.

25 MR. STEINER: Okay. Thank you. I'll be quick.

1 CHAIRPERSON HILL: No problem.

2 MR. STEINER: Next slide, please. Mr. Young, next
3 slide, please.

4 As we work around the building, this is the elevation
5 facing the single-family house. You can see that it starts to get
6 buried as you work towards the north side which is on the right.
7 And then, let's continue. (Audio interference) parking lot
8 elevation and one of the shorter sides of the building. You can
9 see again how on the right-hand side you're nestling into the
10 grade. And then we have a couple of images of the farmers market
11 to give some flavor and context of the other building. Next
12 slide, please.

13 The corner of 48th and MacArthur. One of the things
14 that we've done with the neighborhood is we committed to allow
15 space for the farmers market to expand, though any improvements
16 that we're creating on the frontage which is very wide on
17 MacArthur Boulevard, there will be the ability to expand the
18 farmers market with a number of additional stalls headed towards
19 the (audio interference). And then our last slide is from the
20 same corner looking up 48th Place on market day. Next slide,
21 please.

22 This is the MU-4 building on the right-hand side and the
23 farmers market looking north on 48th Place. So we anticipate a
24 lively market and we've expanded the opportunity for vendors
25 (audio interference). And that is all I have, and I'll entertain

1 questions at the appropriate time.

2 MS. BROWN: Thank you. Mr. Andres, go ahead.

3 MR. ANDRES: Yes. Good afternoon, Chairman Hill,
4 members of the Board. For the record, Erwin Andres of Gorove
5 Slade Associates. Mr. Steiner did a great job of introducing the
6 project, so a lot of these slides are background slides that we go
7 through relatively quickly.

8 The first one is the site location. Next slide. With
9 respect to the transportation characteristics, we meet all of
10 DDOT's requirements for the curb cuts (audio interference). We're
11 reducing the number of curb cuts on the site from three to two.
12 There are some pedestrian facilities that we're looking to
13 upgrade. In addition to that, we're committed to implementing a
14 transportation demand management plan. Next slide.

15 With respect to the program itself, I believe Gary and
16 Eric did a great job of going through the specifics. In summary,
17 we're replacing a 14,000 plus square foot grocery store with a
18 mixed-use residential senior assisted living facility. Next
19 slide.

20 This is the site plan from Gary's set. Again, the
21 primary components of this are the proposed access on 48th Place,
22 as well as on V Street. As I mentioned earlier, there are three
23 curb cuts currently serving this site. There is an additional
24 curb cut on MacArthur Boulevard and U Street that are going away
25 and we're essentially reducing those three curb cuts to the two

1 that are shown on the plan. Next slide.

2 With respect to the elements, we've identified that we
3 are providing zoning compliant loading, zoning compliant parking.
4 We are providing 77 spaces. As a point of reference, the maximum
5 number of spaces that are required by zoning are 61. So we are
6 providing a nice buffer above what is currently required by
7 zoning. Next slide.

8 Changing the use of the project from the previous 14,000
9 plus square foot Safeway to the two different scenarios,
10 essentially yields a significant reduction in the amount of
11 traffic that's being generated by the proposed use. In the (audio
12 interference) peak hour it's relatively close to what was there.
13 In the P.M. peak hour, we're starting to create some separation
14 between the proposed use and the previous use, but over the course
15 of the day, because of the fact that grocery is one of the more
16 traffic intensive uses per square foot, there's actually a
17 significant reduction in overall daily traffic with the proposed
18 use. Next slide.

19 As part of our coordination with DDOT, we are
20 implementing a TDM plan that consists of the following elements
21 that are consistent with projects of this type and scale. Next
22 slide.

23 As part of DDOT's review they recommend -- they have no
24 objection to the case if we abide by the condition that they
25 proposed, which is the implementation of the TDM plan. So we're

1 fine with (audio interference).

2 MS. BROWN: Mr. Chairman, may I ask a couple follow-up
3 questions and it goes to the standard that you asked us to
4 address. For the CCRC use, we must demonstrate that there's
5 enough off-street parking for employees, residents and visitors.
6 So I'd like to ask Mr. Andres if he believes that there is enough
7 off-street parking?

8 MR. ANDRES: Yes, there is.

9 MS. BROWN: Okay. And do you see any objectionable
10 conditions being created by virtue of this use in the R-1-B
11 District?

12 MR. ANDRES: I do not.

13 MS. BROWN: And then in the -- there's a couple letters
14 filed by opponents in the record. One suggested -- one was
15 concerned about the pedestrian conflicts and the curb cut on V
16 Street; do you have an opinion about whether there's a safety
17 concern there?

18 MR. ANDRES: No, we don't -- I don't believe that there
19 is a safety concern. The curb cut meets the (audio interference)
20 dimensional requirements. In addition to that, that curb cut
21 needs to go through public space approval, so DDOT and the ANC
22 will get to review that curb cut as well. In addition to that, as
23 part of the MOA with the ANC, there are several transportation and
24 pedestrian-related improvements that are committed as part of
25 that.

1 MS. BROWN: Thank you. And one of the other comments
2 was the concern about being able to restrict residential parking
3 permits in the area. Do you have an opinion on that?

4 MR. ANDRES: So there has been recent legislation at the
5 city council to allow for that restriction to be enforced.

6 MS. BROWN: Great. And then it was also suggested that
7 this project should have required a full traffic study; do you
8 agree with that?

9 MR. ANDRES: No. As per the DDOT design and engineering
10 manual, given the proposed use, it does not generate more than 25
11 trips in the peak hour direction. We don't meet that threshold.
12 As a result, a full traffic study is not required.

13 MS. BROWN: Great. Thank you very much. Mr. Chairman,
14 that concludes our direct presentation.

15 CHAIRPERSON HILL: Okay. Thank you. Ms. Brown, I
16 guess, you kind of spoke to some of this, but I know that there
17 was the -- that DDOT has the condition of the TDM plan being
18 implemented and you all have already agreed to that, correct?

19 MS. BROWN: That is correct. In addition to the DDOT
20 TDM measures, there are many supplemental ones that are in the
21 memorandum of agreement that is attached to the ANC letter, which
22 --

23 CHAIRPERSON HILL: Well, the DDOT -- I'm sorry to
24 interrupt you. DDOT's is just the TDM plan, correct?

25 MS. BROWN: That's correct. And then there's another

1 section in the MOA that also calls it a Transportation Demand
2 Management Program, so they expand on it.

3 CHAIRPERSON HILL: Right. But that's the MOA with the
4 ANC?

5 MS. BROWN: Correct.

6 CHAIRPERSON HILL: And there was also a construction
7 management agreement with the ANC?

8 MS. BROWN: Yes, that's correct.

9 CHAIRPERSON HILL: Okay. So the construction management
10 agreement -- and, again, I've been having technical issues today.
11 The construction management agreement is in which exhibit; do you
12 know?

13 MS. BROWN: I believe it is the Exhibit B attached to
14 Exhibit 31, so I think the ANC letter is Exhibit 31 and those --
15 the MOA is Attachment A to that document and Exhibit B is the
16 second document.

17 CHAIRPERSON HILL: Their TDM?

18 MS. BROWN: It is within the memorandum of agreement and
19 if you give me a second, I'll be able to find it for you on what
20 page that information is. And perhaps ANC can get to it more
21 quickly than I.

22 CHAIRPERSON HILL: Oh, is the ANC Commissioner here?

23 MS. BROWN: Yes. He'll be testifying to it.

24 CHAIRPERSON HILL: Commissioner, can you identify
25 yourself? Is it Michael? Can you hear me? Commissioner, can you

1 | hear me?

2 | COMMISSIONER SRIQUI: I can.

3 | CHAIRPERSON HILL: Okay. Great. I just heard you.

4 | COMMISSIONER SRIQUI: Great.

5 | CHAIRPERSON HILL: Could you identify yourself,
6 | Commissioner?

7 | COMMISSIONER SHAPIRO: -- we can see him, but we can't
8 | hear him anymore.

9 | CHAIRPERSON HILL: Okay. Let's see whether --

10 | COMMISSIONER SRIQUI: Mr. Chairman?

11 | CHAIRPERSON HILL: Yes, can you hear me?

12 | COMMISSIONER SRIQUI: Yes, I can. I'm very sorry about
13 | this. My name is Michael Sriqui. I live at 5253 Sherier Place
14 | N.W. and I'm authorized by ANC 3D to testify on the commission's
15 | behalf.

16 | CHAIRPERSON HILL: Okay. Great. Thank you. Do you
17 | have anything additional in terms of testimony you'd like to add
18 | at this point? We have some questions for you, but is there
19 | anything you'd like to add at this point?

20 | COMMISSIONER SRIQUI: I would. I've prepared some
21 | remarks, yes.

22 | CHAIRPERSON HILL: Okay. Great. All right. Then why
23 | don't you go ahead and give your remarks first.

24 | COMMISSIONER SRIQUI: Okay. Thanks. Mr. Chairman, as I
25 | said, my name is Michael Sriqui and I represent our city's western

1 most corner on ANC 3D. Our commission's resolution of October
2 21st through which it approved our official statement on this case
3 which I believe you have also authorized me to testify today.

4 Before I start and since this issue just came up, there
5 are three things I think that are important for the record that I
6 should clarify. First, in terms of Mr. Fischer's testimony a few
7 moments ago, I'd like to point out that in response to a July 25th
8 letter from our Chairman to the Applicants which asked
9 specifically about proposed amenities under the definition of
10 Section 203.1(g 3), we were not told that there would be a
11 swimming pool, a locker area, a beauty salon, or (audio
12 interference) facilities connected to this application -- or to
13 this development. And that's significant, because I think we
14 would have engaged the Applicants about the use of these amenities
15 and potential community uses of them, were we to have known about
16 them before today.

17 Also, I think it's important just because of the nail
18 biting that my constituents have been doing for the last two weeks
19 about the possibility of a grocer at this site, I should say
20 combined with the nail biting of the last 24 hours around the
21 election, my constituents aren't going to have any fingers left.
22 But at this time we have no guarantee that the retail space that's
23 proposed will ever be used by a grocer.

24 Lastly, and this is what was just being discussed before
25 you called on me, I want to set the record straight that the

1 construction management agreement was not concluded with the ANC.
2 And I believe though it was signed by the Palisades Community
3 Association and the Applicants.

4 So with that, the commission's feelings about the merits
5 of the planned redevelopment before you and its contribution to
6 the fabric of our community are overwhelmingly pessimistic. The
7 Applicants propose to take what had been a locus of social and
8 commercial activity in Palisades and replace it with two
9 structures in which 96 percent of the gross floor area will have 0
10 interaction with the community and, again, that's important with
11 respect to the amenities I just mentioned.

12 The ANC unanimously supported the application, however.
13 Here's why. First, community representatives and the Applicants
14 negotiated a memorandum of agreement and a construction management
15 plan. The ANC approved the first of these on October 21st and
16 signed it. The documents hold the Applicants to take at least
17 some measures in the community's interest and they address several
18 potential nearby impacts.

19 Second, the Applicants have been exceedingly blunt with
20 the neighborhood. In an October 15th email to commissioners, they
21 promised to retract every one of the measures I just mentioned
22 should we have voted counter to their interests.

23 Finally, after asking far and wide, and this includes of
24 your own staff at the Office of Zoning, the Office of Planning,
25 the Office of the Attorney General, the Deputy Mayor for Planning

1 and Economic Development, the Palisades Community Association
2 Council and even the Applicants, the community has absolutely no
3 reason to believe it's fundamental concerns with these plans will
4 have much bearing on these proceedings.

5 Now the provisions of Section 203.1 allow the ANC to
6 ring all sorts of alarm bells about private parking interests on
7 our public roads and the potential absurdity that rowdy assisted
8 living parties will disturb the late night peace, but the entire
9 neighborhood's commercial future and major livability issues for
10 all neighbors seem outside the realm of objectionable impacts for
11 the purposes of this case. ANC 3D unanimously feels this is
12 wrong.

13 The commission's written statement addresses how for
14 profit CCRC's are generally inconsistent with the community
15 centric uses that Section 203.1 allows relief for. This proposed
16 development is mostly exclusive, both on the outside, but also
17 from within, since it would price out the vast majority of the
18 District seniors. And the documentation for that -- the citations
19 for that, I should mention, are provided in our letter.

20 The ANC understands that in special exception cases the
21 BZA customarily limits its consideration to the portion of a
22 project on land specifically requiring use relief. That matters
23 in this case where the lot is divided into two zones. The idea
24 now that the wings of this proposal should be severable seems
25 arbitrary and harmful from a community interest point of view.

1 Consider if you will, a case where an Applicant sought a
2 special exception to construct a penthouse upon a proposed
3 structure. Their plans wouldn't merely depict the penthouse access
4 hatch and nothing else pertaining to the proposed structure, but
5 that's effectively what's happening here.

6 Regarding consistency I'd note that while the Applicants
7 have argued that you should only care about the R-1-B portion of
8 the site, they haven't shied away from marketing treatments
9 proposed beyond this as reasons why you should approve their
10 application.

11 Now, several times in the recent past ANC 3D has
12 considered the type of relief Section 203.1 speaks to regarding
13 other projects in our neighborhood. This project, however, is not
14 about using part of one's home property for a small pre-school or
15 something like that. Here, a large building in an R-1 Zone will
16 be tied to the future of an even larger building in MU-4. What is
17 really happening here is the effective re-zoning of land, and the
18 issue that seems to go beyond the scope of your everyday special
19 exception.

20 As I mentioned earlier, the commercial future of
21 Palisades is a major concern. I personally surveyed our nearby
22 business operators over the last two months. I have to tell you,
23 we worry whether a hypothetical 5,000 square foot grocer-like
24 tenant intended to replace a 15,000 square foot former grocer on
25 this site will be capable of generating downstream business and

1 acting as a new anchor retailer for our community.

2 This may spell trouble for maintaining a viable retail
3 corridor in this part of the District. Policy and regulatory
4 decisions related to concerns of this magnitude should be able to
5 receive a thorough hearing.

6 We're very worried about the shift away from retail on
7 this site the application pretends. But I do want to acknowledge,
8 Mr. Chairman, the importance our constituents have attached to the
9 Applicant's proposal to accommodate a small non full-service
10 grocer near the northwest corner of the MU-4 building. We believe
11 the Applicants have put substantial thought in to making a grocer
12 even possible on this site.

13 Now, there's no doubt these difficulties emerge from the
14 Applicant's overall plans, but at the same time we do appreciate
15 their efforts to address them.

16 So as such, Mr. Chairman, we believe it is vital that
17 the Board allow for the application's parking allocation as
18 proposed. Doing otherwise will threaten the only real community
19 benefit our constituents can hope to have extracted here.

20 To conclude, Mr. Chairman, Section 203.1 allows the
21 community to opine only on potential impacts of limited reach by
22 this application, but in fact very far reaching impacts are at
23 issue. Critical matters as whether to the proposed development
24 reflects zoning in the spirit of Subtitle A, Section 101.1 of the
25 Zoning Regulations appear to be off limits. The process applied

1 in this case results in effectively the same playing field for the
2 community to express its interests as a by-right development.
3 Such matters deserve broader evaluative horizons than those we
4 anticipate will be applied here today. The District overall is
5 harmed should this be the case.

6 Within the confines the commission has been advised its
7 concerns are material to the Board today though, we feel to
8 compelled to support the application. We respectfully advise the
9 board to propound its approval through a full order that includes
10 both the memorandum of agreement and construction management plan.
11 We believe this is the best assurance that any future retail space
12 will be used for the community's benefit and that it will protect
13 both neighbors and the Applicants from the type of appeals both
14 sides agree tend to work against a more constructive approach to
15 development in the District.

16 With that, Mr. Chairman, I thank you for your time.

17 CHAIRPERSON HILL: Thank you, Commissioner. I'm just
18 trying to pull up -- Ms. Brown, you said the exhibit that has
19 everything in it from the ANC was in 31?

20 MS. BROWN: Correct.

21 CHAIRPERSON HILL: And is that -- that's all of the --
22 again, I'm just kind of seeing if this -- my technical issues are
23 going to cooperate. Mr. Commissioner, your Exhibit 31 has your
24 MOU as well as your CMA in it; is that correct?

25 COMMISSIONER SRIQUI: That's correct, although I just

1 want to be clear for the record, that we transmitted it to the
2 Board, we did not -- the commission did not sign it. It was
3 negotiated between the Applicants and the Palisades Community
4 Association.

5 CHAIRPERSON HILL: Is that in Exhibit 31? You don't
6 know?

7 COMMISSIONER SRIQUI: It is, I believe.

8 CHAIRPERSON HILL: Okay.

9 UNIDENTIFIED SPEAKER: It is, Mr. Chair.

10 COMMISSIONER SRIQUI: I believe we attached the
11 memorandum of agreement first and then it's followed by the
12 construction management.

13 CHAIRPERSON HILL: Okay. All right, Mr. Commissioner.
14 All right. Mr. Commissioner, you said a bunch of stuff and so
15 we'll kind of work through this as we kind of work through the
16 case. I mean, it sounds as though you have looked upon a lot of
17 cases that we've done before. A lot of the things that we're only
18 able to include in conditions are things that directly pertain to
19 the zoning issues and some of those won't be some of the things
20 that you have there. And I have to kind of work through that with
21 my fellow Board members and then also the Office of the Attorney
22 General.

23 The MOU, Ms. Brown, -- the MOU that you guys have done
24 with the ANC, you all did agree to that MOU, correct?

25 MS. BROWN: That is correct.

1 CHAIRPERSON HILL: And you did agree to their
2 construction management agreement; is that correct?

3 MS. BROWN: Yes. As Mr. Sriqui clarified, the
4 construction management is with the PCA, not the ANC. That's the
5 only difference.

6 CHAIRPERSON HILL: And is that also in Exhibit 31, I'm
7 sorry?

8 MS. BROWN: Yes.

9 CHAIRPERSON HILL: Okay. Okay. Let's see, what is it
10 that you guys are actually trying to do in terms of -- and it's
11 funny, Commissioner, like -- well at least I know the area there
12 and the Safeway and all the stuff that you guys are trying -- I
13 mean, what Ms. Brown, is your client trying to do in terms of
14 getting a grocer?

15 MS. BROWN: I'll let Mr. Fischer answer that.

16 CHAIRPERSON HILL: Who, I'm sorry?

17 MS. BROWN: Mr. Fischer with Trammell Crow. He's been
18 in negotiations on that matter.

19 CHAIRPERSON HILL: Oh, got you. Okay.

20 MR. FISCHER: Sure. Thank you. Thank you,
21 Commissioner. We have been actively engaged with a grocer at this
22 moment working toward the execution of a letter of intent. In the
23 event that that grocer does not come to terms for reasons that
24 have -- with all our best efforts, we will aggressively market
25 this site to a myriad of -- and multiple other types of grocers.

1 We want to have a grocer. It is an important part of our project.

2 CHAIRPERSON HILL: Okay. In terms of -- all right.
3 Okay. Does the Board have any -- before I turn to the Office of
4 Planning, does the Board have any questions for the Commissioner
5 and/or the Applicant? I'm just going to go around the table
6 starting with you, Commissioner Shapiro?

7 COMMISSIONER SHAPIRO: I don't have any questions. I
8 just -- I appreciate Commissioner Sriqui, the (audio interference)
9 that he presented, but also taking this opportunity to use this
10 platform to express your broader concerns is helpful and even if
11 it isn't germane to our decisions in this case, I'm a member of
12 the Zoning Commission, I hear you loud and clear. And I
13 appreciate that the letter was communicated to the Office of
14 Planning as well. And it's going to merit further conversations.
15 Again, not germane to this case as you pointed out yourself, but
16 clearly it was valuable to hear, so I appreciate that. And that's
17 all I have, Mr. Chair.

18 COMMISSIONER SRIQUI: Thank you, Mr. Commissioner. I
19 appreciate that. You know, I want to state very clearly for the
20 record that while we've been met with such -- I'll call it
21 resistance from certain agencies, assuming why we were asking
22 these questions and taking this approach, this commission is not
23 opposed to development. We were hoping to maximize the
24 community's benefit from this project. So thank you for the
25 comments.

1 CHAIRPERSON HILL: Yeah, and I'm following up with, I
2 guess, Commissioner Shapiro's comments, we're not the Zoning
3 Commission, and so we don't have kind of the opportunity to
4 negotiate things like a PUD and so that's where sometimes our
5 hands are tied. I'm going to go ahead --

6 Mr. Smith, do you have any questions?

7 MEMBER SMITH: No, I don't have any questions.

8 CHAIRPERSON HILL: Ms. John?

9 VICE CHAIR JOHN: Mr. Chairman, just some clarifications
10 from the ANC Commissioner. So does the ANC support the
11 application without regard to whether or not that MOA is
12 incorporated into the order? (Audio interference) to read the
13 ANC's report? Is it a conditional --

14 COMMISSIONER SRIQUI: Okay. So if I understood the
15 question, because the reception is not very good, Ms. John. Are
16 you asking whether the commission would still support the
17 application if the entire MOA wasn't made part of the order?

18 VICE CHAIR JOHN: Yes, that's the question.

19 COMMISSIONER SHAPIRO: We lost Mr. Sriqui. It may not
20 be permanent, but we lost him for a moment.

21 CHAIRPERSON HILL: All right. Let's wait and see if he
22 pops back in. Mr. Rice, can you hear me? He came on.

23 COMMISSIONER SRIQUI: Okay. If I -- can --

24 CHAIRPERSON HILL: You're breaking up. I don't know --

25 COMMISSIONER SRIQUI: Can -- am I -- am I being heard?

1 UNIDENTIFIED SPEAKER: Don't give him a thumbs up, he's
2 not being heard.

3 MS. BROWN: Mr. Chairman, while we wait for --

4 COMMISSIONER SRIQUI: I disconnected my video to save a
5 little bandwidth, is it --

6 CHAIRPERSON HILL: Yeah, Commissioner, we can hear you.
7 Go ahead. Why don't you call in on the telephone line? Call in
8 on the 202-727-5471 number. Yeah, call in on that number. I wish
9 I knew sign, I could like, you know, 202-727-5471 and let's see
10 what happens next.

11 And so that was the Commissioner, now -- Commissioner
12 Shapiro, can you hear me?

13 COMMISSIONER SHAPIRO: I can, Mr. Chair.

14 CHAIRPERSON HILL: Do you have any questions for the
15 Applicant?

16 COMMISSIONER SHAPIRO: No, Mr. Chair, I don't.

17 CHAIRPERSON HILL: Before we -- just to let everybody
18 know, like, we're going to have to talk through the -- we're going
19 to have to talk through the memorandum of understanding and the
20 CMA and all that stuff, so like -- meaning our Board members, we
21 have to talk through that stuff. So outside of that, Mr. Smith,
22 do you have any questions for the Applicant?

23 MEMBER SMITH: No, I don't have any questions.

24 CHAIRPERSON HILL: Ms. John, do you have any questions
25 of the Applicant?

1 VICE CHAIR JOHN: Yes, I have a question for Ms. Brown.
2 And it relates to the MOA and I know you want to discuss it later,
3 but it would add clarification. So one of the provisions concerns
4 traffic control measures and so, what are the additional -- the
5 additional conditions apart from the parking that already is
6 there? The project has more parking (audio interference), so what
7 additional conditions do you see being included in that particular
8 paragraph?

9 MS. BROWN: I'm looking at page 4 of the MOA. There are
10 conditions about the V Street parking lot, that it will be used
11 for not only the retail uses that will be on Lot 25, but also can
12 be made available to the other businesses along MacArthur
13 Boulevard. In that same paragraph, there's information about
14 traffic and safety improvements around the perimeter of the site
15 which extends sidewalks, not just along 48th Place, but on V
16 Street, and then the intro -- sidewalks in multiple areas around
17 the site on various streets, plus the introduction of three-way
18 stop signs to help control pedestrian traffic and slow things down
19 to increase safety.

20 On page 5 of the MOA, there are restrictions regarding
21 residential parking permits, which you heard from Mr. Andres, and
22 then there are also traffic control measures within the garage
23 itself that have electronic parking garage space monitoring, so
24 that they know when they start reaching capacity for staff,
25 visitors, and residents that they can start implementing more

1 transportation demand mitigation measures to control that effect.

2 So those all go directly to the standard within the BZA
3 for CCRCs to ensure that there are no objectionable
4 traffic/parking conditions created by the CCRC. And, again, this
5 is -- while the Board's review is just for the R-1-B site, the
6 controls are for the project in its entirety. So we're not
7 separating those controls just for the R-1-B portion, it's for the
8 entire project. So those are some of the things.

9 And to go to the question that was asked of Mr. Sriqui
10 whether or not the ANC would support this with or without this in
11 the MOA, there's a recognition in there that the Board may or may
12 not adopt all the conditions in the MOA, but that the Applicant
13 nevertheless agrees to abide by them whether or not they go in
14 your order or not.

15 VICE CHAIR JOHN: I understand. I was just trying to
16 find out if this is a conditional support by the ANC.

17 MS. BROWN: That's a separate question that I think,
18 obviously, the ANC will have to answer.

19 VICE CHAIR JOHN: All right.

20 MEMBER SMITH: Mr. Chairman, I have a question.

21 CHAIRPERSON HILL: Sure, go ahead.

22 MEMBER SMITH: It's regarding the condition about retail
23 use, from the MOA -- from the MOU. This is fairly long and can be
24 read as relative. This is probably also a question to the ANC.
25 Was there some dialogue between the ANC and Trammell Crow

1 regarding uses that were outright objectionable, that they thought
2 that they're not the intent of this particular provision in the
3 (audio interference) ancillary uses for the (audio interference)
4 residents is on or located and used in a manner that is not likely
5 to become objectionable, were there were certain uses that were
6 objectionable?

7 MS. BROWN: Mr. Fischer, do you want to try answering
8 that? I don't believe there were. I think it was always a
9 straight request to have a grocer to replace the Safeway, albeit a
10 much smaller one, and then any -- if a grocer could not be
11 located, some other retail use that would provide products, as
12 opposed to services, and that's in the MOA.

13 And, again, that's -- you know, that's in the MU-4
14 portion of the site; that's not considered an ancillary use for
15 the CCRC, that's just a separate component that, you know, is part
16 of the MOA, but not necessarily part of the BZA application.

17 MEMBER SMITH: Okay. Mr. Sriqui, did you want to add
18 anything?

19 COMMISSIONER SRIQUI: Can you hear me?

20 MEMBER SMITH: I can hear you.

21 COMMISSIONER SRIQUI: Excellent, good. So first to -- I
22 believe the answer to Ms. John's point was I think Mr. Brown
23 covered that pretty much with what's in the MOU, but it's
24 certainly, you know, not conditional for our support at all, it's
25 merely a recommendation that you include the MOU in your order.

1 Now, are you asking about ancillary amenities within the
2 CCRC?

3 MEMBER SMITH: Is that what you meant by the intent
4 here, it was about ancillary uses within the portion that's not
5 the -- the front portion? The portion that's a part of the CCRC's
6 back zone, rear zone?

7 COMMISSIONER SRIQUI: Yeah, it was -- I merely made the
8 -- you know, the point for the purposes of presentation that
9 asking you to ignore or to comply with the standard in which you
10 would ignore what's going in the MU-4 portion and then marketing
11 issues beyond the R-1-B portion would be inconsistent, that's all.

12 MEMBER SMITH: Okay. Thanks for the clarification.

13 COMMISSIONER SRIQUI: Yeah.

14 MEMBER SMITH: That's all I have, Mr. Chair.

15 CHAIRPERSON HILL: Okay. Ms. John?

16 VICE CHAIR JOHN: If I might, I had a question for Ms.
17 Brown again.

18 What amenities are in the portion of the CCRC that's the
19 subject of the application, which is the portion in the R-1-B
20 zone? Is there a swimming pool in that portion?

21 MS. BROWN: No, I believe most of the amenities are
22 going to be in the MU-4 portion of the building. And if I'm not
23 correct about that, maybe Mr. Fischer can jump in.

24 MR. FISCHER: You are correct, Carolyn. The amenities
25 that I spoke about in my testimony are specific to the MU-4

1 portion of the project. The R-1-B portion wing of the project
2 will be very much focused on assisted living and memory care
3 units, which are of great importance to our community.

4 VICE CHAIR JOHN: Okay. Thank you.

5 MR. FISCHER: Thank you.

6 CHAIRPERSON HILL: Okay. Well, now, I guess -- who is
7 trying to speak?

8 COMMISSIONER SHAPIRO: It's Commissioner Shapiro.

9 CHAIRPERSON HILL: Okay, go ahead, Commissioner.

10 COMMISSIONER SHAPIRO: Just a quick question for Mr.
11 Fischer -- or maybe it's for Mr. Andres, but it's probably for Mr.
12 Fischer.

13 If you were parking this program, how many parking
14 spaces do you feel this program requires?

15 MR. FISCHER: I would defer to our parking consultant,
16 but prior to -- being not a parking engineer -- we worked
17 extensively with our operator that owns and manages quite a number
18 of facilities, and essentially benchmarked our parking and our
19 parking operations against other successful projects. But with
20 that, I'd like to defer to Erwin to give a more technical
21 response.

22 MR. ANDRES: So, Commissioner Shapiro, with respect to
23 the anticipated demand, you know, obviously, as I mentioned
24 earlier, the zoning requirement is 61 spaces, you know, from a
25 practical standpoint, we've done the calculation and it's in a

1 range of about 63 spaces that we believe is the appropriate sort
2 of demand number associated with the highest level of development
3 on the site.

4 COMMISSIONER SHAPIRO: So you're over-parking it, but
5 only slightly?

6 MR. ANDRES: Yes, I'd say in the range of about, you
7 know, anywhere between 15 and 20 percent above.

8 COMMISSIONER SHAPIRO: Okay. Thank you, Mr. Andres, I
9 appreciate that.

10 Chair Hill, I think Commissioner Sriqui is joined by a
11 fellow commissioner (audio interference) that would be in order?

12 CHAIRPERSON HILL: It is another commissioner?

13 COMMISSIONER SHAPIRO: Sort of. I just wanted to
14 recognize (audio interference) --

15 CHAIRPERSON HILL: Say hello. Thank you, Mr. Shapiro.

16 COMMISSIONER SHAPIRO: That's all I have, Mr. Chair.

17 CHAIRPERSON HILL: I wish I could see. It sounds more
18 fun than some of the day. Okay.

19 COMMISSIONER SRIQUI: Mr. Chairman, is it in order for
20 me to ask a question of the Applicants?

21 CHAIRPERSON HILL: Sure.

22 COMMISSIONER SRIQUI: Okay, thanks. This is for Eric
23 Fischer.

24 Hi, Eric. I want to ask about the -- several of the
25 amenities that you mentioned at the beginning of your statement

1 that I mentioned at the beginning of mine. So this is respecting
2 the swimming pool and locker area, the beauty salon, and the
3 electric facilities that you mentioned, when did your side become
4 aware that those would be included in the plans?

5 MR. FISCHER: First of all, Michael, I appreciate --
6 Commissioner Sriqui, I appreciate the question. I share that the
7 dining, the salon, which is a single-stall hairdressing salon for
8 the residents, and likewise the very, very small therapy-based
9 swimming pool based in the basement of the original building, the
10 MU-4 portion of the building, have always been part of our plan
11 since day one. There is a library in the facility, proposed
12 library, that has a -- somewhere between an 82 to a 96-inch screen
13 that will be used for movies and, likewise, it's fairly customary
14 to have a small library.

15 The pool is a very important part of assisted living
16 therapy and it has been very much standard in many of the
17 facilities that Balfour operates and, likewise, the facilities
18 that Trammell Crow has developed.

19 COMMISSIONER SRIQUI: And yet we -- I think the ANC --
20 you know, and now I have to make sure that you know that I'm
21 speaking for myself, if this goes beyond what the Commission said
22 -- and part of that is because we weren't aware of this -- but I
23 believe we'd all support -- everyone in the community would
24 support (audio interference) in the development. The issue is,
25 though, and we've done this, especially with respect to swimming

1 pools at other institutes in the community, is that the community
2 or ANC has negotiated with applicants community time for using
3 amenities like that, and if we weren't aware of them until just
4 this afternoon, then we couldn't even engage you about that. And,
5 you know, the size of the pool may very well have precluded that,
6 but we would have at least appreciated the opportunity to try.

7 CHAIRPERSON HILL: Okay --

8 MS. BROWN: (audio interference) --

9 CHAIRPERSON HILL: -- Ms. Brown, I'm going to interrupt
10 all this for a second, okay?

11 So, Commissioner, I'm sorry, really I can't see anybody,
12 so it's just impossible for me to like visually know what's going
13 on with anybody, but I know that you all have done a lot of stuff
14 now in terms of your memorandum of understanding, including the
15 CMA stuff. I mean, if there are other aspects of this that you
16 might want to discuss with the developer, it does seem like
17 there's still going to be continuing dialogue with the ANC,
18 because it does -- I've been doing this now long enough to tell
19 whether or not people want to be good neighbors, and it certainly
20 seems as though they do plan on being a good neighbor.

21 In terms of just quickly the answer that I heard from
22 Trammell Crow and the facility, the CCRC statement, we have had
23 CCRCs here before us and they're speaking about one salon chair, a
24 therapeutic swimming pool, and it sounds like a very small theater
25 for the people that are having memory care issues or there they're

1 using the facility. However, what I'm trying to say is it seems
2 like there could be a continued dialogue still going on.

3 I would like to get back to this whole MOU-C -- I'm
4 sorry, the MOU and the construction management plan portion of the
5 discussion when we get to it, but first I want to get to the
6 Office of Planning, because we've now been going on here with it
7 for a little while in terms of the case.

8 So let me just ask my fellow Board members again, do
9 they have any questions of either the Commissioner or the
10 Applicant? And I'm going to start with you, Commissioner Shapiro,
11 do you have any more questions?

12 COMMISSIONER SHAPIRO: I have no further questions, Mr.
13 Chair.

14 CHAIRPERSON HILL: Mr. Smith?

15 MEMBER SMITH: No further questions.

16 CHAIRPERSON HILL: Ms. John?

17 VICE CHAIR JOHN: No further questions, Mr. Chair.

18 CHAIRPERSON HILL: All right. Can I turn to the Office
19 of Planning, please?

20 MS. FOTHERGILL: Good afternoon, Chairman Hill and
21 members of the Board. I'm Anne Fothergill with Office of Planning
22 for BZA Case 20308 at 4865 MacArthur Boulevard, N.W. And we are
23 recommending approval of the special exception for the continuing
24 care retirement community use in a residential zone, in this case
25 it's the R-1-B.

1 In our report, we went through the Subtitle U, Section
2 203.1(f) and (6), specific criteria, and we found that this
3 application meets those criteria, as well as the criteria in
4 Subtitle X, Section 901.2. The Applicant is not asking for any
5 other relief from any of the development standards for either the
6 R-1-B zone or the MU-4 zone.

7 And I can rest on the record in support of the
8 application, and I'm happy to take any questions.

9 CHAIRPERSON HILL: Okay. Ms. Fothergill, again, just
10 for me, can you summarize your -- I understand -- I don't need you
11 to go line by line, but again what I'm trying to hone in on is
12 exactly the criteria that we're supposed to be looking at as to
13 whether or not this is to be approved.

14 MS. FOTHERGILL: Sure. So the uses allowed in the R-1-B
15 zone as a special exception if it meets the criteria, if the Board
16 finds it meets the criteria. So the criteria talk about whether
17 or not it meets specific criteria of a CCRC, which in fact it
18 does, they're proposing an assisted living facility. And then, if
19 the use doesn't include assisted living, there's a cap on
20 residents. In this case, they are including assisted living.

21 Then the use can include ancillary uses, which the
22 Applicant has talked about, and those are listed in the
23 application. So that is allowed within this criteria and spelled
24 out in the application.

25 Then the criteria get more specifically into impacts.

1 And so it talks about whether or not there's sufficient parking
2 for employees, residents, and visitors, and in fact they meet the
3 parking requirement for the zone and, as mentioned, have provided
4 some additional parking based on a discussion with the community,
5 is my understanding.

6 Then the criteria talk about not being objectionable to
7 neighboring properties due to noise, traffic, or other conditions.
8 And so we did go through things that might have impacts to
9 neighboring properties, including the mass of the building, curb
10 cuts, trees, landscaping, loading trash rooms, lighting, and we
11 found that it would not be objectionable to the neighboring
12 properties. As mentioned, it's expected to generate fewer trips
13 than the previous use on the site. There's a TDM plan that DDOT
14 supports.

15 And then finally criteria 6 is that you, the Board, may
16 require special treatment, specifically design, screening,
17 landscaping, signage, in order to protect neighboring properties.
18 We did not recommend special treatment, but that is something that
19 is in criteria 6 of the regulations.

20 And then, additionally, there are the general criteria
21 of Subtitle X, whether or not this proposal is in harmony with the
22 purpose and intent of the zoning regulations and would it have
23 adverse effects on the use of neighboring properties. And, again,
24 we reviewed the application and found it would not, and that it
25 met the criteria and that we recommend it.

1 CHAIRPERSON HILL: Okay, all right. Does the Board have
2 any questions of the Office of Planning? And I'll start with you,
3 Commissioner Shapiro.

4 COMMISSIONER SHAPIRO: I have no questions, Mr. Chair.
5 I appreciate the quite thorough report, especially the specificity
6 in response to the criteria that you asked Ms. Fothergill to bring
7 out and that's all been shared.

8 CHAIRPERSON HILL: Mr. Smith?

9 MEMBER SMITH: As far as anything to add or deliberation
10 on the MOU? Sorry --

11 CHAIRPERSON HILL: Do you have --

12 MEMBER SMITH: -- (audio interference) -- no, I'm sorry.
13 No, I don't have any questions to ask.

14 CHAIRPERSON HILL: Okay. Ms. John, do you have any
15 questions for the Office of Planning?

16 VICE CHAIR JOHN: No, I have no questions.

17 CHAIRPERSON HILL: Commissioner, do you have any
18 questions for the Office of Planning?

19 COMMISSIONER SRIQUI: No, thank you, Mr. Chairman.

20 CHAIRPERSON HILL: Ms. Brown, do you have any questions
21 of the Office of Planning?

22 MS. BROWN: No questions, thank you.

23 CHAIRPERSON HILL: Mr. Young, is there anyone here
24 wishing to speak in support or opposition?

25 MR. YOUNG: Yeah, I have four people signed up. Do you

1 want me to bring up support first or opposition?

2 CHAIRPERSON HILL: Let's go with -- gosh, how am I going
3 to do this? Okay, I'm a little worried that we're going to crash,
4 but let's go ahead and do opposition first.

5 MR. YOUNG: Okay, I have two in opposition, Michael Finn
6 and Michael McGinnis.

7 CHAIRPERSON HILL: Okay. Mr. Finn, can you hear me?

8 (Pause)

9 CHAIRPERSON HILL: Mr. Finn, can you hear me?

10 MR. YOUNG: Mr. Finn is muted, Mr. Chair.

11 MR. FINN: You cannot hear me, I think, and that's it.

12 CHAIRPERSON HILL: I can hear you now, Mr. Finn. Can
13 you hear me?

14 MR. FINN: Oh, I can hear you. Yes, yes, yes. Perfect.

15 CHAIRPERSON HILL: Okay, great. Mr. Finn, could you
16 introduce yourself for the record?

17 MR. FINN: Yes. My name is Michael Alan Finn; I live at
18 2402 Chain Bridge Road, N.W.

19 CHAIRPERSON HILL: Okay. Thank you, Mr. Finn. Mr.
20 Finn, you'll have three minutes to give your testimony, and you
21 can begin whenever you like.

22 MR. FINN: Okay, I'll begin right now. I'll be as brief
23 as I can. I am a registered architect in D.C., and I've been a
24 resident of the Palisades and an architect in the neighborhood for
25 the past 40 years. And I like to think of myself as helping to

1 preserve the rather remarkable characteristics of the Palisades
2 neighborhood, because for those 40 years I've been involved in
3 helping to save and renovate and add to some of the existing --
4 most of the existing houses in this neighborhood, and amongst them
5 I've done rehabilitation to enable residents to age in place in
6 their homes.

7 So I think I come with a little bit of -- just a tad of
8 expertise in this area. The Pal -- let me just put it one way,
9 the Palisades is the kind of neighborhood where I'll go out for a
10 ten-minute walk and come back an hour later, because it's such a
11 friendly place. And I think the people in the Palisades cherish
12 this part of our neighborhood, neighborly, friendly, sidewalk,
13 walking typical neighborhood.

14 Most of the Palisades -- I won't speak for all of it --
15 is an R-1-B zone, so I'm here to address the portion of this
16 hearing that addresses the R-1-B. Now, I'm a little confused
17 about certain aspects of this proposal. Number one, it's a
18 special exception and not a variance, is that correct?

19 CHAIRPERSON HILL: Correct.

20 MR. FINN: Now, I understand from all the variance
21 hearings I've been to that when one applies for a variance, an
22 applicant has to demonstrate how a particular hardship or
23 practical difficulty is imposed on the applicant by the zoning
24 regulations, is that right?

25 CHAIRPERSON HILL: Yes, but this isn't a variance.

1 MR. FINN: A practical difficulty. In other words, the
2 zoning regulations have to impose an undue practical difficulty or
3 hardship on the Applicant, and a special exception doesn't quite
4 have that demand, is that correct?

5 CHAIRPERSON HILL: Correct.

6 MR. FINN: So a special exception, as I understand it --
7 please correct me if I'm wrong -- is not quite as difficult to
8 obtain as a variance. This is from my experience. I assume
9 that's correct. Next -- is that correct?

10 CHAIRPERSON HILL: It is. And, Mr. Finn, I just -- I
11 don't mind, I just want to point out, like this isn't so much a
12 discussion between the Board and yourself, but an opportunity --

13 MR. FINN: I understand --

14 CHAIRPERSON HILL: -- to talk about --

15 MR. FINN: -- okay, okay, okay. I'm sorry, I'm sorry,
16 I'm sorry.

17 CHAIRPERSON HILL: That's all right.

18 MR. FINN: Let me -- let's go back to the R-1-B.

19 CHAIRPERSON HILL: Mr. Finn?

20 MR. FINN: Let's go back to the R-1-B. Okay.

21 CHAIRPERSON HILL: Mr. Finn? Mr. Finn?

22 MR. FINN: Yeah.

23 CHAIRPERSON HILL: I'm just -- you know, and I don't --
24 I'm trying to point out that you've run out of your three minutes.

25 MR. FINN: Oh. One more minute? One second, one

1 second.

2 CHAIRPERSON HILL: Please go ahead. That's okay.
3 Please go ahead.

4 MR. FINN: This is an R-1-B zone. What sort of struck
5 terror in my heart was I believe Mr. Fischer called the
6 development on the R-1-B zone a wing of the main project. In
7 other words, this is the most Draconian change in the R-1-B zone
8 that I can possibly imagine going from you can't even do six
9 houses on it without a variance to 44 units. It's gigantic. It's
10 an enormous change to the neighborhood and I would just like to
11 register my opposition. Okay.

12 CHAIRPERSON HILL: Okay. All right, Mr. Finn.

13 Does the Board have --

14 MR. FINN: Thank you.

15 CHAIRPERSON HILL: You're welcome.

16 Does the Board have any questions for the witness?
17 Commissioner Shapiro?

18 COMMISSIONER SHAPIRO: No questions, thank you.

19 CHAIRPERSON HILL: Mr. Smith?

20 MEMBER SMITH: No further questions.

21 CHAIRPERSON HILL: Ms. John?

22 VICE CHAIR JOHN: No questions, Mr. Chairman.

23 CHAIRPERSON HILL: Commissioner Sriqui, do you have any
24 questions for the witness?

25 COMMISSIONER SRIQUI: No, thank you, Mr. Chairman.

1 CHAIRPERSON HILL: Ms. Brown, do you have any questions?

2 MS. BROWN: No questions.

3 CHAIRPERSON HILL: Okay, all right. Mr. Finn, my
4 question, did you get a chance to go to your ANC meeting?

5 MR. FINN: Yes.

6 CHAIRPERSON HILL: And were you able to testify there?

7 MR. FINN: Actually, I tried to testify, but I had
8 computer difficulties.

9 CHAIRPERSON HILL: Oh. Yeah, I forgot that we're all
10 virtual again. Okay. All right, Mr. Finn, we did get to hear
11 your testimony today and --

12 MR. FINN: Thank you.

13 CHAIRPERSON HILL: -- thank you for that.

14 MR. FINN: Thank you. I appreciate it.

15 CHAIRPERSON HILL: You're welcome, sir.

16 Mr. McGinnis, can you hear me?

17 MR. MCGINNIS: Yes, I can. Can you hear me?

18 CHAIRPERSON HILL: Yes. Could you introduce yourself
19 for the record, please?

20 MR. MCGINNIS: Yes, I will. Thank you, Mr. Chairman,
21 Ms. John, Mr. Smith, Commissioner Shapiro -- and both Commissioner
22 Sriqui. My name is Michael McGinnis from 4827 V Street. And I
23 know the time is short, the hour is late, so I'll be brief, but
24 I'll be direct.

25 My wife and I have lived on V Street for 41 years, where

1 we are about 150 feet away from the wonderful Palisades Community
2 Library. In fact, I'm looking at the site from my front window
3 here at the moment that has been the subject of conversation
4 today. We're also a bit less than a hundred feet from where, if
5 you approve the developer's petition to trade away the residential
6 zoning for what is little more than a prayer, the developer
7 proposes to install a new traffic outlet onto V Street that you've
8 heard about, and the net result would be establishing an
9 intersection that would be about two dozen feet from the existing
10 limited-view intersection at V Street and 48th Place. This will
11 create an overt and abrupt invitation to vehicular and pedestrian
12 collisions, and there's more assessment of that in testimony that
13 I've submitted.

14 In return for the neighborhood abandoning all
15 residential zoning, the developer proposes an agreement that
16 essentially is written in disappearing ink that, beyond that, is
17 an agreement that worsens traffic and livability for the
18 neighborhood. I said I would be direct and I am.

19 Not to be too dramatic, but it's a bit like the oft-
20 quoted observation of Bishop Desmond Tutu: "When the White
21 missionaries came to Africa, they had the Bible and we had the
22 land. They said, 'Let us pray.' We closed our eyes and, when we
23 opened them, we had the Bible and they had the land." And, lady
24 and gentlemen, that's where we find ourselves today at this
25 hearing.

1 I'll use my few minutes to make three brief points in
2 the form of questions, to which we hope you, each of you, will
3 give very careful consideration. And I'll be brief enough to add
4 a bonus question, at least a bonus for the community. The
5 questions relate to safety, livability, principle, and vision.

6 Question one on safety, always the foremost
7 consideration. In this proposal, do you really want the
8 uncertainty of a nonbinding statement of marginal intents to trump
9 -- and I use the double entendre intentionally -- to trump the
10 certainty of declines in safety? Safety for our children, and
11 there are many of them, safety for the library patrons, safety for
12 the elderly residents of the planned facility.

13 Question two on livability. In this place, do you
14 really want to freeze and reverse a neighborhood's clearly
15 residential spirit and character?

16 Question three on principle. In these times, do you
17 really want to change a zone and a neighborhood from residential
18 to commercial?

19 Now the bonus question on vision. Do you really want
20 the permanent loss of the opportunity to realize the vision of
21 turning 48th Place, now really a tiny, ugly, half-street, into a
22 Palisades community plaza, which is the practical consequence of
23 the developer's plan that will remove that option from the future?
24 This is a use envisioned by at least one city-sponsored review,
25 and one that would fully and truly add substantially to the

1 benefit of the neighborhood and the community more broadly.

2 As Commissioner Sriqui indicated, the developer, lawyer,
3 and consultants have presented a very limited view of the
4 implications of this project. Also, it's important to point out
5 that the memorandum of understanding, even with its flaws and
6 nonbinding character, was voted on by only 300 of the roughly
7 10,000 adult residents of the Palisades.

8 So when you are considering your decision in this case,
9 please look at the broad implications and at the big picture for
10 the development of the city and the Palisades community. On
11 behalf of the citizens that are most directly affected, we hope
12 that your careful consideration of the issues will yield a vote in
13 favor of safety and livability and against Trammell Crow's
14 proposal to eliminate residential zoning.

15 Thank you very much for listening.

16 CHAIRPERSON HILL: Thank you, Mr. McGinnis.

17 Does the Board have any questions for the witness?
18 Commissioner Shapiro?

19 COMMISSIONER SHAPIRO: I have no questions, Mr. Chair.
20 Thank you.

21 CHAIRPERSON HILL: Mr. Smith?

22 MEMBER SMITH: No questions.

23 CHAIRPERSON HILL: Ms. John?

24 VICE CHAIR JOHN: No questions.

25 CHAIRPERSON HILL: Commissioner Sriqui?

1 COMMISSIONER SRIQUI: I do have a brief question for the
2 purposes of making a point, Mr. Chairman.

3 Mr. McGinnis, are you aware that the -- yes --

4 CHAIRPERSON HILL: All right, go ahead, Commissioner.
5 Go ahead, Commissioner.

6 COMMISSIONER SRIQUI: Thank you.

7 Mr. McGinnis, are you aware that the Rock Creek Far West
8 Livability Study refers to a pedestrian plaza/shared street
9 concept for 48th Place?

10 MR. MCGINNIS: I had heard that and it's an eminently
11 logical and sensible thing to do.

12 COMMISSIONER SRIQUI: And are you further aware that ANC
13 3-D is on record for supporting that provision of that study?

14 MR. MCGINNIS: Well, let's see if we can get it done.

15 COMMISSIONER SRIQUI: Thank you. So I'm going to just
16 state that for the record, because I'm going to look forward to
17 the developer's good neighbor policy to work on that in the days
18 coming forward. Thanks.

19 MR. MCGINNIS: Thank you.

20 CHAIRPERSON HILL: Okay. Ms. Brown, do you have any
21 questions?

22 MS. BROWN: No questions.

23 CHAIRPERSON HILL: Okay. Mr. McGinnis, and also -- I
24 don't know if I lost the other gentleman -- thank you very much
25 for your testimony -- oh, Mr. Steiner -- not Mr. Steiner -- thank

1 | you very much for your testimony. It's been a long day for me,
2 | I've got to tell you, in this little room.

3 | All right, Mr. Young, if you could please excuse our
4 | witnesses and then bring in the other two?

5 | (Pause)

6 | CHAIRPERSON HILL: Can you give the names, Mr. Young?

7 | MR. YOUNG: Tricia Duncan and Lisa DeBow.

8 | CHAIRPERSON HILL: Okay. Ms. DeBow, I can see you. Can
9 | you hear me?

10 | MS. DEBOW: Yes, I can, Mr. Chairman.

11 | CHAIRPERSON HILL: Okay. I guess I should say, I can
12 | see your name. Ms. DeBow, could you please go ahead and introduce
13 | yourself for the record?

14 | MS. DEBOW: Sure. For the record, my name is Lisa
15 | DeBow, and I live at 4815 V Street, N.W., directly across from the
16 | R-1-B portion of the site.

17 | CHAIRPERSON HILL: Okay. Ms. DeBow, you'll have three
18 | minutes to give your testimony and you can begin whenever you
19 | like.

20 | MS. DEBOW: Thank you, Chairman Hill and members of the
21 | Board. I also submitted a full written statement, but what I'm
22 | giving orally right now is a summary of those statements.

23 | For the past year, I've participated extensively in the
24 | community review process and the negotiations for the MOA and the
25 | construction management agreement. I fully support the ANC's

1 request that the BZA incorporate these documents into its order on
2 this case.

3 Like my neighbor Mr. McGinnis, I am also concerned about
4 some of the safety and livability issues that this development
5 presents. The neighborhood surrounding the site is a vibrant
6 commercial, residential, and education corridor with existing
7 pedestrian safety issues. Specifically, the immediate blocks are
8 not fully sidewalked, so pedestrians, including many seniors,
9 families with strollers and school children, regularly walk in the
10 street. The residential street suffers from MacArthur and Foxhall
11 through traffic, with many vehicles disregarding the speed limits.
12 Large delivery trucks servicing the commercial neighbors regularly
13 use the residential streets as well. And, finally, the
14 neighborhood lacks basic crosswalks and stop signs.

15 Many of these comments were echoed by the 2019 Rock
16 Creek livability study. The proposed development at 4865
17 MacArthur will only intensify these safety issues.

18 A requirement of the BZA is that the development is not
19 likely to become objectionable to neighboring properties because
20 of noise, traffic, or other objectionable conditions. To meet
21 this requirement, the Applicant demonstrated that the CCRC will
22 generate 26 fewer trips from the previous site. This measurement
23 is a false positive.

24 The previous site had three curb cuts, one on U, one on
25 MacArthur, and one on 48th Place. Now the main entry point will

1 be located on 48th Place with a secondary curb cut on V Street,
2 effectively shifting the traffic away from the commercial
3 thoroughfare and moving it towards the residential side of the
4 site. DDOT agreed with this conclusion and stated, quote, "The
5 location of the curb cut on V Street could attract commercial
6 traffic into the residential neighborhood and create a new
7 conflict point between vehicles and pedestrians," end quote.

8 Because the entry points have materially changed, this
9 development creates an objectionable traffic situation in a
10 residential neighborhood despite the fewer-trip measurement.
11 Section 4(e) of the MOA attempts to address these concerns, but it
12 doesn't go far enough.

13 Compounding the situation further is the fact that the
14 Applicant was not required to conduct a detailed traffic and
15 capacity analysis. As a result, we are left without any data to
16 fully understand the traffic implications of the new development.
17 As such, I request the Zoning Commission to require as a
18 contingency of this special exception a post-development traffic
19 and pedestrian safety study. The full details of this request
20 were provided in my written statement.

21 In closing, the Zoning Board should require the
22 Applicant to adequately address and be held accountable for the
23 residential traffic impacts. I implore the Commission to consider
24 the senior residents of this new CCRC and my two children, ages
25 eight and ten, who already traverse unsafe conditions to simply

1 walk a mere 500 feet to the library. My request for a safety
2 study is just responsible development and should be a minimal
3 requirement of Trammell Crow's special exception Case 20308.

4 Thank you for your time.

5 CHAIRPERSON HILL: Thank you, Ms. DeBow.

6 Mr. Shapiro, do you have any questions for the witness?

7 COMMISSIONER SHAPIRO: I don't have any questions, Mr.
8 Chair. Thank you.

9 CHAIRPERSON HILL: Mr. Smith?

10 MEMBER SMITH: No, Mr. Chair, I don't have any
11 questions.

12 CHAIRPERSON HILL: Ms. John?

13 VICE CHAIR JOHN: Just one quick question, because I
14 don't have the site plans with me. Is there a curb cut now on V
15 Street?

16 MS. DEBOW: No, there is not. The curb cut was added
17 roughly, not even 60 days ago as a negotiation point not only with
18 the community, but really as a requirement of the grocer store
19 that the Applicant is trying to negotiate with. So we have had
20 very little time to actually assess the impact of that curb cut
21 and, quite frankly, I feel that our hands were pretty tied to even
22 address it further given the timeline of this hearing, and the
23 timeline of the MOA negotiations and the construction management
24 agreement negotiations.

25 VICE CHAIR JOHN: Okay. Thank you.

1 CHAIRPERSON HILL: Commissioner Sriqui, do you have any
2 questions?

3 COMMISSIONER SRIQUI: No questions, Mr. Chairman.
4 Thanks for testifying, Ms. DeBow.

5 CHAIRPERSON HILL: Ms. Brown?

6 MS. BROWN: No questions.

7 CHAIRPERSON HILL: Ms. DeBow, I guess you did make it to
8 your ANC meeting for this, correct?

9 MS. DEBOW: Every single one, Chairman.

10 CHAIRPERSON HILL: That's good. All right, hey, that's
11 good, you know. That's how it works, right?

12 MS. DEBOW: I was very actively involved as a
13 neighborhood representative of the local community, so I have been
14 very intensely involved in this process for the past year.

15 CHAIRPERSON HILL: Okay. Well, good, good. All right,
16 thanks for providing us your testimony.

17 MS. DEBOW: Thank you.

18 CHAIRPERSON HILL: Ms. Duncan, can you hear me?

19 MS. DUNCAN: I can. Can you hear me?

20 CHAIRPERSON HILL: Yes. Could you introduce yourself
21 for the record, please?

22 MS. DUNCAN: My name is Tricia Duncan; I am the
23 president of the Palisades Community Association and I too have
24 worked tirelessly for the past few months getting these done, and
25 I will be really brief.

1 I submitted a letter to the Board of Zoning Adjustment
2 changing our opposition, initial opposition to this project to
3 support. After the memorandum of agreement was negotiated, we had
4 an online community vote. Almost 400 people voted and it was 90,
5 91 percent in favor of this project, mostly because we understand
6 that the developer or the Applicant can build a by-right structure
7 on one part of their property there, which would give us zero
8 retail, and through this MOA, which I am very, very strongly
9 encouraging you to incorporate into your approval, it gives us
10 some retail and an opportunity for a grocer.

11 In addition, I know you all are sounding like you think
12 there's extra parking here, but that parking field with that curb
13 cut off of V Street is going to be what gets us that grocer.

14 So I implore you all to incorporate that all into the
15 BZA and thank you very much, that's all I have to say.

16 CHAIRPERSON HILL: Okay, great, Ms. Duncan. All right,
17 thank you for coming down and testifying, thank you for the work
18 you've done for your community there.

19 Let's see. Mr. Shapiro, do you have any questions for
20 the witness?

21 COMMISSIONER SHAPIRO: I do not have any questions, Mr.
22 Chair. I would just echo your words about appreciation for all
23 the hard work that's been done to this point. And that's all I
24 have, Mr. Chair.

25 CHAIRPERSON HILL: Mr. Smith?

1 MEMBER SMITH: I don't have any questions.

2 CHAIRPERSON HILL: Ms. John?

3 VICE CHAIR JOHN: I have no questions, Mr. Chairman.

4 CHAIRPERSON HILL: Let's see. Commissioner Sriqui?

5 COMMISSIONER SRIQUI: Thanks, Mr. Chairman, I have no
6 question. Thanks to Ms. Duncan.

7 CHAIRPERSON HILL: Ms. Brown, do you have any questions?

8 MS. BROWN: No questions.

9 CHAIRPERSON HILL: Okay. Ms. Duncan, also, yeah, thank
10 you so much for your help through this at this point and we'll see
11 what happens.

12 MS. DUNCAN: All right. Thank you.

13 CHAIRPERSON HILL: Okay. Mr. Young, if you can please
14 excuse both of the witnesses?

15 Okay, all right. So let's see. I'm kind of speaking to
16 my Board members a little bit here in terms of this MOU and the
17 construction management agreement. You know, I've been here now
18 for five years, so I've done a lot of these and we have kind of
19 negotiated them in different ways. And I know that we will be
20 incorporating, and the Applicant has agreed to it, the DDOT
21 condition for their TDM plan. So that's easy to implement into
22 the order and I would imagine that we will be doing that.

23 Let's see. The other items that I kind of wanted to
24 talk with -- and I haven't ended the hearing, I'm just kind of
25 opening up a little bit of a discussion here with my fellow Board

1 members, and then the Applicant will have an opportunity for a
2 conclusion, as will the Commission. I'll go to the Commission
3 first for any kind of conclusion and then the Applicant. But,
4 again, the items that we kind of can hang our hat on -- or
5 shouldn't hang your hat -- Item Number 6 when it speaks to where
6 "the Board can require special treatments necessary to protect
7 adjacent and nearby properties, be in harmony with the general
8 purpose and intent of the zoning regs and maps, and not adversely
9 affect neighboring properties," it is vague enough that it allows
10 us some flexibility.

11 So I'm going to offer a discussion of flexibility later
12 with my colleagues as to what we may or may not be able to put
13 into conditions, if we agree that the Applicant is meeting the
14 standard for us to grant the application. I'm kind of putting all
15 that on the table, all right?

16 So I'm ending this little spiel, which is to say,
17 Commissioner, I haven't -- I'm so disappointed I can't see your
18 face, because like I now won't be able to recognize you on the
19 street, but -- because I don't think you've presented before us
20 before -- but I'm just letting you know that a lot of the MOUs and
21 the CMA stuff, I don't necessarily know where we are going to be
22 able to put them in the order, if we are to move forward with
23 this, and I don't even know if we're going to move forward with
24 this or not, but I'm just letting you know that, Commissioner.
25 I'm going to let you say something at the end. But I am heartened

1 | by the fact that you all have signed something with the Applicant
2 | and they are an applicant of, you know, some value -- some value,
3 | I don't know -- they have a long track record in the city, right?
4 | And so, you know, I don't think they're necessarily going to lie
5 | on any of these things. I mean, granted, you know, I can't
6 | determine whether they're being disingenuous, but that's not the
7 | impression I get.

8 | So, Commissioner, that being all said -- and now I'm
9 | talking to Commissioner Sriqui -- do you have anything you would
10 | like to add, even if there's even like specific items in the MOU
11 | that you think the ANC feels really strongly about, and/or any
12 | comments on anything I just said? Commissioner Sriqui?

13 | COMMISSIONER SRIQUI: Thanks, Mr. Chairman. I think
14 | you've been really indulgent with me, so I'm not going to take up
15 | very much time. But to answer your question directly, the
16 | Commission's laser focus was on the provisions of the MOU
17 | regarding the provision of retail on the site and the use, so
18 | those are the most important to us.

19 | CHAIRPERSON HILL: You're talking about Number 1 in your
20 | MOU?

21 | COMMISSIONER SRIQUI: I am, yes.

22 | CHAIRPERSON HILL: Okay, okay. All right, I appreciate
23 | that.

24 | COMMISSIONER SRIQUI: And I would echo your comments
25 | about, you know, our dealings with -- you know, while I've tried

1 to point out a few nitpicks here and there during my testimony,
2 the Applicants, you know, have been straightforward in their
3 dealings with us and they have been exceedingly professional.

4 CHAIRPERSON HILL: I appreciate that comment. I mean,
5 Commissioner Sriqui -- and I kind of tease my fellow Board members
6 on the Zoning Commission -- this isn't the Zoning Commission. I'm
7 not really a commissioner, I'm just a Board member, you know. And
8 so why I say -- I say that is that we don't get to negotiate PUDs,
9 you know, we don't get to do the deals that the Zoning Commission
10 gets to do, and it seems as though you actually have kind of
11 negotiated a PUD to a certain extent. I mean, you've gotten --
12 you did negotiate, good for you, you negotiated things with the --
13 I'm trying to pay you and your ANC a compliment, like you've done
14 things that we're not allowed to do, so for whatever that's worth.

15 COMMISSIONER SRIQUI: Thanks, Mr. Chairman.

16 CHAIRPERSON HILL: All right. Ms. Brown, do you have
17 anything you'd like to add at the end? And I'm going to give my
18 fellow Board members one last opportunity for questions.

19 MS. BROWN: Just two quick points. One -- and it's more
20 technical -- I wasn't sure if we addressed the DDOT report that's
21 in the record recommending that they have no objection and they
22 approve -- no objection to the project based on transportation.

23 And then I do have a follow-up question for Mr. Erwin
24 Andres when it's appropriate.

25 CHAIRPERSON HILL: Okay. I thought that DDOT had a TDM

1 -- you guys were going to implement the TDM plan according to
2 DDOT.

3 MS. BROWN: Yes. I just wanted to make sure that it was
4 on the record that they submitted a report that was in support of
5 the project.

6 CHAIRPERSON HILL: Okay. And, again, I'm just being
7 clear because I, again, don't have as good access to internet
8 capability right now. I thought it was that your TDM plan was in
9 Exhibit 29, pages 3 through 4, is that not correct?

10 MS. BROWN: I don't -- I'm looking for my index of what
11 Exhibit 29 is and if it -- I've got it right here, let me make
12 sure that -- I don't have it handy -- oh, here it is right in
13 front of me now. If that is the -- if that's DDOT's report, yes,
14 those are the TDM measures that we requested and that we provided
15 as part of the Gorove-Slade transportation report, those TDM
16 measures were incorporated in the DDOT report. So I just wanted
17 to make sure that we understood that, you know, there's the
18 Gorove-Slade report and then there's the DDOT report.

19 CHAIRPERSON HILL: That's okay, I appreciate it.

20 Mr. Rice, can you hear me?

21 (Pause)

22 CHAIRPERSON HILL: So, again, it is in Exhibit -- the
23 TDM measures that DDOT wants implemented are in Exhibit 29, pages
24 3 through 4, correct?

25 MR. RICE: Yes, sir.

1 CHAIRPERSON HILL: Okay, all right, that's all I need to
2 know. Okay, all right.

3 Okay, I'm sorry, Ms. Brown. So did that answer your
4 question?

5 MS. BROWN: That -- as long as the Board recognizes that
6 DDOT is supportive of this, yes, that answers my question.

7 CHAIRPERSON HILL: Yeah, DDOT is supportive of this, as
8 long as you do the TDM measures in Exhibit 29, 3 through 4, and
9 you're saying, yes, you will do that.

10 MS. BROWN: Okay, good.

11 CHAIRPERSON HILL: Okay.

12 MS. BROWN: I just wanted to make sure we're all on the
13 same page. Sorry.

14 CHAIRPERSON HILL: That's all right. That's what I want
15 to make sure that, you know, that is going to be a condition, if
16 we get that far, and you all are in agreement with that. And is
17 that answering your question for Mr. Andres or no?

18 MS. BROWN: It was just one follow-up question with
19 regard to the testimony of Mr. McGinnis regarding sight lines at V
20 Street that I don't think had been addressed in the record --

21 CHAIRPERSON HILL: You can go ahead and ask your
22 question then.

23 MS. BROWN: Mr. Andres, could you address that, please,
24 the comment about the sight lines?

25 MR. ANDRES: Yes. Well, actually, there was the comment

1 about the sight lines, as well as just a general comment from us
2 about the V Street driveway. It's important for the Board to know
3 that as part of the permitting process we're going to have to go
4 to DDOT Public Space to get that V Street curb cut approved.

5 Outside of that or independent of that, we did take a
6 look at the conceptual design of that driveway, and it does meet
7 all of DDOT's dimensional requirements, which take into account
8 the sight lines that were raised earlier. So I just wanted to add
9 that for the record.

10 CHAIRPERSON HILL: Okay, thank you.

11 So now back to you, Ms. Brown. Again, you all are in
12 agreement with -- I don't know what's going to happen here, you
13 guys are going to be excused and we're going to deliberate and see
14 what happens, but you all don't have any problem with any of the
15 conditions that you've agreed to, meaning the MOU or the
16 construction management plan, although I don't think the
17 construction management plan is anything that we're going to be
18 able to necessarily tie you to, but you don't have any issues with
19 anything you've agreed to already, correct?

20 MS. BROWN: We don't have any issues with the MOA, we
21 don't have any issues with the TDM measures in the DDOT report,
22 and we have no issue with the construction management plan, but I
23 know that it is your practice not to include those in the orders.

24 CHAIRPERSON HILL: Okay, but you have agreed to all
25 those things?

1 MS. BROWN: Yes, sir.

2 CHAIRPERSON HILL: Okay. And you plan on living up to
3 all of those things?

4 MS. BROWN: Yes, sir. It's signed ink, yes, they will.

5 CHAIRPERSON HILL: Okay. Ms. Brown, I know I'll at
6 least see you again, and I know I'll probably see Trammell Crow
7 again someday, you know, but -- so, right. So, you know, no
8 invisible ink, okay? All right, okay.

9 All right, okay. I'm going around the table one last
10 time. Mr. Shapiro, do you have any final questions?

11 COMMISSIONER SHAPIRO: I do not, Mr. Chairman, no final
12 questions.

13 CHAIRPERSON HILL: Mr. Smith?

14 MEMBER SMITH: No final questions.

15 CHAIRPERSON HILL: Ms. John?

16 VICE CHAIR JOHN: No other questions.

17 CHAIRPERSON HILL: Okay. Then I'm going to end the
18 hearing, close the record, and excuse everyone. Thank you all
19 very much.

20 (Pause)

21 CHAIRPERSON HILL: I don't know why, Mr. Shapiro, I can
22 see you for some reason every now and again when it gets to the
23 end here. Can you hear me? Just nod. Oh, now I don't see you
24 again.

25 COMMISSIONER SHAPIRO: Yes, yes, I can hear you.

1 CHAIRPERSON HILL: Mr. Smith, can you hear me?

2 MEMBER SMITH: I can hear you, Mr. Chair.

3 CHAIRPERSON HILL: I got to tell you, Mr. Smith, my room
4 has been darker and darker all day. So you've got to figure out
5 your room, because it's just going to get darker and darker every
6 Wednesday now.

7 MEMBER SMITH: Yeah.

8 CHAIRPERSON HILL: All right. So I'm going to start
9 this discussion, okay? And, you know, I know that we kind of go
10 back and forth on some of this -- well, first of all, in terms of
11 the criteria for the special exception, I believe that the
12 Applicant has made the case for the standards in which we should
13 -- or I'm going to vote on the special exception, right? I mean,
14 I'm sorry, the relief that's being requested, right? I mean, I
15 agree with everything that they've put forth in how they're
16 meeting the standard. I also agree with the Office of Planning's
17 analysis and what they have explained as to why they're meeting
18 the criteria for us to grant the relief.

19 The ANC, they are in agreement, and they don't
20 necessarily all speak to the standard -- they did, they spoke to
21 it in a variety of ways, but they also spoke to other things
22 outside of what we have to look at when we're reviewing the
23 application. I do, however, want to -- I'm going to finish
24 talking and then, since I can't see anybody, I'll just go ahead
25 and start the discussion with Commissioner Shapiro after me,

1 please -- that I would be in support of the application.

2 I would like to actually include some of the items in
3 the MOU that we might be able to include with what we're allowed
4 to use in terms of special treatment necessary to protect adjacent
5 and nearby properties, and be in harmony with the general purpose
6 and intent of the zoning regs and map, and not adversely affect
7 neighboring properties. I very much would like to include that
8 first retail use, right? And I think that, you know, that -- I
9 guess the only thing that's kind of difficult about it is that,
10 you know, they are -- and I've looked through it and it's lengthy,
11 right? And that's the part that I don't know how we could or
12 couldn't put it in the order, and maybe I can ask OAG and we'll
13 see what my other Board members have to say, because at the same
14 time I'm also comfortable that the Applicant has agreed to do
15 these things, right?

16 The first one, which is that retail use, I'm not clear
17 how the Zoning Administrator -- and Mr. Kirschon (phonetic) -- Mr.
18 Smith is here to help us with the Zoning Administrator stuff --
19 the Zoning Administrator would necessarily be able to enforce that
20 later, right? I mean, it seems as though they are going to try to
21 get a grocer, is their first thing they're trying to get, and then
22 after that it seemed like the ANC is just hoping that it's
23 something that the community -- it's something that the community
24 would be able to use, not like a gym or not a service, they want
25 some kind of retail, or at least they're hoping for some kind of

1 retail.

2 So I would like to include that first one in another --
3 in the MOU. The other ones that have been thought about that we
4 could possibly include -- and this is where it may be getting too
5 much into the weeds with it and I don't know -- is, again, the
6 public space, which was number 4; the storm water management,
7 which was number 5; the traffic control measures, which were
8 number 7, but that also seems somewhat repetitive perhaps with
9 DDOT's TDM measures; and then the building use, which is in number
10 8.

11 So the one that I'm really -- and the Commissioner have
12 stressed is the retail use in number 1 that I would kind of be
13 hopeful we could include in some capacity in our order, but I'm
14 not really sure how. So that's a lot that I've just thrown out
15 there and now I'm going to turn off my camera, so that I can stand
16 up. And then, Mr. Shapiro, I'm going to turn to you to begin the
17 next phase of the dialogue.

18 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.

19 I don't disagree with you. I think what I'm inclined to
20 suggest, if we can get away with this, and I'm curious about where
21 OAG is in this as well -- even if that doesn't direct us, I think
22 it's still helpful to hear -- can we take these specific points
23 that you mentioned and even on advice of counsel we could include
24 into the order, but can we also take the entire MOA and include
25 that in the order by reference?

1 So, for me, it memorializes, it -- yeah, I think it
2 helps with -- it helps the community feel like it's a part of that
3 we're taking it seriously --

4 CHAIRPERSON HILL: Right.

5 COMMISSIONER SHAPIRO: -- even if we can't enforce it.

6 CHAIRPERSON HILL: I know you can see my hand. We did
7 talk about this at another case, at another time or something.
8 Right, you're correct, we can memorialize it -- memorialize it --
9 in the order, meaning we can reference it that it is in existence,
10 right? And I know we can do that and have done that in the past.

11 And also, just to be clear, we definitely take the
12 community into consideration, like, you know, we're listening to
13 them all -- it's friggin' 5 o'clock at night, right? So --

14 COMMISSIONER SHAPIRO: So that's it. I would -- I would
15 -- and even if it's a bit duplicative, I would encourage us to do
16 both of those things.

17 CHAIRPERSON HILL: Okay. Mr. Smith?

18 MEMBER SMITH: Mr. Chairman, I agree with every point
19 you said. When it comes down to incorporating some of these
20 (audio interference) some of these conditions on the MOU, I do
21 have some pause on a couple of them from an enforceability
22 standpoint, as you have referenced, and I'll talk about the ones
23 that I have issues as far as enforceability.

24 Building use, the request before us is for the building
25 use, it is for a special exception to operate a CCRC within the

1 zone. So I believe this specific condition may be duplicative in
2 a sense. That is -- that would be the use if we were to approve
3 this special exception.

4 As far as traffic control measures, that is fairly open-
5 ended, but I think one way that we can craft the condition,
6 because it seems the main point of this condition is to provide
7 sufficient off-street parking spaces for employees, residents, and
8 business and like. Although what we could do is cause a condition
9 that states that the Applicant shall provide a minimum of 20
10 parking spaces on the site and shall -- and those parking spaces
11 shall be designed in a manner that would not be objectionable or
12 would have -- would not have any adverse effect on neighboring
13 properties. That's the minimum number of parking spaces that are
14 proposed by the Applicant. So that's a way that we can put some
15 teeth in that type of -- this particular type of condition.

16 Storm water management, I do have some concerns about
17 inserting the condition regarding storm water management (audio
18 interference) because I hesitate whether that's also a zoning
19 condition that we can regulate what a Zoning Administrator can
20 regulate, what would be addressed for a the site plan review
21 through a violation by (audio interference) Public Works
22 Department.

23 So I do have some concerns about incorporating a
24 condition there, but I -- you are correct, I do want to
25 incorporate this retail use condition in some way, because it

1 seems to be of some import to the community. I haven't quite
2 figured out a way to draft an enforceable condition and that's the
3 reason why I was asking the representative from Trammell Crow, Ms.
4 Brown, on intended uses that may be objectionable that they would
5 like to see within the CCRC that could be a little concerning, but
6 I'm hesitating on that. So you'll probably have to come back to
7 me on that one.

8 CHAIRPERSON HILL: Okay. But the parking spots, that
9 was, you said, 20?

10 MEMBER SMITH: It looks like the proposed number of
11 parking spaces is 20 -- 20 parking spaces here?

12 CHAIRPERSON HILL: Right, they were -- the requirement,
13 I forget what the requirement was, and I don't know if anybody --
14 if Mr. Rice knows off the top of your head --

15 MR. RICE: Fifty something, I think they said.

16 VICE CHAIR JOHN: If I may interrupt? It's 20 for the
17 R-1-B portion and that's what we're being asked to approve.

18 MEMBER SMITH: Correct.

19 CHAIRPERSON HILL: Right. So they were giving more
20 parking than what was required.

21 MEMBER SMITH: But that was including parking that I
22 thought was on the front parcel, the parcel that's not subject to
23 the special exception. Let me -- I'll take a look at the plan.

24 CHAIRPERSON HILL: That's okay. All right, take a look
25 at it. That's fine.

1 So the storm water management is off the table, so that
2 -- and so I'm kind of looking back here again through the stuff.

3 And so, Ms. John?

4 VICE CHAIR JOHN: So I'd like to take a slightly
5 different -- well, let me say up front that I agree with
6 Commissioner Shapiro's recommendation to reference the MOA and the
7 construction agreement in the order to provide notice that these
8 agreements exist and, while the Board cannot enforce them, at
9 least it provides notice that there's such an agreement. And that
10 would be my solution, because many of these conditions the Board
11 cannot -- the Board cannot enforce them, I don't know how, you
12 know, that would happen.

13 So -- but I do think that paragraph 4(e), which
14 describes traffic and safety improvements around the perimeter of
15 the site, is something that we could include while acknowledging
16 that, you know, DDOT would be responsible for approving any such
17 traffic measures. So it would just impose a greater duty on the
18 developer to do that type of traffic-mitigation outreach to DDOT.
19 But that's the only thing I think that we can validly include
20 under that paragraph 6 of U 203.1 -- maybe paragraphs 5 and 6. I
21 definitely don't think we can include a paragraph on retail use
22 because it is just not related to the special exception at all.

23 And that would be my two cents.

24 CHAIRPERSON HILL: Okay, all right. Well, I'm in
25 agreement in terms of like referencing the MOA and the CMA in the

1 record, I mean that's relatively straightforward and easy. I
2 still am torn with -- I mean, the parking spots, Mr. Smith, I kind
3 of don't -- like what is it -- there's a condition that you were
4 thinking about adding for the parking spots?

5 MEMBER SMITH: If we were attempting to put in a
6 condition; I don't think it's necessary to include one.

7 CHAIRPERSON HILL: Okay. I mean, the only one I want to
8 try -- and this is where, you know what I mean, I don't know where
9 Ms. John is -- and I can't see her face right now -- but, again,
10 the retail use -- I mean, I understand that it may be a little bit
11 of a stretch in terms of the not -- so it's not likely to be --
12 you know, requiring special treatment necessary to protect
13 adjacent and nearby properties, and in harmony with the general
14 purpose and intent of the zoning regs and maps. I mean, it is a
15 stretch. I think, perhaps -- I think that maybe we could put that
16 first condition in there in some capacity or, Ms. John -- well,
17 Ms. John, I think you're just completely opposed to that, is that
18 correct?

19 VICE CHAIR JOHN: Yes, Mr. Chairman, I'm completely
20 opposed, and I regret to be completely opposed.

21 CHAIRPERSON HILL: That's all right. You're only one
22 vote, you're only one vote. You can be completely opposed.

23 VICE CHAIR JOHN: Okay.

24 CHAIRPERSON HILL: Mr. Shapiro, are you completely
25 opposed?

1 COMMISSIONER SHAPIRO: I'm not completely opposed, but I
2 do -- I get Vice Chair John's argument.

3 CHAIRPERSON HILL: I get it too and I'm not necessarily
4 -- I'm not necessarily just voting my way either, I might be off
5 the table either, I'm just trying to take the water. So you're
6 kind of in the middle?

7 COMMISSIONER SHAPIRO: Yeah.

8 CHAIRPERSON HILL: And, Mr. Smith, where are you?

9 MEMBER SMITH: I think Vice Chair John has swayed me. I
10 am opposed to it, because the retail use is going to be allowed, I
11 don't think that that was the intent. I think the intent was to
12 have some community service use within the facility -- or if there
13 is one, say it's a hair salon that I typically see in a CCRC, that
14 that particularly hair salon could be used by the public. So I
15 don't think it was a retail use per se that they were talking --
16 that they were --

17 CHAIRPERSON HILL: They're trying to get -- Mr. Smith,
18 I'm trying -- you know, they're trying to get a grocery store,
19 right? And if they can't get the grocery store -- and that's just
20 because they, the Applicant, can't get somebody to sign a lease as
21 a grocery store -- then it looks like there is some flexibility as
22 to what they would, you know, hope would happen after that.
23 Retail viability, "In the event the developer is unsuccessful in
24 securing any qualified and experienced grocery store or retail
25 tenants during the construction period and the ten-year period

1 following the project's completion, then the developer shall have
2 the option to convert the retail space to any use permitted in the
3 MU-4 district at the sole discretion of developer."

4 So I agree that it's -- what is it -- it's complicated
5 to even try to figure out for us to implement as a condition and
6 so I'm kind of even backing away from this. But like I said, I'm
7 suddenly like thinking, wow, this is actually something that I
8 didn't realize that the Board might have the flexibility to do.
9 So I'm always up for giving us more flexibility, but, you know,
10 that seems like I'm getting outvoted as well. So --

11 COMMISSIONER SHAPIRO: Mr. Chair?

12 CHAIRPERSON HILL: Yeah, go ahead, Mr. Shapiro.

13 COMMISSIONER SHAPIRO: I mean, because I'm -- all we're
14 doing is taking every inch of their language in this first
15 paragraph and putting it into the order, and the question -- what
16 I hear Vice Chair John say is, we can do that, but it's just not
17 enforceable.

18 CHAIRPERSON HILL: Ms. John, I don't think, even thinks
19 it's within our right or we -- it's a little bit -- we're
20 stretching ourselves, is the impression I got from Ms. John. Is
21 that correct, Ms. John?

22 VICE CHAIR JOHN: Yes, Mr. Chairman. And I believe you
23 said as much when you congratulated the Commissioner for
24 negotiating a PUD. So --

25 COMMISSIONER SHAPIRO: I'm convinced and I'll follow Ms.

1 John's lead. I'm convinced.

2 CHAIRPERSON HILL: Okay. So we're back to then
3 referencing this, okay? So we're going to reference the MOU and
4 the CMA in the order. The only actual condition that will have
5 teeth to it that we're going to be able to do anything with is the
6 transportation demand management plan that is in Exhibit 29, pages
7 3 through 4. Does everybody follow along with that? And, Mr.
8 Shapiro --

9 COMMISSIONER SHAPIRO: Yes.

10 CHAIRPERSON HILL: -- I can see you, so can you nod your
11 head for everybody?

12 MR. RICE: I think that -- Chairman Hill, this is Jack
13 Rice -- I think, just to be clear, Vice Chair John, I believe you
14 were speaking about Section 4(e) of the memorandum, and I think
15 that that is actually a little bit different than the actual DDOT
16 conditions, is that correct?

17 VICE CHAIR JOHN: That's correct.

18 MR. RICE: So I think it sounds like --

19 VICE CHAIR JOHN: That's correct. It responds to the
20 witness' -- I forget her name -- concerns about the curb cut, but
21 I still recognize it's subject to DDOT's approval.

22 MR. RICE: Right.

23 VICE CHAIR JOHN: So, you know, we can include it or
24 not. I don't have a strong feeling, because it's in the MOA that
25 we're going to reference, but -- I mean, I'm open to whatever the

1 Board decides. I don't have a strong --

2 CHAIRPERSON HILL: And in paragraph 4(e), Ms. John, are
3 you talking about paragraph 4(e) in the MOU or the CMA?

4 VICE CHAIR JOHN: Yes, on the MOU, it's on page 4 and it
5 talks about traffic and safety improvements around the perimeter
6 of the site. And it addresses things like sidewalks --

7 CHAIRPERSON HILL: Got it, got it, got it. Okay, I see.
8 So 4(e), right.

9 VICE CHAIR JOHN: Yes.

10 CHAIRPERSON HILL: Okay. So --

11 COMMISSIONER SHAPIRO: But that's certainly enforceable,
12 that piece is enforceable.

13 VICE CHAIR JOHN: Yes, but it's still subject to DDOT's
14 approval. It's public space.

15 COMMISSIONER SHAPIRO: Yeah, that's right. I completely
16 agree.

17 VICE CHAIR JOHN: So, basically, we're asking the
18 developer to use best efforts to make all of this happen.

19 CHAIRPERSON HILL: But that still then goes to best
20 efforts and not something that we would put in an order that has
21 something that the Zoning Administrator would have to enforce,
22 because the Zoning Administrator can't enforce it.

23 COMMISSIONER SHAPIRO: Couldn't we do both? Couldn't we
24 say subject to DDOT approval and then we put it in the order?

25 VICE CHAIR JOHN: That's fine.

1 CHAIRPERSON HILL: Mr. Rice, do you understand?

2 MR. RICE: Yes. What I'm hearing is we'll have a
3 condition that basically references and memorializes the existence
4 of the contracts between the parties, but also states that the
5 Board recognizes that it may not be within the Zoning
6 Administrator's jurisdiction to enforce. You guys are just
7 basically memorializing the existence of that agreement and we
8 would have a condition, basically incorporating the conditions
9 that DDOT has already put forward, as well as one that puts the
10 provisions of paragraph 4(e) that Vice Chair John is talking
11 about, with the caveat that they are, you know, included as
12 petition's approval subject to DDOT's approval.

13 COMMISSIONER SHAPIRO: I think Mr. Rice was listening.

14 CHAIRPERSON HILL: Amen, Mr. Rice. All right, there we
15 go. I have -- can I get an "Amen"?

16 COMMISSIONER SHAPIRO: Amen.

17 CHAIRPERSON HILL: All right, okay. I'm not going to re
18 -- well, I'll try to repeat the condition when I say it and see if
19 I screw it up. Okay, all right. So does anybody got anything
20 else?

21 VICE CHAIR JOHN: No. No, Mr. Chairman.

22 CHAIRPERSON HILL: Okay. Mr. Smith?

23 MEMBER SMITH: No, Mr. Chairman.

24 CHAIRPERSON HILL: All right, I'm going to make a
25 motion. So I'm going to make a motion to approve Application No.

1 20308, as captioned and read by the Secretary, with the condition
2 from DDOT that is in Exhibit 29, pages 3 through 4. We will also
3 memorialize the MOA and the CMA that was put forward by the ANC.
4 We will also as a condition -- if Mr. Rice is following or he can
5 help me, because he's going to be writing the order -- wherein we
6 are referencing paragraph 4(e) from the MOU, if DDOT approves it.
7 So, you know, if DDOT approves paragraph 4(e) of the MOU, then
8 they have to do it. Okay? That's the condition that I'm just
9 making -- that's the motion that I'm making and I'm going to ask
10 for a second, Ms. John.

11 VICE CHAIR JOHN: Second.

12 CHAIRPERSON HILL: Okay. The motion has been made and
13 seconded. Mr. Moy, could you please take a roll call?

14 (Pause)

15 CHAIRPERSON HILL: Mr. Moy, before you -- Mr. Rice, did
16 you follow all that?

17 MR. RICE: Yes, sir.

18 CHAIRPERSON HILL: Okay. All right, Mr. Moy, if you
19 could take a roll call.

20 MR. MOY: All right. Thank you, Mr. Chairman. So when
21 I call your names, if you would please respond with a yes, no, or
22 abstain to the motion that was made by Chairman Hill to approve
23 the application and with the condition languages that he has just
24 cited for the record, and the motion was seconded by Vice Chair
25 John. Zoning Commissioner Peter Shapiro?

1 COMMISSIONER SHAPIRO: I vote yes.

2 MR. MOY: Mr. Smith?

3 MEMBER SMITH: Yes.

4 MR. MOY: Vice Chair John?

5 VICE CHAIR JOHN: Yes.

6 MR. MOY: Chairman Hill?

7 CHAIRPERSON HILL: Yes.

8 MR. MOY: We have a Board seat vacant. The staff would
9 record the vote as 4 to zero to 1. And this is to approve the
10 application on the motion made by Chairman Hill, seconded by Vice
11 Chair John; also in support, Zoning Commissioner Peter Shapiro,
12 Mr. Smith, Vice Chair John, and Chairman Hill.

13 The motion carries, sir.

14 CHAIRPERSON HILL: Okay, great. Thank you, Mr. Moy.

15 All right. Mr. Moy, is there anything else left for us?

16 MR. MOY: Nothing from the staff, sir.

17 CHAIRPERSON HILL: Okay. I'm just going to go around
18 the table one last time. Mr. Shapiro, do you need anything?

19 COMMISSIONER SHAPIRO: Nothing, thank you.

20 CHAIRPERSON HILL: Mr. Smith?

21 MEMBER SMITH: I don't need anything.

22 CHAIRPERSON HILL: Vice Chair John?

23 VICE CHAIR JOHN: Nothing from me. Thank you.

24 CHAIRPERSON HILL: Okay. Well, then, hopefully, next
25 time I get to see you all, because I haven't seen you at all

1 today. All right, have a lovely day. We're adjourned. Bye-bye.

2 VICE CHAIR JOHN: Thank you.

3 (Whereupon, the above-entitled matter went off the
4 record at 5:04 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: DCBZA

Date: 11-04-20

Place: Teleconference

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