

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

Wednesday

June 23, 2021

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via videoconference, pursuant to notice at 9:39 EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
LORNA JOHN, Vice Chair
CHRISHAUN SMITH, Board Member
CARL BLAKE, Board Member

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY HOOD, Chairman
PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

BRANDICE ELLIOTT
STEPHEN COCHRAN

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KAREN THOMAS
CRYSTAL MYERS
ANNE FOTHERGILL
MATTHEW JESICK

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALEXANDRA CAIN, ESQUIRE
JOHN K. RICE, ESQUIRE

The transcript constitutes the minutes from the
Regular Public Hearing held on June 23, 2021.

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(9:39 a.m.)

CHAIRPERSON HILL: Good morning, ladies and gentlemen. The Board of Zoning and Adjustment. Today's date is 6/23/2021. The public hearing please come to order. My name is Fred Hill. I'm the Chairperson of the District of Columbia Board of Adjustment.

Today's meeting and hearing agenda are available on the Office of Zoning's website. Please be advised this proceeding is being recorded by a court reporter and is also webcast live via Webex and YouTube live. A video of the webcast will be available on the Office of Zoning's website after today's hearing.

Accordingly, everyone who is listening on Webex or by telephone will be muted during the hearing. Also, please be advised that we do not take any public testimony at our decision meetings.

If you're experiencing difficulty accessing Webex or with your telephone call-in, then please call our OZ hotline number at 202-727-5471 to receive Webex login or call-in instructions.

At the conclusion of the decision meeting session, I shall, in consultation with the Office of Zoning, determine whether a full or summary order may be issued. A full order is required when the decision it contains is adverse to a party,

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

6 In today's hearing session, everyone who is listening
7 on Webex or by telephone will be muted during the hearing, and
8 only persons who have signed up to participate or testify will
9 be unmuted at the appropriate time. Please state your name and
10 home address before providing oral testimony or your
11 presentation. Oral presentations should be limited to a summary
12 of your most important points. When you're finished speaking,
13 please mute your audio so that you might clear a zone and are
14 not picking up sound or background noise.

15 Once again, if you're experiencing difficulty accessing
16 Webex or your telephone call-in, or if you forgot to sign up 24
17 hours prior to this hearing, please call our OZ hotline number
18 at 202-727-5471. Once again, 202-727-5471. And the number is
19 also listed on the screen.

20 All persons planning to testify, either in favor or in
21 opposition, should have signed up in advance. They'll be called
22 by name to testify. If there's an appeal, only parties are
23 allowed to testify. By signing up to testify, all participants
24 plea the oath or affirmation as required by Subtitle Y § 408.7.

25 Request to enter evidence at the time of an online

1 virtual hearing, such as written testimony or additional
2 supporting documents, other than live video, which may not be
3 presented as part of the testimony, may be allowed pursuant to
4 Subtitle Y § 103.13, provided that the persons making the request
5 to enter an exhibit explain how the proposed exhibit is relevant
6 and the good cause to justify allowing the exhibit into the
7 record, including explanation of why the requester did not file
8 the exhibit prior to the hearing, pursuant to Subtitle Y § 206
9 and how the proposed exhibit would not unreasonably prejudice any
10 parties.

11 The order of procedures for special exceptions and
12 variances are pursuant to Subtitle Y § 409. The order of appeal
13 is pursuant to Y § 507. At the conclusion of each case, an
14 individual who is unable to testify, because of technical issues,
15 may file a request for leave to file a written version of the
16 planned testimony to the record within 24 hours following the
17 conclusion of public testimony -- I'm sorry, in the hearing.

18 If additional written testimony is accepted, then
19 parties will be allowed a reasonable time to respond as
20 determined by the Board. The Board will then make its decision
21 at its next meeting session, but no earlier than 48 hours after
22 the hearing. Moreover, the Board may request additional specific
23 information to complete the record. The Board and staff will
24 specify at the end of the hearing exactly what is expected and
25 the date when persons must submit the evidence to the Office of

1 Zoning. No other information shall be accepted by the Board.
2 Once again, after the Board adjourns the hearing, the Office of
3 Zoning in consultation with myself, will determine whether a full
4 or summary order may be issued. A full order is required when
5 the decision it contains is adverse to a party, including an
6 affected ANC. A full order is may also be needed if the Board's
7 decision differs from the Office of Planning's recommendation.
8 Although the Board favors the use of summary orders whenever
9 possible, an applicant may not request the Board to issue such
10 an order.

11 Finally, the District of Columbia Administrative
12 Procedures Act require, if there's a public hearing on this case,
13 that it be held in the open before the public. However, pursuant
14 to § 405(b) and 406 of the Act, the Board may, consistent with
15 its rules and procedures, and the Act, enter into a closed meeting
16 on a case for purposes of seeking legal counsel on a case pursuant
17 to DC Official Code, § 2-575(b)(4) and/or deliberate in that case
18 pursuant to D.C. Official Code § 2-575(b)(13) but only after
19 providing the necessary public notice and in the case of an
20 emergency closed meeting after taking a roll call vote.

21 Mr. Secretary, do we have any preliminary matters
22 today?

23 MR. MOY: Good morning, Mr. Chairman, and members of
24 the Board. We do, but as is customary, I would suggest that I
25 call those preliminary matters for a specific case when that case

1 is called. Other than that, Mr. Chairman, I do have some items
2 I'd like to record for the record. But before I go into that, I
3 just want to suggest, Mr. Chairman, that you would, after the
4 conclusion of my talk, that you, as a suggestion, share with the
5 audience when the Board will be hearing two of the action items
6 on the meeting session, i.e., when you would call them -- call
7 that case. The Washington International School, 20458, and the
8 Board's own motion to the Dilan Investments case, 20065. So with
9 that, there were two cases, which now is off today's docket.
10 This is Application No. 20468 of Bridgitte Rawlings. This
11 application was withdrawn by the applicant. Second case, the
12 Application No. 20467. This is the application of Geoff Anderson
13 and Eric Tregoning. This application has been postponed and
14 rescheduled to July 28th, 2021.

15 And, finally, yes, I'd like to announce for the record,
16 that I'm adding another case to the agenda for the Board's Monday
17 closed meeting. It's for the purpose of legal advice from OAG
18 on how to proceed with the remand of Appeal No. 19027 of Rima
19 Calderon and William Sawicki, and I would ask the Board for a
20 roll call vote.

21 CHAIRPERSON HILL: Okay. So the first item,
22 colleagues, is on Monday. I'd like to see whether we can go
23 ahead and get -- add to our Monday meeting for legal advice from
24 counsel, Case No. 19027. I'd like to go ahead and make a motion
25 to do this and ask for a second. So what, again, I'm going to

1 say is that I'd like to ask that the attorneys at OAG on our
2 Monday call help us review Case No. 19027. I'm making this motion
3 and ask for a second, Ms. John.

4 VICE CHAIR JOHN: Second.

5 CHAIRPERSON HILL: The motion has been made and
6 seconded. Mr. Moy, if you could take a roll call?

7 MR. MOY: Thank you, Mr. Chairman. When I call your
8 name, if you would please respond with a yes, no, or abstain from
9 the motion made by Chairman Hill to add another agenda item to
10 the agenda for the Monday closed meeting, which is the remand of
11 Appeal No. 19027. The motion was seconded by Ms. John. Zoning
12 Commissioner, Rob Miller?

13 COMMISSIONER MILLER: Yes.

14 MR. MOY: Mr. Smith?

15 BOARD MEMBER SMITH: Yes.

16 MR. MOY: Mr. Blake?

17 BOARD MEMBER BLAKE: Yes.

18 MR. MOY: Vice Chair, John?

19 VICE CHAIR JOHN: Yes.

20 MR. MOY: Chairman Hill?

21 CHAIRPERSON HILL: Yes.

22 MR. MOY: Staff would record the vote as 5-0-0 and this
23 is on the motion of Chairman Hill to add Case No. 19027 to the
24 Monday closed meeting agenda. The motion was seconded by Ms.
25 John. Also, in support of the motion is Zoning Commissioner Rob

1 Miller, Mr. Smith, and Mr. Blake. The motion carries, sir. Thank
2 you.

3 CHAIRPERSON HILL: Okay, great. Thank you, Mr. Moy.

4 So for everyone who's listening, so what's happening
5 is we have a meeting session, and there are a few items that I'd
6 like to pose to the Board, two of which are Case No. 20143 and
7 20065, which I'm going to speak about in terms of -- I know the
8 Board's aware of this, but now the public is going to be aware
9 of this, that issues that I believe are before us. And just so
10 the audience -- I mean, sorry, yeah, the audience knows, Case No.
11 20065 as well as the decision for 20458, we're going to go ahead
12 and do around 1:30, because Commissioner Shapiro is on both of
13 those, and he can't be with us until 1:30. So I'm just letting
14 you all know that. Then, after that, we'll go into our hearing
15 agenda as it is stated. Like, I'm not changing anything there.
16 We're not changing anything on it.

17 So Mr. Moy, I'm a little -- so there's nothing to
18 announce for you. So this is everything that I have to do, right,
19 for these -- this one case, 20143, correct? You don't announce
20 anything.

21 MR. MOY: No. No, you've covered it, sir.

22 CHAIRPERSON HILL: Okay. So this one, Commissioner
23 Miller is on. And so, in Case No. 20143, during the preparation
24 of the draft order for this case, the Board became aware of what
25 it believes to be a substantive legal issue with the applicant's

1 request for relief that was not fully addressed during the
2 original proceedings. In order to ensure that the case record
3 is complete, and the Board has sufficient information on these
4 issues, I'm going to make a motion that the Board rescind its
5 prior vote on BZA Case No. 20143 and reopen the record to allow
6 the applicant, the Office of Planning and parties to respond to
7 the Board's questions.

8 So, again, to reiterate, and I'm going to ask Ms. John,
9 just because that's who normally I ask, to second this, and then
10 we can go around the table during the vote and see what, if anyone
11 has to say about this. But, again, to repeat, it was during the
12 preparation of the draft order for the case, the Board became
13 aware of what it believes to be substantive legal issues with the
14 applicant's request for relief that were not fully addressed
15 during the original proceedings. And so, I'm going to go over
16 what those are, if, in fact, someone will second the motion to
17 rescind the vote. And so, I'm going to make a motion to rescind
18 the vote on Case No. 20143 and ask for a second, Ms. John.

19 VICE CHAIR JOHN: Second.

20 CHAIRPERSON HILL: Okay. Mr. Moy, the motion is made
21 and seconded. If you can go around the table and take a roll
22 call?

23 MR. MOY: Thank you, Mr. Chairman. So when I call your
24 name --

25 CHAIRPERSON HILL: Pardon me, Mr. Moy. Mr. Moy, if

1 you'd end with Commissioner Miller?

2 MR. MOY: Yes, thank you, sir.

3 CHAIRPERSON HILL: Thanks. Thanks.

4 MR. MOY: When I call your name, if you would please
5 respond with a yes, no, or abstain to the motion made by Chairman
6 Hill to rescind the vote and to reopen the record to Case
7 Application No. 20143 of Grand Realty, LLC. The motion was
8 seconded by Vice Chair John. Mr. Smith?

9 BOARD MEMBER SMITH: Yes.

10 MR. MOY: Mr. Blake?

11 BOARD MEMBER BLAKE: Yes.

12 MR. MOY: Vice Chair, John?

13 VICE CHAIR JOHN: Yes.

14 MR. MOY: Chairman Hill?

15 CHAIRPERSON HILL: Yes.

16 MR. MOY: Zoning Commissioner Rob Miller?

17 MR. MILLER: No.

18 MR. MOY: Staff would record the vote as 4-1-0. And
19 this is on the motion made by Chairman Hill to rescind the vote
20 and reopen the record, seconded by Vice Chair John. Also in
21 support of the motion is Mr. Smith and Mr. Blake. Commissioner
22 Rob Miller is opposed to the motion. Recording the vote as 4 to
23 1 to zero. Let the motion carry, sir.

24 CHAIRPERSON HILL: Okay. Thanks.

25 So for the applicant and the Office of Planning, so in

1 two weeks, if we could get this on July -- July 7th, is that two
2 weeks, or is that the hearing date? Let me look. Right. So
3 July 7th is the hearing date, right?

4 MR. MOY: Yes.

5 CHAIRPERSON HILL: So maybe you can help me with the
6 timing, Mr. Moy. If we were to get back here -- let me read what
7 I think we need to get from the applicant, and then -- and the
8 Office of Planning, and then see how we can get back here in two
9 weeks. And that, you know, given that this is something that even
10 I know was something that we did a long time ago, and it's
11 unfortunate that it's kind of come to this timeline, but I don't
12 really see any way around it. Given the specific language of
13 the regulations, including Subtitle B's definition of apartment
14 house, Subtitle U § 301.1(b) through G and Subtitle U 320.2, the
15 Board requests that the applicant and the Office of Planning each
16 separately explain how the application is eligible for the
17 following requested relief: (1) a special exception to authorize
18 a principal dwelling unit in an accessory structure under either
19 Subtitle U § 301.1(e), since the proposed accessory structure is
20 neither "matter of right nor located within a required setback"
21 or Subtitle 301.1(c), since the proposed accessory structure is
22 not an expansion or addition to an existing accessory building
23 and, (2) a special exception to authorize the conversion of an
24 existing residential building to an apartment house under
25 Subtitle U 320.2 when the proposed third unit is in a separate

1 and new structure and not the existing residential building,
2 given the specific language of Subtitle U § 320.2, and the
3 definition of apartment house in Subtitle B § 100.2.

4 So those are the items that I'd like to request from
5 the applicant and the Office of Planning. Oh, I see. Right. So
6 that we're going to give them two weeks. And then we'd be back
7 here to decide by the 14th. Well, hold on. Now I'm confused.
8 That's okay. I think I figured it out.

9 So if we give them two weeks until July 7th, then two
10 weeks after submissions from the applicant or the Office of
11 Planning, on July 14th, we'll ask for everything from all parties;
12 ANC, party opponent, the applicant, OP, all parties may respond,
13 if they so choose to, to the submission from the applicant and
14 the Office of Planning. And then I propose that we deliberate
15 this on July 28th, and we'll ask Commissioner Miller to come
16 back.

17 Ms. Cain, did that sound -- timeline sound correct?

18 MS. CAIN: Once I change the responses from all parties,
19 it should come in on July 21st to allow them two weeks. Same as
20 the applicant and OP, so that's just one minor change. But the
21 final deliberation dated the 28th could stay the same.

22 CHAIRPERSON HILL: Okay. Can you go -- so you're
23 suggesting July 7th. Can you tell me again what the timeline
24 suggestions is?

25 MS. CAIN: So July 7th for responses from the applicant

1 and the Office of Planning, and then responses to what the
2 applicant and the Office of Planning submit from all the other
3 parties on July 21st, with final deliberations on July 28th.

4 CHAIRPERSON HILL: Okay. All right, Mr. Moy. You got
5 that?

6 MR. MOY: Yes, I have that, Mr. Chairman.

7 CHAIRPERSON HILL: Okay. All right. So Commissioner
8 Miller, is that it for you?

9 COMMISSIONER MILLER: (No audible response).

10 CHAIRPERSON HILL: All right. Well, you enjoy the day
11 and the weather. My God, I'm a little jealous. It's beautiful
12 outside.

13 COMMISSIONER MILLER: It is. My day just got a lot
14 better going forward.

15 CHAIRPERSON HILL: All right, Commissioner. You take
16 care. All right. Let's see. So that's it. Oh, we're getting
17 Chairman Hood today.

18 CHAIRMAN HOOD: Good morning, everyone.

19 CHAIRPERSON HILL: Good morning, Chairman Hood. You
20 know, I still -- Mr. Moy, why don't we just all go to the hearing
21 room, and we can just broadcast from there? We can all be there.
22 We'll just broadcast from there. That way we can all sit
23 together. And won't -- huh?

24 MR. MOY: That would be unique.

25 CHAIRPERSON HILL: I think that's the next step, right?

1 We all go in, but nobody else does.

2 MR. MOY: Well, if we do that, I'll provide lunch.

3 CHAIRPERSON HILL: Oh.

4 MR. MOY: Yes, that'll be on me, sir.

5 CHAIRPERSON HILL: Okay. Wonderful. Okay. That's on
6 the record now, Mr. Moy. Right. Two thumbs up for Mr. Smith.
7 All right.

8 You want to call this first issue that might be a
9 postponement, Mr. Moy?

10 MR. MOY: Yes, sir. So -- let's see. This is 10
11 o'clock. Okay. There you do. So this is Case Application No.
12 20454 of 4234 Benning, LLC. This application is currently
13 captioned and advertised for special exceptions under the new
14 residential development requirements, Subtitle U § 421.1 and the
15 parking requirements of Subtitle C § 701.5. This would raze,
16 r-a-z-e, an existing one-story detached principal dwelling unit
17 and to construct a new three-story detached eight-unit apartment
18 building with cellar and penthouse in the RA-1 Zone. Property
19 located at 4234 Benning Road, Northeast, Square 5087, Lot 70.
20 And as you said, Mr. Chairman, the applicant has requested a
21 postponement.

22 CHAIRPERSON HILL: Okay. Great. Mr. Bello, are you
23 there?

24 MR. BELLO: Good morning, Mr. Chair. Yes, I am.

25 CHAIRPERSON HILL: Okay. Mr. Bello, can you tell me

1 why you want a postponement?

2 MR. BELLO: Well, we were scheduled to be on the ANC
3 agenda for the 9th, but our Single Member District Commissioner
4 took ill and could not attend, so our application was tabled. So
5 we don't have ANC presentation or response yet. So we're trying
6 to get back on the calendar.

7 CHAIRPERSON HILL: Okay, Mr. Bello. Do you know when
8 you're going to get back on the calendar?

9 MR. BELLO: That'll be the first Tuesday of July, which
10 I'm not sure what that date is. I think it's the 9th.

11 CHAIRPERSON HILL: The 7th. Oh, no, it's the 6th.

12 MR. BELLO: The 6th, yes.

13 CHAIRPERSON HILL: Yeah. Okay. Mr. Moy, I'm a little
14 -- so, Mr. Bello, I know you know this, like we're really jammed
15 up through the end of the month. It -- does it matter -- is
16 there any -- I shouldn't say -- I mean, I going to try to do what
17 I can do, but is there a time constraint with you guys so that I
18 can't put you in until September?

19 MR. BELLO: If the Board's calendar will accommodate
20 it, this will be the third postponement, including the
21 administrative one. So the applicant is ready to go, and it's -
22 -

23 CHAIRPERSON HILL: Okay. Let me ask you a question,
24 Mr. Bello. Have you talked to the ANC at all? Like, do you know
25 kind of if they're going to have any issues or concerns?

1 MR. BELLO: Would it -- I've been in communication with
2 the Single Member District Commissioner. I'm not sure that
3 there's any concern, even though there's a request that at least
4 two of the units --

5 CHAIRPERSON HILL: Mr. Bello, I lost you there at the
6 end.

7 MR. BELLO: So there's a request by the Single Member
8 District Commissioner, which applicant can actually not fulfill,
9 there's a request that two of the eight units be made affordable
10 dwelling units. But we don't know what the position of the Single
11 Member District Commission would be on that.

12 CHAIRPERSON HILL: Okay. So you don't know, right?

13 MR. BELLO: We don't have a definitive position or the
14 answer yet at this point, no.

15 CHAIRPERSON HILL: Okay. All right. Mr. Moy, is there
16 anywhere that we can squeeze them in? That means the 6th -- that
17 means the 14th, the 21st and the 28th.

18 MR. MOY: Okay. My suggestion, Mr. Chairman, is that
19 the 14th of July you already have 12 cases, so this would be the
20 13th case. On July 21st, you have five cases and one appeal,
21 and that's big one. I can tell you about that. And then on July
22 28th, you have four -- one, two -- actually, yeah, four cases
23 and two appeals, which is on the same subject property. So I -
24 - I think, actually, from the staff side, I'll do whatever the
25 Board wants, but I think it looks more favorable for September

1 22nd, where we have six cases.

2 CHAIRPERSON HILL: All right. Mr. Bello, I'm sorry.
3 You're going to get kicked to September 22nd.

4 MR. BELLO: Very well.

5 CHAIRPERSON HILL: Okay. All right, Mr. Moy. Go ahead,
6 and let's put in September 22nd.

7 MR. MOY: Okay. Sure.

8 CHAIRPERSON HILL: All right, Mr. Bello. Thank you.
9 Take care.

10 MR. BELLO: Thank you.

11 CHAIRPERSON HILL: Mr. Young, if you could go ahead.
12 Mr. Moy, you just depressed me.

13 MR. MOY: Okay. Well, I mean you do have August recess,
14 sir.

15 CHAIRPERSON HILL: Yeah, well, we're going to need it.

16 MR. MOY: All right. So the next case application,
17 sir, is No. 20382 of Haider Haimus and Jessica Bachay. I know
18 I'm clobbering their last name. I should know it by now. It's
19 B-a-c-h-a-y. This is the -- captioned and advertised for a
20 special exception from the lot occupancy requirement, Subtitle E
21 § 304. 1. This would construct a third story addition and a roof
22 deck to an existing two-story principal dwelling unit and a second
23 story addition to an accessory detached garage in the RF-1 Zone.
24 The property is located at 308 11th Street, Northeast, Square
25 963, Lot 68. And this was last heard -- last heard on June 23rd.

1 CHAIRPERSON HILL: Okay.

2 MR. MOY: I take that back. June 16th. Sorry.

3 CHAIRPERSON HILL: Okay. So we have -- is there a
4 motion to strike here or something?

5 VICE CHAIR JOHN: Yes, there is, Mr. Chairman. That
6 is at Exhibit 85, I believe.

7 CHAIRPERSON HILL: Got it. Mr. Moy, are you aware of
8 that one?

9 MR. MOY: Okay. I don't know.

10 CHAIRPERSON HILL: Yeah.

11 MR. MOY: I'm rustling through my paperwork.

12 CHAIRPERSON HILL: All right. Let me -- let me go
13 through introductions and we'll figure out what we're going to
14 do. Mr. Sullivan, could you introduce yourself, please?

15 MR. SULLIVAN: Thank you, Mr. Chairman, and members
16 of the Board. Marty Sullivan with Sullivan and Barros on behalf
17 of the applicant.

18 CHAIRPERSON HILL: Okay. And who is with you here
19 today with you, Mr. Sullivan?

20 MR. SULLIVAN: We have the architect, Jennifer Fowler
21 and the owner, Haider Haimus.

22 CHAIRPERSON HILL: Okay. Great. All right. So we'll
23 see where we get with them. Is it Ms. Howell? Can you hear me?

24 MS. HOWELL: Yes. Can you hear me?

25 CHAIRPERSON HILL: Yes. Could you introduce yourself

1 for the record?

2 MS. BALLANTYNE: Sure. My name is Mary Joy Ballantyne.
3 This is my husband, Darrin Howell, and we live at 306 11th Street,
4 which is directly south of the property.

5 CHAIRPERSON HILL: Okay. All right, Ms. Ballantyne.
6 I'm sorry. Just it's -- Mr. Howell is in the screen.

7 MS. BALLANTYNE: That's okay. You can call me Ms. --
8 Ms. Howell.

9 CHAIRPERSON HILL: No, that's okay. But anyway, oaky,
10 either way. And you are here with -- is it Ms. Harrison?

11 MS. BALLANTYNE: Yes, there's actually eight of us;
12 four families that are parties in opposition. And I think we're
13 all on the line.

14 CHAIRPERSON HILL: Okay. I see Harrison. I see
15 Srinivasa. I'll let everybody introduce. And then I don't see
16 anybody else. Who else is with you, Ms. Ballantyne?

17 MR. BALLANTYNE: It's either Randi Spivak or Andy Kerr.
18 I don't know if they're joining us, but they were going to.

19 CHAIRPERSON HILL: Okay. Mr. Young, do you see either
20 one of those people?

21 MR. YOUNG: I do not.

22 CHAIRPERSON HILL: Okay. Well, we'll just keep an eye
23 out for them, Mr. Young; okay?

24 Ms. Harrison, can you hear me? Could you introduce
25 yourself for the record, please? You're on mute.

1 MS. HARRISON: Hopefully, you can hear me now.

2 CHAIRPERSON HILL: Yes.

3 MS. HARRISON: Good morning. Mr. Chairman, I'm Teresa
4 Harrison, along with my husband, Thomas Sheeran. We're part of
5 the parties in opposition. We live at 310, I'm sorry, 311 10th
6 Street, Northeast.

7 CHAIRPERSON HILL: Okay. Great. Ms. Srinivasa? Can
8 you hear me?

9 MS. SRINIVASA: Yes, can you hear me?

10 CHAIRPERSON HILL: Yes. Could you introduce yourself
11 for the record, please?

12 MS. SRINIVASA: Yes. Thank you for your time. My name
13 is Veena Srinivasa. I live at 310 11th Street, Northeast, which
14 is the property immediately adjacent on the applicant's to the
15 north.

16 CHAIRPERSON HILL: Okay. Great. And Ms. Howell, as I
17 recall, you're -- I'm sorry. Ms. Ballantyne, as I recall, you're
18 going to be the mouthpiece, more or less, for the group?

19 MS. BALLANTYNE: Yes. I have a brief comment, if I
20 could.

21 CHAIRPERSON HILL: Sure. Sure. Just let me kind of
22 go through a couple of things. What -- what brief comment did
23 you want? You're saying -- is this part of your presentation,
24 or you have something you'd like to ask?

25 MS. BALLANTYNE: Presentation.

1 CHAIRPERSON HILL: Oh, yes. You'll get -- so how this
2 now goes, right, is the applicant is going to make their
3 presentation as to why they believe they're meeting the standard
4 for us to grant the relief being requested. And then you guys
5 will have an opportunity to ask questions of the applicant about
6 the requested relief that's being asked for, right? And then
7 after that, you'll have an opportunity to give your presentation,
8 and then the applicant will have an opportunity to ask you
9 questions. And then we're going to hear from the Office of
10 Planning. Everybody will have an opportunity to ask the Office
11 of Planning questions. And then at the end, the applicant will
12 get the last word to give a little bit of a conclusion. Okay?
13 All right. So, Mr. Sullivan --

14 MS. BALLANTYNE: Wait. I have one more question. Are
15 we going to discuss anything about the motion?

16 CHAIRPERSON HILL: Got you. No, I appreciate that, Ms.
17 Ballantyne. Sorry. Mr. Moy is raising his hand also. So, Mr.
18 Moy, go ahead.

19 MR. MOY: Yes, so, I took a quick look at the --the
20 case record, Mr. Chairman. Yesterday, Tuesday, June 22nd, the
21 parties in opposition filed a motion to strike and also a motion
22 that they were opposed to the applicant's PowerPoint
23 presentation. That's under Exhibit 84, if you want to review
24 that very quickly.

25 MS. BALLANTYNE: Actually, I don't think we

1 objected to the presentation. If we did, we didn't intend to.
2 We just had some objections to some of it -- the information,
3 the drawings.

4 CHAIRPERSON HILL: Okay. So Ms. Ballantyne, I mean I'm
5 looking through your Motion to Strike, and it seems like a lot
6 of the things that you're asking to strike, are things that we're
7 going to end up talking about during your presentation, as to
8 what you think is wrong with the application. Unless the Board
9 -- and you guys can tell me what you think. I mean I'd rather
10 hear from the applicant, and we can figure out whether or not we
11 think anything is misleading, or whether or not we think there's
12 an issue with what is being presented. And then we, you know,
13 can go ahead and work from there. So I don't want to strike
14 anything. I want to be able to hear from the applicant.

15 MS. BALLANTYNE: We didn't address anything in our
16 presentation about the errors, because it -- it's not really
17 relevant to the -- (indiscernible) principal building, and it's
18 causing issues in other areas in the District, and so, we didn't
19 address that in our presentation.

20 CHAIRPERSON HILL: No, I got it. And I'm -- I'm looking
21 through here. I mean the problem with the -- I don't mean to
22 throw your presentation off, Ms. Ballantyne. I mean they're here
23 -- I mean they're not here for the principal unit. Right?
24 They're here for -- well, let's get through the presentation,
25 okay? And then let's go ahead and see where we get, right?

1 So Mr. Sullivan, can you hear me? Okay. So before I
2 do this, now, I don't know if I can do this by consensus or not,
3 I'm going to deny the motion to strike and ask for a second, Ms.
4 John.

5 VICE CHAIR JOHN: Second.

6 CHAIRPERSON HILL: Okay. Mr. Moy, the motion -- the
7 motion to deny the motion to strike has been made and seconded.
8 Could you take a roll call?

9 MR. MOY: Yes, sir. Thank you, Mr. Chairman. When I
10 call your name, if you would -- and these are the Board members.
11 When I call your name, if you would please reply with -- respond
12 with a yes, no, or abstain to the motion made by Chairman Hill
13 to deny the motion to strike. The motion was seconded by Ms.
14 John, I believe. Mr. Smith?

15 BOARD MEMBER SMITH: Yes.

16 MR. MOY: Mr. Blake?

17 BOARD MEMBER BLAKE: Yes, to the motion.

18 MR. MOY: Zoning Commission Chair, Anthony Hood?

19 CHAIRMAN HOOD: Yes, to the motion.

20 MR. MOY: Ms. John?

21 VICE CHAIR JOHN: Yes, to strike.

22 MR. MOY: Chairman Hill?

23 CHAIRPERSON HILL: Yes, to the motion.

24 MR. MOY: Staff would record the vote as 5-0-0. And
25 this is on the motion of Chairman Hill to deny the motion to

1 strike. The motion was seconded by Vice Chair John. Also in
2 support of the motion to deny is Mr. Smith, Mr. Blake, and Zoning
3 Commissioner Chair Anthony Hood. Motion carries, sir.

4 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy. All
5 right. Mr. Sullivan, can you hear me?

6 MR. SULLIVAN: (No audible response.)

7 CHAIRPERSON HILL: Okay. So, Mr. Sullivan, if you can
8 go ahead and walk us through your presentation. And, again, how
9 you believe that the applicant is meeting the standard for us to
10 grant the relief requested. And I'm going to put -- I can't see
11 the clock. Oh, I see it. I'm going to put 15 minutes on the
12 clock, so I know where we are. And you can begin whenever you
13 like.

14 MR. SULLIVAN: Okay. Thank you. If we could have the
15 PowerPoint presentation loaded, please?

16 CHAIRPERSON HILL: Is that the one from Exhibit 80? It
17 says applicant's updated PowerPoint?

18 MR. SULLIVAN: It was the updated one, yeah. We -- it
19 was filed before last week's.

20 CHAIRPERSON HILL: On 6/15?

21 MR. SULLIVAN: Correct.

22 CHAIRPERSON HILL: Okay. Thank you.

23 MR. SULLIVAN: Thank you. So the -- this is for 308
24 11th Street, Northeast. This is a photo of the existing accessory
25 building at the rear of the property.

1 Next slide, please.

2 The relief is for an extension of the existing non-
3 conforming lot occupancy. The current lot occupancy is 67.2
4 percent. And so, there's really two aspects of this. There's a
5 slight expansion to the footprint of the existing accessory
6 building. As you mentioned, there's no expansion in the principal
7 building. The principal building, of course, is calculated in
8 the lot occupancy along with the accessory building. But there
9 is no expansion of that -- of the footprint of that building
10 contemplated in this project. So a slight expansion of the
11 accessory building.

12 And then as lot occupancy is calculated on a level-by-
13 level basis, for the second level, the lot occupancy will be also
14 going to 68.8 percent. So, effectively, the relief -- what we
15 could do, as a matter of right, is build a smaller second story
16 on the accessory building, so the relief really entails work that
17 would be a full-sized second story on the accessory building, as
18 slightly expanded by 1.6 percent lot occupancy in that expansion
19 on that first and second floor, for which we ask for special
20 exception relief. There's still a 20-foot rear yard, as required,
21 between the accessory building and the principal building.

22 CHAIRPERSON HILL: Mr. Sullivan, just quickly again,
23 can you go --

24 MR. SULLIVAN: Yes?

25 CHAIRPERSON HILL: So the increase, you're saying -- I

1 -- you kind of lost me there on the second story thing. So the
2 increase is 1.6 on the bottom story and the top story?

3 MR. SULLIVAN: So the increase is 1.6 on the ground
4 story.

5 CHAIRPERSON HILL: Yep.

6 MR. SULLIVAN: It's going from 67.2 to 68.8. We can
7 ask the architect for what the increase is on the second story.
8 But the second story, that level's lot occupancy, because we only
9 have one story of accessory building right now, is under 60
10 percent. So it's going from somewhere under 60 percent -- so we
11 could, as a matter of right, put a second story on here. But
12 that second story would only be five or six feet. So essentially,
13 you would have an accessory building and a half, as a matter of
14 right.

15 CHAIRPERSON HILL: Okay.

16 MR. SULLIVAN: We're asking to expand that second story
17 and then to expand the whole thing to 1.6 percent.

18 CHAIRPERSON HILL: Okay. Okay.

19 MR. SULLIVAN: So the footprint itself is -- is
20 increasing as well.

21 CHAIRPERSON HILL: Okay.

22 MR. SULLIVAN: The footprint on the first and second
23 floor.

24 CHAIRPERSON HILL: I got you.

25 MR. SULLIVAN: Next slide, please.

1 So what's been updated since the last hearing? This
2 regulation, this special exception is only permitted, for some
3 reason, if the principal building is just one unit, apparently,
4 from the regulations. And that was a change that was made last
5 summer. So the permit application needed to be changed because
6 originally the applicant did intend to renovate this as two
7 separate units. It's currently one unit, and it's currently
8 proposed to be renovated as one unit.

9 Other updates. The size, the massing, the footprint
10 of the accessory building has been slightly reduced since it was
11 originally opposed -- or proposed. The front and rear walls of
12 the accessory building are now proposed to be flush with the
13 accessory building to the north. And, of course, the proposed
14 lot occupancy was reduced in that modification. Other
15 modifications that were made in response to comments from the ANC
16 and from the neighbors, there was a Juliet balcony on the interior
17 of the accessory building. That was removed. There was a --
18 frosting as proposed on the windows facing the alley.

19 Next slide please.

20 Oh, also in the shadow study, we increased the times
21 for the shadow study, to take it later into the afternoon.

22 And now, I'll turn it over to Ms. Fowler to take you
23 through some photos and the plans.

24 CHAIRPERSON HILL: Ms. Fowler, could you introduce
25 yourself for the record, please?

1 MS. FOWLER: Hi. Good morning. I'm Jennifer Fowler.
2 I'm with Fowler Architects.

3 CHAIRPERSON HILL: Okay. Thank you.

4 MS. FOWLER: Okay. So these are just some context
5 photos looking at the garage from the yard side, looking kind of
6 down the alley in both directions of the surrounding garages.

7 Next slide, please.

8 This is kind of the overall block site plan. You can
9 see the garage in yellow. And you can see kind of the -- we've
10 also noted some of the other improvements, such as the third-
11 floor addition and roof deck, which are not part of the zoning
12 request, but we were showing kind of the whole picture of the
13 project.

14 Next slide.

15 Yeah. Just more of a blowup of the site plan. You
16 can see the garage lines up with the two adjacent garages on the
17 alley side. So that's kind of the current rear wall of the
18 garage. And we've -- on the yard side, we're extending it so
19 that it aligns with the garage to the north, and which is 22
20 feet, and then it's going to be one foot -- one foot beyond the
21 garage to the south.

22 Next slide.

23 This is more kind of a similar site plan here. We also
24 are noting that the rear wall is ten feet and change past the
25 centerline of the alley. So we're meeting that standard, as far

1 as the rear setback.

2 Next slide.

3 This is an overall kind of site section. So we can see
4 the main house, front porch at the front with a mansard. You
5 have the third-floor addition, again, which is kind of within and
6 under the 60 percent cutoff. And then you have the garage at
7 the rear just for context here.

8 Next slide.

9 Floor plans. So you see the existing first floor plan.
10 This is kind of the proposed renovations on the interior of the
11 main house along with the kind of the garage plans up on the
12 left. And, again, we've reduced the size of the garage since
13 the original filing, but it is, you know, so it's kind of minimal
14 size for parking at this point. The second floor has just a kind
15 of a living office space and a bathroom.

16 Next slide.

17 Again, main house plans for context. You can see the
18 roof plan on the bottom left of the screen of the garage.

19 Next slide.

20 CHAIRPERSON HILL: Ms. Fowler, again, there's --
21 there's no kitchen in there, right?

22 MS. FOWLER: No. No kitchen. This is more of a --
23 kind of a family space, office, catch-all space for the family.
24 No plans for rental.

25 CHAIRPERSON HILL: Okay. Thank you.

1 MS. FOWLER: Sure. Okay. So these are the views.
2 You've got bottom right hand. You have the alley elevation.
3 And this is where Mr. Sullivan had noted what we included frosted
4 glass. So the two windows at the top of that elevation have been
5 noted as frosted for the privacy of the neighbors across the
6 alley. And then the -- if you look at the top right elevation,
7 this is the yard facing view. The original plans had a set of
8 French doors on the second floor with a Juliet balcony. And per
9 the request of the neighbors, we reduced those. So we have kind
10 of more of a standard set of casement windows on that side to
11 mitigate the impact. And then you have the side views to the
12 left.

13 Next slide. Thank you.

14 And more kind of views for context here. You've got
15 the garage at 318 11th Street, which kind of sets in and then
16 the other garage. So there's kind of an in and out pattern going
17 down that side of the alley.

18 Next slide.

19 And then kind of looking straight to the north, you
20 have, again, those garages and then on the left you can see a
21 two-story garage that was installed in the last few years, I
22 believe. And then straight ahead, there's a kind of a condo
23 project that's two stories plus kind of a pitched roof.

24 CHAIRPERSON HILL: Is that the end of that alley at the
25 north?

1 MS. FOWLER: Yes, that is.

2 Next slide.

3 We have some other pictures that you'll see. So this
4 is kind of moving towards the north. You can see this kind of
5 dilapidated garage that sits right on the property line along
6 that corner. And then the condo -- kind of that condo conversion
7 straight ahead, which I believe that's on D Street.

8 Next slide.

9 And this is that building as well.

10 And next slide.

11 And then kind of peeking around the side of that alley.

12 And next slide.

13 Okay. And I'm going to turn it back over to Marty to
14 talk about the criteria. Thank you.

15 MR. SULLIVAN: Thank you, Jennifer.

16 MS. FOWLER: Uh-huh.

17 MR. SULLIVAN: So the general special exception
18 criteria granting relief will be in harmony with the purpose and
19 intent of the RF-1 Zone. This is intended to be -- it's going
20 to be -- the principal building will be one dwelling unit. And
21 the accessory building will just be accessory or incidental use
22 to that one unit. The regulations specifically permit this
23 special exception approval. It's for the increase in lot
24 occupancy of 1.6 percent.

25 Also, will note that the height is permitted as a matter

1 or right. The height of the accessory building is permitted to
2 be two stories. And the height is actually 20 -- the max height
3 is 22 feet, so it's actually about a foot and a half below the
4 maximum permitted height. And as you saw from Ms. Fowler's
5 presentation and the photos, there's a variety of accessory
6 buildings along the alley.

7 The specific conditions. Next slide, please. Light
8 near available to neighboring properties. And I'll have Ms.
9 Fowler go through the shadow studies short as soon as I get
10 through these slides. But you'll see that there is, as you would
11 expect, very minimal increase in shadow as a result of the
12 requested relief.

13 Privacy. Use and enjoyment of neighboring property
14 shall not be unduly compromised. So it's important to note that
15 the evaluation of the privacy question should be done in the
16 context of what is permitted as a matter of right and what impact
17 does this relief have on the privacy situation. So we can put a
18 second story up on the accessory building right now. We can put
19 as many windows as we wanted to put in there. Actually, as a
20 matter of right, it would make sense if there was only half of a
21 second story on the accessory building to have a roof deck of
22 sorts on the interior facing the interior of the lot, similar to
23 the roof deck that's on the adjacent accessory building to the
24 south at 306 11th Street. So, arguably, filling it out with a
25 second story with the casement windows and the Juliet balcony and

1 the French doors removed, arguably improves the privacy situation
2 over what it could be, as a matter of right.

3 And then (c), The addition or accessory structure,
4 together with the original building, as viewed from the street
5 alley, and other public way, shall not substantially visually
6 intrude upon character, scale and pattern of houses along the
7 subject street frontage. And Ms. Fowler has gone through a
8 variety of accessories structures along the alley. Note that
9 this also has, especially in this aspect, the support of the ANC
10 and the Office of Planning. And is also subject in the end to
11 approval by the Historic Preservation Review Board.

12 So, Jennifer, if you could, just take the Board through
13 the shadow study, please.

14 Next slide, please. Next slide, please.

15 MS. FOWLER: Okay. Thank you. So we have a sun study
16 here, and I'll go through quickly. We've -- this is kind of an
17 axon view showing the proposals. You can see the proposed
18 carriage house.

19 Next slide, please.

20 Okay. So what we've done is we've compared the matter
21 of right garage to the proposed. And you can see on the top of
22 the screen is the matter of right option. And, in fact, it's
23 the -- we can build about a 12-foot seven-inch garage, as far as
24 the depth, front to back as a matter of right, so, which is a
25 little more than we -- than I think was noted earlier. So that

1 top view is kind of showing you what we can build by right. And
2 what we've done, is we've outlined in red kind of the shadow --
3 the new shadows created by this garage are noted in red at the
4 top, and then at the lower image, you can see kind of where the
5 shadow has extended beyond the kind of the matter of right shadow.
6 So winter morning, you've got a little extension to the alley.

7 Next slide.

8 Again, this is kind more mid-day in the winter. You've
9 got shadows cast on the adjacent garage rooftops.

10 Next slide. And here, there is just, again, it's more
11 impact to the rooftop. This is 3 o'clock in the winter hours.

12 Next slide.

13 The neighbors requested that we included a 5:00 p.m.
14 study. For winter, I included 4:30 p.m., because if you show
15 5:00 p.m., it's -- pretty much goes dark. So this is showing
16 kind of the 4:30 in the wintertime, that it's all fairly much in
17 shadow at that point.

18 Next slide.

19 This is the spring and fall. So March/September.
20 Again, kind of outlining the shadow. On the bottom of this slide,
21 you can see kind of the impact of the alley.

22 Next slide.

23 This one extends a little bit more shadow on the rooftop
24 of the neighbor's garage.

25 And next slide.

1 And then here, again, there's just, again, a little -
2 - slight impact to the roof of the adjacent garage. But all the
3 shadows that are cast into the yard at 310 and 308 are the same
4 as they would be with the existing -- or with the matter of right
5 proposal.

6 Next slide.

7 And then this is for the -- the spring and -- sorry.
8 I'm sorry. This is 5:00 p.m. So this is late day in the spring
9 and the fall. Again, really no change between the two.

10 Next slide.

11 And then here we are in the summer months. So, again,
12 because of the orientation, you're casting shadows in the morning
13 towards the alley.

14 Next.

15 This is midday. A little bit of impact on the rooftop
16 of the adjacent garage.

17 And next.

18 This is kind of 3:00 p.m. afternoon hours. No change
19 between the two proposals.

20 And, next.

21 And this is your 5:00 p.m. shadow. And at this point,
22 all of the shadow -- most of it's going on to the house at 308.
23 And, again, there's no difference between the two options,
24 because the mass is -- the matter of right mass already cast that
25 shadow.

1 And, next, please.

2 And I'll turn it back over. Thank you so much.

3 MR. SULLIVAN: Thank you, Ms. Fowler. And so, I think
4 the Board can see that, as you would expect, from the shadow
5 studies, they evidence the very minor nature of this relief and
6 the minor nature of the project. And I think probably the best
7 evidence of that or the best manifestation of that is that the
8 ANC 6A has unanimously voted to support this despite the
9 opposition, and I think that's very telling.

10 So that's it for our presentation. And we are available
11 for questions. Thank you.

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

13 I only have one question, and I'll let the Board ask
14 their questions. Just to be clear, Ms. Fowler, that other shadow
15 stays that you shadow between the matter of right and the -- and
16 you don't have to pull it up, Mr. Young. The matter of right
17 versus the -- what's being proposed. The height is the same in
18 the garage, correct?

19 MR. FOWLER: Yes, that is correct. The height is
20 consistent between the two. The only difference is with the
21 matter of right, we pulled the -- kind of went back to the 60
22 percent --

23 CHAIRPERSON HILL: Right. You pulled it in off the
24 alley. You put it in --

25 MR. FOWLER: Yes. Yes.

1 CHAIRPERSON HILL: -- pulled it off the alley. Okay.
2 All right.

3 Does the Board have any questions for the applicant?
4 Ms. John?

5 VICE CHAIR JOHN: One question for Ms. Fowler. Do you
6 have a photograph of the roof deck on the other accessory
7 structure, or can you tell us where that roof deck is?

8 MR. SULLIVAN: There is one -- I'm sorry. In our
9 PowerPoint and let me see what page number it is. I think there's
10 a photo that shows -- page four of the PowerPoint presentation.

11 VICE CHAIR JOHN: Thank you.

12 MR. SULLIVAN: The photo, bottom left corner.

13 VICE CHAIR JOHN: Thank you.

14 CHAIRPERSON HILL: Where is it, Mr. Sullivan?

15 MR. SULLIVAN: It's a roof deck. There's roof deck
16 furniture on top of the accessory building at 306 11th, which is
17 on the bottom left corner of this slide. And that's adjacent -
18 - the subject accessory building at 308 is just to the left of
19 this.

20 VICE CHAIR JOHN: Thank you.

21 CHAIRPERSON HILL: Mr. -- Chairman Hood?

22 CHAIRMAN HOOD: Yes, Mr. Chairman. Thank you. Mr.
23 Sullivan, I'm concerned, because I didn't see -- and I appreciate
24 the Vice Chair asking you to go there -- but I was looking for a
25 perspective more like what the opposition has provided. And I'll

1 tell you, I Need to see a perspective. I know I know the numbers,
2 they fit, but I also need to see a perspective of -- to look at
3 the necessary impacts. I will tell you that the shadow studies
4 or aerial view did it to some extent, but I would like to see a
5 ground-level perspective.

6 And I will also comment. While I know you have support
7 of the ANC, and I think you mentioned "that should speak for
8 itself," but a lot of times, people on the ANC throughout the
9 city don't -- they're not most affected. So it's good when you
10 can vote for something when you live 20 blocks away. So I want
11 to make sure that you provide a perspective, because the
12 perspective that the opposition supplied is very troubling to me.
13 So I would like to see that.

14 I will say the matter of right, I think there is
15 significance, because of the views from the alley. But either
16 way, if you could provide a perspective as the opposition, I
17 think it would be very helpful, at least for me. Thank you.
18 Thank you, Mr. Chairman.

19 CHAIRPERSON HILL: Okay. Anyone else? All right.

20 Ms. Ballantyne, you had your hand up first. But
21 secondly, you're going to get an opportunity to ask any questions
22 of the presentation. Do you have any questions of the
23 presentation and/or do you want to make your comment? Sure.
24 You're on mute.

25 MS. BALLANTYNE: If I can just follow on to that --

1 what they're characterizing as a roof deck. We have a composter
2 up there, because we don't have room on our patio. And then the
3 furniture that's up there, the gentleman who left the home that
4 they purchased was under foreclosure, and so we stored his
5 furniture on top of our garage because we have no space for it.
6 So it's matching our roof deck. We have some vegetable planters
7 that we've had there for 20 years and a composter and then our -
8 - the former neighbor's furniture.

9 CHAIRPERSON HILL: Okay. All right. Ms. Ballantyne,
10 do you have any questions?

11 MS. BALLANTYNE: I do. I was -- so they have alleged
12 that they're going to make this a single-family unit. I just
13 want to clarify for the record. So we've lived in our property
14 for 20 plus years, and we were very good friends with the tenants
15 and the owner next door for that period of time. And it's always
16 been a two-family flat. It's always had two meters. It's always
17 been hooked up as a two-family flat. So we just want to confirm
18 that with the Board that once this order goes through, there
19 could be some sort of condition that that will remain a single-
20 family home. Because there's a two office ---yeah, a certificate
21 of occupancy that is different than a single-family dwelling.
22 That's (indiscernible). But that --in the 20 years we've lived
23 there, it's never been a single-family home.

24 CHAIRPERSON HILL: Okay. So Ms. Ballantyne, I'm just
25 trying to understand your question. So you have a question for

1 the applicant, which is what?

2 MS. BALLANTYNE: Thank you. I would appreciate if they
3 would submit the building permit amendment that they said
4 establishes that they're a single-family unit.

5 CHAIRPERSON HILL: No, no, no. That's -- that's a
6 request. We're not -- I got you. I'm just trying to -- we're
7 just doing -- it's okay. We're just doing questions right now.
8 And then if you have -- and then you're going to do your
9 presentation. And in your presentation, you can give whatever
10 information you wish to present.

11 MS. BALLANTYNE: Okay.

12 CHAIRPERSON HILL: But right now, we're just having
13 questions of the applicant based on their presentation.

14 MS. BALLANTYNE: Thank you. Okay. So --

15 CHAIRPERSON HILL: Your question is, is it going to
16 remain a single-family unit?

17 MS. BALLANTYNE: Correct.

18 CHAIRPERSON HILL: Mr. Sullivan?

19 MR. SULLIVAN: What we know is, right now, it's a
20 single-family unit. There's actually no kitchens in it. And
21 that's what it was when it was purchased, because it was gutted.
22 And there is a building permit application to renovate and it
23 will be renovated as a single-family unit.

24 CHAIRPERSON HILL: So your answer is yes.

25 MR. SULLIVAN: Yes.

1 CHAIRPERSON HILL: Okay. Ms. Ballantyne, what's your
2 next question?

3 MS. BALLANTYNE: That's it. I have to tell you,
4 Chairperson Hill, the applicant gutted the property. So they
5 said it was purchased. I just want to clarify for the record
6 that the applicant gutted the property. It wasn't ever gutted
7 while that former owner --

8 CHAIRPERSON HILL: Okay. All right, Ms. Ballantyne,
9 that's fine. You can give your presentation. And I got to let
10 you know, Ms. Ballantyne, I understand you guys are trying to do
11 this yourself. This is my first case of a very, very long day.

12 MS. BALLANTYNE: Okay.

13 CHAIRPERSON HILL: So literally, these are just
14 questions. Do you have any questions?

15 MS. BALLANTYNE: Yes, I do. They still request relief
16 on their drawings for, I believe from Subtitle C 202.2, and I'm
17 just wondering why that's still on the record.

18 CHAIRPERSON HILL: Mr. Sullivan?

19 MR. SULLIVAN: It could be a typo on the plans itself.
20 It's irrelevant. It's immaterial, because the Form 135 is what
21 counts, and the applicant's statement on both of those. We've
22 made it clear that we no longer need relief from C 202.2. And
23 that's because of a change made by the Zoning Commission last
24 summer that provided. It's not necessary to also ask for that
25 relief when you're asking for the applicable development standard

1 relief.

2 CHAIRPERSON HILL: Okay. Ms. Ballantyne, your next
3 question?

4 MR. BALLANTYNE: Yeah. One last question. Where will
5 the AC unit for the garage apartment be located?

6 CHAIRPERSON HILL: What was your question again?

7 MR. BALLANTYNE: The garage upper level is likely going
8 to have an AC unit. They have two proposed in the yard right
9 next to our property. I want to know where that -- if there's
10 going to be a third one for that unit, and, if so, where it's
11 going to be located?

12 CHAIRPERSON HILL: Okay. Mr. Sullivan and Ms. Fowler,
13 do you have an answer?

14 MS. FOWLER: Most likely, it's going to be like a mini
15 split system with a small compressor, and most likely on the roof
16 of the garage.

17 CHAIRPERSON HILL: Okay. Ms. Ballantyne, what's your
18 next question?

19 MR. BALLANTYNE: I don't have any more questions. Thank
20 you.

21 CHAIRPERSON HILL: Okay. Thank you. All right. Let's
22 see. So, Ms. Ballantyne, you'll go ahead and have the same amount
23 of time that the applicant had. I 'm going to start 15 minutes
24 on the clock. It looks like -- Mr. Young does that -- did that
25 clock go the other way once you hit 15?

1 MR. YOUNG: I restarted it one to 15 was up, and it
2 went down to 12, so --

3 CHAIRPERSON HILL: Okay. So like 25?

4 MR. YOUNG: Eighteen is what I have.

5 CHAIRPERSON HILL: Above --

6 MR. MOY: They used -- they used their 15 minutes, and
7 then they went an additional three minutes.

8 CHAIRPERSON HILL: Okay. All right. Got you. All
9 right. Ms. Ballantyne, I'm going to go ahead and put 15 minutes
10 on the clock, just so I know where we are. I mean you have at
11 least eighteen minutes. But, you know, go ahead and do what you
12 need to do in order to state your objections. And then also,
13 if, you know, as you're kind of going along, you know, we'll try
14 to help you out as best we can, in terms of if we have any
15 clarifying questions. Okay?

16 MS. BALLANTYNE: Thank you. Can you pull the
17 presentation, please?

18 CHAIRPERSON HILL: Do you know which exhibit it is, Ms.
19 Ballantyne?

20 MS. BALLANTYNE: It was submitted yesterday morning.

21 MR. YOUNG: It's 80.

22 MS. BALLANTYNE: That's it. Next slide, please?

23 MR. YOUNG: Starting at 79.

24 MS. BALLANTYNE: Next slide. So you've met the parties
25 in opposition. I'll just give you a little bit more background

1 about us. So we've lived in our house for about 20 plus years.
2 We have three small children, and one on the way, and we have
3 neighbors directly to the north, the Wilsons, who also have two
4 small children who have lived in their home for about four years.

5 Next slide.

6 It's our opinion that the Board should reject the
7 application because it does not satisfy the Board's use standards
8 in the regulations because it's not in harmony with the purpose
9 and intent of the zoning regs. And as proposed, it will unduly
10 adversely affect our views. And because we don't think that
11 they've fully established that there's no real undue adverse
12 impact. And we strongly object to the record, because of the
13 significant (indiscernible).

14 And I just want to get some background on the applicant.
15 The applicant has never lived in the neighborhood. The applicant
16 purchased a foreclosed home last year that required the -- him
17 to live in his home and objected to any development offers. He
18 owns a development company, and within two months or three months
19 of purchasing the property, he actually gutted the entire thing,
20 and then he started to illegally excavate the basement extension,
21 so in our motion to strike, they have renderings and drawings
22 showing that the basement footprint is identical to the upper two
23 levels, which is not correct. There is a crawlspace. And if
24 you look at page one of their photos -- of Ms. Fowler's drawings,
25 you will see that crawlspace come to the rear. And so, their

1 renderings of the side elevations are not correct. And these
2 match these building permits that were submitted in April, where
3 they falsely state that they have a basement extension.

4 I'd also like to say for the record, that the interior
5 floor plans are false, and even Mr. Sullivan said that the
6 property was gutted, and it's difficult to see --

7 CHAIRPERSON HILL: Ms. Ballantyne? Ms. Ballantyne, I
8 don't mind. You can use your time the way you want to, but again,
9 we're only here for the garage.

10 MS. BALLANTYNE: Okay.

11 CHAIRPERSON HILL: So just to let you know, you can
12 talk about that primary building all you want, and it's not --
13 it has nothing to do with what we're here for.

14 MS. BALLANTYNE: Right. But my point is that it's
15 perpetuating this problem of confusion and DCRA, ANC, the
16 Commissioner's office, et cetera. So I will move on.

17 The next slide, please.

18 We just put this slide up here to show the comparison
19 between the current development standards and the properties --
20 the neighboring properties and the property in question. There
21 are properties of much smaller -- they're much more narrow. As
22 built, they already exceeded the 60 percent lot occupancy
23 significantly, where all (audio interference) at 70 percent,
24 where we would be in the early variance if we requested any
25 additions to our properties. And so, in effect, we're already

1 lacking for air, light, and privacy. And so, any sort of de
2 minimis change on a two-dimensional drawing can have significant
3 impacts on our property.

4 And while the applicant characterized his project as a
5 small project, because they're only sort of abutting up against
6 that 70 percent lot occupancy, if you look actually at the
7 numbers, their height increase, and their building increase is
8 about three times. That's about a 300 percent -- 250 percent to
9 300 percent increase in the size of that building. Next slide.

10 This just shows you what our neighborhood looks like.
11 We have a modest neighborhood, not fancy. And it's really been
12 unaltered really since it was built about a hundred years ago.

13 Next slide.

14 We question their (audio interference) document.
15 You'll see in their building permits, they show that there is a
16 window well for this non-existing basement extension that will
17 protrude into the yard, which will make that less than 20 feet.
18 We're not zoning experts. We don't know what -- the affected
19 rear yard will be less than 20 feet, and the zoning regulations
20 require a yard that is 20 feet. Next slide.

21 Again, they say they're going to build on top of the
22 existing garage, but they're actually going to demolish that
23 garage, except for the party walls, because our garages are
24 attached to it. And they're going to build a new structure which
25 will increase the non-conformance. Again, it's a new structure

1 that's about 300 percent bigger than the existing one.

2 Next slide.

3 So originally as planned, they had proposed building
4 along the entire length and width of the party walls, which would
5 foreclose any access by the (audio interference) owners. And we,
6 given the history of the applicant, want to ensure that our
7 buildings will -- as they designed here in June 2021, that they
8 will, in fact, not cross the midline of those party walls, so
9 that we too can have access to those party walls.

10 We're also aware that they're going to put footings and
11 underpinnings under that garage, and they avoided going through
12 the neighbor notification process, or they tried to, when they
13 were attempting to underpin our home. And so, we want to make
14 sure as a condition of approval, if you guys decide to approve
15 the project, that the protection is in place with those footings
16 and underpinnings.

17 Next slide.

18 There are two protected trees that are on the Wilson
19 property that span over the property. There's a -- a cherry tree
20 that covers the -- fifty percent of it covers that garage and so
21 will have to be significantly altered in order to build the two-
22 level structure. And you can see on the right-hand side, there's
23 an Elm tree that spans the boundary between the two properties.
24 There will also -- the canopy will have to be significantly
25 reduced, potentially fatally to build that pop-up. And the

1 applicant has a provided no protections for these trees.

2 Next.

3 Again, it's our opinion that there will be significant
4 undue adverse impacts on our properties and that these -- this
5 new structure will change the way that we have always lived and
6 enjoyed our properties. I -- we believe that it will
7 substantially, visually intrude upon and destroy the character
8 of the alley.

9 Next slide.

10 This is the rooftop of the properties. You'll see that
11 there's nothing there. There's no (audio interference) on any
12 homes on that lot.

13 Next slide.

14 This is a view of the alleys. You can see the right-
15 hand side. This is the view from our home. And you can see that
16 the alley -- that the garages are very small. They're about a
17 little over seven feet from the garden side. And you can see on
18 the side on the left, that there is really sort of this
19 uninterrupted roofline, a very small garage. It's a really low-
20 scale, very modest homes, very modest garages all through the
21 length of that side of the alley.

22 And just really quickly, they talked about a two-level
23 garage across the alley. That garage is originally 13 feet. They
24 extended it about only five feet. There is no kitchen, no
25 bathroom, no nothing. It's just a simple office. So we don't

1 think that is a precedence. I mean they only want it five feet
2 on top of a 13-foot garage.

3 Next.

4 We wanted to normalize ourselves to this very tall
5 structure that would be right in our backyard. Again, our yards
6 are about 20 feet long. And so we put up some two by fours that
7 are height, and you'll see that the applicant finally reduced
8 their size of the garage, so they were no longer exceeding the
9 70 percent lot occupancy. That happened on June 9th. And so,
10 you'll have to, as you look at these renderings, move in that
11 garden side two by four about two fence slots. And that's about
12 a foot.

13 Next.

14 So this is the applicant's property.

15 Next slide.

16 This is what the structure will look like in context
17 next to those small sort of low-scale garages.

18 Next slide.

19 Again, this is the full view of that alley.

20 And next slide.

21 You can see how substantially visibly intrusive this
22 structure, which is three -- just so much larger. The existing
23 structure will be along this side of the alley. It's
24 unprecedented. There's been nothing like this on this side of
25 the alley.

1 Next.

2 Okay. So it's our opinion that the applicant has failed
3 to prove no undue adverse impact. And we're very well aware of
4 the Board's restraint by the District court that you can only
5 really assess the impacts on that small, marginal increase over
6 their -- what their quote by right. But when we look at what an
7 adverse versus an undue adverse impact is on use and enjoyment;
8 an adverse impact here would be something that would be temporary
9 or minor, like fumes or dust. And on light and adverse impact
10 would be temporary (audio interference) the property, and privacy
11 on an adverse impact would be temporary or minor. In fact, like
12 roofers work in a garage that they could view, you know, your
13 inside of your property for a short period of time. The
14 difference between that and an undue adverse impact is that an
15 undue adverse impact will permanently change the way of light as
16 that has existed since we've owned our property. So we'll go
17 through these, but for our air, their structure is going to be
18 made of brick. It's going to permanently increase the air
19 temperature in our back yard, particularly spring through fall.
20 It's going to be exacerbated by the fact that the wind flow
21 directly northwest down the alley, is going to be blocked
22 preventing that high thermal mass brick from cooling down, which
23 will mean that the heat just goes right back into our garage and
24 into our garden. And they will create a micro-climate that will
25 foreclose our use as a garage. I mean, sorry, as a garden.

1 Again, an undue adverse effect on light is going to be
2 -- you can see, that even though they have the by right to do
3 so, they will actually permanently foreclose almost all the
4 sunlight on the Wilson's property during the spring and the fall
5 in the -- in the afternoon and evening, which is the highest use
6 time on their property.

7 And then privacy, where are they going to have this
8 towering structure that's like 20 feet away from a rear yard,
9 that will look directly into our rear yard and our home.

10 Now, I just want to tell you a little bit about our
11 family. We have three young children, I said, and one on the way.
12 And our oldest daughter has significant anxiety issues. She will
13 only go outside in our rear yard. Because of her anxiety, we
14 actually educate all of our children at home. We spend all of
15 our time in the rear part of our house, which is the classroom,
16 and we extend our classroom into that rear yard. And so they're
17 building a structure. They say they have addressed privacy
18 issues. They have frosted windows in their bathroom and in this
19 thing, they're calling a "nook," but they still have this direct
20 view into our home.

21 Next slide.

22 You can see in this photograph that they took to show
23 the context of their development. You can also see the rear
24 facade, which looks nothing like the façade they proposed in
25 their drawings as existing.

1 In any event, there's our son on public record being
2 viewed from their property, not even up high, like they're going
3 to propose. So they're going to increase the main level height
4 of that garage by about a foot and a half, maybe more, which
5 means that the top of the garage by that second level apartment
6 is going to have direct views into our property. You can see --
7 and Ms. Fowler did a wonderful job. She designed our rear --
8 this rear part of our home. And we opened it all up, so we could
9 enjoy this rear portion of our home.

10 Next slide.

11 This is our home. You can see how open it is. And if
12 you look at some of these other photographs we provided, we have
13 a tremendous amount of privacy in the rear of our house. We abut
14 the alley -- there are seven properties adjacent to us in the
15 alley. It's a ten-foot-wide alley. So we have no privacy on any
16 other side of our home other than this rear portion. And, again,
17 you can see directly into our classroom on the main level, which
18 also serves as a kitchen, and the upstairs, where my daughter is
19 -- is our master bedroom. And actually, several of our children
20 sleep there too, because of certain issues.

21 Next slide.

22 So this is our alley -- sorry, our garden.

23 Next slide.

24 This is the structure. You'll have to move it back
25 towards the garage about a foot. But those windows that face

1 that are not impactful and will be looking directly down into our
2 yard, where we teach our children, et cetera.

3 Next slide.

4 Here is a view from our classroom and from our kitchen.
5 And you can see how low profile those garages are. This is the
6 main level. We are about five feet above grade. So it's nice
7 and open in the backyard.

8 Next slide.

9 And here you will see that the windows in the pop-up
10 structure will be able to look directly in our property.

11 Next slide.

12 Here's the view from our master bedroom.

13 Next slide.

14 And again, direct views within our private space.

15 Next slide.

16 This is exactly the same issues that the Wilson
17 property directly to the north will have. This is a view from
18 the Wilson's property. They share exactly the same privacy
19 concerns as we do. They have two young children who use their
20 yard all the time.

21 Next slide.

22 Again, they have shown that their by right is really
23 that -- that the non-by right is really insignificant. We wanted
24 to show you what ultimately this structure is going to do the
25 Wilson's light during the best time of the year.

1 Next slide.

2 And, again, our perspective is that this brick casing,
3 which has a high thermal mass will absorb the heat. There will
4 be significant heat gained during the day because it faces
5 directly south.

6 Next slide.

7 The air current comes directly down the alley, and it
8 will be completely blocked. So not only will this southern-
9 facing wall of brick and mass and high amounts of heat during
10 the day, but they will be unable to cool them off during the day,
11 because there will be no airflow, and it will send all that heat
12 into our property and into our yard. We've used that garage as
13 a garden, because of the limited spaces. We've used it for our
14 garden for the last 20 years. And that far right yellow arrow
15 points to where they intend to place two additional AC units that
16 will also increase the heat temperatures in our rear yard. And,
17 again, we use our rear yard all of the time.

18 Next slide.

19 The proposal also with these windows so close to our
20 rear yard will add to the light and noise coming into our home.
21 And then they propose this roof deck, which is actually directly
22 adjacent and above to our bedroom. And you can hear squirrels
23 crawling around on our roof and on the adjacent roofs. So the
24 undue noise that will come from this is deeply (audio
25 interference).

1 Next slide.

2 It's our opinion that the applicant's record fails to
3 meet the Board's review standard. We see that there are some
4 gaps potentially with the rear yard with the use of the property
5 foreclosing our use as adjacent owners. There's no evidence that
6 they will not damage fatally defective trees. This -- it's on --
7 -- I don't know what -- what can be more visibly intrusive, like
8 substantially visibly intrusive than a structure that's 300
9 percent close to 250, 300 percent larger than the existing
10 structure. And, again, they have unfrosted windows. They frosted
11 the windows that benefit them. And when we raise these concerns
12 with the ANC and requested frosted windows, we were really focused
13 on the windows that you saw and showed them how our properties
14 would be exposed. And we haven't seen any additional information
15 from the applicant to mitigate these impacts. And while we
16 represent one family, and here there are four families that are
17 parties in opposition, there are actually close to forty
18 neighbors that object to this property -- this project. It's
19 unprecedented. And so, while we have addressed our information
20 that for us, each one of these elements is undue, just
21 collectively and as a neighborhood, this is unprecedented. And
22 we don't know how else to express it. This would be exponentially
23 undue for our neighborhood.

24 Next slide.

25 So we have provided the Board with some conditions if

1 they choose to approve it. I don't know if this is the right time
2 to go over them or that we would have time to do that later.

3 CHAIRPERSON HILL: You can go ahead and go through it.

4 MS. BALLANTYNE: So we would appreciate if the Board
5 in its order could permanently designate that property as a
6 single-family dwelling. We want to make sure that the applicant
7 doesn't get an occupancy for a two-family flat. We would
8 appreciate -- I know that they are saying that they have the by
9 right to do the pop-up. But we submitted a survey on our motion
10 to strike from a registered surveyor that showed that even based
11 on the numbers they provided in the record for those three
12 submissions prior to the June 9th submission, if you just
13 calculate a lot on the -- on their record numbers, they were over
14 70 percent in an area variance, which is why they finally in June
15 submitted these records that show that they were below that lot
16 occupancy. And so, we are concerned. They are one inch away
17 from designating their cellar. I'm sorry, the basement as a
18 cellar. And they got an opinion from the administrator, which
19 we read, and we disagree with. We think that there's some
20 question as to where the building measuring points should land.
21 They put it on this cinderblock to - anyway. So we would like a
22 registered survey of the building height because of the
23 unprecedented nature of this pop-up. We would like the applicant
24 prohibited from building over the midline of the party wall. We
25 would like to make sure that they use a neighbor notification

1 process prior to putting the footings in, because they tried to
2 avoid that when they were trying to underpin our wall. And we
3 would like them to provide a plan to protect these trees. They're
4 already protected under the regulations. And we would really
5 appreciate some frosting on those windows that will look directly
6 into our property.

7 Next slide.

8 So our opinion is simply because the regulations
9 provide a neighbor to do something by right, it doesn't
10 necessarily make it the right thing to do. Thank you so much.

11 MR. SULLIVAN: I think we have a statement from Theresa
12 as well.

13 MS. BALLANTYNE: I don't know if we have -- Theresa had
14 a statement, but I don't know if we have time for that.

15 CHAIRPERSON HILL: Sure. Go ahead.

16 MS. HARRISON: Great. Thank you. Thank you, Mary Jo,
17 and thank you, Chairman Hill. So as the neighbors who live
18 directly west of the applicant's property, we are in the alley.
19 Our backyards face this property. We feel it's very important
20 to note that the applicant has had no outreach at all to the
21 neighbors in the alley about the development of this project.
22 Our properties are directly affected by this development due to
23 the disruption of the view, light, and airflow. Instead of
24 looking at trees, as you've seen from these slides, we will be
25 looking at a monstrous structure.

1 We also feel it's important to note that at the March
2 17th, 2021, ANC 6A Economic Development and Zoning meeting, the
3 applicant stated he had not reached out to the neighbors in the
4 alley. On April 5th of this year, the parties in opposition,
5 which are presenting to you today, including the neighbors in the
6 alley, emailed the applicant and his wife to try and open a
7 dialogue again about the development of this property. No
8 response was returned at all to that email.

9 We find it incredibly disingenuous that the applicant,
10 who claims that he will live in this house with his family, has
11 not attempted to establish a connection with the neighbors who
12 are directly impacted by his work. Given that, common sense at
13 least forces me to question the long-term intent of this property.
14 The lack of communication has been breathtaking. And as such,
15 we felt it was important to raise that to the attention of the
16 Board members. Thank you.

17 CHAIRPERSON HILL: Okay. All right. Thank you all for
18 your presentation.

19 Does the applicant have any questions of the party in
20 opposition?

21 MR. SULLIVAN: No.

22 CHAIRPERSON HILL: Okay. Well, I'm sorry. I went out
23 of order.

24 Does the Board have any questions of the party in
25 opposition?

1 (Negative head shake.)

2 CHAIRPERSON HILL: Okay. Chairman Hood?

3 CHAIRMAN HOOD: I do have a question of Ms. Ballantyne.
4 I want -- if you can go back, and just -- you won't have to put
5 the picture back up, but there were two, I guess two by fours
6 that were in the air and then the perspective went over the top
7 of the two by fours. Can you just explain to me that picture
8 again, the height -- is the height represented by the two by
9 fours or is the height represented by the top of the -- the
10 picture -- picture rendering?

11 MS. BALLANTYNE: So I think both. So that what we did
12 is we placed those two by fours at the height that they would -
13 - that the top of the building would be. Actually, I don't think
14 it's the exact height, because I think there's some additional
15 like six inches. It looks like a parapet well. So it's at 20
16 feet. And so, what we did is the rendering used that very top
17 of the two by four to stop the rendering. So the rendering stops
18 where the top of the two by four stops, which is the 20 feet in
19 total that that building will be built. Does that answer your
20 question?

21 CHAIRMAN HOOD: Okay. Somewhat. I was just trying to
22 get some type of (audio interference). But I've asked the
23 applicant too -- (audio interference) does. I've asked the
24 applicant to supply us also a rendering, so. Thank you. Thank
25 you, Ms. Ballantyne. Thank you, Mr. Chairman.

1 CHAIRPERSON HILL: Okay. Ms. Ballantyne, I got a few
2 questions, actually. So you all went to the ANC meeting, right?

3 MS. BALLANTYNE: Correct.

4 CHAIRPERSON HILL: Right. And so, you guys got to voice
5 your opinion at the ANC meeting, and they all voted to support
6 the application.

7 MS. BALLANTYNE: Sort of. I'll tell you, in my opinion,
8 a lot of -- so whenever they went to the ANC, they had a lot of
9 multiple family dwelling, and we put in our motion to strike,
10 that when they reviewed that, there were Commissioners that were
11 persuaded or supported the project because of the multifamily
12 aspect, increasing urban density, increasing multiple family
13 units and providing affordable housing.

14 CHAIRPERSON HILL: Okay. Okay. That's it. I got you.
15 I just -- I have the report from the ANC. So -- and then the --
16 -- so the removal of the Juliet balcony -- the removal of the
17 Juliet balcony and the frosting of the windows in the back alley,
18 that happened because of what?

19 MS. BALLANTYNE: I -- they say it happened at the ANC
20 meeting. We brought up previous -- so that -- that structure
21 you saw in the alley that's two levels, a neighbor across the
22 alley had said was concerned about privacy, so they raised the
23 said -- you guys requested that they raise the sills and frost
24 the windows, and we said as the adjacent property owners, we're
25 suffering the same privacy issues. We didn't care that the --

1 that the bathroom necessarily was frosted or that thing that
2 they're calling a nook was frosted. That serves their privacy.
3 But the privacy concerns that were raised at the ANC, those were
4 not addressed.

5 CHAIRPERSON HILL: Okay. So the Juliet balcony did
6 happen. The removal of that did happen because of you.

7 MS. BALLANTYNE: They will claim that it did, but I
8 mean that doesn't address the privacy issues. It's the --

9 CHAIRPERSON HILL: Okay. I got you, Ms. Ballantyne.
10 I mean, you know, we do this all the time, and there's all kinds
11 of things that we approve that people get an opportunity to
12 develop their property.

13 MS. BALLANTYNE: Right.

14 CHAIRPERSON HILL: And enjoy their property. Right?
15 So I'm just trying to understand. It seems although they did
16 something in terms of doing, you know, -- they removed the Juliet
17 balcony. That's all I'm trying to understand.

18 MS. BALLANTYNE: Yes.

19 CHAIRPERSON HILL: So -- okay. All right. Does anybody
20 have any further questions of the -- I'm sorry, of the party in
21 opposition?

22 CHAIRPERSON HILL: Okay. I'm going to turn to the
23 Office of Planning.

24 MS. ELLIOTT: Good morning, Mr. Chairman and members
25 of the Board. I'm Brandice Elliott representing the Office of

1 Planning for BZA Case 20382. The Office of Planning is
2 recommending approval of the lot occupancy that's been requested.
3 We did file a report at Exhibit 47, which seems like it's a while
4 ago, in terms of this record. In our report, we noted that the
5 applicant was requesting 68.9 percent lot occupancy. There have
6 been some revisions to the plan since then. The applicant has
7 reduced the lot occupancy request. Now, it is at 68.8 percent.
8 OP did not file a new report because the lot occupancy decreased,
9 and so our analysis was still the same essentially for the lot
10 occupancy request. So we are in support of the 68.8 percent
11 that's been requested. And essentially, that results in about
12 20 square feet of additional building area.

13 There were some questions about whether or not the
14 special exception relief is appropriate or if it should have been
15 requested by area variance. And I just wanted to touch on this
16 a little bit. Subtitle E, § 5201.2 of the Zoning Regulations
17 reads that you can enlarge an accessory structure or build a new
18 accessory structure as long as the residential building on the
19 lot only has one principal dwelling. So the applicant had
20 initially submitted a statement of intended use, indicating that
21 the principal building would be used as a flat consisting of two
22 units. So that actually kicked them out of the special exception
23 applicability standards, and it would have required a variance.

24 They have since revised their statement of intended
25 use. And so, now it indicates that the principal building would

1 only be used as a single-family dwelling, consisting of one unit.
2 So they're now meeting the applicability standard of the special
3 exception and may apply for the relief through the special
4 exception process.

5 They've also clarified today that the plans through
6 DCRA have been amended to resolve that issue.

7 So I'll go ahead and dive into our special exception
8 review. OP does find that the proposal meets the special
9 exception conditions. There are primarily three. The first
10 condition relates to the light and air available to neighboring
11 properties. The applicant went over their shadow study pretty
12 extensively during their presentation, so I'm not going to rehash
13 that a whole lot, but just to summarize, it does show that the
14 property that would be most impacted by the second story addition,
15 would be the property to the north. The degree of shadowing
16 changes throughout the day and depends on the season. And so,
17 we don't find that there would be any -- that the property to
18 the north would experience significant shadowing beyond the
19 matter of right condition for long periods of time. And so,
20 overall, the proposed lot occupancy relief should not result in
21 undue adverse impacts.

22 The second condition of the special exception criteria
23 is related to privacy. So the detached building would provide a
24 compliant rear yard of 20 feet. And it would also have a
25 compliant height of 20 feet -- well, actually 22 feet is permitted

1 in the RF-1 zone. Because these development standards are related
2 to distance, part of their intent is to reduce impacts to privacy.
3 And so, it -- additionally, since OP filed its report, the
4 applicant has removed the Juliet balcony from the detached
5 building and, as we've heard today, they've agreed to frost the
6 windows that face the interior yard. So we find that the privacy
7 should not be unduly impacted.

8 CHAIRPERSON HILL: I'm sorry, Ms. Elliott, I thought
9 they were just frosting the windows on the alley?

10 MS. ELLIOTT: Oh, I'm sorry. Perhaps I misunderstood.
11 I thought they were frosting the interior -- the windows that
12 face the rear yard?

13 CHAIRPERSON HILL: Right. Ms. Fowler, that's not
14 correct, right?

15 MS. FOWLER: No, the alley -- the alley facing windows
16 are frosted. On the yard side, we reduced from the Juliet balcony
17 to the standard windows.

18 CHAIRPERSON HILL: Right.

19 MS. FOWLER: Yes. I apologize.

20 CHAIRPERSON HILL: That's all right. So Ms. Elliott,
21 you're still fine with that.

22 MS. ELLIOTT: Yes, we recommended approval of it
23 previously. But they have still made the concession of removing
24 the balcony, which does mitigate some of those privacy issues to
25 the interior lot.

1 So the final condition of the special exception
2 criteria is related to the character, scale, and pattern along
3 the alley. The detached building would not be visible from 11th
4 Street, because it's located behind a row building with no side
5 yards. It would be visible from the alley, but it does comply
6 with development standards relating to setback and height
7 requirements. And OP fully expects there to be two-story
8 structures in that alley, because the zoning regulations allow
9 for it. The RF-1 zone allows for detached buildings to have a
10 height of 22 feet. And even if all of the buildings in an alley
11 are single-story, the zoning regulations don't anticipate that
12 will always be the case. There is room for growth that's
13 permitted in alleys by the zoning regulations. There are -- we
14 did see some photographs in the presentation today. There are
15 some taller structures in that alley. There's a two-story
16 structure on the other side of the proposed development. There
17 are some larger buildings that aren't necessarily alley
18 structures, but they're close enough to the alley that they --
19 they do, you know, sort of inform the character of the alley.
20 For instance, there's a four-story apartment building. And while
21 it's providing a compliant rear yard, it's a large enough building
22 that it is contributing to the character of the alley. And then
23 we did see some other photographs of, you know, condominiums that
24 were sort of alley adjacent. So because of that, the addition
25 should not substantially intrude upon the character, scale, and

1 pattern of structures along the alley. I'll leave it at that,
2 but I'm happy to answer any questions that you have.

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

5 (Negative head shake.)

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

8 MR. SULLIVAN: No, thank you.

9 CHAIRPERSON HILL: Ms. Ballantyne, do you have any
10 questions for the Office of Planning?

11 MS. BALLANTYNE: No. Thank you.

12 CHAIRPERSON HILL: Okay. Mr. Young, is there anyone
13 here wishing to speak?

14 MR. YOUNG: We do not.

15 CHAIRPERSON HILL: Okay. Mr. Sullivan, is there
16 anything you want to add at the end?

17 MR. SULLIVAN: Yeah. I do think we want to have a little
18 bit of rebuttal --

19 CHAIRPERSON HILL: Okay.

20 MR. SULLIVAN: -- to some of what was -- just -- we'll
21 try to be very brief --

22 CHAIRPERSON HILL: Okay.

23 MR. SULLIVAN: -- because I understand that Chairman
24 Hood has asked for some additional information anyway.

25 So first, I'd like to ask Ms. Fowler, in your opinion,

1 do you think that the box renderings you've seen from the
2 opponents, those colored block renderings are accurate?

3 MS. FOWLER: I feel like they're overstating the
4 impact, the renderings that we saw. And I was kind of curious
5 as to whether they were done by an expert, or if -- if perspective
6 or kind of -- was factored into that and how those were kind of
7 created. But I -- my reaction is that I think that they are
8 definitely overstating the impact.

9 MR. SULLIVAN: Thank you. And I'd like to ask Mr.
10 Haimus to -- he's got some points of rebuttal to address to some
11 of the things that were stated by the opposition. Haider?

12 CHAIRPERSON HILL: Mr. Haimus, can you hear me?

13 MR. HAIMUS: I can hear you.

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

16 MR. HAIMUS: Absolutely. Good morning, everybody. My
17 name is Haider Haimus. I'm the owner of 308 11th Street,
18 Northeast. My wife is Jessica Bachay. She could not be on the
19 call, taking care of our three young kids at the moment.

20 CHAIRPERSON HILL: Okay. Mr. Haimus, hang on one
21 second. Ms. Cain, can you hear me? I forget how rebuttal works
22 sometimes. So then there's rebuttal, and then what happens with
23 the -- are there questions to rebuttal?

24 MS. CAIN: Yes, you could ask questions to rebuttal,
25 and then the applicant would have a chance to make a final closing

1 statement.

2 CHAIRPERSON HILL: No, no. I'm saying the opposition
3 -- the opposition would have questions to rebuttal.

4 MR. CAIN: Give me one second. I just want to double
5 check the regs.

6 CHAIRPERSON HILL: Yeah. Okay. Go ahead, Mr. Sullivan.
7 You were going to ask the property owner to state something?

8 CHAIRMAN HOOD: Mr. Chairman, I don't want to be the
9 legal, but actually, they can cross on rebuttal is what you're
10 going through. And I think Ms. Cain will come back with that.

11 CHAIRPERSON HILL: Chairman Hood. All right.

12 CHAIRMAN HOOD: I do it all the time, too, so I was
13 trying to help out.

14 CHAIRPERSON HILL: I know.

15 CHAIRMAN HOOD: I would hope somebody would help me.

16 CHAIRPERSON HILL: I got you. I appreciate it. I --
17 that's not what -- I'll tell you later what I was going to say.
18 But so, right. All right.

19 Mr. Sullivan, can you please go ahead and follow up
20 with whatever you're going to ask of your property owner?

21 MR. SULLIVAN: Yeah. Mr. Haimus, if you could just
22 address some of the points that you wanted to rebut from
23 opposition statements.

24 MR. HAIMUS: Thanks, Mr. Sullivan. Will do.

25 There's just a few kind of key points I wanted to share.

1 There -- the Juliet balcony and the frosting of the windows,
2 which has been a topic of conversation here, were never part of
3 our -- the removal of the Juliet balcony, sorry, and the frosting
4 of the alley-facing windows and consideration of the frosting of
5 the yard-facing windows were never part of our original plans.
6 And, in fact, they were our response to requests from the
7 neighbors, and that was mediated by the ANC. So we actually
8 updated the plans to do the frosting and remove the Juliet
9 balcony. The Juliet balcony was really only in there to help us
10 get furniture up there, because we have a small spiral staircase.
11 So that was the purpose of that. But, nevertheless, we've removed
12 it, and that was in response to the neighbor opposition. That's
13 one item.

14 I think the perspective imagery surprised me as well.
15 I heard a 300 percent height increase from the existing accessory
16 dwelling structure. And I don't know what the dimensions are.
17 Ms. Fowler does, but, you know, that would seem that -- the --
18 the opponents are alleging a forty-foot-high garage, which is
19 certainly not the case.

20 The lack of the outreach to the neighbors is a lie.
21 We've met with the neighbors to the north and the south in person,
22 along with Ms. Fowler, to discuss the plans. We have been unable
23 to appease the neighbors that -- our view is really the only
24 acceptable outcome as to not build the addition to the garage.
25 And we've really tried to just do whatever we could within that

1 context with the frosting, and the Juliet balcony. You know, we
2 tried to go as far as we could, and that's what we did.

3 I think, I won't belabor this, but the reference of a
4 consistent scale on the block, I think we saw an example of an
5 accessory dwelling unit that is a two-story on the garage. And
6 then there's also a large apartment building that looks into our
7 yards as well. And, I think, really, that's all I had to --
8 those were the principal points.

9 I think there were references to trees and heat. I
10 would just ask if there was an arborist's report confirming the
11 status of the trees and, obviously, we will comply with any tree
12 protection plan we need as part of the permitting process.

13 And then also, there was a reference to a ten to
14 fifteen-degree increase in heat, which is an extreme, you know,
15 a large number, and I'd just like to understand if there's a
16 report that confirms that our plans actually will increase the
17 temperature by ten to fifteen degrees in the adjacent yards.

18 MR. SULLIVAN: Question, Mr. Haimus. There's been some
19 discussion about frosting on windows on the interior side of the
20 carriage house. And can you explain why that -- why you would
21 not be comfortable with a permanent frosting on that side?

22 MR. HAIMUS: Yeah. I'd be glad to do that. That was
23 a request that actually came up through the ANC process. And we
24 just simply can't accept that. The reason is we do have three
25 small kids under the age of five and will be playing in the yard.

1 And I just can't imagine if me or my wife is, you know, are
2 working in the accessory dwelling unit that we can't see our
3 young children. It's just a family safety issue.

4 MR. SULLIVAN: Thank you. And that's all we have. I
5 would have a small closing if the opponents have a closing. But
6 I don't know if this is going to be -- and I would also request
7 -- we can provide the additional information that Chairman Hood
8 has asked for. And, if possible, we can provide that as soon as
9 the Board would like to have them. I mean, we can do that very
10 quickly, if it's possible to get this done before the break would
11 be -- before the August break would be greatly appreciated. Thank
12 you.

13 CHAIRPERSON HILL: Okay. Ms. Ballantyne, can you hear
14 me?

15 MS. BALLANTYNE: Yes, I can. Thank you.

16 CHAIRPERSON HILL: Thanks. I never -- I mean the --
17 the attorneys always help me out. And we also got Chairman Hood
18 who is helping me out. So do you have any questions or cross
19 about an -- do you have any questions or cross-examination
20 concerning any of the items that were brought up in rebuttal?

21 MR. HOWELL: The statement of the architect.

22 MS. BALALNTYNE: Oh, yeah. So just really quickly. We
23 had an architect do the rendering. We know that the perspective
24 is awkward, but it's the best we could do. We don't have the
25 resources that the applicant has.

1 CHAIRPERSON HILL: Okay. Okay. All right. So I guess,
2 actually, we're -- Ms. Harrison?

3 MS. HARRISON: Sorry. Yes. May I just jump in for
4 one moment, just to make -- to rebuke the applicant? I was very
5 clear on my statement that the applicant has not reached out to
6 the neighbors in the alley. We are aware that the applicant has
7 spoken to the neighbors to the north and the south. And we'd
8 just like to note that for the record.

9 CHAIRPERSON HILL: Okay.

10 MS. HARRISON: So it is not a lie. His information is
11 not correct. That's all. Thank you.

12 CHAIRPERSON HILL: Okay. Okay. All right. Let me
13 think. Oh, okay. So Ms. Ballantyne?

14 MS. BALLANTYNE: Yes? Hi.

15 CHAIRPERSON HILL: Hi. What was I going to say? Oh.
16 So if you could go ahead and -- I do a little bit of conclusion
17 at the end, and it's not something that's in the process
18 necessarily for the parties in opposition to give a conclusion.
19 But if you want to go ahead and just take three minutes to sum
20 up, and I'll also then let the applicant take a few minutes to
21 sum up.

22 MS. BALLANTYNE: Thank you. I (audio interference) the
23 slides that we showed of our home, and how it's always been, we
24 are aware that there is going to be development in our alley.
25 It's just so large, and it's going to impact our privacy. It's

1 going to impact the way we've always enjoyed it. So we understand
2 development, but we just wanted to express our concern. And,
3 again, you know, we are not alone. There are many neighbors who
4 are also concerned about how this is going to impact our
5 neighborhood. Thank you so much.

6 CHAIRPERSON HILL: Thank you, Ms. Ballantyne. And, Ms.
7 Ballantyne, I know you guys aren't experts in all this, but you
8 know, it seems like you took a lot of time with your proposal -
9 - I mean I'm sorry -- your presentation. And I thought, you
10 know, it was at least very informative.

11 MS. BALLANTYNE: Thank you.

12 CHAIRPERSON HILL: Mr. Sullivan, you want to go ahead
13 and give a conclusion?

14 MR. SULLIVAN: Thank you, Mr. Chairman, and members
15 of the Board. I think that if I could summarize the objections,
16 I think it comes down to the view that the opponents don't want
17 to look at this second floor of the accessory building, and, as
18 the Board knows, they're not entitled to a particular view.

19 The shadows study shows, clearly, that the impact on
20 light and air is not there as a result of the requested relief.

21 As far as privacy, you saw the pictures of floor to
22 ceiling windows and decks on the neighbor's property that would
23 seem to negate any privacy issues if there were any to begin with
24 in that direction. And also, the privacy doesn't directly relate
25 to the requested relief. And you heard the Office of Planning

1 speak very specifically about character, scale, and pattern. So
2 we're happy to provide additional perspectives to show an
3 accurate picture of how this will look from the yards and from
4 the alley and would appreciate it if that could be done and if a
5 decision or continued hearing could be scheduled expeditiously.
6 Thank you.

7 CHAIRPERSON HILL: Okay. Thanks, Mr. Sullivan. All
8 right. Mr. -- Chairman Hood, you had wanted something, right?
9 So is that correct what you were looking for?

10 CHAIRMAN HOOD: Yeah. I think -- I really think that
11 that would complete the record. I think, as has been noted, I
12 think -- I've heard the applicant refer to it. I heard Ms. Fowler
13 mention it as well about the representation, depending upon what
14 the Board decides and where this goes. I think that's very
15 crucial to this case. At least have it in the record. That's
16 my opinion. I don't know how others feel. That may be our vote.

17 CHAIRPERSON HILL: Whatever. If you feel -- if you
18 want something then that's -- that's, you know, what you want.

19 CHAIRMAN HOOD: Okay. Thank you. I didn't know I had
20 it like that. But I -- thank you.

21 CHAIRPERSON HILL: You've been here a long time,
22 Chairman Hood. If somebody asks for something, they need to get
23 their mind straight, we don't usually tell them no. Okay. All
24 right.

25 So then, Mr. Sullivan, you can give that to us when?

1 MR. SULLIVAN: Ms. Fowler.

2 MS. FOWLER: Can we say by mid-week next week?

3 CHAIRPERSON HILL: Okay. That means what?

4 MS. FOWLER: Unless -- I can work with whatever schedule
5 that doesn't postpone things. So I -- you know, you tell me.

6 CHAIRPERSON HILL: Got you. So, Mr. Moy? Well, I mean
7 -- I mean Ms. Fowler, if you can get -- I mean can you do it by
8 Friday?

9 MS. FOWLER: Yes.

10 CHAIRPERSON HILL: Okay. Mr. Moy, can you -- so if -
11 - we're asking now for something from the applicant, and we're
12 asking for that by Friday, and then what's the time? Can I then
13 ask the opposition or the ANC if they have anything to -- how
14 can I do all this and get us back here as quickly as possible,
15 either by the 30th or the 7th to deliberate?

16 MR. MOY: I think, Mr. Chairman, in my opinion, I think
17 if the applicant can submit supplemental information as requested
18 by this Friday, that would be June the 25th. And that's -- I
19 think it would be reasonable to allow the parties a week to
20 respond, which would take us to Friday of July 2nd before the
21 July 4th holiday. And then possibly after that, then if you're
22 not asking for any other filings after that, the Board can
23 entertain a decision on July 7th.

24 CHAIRPERSON HILL: So, Ms. Cain, can you hear me?

25 MS. CAIN: Yes.

1 CHAIRPERSON HILL: So I'm trying to figure out the
2 timeline. Like we have something by the applicant by the 25th
3 from what Chairman Hood was requesting. And then we give all
4 the parties, including the parties in opposition, until the 2nd
5 to respond to that filing, then what? Does the applicant have
6 to have time to respond to whatever it is that the parties file?

7 MS. CAIN: I think it would be fine. It's up to the
8 Board ultimately, if you want to have the applicant respond. But
9 I think you'd be fine just to have the information that Chairman
10 Hood has requested and have responses from the parties. I would
11 just note that the Board is not scheduled to meet on July 7th.
12 So the next hearing date after that would be July 14th.

13 MR. MOY: Yes, so I misspoke. She's correct. It is
14 the 14th. So if you wanted to allow another week, that's
15 possible, because next hearing -- the first hearing in July would
16 be on the 14th.

17 CHAIRPERSON HILL: Okay.

18 MR. MOY: Yeah.

19 CHAIRPERSON HILL: So then go ahead. We'll get what
20 has been requested on the 25th of June -- oh, no. Wait a minute.
21 Hold on a second. So now let's just -- we don't have to do. So
22 Ms. Fowler then, you don't have to get it. Like if you go ahead
23 and get it to us by the 30th, right? That's the midweek time,
24 right, or even -- right. And Mr. Sullivan, do you want -- do
25 you think you need anything from -- do you need time to respond

1 to what the opposition might file to your filing?

2 MR. SULLIVAN: I think to be safe, and I could do it
3 the next day, if it doesn't slow anything --

4 CHAIRPERSON HILL: Okay.

5 MR. SULLIVAN: -- down.

6 CHAIRPERSON HILL: Fine. So then -- so then if you do
7 -- if you -- Ms. Fowler, is the 30th comfortable enough, or you
8 want the 1st?

9 MS. FOWLER: No. That's fine. I can -- I'll do it as
10 soon as possible.

11 CHAIRPERSON HILL: Okay. The 30th will work. The 30th
12 will work.

13 MS. FOWLER: Okay.

14 CHAIRPERSON HILL: So you guys give us what you need
15 by the 30th. The party -- Ms. Ballantyne, can you hear me?

16 MS. BALLANTYNE: Yes, I can.

17 CHAIRPERSON HILL: Okay. So you'll have until the 7th
18 to respond to whatever they file on the 30th. Okay?

19 MS. BALLANTYNE: Okay.

20 CHAIRPERSON HILL: And then Mr. Sullivan, you can go
21 ahead and have until the 9th, which is that Friday, it's two days
22 later, to respond to anything the party status in opposition
23 might file. Does that work?

24 MR. SULLIVAN: Great. Thank you.

25 CHAIRPERSON HILL: Okay. And then we're back here on

1 the 14th for a decision with Chairman Hood. Okay? Does everybody
2 understand?

3 (Affirmative head nod.)

4 CHAIRPERSON HILL: Okay. All right. Okay. All right.
5 Well, thank you all very much. I 'm going to go ahead and close
6 the hearing in the record, except for what was asked for. And
7 then you have the dates.

8 Ms. Ballantyne, do you understand everything?

9 MS. BALLANTYLE: Yes, I do. Thank you.

10 CHAIRPERSON HILL: Okay. Great. All right. Well you
11 all have a good day. I'm going to close the hearing and the
12 record, as I said, except for the one item that we asked for as
13 well as the --

14 MR. SULLIVAN: Thank you.

15 CHAIRPERSON HILL: -- issues. Bye-bye. And then -- I
16 guess, let's go ahead and take a break. It's 11:30, and we've
17 done one case. Okay? And that's it. Let's go ahead and take a
18 15-minute break, I guess, 11:45. Does that work for everybody?

19 (Affirmative head nod.)

20 CHAIRPERSON HILL: Okay. Thank you. Bye-bye.

21 (Whereupon, there was a 15-minute recess.)

22 MR. MOY: Mr. Chairman, the Board is back in session -
23 - in its public hearing session, and the time is at or about
24 11:57.

25 The next case before the Board is Application No. 20471

1 for Ziad Demian and Merrill St. Leger-Demian. This is amended
2 for special exception from the use requirements of Subtitle U §
3 301.1(c)(2), accessory zoning lot area requirements of Subtitle
4 E § 5003.1. This would construct a second-story dwelling unit
5 addition to an existing one-story accessory garage in the RF-1
6 Zone. The property is located 135 13th Street Northeast, Square
7 1034, Lot 42. The application -- the affidavit of maintenance
8 was filed dated June 18th under Exhibit 40, affidavit posting
9 dated June 15th under Exhibit 38. So the notices are good.

10 CHAIRPERSON HILL: Okay. Mr. or Ms. St. Leger, can you
11 hear me?

12 MR. DEMIAN: Yes.

13 MS. ST. LEGER-DEMIAN: Yes, hi.

14 CHAIRPERSON HILL: Okay. Could you guys introduce
15 yourselves for the record?

16 MR. DEMIAN: Yeah. This is Ziad Elias Demian. I'm the
17 owner/agent/architect.

18 MS. ST. LEGER-DEMIAN: My name is Merrill St. Leger.
19 I'm Ziad's wife and also the owner at 135 13th Street.

20 CHAIRPERSON HILL: Okay. Who's going to be presenting?

21 MR. DEMIAN: Both, but I'll take the lead.

22 CHAIRPERSON HILL: Okay. So the --

23 MR. DEMIAN: The architect.

24 CHAIRPERSON HILL: Okay. Got you. And it's -- so what
25 was your name again? I'm sorry.

1 MR. DEMIAN: Ziad Elias Demian.

2 CHAIRPERSON HILL: Demian. Okay. Mr. Demian, I mean
3 I see your PowerPoint presentation --

4 MR. DEMIAN: Yes.

5 CHAIRPERSON HILL: -- and actually, it's really good.
6 You know, I think you did a great job. So, I want you to just
7 kind of go over the project a little bit --

8 MR. DEMIAN: Yeah.

9 CHAIRPERSON HILL: -- for us, and then I'm going to as
10 the Board what questions they may have --

11 MR. DEMIAN: Yeah.

12 CHAIRPERSON HILL: -- because I have a very full day
13 today, and, again, I looked at your presentation when I was
14 reviewing the case this weekend, and so, just kind of tell us a
15 little bit about your case.

16 MR. DEMIAN: Well, thank you very much. And good
17 afternoon, everybody. We're not going to take the 15 minutes.
18 The presentation is probably going to take a lot less than that.
19 Are you going to share the slide, or are we going to share the
20 slide?

21 CHAIRPERSON HILL: Well, I mean -- I'm saying you got
22 38 slides in your slide deck.

23 MR. DEMIAN: Yeah.

24 CHAIRPERSON HILL: And so, can you just tell me a little
25 bit about your project?

1 MR. DEMIAN: Well, we've been living in this location
2 for 20 years. We raised our kids in Capitol Hill, and we wanted
3 -- decided to stay and age in place in Capitol Hill. So we would
4 like to -- we wanted to take the two-car garage that we have in
5 the back of the lot. It's a -- and we convert it to a rental
6 unit. We are complying with most of the regulations, except with
7 one relief that is the exception 500 -- E5003.1, which is about
8 the rear yard requirement, because we're adding 374 square feet.
9 Even with that addition, we are still at 60 percent lot coverage.
10 So we're not exceeding the typical lot occupancy for our zone.

11 We consulted with all involved. We have unanimous
12 support from the ANC; from the adjacent neighbors, a letter of
13 support; the Historic Preservation Board unanimously support it.
14 The Office of Planning support it. DDOT support it. That's all
15 to say that the project has full support, unanimous support.

16 CHAIRPERSON HILL: Got it. Okay. Mr. Demian, give me
17 one second, okay? Does the Board have any questions for the
18 applicant?

19 (Negative head shake.)

20 CHAIRPERSON HILL: Okay. I'm going to turn to the Office
21 of Planning. Mr. Cochran?

22 MR. COCHRAN: Thanks, Mr. Chair. I just didn't expect
23 it so quickly.

24 CHAIRPERSON HILL: Yeah. Sorry.

25 MR. COCHRAN: It's all right. Well, just for the

1 record, I think I ought to repeat what it is we're recommending
2 approval of. OP is recommending approval of a special exception
3 from Subtitle U § 301.1(c)(2)'s limitations on the expansion of
4 an existing accessory structure to accommodate a second principal
5 dwelling unit in the RF-1 Zone. That's pursuant to Subtitle X,
6 Chapter 9. And OP's also recommending a special exception
7 pursuant to Subtitle E § 5201 and Subtitle X, Chapter 9 from
8 Subtitle E § 5003.1's limitations on the maximum footprint of the
9 expanded accessory structure to permit the footprint to be 743
10 square feet. The rest, Mr. Demian, went into the structure
11 existed prior to 2013. And for U 301.1, the proposal meets that
12 section's access, height, rooftop and use criteria. The second
13 principal dwelling unit at an accessory building is contemplated
14 by the RF-1 Zone. And, finally, with respect to the size of the
15 footprint of the enlarged accessory structure of E5003.1
16 regulates this under the yard requirements. So it meets those
17 criteria for 5201's criteria for a special exception. OP
18 addresses this on pages 5 and 6 in our report with respect to
19 shadowing, which will be almost entirely in the alley system,
20 privacy and compatibility with neighborhood character. And as
21 Mr. Demian said, the total lot occupancy for both structures
22 combined would still remain at 60 percent, even with the
23 expansion. That's OP's report. Happy to answer any questions.

24 CHAIRPERSON HILL: Okay. Thank you, Mr. Cochran.

25 Does the Board have any questions of the Office of

1 Planning?

2 (Negative head shake.)

3 Does the applicant have any questions of the Office of
4 Planning?

5 MR. DEMIAN: No.

6 MS. LEGER-DAMIEN: No.

7 CHAIRPERSON HILL: Mr. Young, is there anybody here
8 wishing to speak?

9 MR. YOUNG: We do not.

10 CHAIRPERSON HILL: Okay. All right. I'm going to go
11 ahead and close the hearing and the record. Oh, sorry. Ms.
12 John?

13 VICE CHAIR JOHN: Mr. Chairman, I'm looking at Form
14 135, the Zoning Self Certification at Exhibit 35. And I guess I
15 should have asked this of Mr. Cochran. It says, "Area Variance,"
16 but correctly cites Subtitle E § 5201.3. So my question is do
17 we need an amended Form 135, or is there one, and I missed it?

18 MR. COCHRAN: First, give me your question?

19 VICE CHAIR JOHN: Mr. Cochran, if you look at Form 135
20 at Exhibit 35 --

21 MR. COCHRAN: That's an error. I've worked with the
22 Applicant --

23 VICE CHAIR JOHN: But it says --

24 MR. COCHRAN: -- and with the zoning administrator and
25 it should be a special exception.

1 VICE CHAIR JOHN: Right. So there needs to be a revised
2 form with X 1002 unchecked. Is that how this is done? The form
3 is a little confusing.

4 MR. COCHRAN: That is an administrative determination
5 that would be made by either OZ or OAG. I don't have an opinion
6 on it.

7 CHAIRPERSON HILL: So we're just trying to figure out,
8 Mr. Cochran, and I don't know. Like, maybe Ms. Cain you could -
9 - is the applicant fine? Is the application okay? Are they
10 going to be able to move forward?

11 MS. CAIN: So the applicant has addressed the required
12 sections. Board Member John is correct, there is an error -- a
13 (indiscernible) error on the Form 135. I think if the Board
14 wanted to proceed, you could request that the applicant just
15 submit a corrected version of that to the record prior to the
16 order being issued.

17 CHAIRPERSON HILL: Okay. Mr. Demian, do you
18 understand?

19 MR. DEMIAN: Yes, we'll correct the form, and we'll
20 send it over.

21 CHAIRPERSON HILL: Okay. All right. Vice Chair John,
22 is that good?

23 VICE CHAIR JOHN: Yes. Thank you. That's fine.

24 CHAIRPERSON HILL: Okay. Mr. Demian is there anything
25 you'd like to add at the end?

1 MR. DEMIAN: No.

2 CHAIRPERSON HILL: Okay. I'm going to go ahead and
3 close the hearing and the record. Mr. Young, if you can excuse
4 everybody. Okay.

5 I didn't have any issues with the application. I
6 thought that -- I mean I went through the PowerPoint presentation,
7 and I thought that that was done very well actually. And then I
8 would agree with the analysis of the Office of Planning as well
9 as that of the ANC and DDOT as well as we also have CHRS in
10 support. And also different letters in support. However, I
11 believe the applicant is meeting the criteria for us to grant the
12 relief request requested, and I'm going to be voting in favor.
13 Is there anything you'd like to add, Chairman Hood?

14 CHAIRMAN HOOD: I have nothing to add, but I do agree
15 with your assessment, and I think the merits of this record
16 reflects my approval as well. Thank you.

17 CHAIRPERSON HILL: Thank you. Mr. Smith?

18 BOARD MEMBER SMITH: I don't have anything else to add,
19 Chairman Hill. I agree with your assessment.

20 CHAIRPERSON HILL: Thank you. Vice Chair John?

21 VICE CHAIR JOHN: I agree with the comments so far, and
22 I have nothing further to add. I believe the application meets
23 the criteria for relief.

24 CHAIRPERSON HILL: Thank you. Mr. Blake?

25 BOARD MEMBER BLAKE: Yes. I, too, the application meets

1 the burden of proof, and I would also commend the applicant on
2 that slide show. I'm sorry we didn't see it, but it's an
3 excellent, excellent slide show.

4 CHAIRPERSON HILL: I agree. If we didn't have to stay
5 here through dinner, we would have done it. Okay?

6 I'm going to make a motion to approve Application No.
7 20471 as captioned and read by the secretary and ask for a second,
8 Ms. John.

9 VICE CHAIR JOHN: Second.

10 CHAIRPERSON HILL: Okay, Mr. Moy. Motion made and
11 seconded. Could you take a roll call, please?

12 MR. MOY: Yes, thank you, Mr. Chairman. When I call
13 your names, if you would please respond with a yes, no, or abstain
14 to the motion made by Chairman Hill to approve the application
15 for the relief requested. The motion was seconded by Vice Chair
16 John. Zoning Commission Chair Anthony Hood?

17 CHAIRMAN HOOD: Yes.

18 MR. MOY: Mr. Smith?

19 BOARD MEMBER SMITH: Yes.

20 MR. MOY: Mr. Blake?

21 BOARD MEMBER BLAKE: Yes.

22 MR. MOY: Vice Chair John?

23 VICE CHAIR JOHN: Yes.

24 MR. MOY: Chairman Hill?

25 CHAIRPERSON HILL: Yes.

1 MR. MOY: Staff would record vote as 5-0-0 and this is
2 on the motion made by Chairman Hill to approve, seconded by Vice
3 Chair John. Also, in support of the motion to approve is Zoning
4 Commission Chair Anthony Hood, Mr. Smith and Mr. Blake. The motion
5 carries on the vote of 5-0-0.

6 CHAIRPERSON HILL: Thank you, Mr. Moy. You can call our
7 next case when you get a chance.

8 MR. MOY: The next case is Application No. 20463 of
9 4524 Iowa Avenue DC, LLC. Captioned and advertised for area
10 variance from the use requirements of Subtitle U § 301.5(b).
11 This would expand an existing detached nine-unit apartment
12 building to ten units in the RF-1 Zone. Property located at 4524
13 Iowa Avenue, Northwest, Square 2919, Lot 7. This application is
14 timely for affidavits of posting and maintenance. Posting
15 affidavit dated June 9th under Exhibit 31. Maintenance affidavit
16 June 18th under 38, and that's it.

17 CHAIRPERSON HILL: Okay, great. Thank you. Mr. DeBear,
18 could you introduce yourself for the record, please?

19 MR. DEBEAR: Good afternoon, Board. My name is Eric
20 DeBear from Cozen O'Connor, land use counsel for the applicant.

21 CHAIRPERSON HILL: Mr. DeBear, who's with you here
22 today?

23 MR. DEBEAR: I have Tai Okwesa, who is a representative
24 of the applicant, as well as Tenika Felder, who is the architect.

25 CHAIRPERSON HILL: Okay. Great. Mr. DeBear, I have

1 your PowerPoint pulled up, and I'll go ahead and ask Mr. Young
2 to pull it up. I've been -- I've gone through it, and I pretty
3 much understand everything that you're here to seek. However,
4 to make things timely, if you could kind of move as quickly as
5 possible through your PowerPoint. And then I want to get the
6 questions to the Board because we're on a tight day today.

7 So Mr. Young, if you could pull up that PowerPoint in
8 Exhibit 39, and Mr. DeBear, you can begin whenever you like.

9 MR. DEBEAR: Understood. Thank you, Chair Hill. Hold
10 on, I think it's still coming up.

11 CHAIRPERSON HILL: One thing, Mr. DeBear, actually, if
12 you could just comment on the comments that DDOT had about the
13 trash when you're kind of going through it?

14 MR. DEBEAR: Sure. Sure. So if you don't --

15 CHAIRPERSON HILL: Yes. Oh, one thing. I'm sorry. I'm
16 sorry. I'm sorry. There was a waiver for your pre-hearing
17 statement.

18 MR. DEBEAR: Yeah, that's what I was getting to.

19 CHAIRPERSON HILL: Yeah. No problem.

20 MR. DEBEAR: We just asked -- we just filed a motion.
21 We filed the pre-hearing statement 13 days before the hearing,
22 because we were waiting until the ANC had opined, which they
23 supported, and we didn't have any other material updates.

24 CHAIRPERSON HILL: No, I got it. Thank you. I saw the
25 filing and about why it was late, because of the ANC. So unless

1 the Board has any issues, and if so, speak up, I'll go ahead and
2 waive that filing requirement and allow the prehearing statement
3 in. And so, you can go ahead and begin whenever you like.

4 MR. DEBEAR: And then just another very brief
5 preliminary matter. I just ask that Ms. Felder be qualified as
6 an expert in architecture. I believe she's in the Board's book,
7 so to speak, as an expert, but I just wanted to identify that in
8 case a question came up about design issues in this case.

9 CHAIRPERSON HILL: Okay. Mr. DeBear, I don't think
10 you're going to get a lot of questions right now, so let's just
11 go ahead and see what happens.

12 MR. DEBEAR: Okay.

13 CHAIRPERSON HILL: And if we get to the architect, then
14 we get to the architect, and we can do that then.

15 MR. DEBEAR: Great.

16 Next slide, Mr. Young. Next slide.

17 This is just an image of the property on the zoning
18 map. It's at the corner of 13th and Iowa. It's in the RF-1
19 Zone.

20 Next slide.

21 I'm just going to quickly have my client explain the
22 proposal.

23 MR. OKWESA: Good afternoon.

24 CHAIRPERSON HILL: Could you introduce yourself for the
25 record, please?

1 MR. OKWESA: Sure. My name is Shanu Okwesa. I go by
2 Tai also. I am one of the owners of the property.

3 CHAIRPERSON HILL: Okay. Thank you.

4 MR. OKWESA: You're welcome.

5 CHAIRPERSON HILL: You can go ahead.

6 MR. OKWESA: Sure. A quick explanation. We have under-
7 utilized cellar space in our basement, and we would like to
8 convert that space into usable residential space. The property
9 was built several years ago in 1925. And we purchased the
10 property in 2018. And this is an opportunity to modernize the
11 property and add some living space to the building. In the cellar
12 level, we had one existing unit with no tenant and several square
13 footage of unused space. On our main level, we currently have
14 four units that are fully occupied with tenants, and those tenants
15 will remain. On our second level, we have no tenants, and we're
16 currently renovating and combining two units for a total of three
17 units.

18 MR. DEBEAR: Thank you, Mr. Okwesa. The next slide,
19 Mr. Young, please?

20 Just a brief overview from the outreach. ANC is
21 unanimously supportive. Office of Planning recommends approval
22 and DDOT had not objection.

23 I'll just take this time, Chair Hill, to address the
24 trash. This is something that they did identify, and I believe
25 my client's been looking into. The property is on a corner lot,

1 and it's a triangular shape lot, and it abuts directly against
2 another property on the one space that it does actually share
3 with another private property. And so, there are limited places
4 to locate trash. With that being said, my client does understand
5 that they cannot have trash in public space, and so they are
6 looking to figure out, you know, a way, whether it ends up being
7 inside the building. I have identified that for them, and they
8 will fix that.

9 CHAIRPERSON HILL: Okay.

10 MR. DEBEAR: Next slide, please.

11 Just for the sake of -- and you know, Ms. Felder can
12 testify if the Board needs her to -- but just for the sake of
13 brevity, I'm just going to walk through this. This is the exiting
14 cellar level. As you can see, it's unused and part of it, the
15 larger part on the right-hand side, is completely unfinished. So
16 it would take a substantial amount of work to renovate this.

17 Next slide, please.

18 This is something that we just want Ms. Felder to just
19 speak to directly, because it does go directly to our, you know,
20 request for relief, and how we meet the variance standard. Ms.
21 Felder, can you just chime in here on this slide?

22 MS. FELDER: Sure. Good afternoon, Mr. Chairman, and
23 Board members. I'm Tenika Felder. I'm the architect with Redlef
24 Group Architects on behalf of the applicant.

25 So this slide shows the walls that are highlighted by

1 the red boxes. They represent the existing masonry, low-bearing
2 walls that bifurcate the existing cellar space. And this will
3 serve as demising partitions for the proposed new units. Mr.
4 DeBear?

5 MR. DEBEAR: Yes. The next slide, please.

6 And Tenika, you can just please walk through this very
7 quickly.

8 MS. FELDER: Sure. This slide illustrates the proposed
9 cellar level floor plan in which the existing unit will be
10 renovated. Two additional units will be added and there will be
11 a shared laundry space and a building utility space. The size
12 and the types of the three units mimics the existing units that
13 are on the first and second floors above. The unit highlighted
14 in purple, is a 519 square foot one-bedroom, one-bath unit. The
15 unit highlighted in green is a 450 square foot one-bedroom, one-
16 bath unit, and the unit highlighted in red is a conversion of
17 the existing partially excavated 802 square foot space to
18 accommodate a new two-bedroom, two-bath unit. Mr. DeBear?

19 MR. DEBEAR: Thank you. Next slide, please.

20 We are seeking area variance relief from the lot area
21 requirements since this is a legally built but non-conforming
22 apartment house in the RF-1 zone. In order to increase the number
23 of units, you must have 900 square feet of land area per unit.
24 This lot is only 4,327 square feet. As you can see, it is non-
25 conforming as to that 900 square foot rule. With the proposed

1 two new units, we'd be at 432.7 square feet per unit and that's
2 why we're seeking variance relief.

3 Next slide, please. Next slide.

4 In terms of this exceptional conditions again, this
5 property is a purpose-built apartment building that's legally
6 non-conforming. There is 1,850 square feet of underutilized or
7 unused cellar space, as Mr. Okwesa and Ms. Felder testified to.
8 The load bearing demising walls bifurcate the cellar level, as
9 I'll explain, that makes it difficult to combine units. There's
10 existing tenants on the first level, and the property's
11 triangular shape and corner lot location.

12 Next slide, please.

13 In terms of the practical difficulties, again, the
14 first and foremost issue is, without relief, this space, as you
15 can see from the images, would be essentially unused and
16 underutilized space. There is one unit there, but the rest will
17 be cellar level, although it has its windows, making it, you know,
18 an idea for potential habitable space, it is not finished. This has
19 posed security and safety issues. There's an issue with a
20 squatter down there. So by, you know, renovating this and making
21 it habitable, that would secure the building as a whole as well.
22 The existing storage space down there is not used by tenants, and
23 so, there's no need for it. And, again, the applicant is
24 proposing laundry and utilities, so more space is not needed for
25 that as well. In terms of other alternative uses, there really

1 are not appropriate uses for the cellar of an apartment building
2 in an RF-1 zone, and due to the property's location and size in
3 terms of only having eight to nine units. In addition, there is
4 really limited demand for a common space. That would be
5 inefficient and not reasonable for the investment it would take
6 to convert what you saw as the partially excavated area and the
7 rest of the cellar, just for common space for a small building.

8 The load-bearing walls make it difficult again to --
9 they are right down the middle of the cellar making it difficult
10 to either add space to the existing unit or construct only one
11 new unit. They'd have to be removed or holds would have to be
12 built into them and that is costly and time intensive. Again,
13 it would also create a very large and potentially awkward layout
14 for a unit that just wouldn't bear the investment and would be
15 difficult to rent.

16 Next slide, please. And I'm coming to the end.

17 The existing tenants on the first level create a
18 practical difficulty because combining the cellar space with
19 those units would disrupt those tenants. And there's also
20 extensive structural challenges due to the age of the building.
21 And, finally, the corner lot location essentially means it's
22 practically difficult to add lot area to the lot to make it
23 conforming, because it only abuts one other property, and it's
24 under separate ownership.

25 Next slide, please. And, finally, there's no detriment

1 to the public or to the zone plan. They are proposing no
2 structural expansion. This is all within the envelope of the
3 building. It's continuing the residential use, but only modestly
4 increasing the density over existing conditions. It's creating
5 new housing units over previously unused space, which is positive
6 for the District as a whole. Both OP and ANC support this, and
7 the Board has approved and supported similar relief from the 900
8 square foot for non-conforming apartment buildings in the cases
9 listed here.

10 And I believe that closes my presentation. We'd be
11 happy to answer any questions. And, again, we did speed through,
12 but if there's any more details, we'd be happy to address them
13 for the record.

14 CHAIRPERSON HILL: Okay. Does the Board have any
15 questions for the Applicant?

16 (Negative head shake.)

17 CHAIRPERSON HILL: I'm going to turn to the Office of
18 Planning.

19 MS. THOMAS: Good afternoon, Mr. Chair, members of the
20 Board, Karen Thomas with the Office of Planning.

21 We are in support of the variance request to add an
22 extra unit. It is this apartment building on Iowa Avenue. And
23 we are in support of what Mr. DeBear just presented, in terms of
24 the existing condition of the cellar and its unenclosed and
25 underutilized space. We believe that the physical

1 characteristics of this level create a practical difficulty for
2 the applicant's proposed interior renovations. We determined
3 that there should be no substantial detriment to the public good,
4 and we stand on record of our report. Thank you.

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

7 (Negative head shake.)

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

10 MR. DEBEAR: No.

11 MR. OKWESA: No.

12 CHAIRPERSON HILL: Mr. Young -- oh, sorry. Go ahead,
13 Mr. Smith.

14 BOARD MEMBER SMITH: Chairman Hill, I have a question
15 for Mr. DeBear. I'm sorry, but, if I could go back and ask him
16 a question. Will the rent-controlled units be renovated at any
17 point in time?

18 MR. DEBEAR: Well, they are currently tenanted. I
19 think my client could answer that. I mean the tenants are
20 remaining there. They will be under rent control. I think it's
21 challenging to renovate them, but I'll let Shanu answer that, if
22 he has any additional detail.

23 MR. OKWESA: We don't have any plans to do a complete
24 renovation of those units at this time. We're making any
25 necessary repairs to keep the units up to standard. There are

1 no plans for a complete renovation at this time.

2 BOARD MEMBER SMITH: Okay. So my follow up question
3 to that is does the building -- if you were approved, would the
4 cellar space and the upper floor area going to be renovated at
5 the same time?

6 MR. OKWESA: (Indiscernible.)

7 BOARD MEMBER SMITH: Or are they being fixed at the
8 same time?

9 MR. OKWESA: The upper floor is currently being
10 renovated, so they would begin work in the lower floor as soon
11 as it's approved and goes to permitting, et cetera. So my
12 suspicion is that the upper floors will be completed before the
13 cellar, since they're already in progress.

14 BOARD MEMBER SMITH: Okay. That -- the totality of the
15 formal construction, will not that be disruptive in itself to the
16 units in the rental control spaces?

17 MR. DEBEARS: I'll take this, Tai. And that's kind of
18 why we're seeking the relief as well, to limit any changes to
19 the load-bearing walls in the cellar and to basically limit as
20 much as possible any disruption and why we can't combine units,
21 where there are tenants. The goal is to limit disruption.

22 BOARD MEMBER SMITH: My next question is you had brought
23 up issues of security in the basement. And I've heard this come
24 up a couple times. And you said that there were some issues with
25 some squatters. Has the applicant pursued some more cheaper cost-

1 effective remedies to, you know, remedy that issue of security,
2 such as security cameras, better lighting, security bars at the
3 windows and doors, something of that particular nature.
4 Something that's a little bit more cheaper, as far as costs to
5 remedy issues of security in the basement, other than doing this
6 long, extensive renovation?

7 MR. OKWESA: Well, I wouldn't say that the purpose of
8 this effort that the security is the primary reason we're doing
9 this. I will just say that the security issues are another factor
10 that influences the decision. So I looked into, you know, the
11 standard ways you would secure a property from squatters entering
12 the property. I suppose we could do that without going through
13 this effort, but that's not the primary reason why we're doing
14 this.

15 MR. DEBEAR: Yeah, exactly what Shanu just said. The
16 primary purpose is to take unused and underutilized space and
17 convert it into two new dwelling units. The offshoot of that is
18 it does help to resolve prior security and safety issues. It's
19 one of several factors.

20 BOARD MEMBER SMITH: Okay. And I mean I believe that
21 you touched on storage space. I mean that is not used by the
22 residents of the apartment building. Were there other amenity
23 spaces that were explored that could potentially be located
24 within the basement for that?

25 MR. DEBEARS: So we did discuss that they're including

1 the necessary utility room and laundry room for the residents in
2 the cellar and that still yields the extra space. Again, given
3 the state of the existing cellar area, the investment would not
4 be reasonable to convert it. And also, given the age and size
5 of the building, which is only currently eight units, their
6 investment to convert that to common space, such as a gym or a
7 common area. There is, you know, a substantial amount of actually
8 public space around the property, but what looked to be on the
9 property that the residents can use. So in terms of common space,
10 outdoor space is also a good area for tenants that currently
11 exists.

12 BOARD MEMBER SMITH: Okay. Thank you. That's all the
13 questions I have for the applicant, Mr. Chair.

14 CHAIRPERSON HILL: Okay. Does anyone else have any
15 more questions?

16 (Negative head shake.)

17 CHAIRPERSON HILL: Okay. Can I turn to the Office of
18 Planning?

19 MS. THOMAS: Yes? You have a question, Mr. Chair?

20 CHAIRPERSON HILL: Sorry. Ms. Thomas, I kind of spaced
21 out there for a minute. Let's see. Mr. Young, is there anyone
22 wishing to speak?

23 MR. YOUNG: We do not.

24 CHAIRPERSON HILL: Okay. Mr. DeBear, do you have
25 anything else at the end?

1 MR. DEBEAR: I do not.

2 CHAIRPERSON HILL: I'm going to go ahead and close the
3 hearing and the record. Excuse everyone, please.

4 If I can go ahead and start with somebody else, because
5 I'm just tired of talking. If I could start with -- Mr. Smith,
6 do you mind if we start with you, because I'm not sure where you
7 are.

8 BOARD MEMBER SMITH: Based off of what was presented,
9 I do not believe that the applicant has met the burden for all
10 three of the prongs. And I'll start off with the first prong.
11 By reason of exceptional narrowness, shallowness, or shape a --
12 of a specific piece of property at the time of the original
13 adoption of the regulations or by reason of exceptional
14 topographical conditions. I do not believe that this particular
15 property is unique within the District. They are commonly across
16 the District; we have non-conforming apartment buildings on
17 fairly narrow lots. So I believe that, based on the presentation
18 that the applicant gave, it is more so based on the total lot
19 area. I believe that it would be more -- It would be recurring
20 in nature for us to be granting this particular type of variance
21 based on the lot area of a non-conforming apartment building.

22 Secondly, the strict application of the regulations
23 would result in a practical difficulty. I do not believe that
24 the applicant has presented a practical difficulty. In order to
25 use the apartment, the property can continue to be used. The

1 applicant, based off of their presentation, is doing a very
2 extensive renovation of the existing building to create some
3 additional units within the space. I believe that the entire
4 argument is based off of an economic argument to get an additional
5 unit into the basement, but the basement can be utilized for by
6 right or matter of right usage within the basement.

7 And, lastly, I do believe this type of variance, which
8 is common, and, you know, I want to say that I am supportive of
9 additional housing within the District, fully supportive of it.
10 I understand the COGs report that came out that attempts to create
11 additional housing within the District and across the region.
12 But I think the variance request -- I mean the variance for this
13 is a blunt instrument, and, unfortunately, with this blunt
14 instrument, I can't get to granting this type of variance or any
15 future variance of this particular nature. So based on that, I
16 don't believe this meets the prong of the variance test, so I
17 wouldn't be in support of it.

18 CHAIRPERSON HILL: Okay. I got it. Well, I'll go next,
19 just so there's somebody -- so I'm in favor of the variance. I'm
20 in favor or the application. I mean I think that the analysis
21 that the Office of Planning has given, I think I would agree
22 with. Mr. Smith, I know that it's not a big deal to disagree,
23 but I'm just going to disagree. And the other thing that is --
24 and I guess maybe there's something we can talk about at another
25 time, and we'll see how this goes, because I don't know whether

1 everybody else is going to say is that this -- these are things
2 that come up, but I think that this is a variance that at least,
3 you know, we can see whether or not they're meeting it, right?
4 To say that you would just always say no to this is not accurate.
5 I mean I do think that, as you mentioned, it's a blunt instrument,
6 but I think like there was a case -- actually, it's interesting.
7 I think it was the same architect, where we denied a very similar
8 thing, because we thought maybe something else could be used with
9 that space, and I don't agree with that in this case. I think
10 that the applicant has made the argument as to why the variance
11 should be approved. So I'm going to vote in favor. So we're at
12 one-one. Let's see. Let's -- a little drama. Ms. John.

13 VICE CHAIR JOHN: Mr. Chairman, may I go last on this
14 one?

15 CHAIRPERSON HILL: Okay. Sure.

16 VICE CHAIR JOHN: Thank you.

17 CHAIRPERSON HILL: Let's see. Mr. -- well, Chairman
18 Hood, let's go with you.

19 CHAIRMAN HOOD: And, you know, since we -- I actually
20 wanted to hear from the Board first, because I will tell you that
21 Board Member Smith threw me for a loop. And I will let the Vice
22 Chair go last, but I would like to go after Mr. Blake, because I
23 do have some comments on this.

24 CHAIRPERSON HILL: Okay.

25 CHAIRMAN HOOD: Board Member Smith threw me for a loop,

1 so.

2 CHAIRPERSON HILL: Okay. Mr. Blake?

3 BOARD MEMBER BLAKE: Sure. You know, I look at this
4 thing, and I have a lot of the same concerns that Board Member
5 Smith had with regard to the prongs of the test. But as I looked
6 at the first prong, I do think there's an extraordinary condition
7 that was brought about by the confluence of factors. And also,
8 as I look at that to second prong, there are confluence
9 consequences that have come out of that, which do create a
10 practical difficulty. So I don't think there's one single element
11 that causes this. But I think in combination, I do see a
12 situation where I do see a condition -- a practical difficulty
13 that's derived from that. And I do think, that when you look at
14 -- I agree with the Office of Planning's analysis that relief
15 will not be detrimental to the public good or intent of the zoning
16 regulations, in that it's a modest increase. And we think about
17 this relative to the size of the building and things like that.
18 I just think that it would not be an impact to the intended public
19 good. So I would be actually in a position to support it.

20 CHAIRPERSON HILL: Okay. Well, Mr. Blake, you did a
21 better job explaining yourself than I did, I think. So Mr. Hood,
22 you only get -- Vice Chair John has already asked for last, so
23 you are next in line.

24 MR. HOOD: Okay. No, that's fine. That's fine. I
25 would agree. I would associate myself with the comments of Board

1 Member Blake. I can tell you that you -- as you know, I'm always
2 a stickler for the 900 square foot rule. If there's ever a case
3 where I think they've met the three-prong test, this is it. I've
4 seen the Board do something less desirable than this -- but I
5 can tell you -- underutilized space, but for me, they got me when
6 they were presenting about the load-bearing walls. So that does
7 -- as Board Member Blake mentioned, there's a lot of confluence
8 of factors that come into play here. And I think they've made
9 their case. And I will be voting in support of this application.
10 I think if there was ever a case strictly made, I think this is
11 one, and I usually don't say that, especially when it comes to
12 the 900 square foot rule. So thank you, Mr. Chairman.

13 CHAIRPERSON HILL: All right, Ms. John, you can do
14 whatever you want now.

15 VICE CHAIR JOHN: Well, I just wanted to hear from my
16 Board members and, you know, Chairman Hood. I agree. I think
17 this might not be the strongest area variance case I've seen, but
18 on balance, I think that the application meets the requirements
19 for the relief from that 900 square foot rule. And I'll agree
20 with the Office of Planning's analysis and recommendation and
21 give great weight to OP's analysis.

22 CHAIRPERSON HILL: Okay. Mr. Smith, you're going to
23 be on the wrong side. You want to change your mind? You happy?

24 BOARD MEMBER SMITH: (Affirmative head nod.)

25 CHAIRPERSON HILL: There you go. All right. Well,

1 apparently, Mr. Smith, you're wrong, so.

2 BOARD MEMBER SMITH: I'll (indiscernible).

3 CHAIRPERSON HILL: All right. I'm going to go ahead
4 and make --

5 VICE CHAIR JOHN: Mr. Chairman.

6 CHAIRPERSON HILL: Yes?

7 VICE CHAIR JOHN: I don't believe there's a wrong or a
8 right on this Board. We agree to respectfully disagree on our
9 analysis.

10 CHAIRPERSON HILL: Oh, yeah. If I thought that --

11 VICE CHAIR JOHN: As we do from time to time.

12 CHAIRPERSON HILL: Yes. No, I agree. If I thought
13 that I was going to be chastised for my small joke, or if I
14 thought Mr. Smith thought that I was being rude, I want to clarify
15 for the record, that -- yes, Mr. Smith.

16 BOARD MEMBER SMITH: None taken. I got thick skin.

17 CHAIRPERSON HILL: Okay. All right. We'll go ahead
18 and make -- I'll go ahead and make a motion to approve application
19 No. 20463 as captioned and read by the secretary and ask for a
20 second, Ms. John?

21 VICE CHAIR JOHN: Second.

22 CHAIRPERSON HILL: The motion has been made and
23 seconded. Mr. Moy, could you take a roll call vote?

24 MR. MOY: Yes. Thank you, Mr. Chairman. When I call
25 each of your names, if you would please respond with a yes, no,

1 or abstain to motion made by Chairman Hill to approve the
2 application for the relief requested. The motion was seconded
3 by Vice Chair John. Mr. Blake?

4 BOARD MEMBER BLAKE: Yes.

5 MR. MOY: Zoning Commission Chair Anthony Hood?

6 MR. HOOD: Yes.

7 MR. MOY: Vice Chair John.

8 VICE CHAIR JOHN: Yes.

9 MR. MOY: Chairman Hill?

10 CHAIRPERSON HILL: Yes.

11 MR. MOY: Mr. Smith?

12 BOARD MEMBER SMITH: No.

13 MR. MOY: Staff would record the vote as 4-1-0. And
14 this is on the motion made by Chairman Hill to approve. The
15 motion was seconded by Vice Chair John in support of the motion
16 to approve. Also, in support of the motion to approve is Mr.
17 Blake, Zoning Commission Chair Hood, Vice Chair John, Chairman
18 Hill, of course. Opposed to the motion to approve is Mr. Smith.
19 So the motion carries on a vote of 4-1-0.

20 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Moy.
21 So if the Board is okay -- so we were going to do in the agenda
22 20400; however, I think that's going to take a fair amount of
23 time. If you guys are okay, let's just do one more, and then
24 we'll take lunch. Would that be all right?

25 (Affirmative head nod.)

1 CHAIRPERSON HILL: So, okay. Mr. Moy, if you could
2 call the next one, which would be 20464.

3 MR. MOY: Yes. All right. Thank you, Mr. Chairman.
4 So this is case Application No. 20464 of 3200 Penn Avenue, PJV,
5 LLC. The application was captioned and advertised for a special
6 exception under the use permissions of Subtitle U § 511.1(e).
7 This would convert an existing retail space to a fast-food
8 restaurant in an existing mixed use detached commercial building
9 in the MU-3A Zone. Property located at 3200 Pennsylvania Avenue,
10 Southeast, Square 5539, Lots 838 and 839.

11 I'd like to note for the record, Mr. Chairman, that as
12 a preliminary, the record itself appears that the public notice
13 to the lessees would be untimely. However, I have staff evidence
14 that the notices were actually sent out on time. What was not
15 timely filed in the case record was the OZ attestation sheet,
16 which was dated as is, that would show that timing was untimely,
17 but we could not back date our attestation sheet. So I wanted
18 to note that for the record. But to make our sister agencies
19 happy, I would suggest that the Board continue to -- if you wish,
20 address waiving the time requirements out of an abundance of
21 caution.

22 CHAIRPERSON HILL: Okay. So I talked to Mr. Moy
23 about this. So I understand what's going on. There was kind of
24 a little bit of a technicality as to how the dates kind of crossed
25 over each other. But again, out of an abundance of caution --

1 so in other words, the lessees all got the correct amount of
2 time, right? So -- and even if they didn't, which I do think
3 they did, they were only short 13 days, according -- because of
4 this technicality. So unless the Board has any issues, I'm going
5 to go ahead and make a motion to waive -- no, I'm not going to
6 make a motion, I'll just go ahead and do it -- waive the notice
7 requirements out of an abundance of caution for the lessees, even
8 though I think they did get it on time. So, unless the Board
9 has a problem with that, please speak up.

10 (Negative head shake.)

11 CHAIRPERSON HILL: Okay. All right. So we did that.
12 Mr. Dettman, can you hear me? Oh, no. Who's doing this today?
13 Is it Mr. Cohen or Mr. Dettman?

14 MR. COHEN: Yeah. Mr. Chair, it's Mr. Cohen. Mr.
15 Dettman is with me, but I'll be taking the lead today.

16 CHAIRPERSON HILL: Oh, got you. Mr. Cohen, could you
17 introduce yourself for the record?

18 MR. COHEN: Absolutely. Thank you, Mr. Chair. For the
19 record, my name is Christopher Cohen with Holland and Knight.

20 Just a couple of preliminary matters, before we really
21 get underway. First of all, we appreciate the Board's waiver of
22 the notice to the lessees. We wanted to qualify Mr. Dettman as
23 an expert witness in this case, an expert in land use and
24 planning. His resume is included in the record at Exhibit 11.

25 CHAIRPERSON HILL: Okay. I think Mr. Dettman is already

1 an expert in land use and planning.

2 MR. COHEN: Yeah, he is. Out of an abundance of
3 caution, I was just doing it myself. Secondly --

4 CHAIRPERSON HILL: I'm okay with that.

5 MR. COHEN: Secondly, just given -- out of respect for
6 the Board's time and given the -- or what we believe to be a
7 relatively clean record, the applicant is happy to rest on the
8 record, but, of course, we are also willing to go forth with our
9 presentation. So we kind of wanted to leave that up to the Board,
10 just given everything going on today and where the case stands
11 currently.

12 CHAIRPERSON HILL: No, I appreciate that, Mr. Cohen.
13 Could you just tell us a little bit about the case and a little
14 bit about what you're requesting?

15 MR. COHEN: Absolutely. I think it would be no problem
16 at all, if we could just pull up our presentation materials, just
17 to kind of accompany the quick statements I'm going to make.

18 CHAIRPERSON HILL: Yeah.

19 MR. COHEN: So, again, with me today is Mr. Anthony
20 Startt, on behalf of the applicant as well as Mr. Shane Dettman.
21 This application is a self-certified special exception request
22 to permit a fast-food establishment at an existing shopping
23 center located at 3200 Pennsylvania Avenue.

24 Next slide, please.

25 And just for the Board's reference, the shopping center

1 is located here at Lots 838 and 839 at Square 5539, which is
2 within the neighborhood commercial node at Pennsylvania and
3 Branch Avenue. The property is zoned MU-3A.

4 Next slide, please. And, again, the subject request
5 is for a fast-food establishment within the shopping center.
6 Essentially, the applicant proposes to reconfigure the existing
7 CVS tenant space at the eastern side, which will accommodate not
8 only the fast-food use, but an office space and a new retail
9 space. As you could see here, the proposed fast-food
10 establishment would be a Chipotle and the size of approximately
11 2,584 square feet. And it would operate similarly to other
12 Chipotles that I'm sure the Board is familiar with nationwide.

13 Next slide, please.

14 And just really quickly, this special exception is
15 allowed by the Board pursuant to Subtitle U § 511.1(e) and also
16 in compliance with the general special exception criteria under
17 Subtitle X § 901.2.

18 Very quickly, we believe that the application is
19 compliant because it is in harmony with the purposes of the MU-
20 3A zone, specifically which are to provide convenient retail for
21 day-to-day needs. The Chipotle, or the proposed Chipotle, would
22 be compatible with other uses in the shopping center and enhance
23 the shopping center. And its operations would be buffered
24 substantially away from nearby residential uses.

25 And I will turn it over to Mr. Dettman to walk through

1 the special use conditions under § 511.1(e). Given though we're
2 kind of giving the quick highlights, I'm going to ask that we
3 move forward to slide nine and kick it over to Mr. Dettman for
4 the -- oh, really quickly. We're also pleased to have the support
5 of OP, DDOT, the ANC, and the applicant has also engaged several
6 interested stakeholders. The Penn Branch Citizens Civic
7 Association; happy to report that we received a vote, unanimous
8 support back in April. And now, I will kick it over to Mr.
9 Dettman.

10 Mr. Young, you could take it over to slide number nine.
11 I believe it's a couple more. Next slide. Next slide. Next
12 slide. I think the next one is it. Thank you.

13 MR. DETTMANH: All right. Good afternoon, Mr. Chairman
14 and members of the Board. It's good to see you this afternoon.

15 I'd like to go through the special exception criteria
16 that need to be met by the applicant in order to justify the
17 requested special exception use in order to establish a fast-
18 food establishment at the subject property.

19 Just very quickly. We have Mr. Startt with us this
20 afternoon and he was going to provide some commentary around the
21 great efforts that his organization has made ever since acquiring
22 the property to really revitalize the Penn Branch Shopping
23 Center. This is something that has really started back in 2017.

24 Commissioner Hood, you'll remember the map amendment
25 that we successfully obtained for the Penn Branch Shopping Center

1 and sort of what's being contemplated for that site and the site
2 that's behind it and working very closely with the O Street
3 neighbors and the ANC. Subsequent to that map amendment, and
4 while Mr. Startt's organization was looking to really revitalize
5 the shopping center, which I believe it was something like only
6 20 percent occupied when they got it -- got their hands on the
7 shopping center, and it's now about 95 percent filled with new
8 neighborhood-serving retail and service uses, so really a great
9 job there. But what we found was that some of the eating and
10 drinking establishments that wanted to go into the shopping
11 center required a use variance, and so we worked closely with the
12 Office of Planning to carry out a text amendment, that was Case
13 No. 20-10 that looked at fast-food establishments in the MU3 and
14 MU4 zones. And that's why we're here today before you, because
15 rather than a use variance, that text amendment specifically
16 allows for this type of use as a special exception.

17 In terms of the standard of review in order to receive
18 the special exception, the applicant needs to meet the general
19 special exception criteria of Subtitle X, Chapter 9 as well the
20 specific special exception use criteria of Subtitle U, §
21 511.1(e).

22 In terms of the general special exception criteria of
23 Subtitle X, as Mr. Cohen mentioned, the proposed use will be in
24 harmony with the general purpose and intent of the zoning
25 regulations. Specifically, as Mr. Cohen mentioned, the MU-3

1 Zone, one of the purposes and intents of that is to provide for
2 convenient retail to serve the day-to-day needs of residents.
3 I'll note that the Pennsylvania Avenue Small Area Plan that was
4 adopted some time ago specifically identified this site -- well,
5 specifically identified this area as being substantially lacking
6 in neighborhood serving retail and service amenities, and
7 specifically identified this site as being the site that could
8 fulfill -- that have the most potential to fulfill that deficiency
9 in retail and service uses. And so, certainly, consistent with
10 the MU-3 purpose of providing convenient retail and service uses
11 for day-to-day needs of residents, this proposed use will be in
12 line with that.

13 Next slide, please. Great. Thank you.

14 The proposed use will also not tend to affect adversely
15 neighboring properties. It's going to expand upon the mix of
16 uses within the shopping center. Thus, again, addressing that
17 lack -- or that demand in the need for neighborhood-serving
18 retail, including restaurants and fast-food establishments in the
19 Penn Branch shopping area. It's also compatible with other uses
20 within the neighborhood commercial node that you'd find in and
21 around the intersection of Pennsylvania and Branch Avenues. Its
22 orientation is towards Pennsylvania Avenue facing away from the
23 retail -- or the residential use that's located on the back side
24 of the shopping center. Its hours of operation will be compatible
25 with other uses in the shopping center. Parking and loading

1 demand will be satisfied fully onsite within the existing parking
2 lot and loading areas that's on the Pennsylvania Avenue side of
3 the shopping center. And all venting related to the proposed
4 fast-food establishment will be vented to the roof of the shopping
5 center.

6 Next slide.

7 Getting into some of the special conditions of Subtitle
8 U § 511. In terms of its location, the fast-food establishment
9 is only permitted as a special exception within a multi-tenant
10 building. The shopping center is a multi-tenant building. It's
11 only approximately 5.6 percent of the shopping center going to
12 be occupied by fast-food establishments, being this is going to
13 be the only one at this point, where 30 percent is permitted.
14 The applicant is in the process of constructing a three-sided
15 brick enclosure in the rear yard of the shopping center. That
16 enclosure will be compatible in design with the shopping center
17 and will have a minimum height of six feet, as required by the
18 zoning regulations. And there's no drive-thru that's proposed.

19 Next slide.

20 Just rounding up the remaining conditions. The proposed
21 use will not generate any adverse noise, sounds or odors. There's
22 no additional lighting proposed, other than what's already
23 existing in the existing parking lot that's on the Pennsylvania
24 Avenue side. Signage is going to face towards Pennsylvania
25 Avenue. It's consistent with the existing signage throughout the

1 shopping center. Again, parking is going to be accommodate fully
2 onsite, and that the use will be located within the existing
3 shopping center and will be easily accessible from the existing
4 parking lot. All deliveries will take place -- safely
5 accommodated on site using only head in and head out maneuvers
6 from Pennsylvania Avenue. We don't believe that there's any need
7 for any kind of special conditions to be imposed by the Board.

8 Next slide.

9 With that, Mr. Chairman, that concludes my
10 presentation. I believe that the burden of proof for the
11 requested special exception has been met, and that the
12 application should be approved.

13 CHAIRPERSON HILL: Thank you. Does the Board have any
14 questions for the applicant? Chairman Hood?

15 CHAIRMAN HOOD: Yes. Thank you, Mr. Chairman. Thank
16 you, Mr. Dettman for refreshing my memory. As I looked and
17 reviewed this and saw it again, I was trying to figure out was
18 it a PUD, was it a map amendment, or what the issues were. I'm
19 just curious and this is not necessarily germane to this
20 proceeding, but did the Planet Fitness go in in that project as
21 well?

22 MR. DETTMAN: (Positive head nod.)

23 CHAIRMAN HOOD: The Planet Fitness is there? Okay. I
24 know the community really wanted that; I believe. All right.
25 Thank you. Thank you, Mr. Chair.

1 CHAIRPERSON HILL: Anyone else? Ms. John?

2 VICE CHAIR JOHN: Yes, I had a question about the
3 location of the trash for this building. Is it towards the
4 Pennsylvania Avenue side? How far away is it from the residential
5 areas?

6 MR. DETTMAN: Sure.

7 VICE CHAIR JOHN: Go ahead.

8 MR. DETTMAN: Sure. Mr. Young, could you bring up the
9 appendix slide? We have a diagram that specifically shows its
10 location.

11 Next slide, please. The next one. Here we go.

12 So, Commissioner John, the proposed trash enclosure is
13 going to be located -- if you look at that aerial photo that's
14 in the bottom right, the arrow is actually pointing towards the
15 existing location of the trash dumpsters, which you can see in
16 this photo. They're actually located on a totally different
17 site, and, actually, Mr. Startt can attest to that receiving
18 complaints from neighbors. So it's going to be a substantial
19 improvement to what's currently on the site. Where, if you look
20 at the beginning of that area -- the beginning of that arrow,
21 right in the rear yard, immediately next to the proposed Chipotle,
22 is where the three-sided brick enclosure is being constructed
23 right now. It'll be constructed in accordance with the regs,
24 located within the rear yard and it will be located approximately
25 100 feet away from the residential uses to the north, and it will

1 be facing towards Pennsylvania Avenue. This was something that
2 was specifically asked about by the Office of Planning and DDOT.
3 We had a specific meeting on this and to describe kind of the
4 improvement to this particular condition of the site.

5 VICE CHAIR JOHN: Thank you.

6 CHAIRPERSON HILL: All right. May I turn to the Office
7 of Planning?

8 MS. MYERS: Good afternoon. Crystal Myers for the
9 Office of Planning. The Office of Planning is recommending
10 approval of this case and will stand on the record on the staff
11 report.

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

14 (Negative head shake.)

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

17 MR. COHEN: No, sir.

18 CHAIRPERSON HILL: Mr. Young, is there anyone here
19 wishing to speak?

20 MR. YOUNG: We do not.

21 CHAIRPERSON HILL: Mr. Cohen, is there anything you'd
22 like to add at the end?

23 MR. CHOEN: No, sir. Thank you for your time, and we
24 appreciate it.

25 CHAIRPERSON HILL: Okay. All right. I'm going to go

1 ahead and close the hearing and the record. Mr. Young, if you
2 could excuse everyone, please.

3 Chairman Hood, can I start with you?

4 CHAIRMAN HOOD: Sure. Mr. Chairman, I believe that
5 this garners our support, from the special exception under use
6 permissions of Subtitle 511.1(e) pursuant to convert existing
7 retail space to a fast-food restaurant in an existing mixed use,
8 detached, commercial building in the MU-3A zones as specified,
9 we spoke about how this case met all the standards, and I will
10 be voting to approve.

11 CHAIRPERSON HILL: Great. Thank you, Chairman Hood.

12 Mr. Smith?

13 BOARD MEMBER SMITH: So I agree with Chairman Hood. I
14 believe that the special exception met the standards for us to
15 be able to grant special exception for U 511.1(e) of all the
16 criteria under E. So I will be in support of the special
17 exception. I will also note that the ANC didn't have any
18 concerns, and they are also in support.

19 CHAIRPERSON HILL: Thank you. Mr. Smith? I mean I'm
20 sorry, Mr. Blake?

21 BOARD MEMBER BLAKE: Yeah. Based on the evidence of
22 the record and the testimony today, I, too, believe the applicant
23 has met the burden of proof for special exception requirements
24 in Subtitle 511.1(e) and I'll be prepared to support this as
25 well.

1 CHAIRPERSON HILL: Thank you. Vice Chair John.

2 VICE CHAIR JOHN: Thank you, Mr. Chairman. I'm in
3 support of the application. It's fairly straightforward, and I'm
4 pleased that the applicant is taking steps to improve on the
5 trash situation. Thank you.

6 CHAIRPERSON HILL: Thank you. All right. I don't have
7 anything to add. I would agree with my colleagues. I'm going to
8 make a motion to approve Application No. 20464 as captioned and
9 read by the secretary and ask for a second, Ms. John.

10 VICE CHAIR JOHN: Second.

11 CHAIRPERSON HILL: The motion has been made and
12 seconded. Mr. Moy, could you take a roll call?

13 MR. MOY: Thank you, sir. When I call your name, if
14 you would, please respond with a yes, no, or abstain to the motion
15 made by Chairman Hill to approve the application for the relief
16 requested. The motion was seconded by Vice Chair John.

17 Zoning Commission Chair Anthony Hood?

18 MR. HOOD: Yes.

19 MR. MOY: Mr. Smith?

20 BOARD MEMBER SMITH: Yes.

21 MR. MOY: Mr. Blake?

22 BOARD MEMBER BLAKE: Yes.

23 MR. MOY: Vice Chair John?

24 VICE CHAIR JOHN: Yes.

25 MR. MOY: Chairman Hill?

1 CHAIRPERSON HILL: Yes.

2 MR. MOY: Staff would record the vote as 5-0-0, and this
3 is on the motion made by Chairman Hill to approve. Motion
4 seconded by Ms. Vice Chair John, who was also in support. Others
5 in support of the motion is Mr. Smith, Mr. Blake, Zoning
6 Commission Chairman Anthony Hood. This will give a vote of 5-0-
7 0. The motion carries, sir.

8 CHAIRPERSON HILL: Thank you, Mr. Moy. If it's okay
9 with the Board, I need a couple extra minutes at lunch. So is
10 1:40 all right with everybody?

11 (Positive head nod.)

12 CHAIRPERSON HILL: Okay. And, Mr. Blake -- sorry. And
13 Vice Chair John?

14 VICE CHAIR JOHN: Mr. Chairman, what is the order after
15 lunch?

16 CHAIRPERSON HILL: Sure.

17 VICE CHAIR JOHN: Do we have a case from this morning
18 that's being held -- heard after lunch?

19 CHAIRPERSON HILL: Oh, yeah. Actually, I forgot. Wait
20 a minute. There was the whole thing that we were waiting on for
21 Commissioner Shapiro.

22 VICE CHAIR JOHN: That's right.

23 CHAIRPERSON HILL: So, actually, Commissioner Shapiro,
24 I saw him pop up there a second. Is he there?

25 MR. YOUNG: Yeah, he's on.

1 CHAIRPERSON HILL: Okay. If the Board is able to, can
2 we do Commissioner Shapiro's two items, and then we'll go to
3 lunch? Chairman Hood, are you there?

4 CHAIRMAN HOOD: Yes, I'm here.

5 CHAIRPERSON HILL: Okay. We're going to go ahead --
6 mean maybe we'll be back here like 2:00? I'm sorry. Yeah, 2:00,
7 just to let you know. Okay, Chairman Hood?

8 CHAIRMAN HOOD: Okay. Thank you. Oh, look at
9 Commissioner Shapiro.

10 CHAIRPERSON HILL: I know. Look at that, huh?

11 CHAIRMAN HOOD: Let me go put my tie on. Okay. Thank
12 you.

13 CHAIRPERSON HILL: Okay. And then after this,
14 actually, also, Mr. Blake is not with us on the next case, so
15 for the audience, the order is going to be 20400, then 20465,
16 then 20333, then 20425. And that's after we finish the two items
17 that we need to do with Commissioner Shapiro.

18 So what we're going to do now is there was the one
19 issue -- give me one second, you guys.

20 COMMISSIONER SHAPIRO: With the brief time that we have
21 before Chair Hill comes back, would anybody like to discuss my
22 tie? No?

23 CHAIRMAN HOOD: You want me to -- Are you talking to
24 me too?

25 VICE CHAIR JOHN: What in particular?

1 COMMISSIONER SHAPIRO: Well, if you feel like you want
2 to weigh in. It's been a hour and a half. I figure it's about
3 time.

4 VICE CHAIR JOHN: Oh, okay. It looks really elegant.

5 COMMISSIONER SHAPIRO: Thank you.

6 VICE CHAIR JOHN: Nicely done.

7 CHAIRMAN HOOD: Yeah, it does.

8 COMMISSIONER SHAPIRO: Don't get used to it. I had a
9 special meeting today.

10 BOARD MEMBER SMITH: It's funny to inch back into full
11 dress (indiscernible).

12 COMMISSIONER SHAPIRO: I'd just like to note for the
13 record that I'm actually still wearing slippers though.

14 CHAIRPERSON HILL: Okay. This is just -- I mean one
15 day this whole Zoom thing is just going to turn into a disaster,
16 I can tell.

17 All right. Thank you, Commissioner Shapiro, for
18 joining us.

19 All right. So I'm going to first handle another issue,
20 and it is concerning BZA Case No. 20065, which Commissioner
21 Shapiro, I guess, was involved in. So during the preparation of
22 the draft order for this case, the Board became aware of what it
23 believes to be substantive legal issues with the applicant's
24 request for relief that were not fully addressed during the
25 original proceeding. In order to ensure that the case record is

1 complete, and that the Board has sufficient information on these
2 issues, I move that the Board rescind its prior vote on BZA case
3 No. 20065 and reopen the record to allow the applicant, the Office
4 of Planning, DDOT and the parties respond to the Board's
5 questions.

6 So once again, as the order was being written, the
7 Board believes that there are some legal issues that need to be
8 addressed. And so, I am making a motion to rescind the prior
9 vote in order to reopen the record. And I'm going to ask for a
10 second, Ms. John?

11 VICE CHAIR JOHN: Second.

12 CHAIRPERSON HILL: All right. Mr. Moy, that motion has
13 been made and seconded. If you'd go ahead and take a roll call.

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

15 When I call each of your names, if you would please
16 respond with a yes, no, or abstain to the motion made by Chairman
17 Hill. And this is to Application No. 20065 of Dilan Investments,
18 LLC. The motion is to rescind the vote -- previous vote and to
19 reopen the record. The motion was seconded by Vice Chair John.

20 Zoning Commissioner Peter Shapiro?

21 COMMISSIONER SHAPIRO: Yes, to rescind and reopen the
22 record.

23 MR. MOY: Mr. Smith?

24 BOARD MEMBER SMITH: Yes.

25 MR. MOY: Mr. Blake?

1 BOARD MEMBER BLAKE: Yes, to the motion.

2 MR. MOY: Chairman Hill?

3 CHAIRPERSON HILL: Yes, to the motion.

4 MR. MOY: Vice Chair John?

5 VICE CHAIR JOHN: Yes.

6 MR. MOY: Staff would record the vote as 5-0-0 on the
7 motion made by Chairman Hill to rescind its previous vote and to
8 reopen the record. The motion was seconded by Vice Chair John.
9 Also in support of the motion to rescind and reopen is Zoning
10 Commissioner Peter Shapiro, Mr. Smith and Mr. Blake. The motion
11 carries 5-0-0.

12 CHAIRPERSON HILL: All right. Thank you, Mr. Moy.

13 All right. So now that the record has been reopened,
14 I'd like to request the following submissions: Due in two weeks,
15 July 7th, from the applicant and the Office of Planning, given
16 the specific language of the regulations, including Subtitle C
17 703.1 through 703.4, Subtitle C 711.5, Subtitle C 807.1 through
18 807.3 and Subtitle C 805.1 to 805.10, the Board requests that the
19 applicant and the Office of Planning each separately explain how
20 the application is eligible for the following requested relief:

21 A special exception, pursuant to C 703.2, since the
22 applicant proposes to still physically provide the one required
23 space, but cannot meet the required access dimensions, and (2) a
24 special exception pursuant to C 807.2, since the applicant
25 proposes to physically provide six long-term bike spaces, but the

1 spaces do not meet the locational requirements. So that'll be
2 due on July 7th.

3 Then due two weeks after those submissions, no wait.
4 Then two weeks after that, all parties, ANC, applicant, OP and
5 DDOT, are able to respond to the submissions from the applicant
6 and the Office of Planning. And then I propose that we schedule
7 this for deliberation on July 28th.

8 Ms. Cain, did I get that right?

9 MS. CAIN: That's correct. So the first filings would
10 be due July 7th. The second filings would be due July 21st with
11 deliberations on July 28th.

12 CHAIRPERSON HILL: Okay. All right. So is the Board
13 understanding everything I just said? And just -- if you don't,
14 then say something. Okay. So you did understand. Okay. So
15 that's that. All right. Let's see then.

16 Mr. Moy, can you call the case that Commissioner
17 Shapiro is on?

18 MR. MOY: Yes, sir. This would be --

19 CHAIRPERSON HILL: This is for a decision, actually,
20 right?

21 MR. MOY: Yes, this is for a decision and --

22 CHAIRPERSON HILL: But there are some issues, right?

23 MR. MOY: Well, yeah. Yeah, there's a few preliminary
24 matters. But one, which is a soft suggestion, is that we did tell
25 everybody we would be back at 1:30. We're a little bit early.

1 So we'll see where we go from here. So this is -- here we go.
2 Okay. So this is Case Application No. 20458 of the Washington
3 International School. Captioned and advertised for a special
4 exception under the special exception use of Subtitle U §
5 203.1(m). This would construct a new detached academic building
6 in the R1-A Zone. Property located at 3100 Macomb Street,
7 Northwest, Square 2084, Lots 841 and 845.

8 There are several preliminary matters, Mr. Chairman,
9 which you are aware of. The applicant filed the motion a day
10 late. That's in the record. Let's see. There is also a request
11 to reopen the record from an Arlene Holen under Exhibit 108. She
12 filed yesterday, Tuesday, June 22nd. And also, last night,
13 Tuesday, June 22nd, the applicant filed a motion to reopen the
14 record to be able to respond to the ANC's filing. So those
15 documents are in hold until I hear otherwise from the Board.

16 The filing from Arlene Holen is -- that was filed
17 yesterday is under Exhibit 106.

18 CHAIRPERSON HILL: I got it. You said you were trying
19 to -- there was something you hadn't put in the record, Mr. Moy?
20 Is that what you said? I'm sorry.

21 MR. MOY: Yeah. All these are on hold, because they
22 were filed within that 24-hour block, that Tuesday block.

23 CHAIRPERSON HILL: Right. Well, I mean I see the
24 request to open the record.

25 MR. MOY: Yeah. That was -- who is that from?

1 CHAIRPERSON HILL: Arlene Holen. From Arlene Holen.

2 MR. MOY: Right.

3 CHAIRPERSON HILL: And then you said there's something
4 else?

5 MR. MOY: Yeah, we also have a motion to reopen the
6 record from Carolyn Brown who represents the applicant.

7 CHAIRPERSON HILL: Okay. So, unless -- this is going
8 to take longer than I thought. So unless the Board has any
9 issues, I'd like to see the request to reopen the record from
10 the applicant's attorneys. Because there's this other thing to
11 reopen the record from Arlene Holen. And then what I'd like to
12 do, actually, is maybe have an emergency meeting with OAG real
13 quick to kind of talk about this a little bit. And so, if
14 everybody's okay with that, or if you're not -- if you're not,
15 raise your hand. Okay.

16 So then, Mr. Moy, did you send me -- have you sent me
17 that before? I should probably have it.

18 MR. MOY: Yes, I have, but I could resend the opening
19 statement to you again.

20 CHAIRPERSON HILL: Well, if you could --

21 MR. MOY: Give me several minutes.

22 CHAIRPERSON HILL: Yeah.

23 MR. MOY: Give me several minutes, and I'll send it to
24 you.

25 CHAIRPERSON HILL: Okay. Well, if the staff could put

1 the motion to reopen the record into the record so we can see
2 it. Mr. Moy, I found it. Okay.

3 As Chairperson of the Board of Adjustment of the
4 District of Columbia and in accordance with 407 of the District
5 of Columbia Administration's Act, I move that the Board of
6 Adjustment hold a closed emergency meeting on June 23rd for the
7 purposes of seeking legal counsel on Case 20458, deliberate upon
8 but not vote on Case 20458 on June 23rd, 2021, at 1:11 p.m. Is
9 there a second? Ms. John?

10 VICE CHAIR JOHN: Second.

11 CHAIRPERSON HILL: Motion has been made and seconded.

12 Mr. Moy. If you could go ahead and take a roll call.

13 MR. MOY: When I call your names, if you would please
14 respond with a yes, no, or abstain to the motion made by Chairman
15 Hill to open an emergency closed meeting. The motion was seconded
16 by Vice Chair John.

17 Zoning Commissioner Peter Shapiro?

18 COMMISSIONER SHAPIRO: Yes.

19 MR. MOY: Mr. Smith?

20 BOARD MEMBER SMITH: Yes.

21 MR. MOY: Mr. Blake?

22 BOARD MEMBER BLAKE: Yes.

23 MR. MOY: Vice Chair John?

24 VICE CHAIR JOHN: Yes.

25 MR. MOY: Chairman Hill?

1 CHAIRPERSON HILL: Yes.

2 MR. MOY: Motion carries by a vote of 5-0-0 on your
3 motion and second by Vice Chair John and other Board members in
4 support. So as you all know, Mr. Young will send you the link
5 for the next -- for your emergency closed meeting, as we've done
6 in the past.

7 CHAIRPERSON HILL: Okay. So I see there's a motion to
8 reopen the record. Okay. I have a couple of things, I guess.
9 And then it looks like there's a post hearing with -- it looks
10 like there's three exhibits that just got put in the record.
11 Maybe Ms. Cain, you can take a look and make sure we've spoken
12 to all of the -- and we're going to decide what we want to do.
13 Okay. So -- yeah. Okay. So we'll come back. And then for the
14 community, or the audience, we're going to take a forty-minute
15 lunchbreak whenever we're done with this. So just so you can
16 understand the time. And we're going to come back with 20400,
17 and then we'll follow through with the rest of those. So just
18 kind of so you can know what's going on. All right.

19 I'm going to leave this hearing and look for the
20 emergency invite. So thank you very much. Bye-bye.

21 (Whereupon, there was a brief recess.)

22 CHAIRPERSON HILL: Can you call us back in?

23 MR. MOY: Yes, sir. The Board is back in session --
24 public hearing session, and the time is at or about 1:37 p.m.
25 after the conclusion of their emergency meeting.

1 CHAIRPERSON HILL: Thank you. We're just going to wait
2 here a minute for Mr. Blake. But before -- as I'm waiting, Mr.
3 Moy, I'm curious. How do people find out about stuff? You reach
4 out to them? Like about the request to reopen and things like
5 that. Like, if it's denied or approved? Like how do they find
6 out, just by watching?

7 MR. MOY: Okay. By watching, by reading our OZ memo
8 that goes on the case record; and sometimes, those who have the
9 wherewithal, they'll call me personally.

10 CHAIRPERSON HILL: Got it. Okay.

11 Is Mr. Blake coming back? Okay. Great. Perfect. All
12 right.

13 So we're all back. And we're back here after our
14 emergency closed meeting to talk about some issues that were put
15 forth for a Case 20458.

16 So the first one is a request to reopen the record from
17 a Arlene Holen. And Arlene Holen, or Ms. Holen, also seems to
18 be claiming as though she is filing something on behalf of Ms.
19 LePard. So Ms. LePard was someone who had asked for party status,
20 but, unfortunately, she was late on her party status request, and
21 so forth, and, therefore, we denied her party status request,
22 based upon timeliness. Right? But we also just kind of allowed
23 her to kind of have a little bit more time, because she was
24 directly across the street from the opening. But still she was
25 not afforded party status.

1 So the only way that we could reopen the record or --
2 or, you know, think of someone asking to reopen the record, is
3 by a party. So since she's not a party, we can't do it. Right?
4 So that kind of kicks that out, right? However, if Ms. LePard -
5 - not LePard -- if Ms. Holen is watching and/or Mr. Moy, if you
6 would reach out to Ms. Holen, because I would like this to get
7 clarified for her. Only parties can ask to reopen the record.
8 Right? And we're not the place to hear of an issue such as
9 perjury. Like, that's not within our domain. Like, I don't even
10 know what we would do with that.

11 However, we are the place -- if there was new
12 information or additional information that we should know about,
13 then that gives information that could come from the ANC, because
14 the ANC is a party. If, in fact, the ANC thinks that they want
15 to ask to reopen the record and have that information put into
16 the record. The reason why I'm going to kind of talk through
17 this a little bit, I have my fellow Board members.

18 So the first one would be to deny the motion to reopen
19 the record from Ms. Holen. And so, I will ask for that motion
20 to be made, which I made and seconded by Ms. John.

21 VICE CHAIR JOHN: Do you need me to second it? Yes.

22 CHAIRPERSON HILL: Ms. Cain, do I need seconds for
23 this motion, or can I just do it?

24 MR. CAIN: I would use a second.

25 CHAIRPERSON HILL: Okay. Ms. John, I just seconded it.

1 I'm sorry. Ms. John just seconded it.

2 Mr. Moy, could you take a roll call?

3 MR. MOY: Yes, Mr. Chairman. So when I call each of
4 your names, if you would please respond with a yes, no, or abstain
5 to the motion made by Chairman Hill to deny Ms. Holen's motion
6 to reopen the record. The motion by the Chairman was seconded
7 by Vice Chair John.

8 Zoning Commissioner Peter Shapiro?

9 COMMISSIONER SHAPIRO: Yes, to the motion.

10 MR. MOY: Mr. Smith?

11 BOARD MEMBER SMITH: Yes, to the motion.

12 MR. MOY: Mr. Blake?

13 BOARD MEMBER BLAKE: Yes, to the motion.

14 MR. MOY: Vice Chair John?

15 VICE CHAIR JOHN: Yes.

16 MR. MOY: Chairman Hill?

17 CHAIRPERSON HILL: Yes.

18 MR. MOY: Staff would record the vote as 5-0-0. This
19 is on the Chairman's motion to deny and seconded by Vice Chair
20 John. Also in support of the motion is Zoning Commissioner Peter
21 Shapiro, Mr. Smith, and Mr. Blake. The motion carries by a vote
22 of 5-0-0.

23 CHAIRPERSON HILL: Okay, great. Thanks, Mr. Moy.

24 And so, the reason why I want you to convey this to the
25 person who asked to reopen the record -- again, we don't -- and

1 they can watch this. We don't -- perjury is not something that
2 we are able to advise about, right? Again, however, if there's
3 information that that person feels is warranted, that's something
4 that could come in through the ANC, if the ANC thought that those
5 things were warranted, right? So the reason why I'm prefacing
6 this all this, is because there's another issue, is that the
7 ANC's response in Exhibit 107 which is from Commissioner MacWood.
8 So what I'm unclear on, and what I'd like more clarity on, which
9 could happen at the next ANC meeting, is Ms. MacWood has put
10 something in the record, basically as herself, but not
11 necessarily the ANC. So it's not something that I'm even a little
12 confused by, whether this is something that we need -- if this
13 needs to be -- even if this has to be something that the record
14 has to be reopened for.

15 And, Ms. Cain, I've been talking to myself in a little
16 bit of a circle, which is that if the Commissioner is submitting
17 something basically from her, right, or even as the SMD, is that
18 something where the record has to be opened for? I'm asking Ms.
19 Cain to chew on that while I think about this. Right? And so,
20 what I'd like to do -- because it's a little gooey, is -- that's
21 a legal term, "gooey," is that Ms. -- Commissioner MacWood can
22 go back to her full ANC at the next ANC meeting, and they can
23 ask to reopen the record and submit her information on behalf of
24 the ANC. If that's what the ANC wants to do and/or Ms. Cain,
25 you can let me know what you think -- actually you can try to

1 let me know what you think of that now.

2 MS. CAIN: I think the submission from Commissioner
3 MacWood could be permitted in the record. She is a designated
4 representative of the ANC. However, until the full ANC decides
5 to adopt that motion or that letter, the facts contained within
6 it, the Board would not be able to give it group weight. It
7 would simply be the state and from the SMD Commissioner.

8 CHAIRPERSON HILL: Okay. So -- this might be something
9 that I talk to you offline, Ms. Cain, just to kind of figure out
10 a little bit, but that's fine. So we're going to go ahead and
11 assume that Commissioner MacWood can put this into the record.
12 Right? However, at this point, it doesn't have the full weight
13 of the ANC. Right? So I would like Commissioner MacWood to find
14 out if the ANC is adopting this in order for us to give it full
15 weight. Is that fair? Okay. You're nodding yes. OAG is nodding
16 yes. So then the ANC - so I would ask Ms. MacWood and Mr. Moy -
17 - you're going to do more homework here, sorry -- if you could
18 let Commissioner MacWood know that we need to know whether or not
19 the full ANC is adopting this. Right? As their -- something that
20 we're going to give it great weight. And then in the meantime,
21 Ms. Cain can tell us what exactly this is. Is this just testimony
22 from the SMD? Is it testimony from the ANC? I'm a little confused
23 there. While you think about that, Ms. Cain, I still think that
24 the motion to reopen the record in order for the applicant to
25 respond to what is now in the record from Commissioner MacWood,

1 we should do that. Okay? And we don't have that yet. Right?
2 So unless anyone has any issue, I'm going to make another motion
3 to reopen the record in order to allow the applicant to respond
4 to the ANC -- to the SMD's letter from Commissioner MacWood. I'm
5 making that motion, and I'm asking for a second, Ms. John?

6 VICE CHAIR JOHN: Second.

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

9 MR. MOY: Yes, thank you, Mr. Chairman. When I call
10 each of your names, if you would please respond with a yes, no,
11 or abstain to the motion made by Chairman Hill to reopen the
12 record to -- and let's see if I get this correct, Mr. Chairman -
13 - to reopen the record to allow Nancy MacWood's filing into the
14 record; is that the correct motion?

15 CHAIRPERSON HILL: Yeah. The motion is to allow the
16 applicant, who is represented by Ms. Brown, to respond to the -
17 - I'm sorry. The motion was to reopen the record to allow Ms.
18 Brown, who is the applicant's representative, to respond to the
19 SMD's letter. Chairman -- Commissioner MacWood.

20 MR. MOY: Okay. Very good. Thank you, sir. So this
21 motion was seconded by Vice Chair John.

22 Zoning Commissioner Peter Shapiro?

23 COMMISSIONER SHAPIRO: I vote, yes.

24 MR. MOY: Mr. Smith?

25 BOARD MEMBER SMITH: Yes.

1 MR. MOY: Mr. Blake?

2 BOARD MEMBER BLAKE: Yes.

3 MR. MOY: Vice Chair John?

4 VICE CHAIR JOHN: Yes.

5 MR. MOY: Chairman Hill?

6 CHAIRPERSON HILL: Yes.

7 MR. MOY: Staff would record the vote as 5-0-0. And
8 this is on the motion made by Chairman Hill, seconded by Vice
9 Chair John. Also in support of the motion to reopen to allow
10 Carolyn Brown, representing the applicant to respond to the SMD,
11 is Zoning Commissioner Peter Shapiro, Mr. Smith, Mr. Blake, and,
12 of course, Vice Chair John and Chairman Hill. 5-0-0, the motion
13 carries, sir.

14 CHAIRPERSON HILL: Okay. Before you say something, Ms.
15 Cain, just if -- so, what I'm thinking now is we've now allowed
16 the applicant to respond to the submission by SMD. And what I'd
17 like to do, because I want to make sure this is tidy, unless you
18 all think differently, is allow time for an ANC meeting to happen,
19 so that the ANC can decide whether or not they're going to give
20 that letter from the SMD their full weight, that we then have to
21 give full weight too. Right? And then we might end up in a
22 continued hearing. I don't know. Right? That's my proposal.

23 And then also, if Ms. Holen, you know, thinks that
24 there's some information that the ANC needs to know that they can
25 submit, then that gives her the opportunity to go ahead and talk

1 to the ANC and see if the ANC wants to submit it on their behalf,
2 because they're a party. So did that all make sense?

3 Okay. Nobody's looking at me funny.

4 So, Ms. Cain, did you have something you wanted to add?

5 MS. CAIN: Give me one second here, Chairman Hill.

6 CHAIRPERSON HILL: Okay. Sure.

7 MS. CAIN: Chairman Hill, I think what might be
8 advisable is now that all of the filings have come in, if the
9 Board wants to take some additional time to review what Ms. Brown
10 has submitted and see if that's the track they want to take, in
11 terms of having the ANC -- whether you want to send this back to
12 the ANC and have it fully adopted or whether you want to just
13 continue to keep Commissioner MacWood' filing in the record
14 simply as a statement from the ANC Commissioner, which would just
15 simply be additional testimony on her behalf that you would not
16 be necessarily giving great weight to. I think that would be
17 the better course. I think, just from OAG's point, we want a
18 little bit more time to review what has just come in today to
19 make sure that we're clear on all the filings.

20 CHAIRPERSON HILL: Yeah, that's fine, I mean, I think
21 that regardless, it's going to make it happen later anyway, right?
22 And so, you know, I don't -- what confuses -- what I'm a little
23 bit unclear on, and I would like OAG's advice, is that it -- it's
24 unclear to me what exactly we're supposedly looking at, right,
25 from the SMD. Right? Like, if this is testimony from an

1 individual, then that's not a party, right? So that person can't
2 just give information. It is the representative of the ANC, but
3 that person is only supposed to represent what the ANC has already
4 adopted. Right?

5 MS. CAIN: As I said, I think we would like a little
6 bit more time to review the filings fully.

7 CHAIRPERSON HILL: Okay. That's fine.

8 MS. CAIN: So --

9 CHAIRPERSON HILL: That's fine. That's fine. So let's
10 just see what happens. Either way, I think -- and I hate to do
11 this, because I don't have the applicant here with me also,
12 because I always like to know what exactly timelines are. I
13 mean, we're off in August, right? The ANC is going to meet
14 sometime in July, I assume. They'll figure this out, whatever
15 they want to do, and then we'll have August. And if they, the
16 ANC, wants to reopen the record, submit stuff, we will have known
17 by then. Then we can come back in September, and just take a
18 look at this with what's whatever there.

19 MR. MOY: Mr. Chair? To help you out, I just searched
20 the record. Apparently, ANC 3C is meeting July 19th.

21 CHAIRPERSON HILL: Okay, great. So I would assume the
22 ANC will at least deal with this in some capacity and let us
23 know. Right? And then we'll be back here in September. Because
24 -- and to your point, Ms. Cain, like I haven't looked -- none of
25 us have looked at what we've just allowed into the record. Right?

1 So we'll all take a look at that, and we'll come back, you know.
2 What's the first day we're back, Mr. Moy?

3 COMMISSIONER SHAPIRO: Mr. Chair, is there a final
4 meeting in July?

5 CHAIRPERSON HILL: Pardon?

6 COMMISSIONER SHAPIRO: Is there a final meeting in July
7 that we might be able to make, or is that not possible?

8 CHAIRPERSON HILL: It's the 28th, and I guess that's
9 possible, I suppose. I mean, the 28 -- I mean -- and I think
10 that's -- isn't there like two appeals and something, Mr. Moy?

11 MR. MOY: Yeah, it's two appeals, but it's on the same
12 subject -- subject side, so it's a combo.

13 CHAIRPERSON HILL: Yeah, okay. That's fine. All right.
14 Whatever. Okay. So then if the ANC meeting happens on the 19th,
15 then we can just wait and see if we get anything, right? Like,
16 I don't know, the 21st, which is two days later, and then we can
17 chew on this and come back on the 28th. Ms. Cain?

18 MS. CAIN: Yes, if the Board wants to do it that way,
19 that would be fine.

20 CHAIRPERSON HILL: Okay. All right, so Mr. Moy, we'll
21 leave the record open -- well, the ANC can submit anything at
22 any time, right?

23 MR. MOY: Well, technically, yeah, but if you could set
24 --

25 CHAIRPERSON HILL: (Indiscernible) may have to ask also

1 to reopen the record, correct?

2 MR. MOY: Yeah.

3 CHAIRPERSON HILL: Okay. We'll go ahead and leave the
4 record open for anything from the ANC by the 21st of July, okay?
5 And then we'll allow the applicant to respond -- if there's
6 anything from the ANC by -- gosh, I don't know, the 23rd. It's
7 two days later. Is that too tight? I mean, let's say the 26th.
8 Let's say the 26th. Monday, the 26th, right. The applicant will
9 have time. We're going to leave the record open for anything
10 from the ANC until July 21st. Then we'll leave the record open
11 for any response from the applicant by July 26th. And then we'll
12 be back here to deliberate on July 28th. Does that sound
13 appropriate?

14 MR. MOY: Yes. For July 28th, do you want this on a
15 public hearing or a public meeting?

16 CHAIRPERSON HILL: Okay. I don't know, I mean, I don't
17 know. What do you guys want to do? I could do it either way.

18 VICE CHAIR JOHN: Mr. Chairman, I would suggest a
19 continued -- limited continued hearing.

20 CHAIRPERSON HILL: Okay. So we do a limited continued
21 hearing on anything that we get from the ANC, if -- we might not
22 get anything from the ANC. Right? So then we'd be having a
23 limited continued hearing on what has been submitted by the
24 Commissioner, the SMD, as well as the response from the applicant
25 on that submission.

1 COMMISSIONER SHAPIRO: Mr. Chair, that's if -- based
2 upon OAG's analysis, that's if what comes to us from the
3 Commissioner is actually something that we can even consider?

4 CHAIRPERSON HILL: Well, either way, I guess, if we
5 have a continued hearing. And let's just say nothing comes in
6 from the ANC by the 21st, right, then we're having a continued
7 hearing on the 28th about the comments from the Commissioner and
8 then the responses to those comments by the applicant. Right?
9 And I guess we can, you know, we can have that discussion.

10 MS. CAIN: So if I'm understanding everybody correctly,
11 sort of the point of this is to allow the ANC, if they so choose,
12 to adopt what Commissioner MacWood has submitted to the record
13 or to make a statement that they are not adopting it. In the
14 event that they don't, then this would just be additional
15 testimony that the Board can then determine whether or not, you
16 know, it's going to impact your decision. I believe Mr. Moy is
17 about to interject, and I just got an email from applicant's
18 counsel that they will not be available on July 28th, and she is
19 requesting that this be moved to the hearing on July 21st.

20 CHAIRPERSON HILL: I love email. Well, the 21st -- the
21 19th is when the ANC meeting is. Right? So that's fine. So,
22 okay, what's the -- oh, no, wait a minute. What's the 21st, Mr.
23 Moy? How many cases? Oh, there's an appeal too, right?

24 MR. MOY: (No audible response.)

25 CHAIRPERSON HILL: Now, how many cases on the 21st, Mr.

1 Moy? How many cases are on the 21st of July? You're on mute,
2 Mr. Moy.

3 MR. MOY: Oh, so that's why you couldn't hear me. Okay?
4 We have five cases; one expedited, one on appeal, but this is a
5 big appeal. This is the Chain Bridge Road appeal. But, you
6 know, as I was going to say, what's one more?

7 CHAIRPERSON HILL: Okay. I don't know what to do. I
8 mean, what do you all want to -- I mean is -- is the Applicant -
9 - I mean, now, so now we're in a --

10 COMMISSIONER SHAPIRO: Mr. Chair, I think the 21st is
11 fine. I'm not sure that this is actually going to be -- I'm
12 it's just not clear to me there's going to be a whole lot for us
13 to even reconsider it on the 21st.

14 CHAIRPERSON HILL: Okay. Let's see. I mean Ms. John
15 was just shaking her head, because, Mr. Shapiro, you're obviously
16 not with us on the 21st, so.

17 COMMISSIONER SHAPIRO: Right. I'm only there for this
18 one case, correct.

19 CHAIRPERSON HILL: All right. Let's see. Okay. Go
20 ahead and -- okay, let's put it on the 21st. Okay? So we'll
21 allow the ANC to give us -- I mean, the ANC, then they have to
22 let us know something on the 20th, right? Or they have to show
23 up on the 21st through Chair Commissioner MacWood. Right? So
24 let's just -- we're coming back here on the 21st for a limited
25 scope hearing on whatever we might get from the ANC or the

1 discussion about the comments from Commissioner MacWood. Does
2 that sound clear enough? All right, Mr. Moy. Are you good with
3 that?

4 MR. MOY: Yes. So I'm only dealing with two dates;
5 returning on a limited continued hearing on July 21st, the ANC
6 3C to file by July 20th. I'll be in touch with them as well.
7 This is very tight.

8 CHAIRPERSON HILL: Okay.

9 MR. MOY: All right. One more thing, Mr. Chairman,
10 if I may. I hate to add one more thing to your plate, even though
11 I think I know what the answer is. But on the Arlene Holen
12 request to reopen, which got into the record, you voted to deny
13 her motion. So I'm assuming then I'm keeping her filing in the
14 record. Am I correct? Yes?

15 CHAIRPERSON HILL: I don't know. I'm looking at Ms.
16 Cain, because like in the motion itself, it makes an accusation.
17 So it's not really just a request to reopen the record. It's a
18 request to reopen the record.

19 MS. CAIN: It doesn't go into the actual substance of
20 the various allegations, so it's simply just raising it as like
21 a broad point that that's why they want to reopen. So I think
22 that's fine to remain in the record. If OZ can just submit a
23 procedural memo indicating that it was denied, I think that would
24 just make everything clearer.

25 MR. MOY: Okay. Okay.

1 CHAIRPERSON HILL: Okay. So are we good?

2 MR. MOY: We're good.

3 CHAIRPERSON HILL: So we're coming back again for a
4 limited scope hearing on what we just all talked about on July
5 21st. Okay. Did you -- okay, all right. All right. So I --
6 we were going to come back at 1:40. Let's come back -- let's
7 try to come back at 2:40. Okay? All right, Commissioner
8 Shapiro. Thank you. Bye.

9 (Whereupon, the hearing recessed for lunch.)

10 CHAIRPERSON HILL: Okay. Mr. Moy, you want to go ahead
11 and call our next case?

12 MR. MOY: Yes. Thank you, Mr. Chairman. The hearing
13 is back in session, and the time is at or about 2:47 p.m.

14 The next case application before the Board is No. 20400
15 of Green Street Apartments, LLC, captioned and advertised for a
16 special exception from the new residential development
17 requirements of Subtitle U § 421.1, minimum vehicle parking
18 requirements of Subtitle C § 701.5. This would construct a new
19 detached three-story with cellar and penthouse, ten-unit
20 apartment house in the RA-1 Zone. The property is located at
21 2326 through 2328 Green Street, Southeast, Square 5754, Lots 40
22 and 41. The application was timely filed. There are affidavits
23 in the records for posting dated June 18 under Exhibit 44,
24 affidavit maintenance dated June 18th under Exhibit 45, and I
25 believe that's it, Mr. Chairman.

1 CHAIRPERSON HILL: Okay, great. Thank you. Mr.
2 Sullivan, can you hear me?

3 MR. SULLIVAN: Yes.

4 CHAIRPERSON HILL: Could you introduce yourself for the
5 record, please?

6 MR. SULLIVAN: Yes, thank you, Mr. Chairman. Marty
7 Sullivan with Sullivan & Barros on behalf of the applicant.

8 CHAIRPERSON HILL: Okay. And who is with you here
9 today, Mr. Sullivan?

10 MR. SULLIVAN: We have Adam Crain, the architect and
11 the property owner, Haider Haimus.

12 CHAIRPERSON HILL: Okay, great. Mr. Crain, could you
13 introduce yourself for the record, please?

14 MR. CRAIN: Sure. Adam Crain with 2Plys, project
15 architect.

16 CHAIRPERSON HILL: Mr. Haimus, could you introduce
17 yourself for the record, please?

18 MR. HAIMUS: Yes, sir. My name is Haider Haimus. I'm
19 the single member of Luna Property Development, LLC, which owns
20 Green Street Apartments, LLC.

21 CHAIRPERSON HILL: Okay. Mr. Haimus, we're seeing you
22 again, huh?

23 MR. HAIMUS: Yes.

24 CHAIRPERSON HILL: Let's see. Commissioner Moore, are
25 you there? Commissioner Moore?

1 MS. MOORE: Yes. Hello?

2 CHAIRPERSON HILL: Hi. Can you hear me?

3 MS. MOORE: Yes, sir. Can you hear me?

4 CHAIRPERSON HILL: Yes. Could you introduce yourself
5 for the record?

6 MS. MOORE: Hi. Good afternoon everyone. My name is
7 Commissioner Moore, 8A04.

8 CHAIRPERSON HILL: Thank you for joining us,
9 Commissioner.

10 MS. MOORE: You're welcome.

11 CHAIRPERSON HILL: Let's see. Commissioner, are you
12 the SMD.

13 MS. MOORE: Yes, sir, I am.

14 CHAIRPERSON HILL: Okay, great. Thank you. All right.
15 Let's see. Mr. Sullivan, so if you want to go ahead and walk us
16 through your presentation and tell us why you believe you meet
17 the standard for us to grant the relief being requested. I see
18 you have a slide deck. I'm going to put 15 minutes up on the
19 clock, just so I know where we are. And you can begin whenever
20 you like.

21 Commissioner Moore, you might want to mute your line,
22 and everybody might want to mute their line while the presentation
23 is going on.

24 MS. MOORE: Okay.

25 MR. SULLIVAN: Thank you, Mr. Chairman, and Board

1 members. This is a request for relief under U § 421 for an RA-1
2 new development, as well as a request for special exception relief
3 from the parking requirement of two spaces for 2326-2328 Green
4 Street Southeast.

5 Next slide, please.

6 This is the RA-1 Zone. The proposal is to construct a
7 new ten-unit building, including one inclusionary zoning unit.
8 And the project, other than the parking requirement, meets all
9 the other development standards of the RA-1 Zone. Again, the two
10 areas of relief, U § 421.1 for the new residential development
11 and C § 701.5 for special exception relief from the parking space
12 requirement.

13 Next slide, please.

14 This project, the application has support from the
15 Office of Planning, and DDOT has no objection, and we do have
16 one letter in support.

17 Next slide, please.

18 Now, I will turn it over to Mr. Crain.

19 CHAIRPERSON HILL: Mr. Sullivan, just so I -- for the
20 record, where's that letter of support from? Who is it from?
21 It's not the adjacent neighbor, is it?

22 MR. SULLIVAN: I'm going to find that.

23 CHAIRPERSON HILL: You can go ahead, Mr. Crain.

24 MR. SULLIVAN: I'll get back with you.

25 MR. CRAIN: Again, Adam Crain with 2Plys here, the

1 project architect.

2 As you can see from the site plan, just to give you
3 some context; we have a multifamily zone here at the RA-1. A
4 lot of these blue dots that's surrounding kind of a horseshoe
5 shape, are existing multifamily buildings. The one green dot
6 there, the adjacent development is a proposed 16-unit project.
7 I believe it's also going before the Board in a separate case.

8 You'll see that the center strip of yellow dots, mostly
9 single families that -- there are existing single families, but
10 they are still zoned also in the multifamily zone. We have our
11 subject property outlined in red there.

12 Next slide.

13 Just to give you some context here; our property is on
14 the right. This is a pretty significant slope downhill. Looking
15 across the street, you'll see some of the apartment buildings
16 there.

17 Next slide.

18 This is kind of looking up the hill towards some of the
19 family properties that are existing around.

20 Next slide.

21 Some other views of the topography, which is,
22 obviously, quite steep and some of the adjacent buildings.

23 Next slide, please.

24 This is a site plan from the plat. You'll see that the
25 lot is 104 on one side and 109 feet deep on the other, about 40

1 feet wide throughout. It's two vacant lots that -- or have been
2 combined via subdivision, so they're single lot now. There is
3 no alley access at the rear. And, you know, we found one of the
4 design constraints on this site with its 40-foot width, you know,
5 zoning will allow parking in the front is -- to get parking in
6 the rear, we'd have to create a pretty wide two-way drive aisle,
7 which would severely inhibit the -- I guess, the footprint of the
8 building that could be put there. You know, we had proposed
9 ideas or explored ideas where we would push the building up to
10 have it attached on the left-hand side. But we felt that keeping
11 the side yard or two side yards was a little more respectful of
12 the neighbors, rather than putting a three-level building up
13 against their existing structure.

14 Next slide.

15 Just some of the floor plans, starting from the cellar,
16 and we'll go up. Typical floor layout. Two units, two one-level
17 units on either side and in the middle, we have a bi-level unit.
18 You'll see we have the long-term bike spaces towards the back
19 there on the bottom left.

20 Next slide.

21 This will be the first-floor plan. You'll see the
22 short-term bike space in the top left there, the main entry,
23 stair and foyer is kind of there in the middle on the top. And,
24 again, we have unit five and four on either side, unit two is a
25 two-level unit.

1 Next slide.

2 Moving up to the second floor, kind of the same setup.
3 We've got that central stair core, units on either side flanking
4 it in multiple -- and unit seven, which is the IZ unit there in
5 the middle. And that's a two-level unit.

6 Next slide.

7 This is the third floor, the highest full floor. That's
8 the upper level, unit seven, which is two bedrooms. It's the IZ
9 unit.

10 Next slide.

11 And this is the penthouse space with the two bedrooms
12 for units eight and nine with walkout terraces and all the
13 required setbacks and sizing.

14 Next slide.

15 Just a roof plan here. We will be providing a green
16 roof as required for the GAR score for DOEE.

17 Next slide.

18 Some exterior views just showing three levels over
19 cellar plus penthouse. As you can see from some of the grading
20 here, there's a pretty difficult topography that we've had to
21 deal with. You know, that presented challenges for any possible
22 driveway, if we were to propose that. You know, (indiscernible)
23 is a little difficult, access is a little difficult. So, you
24 know, it's -- especially with the required ADA access, we've got
25 some challenges here with some of the heavy topography.

1 Next slide.

2 Just some other views. The one on the left with kind
3 of the trees and the canopy in the middle, that's the main entry.
4 And what we're showing, kind of that gentle slope there is how
5 we're able to fit in an ADA access there. That's the main walk
6 and main entry there.

7 Next slide, please.

8 There's some 3D views showing a little context on the
9 left-hand side to see some of the attached row homes. That's
10 the one that I mentioned earlier where we pulled it back to
11 provide a side yard there to be a little more respectful of that
12 building. On the right-hand side is a little -- is the lower
13 view showing some of the massing differences.

14 Next slide.

15 Some views from up the hill on the left kind of looking
16 at the main entry. On the right-hand side of that is where that
17 other development is going to be happening and then some more
18 views from the rear on the right-hand side. This is from, I
19 guess, the parking access of the adjacent properties.

20 Next slide.

21 We included some photos here of the adjacent
22 development that is being proposed. I'm not sure if this is the
23 latest or not, but this is what we've been able to find and show
24 that for context.

25 Next slide.

1 I think Marty will pick it up from here.

2 MR. SULLIVAN: Thank you. And I'll go through the
3 requirements. And, Mr. Chair, in response to your question about
4 the letter of support, it's actually from the neighboring
5 property to the north, which is the developer that's also taking
6 forward an application. So that's the only letter of support.

7 So the general requirements for special exception
8 relief, the project will be in harmony with the general purpose
9 and intent of the RA-1 zone, Zoning Regulations, and maps, and
10 will not tend to affect adversely the use of neighboring property.
11 This is infill development, multifamily residential building.
12 There is a very large apartment building across the street. And
13 as you saw in the one map, there are a lot of apartment uses in
14 the area. Although there are some single-family row houses on
15 this side of the block, the majority of the area is apartment
16 buildings. And the building will comply with all the development
17 standards for the zone, including the yards, building height, FAR
18 and lot occupancy. And I'll point out, of course, that the matter
19 of right massing for the RA-1 zone is the lowest and smallest
20 massing in the District, because it's just a 1.08 FAR with the
21 IZ bonus.

22 Next slide, please.

23 Specific requirements relate to the BZA referring the
24 application to relevant District of Columbia agencies for comment
25 and recommendation. We have provided some information on

1 existing and planned area schools.

2 And next slide, please.

3 And regarding public streets, recreation and other
4 services to come with the project. We mentioned that DDOT has
5 no objection, and the applicant has agreed to the TDM plan. There
6 are also several nearby public transportation options, including
7 bus and Metro lines. And we are just outside the area of the
8 half-mile or quarter mile area from a major bus line, which would
9 have reduced our parking requirement by one.

10 Next slide, please.

11 And the next requirement is that the BZA refer the
12 application to the Office of Planning for comment and
13 recommendation on certain aspects of the project, and the Office
14 of Planning has reviewed and is recommending approval based on
15 those aspects of that provision, including the applicant worked
16 with the Office of Planning to refine the design and siting of
17 the building and OP is supportive of that revised proposal. The
18 building is only 31.5 feet in height, which helps to mitigate the
19 visual impact due to the grade change going down the street. And
20 there's actually two side yards, where only one is required.

21 Next slide, please.

22 Regarding the parking, we're asking for special
23 exception relief from the requirement of two parking spaces.
24 There's one thing I want to mention here, that comment below --
25 so we meet the criteria. A curb cut application has not been

1 made and has not been denied, technically, but we have had
2 discussions with DDOT, and it is noted in the OP report that DDOT
3 has indicated a preference for no new curb cut in this location.
4 A curb cut is planned for the projects next door, and there has
5 been some discussion, and Mr. Haimus can talk out that. There's
6 been some discussion with that property owner about possibly
7 sharing a driveway, so that we can at least use the one curb cut
8 that we think DDOT will approve, to get parking spaces onto the
9 property, or to otherwise contract with that property to use
10 their parking spaces to meet a requirement. However, that
11 application is not going to be heard until next week, and there's
12 a question about an aspect of that project. It involves a request
13 for FAR relief, because of the severe change in elevation for
14 that particular lot, and the Office of Planning has come out
15 recommending denial of that. And so, the applicant in this case,
16 whom we also represent, is expecting that there would be -- there
17 may be significant changes made to that project as a result of
18 that. And so, he is not able to commit to any type of agreement
19 at this point regarding that driveway, because he doesn't know
20 exactly where that driveway is going to be and what he's going
21 to need to do to adjust his plans based on that possible change,
22 because of the FAR request. So the applicant will continue to
23 work with that property owner, however, on that. But regarding
24 the specific criteria, because of that inability to get the curb
25 cut, we do not have alley access, and we can't get parking on

1 the property, so due to the physical constraints of the property.
2 We also have not been able to locate spaces within 600 feet. And
3 there are a lot of parking spaces across the street with the
4 apartment complex. And there are, I believe, 96 units in that
5 apartment complex, and we've counted about that many parking
6 spaces as well. So there's a lot of parking spaces there. But
7 the parking requirement when that building was built was one to
8 one, and it's not possible to reduce that parking requirement.
9 So all of those parking spaces, even if we could contract with
10 them and use two of those spaces, would be reducing that parking
11 requirement below what it is required to be, and so we wouldn't
12 -- that wouldn't qualify under that provision of the 600-foot
13 rule.

14 Next slide, please.

15 So under 703.3, we are requesting special exception
16 relief just from the two required spaces. We're not able to
17 provide any. And the applicant has agreed to all the TDM plan
18 measures proposed by DDOT and has also added some additional
19 short-term bicycle parking spaces.

20 Next slide, please.

21 I'd like to ask Mr. Haimus to testify briefly as to his
22 interactions with the adjacent developer regarding the potential
23 for a shared driveway.

24 Haider, if you can weigh in on that, please. Thank
25 you.

1 MR. HAIMUS: Sure. Thank you. I'd be glad to do so.
2 Just to provide a little bit more background. When we had
3 acquired this property, we knew that there was an alley in the
4 back, and we actually thought that we would have access to it.
5 And sort of we learned through the process that not only do we
6 not have an easement to that alley, it is also of nonconforming
7 width. So even if we had an easement, we wouldn't be able to
8 get access to it. So, you know, we weren't -- we had in our
9 original draft plans two or maybe even three parking spaces. So
10 that was an unfortunate development. So to try to find other
11 opportunities, I did reach out to the Greenwood Manor Apartments,
12 did not hear a response. And this is kind of on proposed leasing.
13 And then in February, I did have a phone call with the developer
14 of the property directly to the north, and he had explained that
15 he was pretty early in the design phases. And although in
16 principle he could support a shared driveway, which I offered to,
17 of course, build with him at a shared cost, he was too early in
18 the process. I actually spoke with him just yesterday as a follow
19 up, and he explained to me that he's in a situation where he is
20 applying for a variance, and if he does not get that variance
21 approved, he's going to have to significantly alter his design.
22 He reiterated that he's, you know, in principle, in agreement on
23 sharing it. And if he agrees, then we'd love to move forward
24 and use that and then reinsert the parking spaces that we had in
25 the draft, but he was unable to commit to it at this time.

1 MR. SULLIVAN: Thank you, Haider. So that's it for our
2 presentation. I'm available for any questions from the Board.

3 CHAIRPERSON HILL: Okay. So the one -- a couple
4 questions. Mr. Sullivan, you guys -- your architect mentioned,
5 like, a few times, not building it -- building it in a way that
6 there was a side yard for that property. How big is that side
7 yard?

8 MR. CRAIN: So we've got an eight-foot side yard there.
9 And that would be the left side. So, eight feet between our
10 building and the building that sits on the property line adjacent.

11 CHAIRPERSON HILL: Got it. And, right, and even if
12 you had pushed that over, and I don't know whether you will be
13 able to -- even if you push that over up against that building,
14 you couldn't get the curb cut for the parking.

15 MR. CRAIN: I don't think so. You know, I think --

16 MR. SULLIVAN: Yeah. According to DDOT we couldn't.

17 CHAIRPERSON HILL: Right.

18 MR. SULLIVAN: It's not necessarily a question of whether
19 we can fit it in there. I think we could fit it in there. The
20 benefit of if we can work something out with the neighbor to the
21 north is that their lot is much wider, and so, there's a little
22 more space.

23 CHAIRPERSON HILL: And then where would you put the
24 parking? In the rear?

25 MR. SULLIVAN: Yes.

1 CHAIRPERSON HILL: And how many spots do you think you
2 could get there?

3 MR. CRAIN: I think one of our previous designs had
4 three, at least two, if not three.

5 CHAIRPERSON HILL: Got it. Okay. Let's see. Does
6 the Board have any questions for the applicant? Chairman Hood?

7 CHAIRMAN HOOD: Yes, I was looking at the PowerPoint,
8 and I also looked at the photos that were provided from, I believe
9 the ANC. I forgot right now, but I have it open. But, anyway,
10 Mr. Sullivan or Mr. Haimus, let me ask you a question, because
11 I've seen this only done once before in my tenure on the
12 Commission. One picture show plenty of parking spaces. A picture
13 is worth a one thousand words. And then what I see, what I'm
14 looking at here, unless I'm on two different streets, shows no
15 parking spaces. So for me, when I was analyzing this case, you
16 know, I heard what you said about the variance for the next
17 application, which I can't give a whole lot of credence to that,
18 because I don't even know what that one's about. But I can just
19 say that to me, you have a hard, hard hill to climb for me, for
20 parking relief. So help me understand what it is I'm exactly
21 looking at. Because one picture looks like it's plenty of
22 parking, and the other picture looks like the ANC, I believe, is
23 validating their case about adverse impacts when it comes to
24 parking. So help me through that. And I'll ask the ANC kind of
25 the same question.

1 MR. SULLIVAN: Yeah, I think we do have some anecdotal
2 information on that, and I'll turn it over to Haider. Mr. Haimus,
3 if you could talk about your experience and what you know about
4 the parking situation and why there's such a disparity between
5 the two pictures.

6 MR. HAIMUS: Sure. No, I'm happy to share with the
7 board at least what I've -heard. I've met one of the neighbors
8 in person at his home to kind of talk through the project and
9 met him a couple of times. And he has a direct view of the
10 Greenwood Manor Apartments, which I think Marty had said had
11 some, you know, 90 some odd spaces. And when I visit there at
12 different times, I see lots and lots of spaces, not just there,
13 but on the street that are open. And this is just anecdotal,
14 obviously, and I have not seen it myself, but the neighbor who
15 has been living there for approximately forty years told me that
16 that apartment building charges its tenants for parking, and that
17 -- again, this is all anecdotal -- is that some park there and,
18 you know, do not pay the fee for the rentals, and when -- for
19 the parking spots, and then when the building management calls
20 in enforcements, cars spill to the street and take up all spaces
21 that are available, or most spaces that are available, is what
22 he had shared with me. That may be the reason why there's two
23 very different views in at least different situations. But
24 that's all I have on that topic.

25 CHAIRMAN HOOD: Okay, again, let me correct myself.

1 Those pictures did not come from ANC, it came from one of the
2 residents, I believe, talking about off-street parking. So,
3 anyway, again, I want to hear more on this, because to me, it's
4 a heavy lift, so -- all right. Thank you. Thank you, Mr. Chair.

5 CHAIRPERSON HILL: Okay. Anyone else have questions?
6 Go ahead, Mr. Smith.

7 BOARD MEMBER SMITH: So I also share Chairman Hood's
8 concerns about parking being a heavy lift, especially where this
9 property is located, being tucked into the that (audio
10 interference). So my question is about -- is looking at the
11 design of the building, looking at the height of the building up
12 to the penthouse floor. It looks like measuring kind of looks
13 from the -- when you measure the height from -- the height from
14 that point to the penthouse top is 41 feet. With this particular
15 penthouse it will be -- what is the penthouse used for? Is it
16 part of the residence?

17 MR. CRAIN: Correct. This -- this penthouse has two
18 bedrooms, which connect to the levels below.

19 BOARD MEMBER SMITH: Okay. Would you meet relief from
20 C-1500.3(a)(b), which states within residential zones in which
21 the building is limited to 35 feet or 40 feet maximum, the
22 penthouse use shall be limited to penthouse mechanical space and
23 ancillary spaces associated with a rooftop deck. So that
24 particular space above isn't associated with a rooftop deck, so
25 would you need relief from that provision?

1 MR. SULLIVAN: Currently, we don't believe we do. I
2 know that sounds -- I see the language, and I've seen the language
3 before, and I've wondered about the actual meaning of that.
4 Despite that language being there for the last several years, we
5 have had several cases like this approved with habitable
6 penthouse space. The Office of Planning has supported those, and
7 the zoning administrator has from the projects that I'm familiar
8 with, has then approved those as well, and some of those have
9 been built. So I understand right now. And I asked the zoning
10 administrator in an email a few weeks ago, is habitable penthouse
11 space still permitted in RA-1? And I got an answer that actually
12 didn't cite the 1500 -- is that -- the (b), the provision you're
13 talking about, that seems to say that it shouldn't be permitted.
14 He didn't cite that and said, well, it depends on the type of
15 structure you have and cited a different section, the one that
16 talks about semi-detached buildings and detached buildings. The
17 one that -- the section that -- I'm sorry, I don't have the number
18 -- that prohibits all penthouses on single families and flats,
19 essentially. So he seemed to be saying that he still thought it
20 was permitted.

21 I'm also aware that there is a text amendment in process
22 that currently proposes to clarify this and make habitable
23 penthouse space permitted in the RA-1. I don't know what --
24 eventually how that will end up, and we're not necessarily
25 counting on that. So we're -- until I get a more definitive

1 word, this application and some others that I've had, is including
2 the habitable penthouse. If, in fact, it was determined that
3 that's not permitted, then no, we're not asking for relief from
4 that, and we would have to remove that.

5 BOARD MEMBER SMITH: I see.

6 MR. SULLIVAN: Or at least -- and we'd have to remove
7 it or have it -- have the use comply with that provision, so that
8 would be limited to ancillary space and mechanical space.

9 BOARD MEMBER SMITH: Right. Okay. But it would be
10 great to get some just clarity from the (audio interference), so.

11 CHAIRPERSON HILL: Okay, Mr. Smith, I don't know. You
12 were a little garbled there at the end. I did seem to hear you,
13 but, again, if you can remember what it is you might want, if
14 you want something from OAG or if you want some additional
15 clarification? And then --

16 BOARD MEMBER SMITH: Some additional clarification.

17 CHAIRPERSON HILL: From OAG?

18 BOARD MEMBER SMITH: It can be from OAG.

19 CHAIRPERSON HILL: Okay. Mr. Rice, can you hear me?

20 MR. RICE: Yes, sir.

21 CHAIRPERSON HILL: Did you hear Mr. Smith's question?

22 MR. RICE: I believe so, but if Mr. Smith could
23 reiterate it, I'd appreciate it.

24 BOARD MEMBER SMITH: Just some additional clarification
25 on if they -- do they need relief from this Board. I mean from

1 this particular provision.

2 MR. RICE: So the applicant is proceeding under a self-
3 certification. It would appear, based upon the expressed
4 language of the provision that it would apply. Should the Board
5 make any decision today, we can note that the applicant confirmed
6 it was not seeking relief from this provision in the order, you
7 know, in any order granting or denying relief and expressly
8 provide that, you know, should the ZA determine that relief from
9 this provision is necessary, that the applicant would, you know,
10 come back to the BZA.

11 BOARD MEMBER SMITH: Okay. Well, I think I'm fine with
12 that -- with what he just said, so we can move forward.

13 CHAIRPERSON HILL: Okay, and at a break, Mr. Smith,
14 you might want to log on and log back in. I don't know.

15 BOARD MEMBER SMTIH: Okay.

16 CHAIRPERSON HILL: Does anyone have any more questions
17 for the applicant? Okay, Commissioner Moore, can you hear me?

18 MS. MOORE: Yes, I can, Chairman Hill.

19 CHAIRPERSON HILL: Great, thank you. I was a little
20 confused by the exhibit. Like, I do see that you submitted a
21 letter in Exhibit 58, and it seems to be a letter from you, but
22 not necessarily your ANC; is that correct?

23 MS. MOORE: Yes, sir. Oh, there we go. Yes, sir.

24 MR. SULLIVAN: Okay, great.

25 CHAIRPERSON HILL: So then just to let you know what

1 that means, that means that -- and this is where I get even a
2 little confused, Mr. Rice, in terms of like how much time the
3 Commissioner gets. We definitely want to hear from you,
4 Commissioner. But I guess I'm just kind of pointing out you're
5 representing -- are you the SMD for where this building is? I
6 might have asked that already.

7 MS. MOORE: Yes. Yes. You asked, but yes.

8 CHAIRPERSON HILL: Okay. Okay, nice to see you. I
9 can see you now.

10 MS. MOORE: Thank you. Nice to see you too. Thank
11 you.

12 CHAIRPERSON HILL: So why don't you -- why don't you
13 do this? I'm going to go ahead and -- and let you give your
14 testimony during, you know, when we're taking testimony from
15 people. You can go ahead and just stay there, but we're going
16 to go ahead and listen to the Office of Planning and then I'll
17 come back to you, okay?

18 MS. MOORE: Yes, sir. Okay.

19 CHAIRPERSON HILL: Okay, great. Thank you. Can I
20 hear from the Office of Planning?

21 MS. FOTHERGILL: Good afternoon, Chairman Hill, and
22 members of the Board. I'm Anne Fothergill from the Office of
23 Planning for BCA Case 20400. And the Office of Planning filed a
24 report back in February, before the case was postponed,
25 recommending approval of the two special exceptions that have

1 been requested, the new multifamily residential development in
2 the RA-1 Zone under U § 421.1 and the minimum parking
3 requirements, the two spaces are required and zero are being
4 provided. And we did find that that the application met the
5 specific criteria of those two special exceptions and recommended
6 approval. I can go through our review for you.

7 As you know, the application is for a ten-unit
8 residential building, and the building would be 31.5 feet tall
9 with brick and horizontal siding, and there would be balconies
10 on both sides of the buildings, and there is a bike room and
11 trash area. There'd be one IZ unit, which is unit seven in the
12 plans. And the applicant would also make a financial contribution
13 to the Housing Production Trust Fund for the habitable penthouse.
14 And the applicant has filed a landscape plan and a grading plan.
15 They're proposing new fencing between the subject property and
16 adjoining property to the west with landscape in front and behind
17 the building. And, as the applicant mentioned, they do meet the
18 development standards for the zone, including FAR, lot occupancy,
19 yard -- known yard requirements and GAR. But they do meet two
20 special exceptions for their project. In terms of the new
21 multifamily development in RA-1 Zone, this is allowed in the zone
22 by special exception and it's -- and it anticipates this kind of
23 multifamily development with the height and massing that's
24 proposed. And the criteria talk about Office of Planning comments
25 on site plan, arrangement of buildings, provisions of light and

1 air, parking, recreation, landscaping, grading, and initially OP
2 worked with the applicant that the building was set further
3 forward on the lot and OP worked with the applicant to push it
4 back to be more in keeping with the front setbacks on the rest
5 of the block, to incorporate some brick, which is the material
6 used on that block and in that area. And, again, they are
7 providing yards for light and air, and the height is below the
8 maximum height.

9 In terms of the parking criteria, as the applicant
10 mentioned, there is no alley. The alley does not extend to the
11 rear of this property. And DDOT indicating that they would not
12 support a curb cut. And they also indicated that, generally, an
13 applicant doesn't have to have the curb cut application denied
14 by DDOT, although that is in the regulations. When we discussed
15 parking, the idea of the adjacent property sharing the curb cut,
16 which is an existing curb cut and sharing the driveway, was
17 supported by OP. And we encouraged the applicant to look into
18 it, and it sounds like that is still a possibility, where the
19 project could provide two required parking spaces or, as the
20 architect mentioned, perhaps three, and OP would support that,
21 and then they wouldn't need the relief that they've requested.

22 But for now, because there's no alley and no curb cut,
23 they cannot provide the parking and, therefore, they meet the
24 criteria for parking relief. It is also -- the location of the
25 building is walking distance to bus and metro and commercial

1 uses. So it is possible to live there without needing parking,
2 but there's no guarantee of that. Overall, that's the summary
3 of the OP report, and I am happy to take any questions.

4 CHAIRPERSON HILL: Okay. Thanks. Ms. Fothergill. So,
5 again, just for me, the massing is matter of right; is that
6 correct?

7 MS. FOTHERGILL: It meets the development standards for
8 the RA-1 zone, yes.

9 CHAIRPERSON HILL: Okay. And then so, again, I got
10 kind of confused on this. Like, what they could build without
11 coming before us is what?

12 MS. FOTHERGILL: Well, they meet the special exception
13 for the multi-family residential building, so.

14 CHAIRPERSON HILL: Right. So they could build a single
15 family.

16 MS. FOTHERGILL: They couldn't build the ten-unit
17 building, yes.

18 CHAIRPERSON HILL: Right. Okay. And then the -- all
19 right. Okay. All right. Let's see. Does anyone have any
20 questions for the Office of Planning? Chairman Hood?

21 CHAIRMAN HOOD: Yeah. Thank you, Mr. Chairman. Ms.
22 Fothergill, I'm really trying to understand the joint parking
23 issue, was where I think Dr. Claggion -- I believe is his name --
24 - Jamaal S. Claggion. Help me understand that. I know Mr.
25 Sullivan mentioned that previously, but I'm trying to understand.

1 Is that a case that has already been approved, or is that a case
2 coming to the Commission, or I mean to the Board?

3 MS. FOTHERGILL: So I believe it's on the Board's agenda
4 next week. The applicant showed a slide of what they are
5 proposing. I believe it's a 16-unit multifamily building to the
6 east of this subject property, and it needs again, the special
7 exception for multifamily in the RA-1 zone, and it also needs a
8 variance for FAR. And as the applicant indicated, the Office of
9 Planning report did not recommend approval of the variance for
10 FAR, so that's where that is currently.

11 COMMISSIONER HOOD: So I just want to say this. I'm
12 very troubled by -- I'm not sure you didn't just base your
13 approval on what's going to happen next week. So I'm sure that
14 didn't happen. But yeah. So I'm just troubled by we're depending
15 on a case that hasn't happened. I know there are some other
16 instances, the stuff that we depend on hasn't happened. But I
17 just think, for me, Mr. Chairman, I think, to me, that may help
18 me get over my issues with the parking, depending upon what the
19 Board may do next week. And -- but certainly, no way am I
20 suggesting that whatever goes on next week be approved, because
21 I don't know what it is. But I just think that I need to see
22 whatever decision is made next week, as far as I'm concerned,
23 because I'm having an issue with the parking. But I'll wait to
24 hear from the ANC commissioner, as well. So thank you, Ms.
25 Fothergill. Thank you, Mr. Chairman.

1 CHAIRPERSON HILL: Thank you, Chairman Hood. Does
2 anyone else have some questions from -- for the Office of
3 Planning? I guess, I'm having a long day, Ms. Fothergill. So
4 Ms. Fothergill, again, it's just that they -- you don't -- the
5 Office of Planning is saying you can't provide parking. Like,
6 that's what I'm trying to get. Even if it was a single family,
7 they couldn't provide parking.

8 MS. FOTHERGILL: The way the criteria are written, you
9 have to meet one of the criteria for the special exception for
10 parking. And for this project, there's no alley and no curb cut
11 and DDOT indicated they wouldn't support a curb cut, so they,
12 therefore, meet that criteria.

13 CHAIRPERSON HILL: So what I'm trying to get at is,
14 regardless, if this was a matter of right -- well, okay. I'm
15 just like talking myself into a circle. Okay. All right. Never
16 mind. Okay. I got it. Okay. Let's see. Okay.

17 Commissioner Moore, are you there?

18 MS. MOORE: I am.

19 CHAIRPERSON HILL: Can you turn on your camera again?

20 MS. MOORE: Oh, I thought I did. I'm sorry.

21 CHAIRPERSON HILL: That's all right.

22 MS. MOORE: It won't let me -- come on. Oh, hold on.
23 There we go. Wait a minute. Hold on. There you go.

24 CHAIRPERSON HILL: Look at that. There you go.

25 MS. MOORE: Okay. Sorry.

1 CHAIRPERSON HILL: Fantastic. That's all right,
2 Commissioner.

3 MS. MOORE: Okay.

4 CHAIRPERSON HILL: So Commissioner, again, like you're
5 kind of technically here as a member of the public, but, you
6 know, you're the Commissioner, and you're the SMD, so I really
7 want to hear from you, and I'm sure we all really want to hear
8 from you. So I'm just going to put five minutes on there, just
9 so I know where we are.

10 MS. MOORE: Okay.

11 CHAIRPERSON HILL: But you can give your testimony,
12 okay?

13 MS. MOORE: Okay. The parking really is an issue, and
14 I am really concerned, and I'm also afraid for the community. As
15 you know that Green Street is located in a MPD hotspot, and you
16 don't mess with black folks' parking. That's one thing. And
17 Mr. Haimus testified that Greenwood Manor charge for parking.
18 That's not true. I used to date a guy there, and the first time
19 he had said that in one of our public meetings that they charge
20 for parking, I called the guy while we was in a meeting and asked
21 him do they charge for parking. They don't charge for parking.
22 It's really congested. The street is a dead-end street, and as
23 far as the crime area, the dead-end -- the wood area to the --
24 up the hill leads to another part of southeast, which is Woodland
25 Terrace. Woodland Terrace -- Green Street and Woodland Terrace

1 are beefing. You know? And these beefs continue. That's the
2 part I'm concerned about, the crime area. The crime continuing
3 in our community. Now, they come through those woods and, you
4 know, start shooting at the targets that are on Green Street.
5 That's another concern of mine.

6 The residents -- all the residents on that side where
7 they want to build the property opposes these projects, because
8 this is not what the community needs. You have four new 8A
9 Commissioners in this -- in 8A, and this is not our vision. What
10 we want are homeowners, and for the people that live in the homes
11 to keep their homes, to be able to stay in their homes. I mean,
12 it's not really -- it's not rocket science, it's just I don't
13 think that this will be a good fit for the community, to be
14 honest.

15 CHAIRPERSON HILL: Okay. Okay. Great, Commissioner.
16 Commissioner, it's lovely to hear from you.

17 MS. MOORE: Thank you.

18 COMMISSIONER HILL: And I can see why you get voted in,
19 Commissioner. You're very forthright.

20 MS. MOORE: Thank you.

21 CHAIRPERSON HILL: You're welcome. Let's see. Does
22 anyone have any questions for the Commissioner?

23 CHAIRMAN HOOD: Yeah. Commissioner Moore, thank you
24 for providing this testimony. I understand about the beefing and
25 all that. I grew up in this city, so I know how beefing in

1 neighborhoods go, so I understand that. But let me ask you about
2 what's in front of the Board, as far as adverse impacts on the
3 community. You mentioned the parking. Is that street -- I don't
4 know if you saw both sets of pictures, and I'm sure that the
5 person, I believe, who supplied those pictures may be here to
6 testify. But let me ask you, have you seen -- did you see those
7 pictures where it showed there was not any parking spaces on the
8 street?

9 MS. MOORE: I didn't see that slide. I was -- I heard
10 you --

11 CHAIRMAN HOOD: Okay.

12 MS. MOORE: -- but I didn't see that slide.

13 CHAIRMAN HOOD: Okay. And let me ask you, do a lot of
14 your neighbors ride bicycles?

15 MS. MOORE: Those are the kids. No, the kids do.

16 CHAIRMAN HOOD: Okay. Okay. I'm just trying to --
17 okay. So the major concern, what I got out of your testimony is
18 that --- well, I know it's not a good fit, but it does, to some
19 degree, there are certain things that we have to look at.

20 MS. MOORE: Right.

21 CHAIRMAN HOOD: But the major adverse impact you
22 believe is there's an impact of the parking, the ability of the
23 units and the parking would cause something adverse to the
24 community or to your neighborhood. Is that fair to say? That's
25 a fair assessment.

1 MS. MOORE: Yes, sir.

2 CHAIRMAN HOOD: Okay. All right. Thank you.

3 MS. MOORE: Okay. And, actually, Mr. Hood -- Chairman
4 Hood?

5 CHAIRMAN HOOD: Yes?

6 MS. MOORE: I did send in four photos --

7 CHAIRMAN HOOD: Okay.

8 MS. MOORE: -- with my letters. I sent in four photos.
9 I sent in two letters and four photos.

10 CHAIRMAN HOOD: Those may have been your photos.

11 MS. MOORE: Yeah, okay.

12 CHAIRMAN HOOD: Those may have been your photos I was
13 referring to. Maybe those are your photos. I just know I looked
14 at them, and I can't remember who sent them. But I did see four.
15 Yes.

16 MS. MOORE: I don't think I provided one with no
17 parking. I don't think I provided any with no parking. I don't
18 think I did.

19 CHAIRMAN HOOD: I mean, when I said no parking, I mean
20 there was no available parking from what I saw. It was --

21 MS. MOORE: Yeah.

22 CHAIRMAN HOOD: It was crowded.

23 MS. MOORE: Yes.

24 CHAIRMAN HOOD: Okay, so those are your pictures.

25 MS. MOORE: Yes, sir.

1 CHAIRMAN HOOD: I knew they were somebody's pictures.
2 Okay. That's what I mean.

3 MS. MOORE: Yeah. And there was one -- that driveway,
4 someone is parked in front of that driveway right there where Mr.
5 Haimus -- where he will build the building. His project right
6 there.

7 CHAIRMAN HOOD: Okay.

8 MS. HOOD: Someone is parked right there in front of
9 that driveway.

10 CHAIRMAN HOOD: Okay.

11 MS. MOORE: All right then. Thank you, Commissioner
12 Moore. I appreciate it. Thank you.

13 MS. MOORE: You're welcome. You're welcome. Thank
14 you.

15 CHAIRPERSON HILL: Commissioner Moore?

16 MS. MOORE: Yes, sir?

17 CHAIRPERSON HILL: Have you guys heard this in front
18 of your full ANC yet?

19 MS. MOORE: Oh, that's what I wanted to mention to you.
20 The community would like for me to ask you guys for an extension,
21 so that I could be able to provide that letter. Because the
22 whole ANC 8A opposes this project. We voted on in it in the
23 public meeting June the 1st, and -- but this -- there's something
24 -- there's an issue between the chair and the treasurer, which
25 is myself, that has to be ironed out. So she didn't sign my

1 letters. And I would like to -- the community would like to
2 address that at the next public meeting to find out why, you
3 know, or could they sign the letters, so that I could present to
4 the Board, the BZA Board.

5 CHAIRPERSON HILL: So the vote was opposed.

6 MS. MOORE: Seven -- the vote was 7-0-0 on June the
7 1st.

8 CHAIRPERSON HILL: Right. You just haven't submitted
9 a letter yet.

10 MS. MOORE: I haven't submitted that letter, yes, that
11 the chair has to sign, the letter of opposition. No, sir.

12 CHAIRPERSON HILL: Yeah. That's right. You're
13 testifying right now that that was the vote.

14 MS. MOORE: Okay, great.

15 CHAIRPERSON HILL: Right. No, no. I'm just saying
16 you are. You are right now, I'm asking you. Correct?

17 MS. MOORE: Yes.

18 CHAIRPERSON HILL: Okay.

19 MS. MOORE: But I still would like. Would you give me
20 a chance to --

21 CHAIRPERSON HILL: No, we need the letter. The letter
22 is what we need to give great weight.

23 MS. MOORE: Got you.

24 CHAIRPERSON HILL: However, it's still information that
25 you're giving to the Board right now.

1 MS. MOORE: Okay.

2 CHAIRPERSON HILL: Okay. All right.

3 MS. MOORE: Thank you.

4 CHAIRPERSON HILL: Thank you, Commissioner.

5 MS. MOORE: You're welcome.

6 CHAIRPERSON HILL: Let's see. So I'm going to see --

7 who else, Mr. Young? Who else is here to testify?

8 MS. MOORE: Okay.

9 CHAIRPERSON HILL: Commissioner Moore, don't go

10 anywhere, but you can turn off your camera, if you like.

11 MR. YOUNG: We have four people.

12 CHAIRPERSON HILL: Okay. You want to bring them in?

13 MR. YOUNG: Yeah.

14 CHAIRPERSON HILL: Okay. I see Tam, Anderson, Barrow,

15 and is it Steinhauer? Okay. Ms. Tam, can you hear me?

16 MS. TAM: Yes, I can, Mr. Hill.

17 CHAIRPERSON HILL: Okay. Could you introduce yourself

18 for the record, please?

19 MS. TAM: Yes, my name is Julie Tam. I am the owner

20 of 2316 Green Street, Southeast.

21 CHAIRPERSON HILL: Okay. Ms. Tam, you'll have three

22 minutes to provide your testimony, and you can begin whenever you

23 like.

24 MS. TAM: Okay, great. I will begin now. So BZA is

25 required to give great weight to the ANC and also the affected

1 community. As Commissioner Moore has just stated, the ANC has
2 voted unanimously to oppose this project. In addition, all
3 residential owners of single-family dwellings that reside within
4 200 feet of this project also oppose the project, and we've
5 submitted letters of opposition and that should be on the record.
6 The only letter of support that this developer has received is
7 from the adjacent neighbor, who, himself, is also a developer,
8 who is proposing a similar project. The adjacent neighbor on the
9 other side, Mr. Thomas Henderson, has adamantly opposed the
10 project. His letter of opposition is also recorded in the
11 records.

12 So another issue that the community has that is -- that
13 has been discussed at great length, is that this project creates
14 significant parking constraints on our already confined cul-de-
15 sac street. So Ms. Jessie Anderson and Mr. Language -- Mr.
16 Language Barrows, along with the Commissioner, has already sent
17 numerous photos depicting the parking situation, where the street
18 is just completely parked up, to include parking in the no parking
19 zones. And because of this, this has led to near impassable by
20 large vehicles, such as emergency vehicles; so like fire trucks
21 and the ambulances, along with sanitation trucks and even
22 delivery trucks.

23 Next, as Commissioner Moore has stated, that the -- our
24 street has been deemed by the Metropolitan Police Department to
25 be crime or to be ridden with crime, violence, and noise

1 disturbances. We have not seen any plans of any sort for any
2 private or 24-hour surveillance, especially given the size of
3 this project.

4 The next point we wanted to make is that this project
5 will significantly change the arrangements of the street, which
6 is current -- our side of the street, which is currently
7 characterized by single family dwellings. And so, the neighbors
8 request that if any development is to be made on these plots,
9 that it be built or be developed with single family dwellings to
10 maintain the characteristics of our side of Green Streets.

11 And two more points. So we've also not received
12 sufficient notifications from the developer. For example, the
13 developer had attempted to organize a community meeting; however,
14 only our neighbors on Galen Street Southeast ever received this
15 notice. And none of the neighbors on Green Street Southeast
16 received the invitation to this meeting. And I only found out
17 because one of the neighbors on Galen Street notified me, of
18 which I immediately notified Commissioner Moore. And because it
19 was so late, Commissioner Moore herself could not attend that
20 meeting. My husband and I, we spoke to our council member, Trayon
21 White, just late last week, and he was not sufficiently notified,
22 because he didn't even have the project on his records.

23 And my last point is that I know the Office of Planning
24 had approved this, but we did also speak to them, and we asked
25 if you've ever been to Green Street Southeast, and they said that

1 they had not. And, therefore, we feel that they are not really
2 familiar with our street, and, therefore, are troubled that the
3 plans were even approved. That is all for my comments. Thank
4 you, Mr. Hill.

5 CHAIRPERSON HILL: Okay. Thank you, Ms. Tam.

6 Can I hear from -- is it Ms. Barrow? Can you hear me?
7 Or is it Mr. Barrow? Language Barrow.

8 MR. BARROW: Oh, yes. Good morning.

9 CHAIRPERSON HILL: Hi. Can you hear me?

10 MR. BARROW: Yes, I can hear you. Can you hear me?

11 CHAIRPERSON HILL: Yes, I can. You'll go ahead and
12 give -- sir, you'll have three minutes to give your testimony,
13 and you can begin whenever you like.

14 MR. BARROW: Okay, sure. It shouldn't take that long.
15 Actually, I'm the property adjacent to the other proposed
16 property, so I'm two lots up from this property that we're talking
17 about now. And I think the photos that you see in reference to
18 the parking are the photos that I took on the street. As far as
19 the property across the street that has the 90 units, I was
20 actually informed that the reason that some of that spillage
21 occurs, is because there are sometimes multiple car owners in the
22 apartment. They did a recent renovation on the parking lot,
23 which forced some people out. But the fact is, I think there's
24 only supposed to be one car per unit, and there are multiple car
25 owners in that property.

1 The other thing about the congested street on the left
2 side, on the right side as you're coming up the hill, is that
3 from their property upwards, you're not allowed to park there
4 because it's a fire zone. So from the proposed property to the
5 top of the hill, on the right side traveling up the hill, you're
6 not even supposed to be parked there, but people are illegally
7 parked there. So that just gives you some idea of the current
8 parking situation that we're dealing with.

9 I wanted to address the issue with biking also. So
10 because of the severe nature or incline of the hill, biking is
11 very seldom done on this particular hill. And if you're talking
12 about the city bikes, which don't generally accommodate multi-
13 gear switching, then you're very unlikely to see the use of bike
14 riding up and down this hill, just because the grade is extreme.
15 So by putting the additional temporary bike parking in there,
16 you're liable to get some use going down the hill, but you're
17 not going to get a lot of use going up the hill. And this unit
18 is probably about at the 60 percent grade towards the top of the
19 hill. So you've got to ride at least halfway up the hill to get
20 to this first proposed site that they're talking about. So that
21 would also be a challenge just from a biking perspective.

22 And I don't want to get into -- I didn't really want
23 to get specifics into my unit, but, obviously, since my unit is
24 adjacent to the second proposed unit, the height of the buildings
25 would definitely affect not only my view, but the lighting in my

1 property, the shadows. I also provided pictures of my view from
2 my front porch. So if you're -- if you see the pictures that
3 look at the Capitol building and the Memorial, those are taken
4 from my porch. I also provided a shot of the current structure,
5 which is on the property now, which was a single family in the
6 proximity that it is to my current dwelling. And, as noted
7 previously, this was a single-family unit on a lot that they're
8 proposing to put 26 units on there. so as you could see, we
9 already have an issue of parking, even if it was a single-family
10 unit. But to now put 26 units, ten on the first and sixteen on
11 the second, and the fact that you can't -- it's not really a
12 bikeable street, it's very unlikely that you're going to see a
13 lot of non-car occupying residents in either of these units, just
14 because of the way the nature of the neighborhood is; a high
15 crime neighborhood, plus the proximity of the buses, the
16 convenience getting in and out, it just makes it a much more
17 challenging situation with the additional parking. I think
18 that's pretty much all I have.

19 CHAIRPERSON HILL: Okay. Thank you, Mr. Barrow. Is
20 it Ms. Anderson, Jessie Anderson?

21 MS. ANDERSON: Yes. This is Jessie Anderson, and I
22 live at 2322 Green Street, and I am a resident of this area.

23 CHAIRPERSON HILL: Okay, great. Ms. Anderson, if you
24 could go ahead and give us your testimony. You'll have three
25 minutes.

1 MS. ANDERSON: Okay, thank you. Well, my reason I
2 oppose this project is because first, the developer or the
3 contractor never contacted each individual to let them know or
4 spoke with them concerning this project. But mainly my concern
5 is the street parking we do not have -- we have a limited amount
6 of street parking for our resident that live here. And we also
7 have problems when they have emergency vehicle, trash collectors,
8 as well as people just really driving up and down the street.
9 There's no parking, there's conflict as far as where you will
10 park at. And then on top of that, the residents that live in
11 apartment complex across the street, they are really do not have
12 any -- we do not have any space, in general. But mostly, it's
13 because of the size of the street, the amount of space, as well
14 as the emergency parking.

15 Now, as far as the developer want to build sixteen or
16 either ten units, these units will cause a lot of problem within
17 the area due to drainage or sewage water runoff. And then on
18 top of that, they did not consider us as far as determined what
19 problem that this would be all the residents that live in the
20 area.

21 One of the other main things I wanted to bring up, the
22 developer that we are speaking with today, Mr. -- I might
23 pronounce his name wrong, but he was the one that came through
24 the area looking to see if he can have access to his property by
25 coming on a private property, getting the police department to

1 write tickets and place on our cars that were parked behind our
2 house. As of today, I'm still in a situation where I have a
3 ticket placed on my car, which have not been resolved, and I had
4 to pay the 30 dollars plus the ten dollars fee for these tickets.
5 And right now, that was wrong for him to do that. And he has
6 not yet mainly apologized, not to mention making sure we get our
7 money back for the tickets that was placed on our car.

8 But mainly the concern is he do not -- we do not agree
9 with his developer as far as putting these units, as high as they
10 are, as wide as they are, in the space that he is planning on
11 building as well as those new or the additional apartment complex
12 that he is doing. The picture that he showed in his slide, those
13 buildings that he was speaking of, which is the lower part of
14 Green Street, they are not extremely that high. He took those
15 pictures at a lower angle, which is from the street up, which
16 makes it seem like they are really, really tall, but they are
17 not that tall. Most of the houses -- or most of the apartment
18 complex in this area are normal height, except for the one --
19 Greenwood Manor might be a little taller. But the apartments
20 further down the hill, which is not extremely that high and his
21 building would cause a lot of the problem as far as the height
22 in this area. I thank you for your time.

23 CHAIRPERSON HILL: Thank you, Ms. Anderson. Let's
24 see.

25 Is it Mr. Steinhauer, Jason Steinhauer?

1 MS. TAM: Sorry, Mr. Hill. He can't unmute.
2 CHAIRPERSON HILL: Oh. How do you know that?
3 MS. TAM: Because he just told me.
4 CHAIRPERSON HILL: Oh.
5 MS. TAM: He doesn't have the option to unmute.
6 CHAIRPERSON HILL: Oh, there we go. Mr. Steinhauer?
7 Ms. Tam, is he with you?
8 MS. TAM: He is sitting next to me. Hold on.
9 CHAIRPERSON HILL: Why don't you -- yeah, give him your
10 phone, okay?
11 MS. TAM: Okay. Give me a moment. Hold on. Sorry.
12 One moment.
13 CHAIRPERSON HILL: Go ahead.
14 MR. STEINHAUER: Yeah. That way they can see it's me.
15 All right, can you hear me now?
16 CHAIRPERSON HILL: Yes. Could you introduce yourself
17 for the record, please?
18 MR. STEINHAUER: Yes, sir. My name is Jason Steinhauer.
19 I'm a resident of 2316 Green Street Southeast.
20 CHAIRPERSON HILL: 2316. Okay, great. Sir, you'll
21 have three minutes to give your testimony. You can begin whenever
22 you like. You said 2316?
23 MR. STEINHAUER: Yes, sir.
24 MR. CHAIRPERSON HILL: Okay, great. Please go ahead.
25 MR. STEINHAUER: Okay, great. Well, thank you all for

1 giving us time to speak. I will try to keep this brief. I'm a
2 historian by trade, so I try to do everything and capture
3 everything in the language of history. And I think here with
4 this project, we have an opportunity to learn from history, to
5 not repeat some of the same mistakes that have been made in this
6 neighborhood before.

7 It was mentioned by the architect about the steep hill,
8 which he mentioned was a significant slope, was quite steep and
9 was a difficult topography. I want to reiterate that, because
10 Green Street is one of the narrowest, steepest streets in
11 Washington, D.C. It's also a cul-de-sac. And one of the major
12 issues and concerns that we have with this project, as a whole,
13 is the changing topography of this hill. This hill already floods
14 when it rains, and it rains a lot in D.C., as you know. And as
15 I said, we look to history for guidance.

16 A similar project was done on W Street not too long
17 ago, where the hill was changed to make room for new development.
18 The result of that has been flooding on Galen Street, the adjacent
19 street. So much flooding in the backyards of some of these houses
20 that people there now are starting to move and look to leave the
21 area. So we have grave concerns about the topographical impact
22 that this development will have on all the other houses on Green
23 Street and Galen Street. And we have firsthand evidence of how
24 that could devastate the families and homeowners in this
25 neighborhood, those who actually pay taxes and pay into the

1 system, as opposed to the renters who will be coming into this
2 building.

3 I would also like to point out about the parking that
4 we also have evidence from the history of Galen Street to see
5 how the parking situation will play out on Green Street. If we
6 had 35 to 50 new residents and all of their cars and visitor cars
7 to an already narrow cul-de-sac.

8 Currently, on Galen Street, residents are triple
9 parking. They are getting into fights in order to find spaces.
10 There's actually been violence to find parking spaces on Galen
11 Street. As we already mentioned, Green Street is one of the most
12 violent streets in D.C. already, and the parking is already
13 scarce. Imagine the combustible situation that would be created
14 when we add more residents to this street without any parking,
15 we're going to have people double and triple parking, fighting
16 over spots, and more violence on our street than we already have.
17 And you can look at MPD for statistics about the violence on
18 Green Street.

19 When we did talk with Anne in the OP, it was confirmed
20 that she and others who have been working on this case, are not
21 familiar with Green Street. And I understand that this project
22 meets some generalities of the zoning laws, but the
23 particularities of Green Street are what matter in this case.
24 This project is a terrible fit for Green Street. It's a terrible
25 fit because of the changes to topography. It's a terrible fit

1 for the changes to the parking situation. It will greatly,
2 adversely affect the residents of Green Street who are largely
3 marginalized populations, a lot of elderly, a lot of children, a
4 lot of families. And there's absolutely no reason for this
5 project to be built.

6 These projects, these lots should be single family
7 homes. That is what is on this side of the street. That is what
8 this neighborhood can support. It cannot support two new
9 apartment developments of 10 units and another one of 16 units.

10 My last point -- I know my time is up -- is I would
11 just appeal to the Commissioners on this Board to remember that
12 for the past year and a half, we've been fighting and loudly
13 chanting in the streets that Black Lives Matter. Well, in this
14 case, I would ask you if black property owners matter, because
15 the black property owners in this neighborhood overwhelmingly
16 have rejected this proposal, the ANC has voted unanimously
17 against it, you have 16 letters in your file against it. You've
18 heard it from two of them on this call, and there are many others
19 who were too afraid to sign their names or speak witness at this
20 hearing, because they were in fear of what might happen if they
21 did so. So black families and black property owners in this
22 neighborhood overwhelmingly reject this, me and my wife
23 overwhelmingly reject it, the ANC reject it, and we hope that the
24 BZA will reject it, as well. Thank you.

25 MR. YOUNG: You're on mute, Mr. Chair.

1 CHAIRPERSON HILL: I was looking at Mr. Sullivan. I
2 said, Mr. Sullivan, do you have any questions for any of the
3 witnesses? And it looked like you were really pondering that,
4 and I was waiting. Do you have any questions for any of the
5 witnesses?

6 MR. SULLIVAN: No. No, I don't. Thank you.

7 CHAIRPERSON HILL: Okay. Does the Board have any
8 questions for any of the witnesses?

9 (Negative head shake.)

10 CHAIRPERSON HILL: Okay. All right. Then, Mr. Young,
11 can you excuse everyone other than Commissioner Moore?
12 Commissioner Moore, can you hear me again?

13 MS. MOORE: Yes, sir, I can.

14 CHAIRPERSON HILL: So what is it, do you think that
15 your community is interested in seeing there? Just a single-
16 family house?

17 MS. MOORE: Yes, single family homes, yes, is what
18 we're interested in is seeing. I did make a proposal to the
19 developer; the community does need a child development center or
20 a daycare.

21 CHAIRPERSON HILL: Okay.

22 MS. MOORE: That would --

23 MS. TAM: Yeah.

24 MS. MOORE: That would help, but, yeah.

25 CHAIRPERSON HILL: I got you. So I was just curious,

1 because it sounds as though if there were something new there -
2 - and this has -- I'm just curious, right?

3 MS. MOORE: (Indiscernible.)

4 CHAIRPERSON HILL: If there was something new there,
5 that that might help with, you know, the crime and such. You're
6 saying that that isn't necessarily the case.

7 MS. MOORE: Right.

8 CHAIRPERSON HILL: Okay.

9 MS. MOORE: There's nothing new. Yeah.

10 CHAIRPERSON HILL: No, I'm saying if there were a new
11 building, you don't think that would be helpful for the possible
12 crime situation? I'm just curious. Your opinion.

13 MS. MOORE: No, I don't think that that would be
14 helpful. I think that that would add to the crime situation
15 that's in the community.

16 CHAIRPERSON HILL: Okay. Just curious.

17 MS. MOORE: Yeah.

18 CHAIRPERSON HILL: Does anybody have any questions for
19 the Commissioner before I let the Commissioner go?

20 MS. MOORE: Oh, and one more thing guys.

21 CHAIRPERSON HILL: Sure.

22 MS. MOORE: I'm sorry. One more thing. I do live at
23 2315 Green Street. I'm a five-year resident on Green Street, as
24 well.

25 CHAIRPERSON HILL: Okay.

1 MS. MOORE: Yeah.

2 CHAIRPERSON HILL: Okay, great. Let me think. All
3 right, Commissioner, we'll see what -- actually, just stay there.
4 Just turn off your camera. Let's see what happens. Okay?

5 MS. MOORE: Okay, thank you.

6 CHAIRPERSON HILL: All right. You're welcome. So,
7 Mr. Sullivan, do you want anything to say at the end before --
8 I'm going to discuss with the Board as to where we are, as to
9 what we're going to do, because I don't know where Chairman Hood
10 is. I don't know where anybody is. But is there anything you'd
11 like to say at the end before we kind of -- I'm not going to --

12 MS. MOORE: Okay.

13 CHAIRPERSON HILL: I'm not going to let you go just
14 yet. But I just want to see if you have anything to add at the
15 end.

16 Commissioner Moore, were you trying to say something?

17 MS. MOORE: No, sir. Oh, I'm sorry. Am I mute? I'm
18 sorry, no.

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

20 Mr. Sullivan?

21 MR. SULLIVAN: No, nothing that I can't talk about if
22 -- if this isn't the end of the of the hearing, then, no. It's
23 similar to a lot of other RA-1 cases. I think a lot of the issues
24 are of the Zoning Commission level or a macro level, in that this
25 is an apartment zone. But a lot of the apartment zones, the RA-

1 I have some single family. And this is no different, similar to
2 other cases. I understand the concerns about parking though.
3 And the photo that we put in the record came from Google Earth,
4 I believe, so. And I don't know what the time of day that was
5 or -- I mean it was, obviously, daytime, not nighttime. But we
6 are open to working with the Board on pursuing the parking thing
7 further. It just couldn't be committed to at this point,
8 apparently, with Mr. Claggion on, so.

9 CHAIRPERSON HILL: I got you.

10 MR. SULLIVAN: Or maybe pushing back with DDOT, if --
11 you know, they understand the concerns of the community and trying
12 to get a separate cut.

13 CHAIRPERSON HILL: Yeah, but even if get a curb cut,
14 where are you going to get -- where would you put the curb cut?

15 MR. SULLIVAN: Well, if DDOT -- likely wouldn't want
16 to curb cuts that close to each other, so they would probably
17 want it on the left side of the building.

18 CHAIRPERSON HILL: So you move the building to the
19 right? I mean, how would you get access to the --

20 MR. SULLIVAN: I mean, I think there's a -- we wouldn't
21 move it that much. I think there's room for a driveway. It's
22 not necessarily that there isn't room. It's just that the curb
23 itself, we've been told it's not going to be.

24 CHAIRPERSON HILL: And you'd still put the parking in
25 the rear.

1 MR. SULLIVAN: Yeah. I think the parking is the only
2 -- the rear is the only place it could be, because if we were
3 accessing that -- if we only had one parking space, it could go
4 on the side, I imagine. But if it's more than one, and you need
5 a driveway, then it would definitely have to go in the rear.

6 CHAIRPERSON HILL: Okay.

7 MR. SULLIVAN: So there's engineering issues to figure
8 out. And, obviously, for Mr. Claggion next door, apparently,
9 possibly such issues as well.

10 CHAIRPERSON HILL: Okay. Let me let me this, Mr.
11 Sullivan. I'm going to excuse you guys, okay? And we're going
12 to talk a little bit, and then I might bring you back. Okay?
13 Let me think what's a good -- oh, no, because -- yeah. All right.
14 What am I doing? All right. Never mind. I'm just -- Mr. Young,
15 can you excuse the applicant from the hearing room? And then,
16 Mr. Sullivan, I'm going to bring you back in. Okay. So I didn't
17 close the hearing or the record. I just want to see what it is
18 that you guys might want or need, or if you don't need anything.
19 Right? I'm kind of unclear as to whether I need anything or not,
20 because it is -- it's really the new residential development that
21 they're putting forward that I'm -- the number of units, as well
22 as that other number of unit applications coming through. So I
23 don't know. And I'm going to bring Mr. Sullivan back in, the
24 applicant that is, regardless, to -- because I'm just trying to
25 -- I'm not really deliberating.

1 Commissioner Hood, did you -- I thought something --
2 maybe you thought you'd be interested in postponing this to see
3 what -- I mean -- and that's even weird, right? Like --

4 CHAIRMAN HOOD: Yeah.

5 CHAIRPERSON HILL: -- another case.

6 CHAIRMAN HOOD: Yeah, Mr. Chairman, I'm going to tell
7 you, I didn't like the whole -- I didn't necessarily particularly
8 like the whole, the way the discussion went, but that's just the
9 way it went. It was almost like we're waiting for another case.
10 Well, at least the way I took it, and I'm sure that wasn't how
11 it's presented, but when you're trying to put all these different
12 moving pieces together, it's almost like, okay, well, if we get
13 this to the Board, that's going to be deciding it, then we can
14 do this, if we get this. You know, and I'm not sure that's --
15 that's the way I took it, but I'm not -- I don't think that was
16 necessarily the way they meant it, but that's the way I took it.

17 But even though the prescription and the zoning code,
18 they meet everything, there's still a special exception standard
19 and issue that we -- the general special exception will still
20 apply. And for me, it seems like we have some things that are
21 adverse to the community. And the first thing I would start with
22 is, I think, the ANC has to go back, and maybe they can have a
23 discussion. They have some things they would like to see, but
24 that's not necessarily what's being proposed. But I think that
25 -- that's one of the problems. We don't have the full ANC opining

1 on this, we have the Single Member District. And then they can
2 have some discussions. I think someone mentioned -- one of the
3 residents mentioned that they haven't even spoke to the
4 developer. So there are already a number of uncertainty parts
5 for me. If I had to vote for this today, I would vote against
6 it. And right now, it's a heavy lift, because I'm still not
7 getting past the adverse impacts. I understand what the Office
8 of Planning is saying, but every prescription doesn't always work
9 in every case. And I think the special exception in this case,
10 the special exception standards, I think the adverse impacts have
11 been enough to the point where I don't believe it's being
12 mitigated. So I'm not over the hump. I'm not over the hill.
13 And right now, the way it stands, I would be voting against it.
14 I'm just put it out right out there, so.

15 CHAIRPERSON HILL: Okay.

16 CHAIRMAN HOOD: That's where I am, Mr. Chairman. Thank
17 you.

18 CHAIRPERSON HILL: Thank you, Chairman Hood. So before
19 you all speak, where I kind of am now, also, is I'd like to at
20 least get the ANC's full report to be able to give it great weight
21 or, you know, whatever you all -- I guess that's where I kind of
22 am right now, like. And then, because even though the
23 Commissioner testified that they voted against it, we don't
24 really have anything that kind of speaks to that.

25 VICE CHAIR JOHN: Right.

1 CHAIRPERSON HILL: But that's kind of where I am right
2 now. But I'm going to ask Mr. Smith if there's anything you want
3 or you just need -- like, I need more time, regardless, even if
4 we ask for nothing else. I can't deliberate on this right now.
5 I got to think about it.

6 BOARD MEMBER SMITH: I'm with Chairman Hill. I don't
7 know if I necessarily need anything, but now, I agree with you.
8 I think, yes, this (audio interference) zoned for a (audio
9 interference), but let's get it special exception process, just
10 because something is zoned whatever way, doesn't mean that it -
11 - there isn't a set of criteria that we must apply to ensure that
12 there's probably, even though it may meet the development
13 standards on its face, outside the special exception, of course,
14 they need a special exception for new residential development.
15 We must make sure that it meets -- it doesn't have any undue
16 adverse impact. And, like I've stated, when I discussed earlier,
17 I am concerned about, with special exception to (audio
18 interference) apartment parking requirements or (audio
19 interference), because DDOT would not allow a driveway. And just
20 like Chairman Hood stated, there's a lot of -- if this happens -
21 - if this particular project happens up the hill, if that's
22 approved, and then they go and talk with the applicant some more,
23 and they have to agree to allow them to have access to this
24 driveway for them to put more traffic out into (audio
25 interference) street. So that is giving me pause.

1 And another thing that we really didn't discuss, but
2 it was raised by a couple of the residents here is about light
3 and air. This particular apartment, yes, I understand it was
4 zoned for apartments, but because of the topographic nature of
5 this -- where this is located, what would be the light impact on
6 the properties to the -- further down the hill, given the
7 topography, given where this is located, given that, you know,
8 the sun rise in the east and sets in west. How much of these -
9 - how much shading would occur from this (audio interference)?
10 We didn't receive that information from the applicant in the OP,
11 the staff report. So it'd be great -- if I was to be asked
12 anything, it would be about the light, but very clear that they
13 will need it.

14 MS. MOORE: The what?

15 BOARD MEMBER SMITH: Can you hear me?

16 CHAIRPERSON HILL: Yeah, I can hear you. Someone is
17 in the room that I don't think is supposed to be in the room.

18 BOARD MEMBER SMITH: Okay.

19 CHAIRMAN HOOD: Can I say something though, before you
20 finish, Board Member Smith? Mr. Chairman, I'm not trying to run
21 the hearing, but I think what Board Member Smith is saying is
22 very important. But the reason why it sounds muffled, Mr.
23 Chairman, with all due respect, if you go on mute, Mr. Chairman,
24 I think it would be a little clearer.

25 CHAIRPERSON HILL: It's not me. It's not me. I'll

1 mute specifically.

2 CHAIRMAN HOOD: Trust me.

3 CHAIRPERSON HILL: It's not me.

4 CHAIRMAN HOOD: Trust me. If you just mute, you'll be
5 able to hear him.

6 CHAIRPERSON HILL: It's not me. I'll mute right now.

7 CHAIRMAN HOOD: Okay. But when you unmute and he's
8 talking, it sounds muffled. So if you could just mute.

9 BOARD MEMBER SMITH: Am I muffled, then, or am I good?
10 Okay.

11 So shadowing impacts on the adjacent panel property.
12 So those are my concerns. But as -- the way that it's presented
13 now, I'm with Chairman Hood. If I were to vote today, it would
14 be a no.

15 CHAIRPERSON HILL: Okay. Ms. John, do you have an
16 opinion?

17 VICE CHAIR JOHN: So I am a bit concerned about the
18 parking issue, especially since Green Street is so narrow, and
19 it ends in a cul-de-sac. So I would also like to see some
20 perspective of the houses further down the hill to see what the
21 impact of this new structure would be on those houses lower down
22 the hill. I know views are not protected, and the 16-unit
23 building is not before us. But my goodness, that's an amazing
24 view of the Capitol from that gentleman's apartment building.
25 And the only way we could consider it is in terms of that impact,

1 is in terms of light and air. So I would like to see more with
2 respect to this building about the impact as to light and air.

3 I like the idea that there is a two-unit, two-level IZ
4 unit planned. And so, that's a good feature. I agree with
5 Chairman Hood that sometimes just because a particular
6 development is allowed in the zone, that doesn't really mean that
7 it should be built in this way. And I'm really troubled by the
8 parking situation, and that this might warrant pushing back with
9 DDOT to see if there could be a curb cut, you know, as Mr.
10 Sullivan said, to the other side of the property, to facilitate
11 the driveway. So that's sort of where I am. I'm not in a
12 position to decide today. I would like to see, hear from the
13 ANC, as well.

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

15 Mr. Young, could you bring in, please, back the
16 applicant and Commissioner Moore, if she's still there?

17 Mr. Sullivan, can you hear me?

18 MR. SULLIVAN: (No audible response.)

19 CHAIRPERSON HILL: Okay. So I think what we're going
20 to do, Mr. Sullivan, is ask you to go, well, you'd have to --
21 you don't have to go back to the ANC, you can do whatever you
22 want to do. I want to wait until we get a report from the ANC.
23 And so, Commissioner Moore, can you hear me?

24 MS. MOORE: Yes, sir, I can.

25 CHAIRPERSON HILL: When's your next ANC meeting?

1 MS. MOORE: It's July 6th.

2 CHAIRPERSON HILL: Okay, great. So do you --

3 MS. MOORE: Yes.

4 CHAIRPERSON HILL: -- think you guys can talk about
5 this on July the 6th?

6 MS. MOORE: Yes. Yes, sir.

7 CHAIRPERSON HILL: And figure out if you guys can get
8 us a letter.

9 MS. MOORE: Yes, sir.

10 CHAIRPERSON HILL: Okay? So there's great weight.

11 MS. MOORE: Yes, sir.

12 CHAIRPERSON HILL: And if you can mention to the
13 Chairman, we're not allowed to do anything without the letter.

14 MS. MOORE: Right.

15 CHAIRPERSON HILL: So as of now, you guys are not having
16 a voice, right?

17 MS. MOORE: Okay. Right.

18 CHAIRPERSON HILL: So you can let the Chairman know
19 that as of now, there's nothing from your ANC in the record
20 officially.

21 MS. MOORE: Okay.

22 CHAIRPERSON HILL: Okay? So we should get --

23 MS. MOORE: Sorry about that.

24 CHAIRPERSON HILL: No, no, no, no. I'm just letting
25 you know. You seem to have -- you're having a discussion with

1 the Chairman, so I'm letting you know that's something to point
2 out, right?

3 MS. MOORE: Thank you. Yes. Thank you.

4 CHAIRPERSON HILL: So, Mr. Sullivan, I'm going to wait
5 for the ANC, and then I think you've heard some concerns about
6 the parking as well as the light and air or shadowing from the
7 building. I don't know -- I mean, I'm not -- I'm trying to be
8 also fair, in that I don't know where I am. I'm just trying to
9 give, you know, I mean, I think you guys might lose right now,
10 believe it or not, if it went today. So, you know, if you want
11 to get together with your client and see what things they might
12 be able to do to either appease the neighbors, you know, look
13 into more -- because I'm also -- to be quite honest, I'm not
14 necessarily as concerned about the parking, as I am, as all these
15 units that are coming online there. Right? And just because,
16 again, it is RA-1, doesn't necessarily mean everything has to be
17 approved. Right? And so, you know, I'm actually interested in
18 the 19 units that's coming next door. Right? So you got 19 plus
19 your 10, right?

20 And then -- but with Ms. John's point, it is -- the IZ
21 unit is a good feature. Right? And so, you know, if you think
22 maybe -- and I'll let you give your opinion in a moment, Mr.
23 Sullivan -- if you think that it's best to try to work with DDOT,
24 try to get two spots in there, so that at least you don't have
25 to be asking for the parking. I don't know what you may be

1 interested in trying to do, or if you want to -- like, I'll leave
2 the record open, and then I'll just have the ANC have an
3 opportunity to respond to it. You're definitely not coming back
4 here by the end of July. And so, it'll be September when you're
5 back here. So I don't know what. I mean, is there anything,
6 Chairman Hood or Mr. Smith or Ms. John, that you might want to
7 see from the applicant that might help in your decision-making?
8 I am going to clarify. It's been a very long day already. It's
9 going to be continuing to be a long day, so I'm a little jumbled,
10 meaning I just -- I need time. I just can't make a decision
11 right now. Right? I don't even necessarily need anything else.
12 I just need to be able to take a look at stuff again.

13 So, Chairman Hood, do you need anything?

14 CHAIRMAN HOOD: I just need them to -- again, I don't
15 see how they get over the adverse impacts, especially with the
16 parking for me, unless they have something that they can prove
17 differently than what I've heard today.

18 And also, as you've already mentioned in the zone,
19 because, as all of us, I think, have pretty much opined on for
20 the most part, even though it says you can build to that point,
21 doesn't necessarily mean you have to. So that's just kind of
22 where I am.

23 CHAIRPERSON HILL: Okay. So there's nothing you want?

24 CHAIRMAN HOOD: I'll leave it up to the -- I mean here's
25 my --

1 CHAIRPERSON HILL: Okay.

2 CHAIRMAN HOOD: Here's what I'll say, Mr. Chairman.
3 They've heard what I've said. If they choose to try to help
4 convince me to get there, then that's fine. But right now, I'm
5 still in the same. "I am where I am," as the former mayor would
6 say.

7 CHAIRPERSON HILL: Okay. Mr. Smith?

8 BOARD MEMBER SMITH: They heard what I stated as well.
9 I'm with Chairman Hood. One of the things you can submit that
10 could help with this adverse impact case potentially is a shadow
11 study.

12 CHAIRPERSON HILL: Okay. So are you asking for a
13 shadow study, or you're just saying if they want to give a shadow
14 study?

15 BOARD MEMBER SMITH: Yes, I'm asking.

16 CHAIRPERSON HILL: All right, Mr. Sullivan, so we're
17 asking for a shadow study.

18 And then, Ms. John, is there anything you want?

19 VICE CHAIR JOHN: I don't know what I want, Mr.
20 Chairman. I think the shadow studies would help.

21 CHAIRPERSON HILL: Well, you said something about a
22 prospectus, and I don't even know exactly what that means.

23 VICE CHAIR JOHN: I think that light is shown in the
24 shadow studies, if it's done well. I mean, I've seen some cases
25 where the perspective of the neighborhood is just so clear, in

1 terms of the size of the adjacent single family, not adjacent,
2 but the single-family dwellings down the street, their
3 relationship to the apartment buildings. I just can't get a good
4 feel for what's happening on that street.

5 CHAIRPERSON HILL: Okay.

6 VICE CHAIR JOHN: I did --

7 CHAIRPERSON HILL: Mr. Sullivan.

8 VICE CHAIR JOHN: I did look at the property on Google
9 Maps last night, and I have to tell you, the location appears to
10 be a stunning view of, you know --

11 CHAIRPERSON HILL: Well, it'll be great from the
12 apartment building, also, if the apartments get built. I mean,
13 that'll be a marvelous view, right?

14 VICE CHAIR JOHN: It will be a marvelous view. And I
15 wonder at what cost to the neighbors, you know, the people in
16 the single-family dwellings. And yes, Mr. Sullivan, I know I'm
17 not allowed to look at the views, but one does have to worry
18 about that.

19 CHAIRPERSON HILL: Okay.

20 VICE CHAIR JOHN: So that's it for me, Mr. Chairman.

21 CHAIRPERSON HILL: Okay. All right. So I'm going to
22 work backwards, Mr. Sullivan, and then I'll give you a chance to
23 have the final word.

24 Mr. Moy, are you there?

25 MR. MOY: Oh, I'm sorry. I thought you were referring

1 to Ms. Moore. It's pretty close.

2 CHAIRPERSON HILL: No. So we don't have any kind of
3 availability until September 22nd; is that correct?

4 MR. MOY: Oh, that's -- that's good. That's what I was
5 going to suggest.

6 CHAIRPERSON HILL: Right. So, Mr. Sullivan, if you
7 have until September 22nd, I need to give the ANC time to respond
8 to whatever you submit. And if you think that's going to -- if
9 you think that's going to mean the ANC is going to need another
10 meeting, then we might calculate that in as well to your
11 submissions, right? At this point, I'll even leave the record
12 open for -- well, I mean -- I don't even -- there's nothing here.
13 I mean, you've heard -- it seems as though people would be
14 interested in hearing more, if you have more to submit, on any
15 of the things that we've raised, right? But definitely a shadow
16 study sounds like something, and a prospectus is something that
17 might be helpful. So if you come back on the 22nd.

18 Mr. Moy, when would we want filings from Mr. Sullivan?
19 And then Commissioner Moore, I'm sorry, -- your date of your ANC
20 meetings are when?

21 MS. MOORE: It's July 6th. The next one is July the
22 6th?

23 CHAIRPERSON HILL: Right. When's the one in September?

24 MS. MOORE: Oh, I don't have my calendar. It's the
25 first Tuesday of September.

1 CHAIRPERSON HILL: Okay. Thanks.

2 MS. MOORE: I'm sorry. The first Tuesday of the month.

3 CHAIRPERSON HILL: Okay. That's all right. It's going
4 to be the 7th. It's going to be September 7th, right?

5 MS. MOORE: Okay.

6 CHAIRPERSON HILL: So let's just say, Mr. Sullivan, you
7 wanted to get something again to the ANC by September 7th, then
8 you might have your filings in by August 31st? Mr. Sullivan?
9 August 31st is okay with you?

10 MR. SULLIVAN: Yes.

11 CHAIRPERSON HILL: Okay. So, Mr. Moy, we're going to
12 have filings from the applicant by August 31st.

13 MR. MOY: Yes, that's good.

14 CHAIRPERSON HILL: Okay. And then the ANC apparently
15 is meeting on July 6th.

16 MR. MOY: 7th.

17 CHAIRPERSON HILL: No, July 6th is when their next
18 meeting is.

19 MR. MOY: Well, I thought she said it was every Tuesday.
20 The first Tuesday.

21 CHAIRPERSON HILL: It's the second Tuesday of the
22 month. So the next one is July 6th. So, Commissioner Moore,
23 can you hear me?

24 MS. MOORE: Sure.

25 CHAIRPERSON HILL: Can you get something to us by July

1 21st?

2 MS. MOORE: Yes, I can.

3 CHAIRPERSON HILL: Okay. So submissions by July 21st
4 from the ANC, then submissions by August 31st by the applicant,
5 and then the ANC will have until September 15th to give us
6 anything additional they want after the applicant's filings, and
7 then we're back here for a decision on September 22nd.

8 MS. MOORE: Okay, got you.

9 CHAIRPERSON HILL: Okay, Mr. Moy?

10 MR. MOY: Yeah, could I run that by you again?

11 CHAIRPERSON HILL: Yes.

12 MR. MOY: So the applicant would make his filings up
13 to August 31st. That's the applicant. Of course, prior to August
14 31st, ANC would submit their written letter or resolution by July
15 21st, right? And then the ANC will be able to reply to the
16 applicant's filing, which he would make on August 31st, and ANC's
17 response to that filing by the applicant would be by September
18 15th, right? And then this should be set for decision on
19 September 22nd.

20 CHAIRPERSON HILL: Okay.

21 Mr. Sullivan, do you have anything to add or any
22 questions?

23 MR. SULLIVAN: Yeah, I have a question about the shadow
24 study, because all shadow studies up to this point have shown the
25 delta between the matter of right massing and a proposed

1 additional massing. And so, to show a shadow study that goes
2 from zero to a hundred, would not, in my opinion, accurately
3 represent the degree of relief being requested. And so, I would
4 like some more feedback. And I'm also trying to -- there's
5 literally hundreds of apartment units within a few hundred feet
6 of this property, and this this property has more apartment
7 buildings around it than almost any other RA-1 project that I've
8 seen. The criteria, this has been discussed in past cases, is
9 admittedly relatively low for approval of RA-1 cases. Hence,
10 almost -- I don't know of any ever being denied, actually. And
11 also, the density is low. It's a 31-foot-high building at 40
12 percent lot occupancy. So I'm a little bit of a loss of where
13 we go from here. If we can't do a 1.08 FAR with IZ units, do we
14 scale back the FAR? Is there fewer units? And then instead of
15 several hundred units, there's two less units. Parking would
16 definitely -- I will go after aggressively, and see what we can
17 do, because I understand that concern there, and I would love to
18 eliminate that area of relief, if I could. But after the history
19 of these cases and how they are considered and what an investor,
20 somebody that invests in housing and provides housing in the
21 District, relies on is certain assumptions, and those assumptions
22 are that if I do a reasonable project within the -- with the
23 massing, this is what I need to do to obtain an approval.

24 This path we're headed down possibly leads to just
25 leaving these properties idle and losing out on -- I'll put them

1 together 20 -- 26 housing units, which, at a time when I hear
2 often that housing units are desperately needed. So I don't
3 think this project sticks out from those other cases which were
4 approved, and -- other than the parking relief. And so, I'm not
5 sure where to go with that. And I'm concerned, because a denial
6 is, okay, then the property stays vacant, and the owner loses
7 everything, or he builds a single-family house, which he can
8 build in the exact same massing. And so I --

9 CHAIRPERSON HILL: Yeah, Mr. Sullivan, I got you.

10 MR. SULLIVAN: I would like to say in that context, I
11 need to see this --

12 CHAIRPERSON HILL: I got you. Mr. Sullivan, I think
13 you're making a good argument, and I think you're working for
14 your client, and I think it's great. It's, again, that these
15 days sometimes -- well, I'm not blaming it completely on the
16 length of the day. But what I'm saying is that I don't know
17 where I am. I don't know where Ms. John is. I don't know if
18 you've necessarily lost or not. Right? So go ahead, and you
19 can write up a conclusion. Right? Go ahead and write up a
20 conclusion, and then if we get to that day on September 22nd,
21 perhaps we might reopen the hearing and bring you in for a
22 continued hearing. I don't know. We'll talk about it some more.
23 Right?

24 And as far as the massing thing goes, I know I've talked
25 about it, and we talk about this a lot also. Nobody's going to

1 build a single-family house that big, right? It's just not
2 something that would happen. So that's where -- I mean, I kind
3 of get it, and I understand the arguments that always happen.
4 But at some point, you're not going to build something that big,
5 because it just doesn't make making any sense. So go ahead, and
6 give us what you want to give, I guess, the shadow study. I
7 don't know, Mr. Smith, if that argument -- or if you can find -
8 - if you can give him more clarification, I guess. What Mr.
9 Sullivan is saying, is that -- what he normally does is does the
10 -- the -- you know, he does the matter of right shadow study
11 versus the proposed shadow study, and he's going to have a zero,
12 you know. Do you still want the shadow study, Mr. Smith?

13 BOARD MEMBER SMITH: Based off of that, no. I wouldn't
14 need it.

15 CHAIRPERSON HILL: Okay. Al right. So, Mr. Sullivan,
16 you can write -- you can give us whatever you want to give us.
17 There's time for the person, the ANC to respond, and we'll see
18 where we get on September 22nd. Okay?

19 MR. SULLIVAN: Thank you.

20 CHAIRPERSON HILL: Okay, great. All right.

21 So, Mr. Moy, you got everything, right?

22 MR. MOY: Yes, sir.

23 CHAIRPERSON HILL: Okay. Commissioner Moore, do you
24 understand everything?

25 MS. MOORE: Yes, sir. I do. Thank you very much.

1 CHAIRPERSON HILL: Thank you, Commissioner. Thanks for
2 sticking around.

3 MS. MOORE: You're welcome.

4 CHAIRPERSON HILL: All right, you guys, let's take a
5 quick break, okay? Wouldn't you agree we need a break? And then
6 you can go find -- we should go find Mr. Blake, and if he's been
7 outside, we should make him lead the rest of the day. Okay?
8 All right, I'm taking a ten-minute break. We'll see you at 4:40.

9 (Whereupon, there was a ten-minute recess.)

10 MR. MOY: The Board is back in its public hearing
11 session, and the time is at or about 4:45 p.m.

12 The next case application before the Board is 20465,
13 Patrick O'Rourke -- O-R-O-U-R-K-E, as amended for special
14 exception from the lot occupancy requirements of Subtitle E §
15 304.1. This would construct a rear addition to an existing
16 attached two-story with basement, principal dwelling unit, RF-1
17 zone. The property is located 13 7th Street Southeast, Square
18 869, Lot 827. As to notice requirements, the applicant has filed
19 its posting under Exhibit 40, dated June 18th. And it is my
20 understand is that he filed yesterday, Tuesday, June 22nd, an
21 affidavit of maintenance. But I would like to confirm that with
22 the applicant, sir.

23 CHAIRPERSON HILL: Okay. Ms. Jones, are you there?

24 MS. JONES: (No audible response.)

25 CHAIRPERSON HILL: Ms. Jones, you may be on mute. Ms.

1 Jones? Mr. O'Rourke, are you there?

2 MR. O'ROURKE: Yes, I'm here.

3 CHAIRPERSON HILL: Is Ms. Jones presenting or are you,
4 Mr. O'Rourke?

5 MR. O'ROURKE: Well, I thought Mr. Jones was
6 presenting.

7 CHAIRPERSON HILL: Okay.

8 MR. O'ROURKE: So -- but I can probably -- it's pretty
9 simple, so -- I don't know much about this whole area, but --

10 CHAIRPERSON HILL: Okay. Mr. O'Rourke, why don't you
11 tell us about your project?

12 MR. O'ROURKE: Okay. It's a small project. It's a
13 screened-in porch in the dogleg of our property. So it doesn't
14 extend beyond the house. It doesn't extend beyond any of the
15 other homes. The only house that can see the actual screened-in
16 porch is the house directly to our south. And they've given a
17 letter of approval as our neighbors to the north have given a
18 letter of approval. So we have a dogleg on the side of our house,
19 and it's contained within the dogleg.

20 CHAIRPERSON HILL: Okay. Somebody's speaking. Is it
21 Mr. Jones?

22 MR. JONES: This is Kim Jones. I think you might be
23 able to hear me now.

24 CHAIRPERSON HILL: Yeah, I can hear you. Okay, Mr.
25 Jones, Mr. O'Rourke was kind of walking us through your project

1 a little bit. And to be quite honest, I don't have a lot of
2 questions about your project. So let me just see what the Board
3 has to say. I'm going to let Mr. Cochran from the Office of
4 Planning speak for a little while.

5 MR. COCHRAN: Thank you, Mr. Chairman. Steve Cochran
6 representing the Office of Planning on Case 20465.

7 CHAIRPERSON HILL: Mr. Jones? Mr. Jones, if you could
8 mute your microphone, please?

9 VICE CHAIR JOHN: Yeah, mute it.

10 CHAIRPERSON HILL: All right, Mr. Cochran, if you could
11 go again.

12 MR. COCHRAN: Okay. Sure. This is a case that was
13 originally submitted because of a referral by the zoning
14 administrator. But after OP talked to the applicant and explained
15 its concerns about the porch requiring a variance, the applicant
16 reduced the size of the porch to something that could be
17 considered as a special exception. So now it's a self-certified
18 application as of June 6th. The lot occupancy is -- wait a
19 minute. It's 69.8 percent proposed. And we simply recommend
20 approval of the special exception under E 5201 and E 90 -- you
21 know, X 901.2. It's a pretty straightforward case at this point.

22 CHAIRPERSON HILL: Okay.

23 MR. COCHRAN: I'll be happy to go into the criteria,
24 if you want, but I think it's pretty obvious.

25 CHAIRPERSON HILL: That's okay, Mr. Cochran. Just

1 give me a second. Thank you.

2 MR. COCHRAN: Sure.

3 CHAIRPERSON HILL: Mr. O'Rourke, Can you hear me?

4 MR. O'ROURKE: Yes.

5 CHAIRPERSON HILL: The letter we got from your ANC
6 speaks to an area variance, and I just want to make sure what
7 you proposed to the ANC is what is before us, correct?

8 MR. SULLIVAN: Correct.

9 CHAIRPERSON HILL: Okay. Does anybody have any
10 questions for the Office of Planning? Ms. John?

11 Mr. Jones? Mr. Jones, if you can mute your microphone,
12 that'd be great. Thank you, or Mr. O'Rourke.

13 VICE CHAIR JOHN: Thank you. Can you talk briefly
14 about the general special exception criteria, Mr. Cochran?

15 MR. COCHRAN: Sure. Let me go back into my report for
16 a second, because it's been a while. Okay.

17 Under 5201, it's allowed to be considered as a special
18 exception, because it is a lot occupancy request. It's an addition
19 to a residential building, which is 5201.2. The privacy of use
20 and enjoyment of neighboring properties shall not be compromised.
21 One side of the porch faces the applicant's backyard, the other
22 side of the porch faces a property that has a window on a -- I
23 believe it's right on the property line and at risk. The
24 applicant is putting up a screen that is actually fire-rated on
25 the property line. It would serve a couple of purposes, and that

1 would certainly address the privacy concern.

2 The addition, you know, viewed from the alley, public
3 way, whatever, shouldn't be visually intrusive. It basically
4 won't be visible anywhere except from the applicant's backyard.
5 The applicant has a garage in the back and that would screen it
6 from the alley, and it wouldn't be visible from the front. You
7 can improve anything up to 70 percent. Well, this is to be 69.9
8 percent, so it's okay for a special exception. No need for
9 special treatments, and the use still conforms to RF-1 zone use,
10 which is, in this case, it would be a single-family residence.

11 VICE CHAIR JOHN: Thank you.

12 MR. COCHRAN: Sure.

13 CHAIRPERSON HILL: Okay. Does the applicant -- Mr.
14 O'Rourke, do you have any questions for the Office of Planning?

15 MR. O'ROURKE: (No audible response.)

16 CHAIRPERSON HILL: I'm going to assume that's no.

17 Mr. Young, is there anyone here wishing to testify?

18 MR. YOUNG: We do not.

19 CHAIRPERSON HILL: Ms. O'Rourke, do you have anything
20 you'd like to add at the end?

21 MR. O'ROURKE: No, I'm fine with the way everything's
22 been presented.

23 CHAIRPERSON HILL: Okay, thank you. All right. I am
24 going to close the hearing and the record. Please excuse everyone
25 from the hearing room.

1 Chairman Hood, I'm going to let you start, if you don't
2 mind.

3 CHAIRMAN HOOD: I'm going to yield to one of the Board
4 members, Mr. Chairman. I think it's pretty straightforward, but
5 I'll let somebody else start it.

6 CHAIRPERSON HILL: All right. Mr. Smith, would you
7 do the honors?

8 BOARD MEMBER SMITH: Sure. As Mr. Hood led off, I
9 think it's fairly straightforward. I believe that the
10 application is fairly small, at best, and I do believe that the
11 applicant has -- based on what he's presented, does meet the
12 standards for us to be able to grant special exception from the
13 lot occupancy requirements. I do believe that the request does
14 meet all the standards set forth in E 3201.4 and all the
15 provisions therein, and the general special exception standards.
16 So with that, I stand on OP's stamp, or give great weight to
17 their stamp, and I would vote to approve the special exception.

18 CHAIRPERSON HILL: All right. Thank you, Mr. Smith.
19 Mr. Blake? Mr. Blake, do you have anything to add?

20 BOARD MEMBER BLAKE: Sure, I do. I can support the
21 approval of the special exception relief. Based on the evidence
22 in the record, it appears that the applicant has met the burden
23 of proof under E 5201, and as Board Member Smith pointed out,
24 the general standards as well. The porch will have no visual
25 impact on the house to the south and the impact to the air

1 available. There will be no substantial change in the light.
2 The one hour rated fire wall to provide sufficient screening and
3 privacy for the houses and the houses to north won't all be
4 negatively impacted, if at all. I also note that two -- both
5 adjacent neighbors have provided letters of support. You've got
6 from the -- as far as visual impact, you've got the carriage
7 house really guarding it from the neighborhood, so you won't see
8 it from the rear alley. It won't have any impact on the
9 character, scale, and pattern of the houses. As you pointed out,
10 we got OP approval, the ANC support, DDOT had no objection, HPRB
11 has also approved the -- looked at the project and has no
12 objections to that. So I would be prepared to support it based
13 on that.

14 CHAIRPERSON HILL: Thank you very much.

15 Ms. John, do you have anything to add?

16 VICE CHAIR JOHN: Nothing to add. I'm in agreement with
17 everything that's been said so far, and I give great weight to
18 OP's analysis.

19 CHAIRPERSON HILL: Thank you. I have nothing to add
20 from what my colleagues have stated. I'm going to make a motion
21 to approve Application No. 20465, as captioned and read by the
22 secretary, and ask for a second, Ms. John?

23 VICE CHAIR JOHN: Second.

24 CHAIRPERSON HILL: The motion has been made and
25 seconded.

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

2 MR. MOY: Before I take the roll call, Mr. Chairman, I
3 may have missed the Board's action on the affidavit of
4 maintenance, because that was submitted within that 24-hour
5 block. Did you allow that into the record?

6 CHAIRPERSON HILL: I apologize. Thank you. I forgot
7 to mention that. Yes, unless the Board has any issues, I'd like
8 to allow the affidavit of maintenance in the record. If the
9 Board has any issues, please, someone raise their hand. Seeing
10 no one raise their hand, I assume that's okay.

11 So then, Mr. Moy, yes, please take a roll call.

12 MR. MOY: All right. Thank you, sir. So when I call
13 your name, if you would please respond with a yes, no, or abstain
14 to the motion made by Chairman Hill to approve the application
15 for the amended relief requested. This is for the special
16 exception, of course. The motion was seconded by Vice Chair
17 John.

18 Zoning Commission Chair Anthony Hood?

19 CHAIRMAN HOOD: Yes.

20 MR. MOY: Mr. Smith?

21 BOARD MEMBER SMITH: Yes.

22 MR. MOY: Mr. Blake?

23 BOARD MEMBER BLAKE: Yes.

24 MR. MOY: Vice chair John?

25 VICE CHAIR JOHN: Yes.

1 MR. MOY: Chairman Hill?

2 CHAIRPERSON HILL: Yes.

3 MR. MOY: Staff would record the vote as 5-0-0, and
4 this is on the motion made by Chairman Hill to approve, seconded
5 by Vice Chair John. Also, in support of the motion to approve
6 is Zoning Commission Chair Anthony Hood, Mr. Smith, and Mr. Blake.
7 Motion carries on the vote of 5-0-0.

8 CHAIRPERSON HILL: Okay, great. Thank you.

9 Somebody might have to come over here and help me. I'm
10 getting tired. All right.

11 Okay, Mr. Moy, you can go ahead and call our next one.

12 MR. MOY: All right. So the next to last case before
13 the Board is Case Application No. 20333 of Matthew Pickner. This
14 application is captioned and advertised for special exceptions
15 from the lot occupancy requirements of Subtitle E § 304.1, rear
16 yard requirements of Subtitle E § 306.1. This would construct a
17 three-story rear addition to an existing attached dwelling unit,
18 RF-1 zone at 1165 3rd Street, Northeast, Square 773, Lot 270.
19 The notice provisions are satisfied, both with the affidavits of
20 posting and maintenance in the record. There is a preliminary
21 regarding waiving the 21-day filing, because, I believe, the
22 applicant submitted revised plans in conjunction with the Office
23 of Planning's request. That's it, Mr. Chairman.

24 CHAIRPERSON HILL: Okay, great. Let's see. Ms.
25 Fowler, are you there?

1 MS. FOWLER: Yes, hi.

2 CHAIRPERSON HILL: Hi, could you introduce yourself for
3 the record, please?

4 MS. FOWLER: I'm Jennifer Fowler with Fowler
5 Architects.

6 CHAIRPERSON HILL: Okay. Commissioner Eckenwiler, is
7 that you?

8 MR. ECKENWILER: Yeah. Commissioner Eckenwiler.
9 Commissioner Courtney for 6C06 is also in the meeting. If so,
10 I'd ask that he be promoted.

11 CHAIRPERSON HILL: Okay. Commissioner Eckenwiler, you
12 kind of broke up there at the very beginning. Could you try to
13 reintroduce yourself?

14 MR. ECKENWILER: Sure. You know what, I can plug in,
15 too. It's Mark Eckenwiler, Vice Chair, ANC 6C.

16 CHAIRPERSON HILL: Okay. And who is -- who is the
17 other commissioner you wanted in?

18 MR. ECKENWILER: Commissioner Drew Courtney for 6C06?
19 He may not be available, but I just wanted to ask --

20 CHAIRPERSON HILL: Okay. Mr. Young. If he is there,
21 that'd be great.

22 MR. YOUNG: I don't see him. And I would also maybe
23 recommend Mr. Eckenwiler maybe turn his camera off, and it might
24 fix things.

25 CHAIRPERSON HILL: Okay. We'll see when Mr. Eckenwiler

1 is -- when Commissioner Eckenwiler is speaking as to whether or
2 not he kind of gets choppy again. And if so, Commissioner, we
3 might ask you to turn off your camera, and we'll see what happens.

4 All right. Ms. Fowler, if you could go ahead and walk
5 us through your application and explain how you believe you're
6 meeting the criteria for us to grant the relief requested. I'm
7 going to put 15 minutes on the clock there, and you can begin
8 whenever you like.

9 MS. FOWLER: Actually, the owner, Matthew Pickner,
10 should be on, and he's making -- he's the one that's going to be
11 making the presentation.

12 CHAIRPERSON HILL: Oh.

13 MS. FOWLER: I am really just here for support and
14 consulting on the case.

15 CHAIRPERSON HILL: Okay. Okay, great. Mr. Pickner,
16 can you hear me?

17 MR. PICKNER: Yes, I can hear you.

18 CHAIRPERSON HILL: Okay, Mr. Pickner, could you
19 introduce yourself for the record, please?

20 MR. PICKNER: I'm Matthew Pickner, the homeowner at
21 1165 3rd Street, Northeast.

22 CHAIRPERSON HILL: Okay. Mr. Pickner, if you could
23 walk us through your project and explain how you believe you're
24 meeting the criteria for us to grant the relief requested. And
25 you can begin whenever you like.

1 MR. PICKNER: All right. Thank you. If you can pull
2 up the drawings.

3 CHAIRPERSON HILL: Which exhibit are you looking for,
4 Mr. Pickner?

5 MR. PICKNER: The architectural drawings.

6 CHAIRPERSON HILL: The most recent ones?

7 MR. PICKNER: Yes.

8 CHAIRPERSON HILL: In Exhibit 84?

9 MR. PICKNER: I believe so.

10 CHAIRPERSON HILL: Okay.

11 MR. MOY: Mr. Chairman, before we speak, did you waive
12 the 21-day filing?

13 CHAIRPERSON HILL: Sorry. I'm jumping around. Unless
14 the Board has any issues, I really want to see what was trying
15 to be filed late. And so, I'm going to go ahead waive that filing
16 deadline, unless someone has an issue on the Board. And if so,
17 raise your hand. Okay. All right.

18 Go ahead, Mr. Pickner.

19 And, Mr. Young, if you could bring up that exhibit,
20 please?

21 MR. YOUNG: Okay.

22 CHAIRPERSON HILL: Thank you.

23 MR. PICKNER: So I'll just quickly go through certain
24 drawings. On the coversheet, this just has the project data.
25 You can see the front facade on 3rd Street and the rear facade

1 on the alley.

2 Next slide.

3 The context photos, the top left photo showing the
4 house is on 3rd Street, just north of 1165, and the photo to the
5 right of that showing the houses south of 1165. Across the street
6 is the Uline Arena. It is the third photo. And then the photos
7 on the bottom show -- two photos on the left show the house at
8 1165 from the alley side. And then the third photo from the
9 left, it shows the three-story facades facing the property at
10 1165. And then there are a couple of properties just north of
11 the 1165 across the alley that are four-story.

12 Next slide.

13 The site plan, which shows the proposed addition on the
14 rear yard. Again, applying for either the lot coverage and for
15 the rear yard addition is 69.9 percent.

16 Next slide.

17 And the plot plan showing 1165, sort of mid-block. And
18 so, on the left and the left -- across 3rd Street is the Uline
19 Arena, and across the alley are the third -- the three-story and
20 a couple four-story row houses.

21 Next slide.

22 And then just some demo plans, so you --

23 Next slide.

24 Second floor demo plan.

25 Next slide.

1 Third floor demo plan.

2 Next slide.

3 And the proposed addition on the first floor, you can
4 see the kitchen off the back -- the kitchen on the ground floor.

5 Next slide.

6 Second floor plan.

7 Next slide.

8 The third-floor plan.

9 Next slide.

10 The roof plan.

11 Next slide.

12 And then the 3rd Street elevation and then the alley
13 of the elevation and the 3rd Street elevation. You can see the
14 existing building is essentially everything up to the parapet of
15 the -- just above the third-floor line. So the addition beyond
16 that.

17 Next slide.

18 And the north elevation and the façade has been pulled
19 back 10-foot, three feet from the front, the 3rd Street side
20 front facade to -- as part of -- it was part of the process of
21 working with the ANC and the Office of Planning.

22 The next slide.

23 And then south elevation, it's virtually a mirror --
24 sort of mirror image of north elevation.

25 Next slide.

1 And the materials proposed, Hardie fiber cement siding,
2 then I have -- we have fixed casement windows on the alley side
3 and sliding glass doors at the third-floor deck.

4 Next slide.

5 And the line-of-sight diagram, which shows the view
6 from the sidewalk directly in front of the house off of 3rd Street
7 where you don't see the third-floor addition from the sidewalk.

8 Next slide.

9 And the shading studies. So the images on the left,
10 the row on the left are by right six-foot addition. And on the
11 right, the row on the right are a ten-foot addition. They're
12 just -- the project's nine foot -- just under ten feet, but for
13 part of that purpose, it was ten -- made a ten-foot addition.
14 And so, you can see at this -- these are all 8:00 a.m. views. So
15 different times of the year; November, March and July at 8:00
16 a.m. You can see the difference. You can see the shade that's
17 thrown from 1165 to the property to the north. And you can see
18 there's minimal impact.

19 Next slide.

20 And these are 10:00 a.m. views. And, again, you can
21 see a minimal difference between the foot -- basically the four-
22 foot addition difference.

23 Next slide.

24 And 12:00 noon, which is predominantly in shadow.

25 Next slide.

1 And 2:00 p.m., again, predominantly in shadow.

2 And next slide.

3 And 4:00 p.m., predominantly in shadow.

4 And then I'd just like to conclude with -- just with a
5 summation. When I first submitted this project, I had a full
6 length by right third floor build-out and a full fourth floor
7 roof deck with full height railing parapet walls. That proposal
8 put the overall building height at the 40-foot allowable limit.
9 Since then, working with the ANC and the Office of Planning, I
10 have scaled down the project's massing to a much more modest
11 size. We eliminated the fourth-floor roof deck and parapet walls,
12 which reduced the building height to 34 foot, six inches. And
13 the third-floor addition has been pushed back 10-foot three from
14 the existing front building facade, which now positions the
15 massing to the rear yard side of the site.

16 The third-floor addition setback preserves the
17 continuity and integrity of the two-story facades of the
18 neighborhood block. As illustrated in a line-of-sight diagram,
19 the third-floor massing will not be seen from the sidewalk
20 immediately in front of the house. At the rear yard, the proposed
21 addition stays within the allowable ten feet from the abutting
22 neighbors' facades. And that is it. Thank you.

23 CHAIRPERSON HILL: Okay. Thank you, Mr. Pickner.
24 Does the Board have any questions for the applicant? Okay.
25 Commissioner Eckenwiler, are you there?

1 MR. ECKENWILER: Yes.

2 CHAIRPERSON HILL: Did you have some presentation to
3 give us?

4 MR. ECKENWILER: I do, but I had a question for Mr.
5 Pickner, first. So we can do that in whichever order you like,
6 Mr. Chairman.

7 CHAIRPERSON HILL: You can go ahead and ask your
8 question.

9 MR. ECKENWILER: Mr. Pickner, I just wanted to ask you
10 a question about -- this is Exhibit No. 81. So this is a
11 supplemental filing summarizing some of the changes, and you just
12 read through most of that. But there's one point on page two
13 that I'm curious about. The very last line before your signature
14 block says, "regarding permitting, we intend to obtain permits
15 for all construction, new and existing." And since that's not
16 really something we discussed in the ANC, if you can just
17 elaborate on that a little bit with respect to the existing
18 condition.

19 MR. PICKNER: Sure. So there was some previous
20 construction, and so the house was partially permitted. And so,
21 we intend to obtain permits for everything new and existing.

22 CHAIRPERSON HILL: Okay. Commissioner, did you have
23 testimony that you wanted to give?

24 MR. ECKENWILER: Sure, Mr. Chairman. So, as reflected
25 in Case Exhibit No. 68, the ANC voted back on April 14th, 6-0 to

1 support the application, as it existed at that time. And I do
2 want to note for the record, there have been a couple rounds of
3 revisions since then. Based on my review, they do not materially
4 affect the ANC's analysis. The reason that we're supporting
5 this, is in having reviewed the sunshade studies, we don't find
6 that the impacts to light are undue. And setting back the third
7 story front facade by roughly ten feet, we think is an important
8 concession that better harmonizes this project and some rather
9 unfortunate earlier alterations with the existing scale and
10 pattern of this row of 34. It's quite a remarkable row. There
11 were 35 row houses built on a single permit. Thirty-four of them
12 still exist, and they have a common design, vocabulary, and common
13 scale. So that set back, we think, will bring this property
14 somewhat more into alignment with its counterparts.

15 And then just one other thing which I noted, which we
16 noted in our letter. Since we voted, there have been some
17 expressions of opposition from the neighbors. Those were not
18 imparted to us prior to our vote, and, therefore, we did not take
19 them into account in our vote. And our position, I should
20 emphasize, has not changed. So that concludes my testimony.
21 Happy to answer any questions.

22 CHAIRPERSON HILL: Okay. Thank you, Commissioner.
23 Does anybody have any questions for the Commissioner? All right,
24 I going to turn to the Office of Planning.

25 MR. COCHRAN: Thank you, Mr. Chairman. Let me turn on

1 some light here. Okay. I'm Steve Cochran, again, representing
2 the Office of Planning in Case 20333.

3 And I've got a couple of housekeeping things first.
4 There are two OP reports in the file. The one I'm working from
5 is the one that is labeled supplemental. It's actually a complete
6 report. And that's at Exhibit 65. Since we filed our report
7 back in April, as Commissioner Eckenwiler just mentioned, there
8 have been a number of changes, although, albeit small changes.
9 And so, I just wanted to clarify some of the numbers that we're
10 working with now.

11 OP's recommending a special exception to the lot
12 occupancy requirements of E 304.1. That lot occupancy would go
13 to 69.9 percent. I'm basing this on Exhibit 84, which are the
14 most recent architectural drawings. Our report had had it at a
15 different number.

16 And then OP's also recommending that you approve the
17 special exception for the rear yard requirements of E 306.1. The
18 rear yard would, if you approve it, be 16 feet, 1-3/4 inches.
19 Again, that's a few inches different than what had been mentioned
20 in OP's earlier report. It's actually three yards deeper than
21 in the OP report, so.

22 The addition itself could be six feet by right, but for
23 the rear yard and the occupancy requirements. And because of
24 those, the applicant needs to ask for the special exceptions to
25 permit this addition of just under ten feet. In OP's opinion,

1 it meets the criteria of 5201.1.

2 The applicant has gone through the shadow study. The
3 additional four feet. Well, first off, the six-foot by right
4 addition would cast some shadow. The four feet would also cast
5 some shadow. However, the distinction is on that last four feet.
6 And, as the shadow studies show, the additional shadow cast by
7 the additional four feet would not -- roughly four feet, would
8 not be undue in OP's opinion. It would fall at the very back of
9 the lot of the neighbor to the north, not on their house, but
10 close to their house.

11 As far as visual intrusion goes, which would be the
12 other major consideration, the new design would be a significant
13 improvement with respect to compatibility with the neighborhood
14 -- significant improvement over the existing structure. Again,
15 as Commissioner Eckenwiler mentioned, the third floor would now
16 be set back roughly ten feet from the front. It would, to a
17 large extent, maintain that two-story high pattern in the 34
18 houses on the block. And it's not in a historic District. This
19 is permitted by the zone. That concludes OP's report. And I'd
20 be happy to, of course, to answer any questions.

21 CHAIRPERSON HILL: Okay, thanks. Does the Board have
22 any questions for the Office of Planning? Ms. John?

23 VICE CHAIR JOHN: Thank you. Mr. Cochran, could you
24 briefly address X 901, General Special Exception Criteria, in
25 terms of privacy?

1 MR. COCHRAN: Well, yes, of course, I'd be happy to.
2 In terms of privacy, the addition wouldn't have windows on either
3 the north or the south side, so there would be no impact on the
4 privacy of the adjacent buildings. There would be windows in the
5 back, but there would be the 16-foot, 1-1/4-inch rear -- 1-3/4
6 inch rear yard, and then there's the alley behind and then there's
7 the backyard of the houses that are on the other side of the
8 alley that are on Abbey Place. So the distance of those windows
9 to any buildings to the east would be significant and would
10 protect privacy. There would be no balconies, no roof deck in
11 the back. Again, there shouldn't be an impact on privacy. The
12 building -- the roof deck would be on the left side of the
13 building. It would overlook the vaulted roof of the Uline Arena
14 building. Again, probably not much impact on privacy there
15 either.

16 VICE CHAIR JOHN: Thank you, Mr. Cochran. No further
17 questions.

18 CHAIRPERSON HILL: Anyone else for the Office of
19 Planning?

20 Commissioner Eckenwiler, you have any questions for the
21 Office of Planning?

22 MR. ECKENWILER: Nothing, Mr. Chairman.

23 CHAIRPERSON HILL: Mr. Pickner, do you have any
24 questions for the Office of Planning?

25 MR. PICKNER: No questions.

1 CHAIRPERSON HILL: Okay. Mr. Pickner, it's been
2 brought to my understanding that you need to take the oath. So
3 if you wouldn't mind listening to it. Can you turn on your
4 camera, Mr. Pickner?

5 MR. PICKNER: Yes.

6 MR. ECKENWILER: Mr. Chairman, I think you probably
7 need to swear me in too.

8 CHAIRPERSON HILL: Okay, great. All right. Well,
9 then, Mr. Pickner and Commissioner Eckenwiler, you're going to
10 raise your right hand. And Mr. Moy, if you will administer the
11 oath?

12 MR. MOY: Thank you, gentlemen. I'm sorry for the
13 inconvenience.

14 Do you solemnly swear or affirm that the testimony
15 you're about to present or have presented, is the truth, the
16 whole truth, and nothing but the truth?

17 MR. PICKNER: I do.

18 MR. ECKENWILER: I do.

19 MR. MOY: Thank you, sirs.

20 CHAIRPERSON HILL: All right. So Commissioner
21 Eckenwiler, everything you said before was the truth, correct?

22 MR. ECKENWILER: All of it.

23 CHAIRPERSON HILL: Mr. Pickner, everything that you
24 said before was the truth, correct?

25 MR. PICKNER: Correct, all of it.

1 CHAIRPERSON HILL: All right, great. Oh, my gosh. All
2 of it. Okay, all right.

3 Mr. Young, is there anyone here wishing to testify?

4 MR. YOUNG: We do not.

5 CHAIRPERSON HILL: Okay. All right. Mr. Pickner, is
6 there anything you'd like to add at the end?

7 MR. PICKNER: No. I'm good.

8 CHAIRPERSON HILL: Okay. All right. Then I'm going
9 to go ahead and close the hearing and close the record. Thank
10 you all very much for attending. Have a nice day. And -- there
11 you go. Let's see where we are. I'm going to rest for a minute,
12 because I need to, and I'm going to start with Mr. Smith, if that
13 would be all right.

14 BOARD MEMBER SMITH: Sure. I do believe that I'm fine
15 with the request for the special exception. I do believe that
16 giving the testimony by the applicant and also by Mr. Cochran,
17 and also by Mr. Eckenwiler, with the ANC, I do believe that this
18 particular property would meet the criteria for all of the special
19 exceptions.

20 In regards to questions about privacy, just as Mr.
21 Cochran just stated, the location of the windows to the rear of
22 the property are of a sufficient distance from the properties
23 across the alley, where they would not have a substantial impact
24 on the privacy of the properties across the alley. Also, the
25 property doesn't have any balconies or decks that would further

1 impact any additional questions related to privacy.

2 On the shadow studies, I believe that the shadow
3 section have shown that there wouldn't be any undue impact on the
4 adjacent property owners on light compared to their properties.

5 And also, the design. This particular design is done
6 by Mr. Cochran and kudos to Mr. Eckenwiler with working with the
7 applicant to come up with a design that is in keeping with the
8 character of the row homes along that block. So I do believe
9 that the proposal, at least, would not have any undue impact as
10 it relates to lot occupancy of the green yard requirements, and
11 I would be in favor of supporting the special exception.

12 CHAIRPERSON HILL: Thank you, Mr. Smith. Ms. John?

13 VICE CHAIR JOHN: I agree with Mr. Smith's comments,
14 and I'm going to give great weight to the Office of Planning's
15 analysis and recommendation. And I thank Mr. Cochran for being
16 so thorough in his oral testimony.

17 CHAIRPERSON HILL: Thank you, Vice Chair John.

18 Mr. Blake?

19 BOARD MEMBER BLAKE: So I agree that based on the
20 evidence in the record and the testimony today from the Office
21 of Planning as well as the ANC and the others, that it clearly
22 meets the burden of proof for a special exception and for the
23 general condition. I think that it certainly is a tremendous
24 improvement over the existing structure and that the stipulation
25 that he would do the (indiscernible), while it's not really in

1 our purview, will certainly give comfort to some of the people
2 who have had objections to this project, which seem to be focused
3 in that area. So I'd be prepared to support it.

4 CHAIRPERSON HILL: Okay. Thank you, Mr. Blake.
5 Chairman Hood?

6 CHAIRMAN HOOD: Yeah, I would agree with all the
7 comments I heard from my colleagues. I think we have a much
8 better project with the efforts of the Office of Planning, the
9 applicant, and the ANC with the scale back. And I think that
10 the impacts are very de minimis. And I think the lot occupancy,
11 the rear yard and everything, I think, are suitable of Subtitle
12 X E 5201.4 and all those alphabets. So I believe that this is
13 very de minimis. And, Mr. chairman, the only thing I would say
14 is, as Board Member Blake mentioned, some of the opposition may
15 not be in our jurisdiction, but it's always good that the
16 applicant is working with those who have potential problems,
17 which is not in the jurisdiction of this Board. And that's all
18 I have. Thank you, Mr. Chairman.

19 CHAIRPERSON HILL: Thank you, Chairman Hood. All
20 right, I have nothing else to add, and I appreciate all of the
21 analysis that my colleagues have provided, and I will agree with
22 that analysis.

23 I'm going to make a motion to approve Application No.
24 20333 as captioned and read by the secretary and ask for a second,
25 Ms. John?

1 VICE CHAIR JOHN: Second.

2 CHAIRPERSON HILL: The motion made and seconded.

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

4 MR. MOY: When I call each of your names, if you would
5 please respond with a yes, no, or abstain to the motion made by
6 Chairman Hill to approve the application for the relief
7 requested. The motion was seconded by Vice Chair John.

8 Zoning Commission Chair, Anthony Hood?

9 MR. HOOD: Yes.

10 MR. MOY: Mr. Smith?

11 BOARD MEMBER SMITH: Yes.

12 MR. MOY: Mr. Blake?

13 BOARD MEMBER BLAKE: Yes.

14 MR. MOY: Vice Chair John?

15 VICE CHAIR JOHN: Yes.

16 MR. MOY: Chairman Hill?

17 CHAIRPERSON HILL: Yes.

18 MR. MOY: Staff would record the vote as 5-0-0. And
19 this is on the motion made by Chairman Hill to approve. Motion
20 was seconded by Vice Chair John. Also in support of the motion
21 is Mr. Smith and Mr. Blake and Zoning Commission Chair Anthony
22 Hood. I would record the vote as 5-0-0. The motion carries,
23 sir.

24 CHAIRPERSON HILL: All right, great. Thank you, Mr.
25 Moy.

1 If I could ask if I can indulge you, we're going to -
2 - let's just take five minutes, because I think the next case is
3 going to take a little bit of time. So maybe let's all just take
4 a quick five minutes, and we'll come back. Okay?

5 (Whereupon, there was a brief recess.)

6 CHAIRPERSON HILL: Mr. Moy, you can call us back in
7 and call our last case.

8 MR. MOY: Okay, after a quick break, the Board is back
9 in session, and the time is at or about 3:36 p.m.

10 So the last application before the Board is Case
11 Application No. 20425 of 616 Quebec Place Northwest, LLC. This
12 is captioned and advertised for a special exception under the
13 residential conversion use requirements of Subtitle U § 320.2.
14 This would convert an existing three-story, semi-detached
15 principal dwelling unit to a three-unit apartment house in the
16 RF-1 zone. Property located 616 Quebec Place Northwest, Square
17 3034, Lot 182.

18 The only other thing I have for you, Mr. Chairman, is
19 I just checked the case record, and I do not see affidavits of
20 posting or maintenance, unless it was filed in the past 24 hours.
21 So if you wouldn't mind asking that of the applicant, please.
22 Thank you.

23 CHAIRPERSON HILL: Okay. Let me see. Who is here
24 with us? Is it? Is Mr. Cross here?

25 MR. ABADI: Hi. This is Amir Ebadi from Michael Cross.

1 I think we need to add Michael Cross. I think he's in right now.

2 CHAIRPERSON HILL: Okay, I see a (indiscernible).

3 MR. ABADI: That's him.

4 CHAIRPERSON HILL: Oh. Okay. Mr. Cross, could you
5 introduce yourself for the record, please?

6 MR. CROSS: Certainly. Michael Cross or Robert Michael
7 Cross, as you may know now, architect for the project at 616
8 Quebec Place, Northwest. I'm joined here by Amir Ebadi, who is
9 the project designer.

10 CHAIRPERSON HILL: Okay. And then are the parties in
11 opposition here? I see Commissioner Boese, but I'm looking for
12 Koutroulis.

13 MR. KOUTROULIS: Hello. I was just unmuted.

14 CHAIRPERSON HILL: Oh, okay. Is that Mr. Koutroulis?

15 MR. KOUTROULIS: Yes, this is he.

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

18 MR. KOUTROULIS: Of course. My name is Ioannis
19 Koutroulis. I am the owner of 3658 Park Place Northwest.

20 CHAIRPERSON HILL: Okay, Mr. Koutroulis. It's been a
21 little while since we granted your project. Are you the immediate
22 neighbor next door?

23 MR. KOUTROULIS: I'm actually -- we're separated by a
24 small alley. We're less than ten feet from the rear of my house.

25 CHAIRPERSON HILL: Okay. And Mr. Hughes, are you there?

1 MR. HUGHES: I'm here.

2 CHAIRPERSON HILL: Okay. And Mr. Hughes, could you
3 introduce yourself for the record, please?

4 MR. HUGHES: Yeah. I'm John Hughes, 3656 Park Place.
5 I'm Mr. Koutroulis' neighbor. And my back faces on the property
6 in question.

7 CHAIRPERSON HILL: Okay, are you both going to be
8 presenting or have you talked about how you're going to do it?

9 MR. HUGHES: We both prepared very short presentations.
10 I'll be very brief.

11 CHAIRPERSON HILL: Okay, that's fine. So let's go
12 ahead and -- you guys can go ahead, and we'll go in -- all right.
13 I've been reminded about the order in which people are supposed
14 to go, and I've apparently been doing it wrong. And so, it's
15 going to be the applicant, the Office of Planning and then the -
16 - Alex, I love this -- I mean Ms. Cain. So then parties in
17 opposition and then the ANC?

18 MS. CAIN: So ANC and then parties in opposition.

19 CHAIRPERSON HILL: Okay, great. So I'm not going to
20 remember it. Well, I'll remember it today. Okay. So let's see.

21 Mr. Cross, so if you can go ahead and give us your
22 presentation as to why you believe you're meeting the criteria
23 for us to grant the relief requested. And I'll go ahead and put
24 15 minutes on the clock just so I know where we are.

25 MR. CROSS: Certainly.

1 CHAIRPERSON HILL: And then you know we're going to
2 walk through everybody and see what everybody's issues are. So
3 go ahead and begin your presentation whenever you like.

4 MR. CROSS: Yes, sir. If I could get the plans from
5 Exhibit 43 pulled up, I'd appreciate it.

6 CHAIRPERSON HILL: And if everybody wants to mute their
7 line, I'll do the same.

8 MR. CROSS: I don't believe those are the correct plans
9 for this application. The application number here is 20425,
10 Exhibit No. 43.

11 CHAIRPERSON HILL: Even Mr. Young is tired by now.

12 MR. CROSS: Fantastic. All right. Great. I appreciate
13 that. So we're seeking special exceptional relief for a three-
14 unit conversion in the RF-1 zone, pursuant to Subtitle U 320.2.

15 If I can go to the next slide showing the existing
16 photographs of the existing property. The project is being
17 proposed at 616 Quebec Place Northwest, which is on the south
18 side of the block, located between Warder Road and Park Place.
19 I might ask to just return back to the coversheet. We can flip
20 deeper into the slides with any questions.

21 The project that's being proposed is conforming with
22 the requirements for conversion, as it satisfies the 900 square
23 foot rule, provides no -- proposes no modification of rooftop
24 elements. We'll be providing the required two parking spaces,
25 the rear of the lot off the alley. It's maintaining the existing

1 footprint and does not propose any new rear addition. And we
2 have received permission from the adjoining neighbor at 618
3 Quebec Place Northwest to extend the chimney along the property
4 line.

5 CHAIRPERSON HILL: Mr. Cross?

6 MR. CROSS: Yes?

7 CHAIRPERSON HILL: Mr. Cross?

8 MR. CROSS: Yes?

9 CHAIRPERSON HILL: Don't forget where you were. I just
10 need to interrupt you real quick.

11 MR. CROSS: Sure.

12 CHAIRPERSON HILL: I don't know if you signed in in
13 advance, so you're going to have to take the oath administered
14 by the secretary. Number one. Number two, did you post your
15 affidavits of posting and maintenance?

16 MR. CROSS: I don't believe so. I don't believe we've
17 done either of those.

18 CHAIRPERSON HILL: Okay, can you speak to them?

19 MR. CROSS: Yes, I can certainly take the oath. Just
20 this afternoon --

21 CHAIRPERSON HILL: Let's just take the oath. Let's
22 take the oath real quick.

23 MR. CROSS: Sure.

24 CHAIRPERSON HILL: Mr. Moy, could you administer the
25 oath to Mr. Cross?

1 MR. MOY: Sure.

2 MR. CROSS: And, Mr. Moy, Emir Abadi is prepared to
3 take the oath as well.

4 CHAIRPERSON HILL: MR. Abadi, can I -- Mr. Abadi, can
5 you turn on your camera for a second? Great. Could you both
6 raise your hands and listen to Mr. Moy?

7 MR. MOY: Gentlemen, do you solemnly swear or affirm
8 that the testimony you're about to present in this proceeding and
9 what you have testified to is the truth, the whole truth, and
10 nothing but the truth?

11 MR. CROSS: I do.

12 MR. EBADI: I do.

13 MR. MOY: Thank you, gentlemen.

14 CHAIRPERSON HILL: Great, Mr. Moy. I like that little,
15 that what you have testified to. That's pretty good. I don't
16 have to ask that question again anymore.

17 All right, Mr. Cross, go ahead and continue. Oh, no,
18 wait. So the affidavit of maintenance and posting, so did you
19 post properly?

20 MR. CROSS: So that came up earlier this afternoon when
21 I was reviewing the file. I don't have record of posting here.
22 We'll have to go back and confirm if that sign was received and
23 posted. I think it's clear from the record that the neighborhood
24 is quite aware of this project and have been for some time. But
25 at this moment in time, can't actually confirm posting. There's

1 been --

2 CHAIRPERSON HILL: That's right. I mean, I see that
3 the Commissioner is here, and I see that there's been, you know,
4 we've been having party status in opposition. I mean, I'm
5 comfortable that it has been posted. Actually, can you drop the
6 slide deck for a minute, Mr. Young?

7 Commissioner Boese, do you know anything about the
8 posting, or have you -- you feel as though the neighborhood knows
9 about it?

10 MR. BOESE: I feel the neighborhood knows about it, but
11 I don't recall seeing the orange placard on the property. It's
12 directly behind my house. And I have walked past it recently,
13 and all I've really seen is a white piece of eight and a half by
14 eleven piece of paper posted on the front door.

15 CHAIRPERSON HILL: Okay. Well, I'm comfortable, just
16 because -- I mean, the whole point of posting and notice is so
17 that the community knows, and so that we're able to move forward
18 with this. So unless the Board has an issue, and if so, raise
19 your hand. I'm going to waive the posting and affidavit of
20 maintenance issue right now. And so, if you have any problems
21 with, somebody on the Board, raise your hands. Okay, nobody has
22 any issues with it. Okay, fine.

23 So, Mr. Cross -- Mr. Young, can you pull up the slide
24 deck again? And Mr. Cross, can you start again where you were?

25 MR. CROSS: Certainly. So while OP is recommending

1 approval, we have unfortunately not been able to gain the support
2 of the ANC. We have worked with them since our first meeting
3 with the Zoning and Planning Committee to quantify and address
4 the concerns of the community and the ANC. We postponed our
5 original hearing that was originally scheduled for back in March.
6 We've met with the Zoning and Planning Committee, I believe,
7 about three times. We've had direct phone calls with the
8 Commissioners, I believe, twice, and we've provided three
9 alternate sites since our original submission. Unfortunately,
10 it's out of that experience, beginning with our first meeting and
11 following in all subsequent meetings, that the discussion has
12 been focused on the outright opposition to the project without
13 much consideration for the efforts made to address the concerns,
14 nor an effort to provide any constructive critique for us to be
15 able to respond to.

16 Furthermore, it should be noted that we have been told
17 that the ANC has submitted a Historic District nomination filed
18 shortly after our initial presentation and that the proposed
19 Historic District would include the subject property presented
20 in this case. The opposition from the ANC has evolved throughout
21 those discussions and -- but has most recently been focused
22 exclusively on whether the additional story is matter of right
23 or not. Due to the pending Historic District and as a way of
24 verifying our assumptions, as being a matter of right mass, we
25 submitted a building permit application to DCRA for the general

1 mass proposed in this project here today. That permit has since
2 been approved and was issued on 6/8/2021.

3 Subsequently, we are requesting the Board vote on the
4 application as submitted, limit the discussion here today to the
5 relief that is being requested. We're happy to answer any
6 questions that you might have.

7 CHAIRPERSON HILL: Mr. Cross, can you go through the
8 standard and how you believe you're meeting the requirements?

9 MR. CROSS: Certainly. So, as mentioned earlier, and
10 as you're aware, the 320.2 has been amended to basically include
11 just the conversion portion, and all the other elements that used
12 to be waivers have been kind of pulled out. In this particular
13 case, our application is pretty straightforward in that they are
14 asking for none of the historic waiver portions, but only seeking
15 relief for the conversion itself. That relief is subject to be
16 conforming with the height of 35 feet, which we are -- we're
17 proposing 34-feet, eleven. It requires the fourth dwelling unit
18 to be IZ. We're only providing three, so there is no IZ. Must
19 have an existing residential property on -- building on the
20 property at the time of filing, in which there is one clearly
21 here today. There shall be a minimum of nine hundred square feet
22 of land area per dwelling unit. This lot is 2,885 square feet,
23 which provides roughly 950 square feet per unit in excess of the
24 900 square feet required. Any addition is limited to not
25 exceeding ten feet. Ours only goes back 2-1/2 feet past the

1 neighbors. And again, it's the existing building that goes back
2 2-1/2 feet that we are only continuing up for an additional story
3 as part of the matter of right building permit.

4 The addition is not to impede the function of any
5 chimney. And as stated in my opening statements, we do have a
6 chimney located on the adjoining neighbor's property. We have
7 signed agreement with them to extend their chimney, and I believe
8 we have or have a pending permit application for that extension
9 already. There are no solar panels on the adjoining property
10 that would be affected, and we are maintaining all architectural
11 rooftop elements as shown in the design here. The additional
12 story is setback from the front mansard by a distance of
13 approximately three feet.

14 The addition shall not have an adverse effect on the
15 use and enjoyment of abutting properties. We have a solar study
16 included in the exhibit here that shows that the additional
17 shadows and light and air in turn are not affected by the relief
18 being requested here today, because, in effect, the entire mass
19 is matter of right. It is simply the use change that we're asking
20 for relief for here. The exception to that is the small penthouse
21 structure on the roof, which is allowed as a matter of right only
22 if the relief is given, and it becomes an apartment house. And,
23 therefore, the shadow studies shows that additional shadow of the
24 penthouse structure itself as the non-matter of right or the
25 increased shadow.

1 And we've demonstrated compliance with photographs and
2 elevation plans and elevations in the set provided. I think the
3 rest of these are pretty much non-issues, but they're
4 (indiscernible.) Does that answer your question, Chairman?

5 CHAIRPERSON HILL: Yeah. Mr. Cross, can you speak to
6 the whole building height measuring point issue? Is there
7 something in the exhibits that you want to point me to?

8 MR. CROSS: Well, there's not exactly. There is in the
9 exhibits a survey provided by the ANC. It's our survey they
10 uploaded as part of their exhibit under 46A. But the reason
11 there's not a building height measuring point component to our
12 application here today or any of the exhibits provided is because
13 we're not seeking relief for building height, or anything related
14 to the building height measuring point. That has become a point
15 of contention with the ANC. And, as noted, as a way of confirming
16 the mass we're proposing is matter of right, we went ahead and
17 submitted it for building permit review, and it was subsequently
18 reviewed and approved, and the permit is issued for the mass that
19 you see on the screen, the difference being the roof, the
20 penthouse on the top. So the building height measuring point
21 from our perspective, at this point in time, is determined to be
22 a matter of right by the issuance of that permit.

23 CHAIRPERSON HILL: Okay. All right. Why don't you
24 go ahead and drop your presentation. Mr. Young?

25 Okay, does the Board have any questions for the

1 applicant?

2 (Negative head shake.)

3 CHAIRPERSON HILL: Okay. All right. We're going to
4 turn to the Office of Planning.

5 MR. JESICK: Thank you, Mr. Chairman, and members of
6 the board. My name is Matt Jesick. I'm representing OP on this
7 application. The Office of Planning is recommending approval of
8 the special exception. As the Board is aware, the criteria for
9 a conversion to three units is -- they are relatively
10 straightforward. The most important being that the lot in
11 question has 900 square feet per unit, and this application meets
12 that criterion.

13 In terms of the General Special Exception Criteria, §
14 901.2(a) of Subtitle X asks is the special exception in harmony
15 with the general purpose and intent of the zoning regulations,
16 and we found that, yes, this conversion would be in harmony with
17 the intent of the RF-1 zone, which recognizes the ability of
18 properties to convert to three units, if they meet the specific
19 criteria of Subtitle U.

20 901.2(b) would be special exception. That is the
21 addition of one unit beyond what is permitted as a matter of
22 right, tend to affect adversely the use of neighboring
23 properties. We found that the addition of that additional unit
24 would not negatively impact nearby properties. As I said, the
25 minimal land area is met for the conversion, and the property

1 would meet other zoning regulations, such as parking, lot
2 occupancy, rear yard. The existing nonconforming side yard would
3 remain and not be decreased.

4 Now, in terms of height, we do know the question
5 of the building measuring point. Our report was based on the
6 information in the record at the time, which indicated that this
7 was an existing two-story building. We feel that the applicant
8 should clarify this issue. OP's recommendation on the conversion
9 would likely not change, but obviously, if the number of stories
10 needs to change, that would be a major design change for the
11 project. So we have discussed this with the zoning administrator,
12 who agrees that the building height and measuring point for this
13 project should be at the front of the porch, not at the main
14 facade of the building. So we do feel that the applicant should
15 clarify this issue, but I'd be happy to take any questions. Thank
16 you.

17 CHAIRPERSON HILL: Thank you, Mr. Jesick, for your
18 testimony.

19 When you say the applicant should clarify, how would
20 they clarify?

21 MR. JESICK: Well, we understand that there is a
22 topographical survey that has been completed that could
23 specifically identify the elevation at the front of the porch.
24 That would establish the building and the measuring point and
25 also determine whether the lowest level counts as either a cellar

1 or a basement.

2 CHAIRPERSON HILL: Now, I understand the BHMP. So
3 you're saying there -- what did you say? There's a survey, what?

4 MR. JESICK: We understand that the applicant has
5 completed a topographic survey that would potentially establish
6 that.

7 CHAIRPERSON HILL: Okay. Mr. Cross, do you have the
8 topographic survey?

9 MR. CROSS: We do. We do have a topographic survey.
10 There is one provided in the record. We have an updated survey
11 as well that would provide alternate topography in the front of
12 the building. I think our position is the -- that BHMP and the
13 resolution to that seems to be suggested by OP would not change
14 the outcome of their support for the relief being requested.
15 And, therefore, if it was found that it is potentially issued in
16 error, we would like the opportunity to work directly with the
17 zoning administrator on the base building permit, independent of
18 the relief being requested today.

19 CHAIRPERSON HILL: Right. But if the building height
20 measuring point is wrong, then you won't be able to get the same
21 design.

22 MR. CROSS: Potentially. The way the building
23 measuring point is set, however, could change with potentially
24 different entry scenarios at the front of the building, which
25 would -- which is moved my building height measuring point.

1 CHAIRPERSON HILL: Okay. I got you. I'm just trying
2 to cut to the chase. I'm listening to the Office of Planning
3 right now. And so, Mr. Jesick, I don't -- you just said to
4 clarify. So is what Mr. Cross just saying, is that clarifying
5 it to you or not?

6 MR. JESSICK: We are not aware of different entry
7 scenarios. Obviously, we would love to be able to review any
8 significant changes to the front of the building. So I'd say at
9 this point, the clarification is yet to come.

10 CHAIRPERSON HILL: Okay. Mr. Smith?

11 BOARD MEMBER SMITH: Well, (audio interference)
12 following that clarification where Mr. Jesick is now. So just
13 to further clarify. So on BZA sheet 10 of architectural plans
14 it does show -- the (audio interference) is showing the BHMP as
15 34 feet, 11 inches and three-quarters. Is that the same height
16 that is shown on the building permit plan submitted to DCRA?

17 MR. JESSICK: I couldn't quite hear you, Mr. Smith. Was
18 that a question for me?

19 BOARD MEMBER SMITH: Yes. It's probably a question of
20 both. So first you, Mr. Jesick.

21 MR. JESSICK: All right. My understanding that, yes,
22 the elevation in the BZA plans is the same as on the permits.
23 However, the question is, is that the correct location for the
24 building height measuring point?

25 BOARD MEMBER SMITH: Right.

1 MR. JESICK: And the zoning administrator has indicated
2 that no, the building height measuring point should be at the
3 front of the porch, which may have a slightly different elevation
4 than at the base of the building. So that's what we need further
5 information on.

6 BOARD MEMBER SMITH: Verification on. Okay, thank you.

7 CHAIRPERSON HILL: So I guess, yeah, go ahead, Chairman
8 Hood.

9 CHAIRMAN HOOD: I may be missing something. It won't
10 be the first time, believe me. I don't understand. I think I
11 heard Mr. Cross say they had an updated building height. They
12 had an updated one. I heard the Office of Planning ask for it,
13 so I don't understand why it can't just be -- not wait. Why
14 can't we get it now, Mr. Cross? I don't understand why we can't
15 get the update?

16 MR. CROSS: Sure.

17 CHAIRMAN HOOD: I mean, I think we spent ten minutes
18 talking about something we just need to provide to the record,
19 so.

20 MR. CROSS: Yeah.

21 CHAIRMAN HOOD: Maybe it's getting late, but still, we
22 could cut to the chase and move on to something else. We've
23 asked for what we needed, Mr. Cross, in the discussion as far as
24 I'm concerned.

25 MR. CROSS: Yeah, I think it's a very good question,

1 and I think this is something that even, you know, I'm struggling
2 to communicate fully with the ANC.

3 The reason that information hasn't been provided to
4 date is the building height measuring -- providing the height of
5 building height measuring point is only possible when we know
6 what the building height measuring point is. Right? And so, if
7 we find that the point where the ANC is saying that it is today
8 is not -- would prevent a third story, we may decide to alter
9 the entry configuration to the basement in a way that would change
10 that measuring point. Right? That measuring point moves as the
11 building configuration moves. And so, providing you a plan of a
12 point in space today for a design that may not be the final design
13 doesn't actually do anything.

14 And so, the reason that nothing further has been
15 provided is because the building permit was approved with the
16 building height measuring point that we had provided originally
17 to both the BZA, ANC, and building department. And, therefore,
18 we said, okay, there's no reason to submit further information,
19 because that is no longer --- that the question of where that
20 point is, is no longer up for debate. If it is up for debate,
21 again, if that -- if that permit is rescinded or appeal, we would
22 likely recommend an alternate configuration, which would also
23 have an alternate building height measuring point. Therefore, I
24 don't have any information I can provide today, because that
25 point hasn't been established other than what's been proposed.

1 CHAIRMAN HOOD: So Mr. Cross, the way I understand it
2 is the zoning administrator also, unless I heard Mr. Jesick wrong,
3 is asking for them. And he's actually the guardian in the
4 District of Columbia of zoning heights. So I don't understand -
5 - I still don't understand why we don't have that information.
6 I understand that you want time to tweak it, but I think that
7 needs to be provided. I'm just not catching it.

8 MR. CROSS: I understand. We have not heard from the
9 zoning administrator that he wants more information on this
10 building permit. The building permit was issued on the 8th, and
11 the only knowledge that I have about the information that OP is
12 presenting today was provided to me by OP yesterday. I still
13 haven't heard from DCRA that they have any concern about the
14 permit as issued.

15 CHAIRPERSON HILL: Okay. Just give me -- I'm just
16 trying to talk this through. And then you all can -- and then
17 Ms. John can go and Mr. Smith.

18 So Mr. Jesick, what is it that the Office of Planning
19 would like to see?

20 MR. JESICK: I think we just really -- if the building
21 measures point affects the design of the building in some way, I
22 think that would be important for everyone involved to be aware
23 of.

24 CHAIRPERSON HILL: Yes, I agree. I agree. What is
25 it that the Office of Planning would need to see?

1 MR. JESICK: I think the -- maybe the applicant should,
2 you know, present a design or confirm with the zoning
3 administrator, perhaps, what is the correct point? What is the
4 elevation of the building? What is the height of the first floor
5 above grade, or what we're today calling the first floor? Does
6 that make the lowest level, a cellar or a basement? I think that
7 should be clarified to address everyone's concerns.

8 CHAIRPERSON HILL: Okay. So I'm now going to cut to
9 the chase, and my Board members can follow me, right?

10 Mr. Cross, I mean, I know you also want to get as
11 quickly through this as you can, one way or the other. Right?
12 And so, it seems that you need to go back to the zoning
13 administrator, right, and then also the Office of Planning, and
14 make sure that you three are all on the same page, in that the
15 Office of Planning feels comfortable with the building height
16 measuring point. In other words, I don't want to go through this
17 whole exercise if, in fact, we're not going to be approving the
18 application that is before us. Right? And if the question is
19 the BHMP, I don't want to go through this whole thing. And also
20 then if the ANC is still going to be in opposition and the
21 opponents are still going to be in opposition, even after the
22 zoning administrator and you guys have figured out how to come
23 to a different design, right, that still might get the ANC and
24 the opposition still at the same point where they are, so I'd
25 rather just do this all again, once we're arguing the same thing

1 that we're going to be arguing. Right? So, in my opinion, I'm
2 looking at my Board members, it's not until we get this BHMP
3 settled and then get OP to opine on the BHMP issue before we're
4 back here again. Would you guys agree with me? Okay, I see two
5 nods. I see --

6 CHAIRMAN HOOD: Mr. Chairman?

7 CHAIRPERSON HILL: Yeah?

8 CHAIRMAN HOOD: Yeah. I would agree with you. We need
9 to get the BHMP ideally confirmed by the zoning administrator
10 before moving forward and that'll cut to the chase. We really
11 need to. I don't understand what the hesitation is. I think we
12 spent done spent -- it was 5:55 when we started talking and it's
13 6:10 now. I don't understand it, but anyway.

14 CHAIRPERSON HILL: Okay. That's fine.

15 So, Mr. Cross, how would you do this, and how much time
16 do you need to do this?

17 MR. CROSS: We can reach out preemptively to the zoning
18 administrator and work on this. To be honest, we already are to
19 try to get this addressed. I don't know exactly the official
20 order here, because, effectively, this case has also become an
21 appeal case of the permit that's being issued, which I don't
22 think that's what this case is here, you know, presented as, nor
23 the task of the Board for this case. We're happy to provide the
24 information to OP. I don't believe that that the building height
25 measuring point changes any piece of the relief being requested

1 and the designs --

2 CHAIRPERSON HILL: Well, Mr. Cross, I am going to
3 disagree with you on that point, right, that if the BHMP is wrong,
4 then this design is different that's going to come before us.
5 Okay?

6 MR. CROSS: I guess --

7 CHAIRPERSON HILL: So we're wasting our time looking
8 at something that we don't know whether or not it's before us.
9 That's all. Okay?

10 MR. CROSS: I can understand your position.

11 CHAIRPERSON HILL: Okay. So what I would suggest is
12 go ahead and see what -- because -- and also, this is saving you
13 also time in the long run, also in that if the ANC is talking
14 about appealing this building permit, and then you go to the
15 zoning administrator and you guys do something, and then there's
16 another building permit, the ANC is probably going to oppose that
17 building permit. And do an appeal on that building permit. So
18 you might as well just get this over with and figure out what
19 the argument's going to be, right?

20 MR. CROSS: Yes, sir.

21 CHAIRPERSON HILL: Okay. So then I would say again,
22 what I think's going to happen now, and you all can -- and,
23 Commissioner, I'll let you speak, and I'll let the opponents
24 speak, but I think you all are following along with this, right?
25 And that we're back here -- the next time I get anybody back here

1 is September 22nd, okay? And so, by then, hopefully, you can go
2 ahead and get in touch with the zoning -- and Mr. Cross, I'm
3 trying to figure out how to best help you get to wherever you're
4 going to get to eventually, right, which is that if I work back
5 from September 22nd, Commissioner -- I'm sorry. Gosh.

6 Commissioner Boese, are you following along with all
7 this?

8 MR. BOESE: Oh, I'm crystal clear with everything
9 that's been said.

10 CHAIRPERSON HILL: You're more or less in agreement
11 with at least this process.

12 MR. BOESE: Yeah, I mean, if possible, there are some
13 things I'd like to say, but I'm totally on board with where you
14 are right now.

15 CHAIRPERSON HILL: I'll let you say what you need to
16 say, and then -- but give me a second to get through some timing
17 issues here, okay? When do you guys meet, your ANC?

18 MR. BOESE: We meet the second Wednesday of the month,
19 but we do not meet in August.

20 CHAIRPERSON HILL: Got it. Yeah, nobody meets in
21 August. I'm pretty sure nobody meets in August. But maybe
22 somebody does. I don't know. So that means you're going to go
23 -- you're going to have one more meeting in July, and then your
24 next one is -- what'd you say, the 6th of September?

25 MR. BOESE: Let's see, 8th.

1 CHAIRPERSON HILL: 8th. Okay. So I don't know
2 whether, you know, you want to hear from them again. And if I
3 were you, I would, you know, just so you know, what you're going
4 to be arguing against or for, or whatever. Right. But that's
5 up to you guys. Right.

6 And so then, Mr. Cross, that means you need to get your
7 stuff ready to go for their meeting by the 8th of September. So
8 I mean, we're just going to end up having a continued hearing
9 with all this, right? So I would just go ahead and do Mr. Cross,
10 whatever you think you need to do, so that you can get back before
11 the ANC with whatever it is that you and the zoning administrator
12 and the Office of Planning has kind of come up with. Right? And
13 then at least you'll find out where you stand if they're willing
14 to hear from you again, right?

15 But regardless, we'll leave the record open for
16 anything. Well, we're coming back on the 22nd. So if I can get
17 something from the ANC by the 15th, which is a week after the
18 8th, and then we'll be back here on the 22nd. Okay? And Chairman
19 Hood -- are you here on the 22nd, Chairman Hood?

20 CHAIRMAN HOOD: I'm trying to figure out -- no, I'm
21 not, I don't know. I really don't know. But I don't know if we
22 really got into the merits.

23 CHAIRPERSON HILL: Oh, no, we're okay. Chairman Hood,
24 you're on this one.

25 CHAIRMAN HOOD: Maybe we did get into the merits.

1 CHAIRPERSON HILL: No, you read, we read, everybody's
2 read. No. So --

3 CHAIRMAN HOOD: I'll be back on the 22nd.

4 CHAIRPERSON HILL: Okay. All right. Okay.

5 So, Mr. Cross, do you have any questions on anything I
6 just said?

7 MR. CROSS: No, sir. I appreciate your time.

8 CHAIRPERSON HILL: Okay. All right.

9 Commissioner Boese, you had something you wanted to
10 say?

11 MR. BOESE: Well, first of all, I just want to thank
12 you all for seeing the issue, and I think I witnessed in ten
13 minutes what we've been frustrated with for four months. We have
14 asked for clarification on the building height measuring point.
15 And Mr. Cross and the applicant has been willing to talk about
16 everything except the building height measuring point.

17 So the reason we opposed this case in its entirety is
18 we don't know what we're reviewing. We have asked for specific
19 information that lets us know what can be built. And without
20 knowing what can be built, there is no special exceptions or
21 variances we can consider, because we don't know what they're
22 related to.

23 I just want to be clear that we met with Mr. Cross and
24 the surveyor, Mr. Husbands, on April 29th. They agreed to take
25 these extra measurements. They've acknowledged that these extra

1 measurements have been taken. We have asked to see those results
2 twice and we have received no response.

3 We find that there is a very concerted effort here to
4 deny us accurate information so that we know what we're talking
5 about. And, in our opinion, it is a basement. Currently, they're
6 wrapping their arms around this incorrect building height
7 measuring point, which was not done intentionally. It -- I've
8 confirmed that the surveyor used a method that at one time was
9 acceptable, but with recent zoning changes, it isn't. So he's
10 reputable. We have faith in whatever numbers he gives us, and
11 he agreed to take the additional measurement at the front of the
12 porch.

13 I completely disagree with Mr. Cross that well, we
14 would have to dig this out and change the entrance, and it would
15 change things. The building height measuring point is where the
16 existing facade meets the existing grade. We've talked to Matt
17 LeGrant a week ago; he confirmed that it should be in the front
18 of the porch. We now have confirmation from the Office of
19 Planning that it should be at the front of the porch. Those are
20 both the places that we recommended -- easily two months ago to
21 Mr. Cross, where the measurement should have been taken, and he
22 has been obstinate and refused to give us that measurement.

23 That is a big problem for us, because if you read the
24 regulations, sure, you can dig out the front yard, but the lower
25 grade does not help him. And he can't add dirt to raise it. You

1 know, when we look at it based on our layman's measurement, the
2 height between the grade and the finished first floor comes out
3 to about five feet, three inches. That is significantly different
4 than four foot eight, and it does make the lowest level a
5 basement. And that is why we wanted something that was accurate
6 and from a reputable surveyor, which was done. And we do not
7 find that it's unreasonable for us -- as a party in an ANC with
8 great weight -- to ask for additional information, to actually
9 be able to review the cases before us. That's what we want.

10 So we want the updated survey in the record, and we
11 want it shared with us because that's what we need to use before
12 we can move forward.

13 And to Mr. Cross, who wanted to try to meet with us
14 before the last meeting to talk about, well, can we just not talk
15 about the building height measuring point, but the design. Our
16 response was we need that measurement before we're willing to
17 talk, because we don't know what we're talking about, which is
18 essentially everything you all just said. And we've been dealing
19 with this for at least three months. You know, we've -- this
20 first came to us four months ago, but we quickly identified this
21 as an issue, and it's -- this is data that has been refused, just
22 outright refused to be given to us.

23 CHAIRPERSON HILL: All right, Commissioner. So
24 anyway, so I guess, yeah, I'm sorry, Commissioner, I mean, like,
25 we've been here all day also. And so, I know you guys have been

1 here all day, and we go through things, all kinds of stuff, and
2 you guys go through things, all kinds of stuff. And so, I'll
3 just say, and Mr. Cross, I mean, it might have been worth a shot.
4 I don't know. I mean, I don't know what, you know, we'll just
5 see what happens with the building height measuring point. I
6 still just don't know, you know? And Mr. Cross, it's okay.
7 We're not -- I'm not saying anything about you. You're welcome
8 to --

9 MR. CROSS: Just one response. Nothing has been
10 withheld. In lieu of an updated survey, we provided an approved
11 building permit which, holds weight. We think holds weight.

12 CHAIRPERSON HILL: Okay, Mr. Cross. Mr. Cross, I got
13 you. It's -- that's --

14 MR. CROSS: There's nothing intentional about
15 withholding. I just --

16 CHAIRPERSON HILL: We're not -- no, no, no. We're not
17 going to go back and forth. We're not going to go back and forth.

18 MR. CROSS: Just so I made that clear.

19 CHAIRPERSON HILL: You made that clear with your
20 permit. I understand. I understand you're here before the
21 permit. But now we're going to get some clarifications from the
22 Office of Planning, and I don't want -- oh, come on, Commissioner.
23 I don't want to go back and forth. So, you know, it's okay. So,
24 I mean, you know, Mr. Cross, you're going to have to go back
25 before the ANC, and, hopefully, it works out for you, right? And

1 so, you know -- all right.

2 Commissioner, you want to say something?

3 MR. BOESE: I just want to say one thing. And this is
4 a bigger issue that I think we need to address, and that's when
5 we were talking with DCRA about this issue, it became apparent
6 to us that it had never come -- even been fathomed by us. But
7 part of the reason why the building permit was approved is because
8 the survey -- there was no accurate survey submitted as part of
9 the record, and they were going off of the self-certified
10 drawings, which were taking measurements off of a survey that
11 they did not have. And so, they were presuming that the building
12 height measuring point had been taken in the correct space due
13 to some of the drawings, but they didn't have the survey showing
14 where the building height measuring point actually had been
15 taken. So once we had that conversation with DCRA, they agreed
16 that it was in the wrong location.

17 CHAIRPERSON HILL: Okay. Well, Commissioner, that's a
18 whole issue that is not part of my world. I mean, I don't know
19 how that gets fixed or whatever, meaning going to DCRA and them
20 doing the permit the way they did the permit.

21 Okay. Mr. Cross, so do you understand? Yeah, you know
22 where you are, right? And so, we'll just see where we get to.
23 Right? So I'll see you guys. We're going to do a continued
24 hearing on the 22nd, Chairman Hood's going to join us, and we'll
25 see where we are. Okay? Oh, wait. Hold on. Sorry.

1 Mr. Hughes?

2 MR. HUGHES: I just want to say it's not by right.
3 That's the point here. It's not by right. We measured. We know
4 it's not by right. We told Mr. Cross it's not by right. He --
5 rather than use the measurement that indicates it's not by right,
6 he used a different measurement. It's like (indiscernible)
7 changing it for his benefit.

8 CHAIRPERSON HILL: Okay. Look, I'm not -- I don't
9 want to go through a back and forth now of all that stuff, okay?
10 But Mr. Koutroulis, -- oh, no, he's the owner. Who's the other
11 -- where -- wasn't there another party status?

12 MR. KOUTROULIS: I'm the owner of 3658 in opposition
13 to this.

14 CHAIRPERSON HILL: Okay. So Mr. Koutroulis, you
15 understand everything that's happening, correct.

16 MR. KOUTROULIS: Yes. They will have to come back when
17 this is all fixed with the measurement.

18 CHAIRPERSON HILL: Okay. So we'll see you all on the
19 22nd. Okay?

20 MR. CROSS: Okay.

21 CHAIRPERSON HILL: Did anybody have anything else?
22 Someone was raising their hand? No? Okay. Good luck to
23 everybody. Have a nice summer. And I'm closing the hearing and
24 end the record, and we'll do a supplement -- I mean not
25 supplemental -- continued hearing on whatever. Okay.

1 It's my birthday tomorrow. Okay? This was not the way
2 to start it off.

3 CHAIRMAN HOOD: Well, tune in tomorrow. I'll wish you
4 a happy birthday when I open up the Zoning meeting. You can come
5 and watch us.

6 CHAIRPERSON HILL: I won't be watching, but I
7 appreciate it.

8 CHAIRMAN HOOD: No, I want you to watch, so you can
9 spend your birthday with us.

10 CHAIRPERSON HILL: It's my birthday. Are you kidding
11 me? It's my birthday. I'm going to tune in to your hearing to
12 hear you say happy birthday to me? Nuh-uh. So, okay. All right.
13 Okay, are we all done? Okay.

14 You all have a good day. See you next time. Bye-bye.
15 We're adjourned.

16 (Whereupon, the above entitled matter went off the
17 record at 6:22 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

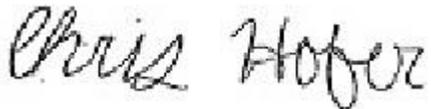
In the matter of: Public Hearing

Before: DCBZA

Date: 06-23-2021

Place: Teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



CHRIS HOFER