

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

NOVEMBER 18, 2020

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 10:47 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:

PETER MAY, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Zoning Data Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, Esquire
ALEXANDRA CAIN, Esquire

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The transcript constitutes the minutes from the
Regular Public Hearing held on November 18, 2020

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

Case No. 20319 - Application of Foundation to Support . . - 7
 Animal Protection (Withdrawn)

Case No. 20275 - Application of Charles and Dara Mooney,
 (Rescheduled to February 24, 2021) - 7

Case No. 20314 - Application of George Thanos,
 (Rescheduled to December 2, 2020) - 7

Case No. 20315 - Application of Scott Cooper
 (Rescheduled to January 27, 2021) - 7

Case No. 20317 - Application of Julia Shepherd
 (Rescheduled to December 9, 2020) - 7

Case No. 20288 - Application of Shannon Perry - 8

Case No. 20313 - Application of FHD, LLC - 23

Case No. 20316 - Application of Scott B. Jacobs - 31

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

2 (10:47 a.m.)

3 CHAIRPERSON HILL: So the hearing will please come to
4 order.

5 Good morning, ladies and gentlemen. We are convening
6 and broadcasting this public hearing by videoconference. This is
7 the November 18th, 2020, public hearing of the Board of Zoning
8 Adjustment of the District of Columbia. My name is Fred Hill,
9 Chairperson. Joining me today is Lorna John, Vice-Chair;
10 Chrishaun Smith, Board Member; and representing the Zoning
11 Commission is Peter May.

12 Today's hearing agenda is available to you on the Office
13 of Zoning's website. Please be advised that this proceeding is
14 being recorded by a court reporter and is also webcast live via
15 Webex and YouTube Live.

16 The webcast video will be available on the Office of
17 Zoning's website after today's hearing. Accordingly, anyone who
18 is listening on Webex or by telephone will be muted during the
19 hearing, and only persons who have signed up to participate or to
20 testify will be un-muted at the appropriate time.

21 Please state your name and home address before providing
22 oral testimony on your presentation. Oral presentation should be
23 limited to a summary of your most important points. When you're
24 finished speaking, please turn your mic -- well, please mute your
25 audio so that your microphone is no longer picking up sound or

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1 background noise.

2 If you're experiencing difficulty accessing Webex or
3 with your telephone call-in, or if you have forgotten to sign up
4 24 hours prior to this hearing, then please call our OZ hotline
5 number at 202-727-5471. Once again, 202-727-5471. It's also on
6 your screen, to sign up to testify and to receive Webex login or
7 call-in instructions. All persons planning to testify either in
8 favor or in opposition should have signed up in advance. They
9 will be called by name to testify. If this is an appeal, only
10 parties are allowed -- if this is an appeal, only parties are
11 allowed to testify. By signing up to testify, all participants
12 completed the oath or affirmation as required by Subtitle Y 408.7.

13 Requests to enter evidence at the time of an online
14 virtual hearing such as written testimony or additional supporting
15 documents other than live video, which may not be presented as
16 part of a testimony, may be allowed pursuant to Subtitle Y 103.13,
17 provided that the person making the request to enter an exhibit
18 explains how the proposed exhibit is relevant, and the good cause
19 that justifies allowing the exhibit into the record, including an
20 explanation as to why the requester did not file their exhibit
21 prior to the hearing pursuant to Y 206, and how the proposed
22 exhibit would not unreasonably prejudice any party.

23 The order of procedures for special exceptions and
24 variances are in Subtitle Y 409. The order of appeals is at Y
25 507.

1 At the conclusion of each case, an individual who is
2 unable to testify because of technical issues may file a request
3 for leave to file a written version of the planned testimony to
4 the record within 24 hours following the conclusion of public
5 testimony in the hearing.

6 If additional written testimony is accepted, then
7 parties will be allowed a reasonable time to respond as determined
8 by the Board. The Board will then make its decision at its next
9 meeting, but no earlier than 48 hours after the hearing.

10 Moreover, the Board may request additional specific
11 information to complete the record. The Board and the staff will
12 specify at the end of the hearing exactly what is expected and the
13 date when persons must submit the evidence to the Office of
14 Zoning. No other information shall be accepted by the Board.

15 The Board's agenda may include previous cases set for
16 decision. After the Board adjourns the hearing, the Office of
17 Zoning, in consultation with myself, will determine whether a full
18 or summary order may be issued. A full order is required when the
19 decision it contains is adverse to a party, including an affected
20 ANC. A full order may also be needed if the Board's decision
21 differs from the Office of Planning's recommendation. Although
22 the Board favors the use of summary orders whenever possible, an
23 applicant may not request the Board to issue such an order.

24 The District of Columbia Administrative Procedures Act
25 requires that the public hearing on each case be held in the open

1 before the public. However, pursuant to Section 405(b) and 406 of
2 that Act, the Board may, consistent with its rules of procedures
3 and the Act, enter into a closed meeting on a case for purposes of
4 seeking legal counsel on a case pursuant to D.C. Official Code
5 Section 2-575(b)4, and deliberating on a case pursuant to Section
6 -- D.C. Official Code 2-575(b)13, but only after providing the
7 necessary public notice and, in the case of an emergency close the
8 meeting after taking a roll call vote.

9 Preliminary matters are those which relate to whether a
10 case will or should be heard today, such as requests for a
11 postponement, continuance, or withdrawal, or whether proper and
12 adequate notice of the hearing has been given. If you're not
13 prepared to go forward with the case today or if you believe the
14 Board should not proceed, please let us know when you're called
15 upon.

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

17 MR. MOY: Yes, very briefly, Mr. Chairman, if I can lean
18 on your goodwill. I'd like to state for the record five cases
19 that were originally on today's docket, but they are not. They've
20 been rescheduled. The first case is 20319, Foundation to Support
21 Animal Protection was withdrawn by the applicant. Case No. 20275
22 of Charles and Dara Mooney has been rescheduled to February 24th,
23 2021. Case Application No. 20314, George Thanos, has been posted,
24 rescheduled to December 2nd, 2020. Application No. 20315 of Scott
25 Cooper; postponed, rescheduled to January 27th, 2021. And Case

1 Application No. 20317 of Julia Shepherd, rescheduled to December
2 9th, 2020.

3 There were other preliminary matters, but I think it's
4 more efficient that I bring that to your attention when we call
5 the case, sir.

6 CHAIRPERSON HILL: Okay. Great. All right, everyone.
7 Let's -- I mean, we're a little tight today, I know, but let's try
8 to get back here at 11:00, 11:05 or something like that. Okay?
9 Thank you.

10 (Whereupon, the above-entitled matter went off the
11 record and resumed at 11:05 a.m.)

12 CHAIRPERSON HILL: Okay. Mr. Moy, you can call our
13 first case.

14 MR. MOY: Okay. Thank you, Mr. Chairman. So let's see.
15 The hearing is back in session and the time is at or about 11:05
16 a.m. The first case in the hearing session is Case Application
17 No. 20288 of Shannon Perry. This is a request for a special
18 exception under Subtitle F, Section 5201 from the maximum lot
19 occupancy requirements of Subtitle F, Section 604.1. This would
20 construct a three-story rear addition to an existing attached
21 principal dwelling unit and convert it into a three-unit apartment
22 house, RA-2 Zone at 1524 Kingman Place, Northwest, Square 241, Lot
23 92.

24 And what else should I say about this? This was last
25 heard by the Board from November 4th continued to November 18th to

1 allow the applicant to present to the full ANC.

2 CHAIRPERSON HILL: Okay. Let's see. Before we begin,
3 there was a late notice issue, again, kind of on our part and it
4 was even from the first time when this thing was supposed to be
5 heard and it was again in the late Register's notice. As in
6 previous cases, all of the other criteria was met in terms of the
7 notice requirements and so I don't have any issue with the notice.

8 Does the Board have any issue with the notice? And if
9 so, please raise your hand. I don't see anyone, so therefore I'm
10 going to assume we're okay and we can move forward on that.

11 After that, I guess, Mr. Fowlkes; is that -- could you
12 please introduce yourself for the record?

13 MR. FOWLKES: Yes, VW Fowlkes. I'm the architect and
14 agent.

15 CHAIRPERSON HILL: All right. Is there someone here
16 with you, Mr. Fowlkes?

17 MR. FOWLKES: My colleague, Sean Haislip, is here and I
18 believe the homeowner, Shannon Perry, is also here.

19 CHAIRPERSON HILL: Okay. I don't see Ms. Perry. Mr.
20 Haislip, can you introduce yourself for the record?

21 MR. HAISLIP: Yes, I'm here as well with Mr. Fowlkes
22 here to present 1524.

23 CHAIRPERSON HILL: Okay. Great.

24 Could you all just hold one moment, please? I'm sorry.

25 CHAIRPERSON HILL: Ms. Perry, could you introduce

1 yourself for the record?

2 MS. PERRY: Hi. My name is Shannon Perry. I'm the
3 homeowner at 1524 Kingman Place, Northwest.

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

6 MR. FOWLKES: I can be very, very brief.

7 CHAIRPERSON HILL: Okay.

8 MR. FOWLKES: Yeah.

9 CHAIRPERSON HILL: Well, I guess -- you know, I remember
10 that you all -- well, first of all, I do need you to present your
11 case.

12 MR. FOWLKES: Okay.

13 CHAIRPERSON HILL: I need you to tell me why -- you
14 know, a little bit about the -- what you're trying to do and why
15 you believe you're meeting the criteria that we should grant the
16 application based on the regulations, and then also you could tell
17 us, I guess, what happened since the postponement. I've got 15
18 minutes on the clock there and, Mr. Fowlkes, you can begin
19 whenever you'd like.

20 MR. FOWLKES: Okay. Well, as Mr. Moy already said we're
21 putting an addition on the back of the house extending beyond the
22 60 percent lot occupancy limit by 2.5 percent. So it's going to
23 62.5 percent. The OP has -- my understanding is OP has no
24 objection and we have support from the ANC, and we've also been in
25 contact with HPO and they have indicated that they -- it'll be

1 approved at the staff level.

2 So it's going to be converted from a single-family house
3 to a three-unit apartment building. The homeowner will be living
4 on the top unit and will have two rentals below her. Because it's
5 a bit -- that conversion, every inch of space in the interior of
6 the building really counts with things like bathrooms and
7 kitchens. That 2.5 percent is actually allowing us to get enough
8 program to make them marketable units in the -- inside the house.

9 And the extension is -- the extension beyond the 2.5 --
10 excuse me -- the extension from 60 percent to 62.5 percent is less
11 than 3 feet additional built structure. So therefore, we feel
12 that the impact on the neighboring properties is de minimis going
13 from that 60 percent to the 62.5 percent and we also feel that
14 we're activating the alley by creating a big -- an entry in the
15 back and large windows.

16 And the impact on the front has -- is barely -- is not
17 really visible from the street. You will see it from -- as you
18 walk down the alley across the street which is in line with this
19 building and as you go down the alley, you will see the pop-up
20 that we're planning which is setback from the front of the house.
21 OP has determined that this is sort of a fairly harmless thing
22 because it's set in front of the backdrop of the taller buildings
23 on 14th Street anyway.

24 As far as what has happened since our postponement, we
25 originally had a larger -- we were asking for more lot occupancy

1 relief. We did have some neighbor opposition and so we tightened
2 it up. So originally our -- we were asking for almost 69 percent
3 of lot occupancy. We've reduced that to 62.5.

4 We also had issues that we wanted to work out with the
5 neighbor that had nothing to do with the relief we were asking
6 for, but were more about the construction, and the pop-up, and the
7 roof deck. And so we have had several discussions with them. We
8 also had a -- you know, they were also concerned about water, the
9 impact that the addition would have on the water runoff and the
10 water table, and so we had a geotechnical engineer do an
11 evaluation of the site and give us protocols for construction so
12 that we don't create any problems with the foundation more on
13 either side of the house.

14 CHAIRPERSON HILL: Mr. Fowlkes, I'm sorry. I'm going to
15 interrupt you now just because I kind of have been -- I studied
16 this one a little bit. Does the Board have any questions for the
17 applicant? Ms. John?

18 VICE CHAIR JOHN: Yes. If the applicant could describe
19 again how the diagram shows the reduction from the 69 percent
20 occupancy to 62 percent.

21 MR. FOWLKES: Yeah. The difference is -- okay. I can
22 go to -- I can direct you to Exhibit 46, the first page and I will
23 do my best, Ms. John. The fact is there were lots of changes in
24 between the versions of the documents that we submitted, but
25 basically you see that there is a shaded area that indicates the

1 area of the addition and then to the right of that is a non-shaded
2 area that has skylights in it that are adjacent to the stoop in
3 the rear.

4 That area is -- those are skylights over the basement
5 unit which extends out beyond the rear facade of the building and
6 -- but it only -- they -- it only is 3.5 feet above grade in the
7 rear, so the zoning administrator has determined that that does
8 not count toward our structure. And so by lowering that, which it
9 was higher, it was about 4 feet, by lowering that, we've been able
10 to take that out of the count for the structure.

11 We have also just tightened it up in general. I can't
12 remember exactly how many -- you know, it may be as much as a
13 foot, but we just pulled it back as far as we could to maintain
14 our program.

15 VICE CHAIR JOHN: Okay. Thank you. And Exhibit 46
16 represents what you intend to build?

17 MR. FOWLKES: Yes.

18 VICE CHAIR JOHN: Okay. Thank you.

19 CHAIRPERSON HILL: Commissioner May?

20 COMMISSIONER MAY: Yeah. So, I mean, I had the same
21 sort of confusion about the change and, you know, just as advice
22 for any future submissions, your drawings are very confusing
23 because you separate between the existing and the addition. Now,
24 the existing is the existing that's going to remain whereas the
25 addition is what you're redoing. So you're redoing part of the

1 footprint, right? So what we really want to see is, you know,
2 what's there now and what's going to be there in the future, and
3 so your drawings could show that more clearly in the -- you know,
4 next time around.

5 I do have a question. So one of the things that we have
6 to look at -- let me pull up my notes here -- is that, you know,
7 one of the conditions is that the addition or accessory structure
8 together with the original building is viewed from the street,
9 alley, or other public way, not substantially visually intrude
10 upon the character, scale, and pattern of houses along the subject
11 street.

12 So the sticking point there is the alley and when you
13 look at this building from the alley, you're going from a two-
14 story building with a second floor deck to something that's --
15 something like 15 taller and a very different style
16 architecturally. So I'm glad to hear that the HPO is willing to
17 sign off on it, but one of the concerns that we do have is what
18 does it look like from the alley.

19 So can you tell me how it does not substantially
20 visually intrude upon the character, scale, and pattern of houses
21 along the street?

22 MR. FOWLKES: Well, so the next -- the two houses on
23 either side have not been added to, at all. But the house which
24 is at 1518 and 1520 also has a -- kind of a pop-up on it and very
25 large windows and is -- obviously, the house has been joined. And

1 then further up Kingman is an apartment building. On the other
2 side of the alley are all commercial buildings including the
3 Whitman-Walker building which is large and has --

4 COMMISSIONER MAY: Okay. Let me stop you there for a
5 second. Can you point me to a drawing that shows me where any of
6 these other properties are?

7 MR. FOWLKES: So if we'll go -- if we go back to -- this
8 may not satisfy your question, but the same exhibit that I pointed
9 to, Exhibit 46.

10 COMMISSIONER MAY: Right.

11 MR. FOWLKES: The lot, 32 --

12 COMMISSIONER MAY: Yes.

13 MR. FOWLKES: -- you can see that that's a much larger
14 building.

15 COMMISSIONER MAY: Right.

16 MR. FOWLKES: That's the one I was referring to that has
17 -- that also has a pop-up. So it also has an additional floor on
18 it.

19 COMMISSIONER MAY: Okay.

20 MR. FOWLKES: I don't know if it shows you that in
21 elevation.

22 COMMISSIONER MAY: That's okay. I just -- you know, I -
23 - you referenced house numbers. There are no house numbers on
24 that plan, so I couldn't follow you.

25 MR. FOWLKES: Okay.

1 COMMISSIONER MAY: And then where is the apartment
2 building that you referred to?

3 MR. FOWLKES: It is on the same block. That, I do not
4 have a drawing for or maybe I --

5 COMMISSIONER MAY: Is it further south or how far away?

6 MR. FOWLKES: It's further south.

7 COMMISSIONER MAY: Okay.

8 MR. FOWLKES: It's further south on the same block.

9 COMMISSIONER MAY: Okay. All right. Anything else you
10 want to add? I mean, I got the point that there are some other
11 larger buildings there.

12 MR. FOWLKES: And all of the buildings on the other side
13 of the lobby, excuse me, on the other side of the alley are large
14 commercial buildings as they face 14th Street.

15 COMMISSIONER MAY: Right. I'm aware of that, right. So
16 then tell me, the neighbor who had the concerns, is that the
17 property, an abutting property, to the north or south?

18 MR. FOWLKES: Yeah. So the neighbor that had the
19 concerns about the lot occupancy is the one who is at 815, on Lot
20 815, on that same exhibit.

21 COMMISSIONER MAY: Right.

22 MR. FOWLKES: And as you can see, his -- you can see his
23 house is shaded and then the property line is the light line
24 that's about 14 feet beyond his house. So his property line --
25 his property is considerably smaller than my client's, so even if

1 we were -- if we -- if she were to build to her, as of right,
2 maximum, she would still be going way beyond her -- his property.
3 In other words, the -- you know, the relief -- the 2.5 feet of
4 relief that we're seeking or 3 feet of relief that we're seeking
5 doesn't actually abut his property at all. And so almost any
6 addition that she were to do on the rear of her house would extend
7 -- would be -- in fact, even her house as it exists goes all the
8 way to the -- to his rear property line.

9 COMMISSIONER MAY: Right. Okay.

10 MR. FOWLKES: So our argument is that the additional 2,
11 the additional 3 feet or so, while I understand that it's not
12 welcome, it doesn't really change the degree of impact that it's
13 going to have on him.

14 COMMISSIONER MAY: So in your discussions with this
15 neighbor, have this neighbor's concerns been satisfied or -- I
16 mean, because we don't see anything in the record. I'm kind of
17 assuming maybe you've made peace with him.

18 MR. FOWLKES: I expected him to -- I expected to see him
19 here today. So yes, it is a very cordial relationship. We've had
20 many conversations. We've talked about -- we've had conversations
21 about construction protocols. In the end, I don't think he is
22 going to be happy about the addition, but he has expressed a kind
23 of a willingness to have a working relationship with us moving
24 forward and we've also done things like we've agreed to hire an
25 instructional engineer to do a -- an independent structural

1 engineer to do a structural survey of his party wall and his roof
2 to make sure that any damage that might happen will be covered.

3 COMMISSIONER MAY: Okay. So one last question. There
4 was an indication in the ANC letters that we have received which
5 is not from the full ANC, that the full ANC would vote on this
6 matter on November 4th. Do you know whether that happened?

7 MR. FOWLKES: Yes. I'm surprised to hear that that -- I
8 sort of assumed that they would put that in the record, but they
9 voted, and it was unanimous approval.

10 COMMISSIONER MAY: Okay. Thank you. Yeah, I did not
11 see it in the record. I'm going to -- I'll double check again,
12 but I have not seen that letter in the record.

13 MR. FOWLKES: Okay.

14 COMMISSIONER MAY: Yeah, (audio interference) is
15 indicating it's not in there. So yeah, normally they would put it
16 in, but sometimes that doesn't happen. So all right, thank you.
17 I'm done.

18 CHAIRPERSON HILL: Mr. Smith?

19 MEMBER SMITH: I don't have any additional questions.

20 CHAIRPERSON HILL: Representative from the Office of
21 Planning?

22 VICE CHAIR JOHN: (Audio interference) Mr. Chairman.

23 CHAIRPERSON HILL: Oh. I'm sorry, Ms. John. I thought.
24 Didn't you start, Ms. John? Who started?

25 VICE CHAIR JOHN: I have no additional questions.

1 CHAIRPERSON HILL: Oh, sorry. Okay. Where is the
2 Office of Planning? Oh, there we go.

3 MS. FOTHERGILL: Good morning. I'm Anne Fothergill with
4 the Office of Planning for Lisa Talley for Case BZA -- BZA Case
5 20288 and the Office of Planning reviewed the application and
6 recommends approval now that it met the criteria, Subtitle F,
7 Section 5201 and I'm happy to take any questions.

8 CHAIRPERSON HILL: Commissioner May, do you have any
9 questions for the Office of Planning? Commissioner?

10 COMMISSIONER MAY: Can you just confirm that the HPO is
11 in support of this without having to go to HPRB?

12 MS. FOTHERGILL: I only have that confirmed (audio
13 interference) --

14 COMMISSIONER MAY: Okay.

15 MS. FOTHERGILL: -- and I was not the staff person on
16 the case. I don't have any additional information.

17 COMMISSIONER MAY: All right. Thank you.

18 MS. FOTHERGILL: All right.

19 CHAIRPERSON HILL: Mr. Smith? No. Ms. John, do you
20 have any questions?

21 VICE CHAIR JOHN: No questions. Thank you.

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

24 MR. YOUNG: We do not.

25 CHAIRPERSON HILL: All right.

1 Mr. Fowlkes, I forgot to ask you. Do you have any
2 questions of the Office of Planning?

3 MR. FOWLKES: No.

4 CHAIRPERSON HILL: Okay.

5 And again, Commissioner May clarified what was another
6 thing that I had wanted to ask you. Do you have a letter from the
7 SMD? There's nothing in the record from the ANC and for the
8 record, you're saying that the ANC voted on November 4th
9 unanimously in favor of this application?

10 MR. FOWLKES: Correct.

11 CHAIRPERSON HILL: Okay. All right. Does anybody have
12 any more questions of the applicant? If so, raise your hand. All
13 right. Then I'm going to close the record and the hearing. Mr.
14 Fowlkes, thank you so much for your attendance.

15 Everyone can leave the hearing room, please.

16 I'm ready to deliberate if you guys are. And so (audio
17 interference). I did not, after hearing the applicant's
18 testimony, have an issue. I was thankful of all the questions
19 that actually were asked, particularly the ones that Commissioner
20 May asked about the alley view, but I'm comfortable with the
21 analysis that was provided by the Office of Planning as was DDOT.

22 And although we don't have a report of the ANC, I would
23 take the testimony as truthful that the ANC has voted in favor and
24 there was a letter from the SMD. Although, again, it's nothing
25 that we can give great weight to, I am comforted by that and I

1 would agree that the applicant has met the standard for us to
2 grant this application.

3 Is there anything you would like to add, Commissioner
4 May?

5 COMMISSIONER MAY: Thank you, yes. Yeah. I mean, I'm
6 still not in -- well, not enthusiastic about the nature of the
7 addition and the design of it. It would be -- I would have been
8 more comfortable if we actually had something that showed the
9 greater context and showed more about what the buildings were, but
10 I'm comfortable enough relying on the testimony and I will
11 suppress my urge to give further architectural advice.

12 CHAIRPERSON HILL: Mr. Smith?

13 MEMBER SMITH: I share Commissioner May's concerns. It
14 would have been great to see the juxtaposition of the addition
15 against the neighboring properties so we can get that context, but
16 I do give great weight to the testimony provided by the applicant
17 and great weight to the OP Board. So I would be in support of the
18 special exception.

19 CHAIRPERSON HILL: Vice Chair John?

20 VICE CHAIR JOHN: I support the application and I'm
21 familiar with that street and the neighborhood and there are
22 commercial buildings abutting that alley, so I am not as concerned
23 about that particular impact and I would just rely on OP's
24 analysis and give great weight to that analysis.

25 CHAIRPERSON HILL: Okay. Great. Then I'll go ahead and

1 make the motion to approve Application No. 20288 as captioned and
2 read by the secretary and ask for a second, Ms. John.

3 VICE CHAIR JOHN: Second.

4 CHAIRPERSON HILL: Motion made and seconded.

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

6 MR. MOY: Yes. Thank you, Mr. Chairman. So when I call
7 your name, if you would please respond with a yes, no, or abstain
8 to the motion made by Chairman Hill to approve the application for
9 the relief requested. The motion was seconded by Vice Chair John.
10 Zoning Commissioner, Peter May?

11 COMMISSIONER MAY: Yes.

12 MR. MOY: Mr. Smith?

13 MEMBER SMITH: Yes.

14 MR. MOY: Vice Chair John?

15 VICE CHAIR JOHN: Yes.

16 MR. MOY: Chairman Hill?

17 CHAIRPERSON HILL: Yes.

18 MR. MOY: We have a Board seat vacant, but staff would
19 record the vote as 4 to 0 to 1 on the motion made by Chairman Hill
20 to approve the application for the relief requested, seconded by
21 Vice Chair John, and this is the motion to approve. In support of
22 the motion, Zoning Commissioner Peter May, Mr. Smith, and, of
23 course, Vice Chair John and Chairman Hill. Motion carries 4 to 0
24 to 1.

25 CHAIRPERSON HILL: Thank you, Mr. Moy.

1 Mr. May, Commissioner May, I hope you're not hungover or
2 anything because that jackhammer is kind of loud.

3 COMMISSIONER MAY: Yes, I am not hungover, but it's
4 still pretty loud, you know. I'm going to have a headache by the
5 end of the day.

6 CHAIRPERSON HILL: All right.

7 Mr. Moy, you can call our next case.

8 MR. MOY: All right. This would be Case Application No.
9 20313 of H -- or rather, FHD, LLC. This application is amended
10 for special exceptions under the RA-use requirements of Subtitle
11 U, Section 421.1 and pursuant to Subtitle F, Section 5201 from the
12 side yard requirements Subtitle F, Section 306.2.

13 This would construct a three-story rear addition and
14 convert the semi-detached principal dwelling unit into a five-unit
15 apartment building in the RA-1 Zone at premises 4310 2nd Street,
16 Northwest, Square 3318, Lot 811. And among other things, Mr.
17 Chairman, there is a request for a postponement from the
18 applicant.

19 CHAIRPERSON HILL: Okay. Great. Mr. Sullivan, could
20 you introduce yourself, please?

21 MR. SULLIVAN: Yes. Thank you, Mr. Chairman, members
22 of the Board. My name is Marty Sullivan on behalf of the
23 applicant.

24 CHAIRPERSON HILL: And who is with you here, Mr.
25 Sullivan?

1 MR. SULLIVAN: I believe that Mr. Lam, Nhan Lam, the
2 applicant is with us.

3 CHAIRPERSON HILL: Okay. I don't think we'll need to
4 hear from him just yet.

5 Mr. Sullivan, I have to -- there's some deficiency
6 notice issues that I'm going to be talking through, but you guys
7 haven't submitted your Affidavit of Maintenance yet; is that
8 right?

9 MR. SULLIVAN: I'm not sure if we did. We usually did
10 that. I know this seems to come up almost every hearing, but I
11 can check on that.

12 CHAIRPERSON HILL: Okay. All right.

13 Well, then, Mr. Rice, I'm just going to -- if you will
14 remind me about the -- I'm not going to -- I'm going to wait and
15 see what is going on with the Affidavit of Maintenance because I
16 think we might end up postponing this and then at that time if you
17 can remind me about the deficiency notice because I don't want to
18 go through that now until we know what's going on with that
19 Affidavit of Maintenance. Okay?

20 MR. SULLIVAN: I've been told that they were submitted.

21 MR. RICE: They're submitted. It looks like the
22 affidavit was filed.

23 CHAIRPERSON HILL: Oh, it was filed? Oh. Okay. All
24 right. Great.

25 MR. RICE: At Exhibit 40.

1 CHAIRPERSON HILL: Why did I -- did that just get in?

2 MR. RICE: It was sent with the report.

3 CHAIRPERSON HILL: Okay. So then the affidavit has come
4 in. So if that's the case, then I will speak to the deficiency of
5 the notice which is something that's a technicality on our side.
6 It looks as though again it was the posting in terms of the
7 Register and it was 25 days instead of 40, but everyone else --
8 all the notice and other requirements have been moved forward and
9 so I don't have any issues with waiving our notice requirements on
10 my own motion unless one of you Board members has an issue, please
11 raise your hand.

12 Okay. We've gone ahead and done that. Mr. Sullivan,
13 why do you want --

14 COMMISSIONER MAY: (Audio interference).

15 CHAIRPERSON HILL: Oh, Mr. May?

16 COMMISSIONER MAY: Yeah. So I mean, I -- this is the
17 sort of case where I think posting is one of the most important
18 methods of notification. So I'm not totally comfortable with the
19 idea of it not having been posted far enough in advance.

20 CHAIRPERSON HILL: No, it was posted.

21 COMMISSIONER MAY: It was posted?

22 CHAIRPERSON HILL: So that just --

23 COMMISSIONER MAY: Oh, I was looking at your notes. I'm
24 sorry. I got it mixed up.

25 CHAIRPERSON HILL: It's all right.

1 COMMISSIONER MAY: Yeah.

2 CHAIRPERSON HILL: It's all right.

3 COMMISSIONER MAY: I blame the jackhammers. I'll blame
4 the jackhammers.

5 CHAIRPERSON HILL: Yeah. No, you should. I'm yelling
6 here as if they're in my own office.

7 All right. Okay. Let's see. Mr. Sullivan, why do you
8 want to postpone it?

9 MR. SULLIVAN: So a question has come up about a side
10 yard. We need side yard relief. I wasn't originally on this
11 application. I didn't originally file it and we came on late and
12 in our review realized we needed side yard relief and there's a
13 question about whether or not it's special exception or a variance
14 because of new regulations that were adopted by the Commission
15 this summer which allowed -- because the building is proposed to
16 be razed and it's going to be a new building and I don't know if
17 that was clear from the application.

18 A new -- according to recently adopted regulations, a
19 new principal dwelling building can be approved, side yard relief
20 can be approved, by special exception on a substandard lot. So
21 our question for the zoning administrator is, is this a
22 substandard lot? The RA-1 Zone does not provide minimal lot area
23 for multi-family buildings. It just provides that the Board shall
24 provide what the minimum lot area and width is.

25 So if it's -- if it is substandard, then we need to

1 request for special exception relief. If it's not determined to
2 be substandard, then it would be a variance. And so that's the
3 issue that we're trying to resolve, and we need a little more time
4 to do that.

5 CHAIRPERSON HILL: Okay. And you would --

6 MR. SULLIVAN: And the Office of Planning didn't write a
7 report as a result of that actually --

8 CHAIRPERSON HILL: Sure.

9 MR. SULLIVAN: -- so we don't have --

10 CHAIRPERSON HILL: Yeah. I can't move it forward anyway
11 without the Office of Planning, so I was just curious. It sounds
12 like something you're really trying to figure out. You've seen
13 the letters in opposition?

14 MR. SULLIVAN: Yes.

15 CHAIRPERSON HILL: Okay. And I guess you'll kind of
16 work with those -- I can't tell if it's the person next door or
17 not.

18 MR. SULLIVAN: It is next door and maybe -- it's
19 definitely next door because we've had -- we had the ANC meeting
20 recently too and they showed up for that meeting as well.

21 CHAIRPERSON HILL: Okay. So you think --

22 MR. SULLIVAN: So we'll be working with them.

23 CHAIRPERSON HILL: You'll be working on that. All
24 right.

25 MR. SULLIVAN: The (audio interference) has been working

1 with them for the last year or so, but we'll continue to work with
2 them.

3 CHAIRPERSON HILL: Okay. When are you trying to
4 postpone to?

5 MR. SULLIVAN: We asked for December 9th, I believe.

6 CHAIRPERSON HILL: Mr. Moy, what does December 9th look
7 like?

8 MR. MOY: I'm sorry, Mr. Chairman. So there's been some
9 movement, I think, since last time we talked about the status of
10 dockets for hearings in the month of December. My suggestion, Mr.
11 Chairman, would be that for the Board, the size of the docket,
12 it's best to move this to December 23rd and the reason is because
13 in December, starting with December 9th, we already have 10 cases
14 for December 9th. On December 16, we have 10 cases and then that
15 takes us to December 23rd where we have 7 cases. So we'll do
16 whatever the staff --

17 CHAIRPERSON HILL: No, no, no, no.

18 MR. MOY: -- whatever the Board desires.

19 CHAIRPERSON HILL: Let's go ahead. I just had to take a
20 deep breath.

21 Let's go ahead and do the 23rd, Mr. Sullivan.

22 Mr. Moy, you know that Christmas is the 25th, right?

23 MR. MOY: Thanks for the reminder, sir.

24 CHAIRPERSON HILL: I mean, I'm not Christian, but I live
25 in America and so, you know, that's a big holiday. Okay. All

1 right. Great, wonderful.

2 All right. Mr. -- oh, Ms. John?

3 VICE CHAIR JOHN: Yes. So this is for Mr. Sullivan. So
4 the application is to construct a three-story rear addition. Did
5 I understand that you're going to raze the building and construct
6 a new building?

7 MR. SULLIVAN: Yeah. It's technically going to be a
8 raze, so we need to clear up some of that language as well before
9 we -- and which is good. We have the additional time to, so we'll
10 file something 21 days before that clears up all that confusion as
11 well.

12 VICE CHAIR JOHN: Okay.

13 CHAIRPERSON HILL: Mr. May?

14 COMMISSIONER MAY: Yeah, when you say --

15 VICE CHAIR JOHN: And --

16 COMMISSIONER MAY: -- "technically raze," is this one of
17 those things where it's the percentage of building that's
18 demolished kicks it into razed territory? Because it looks like
19 you're keeping the front façade.

20 MR. SULLIVAN: The plan is to get a razed permit, so --
21 and, yeah so -- but a portion of it is, I believe. I'm going to
22 have to talk to the architect --

23 COMMISSIONER MAY: Okay.

24 MR. SULLIVAN: -- and I'll address that question in my
25 --

1 COMMISSIONER MAY: I'm just curious because it -- you
2 know, the drawings look very clearly like part of the building
3 will remain, but you said -- when you said "technically razed,"
4 that sort of raised a question for me.

5 MR. SULLIVAN: Yeah. So and I'm a little confused about
6 it myself, but it's definitely going to be a raze for zoning
7 purposes as far as we know and I'm not certain about the raze
8 permit, but --

9 COMMISSIONER MAY: And --

10 MR. SULLIVAN: -- I'll clear that up with Mr. LeGrant
11 well.

12 COMMISSIONER MAY: Very good. Thank you.

13 CHAIRPERSON HILL: Mr. Cochran, do you want to introduce
14 yourself? You look like you have something you want to say. Oh,
15 no? Oh. Okay. All right. Okay.

16 VICE CHAIR JOHN: Just a --

17 CHAIRPERSON HILL: Yep. Ms. John?

18 VICE CHAIR JOHN: Just a follow-up question for Mr.
19 Sullivan. Will you re-notice the application if it turns out to
20 be a variance because right now it's not a variance.

21 MR. SULLIVAN: Then I think we will have to, and we may
22 need to ask for a waiver of that. Based on the fact that, you
23 know, we're keeping everybody informed about this including the
24 ANC and the neighbors, and so if it -- we're hoping it doesn't
25 have to be a variance, but if it does have to be a variance then

1 yeah, we will have to address that issue --

2 VICE CHAIR JOHN: Okay.

3 MR. SULLIVAN: -- of the notice or ask for a waiver of
4 that. Thank you.

5 VICE CHAIR JOHN: Thank you.

6 CHAIRPERSON HILL: Well, guys -- I guess, Mr. Sullivan,
7 go ahead and you can make that argument if you do need to cross
8 that bridge, but I'm happy to kick you into January. Okay. All
9 right. Mr. Moy, we'll do it on the 23rd. Okay? Okay.

10 MR. SULLIVAN: Thank you.

11 CHAIRPERSON HILL: All right. Mr. Moy, take your time.
12 I'm trying to move along here because as I said I'm losing a Board
13 member at 1 o'clock and you can call the next one when you get a
14 chance.

15 MR. MOY: Mr. Chairman, so this would be Case
16 Application No. 20316 of Scott B. Jacobs. Captioned and
17 advertised for special exceptions under Subtitle E, Section 5201.
18 This is from the accessory building rear yard setback requirement
19 Subtitle E, Section 5004.1 from the accessory building rear yard
20 requirement Subtitle E, Section 5004.2 and under the RF use
21 requirement, Subtitle U, Section 301.1(e). This would construct a
22 new accessory building and use the accessory building as a second
23 principal dwelling unit, RF-1 Zone at premises 3578 13th Street,
24 Northwest, Square 2834, Lot 95.

25 And very quickly, Mr. Chairman, there -- yes, there were

1 two principal filings that came in within the past 24 hours.
2 These were the responses to the referral letters to the Department
3 of Public Works and the D.C. FEMS. So DPW's is slipped in as --
4 under Exhibit 40. FEMS is not in the record, but if the Board
5 were to grant these two filings, the staff can email those letters
6 to you directly.

7 CHAIRPERSON HILL: Okay. I see the -- right, okay. So
8 there was some issues with getting the notice requirements from
9 some of the different departments and so DPW did submit something
10 into the record in Exhibit 40 and even though it was inside the 24
11 hours, I mean, I'd like to see what any of these departments have
12 to hear. So unless the Board has any objection, and please speak
13 up if you do, I'm going to allow that into the record.

14 The other you said is from which agency, Mr. Moy?

15 MR. MOY: This is from the --

16 CHAIRPERSON HILL: Oh, FEMS?

17 MR. MOY: Yes, D.C. Fire and EMS Department.

18 CHAIRPERSON HILL: Right. If you want to go ahead and -
19 - so unless the Board has an issue and if so, please do speak up,
20 I'm going to allow that into the record and Mr. Moy if you would
21 send that to my Board members while we get on our -- doing this
22 case.

23 The other notice requirement is that, again, that is a
24 technicality on our part concerning the Register, the late
25 Register's notice. And it was, again, 26 days instead of 40 days

1 and now that we're getting all these other -- information from the
2 -- Mr. May, I think your microphone is unmuted, by the way. Now
3 that we're getting all of this other information from the
4 different departments, I don't have -- it was posted properly. I
5 don't have an issue with us waiving the Register's notice unless
6 any of my fellow Board members have any issues with that and if
7 so, please speak up. Okay. Then I'll go ahead and waive that
8 notice requirement.

9 And so now, Mr. Sullivan, if you could please introduce
10 yourself for the record?

11 MR. SULLIVAN: Thank you, Mr. Chair, and members of the
12 Board. My name is Marty Sullivan with Sullivan & Barros on behalf
13 of the applicant.

14 CHAIRPERSON HILL: Okay. Mr. Sullivan, I guess if you
15 could go ahead and walk us through your application and also why
16 you believe that your applicant has met the criteria for us to
17 grant the requested relief. My only specific question, I guess,
18 is their requirements about windows and privacy if there is a
19 property on the other side of the alley. If you could kind of
20 speak to that while you're going through your testimony.

21 I do see that you have a PowerPoint presentation, I
22 believe. I'm going to put 15 minutes on the clock, and you can
23 begin whenever you like.

24 MR. SULLIVAN: Thank you, Mr. Chair. And also, Mr.
25 Scott Jacobs is here with us. He's the applicant and the property

1 owner occupant as well.

2 CHAIRPERSON HILL: Is he going to be testifying right
3 now, Mr. Sullivan?

4 MR. SULLIVAN: Not right now, but I may ask him a
5 question or --

6 CHAIRPERSON HILL: Okay.

7 MR. SULLIVAN: -- you may have questions.

8 CHAIRPERSON HILL: Mr. Jacobs? Mr. Jacobs, can you hear
9 me? You're muted, Mr. Jacobs.

10 MR. JACOBS: Sorry about that. Yes, I can hear you
11 clear.

12 CHAIRPERSON HILL: So could you introduce yourself for
13 the record?

14 MR. JACOBS: Yes. My name is Scott Jacobs. I'm the
15 homeowner at 3578 13th Street, Northwest. I'll be happy to --

16 CHAIRPERSON HILL: Okay. You don't need to use your
17 camera. I just want to make sure you're not using your camera; is
18 that correct?

19 MR. JACOBS: I am not using my camera.

20 CHAIRPERSON HILL: No problem. No, no. Let's see. Who
21 else? Is this -- Ms. Cortez, is that also with you, Mr. Sullivan?

22 MR. SULLIVAN: Yes, I believe that's the architect if
23 you have any --

24 CHAIRPERSON HILL: Oh.

25 MR. SULLIVAN: -- questions for the architect.

1 CHAIRPERSON HILL: Okay. Ms. Cortez, can you introduce
2 yourself for the record?

3 MS. CORTEZ: Yes. My name is Antonella Cortez with DCI
4 Architects. We're the architect for this project.

5 CHAIRPERSON HILL: Okay. You're choosing not to use
6 your camera as well? I just want to know.

7 MS. CORTEZ: Correct.

8 CHAIRPERSON HILL: Okay. All right.

9 Mr. Sullivan, you can begin whenever you'd like.

10 MR. SULLIVAN: Thank you.

11 CHAIRPERSON HILL: And Ms. Cortez, your mic is not muted
12 just to let you know. There you go.

13 MR. SULLIVAN: Thank you, Mr. Chairman, and members of
14 the Board. So we have a long and wordy PowerPoint presentation as
15 usual, but I will try to go through it pretty quickly. Just to
16 summarize, these are -- we're asking for three areas all with
17 special exception relief. We do enjoy the support of both
18 adjacent neighbors, the Office of Planning, and we've received a
19 10 to 0 vote from ANC 1A as well.

20 So from the cover sheet, you can see a picture of the
21 property. This retaining wall is the rear of the subject
22 property. The proposal is to construct an accessory building at
23 the rear of the building and to inhabit that with a second
24 principal dwelling unit. The main building faces 13th Street.
25 There's a single dwelling unit facing 13th Street and then this

1 will be a second principal dwelling unit in the accessory
2 building.

3 So the relief for that is required, and I would --
4 please go to slide 2 -- is alley centerline setback through a
5 special exception, having an accessory building in a required rear
6 yard and the actual use of the accessory building as a dwelling
7 unit which is not permitted until after five years after the
8 building is constructed and so we're asking for special exception
9 relief from that as well.

10 Next slide, please. The setback requirement is 12 feet.
11 We are 4 feet shy of that requirement.

12 Next slide, please, An accessory building in a required
13 rear yard. The rear yard, the distance between the measuring
14 point at the back of the principal building to the accessory
15 building is, I believe, 15.83 feet. So we're a little less than 5
16 feet short of the 20 feet required for the building to not be
17 considered in a required rear yard.

18 Next slide, please. But I will -- I'll mention that the
19 accessory building is only 370 feet, square feet, footprint. And
20 then the final relief is just for the building to be inhabited as
21 a dwelling unit.

22 Next slide, please. (Audio interference) a little bit
23 of the condition. These are the stairs at the rear of the
24 property and then the retaining wall.

25 CHAIRPERSON HILL: Mr. Sullivan?

1 MR. SULLIVAN: Yes?

2 CHAIRPERSON HILL: I think you should leave those stairs
3 the way they are.

4 MR. SULLIVAN: DPW disagreed with it or at least
5 especially about the retaining wall. So from there I will go to -
6 - please go to slide 12. Your question about what's across the
7 alley, I may ask the architect or the property owner about that.

8 I'm not sure if we have slides showing that or not, but
9 here, this is the site plan that shows you where the carriage
10 house is going. There's a walk-through so you can get through to
11 the back of the alley from the principal building as well. The
12 first floor will be a garage, so we still meet the parking
13 requirement and the second story, a small principal dwelling unit.

14 Next slide, please. So you can see the floor plan of
15 the garage.

16 Next slide, please. Showing the floor plan of the
17 dwelling unit above. Two slides.

18 Slide 16, please. There's an elevation and then the
19 next couple slides are -- show the elevations.

20 Next slide. So -- next slide, please. The criteria;
21 they're all special exception relief. We have the general
22 criteria, of course. This is in harmony with the purpose and the
23 intent of the regs. It's two -- it'll be two units on the
24 property which is permitted in the RF zone and will not tend to
25 affect adversely the use of neighboring properties.

1 Next slide, please. The specific requirements are the
2 light and air tests. So the accessory building itself is rather
3 small. There are other, several other, accessory buildings in the
4 back along this alley. It is -- technically, it's 14 feet in
5 height and just one story because it's measured from the grade
6 elevation at the inside of the property and so it's sort of tucked
7 into the elevation there.

8 And so for that reason, we don't believe there's any
9 impact on light and air, or privacy and it also does not
10 substantially -- next slide, please. All right. Next slide,
11 please. It doesn't substantially visually intrude upon the
12 character, scale, and pattern of houses along the street or the
13 alley frontage.

14 Next slide, please. Now, the other main criteria as you
15 referenced was that the application be referred to several
16 agencies and the DPD -- DPW letter that came in this morning notes
17 -- I'd say it has two main points. One is that it says that it
18 will be -- this project will be beneficial rather a detriment, but
19 it also asks that the applicant provide one month's advanced
20 notice of the commencement of construction because of potential
21 impacts during construction and the applicant is, of course, happy
22 to do that, happy to agree to do that.

23 I would like to ask either Mr. Jacobs or the architect
24 if you could talk about what's on the other side of the alley
25 across from the proposed site in response to Chairman Hill's

1 question.

2 MR. JACOBS: Okay. Thank you. Sorry. So on the other
3 side of -- actually that faces the property on the alley is my
4 neighbor's garage area. There is a portion of his house that
5 does, I would say approximately 25 percent of maybe my lot coming
6 from Otis Place where there is a window into their home that opens
7 up. A bathroom, or a bedroom, or whatever, but they do have
8 windows that are along that side of the alleyway.

9 My design, obviously, you can see, has the fins and I
10 will have blackout curtains. There is glazing that faces, you
11 know, the alleyway, but the fins will -- basically are designed to
12 restrict any direct view and also the blackout curtains will also
13 restrict any views of privacy as well.

14 CHAIRPERSON HILL: But Mr. Jacobs, you said there's also
15 glazing on the windows?

16 MR. JACOBS: For my design, yes. There are windows and
17 I don't know if you can see the façade, but there's basically
18 large-scale windows that are on the alley side of the design.

19 CHAIRPERSON HILL: Yeah, but they're glazed is what is -
20 - I can see the façade --

21 MR. JACOBS: Correct.

22 CHAIRPERSON HILL: -- but they're glazed? They're
23 glazed windows?

24 MR. JACOBS: Yes, they are.

25 CHAIRPERSON HILL: Okay. Does that neighbor across the

1 way know about this project?

2 MR. JACOBS: I've actually notified them before about
3 the project. I don't know if -- I haven't physically sent them
4 any information. We've had some discussions before just about the
5 back of my house and the trees and the retaining wall.

6 CHAIRPERSON HILL: Because in the -- I mean, what I'm
7 speaking to is in the Regulation, 5201.4(b), privacy not unduly
8 impacted because windows of the accessory building have been
9 positioned in such a way that they will not impact the privacy of
10 adjacent properties. I mean, you seem to be speaking to it and I
11 think I'm okay with it because I can see the, you know, whatever
12 you want to call it, the fins that you said, and then your
13 testimony is that those windows are glazed. So, okay.

14 Mr. Sullivan, you can come back on there.

15 MR. SULLIVAN: Okay. Thank you, Mr. Chair. So that's
16 it for our presentation. If the Board has any questions, I'm
17 happy to answer them.

18 CHAIRPERSON HILL: I got my question answered.
19 Commissioner May, do you have any questions?

20 COMMISSIONER MAY: I don't have a question, but I just
21 have a comment for the architect which is that this relates to the
22 relief having to do with setback from the center line of the
23 alley. This is a -- you know, that relief is commonly requested
24 and I think one of the reasons why we even have that regulation
25 has to do with the ability to access your property on the back and

1 I would just note that a 9-foot wide garage door opening on a --
2 what I guess is a 16-foot alley is very, very tight.

3 You know, my house borders a 15-foot alley and there are
4 a couple of people who can back into spaces in those alleys, but
5 they have very wide openings, so unless it's a very small car or a
6 really excellent driver, it's going to be a real challenge. So
7 whatever you can do to maximize that door opening, I would
8 strongly suggest that you do that. That's it.

9 MS. CORTEZ: Okay. Noted. Thank you.

10 CHAIRPERSON HILL: Okay. But then if you change that,
11 they'd have to come back to us, right?

12 COMMISSIONER MAY: Well, if we -- they tweak the door
13 opening from 9 feet to 10 feet, I mean, is that really going to --
14 I don't know. I mean, they shouldn't have to come back for that.
15 Maybe we need to write into the order granting some flexibility on
16 the width of the garage door.

17 CHAIRPERSON HILL: Right.

18 COMMISSIONER MAY: I don't think they can make the
19 garage itself any wider because of the constraints in the width of
20 the site.

21 CHAIRPERSON HILL: Okay. We can make -- they would have
22 to come back. I want them to come back unless if things -- if we
23 didn't put it in the order. Like every time we, you know -- I
24 don't like it that -- okay. Whatever. So we can talk about that
25 one later.

1 COMMISSIONER MAY: Yeah.

2 CHAIRPERSON HILL: All right. Ms. John, do you have any
3 questions?

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

5 CHAIRPERSON HILL: Mr. Smith?

6 MEMBER SMITH: No questions, Mr. Chair.

7 CHAIRPERSON HILL: All right. Let's see. Oh, Office of
8 Planning, please?

9 MS. ELLIOTT: Good evening, Mr. -- I'm not -- sorry,
10 we're not in the evening time. We're in the afternoon time. I'm
11 Brandice Elliott representing the Office of Planning for Case
12 20316 at 3578 13th Street. Office of Planning is recommending
13 approval of the three special exceptions that have been requested
14 by the applicant. We'll stand on the record of our report, but
15 I'm happy to answer any questions that you have.

16 CHAIRPERSON HILL: Okay. Does anyone have any questions
17 for the Office of Planning? Commissioner May?

18 COMMISSIONER MAY: Yes, I do. Just a quick one. So the
19 application -- the application is pretty explicit on meeting
20 relief from the requirement for the restriction on accessory
21 buildings within a required rear yard and, you know, the fact that
22 it has -- can be no more than 100 square feet and no more than 10
23 feet tall and this obviously doesn't fit that, but your report
24 doesn't address that as directly, but I just want to make -- I
25 mean, because I see sort of -- I see number citations, but not

1 necessarily references to those specific restrictions. So it's
2 your understanding that they do need relief from that specific
3 requirement, correct?

4 MS. ELLIOTT: Correct. I apologize if that was not
5 addressed as explicitly in our report as it should have been, but
6 yes, that is my understanding.

7 COMMISSIONER MAY: Oh, I apologize if it's in there and
8 I didn't catch it. Okay. No need to worry about that. Yeah, I
9 just -- you know, that -- I don't know that everybody here
10 understands the purpose of that restriction, but the whole idea is
11 that you could have that in a required yard. You could basically
12 have a shed in a required yard. It's not really intended to
13 address the condition of having an accessory building like a
14 garage at the back of your lot, so.

15 And I think -- I mean, did we -- aren't we in the
16 process of clarifying some of that or is that --

17 MS. ELLIOTT: I believe the --

18 COMMISSIONER MAY: -- (audio interference)?

19 MS. ELLIOTT: I believe there are some clarifications
20 moving forward. I can't speak to exactly what they are
21 unfortunately because I haven't been working on them, but I think
22 that is moving forward.

23 COMMISSIONER MAY: Well, neither can I apparently
24 because, you know, I've got a lot of zoning in my head, and
25 jackhammers, and things, and so it's a little hard to be clear on

1 every issue every time, but I appreciate being able to discuss it
2 with you. Thank you.

3 MS. ELLIOTT: Thanks.

4 CHAIRPERSON HILL: The jackhammers don't seem to be
5 going on right now, Commissioner. What are you talking about just
6 so I -- I want clarity on it so I know when it comes down the
7 pike.

8 COMMISSIONER MAY: So, I mean, there -- you know, we've
9 had these cases at BZA where, you know, people do not necessarily
10 appreciate the fact that that limitation on buildings that are
11 required, rear yard at 10 feet tall and 100 square feet. I mean,
12 it is really only intended to capture things like a tool shed that
13 can be in a yard that's otherwise a small yard and so it's come up
14 before.

15 I think that's something that we want to try to clarify
16 for people so that it's not -- you know, people don't look at this
17 and say, "Well, you could never have a garage that's 100 square
18 feet." It's like, "Well, yeah because it wasn't supposed to apply
19 in that circumstance." So I think we just wanted to try to
20 clarify some of that and I thought that was something that's, you
21 know, on the agenda for the Zoning Commission at some point
22 because we're tweaking. You know, whenever we find issues like
23 that, we try to clarify the regulations and I think it's in
24 process. I just don't remember for sure.

25 CHAIRPERSON HILL: So just to -- I'm just curious. I

1 know it's not what we're talking about right now. So it might get
2 tightened up is what you're saying?

3 COMMISSIONER MAY: Not necessarily tightened up. I
4 mean, we -- you know, the Zoning Commission has taken steps in the
5 last five years to make accessory buildings and accessory
6 apartments easier to construct and I don't see us backing away
7 from that. It's just a matter of clarifying, you know, when you
8 can put something into a required rear yard because we also are
9 concerned about constricting rear yards too much with, you know,
10 accessory buildings. So I don't expect anything is going to get
11 tightened up, but I think it'll be clarified.

12 CHAIRPERSON HILL: Okay. Thank you. I was just
13 curious. Thank you.

14 Mr. Smith, do you have any questions for the Office of
15 Planning?

16 MEMBER SMITH: No questions.

17 CHAIRPERSON HILL: Ms. John?

18 VICE CHAIR JOHN: No questions.

19 CHAIRPERSON HILL: Mr. Sullivan, do you have any
20 questions for the Office of Planning? No? You're shaking your
21 head no.

22 Mr. Young, is there anyone here who wishes to speak to
23 testify?

24 MR. YOUNG: We do not.

25 CHAIRPERSON HILL: Okay. All right. Let's see. Does

1 anybody have any final questions and if so, please raise your
2 hand?

3 Mr. Sullivan, do you have anything you'd like to add at
4 the end?

5 MR. SULLIVAN: No, thank you.

6 CHAIRPERSON HILL: Okay. All right. I'm going to close
7 the hearing and close the record.

8 Mr. Young, if you could please excuse everyone. Thank
9 you.

10 All right. Is the Board ready to deliberate? I see
11 everyone is fine with me. So I thought this was pretty
12 straightforward in terms of the relief being requested. I'm
13 learning something new after speaking with Commissioner May and
14 we'll see how things work moving forward. I do see, again, that I
15 would agree with the analysis of the Office of Planning as
16 provided, as well as that of DDOT, as well of the support of the
17 ANC. There are letters in support, again, from adjacent neighbors
18 and the question that I had, I am satisfied in terms of the
19 privacy of the home across the alley, so I will be voting in
20 favor.

21 Commissioner May, do you have anything you'd like to
22 add? He's saying no. Mr. Smith, do you have anything you'd like
23 to add?

24 MEMBER SMITH: No.

25 CHAIRPERSON HILL: Ms. John, do you have anything you'd

1 like to add?

2 VICE CHAIR JOHN: Nothing to add.

3 CHAIRPERSON HILL: Okay. In that case, I'll make a
4 motion to approve Application No. 20316 as captioned and read by
5 the Secretary, and ask for a second, Ms. John.

6 VICE CHAIR JOHN: Second.

7 CHAIRPERSON HILL: Mr. Moy, the motion has been made and
8 seconded. Could you please take a roll call vote?

9 MR. MOY: Mr. Chairman, there is one other -- well, just
10 that -- I'll bring that up after I do the vote count, the roll
11 call vote. So let's see. Where am I? So when I call your names,
12 if you would please respond with a yes, no, or abstain to the
13 motion made by Chairman Hill to approve the application for the
14 relief being requested. The motion was seconded by Vice Chair
15 John. Zoning Commissioner, Peter May?

16 COMMISSIONER MAY: Actually, did we want to clarify that
17 we are granting flexibility to widen the garage door?

18 CHAIRPERSON HILL: Thank you, Commissioner.

19 Let me remake the motion. So I make a motion to approve
20 Application No. 20316 as captioned and read by the Secretary
21 including flexibility for the widening of the garage door if the
22 applicant sees that that's something they can accommodate and ask
23 for a second, Commissioner May, since your microphone is off.

24 COMMISSIONER MAY: I'll second.

25 CHAIRPERSON HILL: All right.

1 So Mr. Moy, the motion has been made and seconded now by
2 Commissioner May. If you could, please take a roll call?

3 COMMISSIONER MAY: Yes. Thank you, Mr. Chairman. So
4 when I call your name, that you would please respond with a yes,
5 no, or abstain to the motion made by Chairman Hill to approve the
6 application for the relief requested along with a condition to
7 allow flexibility to widen the garage door. There's a second by -
8 - seconded by Zoning Commissioner Peter May. So let's start with
9 Mr. Smith.

10 MEMBER SMITH: Yes to approve.

11 MR. MOY: Vice Chair John?

12 VICE CHAIR JOHN: Yes.

13 MR. MOY: Zoning Commissioner, Peter May?

14 COMMISSIONER MAY: Yes.

15 MR. MOY: Chairman Hill?

16 CHAIRPERSON HILL: Yes.

17 MR. MOY: We have a Board seat vacant. Staff would
18 record the vote as 4 to 0 to 1 on the motion made by Chairman Hill
19 to approve with the condition as just cited, motion seconded by
20 Mr. Peter May. In support of the motion, Mr. Smith, Vice Chair
21 John, Zoning Commissioner Peter May, and Chairman Hill; 4 to 0 to
22 1.

23 I have one other thing Mr. Chairman because in the --
24 for the record, in the letter from the email that we received from
25 Mr. Spencer Hamm who is a battalion fire chief, he stated that a

1 formal letter would be emailed to the Board close of business
2 Thursday, November 19th, so I want to know whether or not the
3 Board would allow their formal letter into record which is in
4 support.

5 CHAIRPERSON HILL: Yes, please allow the -- please keep
6 the record open for the letter from FEMS.

7 MR. MOY: All right. Thank you, Mr. Chairman.

8 CHAIRPERSON HILL: Okay. So now this brings a choice in
9 terms of the remaining agenda. It depends on how hungry everyone
10 is, I guess. I think that we could either do -- we'd switch this
11 up a little bit. I mean, the last -- the Case 20320 seems to have
12 a lot of different people wishing to testify, so it's going to
13 take a little bit of time.

14 So we could start it and potentially finish, I suppose.
15 I don't know. I don't know whether we would finish by 1 o'clock
16 which is when we're going to lose a Board member, or do the next
17 case which I think is going to go -- not take as much time, and
18 then take lunch, and then come back for the case that has a lot of
19 testimony. It really just depends on how hungry everybody is.

20 So the choice is -- again, I love it. This is so
21 disappointing. I can't see you guys. This is actually where I
22 wish we were together because I don't really know what to do. You
23 know, either we hear a case and then take a break, or we can just
24 power through with the one that's going to have a lot of
25 testimony.

1 Ms. John, do you have an opinion?

2 VICE CHAIR JOHN: Yes, Mr. Chairman. I would go ahead
3 with the one, the modification of significance, which is 19466A
4 then take a break for lunch and continue with the last case.

5 CHAIRPERSON HILL: Okay. So, all right. Okay. There
6 we go. So that's easy enough for me then. Okay.

7 So let's go ahead, Mr. Moy. We're going to switch these
8 cases around. If you would call 19466A and then we'll take lunch
9 and then we will lose a Board member and then we'll come back.

10 MR. MOY: All right. Thank you, Mr. Chairman. So this
11 would be case Application No. 19466A of Beresford -- let me spell
12 that -- B-E-R-E-S-F-O-R-D, Davis and this is a request for a
13 modification of significance of BZA Order No. 19466 for relief
14 under Subtitle A, Section 304.13 from the modification
15 requirements of Subtitle A, Section 304.10(e), to increase
16 building height to a third story for a previously approved three-
17 unit apartment house RF-1 Zone at premises 1215 Holbrook Terrance,
18 Northeast, Square 4057, Lot 195.

19 CHAIRPERSON HILL: Okay. Before we start, there was
20 again an issue with the Register notice and this is, again, a
21 technical issue on our side wherein it was in the Register 26 days
22 instead of 40 days. All of the other notifications have gone out
23 and I don't have an issue with waiving that one area of notice
24 because everything else was posted correctly and all of the other
25 notices were in a timely matter. So unless the Board has an issue

1 and, if so, please raise your hand.

2 All right. I'm going to waive that one particular
3 notice requirement with the Register.

4 All right. After that, Mr. Davis, could you introduce
5 yourself, please?

6 MR. DAVIS: Beresford Davis, I'm the owner of 1215
7 Holbrook Terrace.

8 CHAIRPERSON HILL: Okay. Mr. Davis, so this is a
9 modification of significance. I guess if you could tell us a
10 little bit about your application and then also if you could kind
11 of talk through your experience with the ANC because I don't see a
12 report unless there's one here. I'm going to put 15 minutes on
13 the clock and, you know, tell us about your project and how you
14 believe that we should grant the relief requested and you can
15 begin whenever you'd like.

16 MR. DAVIS: In regards to the ANC, the ANC Commissioner
17 should be joining us shortly. She's already registered to
18 testify, so I did receive a unanimous decision from the ANC, but
19 again she should be joining us shortly so she can tell you that.

20 CHAIRPERSON HILL: Mr. Davis, what is her name?

21 MR. DAVIS: Commissioner Shropshire.

22 CHAIRPERSON HILL: All right. Maybe Mr. Young can look
23 for her.

24 MR. DAVIS: Yeah. She should be joining us shortly.
25 She had to go to a meeting or something, but she's -- she knows we

1 are on, so she's going to be on shortly.

2 CHAIRPERSON HILL: Okay.

3 MR. DAVIS: Okay. In regards to the case, so this was a
4 case that was brought to you guys back in 2017. I'm just going to
5 jog your memories, but this was a four-unit building that was
6 converted to a two-unit back in 2003. Then sometime in 2006, I
7 wanted to go back to a four-unit, then I came to the BZA and I was
8 allowed to go up to three units instead of the four units.

9 So that order was back in 2017 which was the original
10 case, 19466. And at that time, there was an issue of the third
11 floor. Again, I brought that issue up back then with the BZA
12 zoning technician and I was told that at the time that my third-
13 story was a matter of right and that did not need to be addressed
14 with the BZA.

15 So fast-forward two more years, I put my plans into DCRA
16 to do my project and the third-story came up and that's where
17 we're at and so I had to come back for -- to modify the previous
18 order. We had a hearing, I think, back in April if I'm not
19 mistaken and you guys had asked me to revise and address the
20 issues of 320.2, I think it was. One second. Let me find the
21 order.

22 It was 320 -- Section 320-2(e), (g), (h), and (i) and
23 all those have been addressed. Again, the OP is in support of
24 this application and the ANC is in support of this application and
25 I think that as a matter of right, you know, I'm allowed the 35

1 feet for the three stories, so that's what my case is.

2 CHAIRPERSON HILL: Okay. I'm just looking through your
3 old record. Do you have any questions for the applicant?

4 COMMISSIONER MAY: I do not.

5 CHAIRPERSON HILL: Mr. Smith? No?

6 Ms. John, do you have any questions?

7 Commissioner Shropshire, I see you're here; is that
8 correct?

9 MS. SHROPSHIRE: Here.

10 CHAIRPERSON HILL: Commissioner, you might be on mute if
11 you're trying to speak. You are on mute. I don't know if you can
12 hear me.

13 MS. SHROPSHIRE: I just can't unmute myself. Are you
14 there? Okay. Hi, this is Commissioner Shropshire, 5D02, ANC 5D.
15 I just wanted -- I came to testify just to share with everyone
16 that we voted to support Mr. Davis' application. It was a 5-0-0
17 vote, and we had a quorum on November 10th. I was unable to
18 submit the paperwork by today, but I do have the Vice Chair and
19 the Chairperson reviewing and submitting agreements on that. So I
20 can submit it still, but I wanted to make sure that I went on the
21 record saying that we did vote to support this project.

22 CHAIRPERSON HILL: Okay, Commissioner. Well, thank you
23 so much for taking the time to be with us and it's very helpful.
24 And yes, we'll leave the record open regardless of what happens
25 here today for that report from your ANC.

1 MS. SHROPSHIRE: Okay. Can I just add one thing? The
2 only thing that we did, one of the questions that I asked Mr.
3 Davis was about a setback or a pushback for the project that he's
4 doing. He's adding a third level, so one of the questions I think
5 that the zoning subcommittee had was whether or not the third
6 level was going to be pushed back a little bit from the street,
7 you know, from the entrance. So that was just one of the
8 questions that came up, but other than that every -- we were in
9 support of his minor modification, so.

10 CHAIRPERSON HILL: Mr. Davis, can you respond to the
11 Commissioner?

12 MR. DAVIS: In regards to the setback for the third
13 story, it's going to be behind the existing break line. I'm not
14 sure of the exact measurements, but if you can look at the plans
15 on the record it shows that there's a break, existing break in the
16 existing architecture in the front which we are not going to
17 change. So the setback, I believe, it's maybe -- I think it's
18 maybe 18 inches or whatever that break is in the front. I'm not
19 sure of that exact measurement, but it's in the plans that's on
20 the record.

21 CHAIRPERSON HILL: So Commissioner -- I mean, I'm
22 looking at the plans also. I mean, it's not setback by much if
23 that's -- you know, it's not -- you know, I can have the Office of
24 Planning speak to that. I don't think -- but do you know if that
25 changes the opinion of the -- I mean; I guess you can't speak for

1 the whole ANC. I mean, do you understand what you -- did you
2 understand what you all were voting on?

3 MS. SHROPSHIRE: Yes, we did and so it wouldn't change
4 it. It was just an inquiry that I had for Mr. Davis.

5 CHAIRPERSON HILL: Got it. Okay. All right. Well,
6 Commissioner, you guys are a party so you can remain with us here.

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

8 MS. THOMAS: Good afternoon, Mr. Chairman, and members
9 of the Board. Karen Thomas for the Office of Planning. We are in
10 support of this application. We just wanted to note that with
11 respect to the text amendment changes, the Zoning Commission 19 --
12 Case 1921 would request that the change reflect just a special
13 exception relief pursuant to Subtitle 9. We are still in support
14 of the application even with respect to that amendment. So the
15 application is still -- satisfies the criteria which is a special
16 -- just a claimed special exception criteria.

17 CHAIRPERSON HILL: Okay.

18 MS. THOMAS: Thank you.

19 CHAIRPERSON HILL: I just know just -- I mean, just
20 because the Commissioner asked, the setback is not required,
21 correct?

22 MS. THOMAS: No.

23 CHAIRPERSON HILL: Yeah. Okay.

24 All right. Does anybody have any questions for the
25 Office of Planning? Commissioner May? No.

1 Mr. Smith? No.

2 Ms. John? No.

3 Commissioner Shropshire, do you have any questions for
4 the Office of Planning?

5 MS. SHROPSHIRE: I do not.

6 CHAIRPERSON HILL: Thank you.

7 Mr. Davis, do you have any questions for the Office of
8 Planning?

9 MR. DAVIS: No, I do not.

10 CHAIRPERSON HILL: Okay. Mr. Young, is there anyone
11 wishing to testify?

12 MR. YOUNG: We do not have anyone.

13 CHAIRPERSON HILL: Got it.

14 Does anyone have any final questions and if so, please
15 raise your hand?

16 Mr. Davis, do you have anything you'd like to add at the
17 end?

18 MR. DAVIS: No, I do not.

19 CHAIRPERSON HILL: All right. Okay. Then I'm going to
20 go ahead and close the record and the hearing. Mr. Young, if you
21 can excuse everyone. Thank you, very much. Thank you,
22 Commissioner.

23 Well, Commissioner May, why don't you start us off. I'm
24 tired.

25 COMMISSIONER MAY: I think this is pretty

1 straightforward. It is sort of interesting, the evolution of the
2 project and hearing the history of it from the applicant, but I
3 don't see any issues with this. Certainly it's very helpful to
4 have heard directly from Commissioner Shropshire about the ANC's
5 vote. I think that was the one piece that might have been missing
6 from this, so I don't have any problem with moving forward with
7 the approval of it, so.

8 CHAIRPERSON HILL: Mr. Smith?

9 MEMBER SMITH: I agree with Commissioner May. I feel
10 like this is fairly straightforward. It would have fairly limited
11 impact to the surrounding properties especially because it's at
12 the bottom of a hill from a visual intrusion standpoint, so I have
13 no problems with supporting the modification.

14 CHAIRPERSON HILL: Vice Chair John?

15 VICE CHAIR JOHN: So I agree with the application. The
16 only thing that I would add is that since the application was
17 filed, the (audio interference) section was amended and now it is
18 more streamlined and verifies the intent of the regulation. So as
19 modified, the applicant meets the requirements of Subsection U,
20 320.2 related to a building that exists on the property and there
21 is 900 square feet per unit. It's in a (audio interference) an
22 existing building. Only three units are proposed, and I will
23 accept and give credit to OP's analysis of how the applicant meets
24 the special exception requirement.

25 CHAIRPERSON HILL: Okay. All right. Thank you. I

1 don't have anything to add. I will agree with my colleagues. I'm
2 going to make a motion to approve Application No. 19466A as
3 captioned and read by the Secretary and ask for a second, Ms.
4 John.

5 VICE CHAIR JOHN: Second.

6 CHAIRPERSON HILL: The motion was made and seconded.
7 Mr. Moy, could you 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
10 the motion made by Chairman Hill to approve the application for
11 the relief requested and -- well, actually it's the request for a
12 modification of significance to BZA Order No. 19466. This is
13 seconded by Vice Chair John. So Zoning Commissioner, Peter May,
14 your vote?

15 COMMISSIONER MAY: Yes.

16 MR. MOY: Mr. Smith?

17 MEMBER SMITH: Yes.

18 MR. MOY: Vice Chair John?

19 VICE CHAIR JOHN: Yes.

20 MR. MOY: Chairman Hill?

21 CHAIRPERSON HILL: Yes.

22 MR. MOY: We have a Board seat vacant, but we record the
23 vote as 4 to 0 to 1 and this on the motion of Chairman Hill to
24 approve, seconded by Vice Chair John, also in support Zoning
25 Commissioner Peter May and Mr. Smith and, of course, Vice Chair

1 John and Chairman Hill. Motion carries, sir.

2 CHAIRPERSON HILL: Okay. Thank you.

3 All right. So we'll go ahead and take a lunch and then
4 we'll come back just for, you know, we're going to -- everybody
5 will figure it out when they -- we're going to lose Vice Chair
6 John.

7 So to Commissioner May and Mr. Smith, how much time do
8 you all want for lunch?

9 COMMISSIONER MAY: You know, 20 minutes would be plenty
10 for me.

11 CHAIRPERSON HILL: All right. (Audio interference).
12 Let's do 45 minutes.

13 COMMISSIONER MAY: All right. Forty-five?

14 CHAIRPERSON HILL: Yeah, 45.

15 COMMISSIONER MAY: So we're going to come back at 1:08?

16 CHAIRPERSON HILL: All right. Let's shoot for 1
17 o'clock. Is that -- Mr. Smith, that good?

18 MEMBER SMITH: All right. That's good.

19 CHAIRPERSON HILL: All right. Ms. John, you take care.
20 Bye-bye.

21 (Whereupon, the above-entitled matter went off the
22 record and resumed at 1:04 p.m.)

23 MR. MOY: Thanks, Mr. Chair. The hearing is back in
24 session after a quick lunch break and the time is at or about
25 1:04. And the case before the Board is Application No. 20320 of

1 5900 Foote, LLC. It's -- let's see. It is captioned and
2 advertised for a special exception under the use restrictions of
3 Subtitle U, Section 421.1 to construct a new 16-unit apartment
4 house, RA-1 Zone at premise 5900 Foote Street Northeast, Square
5 5256, Lot 805.

6 And I would ask the applicant, Mr. Chairman, if he may,
7 about the applicant's filing of the PowerPoint, site plan, and
8 parking diagram; whether that was submitted before the 24-hour
9 period. I'm not clear on that, but there you go.

10 CHAIRPERSON HILL: Okay. Let's see. Mr. Bello, could
11 you introduce yourself, please?

12 MR. BELLO: Good afternoon, Mr. Chair, and Board
13 Members. Olutoye Bello on behalf of the applicant.

14 CHAIRPERSON HILL: And who is with you here, Mr. Bello?

15 MR. BELLO: I believe the owners are online, Mr. Deraney
16 (ph), and Fatukasi, and then the architect, Mr. Bostan. They all
17 should be online.

18 CHAIRPERSON HILL: All right. Mr. Fatukasi, could you
19 please introduce yourself for the record?

20 MR. FATUKASI: Yeah. My name is Omololu Fatukasi. I'm
21 one of the partners of 5900 Foote Street, LLC.

22 CHAIRPERSON HILL: Okay. Mr. Fatukasi, are you going to
23 be using your camera?

24 MR. FATUKASI: No, sir.

25 CHAIRPERSON HILL: Okay. Mr. Bostan, can you introduce

1 yourself, please?

2 MR. BOSTAN: Good afternoon everybody. My name is
3 Sahnur Bostan with Axis Architects. I am the architect for this
4 project.

5 CHAIRPERSON HILL: Okay. And is that Ms. Gaffney there?

6 MS. GAFFNEY: Could you hear me?

7 CHAIRPERSON HILL: Yes.

8 MS. GAFFNEY: Oh, all right.

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

11 MS. GAFFNEY: Oh, I'm Commissioner Gaffney, ANC 7C.

12 CHAIRPERSON HILL: Hi, Commissioner. Welcome.

13 MS. GAFFNEY: Thank you. Hi.

14 CHAIRPERSON HILL: Are you going to be using your
15 camera? It's okay, I just want to know.

16 MS. GAFFNEY: Are you talking to me?

17 CHAIRPERSON HILL: Yeah. I'm just making sure you're
18 not using your camera just so I know.

19 MS. GAFFNEY: No, I'm just using --

20 CHAIRPERSON HILL: The phone?

21 MS. GAFFNEY: Yeah.

22 CHAIRPERSON HILL: Your audio?

23 MS. GAFFNEY: Oh, no. I'm --

24 CHAIRPERSON HILL: Ms. Gaffney, are you just --
25 Commissioner Gaffney, are you just using your audio? I just want

1 to confirm that.

2 MS. GAFFNEY: Yes, yes.

3 CHAIRPERSON HILL: Okay. All right. No problem.

4 MS. GAFFNEY: Thank you.

5 CHAIRPERSON HILL: Okay. You can go ahead and mute
6 yourself Commissioner.

7 MS. GAFFNEY: Okay.

8 CHAIRPERSON HILL: Mr. Bostan -- yeah. Mute yourself
9 please as well.

10 Mr. Bello, all right. So I'm going to go ahead and let
11 you walk us through your presentation, Mr. Bello. As always, if
12 you could tell us why you believe your applicant is meeting the
13 standard and criteria for us to grant the application. As you
14 know, there are -- there's opposition from the ANC as well as
15 several other people.

16 I guess I would go ahead and just start, if you could,
17 you know, going through the presentation, again, as you're meeting
18 the criteria for us to grant your client's relief and you can --
19 I've got 15 minutes on there just so I know where I am and you can
20 begin whenever you like.

21 MR. BELLO: Thank you very much, Mr. Chair. The
22 application before you is for a special exception to construct a
23 new 16-unit apartment building in a property that is zoned RA-1.
24 That is the only relief that the applicant is asking for. The
25 applicant complies with every other development standard the

1 applicant had to in this zone district.

2 So we only have the three criteria for a special
3 exception to apply and if Mr. Young can -- thank you, very much.
4 The second page.

5 CHAIRPERSON HILL: Mr. Bello?

6 MR. BELLO: Yes, sir?

7 CHAIRPERSON HILL: Mr. Moy had mentioned something about
8 the 24 hours. Was he speaking about your PowerPoint?

9 MR. BELLO: Yeah. He was speaking about two documents
10 actually, the PowerPoint and -- I -- you know, unless the Board
11 grants leave to accept it, I really don't need to upload that.
12 But the other more critical document is the revised site plan that
13 actually shows a little bit more parking spaces than originally
14 planned. That I would ask leave for that to be uploaded. In
15 other words, it was not uploaded in the 24-hour period, so asking
16 for leave of the Board to accept it into the record.

17 CHAIRPERSON HILL: Okay.

18 Mr. Moy, can you get us that site plan?

19 MR. MOY: I believe so. I'll have to go to staff and
20 have staff email it directly to the Board.

21 CHAIRPERSON HILL: Okay. Well, that --

22 MR. MOY: As well as uploading it into the record.

23 CHAIRPERSON HILL: Yeah, if --

24 MR. MOY: Yeah.

25 CHAIRPERSON HILL: Unless the Board has any issues, I

1 would like to see the site plan, so you can just speak up if you
2 do. Otherwise, Mr. Moy, please enter the site plan into the
3 record as well as this PowerPoint presentation. The PowerPoint
4 presentation everyone has seen and so if you can get the site plan
5 up there, that would be great and then send that to the Board.

6 Mr. Bello, you can go ahead and begin.

7 MR. BELLO: Thank you. So the -- again, the relief
8 sought in this application is for special exception under Section
9 421.1 to establish this use in its underlying RA-1 zone. Though
10 the nature -- that's the nature of relief sought. So the -- if
11 you'll go to the first page, please. (Audio interference.) That
12 would be the compliance and the burden of proof. There we go.

13 So the first criteria is that the Board can grant this
14 special exception if the application is in harmony with the
15 general purpose of the Zoning Regulations and Maps, and the items
16 below that is what applicant presents as a basis of compliance
17 with this criteria.

18 The use is a special exception and special exceptions
19 are deemed a permitted use in its underlying zone subject to the
20 conditions of approval that's set forth by our applicant, which
21 should be application. The project complies with the purpose of
22 the RA-1 zone district as set forth under Section 300.1(a) which
23 permits all types of other residential development provided that
24 they conform to the (audio interference) development standards.
25 As aforementioned, the project conforms to all other development

1 standards including height, density, and area requirement.

2 The second criteria on the next page is that the use
3 will have to -- tend not to affect adversely the use of a
4 neighboring property. The proposed building is free-standing and
5 not attached to any other adjoining structure. The proposed
6 project is separated from the face of a wall of an adjoining
7 property, only one to the east; distance approximately 37 feet.
8 All other property are separated by public alley streets, public
9 alleys or streets, a minimum of 15 feet wide or more than 60 feet,
10 respectively.

11 The proposed use meets and exceeds the minimum of
12 required parking spaces. Because the property is within a high
13 transit priority corridor, the parking requirement of four is
14 reduced by 50 percent. The project originally only provided three
15 parking spaces, but in response to community concerns, we've
16 increased those number of parking spaces to five which is the
17 subject of the revised site plan that will be provided for you.

18 In agreement with DDOT's report, the impact on
19 increasing vehicle traffic, pedestrian or bicycle trips are
20 available, on-street parking is minimal. This is not a park
21 street. It's not a residential permit park street, so the site
22 plan would show that the property can provide at least six other
23 parking spaces, right in front of the property parking space.

24 Next page, please. The special exception can be granted
25 if the project meets the special conditions specified. One of

1 those conditions is the adequacy of existing and planned area
2 schools to accommodate residents. The number of dwelling units
3 here are 16, not very significant. The number of dwelling units
4 are not substantial or significant enough to impact the capacity
5 of the existing or planned schools. There are no comments from
6 the school board in the records to the contrary.

7 Public streets, recreation and other services to
8 accommodate residents. Subject property is deemed somewhat
9 walkable in light of its walkability score of 65 and bikeable
10 score of 57. The property is within 0.6 miles of the blue --
11 Metro Rail Blue Line, 1.3 miles of the orange -- Metro Rail Orange
12 Line. Bus lines in close proximity are X90 -- X9 is 0.1 miles;
13 V2, 0.1 miles; V4, 0.1 miles; V14, .03 miles; and F14, 0.3 miles.

14 Nearby parks, Marvin Gay Park, Woodson Recreational
15 Center. Properties there for (audio interference) by proximity to
16 public streets, recreation and other services to accommodate
17 (audio interference.)

18 Last page, please. So applicant complies with the three
19 criteria for the granting of special exception. The Office of
20 Planning recommends approval of the project. DDOT has no
21 objection to the application and actually deems the potential
22 impact on parking and any other elements to be very minimal,
23 therefore applicant respectfully requests that the Board grant the
24 relief sought for all the foregoing reasons.

25 The design team, the architect, can walk you through

1 building design which we arrived at in close consultation with the
2 Office of Planning. I'm handing it to you now. Mr. Bostan?

3 MR. BOSTAN: Hi, yes. That is correct. We did
4 correlate the design with the Office of Planning, and they can
5 speak to it as well. I don't know if you guys can see the Exhibit
6 31. You can see on the first page the final proposed building
7 look. We increased the amount of brick in the building to carry
8 it to the back side and we played with the proportions of the bay.
9 We also discussed this with Chris Shaheen at the Office of
10 Planning, and we believe the building look improved considerably
11 in coordination with the Office of Planning. And if there are any
12 design-related questions, I can answer them.

13 CHAIRPERSON HILL: Mr. Bello, you guys aren't requesting
14 parking relief, correct?

15 MR. BELLO: We're not, sir, no.

16 CHAIRPERSON HILL: And so I haven't seen the site plan
17 and how -- again, how many parking spots are you providing?

18 MR. BELLO: So originally there were three designed
19 parking spaces, one handicap. Again, in response to the community
20 concerns about parking, we have been able to come up with two
21 additional parking spaces. So, in effect, we're providing a total
22 of five which is one in excess of what the project would have been
23 required to provide without the incentive of proximity to a
24 priority corridor.

25 CHAIRPERSON HILL: And were you -- I'm looking at your

1 old site plan. Where are you providing the two additional spots?

2 MR. BELLO: Mr. Bostan, do you want to --

3 MR. BOSTAN: Yes. We are providing it on the north side
4 of the property at the alley next to the -- next to where the
5 trash is shown. So we have two additional compact spaces there,
6 but I have the site plan. If I can share, if that will help, that
7 didn't get uploaded.

8 CHAIRPERSON HILL: Sure. Is there a way to share, Mr.
9 Young?

10 MR. BOSTAN: I don't -- yeah, I don't have my share
11 button.

12 MR. YOUNG: If it's an exhibit, if you give me the
13 exhibit number, I can look for it.

14 MR. BOSTAN: Yeah. This is something that we were
15 discussing that couldn't get uploaded because of the 24-hour
16 notice.

17 CHAIRPERSON HILL: Oh, it's the site plan. Okay. Hold
18 on. Give me a second, Mr. Bostan. And now I'm just curious about
19 something else.

20 Mr. Young, there's not a way to -- the applicants can
21 share their screen, correct?

22 MR. YOUNG: They can. It just can get a little
23 complicated, but --

24 CHAIRPERSON HILL: I mean, that's all right. That's all
25 right. It's something maybe Mr. Moy we can try to figure out

1 later.

2 COMMISSIONER MAY: Can I interrupt? I mean, I'm seeing
3 a new site plan at Exhibit No. 48.

4 MR. YOUNG: Did it just come up there then?

5 COMMISSIONER MAY: I don't know.

6 MR. MOY: Yeah, the staff was putting that into the work
7 area as well as sending it to you individually, so if you haven't
8 seen it yet, it's on the way.

9 CHAIRPERSON HILL: Yeah. Mr. Young, maybe you can bring
10 up Exhibit 48.

11 MR. MOY: Yeah. That would be good, Mr. Young.

12 MR. YOUNG: All right. Okay.

13 CHAIRPERSON HILL: Oh, that's great. Sorry, I don't
14 know. If you're trying to, that's fine. I just want to make sure
15 you're trying.

16 MR. YOUNG: I am. I'm working on it, but it's (audio
17 interference).

18 CHAIRPERSON HILL: No problem. No problem.

19 Mr. Bello, while that's being pulled up, can you talk
20 about -- again, what's the IZ component of this?

21 MR. BELLO: So the two IZ units that are to be dedicated
22 to comply with the set-aside requirements for the IZ provision.

23 CHAIRPERSON HILL: Okay.

24 MR. BOSTAN: So the additional parking spaces are, as
25 you can see and I pointed out, next to the dumpster. There are

1 two compact spaces along the alley.

2 CHAIRPERSON HILL: Okay. Yeah, it's easier for me to
3 see on my screen.

4 All right. Mr. Young, you can drop that down if you
5 don't mind.

6 Okay. Mr. Bello, your on-street parking; is that just -
7 - that's just -- you're just showing parking that's available. Is
8 that what you're trying to show?

9 MR. BELLO: That's correct, yes.

10 CHAIRPERSON HILL: Right. And that's not dedicated to
11 your building. You're just showing parking that's there, correct?

12 MR. BELLO: That's correct. It's not.

13 CHAIRPERSON HILL: Okay.

14 Let's see. Commissioner May, do you have any questions
15 for the applicant?

16 COMMISSIONER MAY: I do. Is there somewhere in the
17 drawings where you've indicated where the IZ units will be?

18 MR. BOSTAN: I have not, but I can tell you the unit
19 number if you give me a second. There are two two-bedroom units.
20 I believe they're on the -- one of them is -- okay, let me look at
21 it. Sorry. So Unit 8 and Unit 12. I hope I named them on the
22 exhibit. Yep, so Unit 8 is on Exhibit 31, page 7. It is a first-
23 floor unit, Unit 8, and Unit 12 is on the second floor. Again,
24 it's a two-bedroom unit.

25 CHAIRPERSON HILL: I'm just curious. What's the AMI for

1 those?

2 MR. BELLO: I'm afraid I didn't look that up, but the --
3 as you probably know, the project would have to record a covenant,
4 the IZ covenant, that would be consistent with the rent schedules
5 published by the Mayor.

6 CHAIRPERSON HILL: Okay. Maybe OP can tell me just
7 because I'm curious.

8 Commissioner May, you still have more questions? You
9 were about to say something.

10 COMMISSIONER MAY: No. The only thing I would say is
11 that I think we would want to have a drawing that indicates which
12 units those are. I mean, I know we have it in testimony, but we
13 need a mark-up of that or something or we just need to, I don't
14 know, make it part of the order in some way that it's going to be
15 Units 8 and 12. I mean, the concern is that we wouldn't want to
16 have the, you know, both of the IZ units put into the -- on the
17 cellar level. I think they need to be above grade.

18 MR. BOSTAN: Yes, we understand.

19 COMMISSIONER MAY: By regulation, they have to be above
20 grade.

21 MR. BOSTAN: Yeah, they have to be above grade. They
22 cannot be in the cellar.

23 COMMISSIONER MAY: Yeah. Okay. So I guess I'm not -- I
24 shouldn't be so worried about it. It's been a while since we've
25 wrote that regulation. I couldn't remember.

1 CHAIRPERSON HILL: Okay.

2 MR. BOSTAN: Okay.

3 CHAIRPERSON HILL: Mr. May, do you have any more
4 questions?

5 COMMISSIONER MAY: No.

6 CHAIRPERSON HILL: Mr. Smith?

7 MEMBER SMITH: I just have one question. I have one
8 question to the architect, Mr. Bostan. So --

9 CHAIRPERSON HILL: All right. Mr. Smith --

10 MEMBER SMITH: -- (audio interference).

11 CHAIRPERSON HILL: Mr. Smith, I lost you. Oh, there you
12 go.

13 MEMBER SMITH: Okay. I was on a video call. What is
14 the height of this proposed building relative to the adjacent
15 properties, preferably the apartment buildings to the east along
16 Eastern Avenue?

17 MR. BOSTAN: They are concerned about -- if you look at
18 Exhibit -- again, on Exhibit 31, we have some images. Again, this
19 is a garden apartment, three-story garden apartment. The required
20 height is 40 feet for the zone, and we are slightly below it. So
21 if you look at page 3 of the Exhibit 31, I believe Photo No. 5
22 shows you the apartments along Eastern Avenue. So they are three-
23 story apartments. We are also three-story apartments, and you see
24 the alley entrance there.

25 MEMBER SMITH: Okay. So are you roughly in line with

1 the height of those buildings?

2 MR. BOSTAN: Correct.

3 MEMBER SMITH: Okay. Thank you.

4 MR. BOSTAN: Okay.

5 CHAIRPERSON HILL: When you say "roughly," Mr. Bostan,
6 I'm just curious. What does that mean "roughly in line"?

7 MR. BOSTAN: Again, let me look at the height, but these
8 are three-story apartment buildings and we are a three-story
9 apartment building and, I mean, I don't know how high these are,
10 but we are limited to 40 feet, so we are within the limited height
11 at three stories. So within a couple of feet I would say.

12 CHAIRPERSON HILL: Okay. Thank you.

13 MR. BOSTAN: No problem.

14 CHAIRPERSON HILL: Okay. Let's see. Commissioner, can
15 you hear me?

16 MS. GAFFNEY: Yes, Mr. Chairman?

17 CHAIRPERSON HILL: Yes. Can you hear me?

18 MS. GAFFNEY: Yes.

19 CHAIRPERSON HILL: Commissioner, do you -- would you
20 like to testify and give us your testimony?

21 MS. GAFFNEY: Yes, Mr. Chairman. My Chairman, Mr.
22 Holmes is here, so I will let him speak. We were just filling in
23 because he had a meeting earlier and he didn't think he was going
24 to be able to come in. So he is here now, so you'll have to let
25 him testify.

1 CHAIRPERSON HILL: Okay. Commissioner, can you
2 introduce yourself or do you want to --

3 COMMISSIONER HOLMES: Yes. Commissioner Antawan Holmes,
4 Commissioner of ANC 7C. We met with the -- I've already sworn in.
5 We met with the applicants just back last week to discuss this
6 project and as we usually do, as they -- as we get your
7 announcements, we make sure we have them go to the most effected
8 neighborhood to have the first conversation with the community
9 about what they want to build. From those discussions that
10 happened on, I believe, the 9th of this month, it was brought to
11 our attention they were not able to come up with a CBA to
12 determine like the issues that the community had with the project.

13 Really it comes down to when are the construction hours
14 going to be done for this project, what its affect -- because of
15 its density on that street parking, we know that the rules have
16 been modified so not as much parking is proposed immediately on
17 the building, but what we've seen from a lot of the other projects
18 in 7C that if we really don't have a good parking plan determined
19 prior to getting this project done, we end up having a lot of
20 issues with an excessive amount of cars on the streets.

21 And that's usually sometimes due, as some of our
22 constituents were saying, is basically the affordability of some
23 of the housing. Sometimes you see people doubling up to live in
24 these places and that usually, because of Ward 7 and the distance
25 of our amenities -- sorry, we have -- they're doing work right now

1 -- list of the amenities, the lack of amenities in our area, we
2 end up seeing, you know, one bedrooms with two folks in it and
3 that's two cars. Looking at how the street is configured, the
4 community is really concerned about the load that would be on that
5 street based on a 16-unit apartment at that location. So that's
6 one of the bigger issues that came up from that meeting.

7 And again, the other things that we would like to see in
8 a lot of these projects, especially a commercial project, is to
9 start having the CBA to talk about, you know, job fairs for local
10 hires, again, I had mentioned construction hours and other issues.
11 So at this time based on that when we had our meeting on the 12th,
12 we pretty much -- we opposed it, but we did tell the owner and his
13 -- the applicant and his representative that we do -- if they can
14 come back and start addressing some of these issues with the
15 community, we would like to continue to have the conversation to
16 work forward, to move forward with the discussion about the
17 project.

18 CHAIRPERSON HILL: Okay. Well, Commissioner, thanks for
19 joining us. It's nice to see you again.

20 COMMISSIONER HOLMES: Good to see you as well.

21 CHAIRPERSON HILL: You're growing out a COVID beard like
22 me, huh?

23 COMMISSIONER HOLMES: Yours is getting really good since
24 the last time I saw you online. It's filling in real good since
25 that last time I came on, so yeah.

1 CHAIRPERSON HILL: Thanks for the -- well, yours looks
2 pretty good too. I got to tell you. It looks good.

3 COMMISSIONER HOLMES: I shaved this, okay. It was
4 getting a little too unwieldy.

5 CHAIRPERSON HILL: Yeah, all right.

6 Let's see. Well, Commissioner, I guess, you know, for
7 me and we'll hear from other people as we're kind of going through
8 this. I guess kind of like the CBA is something that isn't --
9 it's more like a, you know, as you know, it's a --

10 COMMISSIONER HOLMES: I know.

11 CHAIRPERSON HILL: -- Zoning Commission thing more than
12 it is for us and the parking, I guess, we can kind of talk about
13 in terms of whether they're meeting their parking requirements,
14 but I'm glad if you guys are talking and, again, the job fair
15 stuff is outside of our purview as well.

16 COMMISSIONER HOLMES: I understand.

17 CHAIRPERSON HILL: Yeah, but I appreciate you putting
18 the stuff down. I mean, you guys can -- you know, we want to hear
19 from you and as you do know, the things that we are limited to.

20 COMMISSIONER HOLMES: Yeah.

21 CHAIRPERSON HILL: But so I'm going to talk to the
22 Office of Planning when it gets to the hours of the construction.
23 I think they're just kind of the normal hours of construction, I
24 would assume, but do you -- you were about to say something?

25 COMMISSIONER HOLMES: I was just saying that normal

1 hours -- I understand. When DCR gives a permit, it's 7:00 to 7:00
2 and we usually have those type of conversations at the community
3 level to understand what's going on, what kind of construction,
4 when the loud banging versus the soft work is going to be done.

5 But what we've definitely noticed, especially during the
6 pandemic, is that a lot of people are working from home now and so
7 those hours of the heavy banging usually corresponds with people's
8 meetings, as well as myself, having to do all of this
9 homeschooling that we're doing nowadays with the young ones, so
10 we're -- my -- our community is getting very sensitive about
11 construction especially when we're literally trying to be online
12 from 8:15, 8:45 to about 3 o'clock with just classwork that if I
13 start -- we hear a whole bunch of banging, I'm -- we're -- yeah,
14 it's -- distracted easily shall we say.

15 CHAIRPERSON HILL: Sure.

16 COMMISSIONER HOLMES: So we want to start limiting that
17 kind of stuff a little better.

18 CHAIRPERSON HILL: Yeah.

19 COMMISSIONER HOLMES: Yes, sir.

20 CHAIRPERSON HILL: I mean, Commissioner May is smiling
21 there because he has a jackhammer running right next to him.

22 COMMISSIONER HOLMES: I believe it, yeah. We've got
23 some stuff going on right now, so. Yeah, it's --

24 CHAIRPERSON HILL: Yeah.

25 COMMISSIONER HOLMES: -- new issue and that's why --

1 | there's more people -- there was plenty of folks that came to our
2 | meeting and I was informed that they wanted to talk about this,
3 | so. Yes, definitely.

4 | CHAIRPERSON HILL: Again, I mean, I don't know. This
5 | isn't the first time this is being mentioned to us --

6 | COMMISSIONER HOLMES: Yeah.

7 | CHAIRPERSON HILL: -- and unfortunately, that one is way
8 | above my pay grade.

9 | COMMISSIONER HOLMES: I know.

10 | CHAIRPERSON HILL: The -- you know, changing hours of
11 | construction --

12 | COMMISSIONER HOLMES: Yeah.

13 | CHAIRPERSON HILL: -- but all right, let's see. Does
14 | anybody have any questions for the Commissioner? Commissioner
15 | May?

16 | Mr. Smith?

17 | MEMBER SMITH: No.

18 | CHAIRPERSON HILL: Mr. Bello?

19 | Okay. All right. Commissioner Holmes, give me a minute
20 | there. If you just wouldn't mind muting your microphone and then
21 | I'll turn to --

22 | COMMISSIONER HOLMES: Not a problem.

23 | CHAIRPERSON HILL: -- Office of Planning next. Thank
24 | you.

25 | Could I hear from the Office of Planning, please?

1 MS. FOTHERGILL: Good afternoon Chairman Hill and
2 members of the Board. I'm Anne Fothergill with the Office of
3 Planning in BZA Case 20320. This is -- this requires a special
4 exception for a new multi-family residential development in the
5 RA-1 zone under Subtitle U, Section 421.1 and the Office of
6 Planning reviewed the criteria for this special exception (audio
7 interference) approval of the application and I will rest on the
8 record and I'm happy to take any questions.

9 CHAIRPERSON HILL: Okay.

10 MS. FOTHERGILL: Oh, in response to your question,
11 Chairman Hill, the MFI for rental units is 60 percent for the IZ
12 units.

13 CHAIRPERSON HILL: Oh, thank you. MFI. I misspoke.
14 Let's see. 60 percent?

15 UNIDENTIFIED SPEAKER: 60 percent.

16 MS. FOTHERGILL: 80 percent per --

17 CHAIRPERSON HILL: Eighty percent? Oh, for the rental?
18 I thought it was -- I thought it was (audio interference), no?

19 MS. FOTHERGILL: Sorry. Sixty percent for rentals.

20 CHAIRPERSON HILL: Six-zero?

21 MS. FOTHERGILL: Yes.

22 CHAIRPERSON HILL: Okay. Oh, so then -- I mean, I'm
23 looking at the regulations, Ms. Fothergill, and like --

24 MS. FOTHERGILL: Yes.

25 CHAIRPERSON HILL: -- so the Office of Planning, they

1 basically are just -- you're kind of just looking at U 421.3; is
2 that correct? I mean, is that -- well, I shouldn't say -- I mean,
3 you're looking at all of them, but that's the one that the Office
4 of Planning really focuses down on; is that incorrect?

5 MS. FOTHERGILL: Yeah. So 421.3 under the special
6 exception asked the Office of Planning to comment and review the
7 site plan, arrangement of buildings and structures, provision of
8 light, air, parking, recreation, and landscape equating as they
9 relate to the surrounding neighborhood and so that is the -- the
10 bulk of our analysis is that specific criteria for this special
11 exception.

12 CHAIRPERSON HILL: Okay. And this is where I get a
13 little confused. The massing is a matter of right?

14 MS. FOTHERGILL: They have met all of the development
15 standards. They're not asking for any relief for the massing.

16 CHAIRPERSON HILL: All right. So you could build
17 something that big, it just couldn't be an apartment building?
18 There needs to be another special exception.

19 MS. FOTHERGILL: Yeah. In this case, they have met the
20 criteria for -- I mean, the development standard for FAR for
21 height for -- the development standards for building in that zone.

22 CHAIRPERSON HILL: Got it. Okay. And we had something
23 recently, not that recently, but didn't come before us for this
24 and so -- being an apartment building and so I'm glad to see that
25 (audio interference) is taking (audio interference) course. I

1 just get -- I just wanted to clarify the massing.

2 Commissioner May, do you have any questions for the
3 Office of Planning?

4 Mr. Smith, do you have any questions for the Office of
5 Planning?

6 MEMBER SMITH: No, Mr. Chair.

7 CHAIRPERSON HILL: Commissioner Holmes, do you have any
8 questions for the Office of Planning?

9 COMMISSIONER HOLMES: No, thank you.

10 CHAIRPERSON HILL: Mr. Bello, do you have any questions
11 for the Office of Planning?

12 MR. BELLO: No, thank you.

13 CHAIRPERSON HILL: Okay.

14 Mr. Young, there are people here wishing to testify; is
15 that correct?

16 MR. YOUNG: That's correct.

17 CHAIRPERSON HILL: How many people are here to testify?

18 MR. YOUNG: I have four that are signed up, but I only
19 have three that are on the line.

20 CHAIRPERSON HILL: Okay. Can you -- how many people can
21 you let in at one time?

22 MR. YOUNG: As many as you want, I believe.

23 CHAIRPERSON HILL: Okay. All right. Let's just go
24 ahead what three additional people look like, if this screen gets
25 too small.

1 It is Ms. Cosby? Ms. Cosby, are you there?

2 MS. COSBY: Yes, I am.

3 CHAIRPERSON HILL: Okay. Are you choosing not to use
4 your camera, which is fine? I just want to know if it's a
5 technical issue.

6 MS. COSBY: I don't have - I didn't see the feature, so
7 I can use the camera.

8 CHAIRPERSON HILL: You don't --

9 MS. COSBY: I think it's just -- oh, "start video."
10 There, it's there now. Okay. It wasn't there before. I'm here.

11 CHAIRPERSON HILL: Okay. Great. Can you hear me okay?

12 MS. COSBY: I can.

13 CHAIRPERSON HILL: Okay. So Ms. Cosby, is -- could you
14 introduce yourself for the record, please?

15 MS. COSBY: Hi. My name is Jennifer Cosby and I'm
16 (audio interference) back at 5207 Field Place Northeast which is
17 directly behind the subject property across the alley.

18 CHAIRPERSON HILL: Okay. Ms. Cosby, actually you might
19 want to turn off your video because I was hearing you clearer when
20 you just had -- maybe it's a bandwidth issue and let's just see if
21 I can hear you better.

22 MS. COSBY: Okay. Okay.

23 CHAIRPERSON HILL: Can you hear me?

24 MS. COSBY: I can. Did that -- is this clearer?

25 CHAIRPERSON HILL: It seems to be. Let's see how it

1 goes. So --

2 MS. COSBY: Okay. Shall I --

3 CHAIRPERSON HILL: -- you said you live at --

4 MS. COSBY: -- reintroduce?

5 CHAIRPERSON HILL: No, you're okay. I heard --

6 MS. COSBY: Shall I reintroduce?

7 CHAIRPERSON HILL: I heard you. If you want to go ahead
8 and give your testimony. You'll have three minutes. So the clock
9 is -- I think you can see the clock.

10 MS. COSBY: Oh, start now? Okay.

11 CHAIRPERSON HILL: It's ready to start.

12 MS. COSBY: Okay. I'm in opposition of the application.

13 I find that it doesn't -- while it may meet the bare minimum
14 standards to be here, it's not following precedence for what is in
15 place in the neighborhood. For instance, the -- all of the other
16 buildings that we referenced on Eastern Avenue, 622 Eastern and
17 the others, they all provide parking for the residents at a one-
18 to-one. So we're very suburban here. Even the building right
19 next door, it's a four-unit building with eight parking spaces
20 behind it.

21 So the concern is that as we have 16 units here with
22 potentially 32 adults, there's 37 bedrooms, I think, in that
23 building, that we'll be looking at as many cars there. This is an
24 area that's underserved as Commissioner Holmes mentioned in that
25 there aren't stores or Targets and Walmarts nearby, so you do need

1 a car to be here. We're like, you know, Urban Mayberry or
2 suburbanites in the city and it would pose quite a burden.

3 As well for the spaces that are in the back where
4 they're shown there, there is a retaining wall. I don't know how
5 they would back up out of their spaces without hitting a retaining
6 wall, but it just isn't in step with what's going on here. This
7 isn't a bare minimum -- this isn't a bare minimum neighborhood.
8 There are -- things are -- and it's something that, you know, is -
9 - was a draw for people choosing this place to be and it's just
10 not in line nor is the height.

11 I'm looking at one of the buildings right now. It's
12 probably less than 30 feet. It's got two full stories above
13 ground and the third story is partially below. Not considered a
14 full basement, I don't believe, but partially below. So if I had
15 to guess at it, I'd say it's about 27 to 30 feet tall.

16 And concern also is, you know, of course, with the
17 density of that many families with the weight of this building is
18 going to be maintained or the reasons for not providing those
19 things right now, the vacant lot isn't being maintained so it
20 gives me pause to think of whether or not they'll intend to
21 maintain this building. The market rents that were suggested
22 there at the \$2,100 of market rent isn't what rents go for here,
23 so it also leads me to question whether or not the owner will be
24 going through the -- approaching the Housing Authority to get, you
25 know, housing vouchers for that rent which is, you know,

1 everything in the building is bare minimum. The sizes of the
2 units are bare minimum, the parking is bare minimum, the height is
3 exactly to the limit, the density. You know, we see that we got
4 four ADA units in there, but I see stairs going into the building
5 on both ends, only one parking space if you have four handicapped
6 persons there.

7 I think a burden will be placed as well if all of the
8 residents there are parking on the street, that leaves no place
9 for the guests and residents of others and as well when people
10 need to do their drop-offs or utility trucks, they're going to be
11 double parking creating traffic issues there on Foote Street and
12 it's a fairly calm street. The houses are pretty far apart, and
13 people here have managed to build to above the minimum standard
14 and that's kind of what we're accustomed to in terms of parking
15 and providing amenities for their residents.

16 CHAIRPERSON HILL: Okay. Okay. So your main concern
17 describes, I guess, the density you're speaking of.

18 MS. COSBY: The density, the issues created by the
19 density and then also the -- and I don't know whether this falls
20 under Zoning as well, but the potential to have this building
21 stocked with Section 8 and to effectively be moving a 16-unit
22 housing project here on the block as well with no parking.

23 CHAIRPERSON HILL: Okay. Does the Board have any
24 questions for the witness? If so, please raise your hand. No?
25 All right.

1 Mr. Bello, do you have any questions for the witness?

2 MR. BELLO: No.

3 CHAIRPERSON HILL: Commissioner, do you have any
4 questions for the witness?

5 COMMISSIONER HOLMES: I don't. Thank you.

6 CHAIRPERSON HILL: All right. All right, Ms. Cosby.
7 Thank you for your testimony.

8 MS. COSBY: You're welcome. Thank you.

9 CHAIRPERSON HILL: You can just mute yourself if you
10 wouldn't mind.

11 MS. COSBY: All right.

12 CHAIRPERSON HILL: Mr. Douglas, are you there?

13 MR. DOUGLAS: Yes, I am.

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

16 MR. DOUGLAS: Yes. My name is Leron Douglas. I live on
17 50th Place in Deanwood.

18 CHAIRPERSON HILL: Okay. Would you like to use your
19 camera? You don't have to.

20 MR. DOUGLAS: No, I'm fine.

21 CHAIRPERSON HILL: Okay. All right. Mr. Douglas,
22 you'll have three minutes to testify and you can begin whenever
23 you'd like.

24 MR. DOUGLAS: Okay. My main concern with density in
25 regard to the trash. I didn't see a whole -- I didn't hear

1 anything mentioned about the capacity for the trash and looking at
2 the site map, I felt like there's a potential for bulk trash to
3 lead into the alley or the street with it being 16 units. That
4 was the only concern that I wanted to mention.

5 CHAIRPERSON HILL: Thank you, Mr. Douglas. Does the
6 Board have any questions for Mr. Douglas and, if so, please raise
7 your hand. All right. I don't see anybody raising their hands.

8 Commissioner, do you have any questions for Mr. Douglas?

9 COMMISSIONER HOLMES: No, sir.

10 CHAIRPERSON HILL: All right. Okay.

11 Thank you, Mr. Douglas.

12 I see -- who else do I have here? Oh, Ms. Gomez.

13 Ms. Gomez, can you hear me?

14 MS. GOMEZ: I can hear you.

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

17 MS. GOMEZ: Sure. My name is Bianca Gomez and I live at
18 5817 Foote Street, Northeast.

19 CHAIRPERSON HILL: Okay. You'll have three minutes to
20 testify and you can begin whenever you like.

21 MS. GOMEZ: Okay. As I said, I live on Foote Street
22 within 200 feet of the subject property in BZA Application No.
23 20320 and I am also opposed to this project. Our neighborhood is
24 comprised of mostly detached single-family homes and semi-detached
25 single-family homes. Foote Street is predominantly single-family

1 homes with the exception of that specific side of the block and
2 Eastern Avenue which abuts it.

3 There are two low-density apartment buildings on Foote
4 Street. One was built to be condominiums with four units and the
5 other one has eight units. Putting 16 apartments on the lot size
6 places another burden on the neighborhood and will adversely
7 affect the use of neighboring properties.

8 Furthermore, this apartment building intrudes on the
9 character, scale, and pattern of the other houses on the street
10 and will have a detrimental impact on the neighborhood. So --
11 sorry. We do not have zone parking and most properties do not
12 have driveways or garages because the street parking has been
13 adequate. Foote Street doesn't have enough street parking to
14 accommodate the proposed density and the proposed plan has
15 insufficient parking and will place undo burden on the
16 neighborhood and adversely affect the use of our properties.

17 The tenants and guests are sent to park on the streets
18 where homeowner's park. Only now five parking spaces have been
19 proposed because a dumpster occupies one of the spaces on the
20 plans. If more working adults potentially, you know, live in two
21 of each of the apartments, there will potentially be 32 cars which
22 would require parking spaces.

23 This might not be an issue in other more urban areas
24 that are more Metro accessible, but the closest Metro station is
25 actually a .8 mile walk and two of the bus lines that the owner's

1 representatives mentioned only operate during the week and one
2 only operates during peak hours. We also live in a food desert
3 and lack many amenities that other areas in the District enjoy, so
4 most people need and have a car to meet their basic necessities.

5 One of the -- the condominium that I mentioned, that
6 property was approved and built a little over a decade ago and the
7 former owners actually couldn't get the asking price for the
8 condominiums, so eventually the building became apartments and
9 then were converted to Section 8 Housing. It's become a useless
10 property and went into foreclosure and has changed ownership many
11 times and we're concerned that with the proposed rental rates
12 being higher than market rates, that -- with these unrealistic
13 rates that the property will encounter similar issues and cause
14 problems for the homeowners.

15 Many of the adjacent neighbors have mentioned garbage
16 pick-up and one of the reasons why this is important to us is the
17 owner's submitted an Affidavit of Maintenance on November 16th.
18 I've personally seen that property several times. I went there
19 yesterday and took pictures. There are current overgrown grass
20 and weeds. There is a couch and a mattress on the property.
21 There hasn't been posting and earlier there was talk about being
22 good neighbors and so far, the owners haven't been good neighbors
23 and so we're concerned. We've had to do most of the work as far
24 as calling, number one, to request mowing and trash pick-up and
25 we're concerned that as far as if this application is approved on

1 a good faith basis that the owners will work with the neighborhood
2 and the ANC to modify any outstanding issues that that will not
3 happen.

4 CHAIRPERSON HILL: Okay. Thank you, Ms. Gomez.

5 Does the Board have any questions for Ms. Gomez? And if
6 so, please raise your hand.

7 Oh, Mr. May? Please, go ahead.

8 COMMISSIONER MAY: Yeah. I just had a question. Is
9 there residential parking restrictions on the streets in that
10 area?

11 MS. GOMEZ: There are two blocks over, so -- but not on
12 our street and some of the neighboring streets. It's sort of ad
13 hoc.

14 COMMISSIONER MAY: Right.

15 MS. GOMEZ: Some of them do have some parking
16 restrictions, but --

17 COMMISSIONER MAY: Right.

18 MS. GOMEZ: -- not this one and not the ones, the
19 neighboring line of streets.

20 COMMISSIONER MAY: Okay. Yeah, because that's -- I
21 mean, the presence of residential parking permit requirements is
22 usually an indication of, you know, having a lot of cars to park
23 and not necessarily enough space as a way of controlling that and
24 that may be something that the block needs to eventually go to if,
25 in fact, there are problems regardless of this project, but all

1 right. I was just curious about that. Thank you.

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

3 Commissioner, do you have any questions for Ms. Gomez?

4 COMMISSIONER HOLMES: No, sir.

5 CHAIRPERSON HILL: Okay. Great.

6 All right, Mr. Young --

7 For the witnesses, thank you all very much and I'm going
8 to excuse you from the hearing room. Thank you.

9 Let's see. So Commissioner Holmes, and I'm not -- I'm
10 kind of just talking out loud to this with the Board. Another
11 thing that we have done before is like as a condition, the owners
12 had to meet with the ANC on a regular basis or something like that
13 or has had to, like, assign someone from the project to be the
14 community liaison to kind of like help with construction
15 management or things like that and we may talk about that.

16 Mr. Fatukasi, can you hear me?

17 MR. FATUKASI: Yes, sir. I can hear you.

18 CHAIRPERSON HILL: Does your camera work, sir?

19 MR. FATUKASI: It does.

20 CHAIRPERSON HILL: Could I see you, please?

21 MR. FATUKASI: Sure.

22 CHAIRPERSON HILL: You need to turn it -- angle it down
23 a little bit.

24 MR. FATUKASI: Okay.

25 CHAIRPERSON HILL: Very good.

1 MR. FATUKASI: I've aimed it down.

2 CHAIRPERSON HILL: There you go. Perfect. Thank you.
3 So Mr. Fatukasi, it seems as though your lot is not being tended
4 to. Do you know this?

5 MR. FATUKASI: Well, I think there's -- I mean, the
6 overgrown grass -- the lot is fully fenced. I mean, I don't think
7 anyone has access into the lot. All the (audio interference) of
8 the lot has been fenced. In front the house which you might
9 consider public space, there is overgrown grass there again.

10 CHAIRPERSON HILL: Okay. So you guys aren't -- I mean,
11 Mr. Fatukasi, I'm just trying to figure out -- like, you're trying
12 to work now with the community to get something and to get stuff
13 done and if there's a couch out in front of your lot and if
14 there's grass growing, you might want to go pick up the couch and
15 mow the lawn, right. It's not like it's a small project, so I
16 assume you have somebody that can pick up the couch.

17 MR. FATUKASI: Most definitely. I mean, we do have the
18 (audio interference). I mean, we'll do that, but --

19 CHAIRPERSON HILL: Okay.

20 MR. FATUKASI: -- when you say grown grass on the lot, I
21 mean, on that lot, it's a no. In the public space in front of the
22 lot, yes. And we've done it a few times. I mean, even when we
23 went there. I mean, I --

24 CHAIRPERSON HILL: That's okay. I'm just trying to ask.
25 So you're saying you're trying to maintain the lot?

1 MR. FATUKASI: Yes, we are. Even the --

2 CHAIRPERSON HILL: Okay.

3 MR. FATUKASI: -- public space portion of the lot that
4 has the overgrown grass, my partner can testify when we were there
5 together, we seen it overgrown, we just told our guys to take care
6 of it, you know. But our lot itself is fully fenced, so it
7 wouldn't -- you know, with -- yeah, even though in the time that
8 we're there, it's --

9 CHAIRPERSON HILL: I'm just saying you've heard the
10 testimony --

11 MR. FATUKASI: Yes, we did.

12 CHAIRPERSON HILL: -- so -- and you're going to try to
13 be a good neighborhood if this project moves forward?

14 MR. FATUKASI: A hundred percent.

15 CHAIRPERSON HILL: Okay. And you've met with
16 Commissioner Holmes before?

17 MR. FATUKASI: Yes, sir.

18 CHAIRPERSON HILL: Okay. All right. Okay.

19 COMMISSIONER MAY: Mr. Chairman, if I could?

20 CHAIRPERSON HILL: Sure, Commissioner May.

21 COMMISSIONER MAY: I just had a follow-up question. You
22 say the property is fenced. What is it fenced with?

23 MR. FATUKASI: With --

24 COMMISSIONER MAY: What kind of fence is it?

25 MR. FATUKASI: It's a -- I mean, wooded fence. I mean,

1 lumber. I mean, I don't know whether we have the pictures.

2 COMMISSIONER MAY: I think we saw some pictures in
3 there.

4 MR. FATUKASI: Yeah, yeah.

5 COMMISSIONER MAY: So it's like plywood.

6 MR. FATUKASI: Plywood, exactly. All around.

7 COMMISSIONER MAY: Right, right. Which is not really a
8 fence.

9 MR. FATUKASI: Yeah. Well, yes, it's not really a
10 fence, but --

11 COMMISSIONER MAY: And it's rather unsightly.

12 MR. FATUKASI: Yeah, no one really has access to it even
13 to, you know --

14 COMMISSIONER MAY: No, I understand that. It's just
15 that it doesn't look very good.

16 MR. FATUKASI: I totally agree. I mean, hopefully --

17 COMMISSIONER MAY: And how long has it been fenced like
18 that?

19 MR. FATUKASI: That's how we bought it actually. The
20 only thing that we --

21 COMMISSIONER MAY: How long have you owned it?

22 MR. FATUKASI: About six, seven months --

23 COMMISSIONER MAY: Okay.

24 MR. FATUKASI: -- I think, so --

25 COMMISSIONER MAY: And how soon do you expect to break

1 ground assuming you get approvals?

2 MR. FATUKASI: February, March. If we do, we are going
3 to, you know have a --

4 COMMISSIONER MAY: You'll move as quickly as you can?

5 MR. FATUKASI: Yes.

6 COMMISSIONER MAY: Okay.

7 MR. FATUKASI: We're going to fence it --

8 COMMISSIONER MAY: Tell --

9 MR. FATUKASI: -- better.

10 COMMISSIONER MAY: Given the fact that you have the ANC
11 in opposition --

12 MR. FATUKASI: Yeah.

13 COMMISSIONER MAY: -- it's going to take a while for you
14 to get an Order of Approval --

15 MR. FATUKASI: Right.

16 COMMISSIONER MAY: -- so it's going to be many months
17 before you can break ground if you -- assuming you got an
18 approval.

19 MR. FATUKASI: Right.

20 COMMISSIONER MAY: And I would suggest that you might
21 want to take some steps to clean that property up as a good faith
22 measure to be a good neighbor.

23 MR. FATUKASI: Sure, sure.

24 COMMISSIONER MAY: So, like, get rid of the plywood
25 because I wouldn't want to live next to a rotting plywood fence --

1 MR. FATUKASI: Probably.

2 COMMISSIONER MAY: -- and I'm sure you wouldn't either.

3 MR. FATUKASI: Yeah, we'll work on that as well.

4 COMMISSIONER MAY: Yeah. Okay.

5 CHAIRPERSON HILL: Mr. Fatukasi, I (audio interference)
6 Commissioner May just pointed out. I did just pull up the photos
7 and that ain't a fence.

8 MR. FATUKASI: It's not a fence. It's a -- you know,
9 like I said, you know, that's how --

10 CHAIRPERSON HILL: It's all right. I understand. I
11 understand you bought it that way --

12 MR. FATUKASI: Yeah.

13 CHAIRPERSON HILL: -- but you're here asking us for some
14 relief --

15 MR. FATUKASI: Yes.

16 CHAIRPERSON HILL: -- right, and so now you're going to
17 get grilled just a little bit, okay, because apparently you
18 haven't figured out how to get the ANC to sign off, although the
19 ANC is asking for some stuff that we can't do, but that's also,
20 you know -- that's all -- Commissioner, I got you on the camera.
21 I love it. I like to be able to see people, you know.

22 Okay. So let's see. We're still going to work through
23 this. Okay.

24 Ms. Fothergill, can you hear me?

25 MS. FOTHERGILL: Yes.

1 CHAIRPERSON HILL: Okay. So I'm curious about a couple
2 things. Like, as far as like the parking, right, so DDOT signed
3 off on this and they're complying with the parking. According to
4 Mr. Bello, they're giving them one more that they're required to
5 have; is that correct?

6 MS. FOTHERGILL: I think it's more than that. They had
7 initially -- the initial application showed three, now they're
8 showing more than that, but the requirement for zoning is for two
9 spaces. So they -- the ones they are giving in addition are
10 beyond the requirement for the zone.

11 CHAIRPERSON HILL: Okay. And then as far as the trash
12 issue, like I don't even know how to weigh that. Like, I guess,
13 the dumpster is the right size for the units?

14 MS. FOTHERGILL: They have provided a dumpster on the
15 site plan and I think they've appropriately screened it and that,
16 as far as I know, is the extent of the zoning review for this --

17 CHAIRPERSON HILL: No, that's what I'm asking. I'm just
18 trying to ask. Commissioner May is nodding his head. So that's --
19 -- they're providing what zoning is requiring for trash.

20 MS. FOTHERGILL: That is my understanding.

21 CHAIRPERSON HILL: Okay. Let's see. Okay. I guess,
22 Mr. Bello, maybe you could speak to this. I don't even know like
23 -- people were kind of talking about the market rates and the
24 rates of things. I mean, what is it -- do you -- or maybe Mr.
25 Fatukasi. I mean, what is it that people are speaking of about

1 the rates? Market rates or high rates? I mean, you don't know --
2 you're just going to try to do whatever the market can bear,
3 correct?

4 MR. BELLO: Yeah, that's correct.

5 CHAIRPERSON HILL: You're shaking your head yes, so I'm
6 --

7 MR. BELLO: That is correct.

8 CHAIRPERSON HILL: You're on mute, Mr. Fatukasi.

9 MR. FATUKASI: Yeah. I would say this though; it's not
10 government-funded so what -- essentially what we -- I would say is
11 that it's going to be market-driven. If the market says (audio
12 interference), but it's going to be market-driven and I know the
13 neighbors all feel that it's going to be rented to Section 8. I
14 mean, it's -- we are not obliged to it, you know, really because
15 it's private --

16 CHAIRPERSON HILL: Okay. I'm just asking. That's all
17 right. You're going to see what you can get --

18 MR. FATUKASI: Yes.

19 CHAIRPERSON HILL: -- which --

20 MR. FATUKASI: Exactly.

21 CHAIRPERSON HILL: -- it's America, so that's okay.

22 Right?

23 MR. FATUKASI: Right.

24 CHAIRPERSON HILL: Okay. So Commissioner May, are you
25 about to say something? No. Okay.

1 And again, Mr. Fatukasi, you've had the property for
2 seven months?

3 MR. FATUKASI: Thereabout, yes.

4 CHAIRPERSON HILL: Okay. All right. I don't know about
5 my fellow Board members. I mean, Commissioner May, you had wanted
6 to -- Mr. Fatukasi, you can mute your phone. Thank you.

7 MR. FATUKASI: Okay.

8 CHAIRPERSON HILL: Commissioner May, you had mentioned
9 something about a diagram about the IZ units. I know you don't
10 need it yet. The only reason I'm mentioning this is I'm kind of
11 interested in the applicant going back to the ANC and seeing if
12 they can come up with something that actually is more attainable
13 for us, right.

14 And then the -- Commissioner Holmes, you're nodding your
15 head, so I'm also going to ask you whether or not we're wasting
16 our time -- well, I shouldn't say wasting our time -- because I
17 can figure out -- I can -- we can deliberate on this later and I
18 can think of conditions. I mean, I know of some conditions that
19 are not a burden to the applicant necessarily which is that you
20 have somebody who is assigned as the liaison, right Mr. Fatukasi,
21 and that person would be -- you'd give the cell phone number to,
22 you know, the ANC, the ANC would be able to call if there was any
23 kind of issues, just easy communication, right.

24 And then the other one that I've seen is -- I mean,
25 there has been kind of construction management plans that we kind

1 of encourage people to work through. However, Commissioner, I
2 mean if they're adhering to the regulations of 7:00 to 7:00, I
3 can't do anything about that probably anyway. So, you know, and
4 I'm kind of looking to my fellow Board members as well as
5 Commissioner May because as to whether or not this property is
6 going to sit the way it sits for the next year until the full
7 order comes out, right.

8 And so, Mr. Fatukasi, I don't know if you -- I think
9 you've done these projects before with us because you're -- I've
10 seen you. You're familiar to me and so -- yeah?

11 MR. FATUKASI: Well, this is actually my first time of
12 being through the BZA.

13 CHAIRPERSON HILL: Fourth?

14 MR. FATUKASI: First.

15 CHAIRPERSON HILL: Oh, first? Oh. Okay. All right.
16 Then -- well, welcome.

17 MR. FATUKASI: Yeah. Thank you.

18 CHAIRPERSON HILL: Then so -- right. So the -- I mean,
19 a full order takes a long time, right.

20 MR. FATUKASI: Yeah.

21 CHAIRPERSON HILL: And a summary order doesn't take as
22 long. And so Commissioner Holmes, I'm trying to -- and I'm not
23 trying to negotiate here for the ANCs and all that stuff, but I'm
24 saying that, you know, if it takes eight months to get a full
25 order, that property is going to sit there for eight months,

1 right, as opposed to if there's something that the ANC can work
2 out with the owner for conditions, you know, something reasonable
3 in terms of conditions that we, the BZA, might actually be able to
4 implement and getting to a summary order, then Mr. Fatukasi,
5 you're working sooner, right?

6 MR. FATUKASI: Yes, sir.

7 CHAIRPERSON HILL: You're working in like 30 days as
8 opposed to eight months and Mr. Bello can speak to all of this,
9 right. I mean, he's your attorney. He can advise to all of this
10 full order versus summary order. So I don't know. Maybe it's
11 just that I'm way early now in terms of my day, but -- and, you
12 know, Commissioner May and Mr. Smith, I'm kind of interested in at
13 least having them talk to the ANC and seeing if anything happens
14 and then we'll get back to this a little later.

15 Commissioner May, what do you think?

16 COMMISSIONER MAY: So certainly the facts of the matter
17 are pretty straightforward at this moment and I'm not sure how
18 much they're going to move, but, you know, having heard what the
19 ANC has to say and what the concerns of the neighbors are, I
20 certainly would not object to putting off a decision for some time
21 in the hopes that the applicant and the ANC could come to some
22 level of agreement because, again, getting an order in a month
23 versus getting an order in eight months is a big incentive for the
24 applicant to try to make some accommodation to the ANC's concerns
25 and certainly there are steps they could take fairly immediately

1 to address some of the things that we heard about such as the
2 condition of the property.

3 So I -- you know, I have no problem with delaying
4 decision-making to afford that extra opportunity to the ANC given
5 where we are and, you know -- and I don't know when the ANC meets,
6 but it looks like, you know, we're talking about at least a month
7 or so before we'd have to take -- before we can make a decision
8 about it.

9 CHAIRPERSON HILL: Okay. Mr. Smith?

10 MEMBER SMITH: Not to belabor the point, I completely
11 agree with both of you. I think it would be some benefit to give
12 the ANC some additional time to work with the applicant,
13 especially in light of the ANC also hearing some of the dialogue
14 that we have provided of what we can legally enforce in
15 conditions.

16 So going back to the drawing board to figure out if they
17 can come to some agreement with the applicant on even the
18 maintenance of the property in the time being -- for the time
19 being and also potentially a condition similar to what you said,
20 Mr. Chairman, that may require them to go back and have dialogue
21 with the ANC on an ongoing basis at least probably until the
22 issuance of a CO, something of that nature. So I would be in
23 favor of putting this off until later to give them some additional
24 time to have dialogue.

25 CHAIRPERSON HILL: Okay. Commissioner Holmes, can you

1 hear me?

2 COMMISSIONER HOLMES: Yes, sir.

3 CHAIRPERSON HILL: So Commissioner, I don't know. I
4 mean, I think it's worth at least giving it a shot and it seems
5 like, you know, that the Board is kind of interested in seeing
6 what may or may not happen. I mean, you know, the -- I mean,
7 you've been before us before Commissioner and you know --

8 COMMISSIONER HOLMES: Yes, sir.

9 CHAIRPERSON HILL: -- what we can and cannot do and
10 though -- and you're just one commissioner, right. You know, you
11 are the Chair so you would think there would be a little more
12 influence, but being the Chair, I know the ride. You don't have
13 to go there, okay. But so -- but I think that -- I know that the
14 liaison we've done, right.

15 COMMISSIONER HOLMES: Uh-huh.

16 CHAIRPERSON HILL: I know that communication with the --
17 you know, having somebody meet with the ANC on a regular basis
18 through, as Mr. Smith just mentioned, the C of O, right, you know,
19 because I think that, you know, they're meeting the parking
20 requirements. There's more than the parking requirements, right.

21 COMMISSIONER HOLMES: Uh-huh.

22 CHAIRPERSON HILL: There's also then, you know, the
23 hours of construction are just going to be what the hours of
24 construction are. You know, we can't do any -- we can't enforce
25 some things, but you might be able to negotiate some things and

1 then we could just reference that in our order, right. But again,
2 at the end of the day, if people can't come to an agreement, then
3 we're just going to make the decision anyway, right?

4 COMMISSIONER HOLMES: Yes, we are.

5 CHAIRPERSON HILL: And I think based upon the testimony
6 that we've heard thus far, I think I know where we're going to end
7 up. Okay? And so, you know -- but again (audio interference)
8 moving faster --

9 COMMISSIONER HOLMES: Uh-huh.

10 CHAIRPERSON HILL: -- right, and there may be something
11 to the extent of maintaining the property, changing the fence, I
12 don't know, right, you know, but yeah. So that's what I would --
13 so what I would recommend -- when do you meet next again,
14 Commissioner?

15 COMMISSIONER HOLMES: Well, we're -- usually we don't
16 meet in December, but because of the pandemic we've been meeting
17 just about every month, so we are scheduling a special December
18 meeting and as we stated back in our November 12th meeting with
19 the applicant, we do want to keep having a conversation about this
20 and we want to move to have some -- to see about some type of path
21 forward, so we definitely welcome them at our meeting in December.
22 Usually we meet the second Thursday of every month, so tentatively
23 it will be and I just still need to make sure I collect the rest
24 of the Commissioners so that we do have a quorum, but it typically
25 would be December 10th.

1 UNIDENTIFIED SPEAKER: 10th, right.

2 CHAIRPERSON HILL: Okay. And then would you be able to
3 communicate with the property owner and the property owner's
4 attorney in order to try to get something before that? So, I
5 mean, have dialogue before the --

6 COMMISSIONER HOLMES: Yes, we have an executive meeting.
7 We've got our executive meeting as well as we tend to have our
8 executive meeting two weeks prior to that, so that would put it on
9 November the 26th. We're not doing it on Thanksgiving. We'll
10 find another day. We'll find another day. It might be the --

11 CHAIRPERSON HILL: Okay. Well --

12 COMMISSIONER HOLMES: -- 30th or the -- it might be
13 Cyber Monday which would be the 30th. So we'll get that in there
14 for them.

15 CHAIRPERSON HILL: Before I forget, Commissioner, I just
16 want to mention again -- and again, I'm not -- I'm just speaking
17 out loud here because I'm -- I don't know because this virtual
18 world is kind of weird, but, you know, again, you, Commissioner,
19 you know the difference between a full order and a summary order,
20 correct?

21 COMMISSIONER HOLMES: You might want to -- there's still
22 probably people on the line that don't know, so you might want to
23 just say it --

24 CHAIRPERSON HILL: Right.

25 COMMISSIONER HOLMES: -- real quick.

1 CHAIRPERSON HILL: Right. So I'm just saying that a
2 full order is that if there's someone who's in opposition, meaning
3 the ANC, or the Office of Planning, or a party, we have to write a
4 full order.

5 COMMISSIONER HOLMES: Right.

6 CHAIRPERSON HILL: A full order can take up to eight
7 months or -- I mean, it takes a while and that means that that lot
8 is going to be exactly as that lot is for the next eight months,
9 okay, and -- before it even starts to get (audio interference). A
10 summary order can take 30 days or 60 days. It's a much more
11 quicker -- and you can only do a summary order if we don't have
12 any opposition from a party, from a party, not from the public.
13 And so the ANC is a party, right, as is the Office of Planning.
14 So you guys are starting -- you guys are making it a full order --

15 COMMISSIONER HOLMES: Yeah.

16 CHAIRPERSON HILL: And I know I sometimes get in trouble
17 with OAG when I start going through all this stuff and everything
18 about full orders and summary orders, but again, it's -- you know,
19 I got the mic right now. So, okay. So that means that you, Mr.
20 Fatukasi and Mr. Bello, you guys will work with the Commissioner
21 to --

22 MR. BELLO: Uh-huh.

23 CHAIRPERSON HILL: -- try to come to some kind of
24 discussion before their December 10th meeting; is that correct,
25 Mr. Bello?

1 MR. BELLO: That's correct.

2 CHAIRPERSON HILL: Mr. Fatukasi?

3 MR. FATUKASI: That's correct, sir.

4 CHAIRPERSON HILL: Okay. Then why don't you all try to
5 see what you can do. Why don't you have your meeting then on
6 December 10th, Commissioner.

7 MR. BELLO: Uh-huh.

8 CHAIRPERSON HILL: Then can you get us something back?
9 How long do you think it would -- I mean, I guess it really
10 doesn't matter. I mean, when do you think you could get us on --
11 If you take a vote on the 10th, you think you can just us know
12 what happened by -- Mr. Moy, how does the time work? Like, if we
13 get something on -- I'm just seeing if we can do a decision on
14 this on the 16th or the 23rd. I just want to make sure in terms
15 of what we're supposed to do for timing and all that.

16 MR. MOY: Well, if it's a -- Mr. Chair, a one-time
17 filing with no responses, then it's possible and now I'm hearing
18 this might be a decision meeting. It could be as early as
19 December 16th or if you still want something December, the only
20 other date in December would be the 23rd which you're already --
21 we have eight cases already even though this might be a decision
22 case.

23 CHAIRPERSON HILL: That's all right. That's 10 cases I
24 thought you said on the 16th, correct?

25 MR. MOY: That's correct. This would be eleven, but

1 this one, you know, if it's a decision, you know, it's not --

2 CHAIRPERSON HILL: Right.

3 MR. MOY: It's not a new case.

4 CHAIRPERSON HILL: Mr. Fatukasi, can you hear me?

5 MR. FATUKASI: Yes, sir.

6 CHAIRPERSON HILL: Is there much difference for you
7 between the 16th and the 23rd of December in terms of your timing?

8 MR. FATUKASI: No.

9 CHAIRPERSON HILL: Did you say none?

10 MR. FATUKASI: No. Yeah, I mean, I hope it's -- yeah,
11 (audio interference).

12 CHAIRPERSON HILL: All right. I mean, we'll get you in
13 before the end of the year, but that makes it easier for me and I
14 appreciate that.

15 So then Mr. Moy, could you put us on for a decision on
16 the 23rd?

17 MR. MOY: Yes.

18 CHAIRPERSON HILL: And then, Mr. May, are you around on
19 the 23rd?

20 COMMISSIONER MAY: Sorry. Aren't we all around forever?
21 I mean, who goes anywhere nowadays?

22 CHAIRPERSON HILL: I don't know. I don't know. Maybe
23 you're a magic elf and you're going to help Santa.

24 COMMISSIONER MAY: Yeah, maybe. No, I was -- sorry, I -
25 - you know, we've moved onto the backhoe out here, so it's still

1 loud. No, I am planning to be on leave on that -- on the 23rd,
2 but there certainly would be no problem with me participating in a
3 decision that day. I'll call in or send an absentee ballot if
4 need be.

5 CHAIRPERSON HILL: Okay.

6 COMMISSIONER MAY: I'm not going to leave town or
7 anything.

8 CHAIRPERSON HILL: Okay. I mean, I know I'm lingering
9 too long on this, but like, Commissioner, if you guys meet on the
10 10th, right -- oh, never mind. Let's keep it for the 23rd because
11 you said there's 10 cases right, Mr. Moy, on the 10th?

12 COMMISSIONER MAY: Yes, sir.

13 CHAIRPERSON HILL: Okay. So I don't need anymore.
14 Okay. All right. Then when, Commissioner, if you guys meet on
15 the 10th of December, when do you think you could get something to
16 us?

17 COMMISSIONER HOLMES: Yeah. I tend to take all my notes
18 and then I process on the weekend and then I send everything out
19 on Mondays, so you'll get it by that --

20 UNIDENTIFIED SPEAKER: It'll be the 14th.

21 COMMISSIONER HOLMES: -- what is that, the 14th?

22 UNIDENTIFIED SPEAKER: 14th.

23 COMMISSIONER HOLMES: 14th.

24 UNIDENTIFIED SPEAKER: 14th.

25 COMMISSIONER HOLMES: 14th, sir.

1 CHAIRPERSON HILL: Okay. All right. Now, I'm going to
2 -- I know I'm lingering on this. I'm having a -- I mean; I need
3 more coffee. So, Mr. May, is the 16th better for you?

4 COMMISSIONER MAY: It's slightly better because I'll be,
5 you know, at my desk anyway, so.

6 CHAIRPERSON HILL: Okay. All right.

7 COMMISSIONER MAY: Let's do the 16th. So Commissioner,
8 you guys -- everybody get together. Commissioner, you guys have
9 your meeting on the 10th, and you let us know what happened by the
10 14th, okay, and then --

11 COMMISSIONER HOLMES: Uh-huh.

12 CHAIRPERSON HILL: -- Mr. Moy we'll do a decision on the
13 16th.

14 MR. MOY: Yes.

15 CHAIRPERSON HILL: Okay?

16 MR. MOY: So decision on December 16th. The ANC will
17 file its next filing by December the 14th, that's a Monday.

18 CHAIRPERSON HILL: The ANC will be Monday. It's fine,
19 Commissioner. Okay? And then -- great, and then we'll have a
20 decision on the 16th. Does anybody have anything that -- before I
21 go to Mr. Bello for any closing and/or the owner for any closing,
22 Mr. May or Mr. Smith, do you have any final questions? If you do,
23 raise your hand. Okay. Mr. Bello, do you have anything you would
24 like to add?

25 MR. BELLO: No, sir. I will just rest on the records.

1 Thank you.

2 CHAIRPERSON HILL: Okay. All right. Well, then thank
3 you all very much and good luck. We look forward to hearing from
4 you on the 14th of December. Oh, so -- once again -- I'm sorry.
5 I'm keeping the record -- so I'm closing the record. We're not
6 allowing anything else into the record. The record is closed
7 except for the information that we're going to get from the ANC on
8 the 14th. I assume it will be the 14th and we don't need any
9 responses from anybody. We're just taking that one piece of
10 information. Okay. If that's clear, then I'm going to -- oh, Mr.
11 May?

12 COMMISSIONER MAY: No, I just -- if something changes in
13 the application, wouldn't we want to have the applicant make
14 another submission?

15 CHAIRPERSON HILL: If something changes in the
16 application?

17 COMMISSIONER MAY: Well, in other words, if they meet
18 with the ANC and they come to some agreement about reconfiguring
19 parking or, you know, agreement on conditions or something like
20 that, wouldn't we want to have that in the record prior to the
21 meeting?

22 CHAIRPERSON HILL: Okay. So then I guess then -- what
23 would I do? I guess I'd have to leave the record open then for --
24 they'd get the submittal. So, Mr. Bello, if you guys -- can you
25 guys give me your responses by December 15th? Meaning, if the ANC

1 gives me their thing by December 14th, that COB, can you give me
2 your response by December 15th COB?

3 MR. BELLO: Absolutely.

4 CHAIRPERSON HILL: Okay. Just so we know where you
5 stand.

6 MR. BELLO: Yes, sir.

7 CHAIRPERSON HILL: Okay. All right. So we're going to
8 keep the record open for submission from the ANC by December 14th,
9 COB, and then responses from the owner by -- or the applicant by
10 December 15th, COB, decision December 16th. Is that good with
11 everybody? Okay. Mr. Moy, do you need anything else?

12 MR. MOY: Not, not on this case.

13 CHAIRPERSON HILL: Okay. All right. Then you guys have
14 a nice Thanksgiving.

15 MR. MOY: Yeah. Also a reminder, Mr. Chairman, there's
16 no hearing next Wednesday.

17 CHAIRPERSON HILL: Are you serious?

18 MR. MOY: There's no hearing next Wednesday.

19 CHAIRPERSON HILL: On the 25th?

20 MR. MOY: Yeah, because Thanksgiving is the next day on
21 Thursday. Okay?

22 CHAIRPERSON HILL: Hold on. That's great.

23 MR. MOY: Yeah, so you can take your trip.

24 CHAIRPERSON HILL: Oh, I appreciate that. I totally --
25 I do appreciate that.

1 All right. Bye, Commissioner.

2 COMMISSIONER HOLMES: Thank you.

3 CHAIRPERSON HILL: Okay. Let's see. All right. I
4 think -- all right. So we don't have -- oh, we don't have a
5 hearing next week. Okay. Great. All right. Well, then,
6 Commissioner May, you have a lovely Thanksgiving. Mr. Smith, you
7 have a lovely Thanksgiving.

8 MEMBER SMITH: You do the same.

9 CHAIRPERSON HILL: Enjoy. Mr. Moy, Mr. Young, have a
10 lovely Thanksgiving. Everybody from OZ have a lovely
11 Thanksgiving.

12 Mr. Moy, is there anything else left for the Board
13 today?

14 MR. MOY: Nothing else, sir.

15 CHAIRPERSON HILL: Mr. May, you have something to say?

16 COMMISSIONER MAY: Goodbye. Have a nice day.

17 MR. MOY: Have a nice day.

18 CHAIRPERSON HILL: All right. Bye-bye. We're
19 adjourned. We're adjourned.

20 MEMBER SMITH: I'll see everybody in December.

21 (Whereupon, the above-entitled matter went off the
22 record at 2:19 p.m.)

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In the matter of: Public Hearing

Before: DCBZA

Date: 11-18-20

Place: Teleconference

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