

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

OCTOBER 13, 2021

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
CHRISHAUN SMITH, Board Member
CARL BLAKE, Board Member

ZONING COMMISSION MEMBERS PRESENT:

ROBERT MILLER, Vice Chair

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS
STEPHEN MORDFIN
CRYSTAL MYERS
ELISA VITALE
KAREN THOMAS

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ANNE FOTHERGILL
STEPHEN COCHRAN
MATTHEW JESICK

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

MARY NAGELHOUT, Esquire

The transcript constitutes the minutes from the Regular
Public Hearing held on October 13, 2021.

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

2 (9:39 a.m.)

3 CHAIRPERSON HILL: Thank you. All right. Good morning,
4 ladies and gentlemen. The Board of Zoning Adjustment -- sorry.
5 Today's date is 10/13/2021. The hearing will please come to
6 order. My name is Fred Hill, I'm the Chairperson of the District
7 of Columbia Board of Zoning Adjustment. Joining me today is Board
8 Members Carl Blake and Chrishaun Smith and Zoning Commissioner Rob
9 Miller. And also, Chairman Anthony Hood for one case, I believe
10 -- oh, no, no. That's it.

11 Today's meeting and hearing agenda are available on the
12 Office of Zoning's website. Please be advised this proceeding is
13 being recorded by a court reporter and is also webcast live via
14 Webex and YouTube Live. A video of the webcast will be available
15 on the Office of Zoning's website after today's hearing.
16 Accordingly, everyone who is presenting, listening on Webex or by
17 telephone will be muted during the hearing. Also, please be
18 advised that we do not take any public testimony at our decision
19 meeting sessions.

20 If you're having difficulty accessing Webex or with your
21 telephone call-in, then please call our OZ hotline number at 202-
22 727-5471 to receive Webex login or call-in instructions. At the
23 conclusion of a decision meeting session, I shall, in consultation
24 of the Office of Zoning, determine whether a full or summary order
25 may be issued. A full order is required when the decision it

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

6 In today's hearing session, everyone who is listening on
7 Webex or by telephone will be muted during the hearing and only
8 persons who have signed up to participate or testify will be
9 unmuted at the appropriate time. Please state your name and home
10 address before providing oral testimony or your presentation.
11 Oral presentations should be limited to a summary of your most
12 important points. When you're finished speaking, please mute your
13 audio so that your microphone is no longer picking up sound or
14 background noise. Once again, if you're experiencing difficulty
15 accessing Webex or with your telephone call-in, or if you have
16 forgotten to sign up 24-hours prior to this hearing, then please
17 call our OZ hotline number at 202-727-5471 to sign up to testify
18 and receive Webex login or call-in instructions.

19 All persons planning to testify either in favor or in
20 opposition should have signed up in advance. They'll be called by
21 name to testify. If it's an appeal, only parties are allowed to
22 testify by signing up to testify. All participants must complete
23 the oath or affirmation as required by Subtitle Y 408.7. Request
24 to enter evidence at the time of an online virtual hearing, such
25 as written testimony or additional supporting documents other than

1 live video, which may not be presented as prior testimony, may be
2 allowed pursuant to Subtitle Y, 103.13 provided that the person
3 making the request to enter an exhibit explains how the proposed
4 exhibit is relevant, the good cause it justifies allowing the
5 exhibit in the record, including explanation of why the requestor
6 did not file an exhibit prior to the hearing pursuant to Y 206,
7 and how the proposed exhibit would not unreasonably prejudice any
8 parties.

9 The order of procedures for special exception and
10 variances is in Y 409. The order of appeals is in Y 507. At the
11 conclusion of each case, an individual who is unable to testify
12 because of technical issues may file a request for leave to file a
13 written version of the planned testimony to the record within 24
14 hours following the conclusion of the public testimony in the
15 hearing. If additional written testimony is accepted, then the
16 parties will be allowed a reasonable time to respond as determined
17 by the Board. The Board will then make this decision at the next
18 meeting session, but no earlier than 48 hours after the hearing.
19 Moreover, the Board may request specific information to complete
20 the record.

21 The Board and staff will specify at the end of the
22 hearing exactly what is expected and the date when persons must
23 submit the evidence to the Office of Zoning. No other information
24 shall be accepted by the Board.

25 Finally, the District of Columbia Administrative

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

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

11 MR. MOY: Good morning, Mr. Chairman, and Members of the
12 Board. We do have preliminary matters, but staff would suggest
13 that the Board address those specifics when I call each case.
14 Other than that, Mr. Chairman, for the record, I'd like to take a
15 moment to announce that one of the cases that was on today's
16 docket, which was Case Application No. 20472 of The River School,
17 that has been postponed and rescheduled to October 27th, 2021.
18 Other than that, that's all I have, Mr. Chairman.

19 CHAIRPERSON HILL: Okay. Great. Thank you. Let's see,
20 what is this? All right, Mr. Moy, if you could call our first
21 meeting case?

22 MR. MOY: All right. This would be Case Application No.
23 18472B, B as in Bravo, of the D.C. Department of General Services.
24 This application is advertised as a modification of consequence
25 from the eight-year time limit condition, condition number one of

1 BZA Order No. 18472 as modified by BZA order number 18472A.
2 Effective date was May 9th, 2013. This is a request by the
3 applicant for modification of consequence.

4 CHAIRPERSON HILL: Okay. I was actually on this case
5 originally, and I remember that they couldn't come to an agreement
6 with the neighbor concerning the chimney. And so, there was this
7 odd cutout that created some courts. And it seems as though they
8 have come to an arrangement with the neighbor so that they can
9 raise the chimney and no longer have to have those cutouts. In
10 terms of it changing the case itself, I mean, I've gone back and
11 looked at the original case, and I don't think it changes any of
12 the arguments that they had for the relief that they're
13 requesting.

14 And also, I noted that at that time, the ANC was in
15 approval, and they didn't have any issues. And now, there's no
16 report with this one, but again, what's happening is they're
17 filling in, kind of, these courts that were needed because of the
18 inability to come to an agreement with the neighbor with the
19 chimney. So, and also, I looked at the Office of Planning's
20 report and was comfortable with their analysis. So, I'm going to
21 be voting to approve.

22 Mr. Smith, do you have anything you'd like to add?

23 BOARD MEMBER SMITH: I don't have anything else to add.
24 I was on this case with you as well and you summed it up exactly.
25 The reason why they had those court indentations around the

1 chimney was because they couldn't come to an agreement with the
2 neighbor. I'm glad they've come to an agreement with the
3 neighbor. It does improve on the design of the building to remove
4 those courts. And looking back at the record in the previous
5 case, I do not believe that this change materially affects the
6 approval that we gave previously.

7 So, for the same reasons that you stated, I'm in support
8 of it.

9 CHAIRPERSON HILL: Thank you. Commissioner Miller?

10 VICE CHAIR MILLER: No questions or comments other than
11 I concur with your analysis.

12 CHAIRPERSON HILL: Thank you. Mr. Blake?

13 BOARD MEMBER BLAKE: Yeah, I have nothing to add. Thank
14 you.

15 CHAIRPERSON HILL: Okay. I'm going to make a motion to
16 approve Application No. 20396A, as in apple, as captioned and read
17 by the Secretary and ask for a second, Mr. Blake?

18 BOARD MEMBER BLAKE: Second.

19 CHAIRPERSON HILL: The motion was made and seconded, Mr.
20 Moy, if you could take a roll call?

21 MR. MOY: Thank you, Mr. Chairman. Sorry for that
22 little delay. When I call each of your names, if you would please
23 respond with a yes, no, or abstain to the motion made by Chairman
24 Hill to grant the request for modification of consequence. The
25 motion to grant was seconded by Mr. Blake.

1 Zoning Commissioner Rob Miller?

2 VICE CHAIR MILLER: Yes.

3 MR. MOY: Mr. Smith?

4 BOARD MEMBER SMITH: Yes.

5 MR. MOY: Mr. Blake?

6 BOARD MEMBER BLAKE: Yes.

7 MR. MOY: Chairman Hill?

8 CHAIRPERSON HILL: Yes.

9 MR. MOY: Staff would record the vote as 4-0-1, and this
10 is on the motion made by Chairman Hill to grant the request for
11 modification of consequence to the Application No. 18472B of the
12 D.C. Department of General Services, or DGS. It was seconded by
13 Mr. Blake.

14 MS. NAGELHOUT: Excuse me, Mr. Chair, I think there's
15 some confusion here because the Secretary called the DGS case, but
16 you all were talking about the --

17 CHAIRPERSON HILL: Oh, okay.

18 MR. MOY: Oh, the other --

19 CHAIRPERSON HILL: All right.

20 MR. MOY: The other one.

21 MS. NAGELHOUT: You were talking about the 11th Street
22 case.

23 CHAIRPERSON HILL: All right.

24 MS. NAGELHOUT: So, I just, you know --

25 CHAIRPERSON HILL: That's fine.

1 MS. NAGELHOUT: If you want to clarify that you were
2 just deliberating on 20396A, you can go forward. But --

3 CHAIRPERSON HILL: I --

4 MS. NAGELHOUT: -- the DGS case was separate.

5 CHAIRPERSON HILL: No, that's great. Then, that's, you
6 -- Mr. Moy, you and I, I'm sorry, got our agendas crossed. Let's
7 see, so, right. What we had been -- Mr. Moy, why don't you go
8 ahead and read and announce the caption for 20396A, okay?

9 MR. MOY: Okay. All right. Let's, all right. Let's
10 strike the proceeding. So, the Case Application before the Board
11 is Application No. 20396A. This is of 3315 11th Street Holdings,
12 LLC. And this application is a request for a modification of
13 consequence from BZA Order No. 20396, effective date March 19th,
14 2021. This would raze the existing two-story attached principal
15 dwelling unit and construct a new four-story, eight-unit apartment
16 building with cellar and penthouse in the MU-4 zone. The property
17 is located at 3315 11th Street Northwest, Square 2841, Lot 45.

18 CHAIRPERSON HILL: Okay. And we had, right, three
19 conditions on that one, which is the TDM measures, the one off-
20 site parking space, trash service. And the applicant is not
21 proposing to change any of those conditions. So, I did miss that
22 when you were first talking about this. And this is, again, is
23 the one where I was originally on the case and they couldn't come
24 -- we're basically, we're repeating ourselves, but I'll do it
25 quickly anyway. That they couldn't come to agreement with the

1 next-door neighbor for razing the chimney. Now, they've razed the
2 chimney the, removing the courts that were on that building.

3 And again, I didn't have any issues with the original
4 case, I went back and looked. The ANC didn't have any issues with
5 the original case, and now they are filling in those courts, which
6 create a better design. And I don't have any issues with the
7 relief that was originally granted, also, subject to those
8 original three conditions.

9 So, Mr. Smith, do you have anything else to add?

10 BOARD MEMBER SMITH: No, I concur with your opinion.

11 CHAIRPERSON HILL: Chairman -- I'm sorry. Commissioner
12 Miller?

13 VICE CHAIR MILLER: No questions or comments, I concur
14 with your analysis.

15 CHAIRPERSON HILL: Mr. Blake?

16 BOARD MEMBER BLAKE: I concur with your analysis as
17 well.

18 CHAIRPERSON HILL: Thank you. So, once again to be
19 clear, I'm making a motion to approve Application No. 20396A, as
20 in apple, as captioned and read by the Secretary and ask for a
21 second, Mr. Blake?

22 BOARD MEMBER BLAKE: Second.

23 CHAIRPERSON HILL: All right, Mr. Moy, let's try this
24 again.

25 MR. MOY: All right. When I call each of your names, if

1 you would please respond with a yes, no, or abstain to the motion
2 made by Chairman Hill to grant a request for a modification of
3 consequence. The motion was seconded by Mr. Blake.

4 Zoning Commissioner Rob Miller?

5 VICE CHAIR MILLER: Yes.

6 MR. MOY: Mr. Smith?

7 BOARD MEMBER SMITH: Yes.

8 MR. MOY: Mr. Blake?

9 BOARD MEMBER BLAKE: Yes.

10 MR. MOY: Chairman Hill?

11 CHAIRPERSON HILL: Yes.

12 MR. MOY: Staff would record the vote as 4-0-1, and this
13 is on the motion made by Chairman Hill to grant the request for
14 modification of consequence. The motion was seconded by Mr.
15 Blake. Also, in support of the motion is Zoning Commissioner Rob
16 Miller, Mr. Smith, and of course, Mr. Blake, and Chairman Hill.
17 We have no other Board Member present today. The motion carries
18 on a vote of 4-0-1.

19 CHAIRPERSON HILL: All right, great. Thanks, Mr.
20 Moy. All right, give me a second. All right, Mr. Moy, you can
21 call our next one when you have a chance.

22 MR. MOY: All right. This other Board action that's on
23 the meeting session once again, it is Application No. 18472B of
24 D.C. Department of General Services. And again, it's a request
25 for a modification of consequence and this is from the eight-year

1 time limit condition. Condition number one of BZA Order No. 18472
2 as modified by BZA Order No. 18472A. The property is located at
3 2501 through 2533 Martin Luther King Jr. Boulevard, Southeast,
4 Square 5862, Lot 960.

5 CHAIRPERSON HILL: Okay. All right. So, I've read
6 through all this. I mean, in terms of a, they're asking for a,
7 they're asking for removal of the time limit, right? Or at least,
8 going to ten years. And also, they, I guess, the -- when I went
9 back and looked, you know, in 2012, there was a variance of off-
10 street parking. Now, the regulations are that they would have to
11 provide ten spaces versus what they're proposing, which is 48
12 spaces. So, I mean, that's a big difference, obviously. And the
13 Office of Planning's report outlines how they believe that they're
14 meeting, how they're comfortable with removing the time limit.

15 Again, we're extremely busy nowadays with applications.
16 And so, I don't want to try to get more applications in front of
17 us. However, a time limit would have been something that I would
18 have maybe wanted to talk about a little bit more with the
19 applicant and, or at least the community. However, there is
20 something from the ANC that they don't have in there, a concern
21 about the time limit. And so, I would be in approval of approving
22 this as a modification of consequence.

23 So, I'm going to vote yes. Mr. Smith, do you have
24 anything to add?

25 BOARD MEMBER SMITH: I concur with your analysis. I

1 think, my only concern was the same thing that you shared, you
2 know, I would love to have heard a little bit more from the
3 applicant, but if we're removing the time constraint. But being
4 that the ANC, you know, supports the removal of this time
5 constraint and believes that this particular school had to have
6 had a major, you know, negative impact, adverse impact on parking
7 with the neighborhood, then I'm fairly comfortable with removing
8 the subset on this particular case. So, I would vote, yes.

9 CHAIRPERSON HILL: Okay. Commissioner Miller?

10 VICE CHAIR MILLER: Thank you, Mr. Chairman. Yeah, I
11 support this application. This charter school has a, I guess,
12 now, an eight- or nine-year track record. I just, on the face of
13 it, with ANC and support, I think that we can go ahead and approve
14 this and just assume with that ANC support and the track record of
15 being there all the time with more than adequate number of parking
16 spaces for the school, the, that there is -- we can assume that
17 there is no adverse impact. So, I'm prepared to support this.

18 CHAIRPERSON HILL: Thank you. Mr. Blake?

19 BOARD MEMBER BLAKE: Yes. I, too, would be prepared to
20 support this. I'd also note that they have the 48 spaces, but
21 they're also providing 52 supplemental spaces for a total of 100
22 spaces. And that's only for 96 faculty members, which was
23 actually less than what was anticipated. And as you've pointed
24 out, the rules have certainly changed, and the requirement would
25 be significantly less today.

1 With no incidents or issues reported, I would be
2 comfortable supporting removal of the ten-year term as well.

3 CHAIRPERSON HILL: Thank you, Mr. Blake. All right.
4 I'm going to go ahead and make a motion to approve Application No.
5 18472B, as in boy, as captioned and read by the Secretary,
6 removing the first condition concerning a time limit and remain,
7 and all the other conditions remaining into effect and ask for a
8 second, Mr. Blake?

9 BOARD MEMBER BLAKE: Second.

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

12 MR. MOY: When I call each of your names, if you would
13 please respond with a yes, no, or abstain to the motion made by
14 Chairman Hill to grant the request for modification of
15 consequence. The motion was seconded by Mr. Blake.

16 Zoning Commissioner Rob Miller?

17 VICE CHAIR MILLER: Yes.

18 MR. MOY: Mr. Smith?

19 BOARD MEMBER SMITH: Yes.

20 MR. MOY: Mr. Blake?

21 BOARD MEMBER BLAKE: Yes.

22 MR. MOY: Chairman Hill?

23 CHAIRPERSON HILL: Yes.

24 MR. MOY: We have a Board member number not present
25 today. But staff would record the vote as 4-0-1 and this is on

1 the motion made by Chairman Hill to grant, seconded by Mr. Blake.
2 Also, in support of the motion, Mr. -- Zoning Commissioner Rob
3 Miller; Mr. Smith; of course, Mr. Blake; and Chairman Hill. The
4 motion carries on the vote of 4-0-1.

5 CHAIRPERSON HILL: Okay. Thanks, Mr. Moy. You can go
6 ahead and call our first hearing case. When you get a chance. I
7 guess, we're talking about a postponement.

8 MR. MOY: Okay. Mr. Chairman, comparing notes.

9 CHAIRPERSON HILL: Sure.

10 MR. MOY: This would be Case Application No. 20538,
11 correct?

12 CHAIRPERSON HILL: Yes.

13 MR. MOY: Okay. I'm on track now.

14 CHAIRPERSON HILL: Oh, that's all right. Maybe we
15 should do that all day today. I thought we, yeah.

16 MR. MOY: Yeah. Well, I'm still working on my first
17 cup, so, yeah.

18 CHAIRPERSON HILL: Yeah.

19 MR. MOY: All right. Not to make any excuses. Here we
20 go. All right. First case in the hearing session is Application
21 No. 20538 of TG Management, LLC. And this is a request for
22 special exception for the matter of right uses of Subtitle U,
23 Section 202. This would establish a community-based institutional
24 facility in a new three-story with cellar detached residential
25 building in the R-2 zone. Property located at 1614 Olive Street

1 Northeast, Square 5167, Lot 9. And as you mentioned earlier, the
2 applicant has filed a motion for postponement.

3 CHAIRPERSON HILL: Okay. Let me find the applicant. Is
4 it Mr. Thornton?

5 MR. MOY: Yes. It should be Mr. Thornton. I thought I
6 saw him momentarily.

7 CHAIRPERSON HILL: Yeah.

8 MR. MOY: All right.

9 CHAIRPERSON HILL: Mr. Thornton, can you hear me? Mr.
10 Thornton?

11 MR. THORNTON: Can you hear me?

12 CHAIRPERSON HILL: Yes. Can you hear me?

13 MR. THORNTON: I can hear you now, yes.

14 CHAIRPERSON HILL: Great. Could you introduce yourself
15 for the record, sir?

16 MR. THORNTON: Charles Thornton. Can you still hear me?

17 CHAIRPERSON HILL: Yes. I can.

18 MR. THORNTON: Okay.

19 CHAIRPERSON HILL: Okay. All right, sir, we read all
20 your filings. We read everybody's filings. And so, you know, how
21 much time do you think you might need?

22 MR. THORNTON: Well, you know, I'm in the process now of
23 trying to retain an attorney. So, maybe 30 days for that and
24 then, another -- maybe 60 days for them to get caught up with the
25 case.

1 CHAIRPERSON HILL: Yep. That sounds reasonable. I'm
2 going to see, Mr. Moy, what do we have in terms of January?
3 Because we start our holiday at some point, right? And then,
4 we're back, are we back the 12th or the 19th -- we're back the
5 12th, right?

6 MR. MOY: We're back on the 12th. But, also, as a
7 reminder to you, Mr. Chairman, there are other parties in the
8 room.

9 CHAIRPERSON HILL: Okay. Yeah. I'll get to -- thanks.

10 MR. MOY: Okay.

11 CHAIRPERSON HILL: I'll get to them.

12 MR. MOY: Just a reminder.

13 CHAIRPERSON HILL: Thank you. What is going on with us
14 on the 12th?

15 MR. MOY: Okay. On the 12th, we have six applications
16 and one appeal.

17 CHAIRPERSON HILL: Okay. That's not going to work.

18 MR. MOY: And the next hearing after that is on January
19 26th. We have, at the moment, one application --

20 MR. THORNTON: I'll get back to you, I'm on a call.

21 MR. MOY: -- and one appeal. I am thinking about adding
22 a couple more cases to that day, which I will do this week. I'm
23 sorry.

24 CHAIRPERSON HILL: That's all right. So, what about --
25 are we off the 19th? We're off the 19th.

1 MR. MOY: That's correct.

2 CHAIRPERSON HILL: Okay.

3 MR. MOY: For that week.

4 MR. THORNTON: If I may, though, if I may, is there
5 anything, is there anything available in December?

6 CHAIRPERSON HILL: I don't think so, Mr. Thornton. I
7 mean, we got, Mr. Moy -- well, let me do -- Mr. Moy, why don't you
8 take a look at the calendar? And we might have to get back to Mr.
9 Thornton because I don't want to do this right now with everybody.
10 But I will find out, I can see Mr. Brown.

11 Mr. Brown, could you introduce yourself, please?

12 MR. BROWN: It's David Brown, the counsel for the
13 residential parties, the parties that live in the neighborhood.

14 CHAIRPERSON HILL: Okay. Mr. Brown, do you have
15 anything you'd like to add?

16 MR. BROWN: No, I've, my filing says it all. We support
17 the postponement. We think that it will make for an improved
18 hearing process and that, and getting us to the right decision.
19 So, I think the postponement is well served. And as far as
20 availability, I haven't talked to my clients about specific dates.
21 But if enough time is, you know, if we're talking --

22 CHAIRPERSON HILL: Yep.

23 MR. BROWN: -- 60 or more days, we'll make it work.

24 CHAIRPERSON HILL: Right. All right. Mr. Moy, why
25 don't you just, Commissioner Douglas, can you hear me?

1 COMMISSIONER DOUGLAS: Yes, good morning.

2 CHAIRPERSON HILL: Good morning, how are you?

3 COMMISSIONER DOUGLAS: Fine. How's everybody doing?

4 CHAIRPERSON HILL: Good, good. Do you have any
5 questions or anything, Commissioner?

6 COMMISSIONER DOUGLAS: No. I'm in support of the
7 postponement to give them more time for legal counseling.

8 CHAIRPERSON HILL: Okay, great. Mr. Moy, am I missing
9 anybody? I see a Ms. Horton and a Mr. Blue. Who are you guys
10 with?

11 MS. HORTON: Good morning, Chairman, I'm with the
12 applicant.

13 CHAIRPERSON HILL: Oh. That's Horton?

14 MS. HORTON: Yeah.

15 CHAIRPERSON HILL: And Mr. Blue?

16 MS. BLUE: We live across the street from the proposed
17 transitional home for ex-offenders.

18 CHAIRPERSON HILL: Got it. And are you with Mr. Brown,
19 Ms. Blue?

20 MS. BLUE: Yeah, we are.

21 CHAIRPERSON HILL: Okay, great. Okay. Mr. Moy, why
22 don't you work with Mr. Thornton and Mr. Brown and the
23 Commissioners and -- or let's find another day, okay? Or do you
24 want to try to do it now?

25 COMMISSIONER DOUGLAS: I think now would be the time

1 | because, you know, time is of essence and when you look up, you
2 | know, it all stays so packed all the time, I think you want to try
3 | to get it out the way. That's my concern, and --

4 | CHAIRPERSON HILL: Commissioner, I got you. I'm just
5 | saying I don't know, I don't want to spend, like, ten, fifteen
6 | minutes going back and forth here. I'd rather Mr. Moy have to
7 | deal with it. Like, I don't know --

8 | COMMISSIONER DOUGLAS: Okay.

9 | CHAIRPERSON HILL: -- what we have in December. Like,
10 | right now, I think everything is packed, Mr. Moy. Like, I don't
11 | know if this is going to get kicked out to February, you know, I
12 | mean, I can't -- this sounds as though it's going to be a long
13 | hearing. And so, I can't throw it on a day where --

14 | MR. THORNTON: Honestly --

15 | CHAIRPERSON HILL: -- there's an appeal and then,
16 | there's a bunch of other cases as well. So, Mr. Moy, do you have,
17 | do you want time, or do you want to talk now?

18 | MR. MOY: I'd like to do this now while we have, there
19 | are parties to this case.

20 | CHAIRPERSON HILL: Okay. All right.

21 | MR. MOY: And because otherwise, I have to interchange
22 | with them separately on a date.

23 | CHAIRPERSON HILL: Got it. Fine. So, what's the first
24 | one in February? What's the 2nd?

25 | MR. THORNTON: So, December's out of the question,

1 Chairman?

2 CHAIRPERSON HILL: I'm looking, Mr. Moy -- Mr. Moy's
3 looking.

4 MR. MOY: For December, Mr. Chairman, I would suggest --
5 and the assumption is to select the hearing date outside of an
6 appeal that's scheduled. I would suggest December 8th. This
7 would give us 11, but I think that we could wheel through this.

8 CHAIRPERSON HILL: This would be our 11th case?

9 MR. MOY: Yes. Unless I have another applicant that --

10 CHAIRPERSON HILL: No, no, I got you.

11 MR. MOY: -- asks for --

12 CHAIRPERSON HILL: I got you. I got you. Is there
13 another case where there's, like, one appeal? Is there another
14 day where there's, like, one appeal and just a couple of cases?

15 MR. MOY: Yes. We can do December 1st or --

16 CHAIRPERSON HILL: How many?

17 MR. MOY: Well, we have four to six plus the appeal.
18 But the those other two, I have a place holder for time extension
19 and expedited. So, that could go reasonably well. So, December
20 1st is a reasonable date. And as well as December 15th, which I
21 have five plus an appeal. Those are the two dates, sir, in
22 December.

23 CHAIRPERSON HILL: All right. Let's go with December
24 15th. Mr. Thornton, you got that?

25 MR. THORNTON: Yes, sir.

1 CHAIRPERSON HILL: Okay. All right. I mean, if you all
2 can -- anyway. If you, Mr. Brown, if you could try to work with
3 the applicant once you hear what they're proposing in their
4 filings and if there's some way to work through this, that would
5 be great. But I wish you all luck.

6 MR. THORNTON: Okay.

7 CHAIRPERSON HILL: So, Mr. Moy, you're going to work
8 with Mr. Thornton on filings and all that?

9 MR. MOY: Yes, sir.

10 CHAIRPERSON HILL: Okay. All right, Mr. Thornton, thank
11 you. Thank you --

12 MR. THORNTON: Thank you, sir.

13 CHAIRPERSON HILL: -- Mr. Brown. Thank you,
14 Commissioner Douglas.

15 MR. BROWN: Thank you.

16 COMMISSIONER DOUGLAS: You're welcome.

17 CHAIRPERSON HILL: Bye-bye.

18 COMMISSIONER DOUGLAS: I've got a couple more cases on
19 Douglas Street, so I have to stay on.

20 CHAIRPERSON HILL: All right, Commissioner. We'll talk
21 to you later, then.

22 COMMISSIONER DOUGLAS: Okay.

23 CHAIRPERSON HILL: Bye-bye. What'd I say? December
24 15th? I think that's the day that I'm going to go on vacation.
25 I'm going to let Ms. John be here. Actually, that's a good idea.

1 That is a good idea. And since she's not here, she can't hear my
2 good idea. That is a good idea. All right. Okay.

3 Mr. Moy, you can call our next one.

4 MR. MOY: All right. I believe this would be Case
5 Application No. 20074A, A as in alpha, of Stanton Road at
6 Southeast, LLC. Captioned and advertised for a special exception
7 from the RA-use new residential development provision, Subtitle U,
8 Section 421.1. This is a request for a modification of
9 significance from the BZA Case No. 20074. Effective date August
10 3rd, 2019, to reduce the number of parking spaces from 15 to 12,
11 reducing the height of the required retaining wall, and to
12 increase the number of units from 22 to 24 by constructing two
13 habitable penthouse spaces in a new three-story 24-unit apartment
14 building in the RA-1 Zone. The property is located at 2604 and
15 2610 Stanton Road Southeast, Square 5869, Lot 84.

16 I believe --

17 CHAIRPERSON HILL: All right. Mr. Sullivan -- sorry.
18 Go ahead, Mr. Moy.

19 MR. MOY: I believe the applicant has requested a
20 postponement under Exhibit 49, but I would ask confirmation from
21 the applicant.

22 CHAIRPERSON HILL: Yep. Mr. Sullivan, can you hear me?

23 MR. SULLIVAN: Yes, I can. Marty Sullivan with Sullivan
24 and Barros on behalf of the applicant.

25 CHAIRPERSON HILL: Who's here with you, Mr. Sullivan?

1 MR. SULLIVAN: Oh, the principal, Mr. Malcony (ph.), Nireche
2 (ph.) Malcony.

3 CHAIRPERSON HILL: Okay. Okay. So, I read everything,
4 and I understand you're trying to wait for the ZC and all that
5 stuff. But I, do you know, I mean, I'm lacking, like, did you
6 hear the previous case? Does 12/15 sound good? Because
7 apparently, I'm not going to be here, so, you know, is 12/15 --
8 what, when do you think, Mr. Sullivan, you are trying to get back
9 here?

10 MR. SULLIVAN: So, I think, I mean, I would defer to OP.
11 We, hopefully, we have really good information after next week's
12 Zoning Commission hearing. But Ms. Brown-Roberts mentioned having
13 the ability to submit a supplemental report because they didn't
14 address the penthouse yet. And if it turns out that we can keep
15 the penthouse on the application, then presumably, she'd do a
16 supplemental report. So, I think we asked for, you know, at least
17 a couple weeks or the next available date.

18 CHAIRPERSON HILL: Ms. Brown-Roberts?

19 MS. BROWN-ROBERTS: Good morning, Mr. Chairman. Maxine
20 Brown-Roberts from the Office of Planning.

21 CHAIRPERSON HILL: Hi, Ms. Brown-Roberts. Do you know
22 when this thing may or may not get resolved?

23 MS. BROWN-ROBERTS: I think as Mr. -- the date is, they
24 are supposed to hear it on the, I think the 14th. And so, of
25 course, we don't know what the decision is going to be, so.

1 CHAIRPERSON HILL: I got you, okay.

2 MS. BROWN-ROBERTS: Yeah.

3 CHAIRPERSON HILL: So, Commissioner Miller, right. So,
4 in terms of time and, you don't know how this thing, kind of,
5 plays out?

6 VICE CHAIR MILLER: Well, it's on Zoning Commission case
7 14-13E, which would allow additional living space on penthouses
8 that are on residential buildings of 35 or 40 feet. That is on
9 the agenda for final action tomorrow but, by the Zoning
10 Commission, we've taken proposed action, as I recall. I can't
11 predict what the Zoning Commission will do, but I think --

12 CHAIRPERSON HILL: Mr. Moy? I'm sorry to interrupt you,
13 Commissioner Miller.

14 VICE CHAIR MILLER: That's okay. In two weeks, I think,
15 giving the OP time after we, in case whatever action we take. And
16 if it needs to be, if we don't take the final action on that
17 tomorrow, then they may need more time than that, I guess.

18 CHAIRPERSON HILL: Commissioner, I'm sorry, Mr. Moy, can
19 you take a look and see where this might somehow work out?

20 MR. MOY: Yes, Mr. Chairman. My first option for you is
21 that we could reschedule this to October 27th. This would be the
22 11th case, but of course, if things, if the scenario doesn't work
23 out to revisit this case on October 27th, then we can kick this
24 can down the road again.

25 CHAIRPERSON HILL: Which day are you saying, Mr. Moy?

1 MR. MOY: October 27th.

2 CHAIRPERSON HILL: Okay. So, then that means we get a
3 supplemental from OP when?

4 MR. MOY: All right. Let's say by, let's see, today is
5 the 13th. To allow the Office of Planning additional time, by
6 Friday, October 22nd. If this window's too tight, Mr. Chairman,
7 then the following week --

8 CHAIRPERSON HILL: Right. The 3rd, how about the 3rd?

9 MR. MOY: Well, this would be the 12th case, but, yeah,
10 11 or 12.

11 CHAIRPERSON HILL: How many is on the 27th?

12 MR. MOY: We have ten.

13 CHAIRPERSON HILL: Okay. Let's try the -- Ms. Brown, do
14 you think that's possible? I can't hear you, Ms. Brown, sorry.

15 MS. BROWN-ROBERTS: I'm sorry. Provided we get the
16 information in time, I mean, I would like to have at least a week
17 to do the review.

18 CHAIRPERSON HILL: Right.

19 MS. BROWN-ROBERTS: So.

20 CHAIRPERSON HILL: All right. Let's see what happens.
21 Let's try the 27th, Mr. Moy, okay? And see whether we can get
22 something from the Office of Planning. And then, Mr. Sullivan, do
23 you know, and I've got a little lost. What you've presented to
24 the ANC, like, the ANC would not have to hear this again.

25 MR. SULLIVAN: No. So, it, we, the application has

1 included the penthouse throughout. And so, it was approved. It's
2 -- their support to approve --

3 CHAIRPERSON HILL: The ANC knew about the penthouse.
4 The ANC knew about the penthouse.

5 MR. SULLIVAN: Yeah. So, our only options going forward
6 are we're either keeping the status quo or, depending on what
7 happens tomorrow, maybe removing the penthouse and making it
8 cleaner. And obviously --

9 CHAIRPERSON HILL: Got it.

10 MR. SULLIVAN: -- very simple.

11 CHAIRPERSON HILL: Got it. Okay. Okay, great. All
12 right. Okay, then, let's try that. Let's try for the 27th for
13 now, okay? 10/27.

14 MR. SULLIVAN: Thank you.

15 CHAIRPERSON HILL: Okay. Thanks, Ms. Brown-Roberts.

16 MS. BROWN-ROBERTS: Yes. Thank you.

17 CHAIRPERSON HILL: And then, Mr. Moy, you can say
18 goodbye to all of them. Are you guys okay? We'll keep chugging
19 along? Okay. All right then, Mr. Moy, you can call our first
20 case when you get a chance.

21 MR. MOY: All right. This would be Case Application No.
22 20515 of Nathan Ackerman. And this is the applicant's request for
23 special exceptions from the lot occupancy restriction, Subtitle F,
24 Section 304.1. Rear yard requirement, Subtitle F, Section 305.1.
25 This would construct a three-story with cellar rear addition to an

1 existing semi-detached three-story with cellar principal dwelling
2 unit. And convert the building to a ten-unit apartment house in
3 the RA-2 Zone. Property located at 1471 Florida Avenue Northwest,
4 Square 2660, Lot 213.

5 Mr. Chairman, there's a preliminary matter, a motion to
6 waive the filing deadline, which is under Exhibit 52. Presumably,
7 that's from the applicant for submissions. And here, we have a
8 24-hour block for the applicant to submit their PowerPoint
9 presentation.

10 CHAIRPERSON HILL: Got it. Mr. Sullivan, could you
11 introduce yourself for the record, please?

12 MR. SULLIVAN: Yes, thank you, Mr. Chair. Marty
13 Sullivan with Sullivan and Barros on behalf of the applicant.

14 CHAIRPERSON HILL: Okay. And you're filing, or what
15 you're requesting is just for the PowerPoint?

16 MR. SULLIVAN: I think we had some late, just
17 corrections or revisions. Nothing changing materially before
18 that, but yes, the PowerPoint. We submitted the PowerPoint, then
19 we made some corrections to that as well --

20 CHAIRPERSON HILL: Okay.

21 MR. SULLIVAN: -- yesterday.

22 CHAIRPERSON HILL: So, you have a new PowerPoint coming
23 in?

24 MR. SULLIVAN: Correct, one that came in within 24
25 hours.

1 CHAIRPERSON HILL: Okay.

2 MR. SULLIVAN: Oh, I know, I'm sorry. The submission
3 was -- I got clarification of this. It was change of ownership.
4 So, we submitted an authorization letter and notification to the
5 Board that the ownership has changed and so, the name of the
6 applicant has changed in the, since it was originally filed.

7 CHAIRPERSON HILL: Okay. But the PowerPoint is the
8 same?

9 MR. SULLIVAN: The PowerPoint hasn't -- yeah, I'm sorry.
10 The PowerPoint hasn't changed. It was just submitted after 9:30
11 yesterday.

12 CHAIRPERSON HILL: Okay. I don't have any issues with
13 waiving the filing deadline, so we have the correct owner. And
14 unless the Board has any issues, they can raise your hand. All
15 right, Mr. Moy, we're going to go ahead and let that in. Mr.
16 Sullivan, who is here with you?

17 MR. SULLIVAN: So, we have Patrick Bloomfield and Adam
18 Greene with the applicant. Patrick is the principal.

19 CHAIRPERSON HILL: Mr. Bloomfield, can you hear me? I
20 can't hear you. I cannot hear you, Mr. Bloomfield.

21 MR. BLOOMFIELD: Can you hear me now?

22 CHAIRPERSON HILL: Yes. Could you please introduce
23 yourself for the record? I lost you again, Mr. Bloomfield. Maybe
24 turn off your video, Mr. Bloomfield and see if just the audio
25 comes through better. While we're waiting, Mr. Bloomfield, Mr.

1 | Greene, can you hear me?

2 | MR. GREENE: Can you hear me?

3 | CHAIRPERSON HILL: Yes. Could you introduce --

4 | MR. GREENE: Can you hear me?

5 | CHAIRPERSON HILL: -- yourself for the record, Mr.
6 | Greene?

7 | MR. GREENE: Sure. My name is Adam Greene, I am project
8 | architect for this project with Jonathan Kuhn Architects.

9 | CHAIRPERSON HILL: Okay. Mr. Bloomfield, if we need
10 | you, I'll come back to you. You can just go ahead and listen for
11 | now. Mr. Sullivan, you go -- why don't you go ahead and walk us
12 | through your client's application and how you believe they are
13 | meeting the criteria for us to grant the relief requested. Mr.
14 | Moy?

15 | MR. MOY: Yeah, before we turn back to the applicant,
16 | Mr. Chairman, I just want to note for the record with the
17 | confirmation from the applicant that the, when Mr. Sullivan
18 | mentioned the change in ownership, that there's also a change in
19 | the name of the application. Which I believe now is, instead of
20 | titling it Nathan Ackerman, it is now 1471 Florida, LLC. So, I'd
21 | ask for that confirmation, Mr. Sullivan.

22 | CHAIRPERSON HILL: Mr. Sullivan, is --

23 | MR. SULLIVAN: Yes.

24 | CHAIRPERSON HILL: -- that correct?

25 | MR. SULLIVAN: That's --

1 CHAIRPERSON HILL: Can you hear me now?

2 MR. SULLIVAN: That's correct. Yes, sorry.

3 CHAIRPERSON HILL: Okay. Yes, Mr. Bloomfield, could you
4 go ahead and introduce yourself again?

5 MR. BLOOMFIELD: Good morning. Sorry for the
6 difficulties. My name is Patrick Bloomfield representing
7 development team P.T. Blooms.

8 CHAIRPERSON HILL: Okay. But, Mr. Sullivan, is, the
9 application's 20515 of 1471 Florida, LLC, correct?

10 MR. SULLIVAN: Correct.

11 CHAIRPERSON HILL: Okay. All right. Okay. Mr.
12 Sullivan, you can pull up your PowerPoint and begin whenever you'd
13 like.

14 MR. SULLIVAN: Thank you. Okay. So, the property, the
15 subject property is 1471 Florida Avenue. Next slide, please.
16 This is in the RA-2 Zone, it's an addition to an existing
17 building. It's in the historic district. The surrounding area is
18 characterized by a mixture of residential and commercial, it's,
19 we're one block off of 14th Street here. It is currently a
20 single-family residential dwelling. Several other buildings
21 around there have also been converted and added to, including this
22 applicant doing the building next door previously.

23 Requesting, proposing a rear addition, which would be
24 four feet short of the requirement. So, it would be 11 feet
25 rather than the 15-foot requirement. And requesting lot occupancy

1 relief, special exception to 70 percent. And this is in line with
2 the conversion to a ten-unit multi-family dwelling. We have the
3 support of DDOT, the Office of Planning, and the ANC. And the
4 concept approval was approved by HPRB. Next slide, please. And
5 I'll turn it over to either Adam or Patrick. This is just the
6 HPRB staff report. I won't read through that, but if the Board
7 was interested, they could read that. Next slide, please.

8 MR. BLOOMFIELD: All right. So, this is an aerial view
9 of the subject property. You know, as you can see, it's centered
10 in between a redevelopment project that we completed in 2019 on
11 the right, 1469. And then, a row of single-family rowhouses that
12 are about two and a half stories tall. Next slide.

13 This is, kind of, a satellite image looking at its
14 orientation, its placement on Florida located in between 14th and
15 15th Street and next to Meridian Hill. The Zone is, obviously,
16 RA-2, and you'll see that the area highlighted in green shows,
17 kind of, the severe landlock access to street issues that we have
18 and part of the reason we're seeking relief today. Next slide.
19 The whole -- the main portion of the relief, other than access and
20 being landlocked, is the fact that we were trying to preserve the
21 existing site lines of the site. What's different from this lot
22 and its neighbor to the West is that our lot is shaped, kind of,
23 like a giant piece of pie and fanned out in the back, which allows
24 for a little bit more density than your normal conventional
25 rowhouse lot. So, in order to achieve that, we needed to stretch

1 the building and pull it back further towards the rear property
2 line which really doesn't have any, there's no alley or abutting
3 structures that would be affected by that. And it's similar
4 relief that was done on 1469 Florida Avenue for the rear setback.

5 This allows us to expand our footprint a little bit bigger and
6 pull the upper third floor back so it's not visible from the
7 street. Next slide.

8 This is not really a great view, particularly, of where
9 the building is. Just, kind of, an orientation in between 1475
10 Florida and the view coming down from Belmont, 1455 Belmont. Next
11 slide, please. This is the view of the back yard. As you'll see,
12 it's a lot bigger than the front access to the building. We're,
13 kind of, in this, kind of, bathtub of towering projects coming off
14 15th and Belmont. So, we're really not, you know, affecting, you
15 know, any light, air, daylight impact, shadow studies. We felt
16 that shadow studies were unnecessary at this point. We're
17 abutting a structure with no windows on the right, and we're at
18 the bottom of a hill for any structures that have been built on
19 Belmont. And that's, kind of, been made clear by the support of
20 the ANC and the adjacent neighbors.

21 MR. SULLIVAN: I would --

22 MR. BLOOMFIELD: Go ahead.

23 MR. SULLIVAN: Sorry, Patrick. I would just add in that
24 our addition doesn't go beyond the wall on the right. That wall
25 is still beyond where our addition will be.

1 MR. BLOOMFIELD: Next slide. This is a picture of the
2 party wall condition, 1469. Next slide. This is actually the
3 only visible area from the street all the way back to the rear
4 property line. As you'll see, as you get towards the front of the
5 property, you have very limited views into the rear yard, which
6 supports our HPRB relief. Next slide.

7 This is an existing site plan. The house is about 2,400
8 square feet with an existing footprint of about 800. That will be
9 expanded to roughly, I believe 2,300. I don't have it off the top
10 of my head, but it's probably in the next sheet. Red line
11 indicates property lines. And that's pretty much it for this
12 slide. Next slide.

13 This is the proposed site plan. As you'll see in green,
14 it indicates the existing rear yard setback that is under RA-2 at
15 15 feet. We're asking to extend that another four feet to reduce
16 the rear setback to eleven. And the lot occupancy is typically 60
17 in RA-2, we're expanding it to 70 under special exception. Next
18 slide. These show the existing floor plans with the indicated
19 relief. Every floor indicated in green, virtually the same layout
20 all the way up to the third floor giving us three units per floor
21 and then, the third floor has one larger penthouse unit. Next
22 slide. Virtually, the same footprint. Next slide.

23 These are South elevation, North elevation. So, the
24 South is shown from the street, obviously. The North would be at
25 the rear yard. Next slide. East elevation, this would be what's

1 shown in that, kind of, four-foot alley that we showed you. It's
2 a limited view from the street. You won't see it looking straight
3 on, you'd have to literally walk into the five-foot side yard
4 there to be able to see any of this in its entirety. And the
5 fifth floor, the, I'm sorry, the third floor is set back far
6 enough where you can't see it from the street for limited
7 visibility. Next slide.

8 These are some Axon and street views of what we're
9 referring to. As you'll see, as you look at view number two, you
10 know, there is a penthouse there. You cannot see it from the
11 street. I think our architect has done a great job of, kind of,
12 pulling back the massing to allow it to fit into the street, hence
13 the HPRB support. Next slide. This is a view from the back. As
14 you'll see, there's that little side yard on the left. We've
15 pulled back the side building an extra foot to make sure that, you
16 know, you couldn't see the modern addition going on on the back.
17 And then, you can see, actually, where the physical penthouse is
18 on the first floor -- I'm sorry, the view number one at the top
19 left-hand corner. Next slide.

20 I think this is, I'll turn it back over to Marty.

21 MR. SULLIVAN: Thanks, Patrick. So, the general
22 criteria that the application will be in harmony with the general
23 purpose and intent of the RA-2 Zone. It is an apartment zone and
24 it's, which permits this special exception relief. And the
25 building will meet all other development standards of the RA-2

1 Zone, including the FAR of 1.8 and a height that's actually 12
2 feet lower than would be permitted normally. And the addition
3 does not have any windows that directly face any of the adjacent
4 property's windows, so it will not tend to affect adversely the
5 use of neighboring property. Next slide, please.

6 And we provided a close-up more of the situation here.
7 The addition is going in the area of the yellow, you see, that's
8 the property area. That's not the entire addition. But you can
9 see it's open space almost entirely around the area where the
10 addition will be. In addition, Belmont Street has a significantly
11 higher grade as does 15th Street, as it goes up. And so, these
12 properties back there essentially tower over this one. And the
13 lot that you see at 240, it's about 100 feet away from the rear of
14 our addition. Next slide, please.

15 So, the specific criteria. The light and the air
16 available to the neighboring properties, due to the configuration
17 of the house as shown on the last slide, the light and the air to
18 the neighboring properties will not be unduly compromised by the
19 additional lot occupancy with four feet additional building depth.
20 We are significantly under the height limit as well. And even, we
21 didn't do a shadow study because of the configuration and the
22 context of this building. And also, it would show no impact as
23 well because the matter of right would just be a smaller footprint
24 with a higher height in the back, which would have potentially
25 even a, more of an impact than what we're proposing here.

1 Regarding privacy, we're not proposing any West-facing
2 windows. And there are East-facing windows, but no West-facing
3 windows towards 1469. And the proposed addition or accessory
4 structure, as viewed from the street alley or other public way
5 shall not substantially visually intrude. Again, this does have
6 concept approval from HPRB, so we know that we've, they've
7 evaluated that under their standards, which I think would also
8 satisfy the standard of no, not substantially visually intruding.
9 And there is no alley back there, so there's no view from an
10 alley.

11 We have provided plans, photographs, elevations,
12 inspection drawings, sufficient to represent the relationship to
13 meet that requirement of 5201.4(d). Next slide, please. And I
14 think this is just the final requirements, and which we don't have
15 to present anything for that. They are just Board requirements.
16 Next slide, please.

17 And that's it.

18 CHAIRPERSON HILL: All right, great. Mr. Young, can you
19 drop -- thanks so much. Let's see, does the Board have any
20 questions for the applicant?

21 Mr., Commissioner Miller?

22 VICE CHAIR MILLER: Thank you, Mr. Chairman. And thank
23 you for your presentation, Mr. Sullivan and Mr. Bloomfield. I
24 think the, I agree with the applicant and the Office of Planning,
25 who we'll hear from in a minute, that the application meets the

1 standards for relief from the rear yard and lot occupancy. And
2 it's a well-designed project, commendable project that would
3 increase the number of dwelling units from the existing one
4 single-family to ten units.

5 My question, Mr. Sullivan, is on the applicability of
6 inclusionary zoning. I realize that only nine new units are being
7 added to a building that currently has one and that the
8 Inclusionary Zoning Regulations are triggered when there are ten
9 or more units. This will have a total of ten units. It was, I
10 haven't gone back to actually read in preparation for this case
11 the exact wording of our regulations, but I thought it was new or
12 substantially renovated units. And I'm just wondering about that
13 existing unit. I assume it's being renovated or changed
14 substantially to fit into the ten-unit building.

15 So, I just wondered if you could comment on the non-
16 applicability or applicability of Inclusionary Zoning given that
17 there are only nine new units being added, but IZ is triggered by
18 ten or more units that are new, I think, or substantially
19 renovated. And I just wondered if there's precedent that BZA or
20 the Zoning Administrator, or DHCD has interpreted this kind of
21 situation in the past. Maybe you can just comment and enlighten
22 me on that point.

23 MR. SULLIVAN: Sure. So, in my understanding of the --
24 we do have a zoning determination letter on this from the Zoning
25 Administrator confirming that IZ is not required. The

1 requirement, as I understand it as of today is ten or more new
2 units in new gross floor area. And so, it wouldn't include
3 renovation. In fact, it would be, it only counts FOR the units
4 that are in new gross floor area.

5 We had a similar project a couple weeks ago in
6 Pennsylvania, which was 14 units and were adding more than 10.
7 But the new units were only in, there were only five new units
8 that were a new GFA. I think that the Zoning Commission is
9 currently considering provisions to that and will change that.
10 But as of today, that's my understanding as to why this is not
11 applicable.

12 VICE CHAIR MILLER: Okay. Well, I'm definitely
13 considering changes to this whole, to this case.

14 MR. SULLIVAN: Well, and if I may, I mean, the property
15 owner, investor makes the decisions and the seller sells based on
16 the regulations in place at the time and that, sort of, defines
17 the economic realities. And then, once the law changes, then
18 those points can adjust, and people can value those properties
19 appropriately and still economically develop something according
20 to those rules in place. So, it's hard, though, if the rules are
21 a certain thing when you make the investment decision and then,
22 they change mid-stream. That's where it becomes difficult for an
23 investor.

24 VICE CHAIR MILLER: Now, that's a fair point. And
25 whenever the regulations create, which they do in this case, a

1 cutoff point or a trigger point, I mean, even if we change the
2 regulation, I mean, you may choose just to add eight instead of
3 the nine that would get to ten. So, I mean, whatever, I mean,
4 there's always a way to get around -- not get around, but to
5 comply with regulations when there is an artificial or a number
6 that's placed on a triggering mechanism for this Inclusionary
7 Zoning.

8 But I assume these are going to be ownership,
9 condominiums, or there's a rent -- or is that not determined yet?

10 MR. BLOOMFIELD: That's correct, they'll be for sale
11 units.

12 VICE CHAIR MILLER: Yeah. And Mr. Bloomfield, you don't
13 think you could market successfully a, one of the units even if
14 you were doing it fairly early, not subject to a requirement at
15 the 80 percent --

16 MR. BLOOMFIELD: They take a --

17 VICE CHAIR MILLER: -- medium family income level, that
18 Inclusionary Zoning would require if it did apply 80 percent.
19 Many of the family income is not, it's pretty high.

20 MR. BLOOMFIELD: Yeah, it's not --

21 VICE CHAIR MILLER: It's a nice, it is a nice
22 neighborhood, though.

23 MR. BLOOMFIELD: Well, what's a little misleading about
24 those AMI numbers, these units also, often sell to incomes way
25 higher than that. So, like, the market for a one-bedroom in this

1 neighborhood is probably around a half a million dollars, right?
2 So, it's a fairly large deficit. And if I felt that, you know,
3 the regulations were different, we would have approached it to
4 stay at the nine-unit rule because it's really not financially
5 viable at the acquisition price otherwise.

6 So, you know, I think, I'm all for affordable units, but
7 it has to be viable, you know? And usually, that comes with a
8 larger project, so. I think we made the adjustment to go to ten
9 because we felt the, you know, there's going to be a naturally
10 younger market that's going to be staying in D.C. versus some of
11 the families that are starting to create households in the
12 suburbs. So, I think it was a market decision to go with smaller
13 units to appeal to more of those young professionals.

14 VICE CHAIR MILLER: Okay. Thank you for your
15 explanations. I understand what you're saying, and I don't have
16 any more questions, Mr. Chairman. Thank you. Thank you for doing
17 this project.

18 MR. BLOOMFIELD: Thank you.

19 CHAIRPERSON HILL: Sure. Mr. Blake?

20 BOARD MEMBER BLAKE: Yeah. I had a question with regard
21 to the bicycle access. There's supposed to be two, three long-
22 term bike parking and also one short-term rack. Looking at slide
23 12 or the architectural drawings, I didn't see that there. Can
24 someone please just reference that for me?

25 MR. SULLIVAN: Sure. We have a, there is a plan to have

1 some space in there somewhere for bicycles, but it's not a
2 requirement because the units were not in new GFA, a similar rule
3 to the IZ rule, actually. And that's in our determination letter
4 from the Zoning Administrator, he's clarified. And I didn't, I
5 talked to OP about that and, or actually, no, I'm sorry, I didn't
6 talk to Steve about it, I talked to somebody else at OP about it.
7 I got my cases mixed up. But we do have the okay from the Zoning
8 Administrator that that's not required for this because it's not
9 eight units in new gross floor area.

10 MR. BLOOMFIELD: Just to piggy-back on that comment, you
11 know, we have every intention of providing bike parking for this
12 project. The problem, the Zoning Rules on the spacing for bikes
13 is much more restrictive than we've found when doing our projects.
14 We can stack and store bikes vertically, much more creatively than
15 I think the zoning, the current zoning law permits. So, in other
16 words, we could squeeze more bikes into a tighter space and still
17 be effective. So, I think that's why we opted to get out of, you
18 know, the requirement to allow for more bikes in essence.

19 CHAIRPERSON HILL: Okay.

20 BOARD MEMBER BLAKE: Thank you.

21 CHAIRPERSON HILL: Mr. Greene, can you hear me?

22 MR. GREENE: I can hear you, yes.

23 CHAIRPERSON HILL: What's your firm's name?

24 MR. GREENE: The firm is Jonathan Kuhn Architect.

25 CHAIRPERSON HILL: Okay. Did you do this project?

1 MR. GREENE: That's correct. Jonathan and myself worked
2 on this project along with a couple other team members.

3 CHAIRPERSON HILL: Okay. I just think it's an
4 interesting project, that's all. The design's pretty interesting.
5 Mr. Bloomfield, did you purchase this after the design was
6 completed?

7 MR. BLOOMFIELD: We had conceptals. And we had
8 submitted, you know, because of the lead time to get into BZA, we
9 had submitted our package to BZA well before closing. So, that's
10 why it was under Nathan Ackerman's name when we submitted.

11 CHAIRPERSON HILL: Got it. Okay. Just interested.
12 Okay, great. All right, I'm going to move --

13 BOARD MEMBER SMITH: I have a question.

14 CHAIRPERSON HILL: -- over to the Office of Planning.
15 Oh, sorry, Mr. Smith. I apologize.

16 BOARD MEMBER SMITH: And it's extremely quick and it's
17 piggybacking off of Mr. Blake's question to Marty.

18 Mr. Sullivan, you said that you had a determination
19 letter from the ZA. Would you upload that for the record just for
20 confirmation?

21 MR. SULLIVAN: I can do that.

22 BOARD MEMBER SMITH: Okay. Thank you.

23 VICE CHAIR MILLER: Can you also upload the ZA letter on
24 the IZ?

25 MR. SULLIVAN: It'll be one in the same letter. Yes.

1 VICE CHAIR MILLER: Thank you.

2 MR. SULLIVAN: I'm sending it to Mr. Mordfin right now
3 and then we'll upload that. So, it'll probably be done before
4 this hearing is over.

5 BOARD MEMBER SMITH: Okay. Thank you.

6 CHAIRPERSON HILL: All right, great. All right, I'm
7 going to turn to the Office of Planning. Mr. Mordfin?

8 MR. MORDFIN: Yes. Okay. I had trouble with starting
9 the video. Good morning. I'm Stephen Mordfin with the Office of
10 Planning. The Office of Planning does recommend approval of this
11 application for the two areas of relief that the applicant has
12 requested, finding that it is in conformance with the criteria as
13 written in the Zoning Regs.

14 Now, you did have questions about what Mr. Sullivan just
15 emailed me. Hold on, I'll open up what he just sent me. So, it's
16 a letter from DCRA that says -- well, it says the subject property
17 is currently approved as a three-level structure currently used as
18 a single-family dwelling. You are proposing to construct an
19 addition to the building and convert the building to use for a
20 ten-unit dwelling. You've asked for a zoning review of the
21 project to confirm its compliance with the Zoning Regulations
22 while seeking a minor deviation from the maximum lot permitted lot
23 occupancy percentage.

24 So, it does say that converting the building to ten
25 units, it's a multi-family use and it's permitted as a matter of

1 right in the R-2. It doesn't say anything about the number of --
2 or actually, it doesn't say that any affordable housing units, or
3 rather, inclusionary units are required for this building. And
4 the letter's from --

5 MR. BLOOMFIELD: There's a specific paragraph from IZ --

6 MR. MORDFIN: It's somewhere --

7 MR. BLOOMFIELD: -- lower --

8 MR. MORDFIN: Oh, I'm sorry. It does.

9 MR. BLOOMFIELD: -- application letter.

10 MR. MORDFIN: Thank you. I'm sorry. I hadn't gotten
11 down that far. It says, okay, under Inclusionary Zoning, Mr.
12 LeGrant wrote, the project will be subject to IZ if you're
13 proposing one new gross floor area beyond that existing at the
14 time of the building permit application that would result in ten
15 or more new dwelling units or ten or more new dwelling units
16 constructed concurrently or in phases on a lot, on contiguous
17 lots, or on lots divided by an alley. If such lots were under
18 common ownership, control, or affiliation with one ten-year prior
19 to the application for the first building permit.

20 You're permitted to add up to nine units with new gross
21 floor area without triggering the inclusionary zoning. You're
22 adding nine units to the existing one-unit to total ten units,
23 total six of which are in the new GFA. As the project is not
24 utilizing any bonus density nor adding ten or more units with new
25 gross floor area, it is not subject to Inclusionary Zoning. And I

1 just read that to you verbatim from the letter from Mr. LeGrant.

2 For bicycle parking, Mr. LeGrant wrote the property is
3 located in the greater U Street Historic District pursuant to C,
4 Section 802.6, additions to historic resources shall be required
5 to provide additional bicycle parking spaces only for the
6 additions of gross floor area and only when the addition results
7 in at least a 50 percent increase in gross floor area beyond the
8 gross floor area, existing on the effective date of this title.
9 The additional minimum parking required shall be calculated based
10 on the entire gross floor area added.

11 You're increasing the floor area by 50 percent or more,
12 however, you will only be subject to bicycle parking requirements
13 to the GFA used to house eight or more dwelling units as
14 residential bicycle parking space on the number of units then is
15 triggered with eight or more units. This is consistent with the
16 previous determinations by the Zoning Administrator. Accordingly,
17 you are exempt from bicycle parking. And that's another paragraph
18 in the same letter from Mr. LeGrant.

19 So, based on Mr. LeGrant's determination, this
20 application's not subject to bicycle parking and it's also not
21 subject to Inclusionary Zoning.

22 CHAIRPERSON HILL: All right. Okay. So, Mr. Sullivan,
23 you're going to add that into the record?

24 MR. SULLIVAN: Sure. I'll add that in. I also just
25 want to mention for the record, these are self-certified items as

1 all the other items are.

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

4 Mr. Young, is there anyone here wishing to testify?

5 MR. YOUNG: We do not.

6 CHAIRPERSON HILL: Okay. Mr. Sullivan, you've got
7 anything to add at the end?

8 MR. SULLIVAN: No, thank you.

9 CHAIRPERSON HILL: Okay. All right. I'm going to close
10 the record and the hearing, except for what we've asked for from
11 Mr. Sullivan concerning the information requested. Somebody else
12 start because I have to get my head around this a little bit. Mr.
13 Smith, would you mind beginning?

14 BOARD MEMBER SMITH: No, I don't mind. Based on what
15 was submitted or what was presented by the applicant today and
16 also what was presented by the Office of Planning in their staff
17 report, I am fairly comfortable that the applicant demonstrated
18 that they have met the requirements for us to be able to grant the
19 special exceptions for lot occupancy and rear yard requirements.
20 I do believe that the design of the building, based on HPRB's
21 opinion and what was in the record, I do believe that it is in
22 keeping with the standards that's outlined in the report that the
23 proposed addition lacks the visibility to the street. So, it does
24 protect the neighborhood character and the design, the frontages
25 along their street. So, I'm fairly comfortable with the design.

1 I'll also note that the ANC is in full support. They
2 had no issues or concerns. And also, the applicant has received
3 letters in support from the property that's adjacent to them at
4 1469 Florida Avenue and at 2301 15th Street Northwest. And with
5 the inclusion of the Zoning Administrator's determination that
6 they aren't required to meet the IZ and follow requirements
7 because of they're not increasing the number of units to more than
8 ten units and also the requirements for bike parking under C-802.1
9 isn't triggered because they also aren't (audio interference).

10 So, I would support this application.

11 CHAIRPERSON HILL: Okay. Thanks, Mr. Smith.
12 Commissioner Miller?

13 VICE CHAIR MILLER: Thank you, Mr. Chairman. As usual,
14 Board Member Smith was very thorough, and I totally concur with
15 all of his comments.

16 CHAIRPERSON HILL: Thank you. Mr. Blake?

17 BOARD MEMBER BLAKE: I, too, I think he's covered
18 absolutely everything that we need to cover. I would just note
19 that the DDOT report also had no objection, but it also did have
20 the C-801.2 (sic). So, with that additional information from the
21 Zoning Administrator, that's, I would be very comfortable
22 supporting that as well.

23 CHAIRPERSON HILL: Okay. Thank you, all. Thanks for
24 helping me. And I will agree with everything that was just
25 discussed. I'll make a motion to approve Application No. 20515 as

1 captioned and read by the Secretary and ask for a second, Mr.
2 Blake?

3 BOARD MEMBER BLAKE: Second.

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

6 MR. MOY: When I call each of your names, if you would
7 please respond with a yes, no, or abstain to the motion made by
8 Chairman Hill to approve the zoning relief for special exceptions
9 under Case Application No. 20515. The motion to approve or grant
10 was seconded by Mr. Blake.

11 Zoning Commissioner Rob Miller?

12 VICE CHAIR MILLER: Yes.

13 MR. MOY: Mr. Smith?

14 BOARD MEMBER SMITH: Yes.

15 MR. MOY: Mr. Blake?

16 BOARD MEMBER BLAKE: Yes.

17 MR. MOY: Chairman Hill?

18 CHAIRPERSON HILL: Yes.

19 MR. MOY: Staff would record the vote as 4-0-1. And
20 this is on the motion made by Chairman Hill to approve, seconded
21 by Mr. Blake. Also, in support of the motion to approve is Zoning
22 Commissioner Rob Miller, Mr. Smith, of course, Mr. Blake, and
23 Chairman Hill. We have no other Board Member present today. The
24 motion carries on a vote of 4-0-1.

25 CHAIRPERSON HILL: Okay. Thanks, Mr. Moy. You guys, we

1 have to rearrange a case due to a witness or a couple of cases.
2 The Old House, LLC case is the 20512, I guess the person who is in
3 opposition is 12 hours away. And so, we're trying to accommodate
4 them. However, I think we need to take a quick break and then,
5 maybe we'll come back for this. So, Mr. Moy, if you want to make
6 sure that all the parties are aware that we're moving them up and
7 then, we'll just take a quick break. And then, when we come back,
8 we'll do 20512 and 20513 together. All right, Mr. Moy?

9 MR. MOY: All right. Thank you, sir.

10 CHAIRPERSON HILL: Okay. See you guys in a couple
11 minutes. Thank you.

12 (Whereupon, the above-entitled matter went off the
13 record and then resumed.)

14 CHAIRPERSON HILL: Call our two cases, please?

15 MR. MOY: Yes, sir. The staff -- the staff? The Board
16 is back in session after a quick break and the time is at or about
17 11:07. The next case before the Board is Application No. 20512 of
18 The Old House, LLC. The application is captioned and advertised
19 for special exception from the minimum side yard requirements,
20 Subtitle D, Section 206.2. This would construct a new two-story
21 detached principal dwelling unit with detached two-story accessory
22 garage in the R-1-B Zone. Property located at 4420 Douglas Street
23 Northeast, Square 5116, Lot 126.

24 As you'll recall, Mr. Chairman, at the Board's meeting
25 on September 22nd, the Board granted party status to Ms. Vu, V-u.

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

3 MR. DEBEAR: I can.

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

6 MR. DEBEAR: My name is Eric DeBear, land use counsel
7 from the applicant from Cozen O'Conner.

8 CHAIRPERSON HILL: Mr. DeBear, who's here with you
9 today?

10 MR. DEBEAR: I have Ms. Kathy Mason (ph.), who is the
11 managing member of the applicant LLC as well as an architect,
12 James Killette.

13 CHAIRPERSON HILL: Okay. All right, let's see. Ms.
14 Vu, can you hear me?

15 MS. VU: I can hear you.

16 CHAIRPERSON HILL: Okay. Could you please introduce
17 yourself for the record?

18 MS. VU: Sure, my name is Nhu Vu, and I'm the owner of
19 the property at 4414 Douglas Street, which is adjacent to the
20 proposed structures.

21 CHAIRPERSON HILL: Got it. Ms. Vu, where are you right
22 now? I'm just curious.

23 MS. VU: I'm in Vietnam.

24 CHAIRPERSON HILL: Oh, okay. All right, there we go.
25 Okay. All right, let's see. So, Ms. Doug -- Commissioner

1 Douglas, can you hear me?

2 COMMISSIONER DOUGLAS: Yes.

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

5 COMMISSIONER DOUGLAS: Yes. This is Commissioner Douglas
6 of 7D03 and attending for the Douglas Street as the ANC
7 Commissioner representing that area with Mr. DeBear and these two
8 houses that's there.

9 CHAIRPERSON HILL: Okay, great. All right. Okay. So,
10 Ms. Vu, what's going to happen is the applicant's going to present
11 their case. You're going to have an opportunity to ask them
12 questions about their case. Then, the, you're going to present
13 your case. The applicant will have a question, an opportunity to
14 ask you questions about your case. The ANC Commissioner will also
15 have an opportunity to present their testimony and then, you'll
16 have an opportunity to ask questions of their -- everybody's just
17 going to get a chance to talk and ask questions of each other,
18 right? We're then also going to hear from the Office of Planning,
19 the same thing goes with that. And then, anybody else who might
20 be here wishing to testify one way or the other.

21 So, Mr. DeBear, I'm going to go ahead and put 15 minutes
22 on the clock for you right now just so I know where I am. And if
23 you could please walk us through how you believe -- and if you
24 could actually, I guess, I'm trying to figure out how to do this
25 as effectively as possible. I guess, if you think that you can,

1 kind of, argue them both at the same time, you know, speaking to
2 the projects in your presentation, that might be helpful for the
3 Board to be able to understand what you're putting forward.

4 And do you have a PowerPoint? I see --

5 MR. DEBEAR: I --

6 CHAIRPERSON HILL: -- you're about to say something.

7 MR. DEBEAR: I do, Chair. So, I'm happy to link the two
8 projects together because they are similar. There are, you know,
9 they're different lots, so they will have slightly different
10 cause, I should say impacts on Ms. Vu as it relates to her party
11 status. So, I just want to make that clear. But I think that the
12 Board will see they're virtually identical projects.

13 CHAIRPERSON HILL: Got it. Do you have -- are your
14 PowerPoints in -- is your same PowerPoint deck in both
15 applications?

16 MR. DEBEAR: It's different. It's slightly different.
17 Similar and so, what I would propose is that I go through 20512
18 now, and I can perhaps, depending on how this goes, you know, when
19 the Board calls 20513, I could maybe move quicker through the
20 items that are similar, albeit, you know, maintaining the record
21 as separate cases.

22 CHAIRPERSON HILL: Okay. Ms. Nagelhout, can you hear
23 me?

24 MS. NAGELHOUT: Yes, I can.

25 CHAIRPERSON HILL: Okay. So, everybody knows, Ms.

1 Nagelhout is our legal counsel. I don't know, I can do, I've done
2 it, as I said, Ms. Nagelhout, both ways. Like, I can either call
3 them separately and have them done separately or Mr. DeBear could
4 make his argument for 20512 and then, I can ask him to bring up
5 20513's slide deck and show us the differences or the difference
6 in arguments. Or do you think it would just be easier to do them
7 both as separate cases?

8 MS. NAGELHOUT: I think that's your call. I would urge
9 you not to talk about 20513 unless you call it, so.

10 CHAIRPERSON HILL: Okay. Then, never mind. Then, we're
11 just going to -- you guys, unless you guys have -- I'm going to
12 make this as easy as possible for me. We're going to do this
13 twice then, okay? You know, to a certain extent.

14 MR. DEBEAR: Okay.

15 CHAIRPERSON HILL: I'm making --

16 MR. DEBEAR: What I, what we could do is request that we
17 incorporate testimony from this case into 20513 so I don't have to
18 wholly repeat myself and just focus on the factors that are
19 different.

20 CHAIRPERSON HILL: No, that's great. Thank you, Mr.
21 DeBear. I did learn that trick before, but that is helpful. And
22 so, but yes. So, that -- so, Ms. Vu, so you know -- and which,
23 Ms. Vu, do you know, can you tell me real quick, which property
24 are you adjacent to?

25 MS. VU: I think I'm adjacent to 20512.

1 CHAIRPERSON HILL: Okay. Mr. DeBear, is that correct?

2 MR. DEBEAR: That is correct.

3 CHAIRPERSON HILL: All right. So, that's easier then.
4 Let's do 20512 first anyway. All right. So, we're in 21512 (sic)
5 right now. Mr. Young, if you want to pull up Mr. DeBear's slide
6 deck? And, Mr. DeBear, you can begin whenever you'd like.

7 MR. DEBEAR: Thank you, Chair. Next slide, please, Mr.
8 Young. So, before getting into the presentation itself, I did
9 want to note for the Board, we had made a motion to late file
10 approximately nine days ago just to designate Mr. Killette as an
11 expert in architecture. My understanding is he has been
12 designated before by the Board and is in the Board's book. This
13 designation did come late as Ms. Mason was working with an
14 architect originally that --

15 CHAIRPERSON HILL: Got it. Mr. DeBear, that's okay.

16 MR. DEBEAR: Okay.

17 CHAIRPERSON HILL: Unless, and the Board has -- Mr.
18 Killette has been before us before as an expert in architecture.
19 He is an architect and so, I don't have any issues taking his
20 testimony, unless the Board speaks up. Okay. All right, Mr.
21 DeBear, let's go ahead and move on.

22 MR. DEBEAR: Thank you. Next slide, please. This is
23 the subject property of BZA case 20512, it is lot 126. It's
24 located in the Kenilworth neighborhood on Douglas Street
25 Northeast. You can see the aquatic gardens just to the West of

1 the property. Next slide, please. The property is located in the
2 R-1-B Zone and as you'll see on the bottom right image, it is
3 currently a vacant parcel. The applicant owns the adjacent parcel
4 to the East at Lot 127 as well. Both lots are identical in size,
5 they're very narrow 25-foot-wide lots, but they are quite deep at
6 210 feet. Next slide, please.

7 The proposal is to construct a new single-family home on
8 this lot with an accessory garage for parking. The new single-
9 family home would be three bedrooms and three bathrooms. The
10 floor plans are in the case record. The total square footage
11 would be approximately 1,826 square feet. And as we'll note
12 throughout the project and the structure is well within the R-1-B
13 standards except for the relief being requested from, to reduce
14 the two required side yards of eight feet to five feet. Next
15 slide, please.

16 In terms of community outreach, the Office of Planning
17 supports this application and the relief requested. We did meet
18 with the ANC, actually, last night, which is why there is, I don't
19 think an ANC resolution in the record. And I'm sure Commissioner
20 Douglas can speak up as well at that time that the Board seeks her
21 testimony. But I can say that the ANC did vote unanimously to
22 approve this application last night.

23 There are five letters of support in the case record
24 including the neighbor two lots to the East, who is adjacent to
25 Lot 27, which we would discuss during another case. But again, to

1 be clear, the applicant actually owns the abutting property to the
2 East of this subject property. And as we discussed early on, Ms.
3 Vu is the applicant's neighbor to the West, and she is a party
4 status in opposition. Next slide, please.

5 This is the site plan that you saw overlaid on the
6 Zoning Map a few slides ago. As you can see again, it's a very
7 narrow lot of only 25-feet in width. So, the applicant is
8 proposing the two five-foot side yards. One important thing to
9 note that if the applicant did provide compliant side yards of
10 eight feet, the resulting home could only be nine feet in width,
11 which would create, you know, challenges in terms of making a home
12 that is up to the standards of modern living with efficiencies
13 like a staircase, thickness of walls. You really reduce the width
14 of the livable space considerably. So, that's really the crux and
15 the driving force of this application, albeit a special exception,
16 you don't need to prove practical difficulty. But the Board can
17 see that, again, the narrow lot would really drive the request for
18 side yard relief. Next slide, please.

19 Just briefly, walking through the plans. And again, Mr.
20 Killette can answer any questions if the Board has them. But I'm
21 going to walk through the plans briefly here. This is the front
22 elevation of the proposed single-family home, as you can see,
23 fronting on Douglas Street. Next slide, please. This would be
24 the side elevation facing Ms. Vu's property. And we'll discuss
25 this a little bit more in a few slides. Next slide, please. This

1 is the Eastern-facing elevation that would face Ms. Mason's other
2 neighboring property on Lot 127. Next slide, please. And this is
3 the rear elevation. Next slide, please.

4 And just a few images of the proposed accessory garage,
5 which again, would be used to meet the single parking space
6 requirement for the home. Next slide, please. Again, the
7 applicant is requesting special exception relief, which is
8 permitted under the R-1-B standards to reduce the side yards from
9 eight feet required to five feet provided. Next slide, please.

10 We believe this request is harmonious with the purpose
11 and intent of the regulations in satisfaction of the first prong
12 of the variance test. Again, the R-1-B Zone is intended to
13 promote a suitable environment for family life and to be developed
14 with detached houses on moderately sized lots. We believe this
15 project squares, is squarely within both of those intent. Again,
16 we'll be providing a new single-family home on a long vacant lot.
17 The project is fully consistent with all the other development
18 standards and actually, as the Board will see in a couple slides,
19 it actually is well below what's permitted in terms of lot
20 occupancy and building height, as well as providing a
21 substantially larger rear yard than what's required.

22 And finally, as I alluded to on the site plan, again, if
23 we come, if we provided eight-foot side yards as required, it
24 would be very difficult to meet both building code and standard to
25 provide a new home for a family. Next slide, please. In terms of

1 adverse impact, I do want to note that, as you'll see on the image
2 to the right, again, Ms. Vu's property is to the left as the Board
3 is looking at the slide. There is approximately 14 feet of
4 separation. The five-foot side yard on my client's property, plus
5 the side yard on Ms. Vu's property. Although, I will note that
6 Ms. Vu's property is shaped as a dogleg. So, it does actually go
7 further away from the property at the front.

8 As I just mentioned, the project lot occupancy, because
9 of the very large lot, the deep lot I should say, would be 25
10 percent where 40 percent is permitted by right. The rear yard
11 would be 80 feet, so it's quite a substantial rear yard and only
12 20 feet is otherwise required. And importantly, the height of the
13 building, it would be two stories at approximately 24 and 1/2 feet
14 with 40-foot maximum permitted.

15 I'd also note that Ms. Vu's property is a double-wide
16 lot compared to this, and I think that that contributes to
17 minimizing any impacts on light and air on that property. As you
18 can see, Ms. Vu's property is also a substantially deep lot with a
19 large rear yard, again, allowing light and air to flow throughout
20 the property. That won't be impacted by the applicant's proposal.

21 And finally, one thing Ms. Vu brought up in the party
22 status filing is the idea that she might one day install solar
23 panels. Just two quick points on that. One is the Board likely
24 knows the potential to install solar panels in the future is not a
25 protected right under the Zoning Regulations. And in addition to

1 that, the applicant is only proposing a 24-foot-high home, which
2 would be really a similar height to what Ms. Vu has, which is,
3 again, a two-story home similar to what the applicant is
4 proposing. So, any potential impact to solar panels are specious,
5 at best. Next slide, please.

6 In terms of privacy, again, I did want to note the
7 distance. There is 14 feet between the two properties. More
8 importantly, Ms. Vu only has one window facing East toward where
9 the applicant's proposal would be located. That window is located
10 on the second floor of Ms. Vu's property, which would look
11 directly across to essentially a blank wall. And so, as the Board
12 sees in the bottom right, that's the Western-facing elevation of
13 the client's proposal and there are no windows on the second
14 floor. So, we believe the separation, plus the -- the 14-foot
15 separation, plus the fact that there are limited windows on Ms.
16 Vu's Eastern-facing façade with no windows directly across on the
17 proposal, would limit any impact to privacy.

18 As you see, the front portion of the neighboring
19 property does not have any windows on much of the length of that
20 side elevation. And one other item in terms of privacy and use
21 and enjoyment that had been raised by the party opponent, this
22 idea that the applicant will somehow be creating a project that
23 can house several, you know, house people in the accessory garage,
24 house multiple people in the main home. Well, the R-1-B only
25 permits a single-family dwelling. So, we know there would only be

1 one family in the main structure. The proposed accessory garage
2 is in the record, and it will be a garage for the required parking
3 space. So, there'd only be one family living at this property.
4 So, any impacts to privacy of multiple people living there are
5 just not, is not what's permitted by right under the Zoning
6 Regulations and the applicant is not seeking relief for that.
7 Next slide, please.

8 In terms of adverse effects, another item raised by the
9 party opponent has to do with fire safety. And while we are
10 certainly sympathetic to any issues related to safety, I think the
11 most important point is this project will be constructed to comply
12 with the building code. And this is something that if the Board
13 has specific questions, Mr. Killette can testify to. There are
14 many, many regulations within the building codes that are for fire
15 safety. So, along with the 14-foot separation between the two
16 homes, these building code requirements are in place to protect
17 neighboring property owners from fire safety.

18 And so, for example, there would be no at-risk windows
19 on this project. The Western-facing façade is five feet removed
20 from the shared property line. That would not be classified as an
21 at-risk window. But beyond that, the applicant has proffered that
22 they would install fiber cement siding, which has a better
23 performance in terms of fire safety, both in terms of flame spread
24 index and smoke developed index compared to vinyl siding. So, the
25 applicant is making a proffer to try to minimize any potential

1 concerns with fire safety. Again, the applicant and, or Mr.
2 Killette can talk about the meaning of that. We have filed in the
3 record an independent report about fire safety ratings of the
4 fiber cement siding, so that is in the record for the Board. Next
5 slide, please.

6 Finally, I did want to talk about one of the four
7 special conditions. I've already touched on light, air, privacy,
8 use and enjoyment. But under Subtitle D, 5201.4(c) of the
9 proposed building as viewed from the street shall not
10 substantially visually intrude upon the character, scale, and
11 pattern of houses on the street or alley. Next slide, please.

12 In terms of this, I think one thing that's important to
13 note is actually, the 25-foot lot width of this subject property
14 is actually the main lot width in the neighborhood. So, what the
15 Board can see on the right-hand side is an image of Douglas Street
16 from the Zoning Map. And on just the Northern side of the street
17 where this property is located, 11 of the 18 lots are 25 feet in
18 width. And the reason for that is, historically, originally, the,
19 as the base map shows on the bottom of the screen, all the lots on
20 this street were 25 feet in width. And you see that in the
21 pattern of homes on the block, both on this side of the street and
22 on the opposite side of the street. Next slide, please.

23 These are just a few of the examples of homes on this
24 block, several of which are on the applicant's side, the Northern
25 side of Douglas Street. Many of the homes on this street have

1 small side yards with consistent front setbacks and large rear
2 yards. And that's because these lots are primarily 25 feet in
3 width, that squeezes the width of the building and allows for
4 substantial light and air to flow through large rear yards. And
5 so, what you see is, and what the applicant is proposing is
6 something that is actually very consistent with this block on
7 Douglas Street. Next slide, please.

8 And that will wrap up our case in chief. Again, Mr.
9 Killette or Ms. Mason are available for any of the Board's
10 questions or I'm happy to answer questions, as well. Thank you.

11 CHAIRPERSON HILL: Thank you, Mr. DeBear. Does the
12 Board have any questions for the applicant? And if so, please
13 raise your hand. Okay. All right, so, Ms. Vu, how this works now
14 is so, we're going to hear from all of the different parties and
15 agencies and then, you'll have a chance to present your testimony.
16 However, to be efficient, I'm going to ask if you have any
17 questions of anybody as we, kind of, go through and hear from
18 different people. Do you have any questions for Mr. DeBear?

19 MS. VU: So, just a quick question. I think that you
20 had mentioned that the applicant would be making, you said making
21 a proffer to install fiber cement. So, is that, like, they have
22 committed that they will definitely use fiber cement for the
23 building? Or --

24 MR. DEBEAR: Certainly, if it was --

25 MS. VU: -- just the proposal?

1 MR. DEBEAR: It's in the written record, Ms. Vu. But
2 certainly, if it would ease any of your concerns with fire safety,
3 that would absolutely be proffered as a condition and be part of
4 the order that the Board issues that the applicant would then have
5 to take to DCRA to get a building permit and she would have to
6 comply with that condition.

7 MS. VU: Okay. The other question that I had was, I
8 know that you showed in the map of the Douglas Street homes that
9 most of the homes are 25 feet in width. But have you gone into
10 the record to see, like, ownership of who owns, like, which ones?
11 Because some of them are actually owned by the same person.

12 MR. DEBEAR: I have not checked ownership.

13 MS. VU: Okay. That's all for now. I'll wait to
14 present my case later.

15 MS. MASON: Oh, I would --

16 CHAIRPERSON HILL: If you -- oh.

17 MS. MASON: Hi, how are you guys? I'm Kathy Mason, I'm
18 the owner of The Old House. I did have a chance to look at the
19 public record and Ms. Vu is correct that a few of the lots do have
20 the same ownership. But in contrast, just as many have different
21 owners. So, there are different owners even for the 25-foot lots
22 on the Northern side of Douglas Street.

23 CHAIRPERSON HILL: Okay. All right. Thanks, Ms. Mason.
24 Sure, Mr. Blake?

25 BOARD MEMBER BLAKE: Ms. Mason, I want to know, have you

1 had an opportunity to engage in a conversation with the neighbor?
2 Is this the first time you guys have actually interacted?

3 MS. MASON: No, actually, when I first -- because this
4 is my first time at this part. Mr. DeBear, I'm sorry, Mr. DeBear
5 told me the process. So, I went door to door to each neighbor to
6 introduce my project. When I went to Ms. Vu's door, someone else
7 answered, but I still gave them the paperwork, and I never heard
8 back. So, I, but I did receive correspondence from the church
9 across the street and the other neighbors. So, I did do my own
10 engagement just to try to, you know, get everyone on the same page
11 of what I was hoping to introduce.

12 MR. DEBEAR: I would just add, Board Member Blake, to
13 that, that we did, as attorneys, reach out to Ms. Vu via email a
14 couple times and did not hear back. So, we did attempt to speak
15 with her.

16 CHAIRPERSON HILL: Mr. Blake, do you have any more
17 questions?

18 BOARD MEMBER BLAKE: I don't. Thank you.

19 CHAIRPERSON HILL: Okay. I'm going to ask Ms. Douglas,
20 do you have any -- wait, hold on, let me go ahead and -- I always
21 forget the order. I think we go to the Office of Planning next.
22 Let's hear from the Office of Planning, please.

23 MS. MYERS: Good morning, Crystal Myers with the Office
24 of Planning. The Office of Planning's recommending approval of
25 this case. And I will take a bit to just explain why. As you are

1 well aware, the property is -- well, it's a recorded lot, but it
2 has some standard lot width. And so, we took that into account,
3 the fact that they are asking for five-foot side yards, we thought
4 was reasonable.

5 With the light and air issue, the property on the
6 Western side, the proposed house's five-foot side yard along with
7 that property's side yard, so Ms. Vu's side yard, it would result
8 in approximately 14-foot of separation, which would allow the, a
9 sufficient amount of light and air between the two houses. On the
10 Western side -- or, I'm sorry. On the Eastern side, the house
11 would be separated from the applicant's other property by ten feet
12 in total because both properties would have five-foot side yards,
13 which we thought was a reasonable amount of distance between the
14 two. And on the, other than the side yards, the house is
15 conforming to all of the other development standards. So, when it
16 comes to height and bulk, it's within the standards of the Zone.

17 When it comes to privacy of use and enjoyment, the
18 proposed house would have windows along the side walls as has been
19 shared by the applicant that would face the neighbor to the West
20 as well as the neighbor to the East. But we thought that the side
21 yard with the two neighbors, so as mentioned earlier, the 14 feet
22 on the Western side, we thought that that was significant distance
23 to maintain a reasonable amount of privacy between the two
24 properties and on the other side with ten feet between the two.

25 And as for the proposed addition or the house and how it

1 would look on the street and on the alley. On the street side, we
2 thought it would be pretty similar to other houses along the
3 street. It wouldn't be out of character. And the garage would be
4 a little different for the area, but not unreasonable. And then,
5 of course, the applicant's other property would be developed very
6 similarly, so there would be two detached garages on the alley.
7 So, it would, you know, they would not be the only ones anymore.
8 But we didn't think that the design of the garages or the size of
9 garages was unreasonable if it's within the requirements of the
10 Zone but be within, it would look appropriate for the area.

11 And when it comes to the general special exception
12 standards, when it comes to the harmony with the general purposes
13 and intent of the regulations, the R-1-B Zone is intended for
14 detached houses and the proposal would allow for a detached house
15 with an accessory garage, which we think fits within the intent
16 and the purpose of the Zone. And as for how it would be when it
17 comes to impacting the neighborhood and properties, again, we
18 thought that the proposed five-foot side yards, as well as the
19 neighboring side yards allowed for a significant enough difference
20 between the two houses to not be a significant impact to the
21 neighboring properties. So, we thought that that would be
22 appropriate.

23 So, with that, again, the Office of Planning is
24 recommending approval and is here for questions.

25 CHAIRPERSON HILL: Okay, great. Thank you, Ms. Myers.

1 Does the Board have any questions for the Office of Planning? And
2 if so, raise your hand. All right. Does the applicant have any
3 questions for the Office of Planning?

4 MR. DEBEAR: No.

5 CHAIRPERSON HILL: Ms. Vu, do you have any questions for
6 the Office of Planning?

7 MS. VU: Just a quick question. Thank you for that
8 summary, by the way. My question was when you were making this
9 recommendation, were you also looking at doing a percentage
10 calculation on how many homes for example are, I guess, not within
11 the standard meeting the setback requirement, number one? And
12 number two, have you taken into account how many fires have
13 occurred on Douglas Street?

14 MS. MYERS: No, we didn't do a percentage calculation
15 looking at other houses in that respect. But we did take a look
16 at the neighborhood in general, looking at the property sizes and
17 took into account, you know, what is being proposed and its
18 relationship to the neighborhood and thought that what's being
19 proposed is appropriate and within the character of the
20 neighborhood.

21 As for the fire issue, and I did take a look at your
22 letter as well. That would be, it's a building permit concern.
23 It's something that, as long as the house is built to its building
24 permit requirements and standards, it should address what are, you
25 know, fire safety concerns. And again, we think that the side

1 yard being proposed along with the adjacent side yards would allow
2 for a significant enough distance. I know in your letter, you had
3 mentioned concern about the neighbor, your other neighbor on the
4 adjacent side and the side yards between your property and that
5 neighbor are significantly less than what we're looking at in this
6 scenario. So, I think there's less issue when it comes to fire.
7 But again, the development standards or the building permitting
8 process would ensure that the appropriate measures are taken.

9 MS. VU: Thank you.

10 CHAIRPERSON HILL: Okay. Thank you.

11 Commissioner Douglas, do you have any questions for the
12 Office of Planning? Commissioner Douglas, can you hear me?

13 COMMISSIONER DOUGLAS: Oh, yes. Yes. I'm sorry. Yes.
14 I'm here. I, as Mr. DeBear explained, we did take a vote last
15 night at the ANC Commission and the Commission is in support of
16 the project because the single-family housing and that, our
17 thoughts, at least my thought was it's a great opportunity for a
18 family to, for a first-time home buyer to have an opportunity --
19 can you hear me?

20 CHAIRPERSON HILL: Yes.

21 COMMISSIONER DOUGLAS: To have an opportunity to --
22 something's going back and forth. Is that me or somebody else?

23 CHAIRPERSON HILL: I think it's you, Commissioner. But
24 I, we've heard now that you voted in favor last night, correct?

25 COMMISSIONER DOUGLAS: Yeah, that's correct. That's

1 correct.

2 CHAIRPERSON HILL: Yeah. Okay, great. Okay, thanks,
3 Commissioner.

4 Mr. DeBear, do you have any questions for the
5 Commissioner?

6 MR. DEBEAR: I do not.

7 CHAIRPERSON HILL: Ms. Vu, do you have any questions for
8 the Commissioner? Okay. All right. For the record, Ms. Vu
9 said no. All right. Ms. Vu, you have an opportunity, go ahead
10 and give your presentation now.

11 MS. VU: Sure. Thank you. Yeah, so I think the main
12 thing that I have as a concern has always been this fire issue.
13 And I understand that, you know, on the left-hand side are my, the
14 Western side of the border where my neighbor's house caught on
15 fire and then, my house subsequently caught on fire. I understand
16 that setback is smaller. That being said, having gone through a
17 fire two years ago and then, having gone through a fire two months
18 ago again, I think that this is really, really important, these
19 safe, these setbacks.

20 And, you know, like, I remember very specifically being
21 asleep when these fires, like, when the first fire happened and
22 firemen coming to the rescue. And it was fortunate because this
23 fire happened during the day. If this had happened during the
24 evening, maybe a neighbor would not have called. And I'm
25 mentioning, I'm really, really bringing home this point because I

1 don't think, you know, from the development side, I think building
2 more homes sounds great. But if you look at the homes on Douglas
3 Street, there's been quite a few fires.

4 Just on my, just a few houses down, I can tell you, my
5 home caught on, has caught on fire twice, 2019 and just two months
6 ago. A home five homes over to the West also caught on fire and
7 it still hasn't recovered. The home directly next to mine is
8 still blackened and charred and boarded up. And across the
9 street, another home caught on fire, four homes across the street
10 from mine. So, and there was a fire in the housing projects
11 behind us recently, as well. So, I think fire safety concern is
12 at the forefront of my argument. Even if you're saying that,
13 okay, the property barrier, the distance between the home, two
14 homes is going to be 14 feet, hey, it's going to be mostly my side
15 that's doing a lot of, you know, ensuring that buffer exists. And
16 I think, I'm wondering if you all can think about a different way
17 of redesigning the lots so that it's not something that would put
18 or set a precedent for other homes in the neighborhood to
19 experience something like that.

20 And, you know, like, my, the home that, the fire that
21 recently happened was when lightning struck. And there's a real
22 risk of fire in this area because, and I'm, as you see in the
23 maps, the depth of the field or the homes is quite long and it
24 leaves open space, which provides some susceptibility for
25 lightning striking. And, you know, there was the argument

1 previously made that, hey, like, there's not going to be an issue
2 with light or air. But I think there could be.

3 And I'm saying that because, you know, you're saying,
4 like, you're not building solar panels, you're not thinking about
5 -- or it's something you're thinking about doing in the future
6 only. But the reason why I'm doing it now is because I don't have
7 a roof on my home, and I think it's really easy for people to say,
8 hey, neighboring properties are most likely, or not likely to be
9 affected. But here I am telling you that I've been affected very
10 profoundly by neighboring properties. And even if it's an issue
11 of, you know, like, potentially putting solar panels down the
12 road, it's not that far down the road. I'm thinking about it
13 right now because I don't have a roof on my home, and I have to
14 rebuild the roof, and I'm thinking about putting on panels right
15 now. So, I mean, I don't know what the exact regulations are on
16 how far this has to be on the future contemplated, but it's
17 something that is immediate for me because my house right now has
18 been struck by lightning and caught on fire. And the extent of
19 the fire is significant as well.

20 So, I, and again, I was fortunate because when this
21 happened, that room was rented out and the tenant actually
22 happened to be sleeping and a fireman came in and rescued him.
23 So, I mean, I think it's, I understand from your point of view,
24 hey, the development is great, this is a wonderful opportunity.
25 But having lived through this twice -- and my house is, you know,

1 I mean, I can't even rent it out. I can't even live there because
2 the top floor, there's no roof still. So, it takes months and
3 months for something, it took me a few months to recover from the
4 first fire. My neighbor Dionne (ph.) hasn't recovered. And the
5 other two homes on the street, which are literally down the
6 street, a one-minute walk away are still boarded up. So, I think
7 it's something that really needs to be contemplated.

8 And, you know, there is the argument that the home
9 across, your home will have, like, six windows, I believe, on the
10 East-facing side of the wall and you're saying, well, it's not
11 going to be a privacy issue because my home only has one window
12 and it's not directly facing the other windows. Well, again, this
13 is something that I think is, you know, is relative. Just because
14 I have one window doesn't necessarily mean that I want to be as
15 close or closer to somebody. And I think that the argument that,
16 hey, this is in line with everything else that's on the street
17 isn't correct because in actuality, a lot of the homes on the
18 street, even if they are substandard 25-width lots, they're owned
19 by the same person.

20 Like, my home actually was, it was Lots 124 and 125, and
21 I combined them, so it shows up as one bigger lot now. It shows
22 up as Lot 188. But a lot of the homes, actually, are owned by
23 several, by the same person. So, for example, Lot 126 and 127,
24 where you're contemplating, the neighbor to the left of me was
25 also owned by my neighbor Dionne, 122 and 123. And the other Lots

1 that are substandard 25-foot lots, several of them are actually
2 unoccupied. So, if you look on the street, even though you're
3 saying it's 11 substandard size lots, in actuality, if you go down
4 the street, the homes are fairly big. And a lot of them are quite
5 big. And the neighboring home to the immediate East for this,
6 this would be 20513, that home is huge. They have a massive
7 width. It's greater than all three of our homes or lots combined.
8 It's the width of basically four --

9 CHAIRPERSON HILL: Ms. Vu?

10 MS. VU: Yeah?

11 CHAIRPERSON HILL: Ms. Vu, I'm sorry. You're, kind of,
12 all over the place a little bit in terms of what you're referring
13 to. So, I mean, just in terms of your home and your property,
14 what else would you like the Board to focus its attention on?

15 MS. VU: Well, I would really like the Board to focus
16 its attention on the argument, for example, regarding the, who
17 this is -- I think the applicant has made the argument that the
18 width of the lot, 25 feet, and the width of the proposed homes is
19 very much in character with the rest of the homes on the street.
20 But I don't agree with that.

21 CHAIRPERSON HILL: Okay.

22 MS. VU: Because there are a lot of other homes that are
23 quite large. And of the lots that are 25 feet, there's actually
24 nothing on them, so they're empty. They're completely unimproved.
25 So, in other words, even if they're 25 feet apart, there's nothing

1 on them. So, if you look --

2 CHAIRPERSON HILL: Okay.

3 MS. VU: -- if you go down the street, you see a lot of
4 open spaces. In other words, you don't see that many cramped
5 homes, you see a lot of green space.

6 CHAIRPERSON HILL: Okay.

7 MS. VU: And so, my point is that if we're proposing
8 something that's going to be, you know, what the minimum side yard
9 requirement of less than eight feet, I think it will be
10 noticeable. And if you look at these homes where a lot of the
11 times, the homes are quite small, they, an adjacent lot is owned
12 by the same party. So, the house might look like it's on a 25-
13 foot lot, which it is, but the adjacent lot is also 25. It's
14 owned by the same person. So, in other words, the setback or the
15 side yard requirement is definitely met because it's, because
16 there's -- it's empty.

17 So, I don't, I disagree with that argument. And I'm
18 also, you know, I'm concerned about the argument that, you know,
19 14 feet -- having five feet should be sufficient because I think
20 it sets a precedent that, you know, five feet in general might be
21 fine, when in actuality, we've seen a lot of fires on my street,
22 on this very block. All within just a few homes from me. So --

23 CHAIRPERSON HILL: Okay. All right.

24 MS. VU: I, yeah.

25 CHAIRPERSON HILL: I understand. Do you --

1 MS. VU: And the other thing I wanted to mention was
2 there were other neighbors who are against this proposed
3 construction that would -- I mean -- and I --

4 MR. DEBEAR: I just want to object to that, Chair.
5 That's hearsay and there's no letters of opposition in the record
6 other than Ms. Vu. And the ANC supports this case. So, I just --

7 CHAIRPERSON HILL: Okay.

8 MR. DEBEAR: -- wanted to say that real quick.

9 CHAIRPERSON HILL: Ms. Vu, I just want you to focus on
10 your home and what issues you're having with the property. And
11 so, how much more time do you need?

12 MS. VU: I don't need that much more time. I think,
13 those are my main arguments. And I think, you know, if the
14 standard is that you're not supposed to adversely affect
15 neighboring properties, or if that's something that you're
16 supposed to consider, I would say that as the neighboring
17 property, I would consider being adversely affected. The other
18 thing is that, you know, if the general purpose and intent of the
19 Zoning Regs, which I understand is to encourage families to live
20 in the area, I agree with that. But I think there could be
21 alternative ways of doing this, you know, so that it doesn't
22 affect directly my property.

23 I mean, the applicant owns the two lots together and
24 they could, potentially, build their homes, those two homes closer
25 together so that it's not as close or abutting to my property for

1 example. Or do, I don't know, like, an L-shaped lot like you see
2 on the other side of the street. On the South side of Douglas,
3 there's one lot that's shaped like that so that at least the side
4 yard requirements would still be met.

5 CHAIRPERSON HILL: Okay. All right. Does anybody have
6 any questions for Ms. Vu? Mr. Blake?

7 COMMISSIONER DOUGLAS: I just want to say something real
8 quick, that --

9 CHAIRPERSON HILL: Ms., Commissioner? Commissioner?

10 COMMISSIONER DOUGLAS: Okay.

11 CHAIRPERSON HILL: Let me just get through the questions
12 from the Board first.

13 COMMISSIONER DOUGLAS: Okay. I'm sorry.

14 CHAIRPERSON HILL: That's all right. And if you have
15 any questions, it's more questions for Ms. Vu. But first, does
16 the Board have any questions for Ms. Vu? And Mr. Blake, you had
17 your hand up?

18 BOARD MEMBER BLAKE: Yeah, I had one question, Ms. Vu.
19 With regard to the interaction, I'd asked the applicant earlier
20 about the interaction and had they talked to you before this
21 meeting. Can you just, kind of, respond to that about how that
22 has or has not occurred?

23 MS. VU: They sent me an email just reaching out, but I
24 was just so busy, I could not respond. I was traveling from Spain
25 to Germany to Seoul to Vietnam. I'm in quarantine right now, so

1 I've only been able to get fully online in the past week or so.

2 MS. MASON: Can I interject quickly? I'm sorry.

3 CHAIRPERSON HILL: Wait, no. Give me a second. Just
4 let me get through my questions with the Board Members. Thank
5 you.

6 Mr. Blake, do you have any Board Member questions?
7 You're good?

8 Mr. Smith, do you have any questions? No?

9 Commissioner Miller, do you have any questions? No?
10 All right.

11 Ms. Mason, you had a comment or a --

12 MS. MASON: Yes.

13 CHAIRPERSON HILL: -- question?

14 MR. DEBEAR: I'll just --

15 MS. MASON: Oh, sorry. I had a comment. I did
16 actually, not just one time, a couple times, I tried to engage Ms.
17 Vu of --

18 CHAIRPERSON HILL: Yeah, I'm, I got you. That's fine.
19 I mean, Ms. Vu's here and Ms. Vu knows about the case and Ms. Vu's
20 able to give her testimony. Mr. DeBear, I don't need any comments
21 from anybody. I'm trying to get through this.

22 MR. DEBEAR: Yes. I understand. I just had two quick
23 questions. Just for --

24 CHAIRPERSON HILL: You have questions of Ms. Vu?

25 MR. DEBEAR: Very short questions.

1 CHAIRPERSON HILL: Okay. One moment.

2 Commissioner Douglas had a comment. Commissioner
3 Douglas, you have a question?

4 COMMISSIONER DOUGLAS: Yes. I just want to say the
5 fliers were disseminated out into the community as well as the --
6 and then, we had an ANC 7D meeting two Saturdays ago and our ANC
7 meeting last night. So, they were all invited to both meetings,
8 and so I didn't hear anything back from Ms. Vu. This is my first
9 time hearing anything from her. We did send the information out
10 and went from door to door to make sure that she got it, not only
11 once, but twice.

12 CHAIRPERSON HILL: You're speaking about the fires, is
13 that correct, Commissioner Douglas?

14 COMMISSIONER DOUGLAS: No, I'm talking about the prior
15 notice to her to be involved in the community.

16 CHAIRPERSON HILL: Oh, okay. All right. Very good.
17 Ms. Vu, she's speaking of you getting notice about this.

18 MS. VU: Okay. I mean, the house caught on fire, so I
19 can't occupy it, so I'm not there. My house caught --

20 CHAIRPERSON HILL: Right.

21 MS. VU: -- on fire, so I don't live there right now.

22 COMMISSIONER DOUGLAS: But you just said that we did
23 email, so you got the email, so that was notice.

24 MS. VU: But I only, I didn't get any other emails. I
25 mean, it'd have to be --

1 COMMISSIONER DOUGLAS: But there's an email --

2 CHAIRPERSON HILL: That's all right. I'm not trying to
3 figure out -- so, we're here to discuss, and I'm going to let my
4 fellow Board Members help me in any kind of deliberation that we
5 get through whether or not the standards are being met for this
6 application.

7 Mr. DeBear, what is it, your questions?

8 MR. DEBEAR: My question is just one about the light and
9 air issue. I just want to ask Ms. Vu, you have not applied for
10 solar panels to install on your home, correct?

11 MS. VU: I applied previously, actually. But not to
12 DCRA yet because I was getting an opinion from the solar engineer.
13 And then, they had mentioned that I might need to do some repairs
14 before doing so. And then, lightning struck, so I can't do
15 anything --

16 MR. DEBEAR: And how --

17 MS. VU: -- to the house right now.

18 MR. DEBEAR: -- tall is your home approximately?

19 MS. VU: Oh, I don't know.

20 MR. DEBEAR: Is it two stories?

21 MS. VU: Twenty -- yeah, it's two stories.

22 MR. DEBEAR: Okay. Thank you.

23 CHAIRPERSON HILL: Okay. All right. Let's see. Okay,

24 Mr. Young, is there anyone here wishing to speak from
25 the community?

1 MR. YOUNG: We do not.

2 CHAIRPERSON HILL: Okay. All right. Okay, I think I've
3 got -- Ms. Vu, have you asked all your questions of anyone?

4 MS. VU: Yes. Thank you.

5 CHAIRPERSON HILL: Okay. All right. Does the Board
6 have any final questions of anyone? Okay. What I'm going to do
7 or request we do is hold our deliberations in abeyance and then,
8 go ahead and hear the next case, which is the property that's one
9 property over from Ms. Vu. But still, that Ms. Vu has party
10 status for. And also, Ms. Vu, I guess, in terms of the fire,
11 there was the fiber cement siding that the applicant had
12 proffered, I guess, on this side of this house.

13 Mr. DeBear, I guess I do have a question for you. The
14 fiber cement siding that you guys are proffering is only on one
15 side of this house? Is that correct?

16 MR. DEBEAR: Ms. Mason can answer that. My
17 understanding was both houses, but the whole house of this
18 application. But she can answer that.

19 MS. MASON: Yes. Both houses will be four-sided fiber
20 cement.

21 CHAIRPERSON HILL: Fiber cement siding. Okay. All
22 right. Okay. I'm going to go ahead and close this hearing and
23 the record. And then, if you all can just stay there because
24 then, now, I'm going to ask Mr. Moy to read into the next hearing.

25 MR. MOY: All right. Thank you, Mr. Chairman. So, this

1 would be Case Application No. 20513 of The Old House, LLC.
2 Captioned and advertised for special exception from the minimum
3 side yard requirements, Subtitle D, Section 206.2. This would
4 construct a new two-story detached principal dwelling unit with
5 detached two-story accessory garage in the R-1-B Zone. The
6 property is located at 4420 Douglas Street Northeast, Square 5116,
7 Lot 127.

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

9 Mr. DeBear, could you please introduce yourself for the
10 record?

11 MR. DEBEAR: My name is Eric DeBear from Cozen O'Connor
12 Land Use Counsel on behalf of the applicant, The Old House, LLC.

13 CHAIRPERSON HILL: Okay. Ms. Vu, could you introduce
14 yourself for the record, please?

15 MS. VU: Sure. I'm the owner of the property at 441
16 Douglas Street.

17 CHAIRPERSON HILL: Okay. Commissioner Douglas, can you
18 hear me?

19 COMMISSIONER DOUGLAS: Yes.

20 CHAIRPERSON HILL: Can you introduce yourself for the
21 record, please?

22 COMMISSIONER DOUGLAS: This is Commissioner Douglas, ANC
23 7D03, single member district in the area where the property is
24 being built, the single-family housing. I represent that area on
25 --

1 CHAIRPERSON HILL: Okay.

2 COMMISSIONER DOUGLAS: -- Douglas Street.

3 CHAIRPERSON HILL: Okay. Thanks, Commissioner. So, Mr.
4 DeBear, as you mentioned, we're going to go ahead and refer -- I'm
5 going to refer everybody who's watching this video to the previous
6 case and we're going to include most of the testimony from 20512
7 into this case, which is 20513.

8 Mr. DeBear, what would you like to tell us or how would
9 you like to talk through 20513 and how it's any different than
10 20512?

11 MR. DEBEAR: I would love to pull up the PowerPoint and
12 limit it to only a couple slides, Chair, just to show the
13 differences and put it in the record. As you mentioned,
14 everything else (audio interference) incorporated testimony from
15 the case 20512.

16 CHAIRPERSON HILL: Mr. Young, could you pull up the
17 slide deck, please?

18 MR. DEBEAR: Next slide, please. Next slide, please.
19 So, just very briefly, this is Lot 127 at 4420 Douglas Street. It
20 is in the R-1-B Zone. It is a vacant parcel, and the applicant is
21 proposing, as in 20512, a single-family home with an accessory
22 garage. Next slide, please. The site plan would be identical to
23 that proposed in the 20512 and the lot sizes are identical as
24 well. Next slide, please. Next slide, please.

25 Again, the ANC supported this case as they did in 20512.

1 The Office of Planning also supports this case. And just one note
2 that I'll just touch on in a bit, the abutting neighbor to the
3 East of this property is supportive and there is a letter of
4 support in the record. The other abutting neighbor is the
5 applicant's property at Lot 126. That's along the Western lot
6 line. The party status, Ms. Vu, is two lots to the West of this
7 lot. Next slide, please. The site plan is the same as 20512.
8 Next slide, please. And all the plans are the same. You can skip
9 through three or four or five slides. Next slide. Next slide.
10 Next slide. Next slide. Next slide. Next slide.

11 This is where we just want to distinguish, again, what
12 the Board sees on the right-hand image is the Lot 127 with the
13 proposed site plan overlaid. Again, BZA case 20512 concerned Lot
14 126, which is the Western abutting lot. To the East, there is a
15 letter of support from that neighbor. And I'll also just note
16 that neighbor has a very large side yard as well as vegetation and
17 trees along the shared lot line that would form a buffer from the
18 project on Lot 127. Next slide, please.

19 This is the, an image of that Eastern neighbor and you
20 can see the vegetation there. And again, just to reiterate, Ms.
21 Vu's property is not abutting Lot 127, it is separated from Lot
22 127 by Lot 126, that was a (audio interference) of 20512. Next
23 slide, please. Again, the same, we take fire safety very
24 seriously. But again, the project will be compliant with the
25 building code and just for good measure, the applicant is also

1 proffering the fiber cement siding material on Lot 127, even
2 though it does not abut Ms. Vu's property to ensure that, again,
3 fire safety is of the utmost importance and they're considering
4 that as part of this block. Next slide, please. Next slide,
5 please.

6 I just want to reiterate, in terms of the special
7 conditions, light, air, and privacy. We've talked about those
8 conditions or those special conditions, I should say, under 20512.
9 And the same arguments would apply here, again, in terms of the
10 party status opponent, those impacts, if any, would be even
11 further minimized because she does not abut this property. And
12 again, the only other non-applicant that abuts this property is in
13 support of this project.

14 Again, as we discussed in terms of Subsection C,
15 character, scale, and pattern, again, we incorporate our arguments
16 from 20512. We believe this design does not substantially
17 visually intrude on the character of Douglas Street. It does not
18 require that every home be 25 feet in width, but what we've shown
19 and what you can see on the next slide, please, is that several
20 homes are, indeed, similar to the proposal. The ownership of
21 those homes is not relevant. Those homes exist. There's actually
22 another BZA case approximately three lots down from this lot that
23 is before the Board in approximately a month that would also
24 propose a very similar-sized home on a 20-foot (sic) wide lot.

25 So, we do believe, again, this proposal is consistent

1 with the character, scale, and pattern on Douglas Street along
2 with the accessory garage. Next slide, please.

3 And that concludes my truncated presentation in chief.
4 I'm open for any questions.

5 CHAIRPERSON HILL: Thank you, Mr. DeBear. Does the
6 Board have any questions of Mr. DeBear? Okay.

7 Ms. Vu, do you have any questions of Mr. DeBear?

8 MS. VU: Well, same as the other one or the other case.
9 Everything I said would apply the same.

10 CHAIRPERSON HILL: Okay. Again, you're at -- just to
11 reiterate, that the fiber cement siding is being used all around
12 this building, correct, Mr. DeBear?

13 MR. DEBEAR: Correct.

14 CHAIRPERSON HILL: Okay.

15 MR. DEBEAR: It's actually proffered as a condition.

16 CHAIRPERSON HILL: Yeah, I don't know if we can --
17 anyway, we'll get to the conditions. But and I'll talk about that
18 at the end here.

19 Let's see, oh, Commissioner Douglas, do you have
20 anything to add about this one? You also took a vote on this
21 case, is that correct?

22 COMMISSIONER DOUGLAS: That's correct. I just want to
23 say that I have sympathy for Ms. Vu. I understand when fire does
24 affect a family because I had circumstances. But I don't think
25 that this would be in this case, and our home was real close

1 together. So, I just want to say I have sympathy, but I don't
2 think that this would have any effect on the impact of this new
3 development single-family housing. Thank you.

4 CHAIRPERSON HILL: Okay. Thanks, Commissioner. And,
5 Commissioner, also, you guys did vote for this project last night.
6 Is that correct?

7 COMMISSIONER DOUGLAS: Last night. That's so, correct.

8 CHAIRPERSON HILL: Okay. You voted in favor?

9 COMMISSIONER DOUGLAS: Yes, sir. In favor, we did.

10 CHAIRPERSON HILL: Okay. Okay, great. Does the Board
11 have any questions for the Commissioner? Okay.

12 Ms. Vu, do you have any questions for the Commissioner?

13 MS. VU: No.

14 CHAIRPERSON HILL: Okay. Let's see, can I hear from the
15 Office of Planning?

16 MS. MYERS: Good afternoon, Crystal Myers for the Office
17 of Planning. The Office of Planning is recommending approval of
18 this case. And our report is pretty much identical to the report
19 I discussed in 20512. So, I don't know if you would like me to go
20 through it again? But the only other thing I would say on this is
21 that again, when it comes to fire concerns, we do trust in the
22 requirements of the permitting process as well, you know, as the,
23 it sounds like the applicant is proffering some materials that
24 would help prevent. But from the Office of Planning's point of
25 view, the distance between the houses as well as the requirements

1 in the review process or the permitting process should address the
2 concerns when it comes to fire potential.

3 So, with that, I'll stand on the record of the staff
4 report.

5 CHAIRPERSON HILL: Okay, thanks. Ms. Vu, do you have
6 any questions for the Office of Planning?

7 MS. VU: No.

8 CHAIRPERSON HILL: Mr. DeBear, do you have any questions
9 for the Office of Planning?

10 MR. DEBEAR: No.

11 CHAIRPERSON HILL: Ms. Vu, I understand you would want
12 to take your testimony and add that to the record from Case No.
13 20512. However, is there anything else you might like to add?

14 MS. VU: No.

15 CHAIRPERSON HILL: Okay. All right. Let's see, does
16 the Board -- oh, Mr. Young, is there anybody here wishing to
17 testify?

18 MR. YOUNG: We do not.

19 CHAIRPERSON HILL: Okay. Does the Board have any
20 questions for anyone? Okay. Ms. Vu, I'm really sorry, also, by
21 the way the for the fire that your home has experienced. And I
22 also feel bad that you're stuck in quarantine and you're all the
23 way, all over the place and this is just, you know, I mean, it's
24 12 hours later, you know, it's midnight there, right? And so, you
25 know, we did try to move you up so that we could at least take

1 your testimony and hear from you. I mean --

2 MS. VU: Thank you.

3 CHAIRPERSON HILL: I do, unfortunately, I mean, some of
4 it, I don't know, you know, like, the, obviously, the lightning
5 strikes and the, you know, things that made the fires happen to
6 your home, we, and as the Commissioner mentioned, we're very
7 sympathetic to it. But -- and I just wanted to let you know that.

8 MS. VU: Thank you, I appreciate that.

9 CHAIRPERSON HILL: Let's see, okay. I'm going to go
10 ahead and close -- oh, Mr. DeBear, this is -- and I'm just
11 mentioning this on the record and -- well, I guess, Ms. Mason,
12 like, I don't know if -- and actually, I don't know, Ms.
13 Nagelhout, is fire material, like, is that something that, kind
14 of, falls within our purview?

15 MS. NAGELHOUT: I would say typically, no. But since
16 the applicant has made the proffer, I don't see anything in 5201
17 that's related, but if you wanted to tie it to Subtitle X 901.2, a
18 special exception will not tend to affect adversely the use of
19 neighboring property, you could adopt a condition consistent with
20 that requirement.

21 CHAIRPERSON HILL: Okay. All right. So, Ms. Mason,
22 again, the condition you're proffering is something that you're
23 planning on doing anyway, correct? Okay. So, we'll probably add
24 -- if we can as the Board add that condition, we might do that.
25 All right.

1 Okay, Mr. DeBear, is there anything you would like to
2 add at the end?

3 MR. DEBEAR: No, thank you, Chair.

4 CHAIRPERSON HILL: Okay. All right. I'm going to go
5 ahead and close the hearing and the record. I would like to
6 excuse everyone. Okay. So, now, Mr. Moy, if you could go ahead
7 and read us back into the decision for 20512? I guess, we'll,
8 let's do these decisions both separately, okay?

9 MR. MOY: Yes, of course. So, for the transcript then,
10 the Board is resuming Case Application No. 20512 of The Old House,
11 LLC. And this is property located at 4420 Douglas Street
12 Northeast, Square 5116, Lot 126.

13 CHAIRPERSON HILL: Okay. All right. So, I mean, it's
14 all, I shouldn't say it's all. It's disappointing that Ms. Vu has
15 been experiencing fire and it's disappointing that she's not
16 interested in this project, exactly, because of her concerns
17 primarily seeming to have been with fire, that of fire. And I can
18 assume, I can completely appreciate that if the house has caught
19 fire twice, right?

20 So, however, I don't think that this particular -- well,
21 first of all, the fire isn't the -- the fire issues are not within
22 our purview, right? Like, that's something that permitting will
23 take care of and whether or not the property is conforming. Can
24 you all hang on one second? I'm sorry, there's just somebody at
25 the door. I'm sorry, this COVID thing is so weird. All right.

1 So, the fire issue I think is not really something that
2 I think will be dealt with. I think it's going to be dealt with
3 with permitting, as has been mentioned. In terms of the requested
4 relief from the special exception from the side yard, I think that
5 the applicant is meeting its burden. I think that, like, you
6 know, nine-foot-wide homes, you know, the applicant was mentioning
7 that's not even a variance but that they could possibly meet a
8 variance standard if it was going to be that. So, I would agree
9 with the testimony that the applicant has given, as well as that
10 of the Office of Planning, as well as that of the Commissioner
11 Douglas and the ANC in why they believe that this application
12 should be granted due to it meeting the criteria for the standard.

13 I also think that I would be in, I would be interested
14 in putting forth a condition that was speaking about the fiber
15 cement siding in order to at least add some comfort to Ms. Vu and
16 us, you know, citing the general special exception general
17 standards. But I'll be voting in favor.

18 Mr. Smith, do you have anything to add?

19 BOARD MEMBER SMITH: Chairman Hill, I agree with your
20 interpretation. And, you know, my heart goes out to Ms. Vu and,
21 you know, the fire damage that she has sustained recently, and it
22 sounds like it's the reason why she's had to move around a lot.
23 So, you know, my deepest sympathies to her and her wallet, also.
24 I mean, they can do the fixes to her home.

25 But like you stated, you know, the situation that's

1 occurring next door, that is not something that is a purview of
2 this Board and it's not something that is, you know, before us
3 today. But I do welcome your idea given that the applicant has,
4 you know, stated on record that they are open to this particular
5 condition, to condition that the application uses this fiber
6 cement siding. And just for clarification, did she say on all
7 four sides of this particular property? So, if we were to
8 condition, I would condition it with that extra language, state
9 all four sides, not just, you know, just leaving it open.

10 So, you know, with that, I also agree with you that
11 based on the testimony that we've heard today is also, the OP
12 staff report, I do believe that the applicant has met all the
13 criteria for us to support this special exception. The size of
14 the lot is 25 feet, that's not a standard size conforming lot to
15 the R-1-B Zone. Typically, they're larger and because of this
16 Zone, R-1-B, they are requiring the eight-foot setback, which
17 would result in not a wide house, which is fairly impractical.

18 So, I do believe based on the size of this lot and the
19 minimal requirement that they would have to meet with this eight-
20 foot side yard requirement, I do believe that it is reasonable for
21 them to request to shrink down this side yard. Not to zero.
22 We've seen situations where applicants have come in to, you know,
23 shrink it even further. They're requesting to maintain some form
24 of a side lot, side yard, five feet on each side, which I do
25 believe is reasonable given that we will condition it to have

1 additional fire-retardant siding for the property to protect
2 against any situation where they may be some fire hazards there.
3 So, with that, I will support this application.

4 CHAIRPERSON HILL: Thank you, Mr. Smith.
5 Commissioner Miller?

6 VICE CHAIR MILLER: Thank you, Mr. Chairman. I concur
7 with you and Board Member Smith. And I'm prepared to support the
8 application with the fiber cement, the fiber cement material
9 siding condition proffered by the applicant. Thank you.

10 CHAIRPERSON HILL: Thank you, Commissioner Miller.
11 Mr. Blake?

12 BOARD MEMBER BLAKE: Yeah, I believe the applicant has
13 met the standard for relief. And given Ms. Vu's concerns and the
14 applicant's willingness to comply, I feel comfortable
15 incorporating that condition. So, I will be prepared to support.

16 CHAIRPERSON HILL: Okay. Thank you. I'm going to make
17 a motion to approve Application No. 20512 as captioned and read by
18 the Secretary, including the condition that fiber cement siding be
19 used on all four sides of the proposed structure and ask for a
20 second, Mr. Blake?

21 BOARD MEMBER BLAKE: Second.

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

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

1 to the motion made by Chairman Hill to approve the request for
2 special exception as well as the one condition as the Chairman has
3 cited in his motion. The motion was seconded by Mr. Blake.

4 Zoning Commissioner Rob Miller?

5 VICE CHAIR MILLER: Yes.

6 MR. MOY: Mr. Smith?

7 BOARD MEMBER SMITH: Yes.

8 MR. MOY: Mr. Blake?

9 BOARD MEMBER BLAKE: Yes.

10 MR. MOY: Chairman Hill?

11 CHAIRPERSON HILL: Yes.

12 MR. MOY: Staff would record -- and we have one Board
13 Member not participating today. With that, the staff would record
14 the vote as 4-0-1 and this is on the motion made by Chairman Hill
15 to approve with the one condition, seconded by Mr. Blake. Also,
16 in support of that motion to approve is Zoning Commissioner Rob
17 Miller, Mr. Smith, Mr. Blake, Chairman Hill. Motion carries
18 4-0-1.

19 CHAIRPERSON HILL: Thank you, Mr. Moy. Mr. Moy, could
20 you call us into our -- could you recall us back into 20513?

21 MR. MOY: Yes. Before the Board, resuming Case
22 Application No. 20513 of The Old House. Again, this is a request
23 for special exception relief from the minimum side yard
24 requirements of Subtitle D, Section 206.2 at property 4420 Douglas
25 Street Northeast, Square 5116, Lot 127.

1 CHAIRPERSON HILL: Okay. Thank you. So, I would refer
2 anyone who is watching this back to 20512, and I would ask that
3 our deliberations be incorporated in 20513. I, again, am
4 sympathetic to Ms. Vu in terms of the fires that she has
5 experienced. But I think that this, based upon the discussion and
6 deliberations that we had in 20512, I believe this still meets the
7 criteria. And I'm going to be voting to approve including the
8 condition concerning the fiber cement siding.

9 Mr. Smith, do you have anything to add?

10 BOARD MEMBER SMITH: I don't have anything to add. I
11 concur with your analysis and support this, the condition.

12 CHAIRPERSON HILL: Commissioner Miller?

13 VICE CHAIR MILLER: Thank you. No, I concur.

14 CHAIRPERSON HILL: Mr. Blake?

15 BOARD MEMBER BLAKE: I concur as well.

16 CHAIRPERSON HILL: I'm going to make a motion to approve
17 Application No. 20513 as captioned and read by the Secretary
18 including the condition that fiber cement siding be used on all
19 four sides of the proposed development and ask for a second, Mr.
20 Blake?

21 BOARD MEMBER BLAKE: Second.

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

24 MR. MOY: When I call each of your names, if you would
25 please respond with a yes, no, or abstain to the motion made by

1 Chairman Hill to approve the application of the relief requested
2 along with the condition that the applicant apply side, fiber
3 cement siding on all four walls. A motion was seconded by Mr.
4 Blake.

5 Zoning Commissioner Rob Miller?

6 VICE CHAIR MILLER: Yes.

7 MR. MOY: Mr. Smith?

8 BOARD MEMBER SMITH: Yes.

9 MR. MOY: Mr. Blake?

10 BOARD MEMBER BLAKE: Yes.

11 MR. MOY: Chairman Hill?

12 CHAIRPERSON HILL: Yes.

13 MR. MOY: We have a Board Member not participating
14 today. The staff would record the vote as 4-0-1 and this is on
15 the motion made by Chairman Hill to approve with the one
16 condition, seconded by Mr. Blake. Also, in support of the motion
17 to approve is Zoning Commissioner Rob Miller, Mr. Smith, Mr.
18 Blake, Chairman Hill. No other Board Members. Motion carries
19 4-0-1.

20 CHAIRPERSON HILL: Okay. What do you guys want to do?
21 I know that there is a bit of a hard stop on us, meaning we're
22 going to have to stop around 4:00 for half an hour. And I don't
23 know whether we're going to be able to get through everything and
24 have lunch. Well, maybe. I mean, I don't know if you guys want
25 to do one more and then, have lunch? Or have lunch and get back

1 at 1:00? Are you guys dying? Can you do one more? We can do one
2 more. Okay. Let's go ahead and do one more case, then, Mr. Moy,
3 if you could call the next one, please?

4 MR. MOY: Very well, Mr. Chairman. So, this would be
5 Case Application No. 20516 of Christian Malagon, M-a-l-a-g-o-n.
6 Captioned and advertised for special exceptions from lot occupancy
7 restrictions Subtitle E, Section 304.1; rear yard requirements,
8 Subtitle E, Section 306.1; accessory rear yard requirements
9 Subtitle E, Section 5004.1; and area variance from the access
10 requirement Subtitle C, Section 711.7. This would construct a new
11 two-story detached accessory garage and principal dwelling unit in
12 the rear of an attached two-story with basement principal dwelling
13 unit, RF-1 Zone. This would, this property is located at 36 New
14 York Avenue Northwest, Square 619, Lot 31.

15 CHAIRPERSON HILL: Okay. Thank you. Do we have the
16 applicant with us?

17 MR. YOUNG: Yeah. I have them. I can only unmute them,
18 so I'll unmute them now.

19 CHAIRPERSON HILL: Okay. Can you hear me?

20 MS. SCHINDER: Yes, I can. This Ileana Schinder, I'm
21 the architect for the applicant.

22 CHAIRPERSON HILL: Okay. Okay, Ms. Schinder. All
23 right. Ms. Shinder, are you prepared to present your case to us
24 today?

25 MS. SCHINDER: Yes.

1 CHAIRPERSON HILL: Okay. And you know that there's a
2 bunch of different, not recommendations, but there seems to be
3 some confusion as to what you may or may not need that was filled
4 out within the Office of Planning's report, correct?

5 MS. SCHINDER: Correct. I read the report.

6 CHAIRPERSON HILL: Okay. And you have some comments
7 upon that?

8 MS. SCHINDER: Yes, but all positive.

9 CHAIRPERSON HILL: Okay. Do you have -- you don't have
10 a PowerPoint presentation? You're just going to verbally give us
11 testimony?

12 MS. SCHINDER: I can give testimony. I can show the
13 same documentation that was submitted to the office.

14 CHAIRPERSON HILL: Okay. Which exhibit are you
15 referring to?

16 MS. SCHINDER: I am referring to the print 11 by 17,
17 dot, PDF-00 print 11 by 17.

18 CHAIRPERSON HILL: Okay. Do you know which exhibit that
19 is?

20 MS. SCHINDER: Let me go back, I'll find it. It's
21 Exhibit, I think it was, hold on. That's the one that has the
22 most graphics. Let me see if it's under, it should be 00 Print 11
23 by 17, I think we submitted it under that, under those drawings.
24 If not, it should have been, let me see if Color Images are some.
25 Hold on a second. So, Color Images are some of the images that we

1 can contribute or --

2 CHAIRPERSON HILL: Ms. Schinder, how you doing? You
3 doing good?

4 MS. SCHINDER: Good. I'm doing well.

5 CHAIRPERSON HILL: That's good.

6 MS. SCHINDER: I just thought that --

7 CHAIRPERSON HILL: I'm just looking for the exhibit.
8 I'm just trying to --

9 MS. SCHINDER: Right. But the thing is, like, when I
10 submitted this, I kept the same names. And the issue of this
11 application was that we went through seven rounds where some
12 reviewers were asking us to change --

13 CHAIRPERSON HILL: Okay. All right, Ms. Schinder.

14 MS. SCHINDER: -- the exhibit.

15 CHAIRPERSON HILL: Let me do this. Let me do this. Go
16 ahead and give your testimony and we'll --

17 MS. SCHINDER: So, my testimony is extremely brief.
18 Just as small as the building is, we are on a very, very tight lot
19 on New York Avenue where the applicant backs into an alley that
20 faces a surface parking lot of a multi-height building. The
21 client has retained my services to propose a two-story structure
22 to accommodate. It's so tight that we can only accommodate a one-
23 car garage in the bottom. And a, sort of, micro one-bedroom
24 upstairs. Even with those restrictions, the project exceeds the
25 occupancy lot based on the current standards.

1 And this is something between the Office of Zoning and,
2 we went back and forth seven times to deal, some reviewers agreed
3 to what needed to be applied for. By reading the report, we
4 finally agree that the project, you know, exceeds only by ten
5 percent what's, what is requested. I read the recommendation. It
6 was a recommendation for approval. So, I assume that at this
7 point, adding more information was just showing how the project is
8 feasible.

9 Again, we're adding a dwelling unit to the neighborhood
10 with an independent access. We're not invading the neighbors'
11 privacy or security. We're also keeping with what the neighbors
12 facing this alley are doing as well, which is creating structures
13 all within the height permitted by the code. And that, pretty
14 much, it is a very, very small project.

15 CHAIRPERSON HILL: Okay. I'm going to hear from the
16 Office of Planning first and then, I'll come back to you, Ms.
17 Schinder.

18 MS. SCHINDER: I'm not sure my video is on, though,
19 because I can't see myself. But that's not a bad thing.

20 CHAIRPERSON HILL: We can hear you.

21 MS. SCHINDER: Okay.

22 CHAIRPERSON HILL: Ms. Vitale, can you hear me?

23 MS. VITALE: Yes, I can.

24 CHAIRPERSON HILL: Could you give us your report,
25 please?

1 MS. VITALE: Certainly. Good afternoon, Mr. Chair, and
2 Members of the Board. Elisa Vitale with the Office of Planning.
3 I'm providing testimony for Case 20516. As noted in the Office of
4 Planning report, there were some questions with respect to the
5 relief requested. We would note that this is a self-certified
6 application. So, the applicant could modify the relief request,
7 we believe, to more accurately reflect the relief that's needed.
8 We did analyze the relief that we believed was necessary and
9 should the applicant request additional relief, OP would support
10 that.

11 We believe, and the applicant noted this in her
12 testimony, that relief is needed for lot occupancy. And that
13 would be special exception relief from Subtitle E 304.1, and this
14 would be subject to the special exception provisions in E 5201.
15 In the RF-1 Zone, you're permitted a maximum lot occupancy of 60
16 percent. The applicant is proposing to go up to 70 percent. That
17 relief is available via special exception, and we would recommend
18 approval of that special exception relief that has been requested
19 by the applicant.

20 We did note that we believe special exception relief is
21 required from the use provisions in Subtitle U, Section 301.1(e).
22 And that relief would be available pursuant to Subtitle X, 901.2.
23 And that speaks to construction of a new accessory building after
24 January 1st, 2013, for use as a dwelling unit. So, the applicant
25 is proposing a new accessory building. It would be new

1 construction, so it would be after January 1st, 2013. The
2 applicant is proposing to use that for a dwelling unit and is not
3 proposing to comply with the five-year, you know, waiting period
4 that's contemplated in U, 301.1(e). We believe that use
5 permission relief is necessary. We did speak with the Zoning
6 Administrator. The Zoning Administrator also believes that that
7 relief is necessary, so the applicant would need to formally
8 request that relief. That hasn't been requested at this time.

9 The applicant requested additional relief from the rear
10 yard requirements, from the accessory building rear yard
11 requirement, and from the access requirements. We do not believe
12 those were necessary. The Office of Planning did bring forward a
13 text amendment to the Zoning Commission related to the accessory
14 buildings. I believe this application was potentially filed prior
15 to that text amendment, so the need for that relief was, kind of,
16 overtaken by events. So, you know, we don't believe that that
17 relief is necessary for rear-yard accessory building rear yard and
18 access.

19 And so, that was a long-winded explanation of the relief
20 requests. I'm happy to go through our rationale for recommending
21 approval of lot occupancy and of the use if the Board would be
22 interested in that. Or I'm happy to stop here and take questions.

23 CHAIRPERSON HILL: So, now there -- according to the
24 Office of Planning, and I do have some questions of the applicant,
25 also. They're only here for 301.2 and 301.1(e)?

1 MS. VITALE: Correct. 304.1, that's Subtitle E, 304.1,
2 that's lot occupancy.

3 CHAIRPERSON HILL: Yep.

4 MS. VITALE: And then, that has been requested by the
5 applicant. OP analyzed that. We are recommending approval of
6 that.

7 CHAIRPERSON HILL: Yes.

8 MS. VITALE: The other, the second piece is U, 301.1(e).

9 CHAIRPERSON HILL: Yeah.

10 MS. VITALE: And that's a use permission. The applicant
11 did --

12 CHAIRPERSON HILL: I --

13 MS. VITALE: -- not request it.

14 CHAIRPERSON HILL: Give me a second, Ms. Vitale, I'm
15 sorry. So, then E, 306.1 and E, 5004, the Office of Planning does
16 not think is necessary, correct?

17 MS. VITALE: That's correct.

18 CHAIRPERSON HILL: Okay. And, all right. So, Ms.
19 Schinder, are you in agreement, and I don't know whether this is
20 going to happen or not because I have a question. Are you in
21 agreement that you would like to add U, 301.1(e) to your
22 application?

23 MS. SCHINDER: For the use permission relief? Yes.

24 CHAIRPERSON HILL: Yes. Okay. And, all right. And
25 that you do not need Subtitle E, 306.1 or Subtitle E, 5004?

1 MS. SCHINDER: I agree with Ms. Vitale on that.

2 CHAIRPERSON HILL: So, you're changing your application
3 to include U, 301.1(e) and to remove E, 306.1 and E, 5004,
4 correct?

5 MS. SCHINDER: Yes. I hope I'm not getting lost in
6 numbers, but yes.

7 CHAIRPERSON HILL: Okay. All right. And Ms. Schinder,
8 did you present to the ANC?

9 MS. SCHINDER: Yes. The homeowner went to ANC. I
10 believe they aren't; the homeowners aren't online at the moment.
11 They had approval. They had no complaints.

12 CHAIRPERSON HILL: I understand.

13 MS. SCHINDER: They --

14 CHAIRPERSON HILL: Did you --

15 MS. SCHINDER: Yeah.

16 CHAIRPERSON HILL: Did you present?

17 MS. SCHINDER: No.

18 CHAIRPERSON HILL: No, okay.

19 MS. SCHINDER: We didn't present. I provided
20 documentations and the homeowner presented.

21 CHAIRPERSON HILL: The homeowner presented. Okay. And
22 did the homeowner present the current design?

23 MS. SCHINDER: Yes.

24 CHAIRPERSON HILL: Okay. All right. Does anybody have
25 any questions of the applicant? Okay. Does anybody have any

1 questions of the Office of Planning? And I'm looking to my Board
2 Members.

3 Mr., Commissioner Miller?

4 VICE CHAIR MILLER: Thank you, Mr. Chairman. I don't
5 have a question, I just wanted to thank Ms. Vitale and the Office
6 of Planning for your thorough report and in written, and for
7 testifying today and for going beyond the relief that was
8 requested to point out the relief that is necessary and the relief
9 that isn't necessary that was requested. I think that helps the,
10 obviously, it helped the applicant, and it helps us do our job
11 more efficiently. And so, I appreciate you doing, going beyond
12 just the relief that was requested in this case and giving us that
13 further analysis. Thank you.

14 MS. VITALE: You're welcome. We don't ever want anyone
15 to try and go pull building permits and have to come back, so.

16 CHAIRPERSON HILL: Mr. Smith, do you have any questions?
17 No?

18 BOARD MEMBER SMITH: No, I don't have any questions.
19 And I just second what Commissioner Miller stated. I appreciate
20 you for looking more thoroughly at this report and the necessary
21 regulations and relief that they would need for the special
22 exception because, like you said, we wouldn't want them to come
23 back, but we also want this communicated. So, I appreciate it.

24 CHAIRPERSON HILL: Mr. Blake?

25 BOARD MEMBER BLAKE: No, I'm fine, thank you.

1 CHAIRPERSON HILL: Mr. Young, is there anybody here
2 wishing to testify?

3 MR. YOUNG: We do not.

4 CHAIRPERSON HILL: Okay. Ms. Schinder, do you have
5 anything you'd like to add at the end? I'm going to assume that's
6 a no. Ms. Schinder, can you hear me? Mr. Young, did you lose Ms.
7 Schinder?

8 MS. SCHINDER: No. I'd like to thank Ms. Vitale on her
9 help on the end of this project. I can --

10 CHAIRPERSON HILL: Okay.

11 MS. SCHINDER: -- hear you, but somehow my connection is
12 really unstable.

13 CHAIRPERSON HILL: That's okay. I heard you, Ms.
14 Schinder. Thank you so much for your testimony, you have a good
15 day. I'm going to close the hearing and the record. Thank you.
16 Bye-bye. Bye-bye, everybody.

17 MR. MOY: Mr. Chairman?

18 CHAIRPERSON HILL: Yep, go ahead, Mr. Moy?

19 MR. MOY: There was a slight pause. Would the Board
20 considering allowing into the record Ms. Schinder to submit an
21 updated or amended self-certification?

22 CHAIRPERSON HILL: Yeah. I guess, we can do that.

23 MR. MOY: She said it orally, but I think it'd be useful
24 to have something written in the record as well.

25 CHAIRPERSON HILL: Okay. But you're comfortable with us

1 going ahead and deliberating on this now?

2 MR. MOY: I'll defer to Ms. Nagelhout.

3 CHAIRPERSON HILL: Ms. Nagelhout?

4 MS. NAGELHOUT: It's your hearing, so if you all are
5 satisfied, go ahead.

6 CHAIRPERSON HILL: Okay. Mr. Moy, then go ahead and
7 please reach out to Ms. Schinder and ask her for a revised self-
8 cert for the relief that's been requested during this hearing. In
9 terms of deliberating on it, it's just, kind of, a, I mean, a
10 little bit of a mess, right? And you know, so I will agree with
11 the testimony that was provided by the Office of Planning as well
12 as the written report that's from them in the record. I did have
13 some discomfort with including U, 301.1(e) insofar as the ANC
14 didn't necessarily know about U, 301.1(e). However, they did see
15 this project the way it is and, therefore, I feel comfortable
16 moving forward with it, including U, 301.1(e).

17 And so, I would agree with the analysis of the Office of
18 Planning and the testimony, albeit brief, from the applicant as to
19 how they're meeting the criteria for the requested relief and vote
20 to approve the application.

21 Mr. Smith?

22 BOARD MEMBER SMITH: I have nothing to add. I agree
23 with your testimony that you provided and the analysis that you
24 provided. So, I would support the special exception as revised by
25 the applicant as well as (audio interference) the Office of --

1 CHAIRPERSON HILL: Okay. Mr. Smith, you kind of broke
2 up a little bit there, but I believe I got the gist of it.

3 BOARD MEMBER SMITH: Okay.

4 CHAIRPERSON HILL: Commissioner Miller?

5 VICE CHAIR MILLER: I concur. Thank you.

6 CHAIRPERSON HILL: Mr. Blake?

7 BOARD MEMBER BLAKE: Yes. By giving substantial weight
8 to the testimony, analysis, and recommendation of the Office of
9 Planning, I'd be prepared to support.

10 CHAIRPERSON HILL: Okay. I'm going to make a motion to
11 approve Application 20516 for the revised special exception
12 pursuant to E, 5201 and Subtitle X, 901.2 for Subtitle E, 304.1
13 and the use permissions for U 301.1(e) and ask for a second, Mr.
14 Blake?

15 BOARD MEMBER BLAKE: Second.

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

18 MR. MOY: When I call each of your names, if you would
19 please respond with a yes, no, or abstain to the motion made by
20 Chairman Hill to approve the amended application for approval.
21 The motion was seconded by Mr. Blake.

22 Zoning Commissioner Rob Miller?

23 CHAIRPERSON HILL: Commissioner Miller?

24 VICE CHAIR MILLER: Yes.

25 MR. MOY: Thank you, sir. Mr. Smith?

1 BOARD MEMBER SMITH: Yes.

2 MR. MOY: Mr. Blake?

3 BOARD MEMBER BLAKE: Yes.

4 VICE CHAIR MILLER: Yes, can you hear me?

5 MR. MOY: Yes.

6 VICE CHAIR MILLER: Yes.

7 MR. MOY: We heard you. Thank you, sir. Chairman Hill?

8 CHAIRPERSON HILL: Yes.

9 MR. MOY: And we have a Board Member not participating
10 today. Staff would record the vote as 4-0-1 and this is on the
11 motion made by Chairman Hill to approve, seconded by Mr. Blake.
12 Also, in support of the motion to approve, Zoning Commissioner Rob
13 Miller, Mr. Smith, Mr. Blake, Chairman Hill. No other Board
14 Member. The motion carries on a vote of 4-0-1.

15 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy. You guys,
16 you want to try to do a 30-minute lunch and we'll come back at
17 1:10? Okay. All right. See you guys at 1:10. Bye.

18 (Whereupon, the above-entitled matter went off the
19 record and then resumed.)

20 CHAIRPERSON HILL: Mr. Moy, you want to call our next
21 case?

22 MR. MOY: Yes, sir. Thank you. The Board is back in its
23 public hearing session after a very quick lunch recess. And the
24 time is at or about 1:13 p.m. The next Case Application before
25 the Board is Application No. 20521 of Ontario LLC, captioned and

1 advertised for relief, the amended relief for a special exception
2 from the lot occupancy restrictions, Subtitle F, Section 304.1.
3 And the parking space dimensional requirements Subtitle C, Section
4 712.3. This would construct a three-story with cellar and
5 penthouse addition to an existing two-story with cellar attached
6 principal dwelling unit and convert the building to an eight-unit
7 apartment house in the RA-2 Zone. The property is located at 2240
8 Ontario Road Northwest, Square 2562, Lot 85.

9 And I believe, Mr. Chairman, there is, yeah, there is
10 the Applicant's PowerPoint presentation, which is under Exhibit 44
11 in the case record.

12 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Moy.
13 Mr. Sullivan, could you introduce yourself for the record, please?

14 MR. SULLIVAN: Thank you, Mr. Chair, and Members of the
15 Board. Marty Sullivan, with Sullivan and Barros, on behalf of the
16 Applicant.

17 CHAIRPERSON HILL: Okay. Thank you, Mr. Sullivan.
18 Who's here with you, Mr. Sullivan?

19 MR. SULLIVAN: Oh, we have the architect, Michael Cross
20 and Bert Meekins.

21 CHAIRPERSON HILL: Okay.

22 MR. SULLIVAN: I think --

23 CHAIRPERSON HILL: Is all right. Is Mr. --

24 MR. SULLIVAN: I'm sorry.

25 CHAIRPERSON HILL: Is Mr. Meekins also one of the

1 architects? I --

2 MR. SULLIVAN: He is, yes. And I thought we were going
3 to have one of the principals here, but I think he may have had
4 trouble getting on.

5 CHAIRPERSON HILL: Okay.

6 MR. SULLIVAN: But we should be fine with the
7 architects, I think.

8 CHAIRPERSON HILL: Okay. All right, Mr. Sullivan. I
9 got your PowerPoint point presentation pulled up. I'm going to
10 put 15 minutes on the clock, so I know where we are. And if you
11 could please, you know, walk us through how you believe your
12 client is meeting the criteria for us to grant the relief
13 requested. And you can begin whenever you'd like.

14 MR. SULLIVAN: Thank you. The property is 2240 Ontario
15 Road. It's in the RA-2 Zone. If you could go to the second
16 slide, please.

17 MR. YOUNG: I'm trying to find it for you.

18 MR. SULLIVAN: RA-2 Zone, it's an existing one-family in
19 the apartment zone and the proposal is to do an addition and
20 conversion. And the proposal for the BZA is to add five percent
21 of lot occupancy so that we can have exterior decks on the back of
22 the building. Another request that came along after this was
23 originally filed is for relief from the parking space length. And
24 we'll go into that in more detail later on on what that entails.
25 It's a new requirement and new relief for that requirement. We do

1 have the support of the Office of Planning and the ANC 1C. To
2 clarify their support, they are in support of the lot occupancy
3 request. We went back to the ANC after we amended the application
4 to include the parking space length relief and the ANC is taking
5 no position on that part of the application. Essentially, they
6 voted three to three and couldn't come to a conclusion, so decided
7 just not to offer a resolution on that half of it.

8 Next slide, please, and I'll turn it over to the
9 architect to take you through the rest of this. Thank you.

10 MR. CROSS: Appreciate it. For the record, my name is
11 Michael Cross, and I'm the architect for this project. I'm joined
12 by Bert Meekins, he's the project designer. The project is being
13 proposed at 2240 Ontario Road. It's an eight-unit apartment
14 building and it's on the West side of the block between Florida
15 and Kalorama. Next slide, please.

16 This is an aerial view that shows, sort of, the side and
17 rear of the structure. Obviously, in this photograph, you see the
18 adjacent structures are longer than it is. In some of these other
19 more current photos, you'll see that there's actually even larger
20 structures beyond them. Next slide. Those are those larger
21 structures one door down from us. And our building would be a
22 similar scale to those buildings there. Next slide -- next slide.

23 So, the first part of the relief we're asking for is lot
24 occupancy. The element which exceeds the lot occupancy is limited
25 to the rear decks, which project about seven feet beyond the rear

1 wall of units four, six, and eight. Those are the units on the
2 first, second, and third floor facing the rear of the building.
3 The building itself is conforming with the lot occupancy
4 requirements for this zone. And it, the decks are, the decks that
5 are being proposed are generally consistent with neighboring
6 buildings on the same block.

7 The projection minimally affects the neighboring
8 properties as depicted in our solar studies. Next slide. These
9 solar studies here are per the summer solstice. The minimal
10 additional shading anticipated during this time is shown in red.
11 You can visualize here the difference between the proposed and
12 matter of right, which are being shown side by side by that
13 portion of the proposed, which is highlighted in red, which is the
14 net increase between the two during the same times of day. Next
15 slide, please.

16 I think, oh, no. My apologies. This is right. So,
17 again, the shading is relatively minimal during the equinox, both
18 spring and fall. But there is probably the most impact there
19 during noon at the spring and fall equinox, as you see in the
20 lower left-hand corner. Next slide. And due to the low angles
21 and orientation of the lot, there's actually little to no impact
22 projected for the winter solstice. It's important to note that
23 the structure that is being proposed is an open deck, so the
24 intensity of the shadows, when they do occur, would be less opaque
25 than that, which a building projection of a similar size might

1 project. Next slide.

2 All right. The other area of relief we're asking for is
3 parking. It should be noted that we can satisfy the minimum
4 parking requirement with a single full-size space on this
5 property. By providing compact spaces, we're able to accommodate
6 an extra vehicle on our lot, which would further reduce the impact
7 on street parking in the area. Furthermore, we can and are
8 proposing two compact spaces that are standard eight-by-sixteen
9 feet. However, due to the irregular shaped lot at the rear
10 property line, specifically the notch in the corner created by the
11 cul-de-sac at the end of the alley, we're unable to provide the
12 extra long compact spaces that are now required for compact spaces
13 located on alleys less than 15-feet wide.

14 The reduced length allows for a cleaner roll-up door
15 along the alley. It avoids a conflict that would be created by
16 Calla (ph.) if we were to stagger the two doors as shown down in
17 the lower right-hand corner. The, it does also improve the
18 turning radius for the cars that enter and exit the property.
19 Again, in the lower right-hand corner, you see some of those red
20 lines that show how the cars would perform if we were to stagger
21 the doors in a more compliant manner. And as they have to dodge
22 the post in the middle, one car clips it coming in and one car
23 ends up hitting the edge of the alley on the way out. This would
24 also leave more room for others to turn around at the end of the
25 dead-end alley, which has, which as, was noted in our interaction

1 with the ANC as being particularly tight. And therefore, the
2 extra space would seem beneficial to all.

3 Lastly, the spaces proposed, we believe, actually meet
4 the intent of the code because the extra link that is required is
5 actually provided beyond the roll-up door, which does still
6 provide the additional maneuverability for those sections of the
7 lot that face an alley less than 15-feet width.

8 So, with that, I'm going to turn it back over to Marty
9 and, who will outline the requirements of the relief being sought.
10 And we'll stand by to answer any questions that you might have at
11 the end of the presentation.

12 MR. SULLIVAN: Thank you, Michael. And next slide,
13 please. So, the application meets the general requirements. The
14 property is located in the RA-2 Zone, which provides for areas
15 developed with predominantly moderate density residential. And
16 the Zoning Regulations specifically permit special exception
17 relief from the maximum lot occupancy requirements as well as the
18 parking length restriction requirements. And the proposed deck
19 will not impact the light and air or privacy of the neighboring
20 properties as demonstrated by Mr. Cross and his shadow studies.
21 Next slide, please.

22 The specific criteria, of course, light and air
23 available to neighboring properties that would refer back to Mr.
24 Cross's testimony on the shadow studies and the light and air,
25 that there's not, neighbors are not unduly compromised. And I

1 will note the shadow that is cast is in yards, not on windows.
2 And that's the same issue with privacy as well regarding the
3 decks. The decks lookout back over the rear of the properties and
4 not into houses or decks of neighboring properties. And also,
5 across the alley is the Marie Reed Health Center commercial use
6 building. Next slide, please.

7 Regarding character, scale, and pattern, there are
8 similar buildings, buildings of similar length with balconies in
9 the back. And in fact, the property on the other side of the
10 subject property is also undergoing redevelopment as well and will
11 likely be back to about the same distance. Next slide, please.
12 All right. Here's a, just another photo showing you the current
13 situation. Next slide, please. Next slide, please.

14 So, the parking. The parking special exception comes
15 about from a new requirement. Two compact spaces are now
16 permitted here as a matter of right, as a result of recent changes
17 in the Zoning Regulations. However, as Michael mentioned, if
18 you're on an alley that's 15-feet wide or less, then you must
19 comply with the length requirement, not the width requirement.
20 So, we have two compacts, and the first requirement is that the
21 Office of Zoning shall refer any requests under the Subsection to
22 the Office of Planning and to DDOT. And the Office of Planning is
23 in support of this relief. The next requirement relates to the
24 parking ratio requirement between compacts and full size, and that
25 doesn't apply in this case. Next slide, please.

1 The next section relates to dimensional requirements for
2 drive aisles, which is not relevant here, so that section doesn't
3 apply. The next requirement is no parking space whether required
4 or not shall have dimensions less than the compact size
5 dimensions. And we do have the compact size dimensions for these
6 two spaces. And the next requirement, the Board shall grant
7 relief only to the degree that the applicant demonstrates that
8 physical constraints prevent it from reasonably complying with the
9 requirements. And if we could go -- so, I'll read this through
10 and then we'll show another slide that shows the drawing again,
11 and Mike will show it. As shown in the revised plat, the shape of
12 the public alley is irregular with a 3'9" dogleg on the subject
13 property's rear lot line. And the irregularity makes it
14 impossible to provide two parking spaces behind two roll-up doors
15 offset to match the contour of the alley without unreasonably
16 impairing the ability of vehicles to enter and exit both parking
17 spaces. Next slide, please.

18 And the next condition of special exception is that full
19 relief is the minimum relief possible to ensure adequate vehicle
20 access to both parking spaces. And accordingly, it's not
21 reasonably possible to comply with the parking length requirements
22 of 712.3 F due to the irregular shape of the alley. And one thing
23 to note, the parking spaces or the cars will be in the same spot
24 whether there's just one compliant space with half a roll-up door
25 or if we can do the two compacts. It's actually two feet in the

1 alley, which is on our property, which we're asking for relief
2 from because there will be a roll-up door there and that will make
3 the space smaller. And as Michael mentioned, doing it that way
4 with just one roll-up door actually makes the access possible and
5 it's actually difficult if we complied with this and did a
6 staggered roll-up door. Next slide, please.

7 And that's it for our presentation. So, we're available
8 for any questions. Thank you.

9 MR. MOY: You're on mute.

10 CHAIRPERSON HILL: All right. Well, first, let's start
11 again then. Does the Board have any questions for the applicant?
12 No? Okay.

13 BOARD MEMBER BLAKE: I have one quick question. On the
14 page that had the layout of the parking spaces, there, it seems
15 like there's a little space between the building and the back of
16 the cars. What is that? Is that a stair well, garbage? What is
17 that again? And that section is Exhibit 12. Not Exhibit 12,
18 slide 12, sorry.

19 MR. CROSS: Yeah, I think that's helpful. It's the,
20 make sure I don't misspeak. But back there, we have trash. We
21 have four full-size trash cans shown. We also have an area way,
22 some stairs that lead up and then, there's a balcony for the, for
23 (indiscernible).

24 BOARD MEMBER BLAKE: Okay. Thank you.

25 CHAIRPERSON HILL: Mr. Sullivan, in terms of, there's a

1 little bit of opposition in terms of they believe you're
2 miscalculating lot occupancy. Can you speak to that?

3 MR. SULLIVAN: I think what I read from Mr. Gambrell's
4 analysis is that he's talking about the raised deck in the back.
5 And that's less than four feet above grade, so it doesn't count in
6 lot occupancy.

7 CHAIRPERSON HILL: Okay, the deck, okay. And then, as
8 far as the parking goes, why is it the -- oh, the ANC was just
9 split, three-three in terms of the parking relief?

10 MR. SULLIVAN: That's correct. A resolution was offered
11 to oppose, and it failed by a vote of three-three. And then, they
12 said, do you want to vote the other way? And they said, well,
13 what's the point? And so, they left it at that.

14 CHAIRPERSON HILL: Got it. Okay. All right. What were
15 the three Commissioner's opposition to the parking relief, do you
16 know?

17 MR. SULLIVAN: A lot of the discussion was around other
18 issues. We actually, we went to the committee. And the
19 committee, the week before we went to the committee and the
20 committee voted against it. And we made some changes. We had
21 only had two trash cans on the property, we added two trash cans.
22 That was actually a mistake, it was always meant to be four. And
23 we provided a little additional information on, like, the location
24 of the light post. And then, we had additional discussion at the
25 full ANC meeting, and I would gather then that the full ANC, at

1 | least by a required vote wasn't on board with what the committee
2 | had stated based on our changes.

3 | So, and the discussion, a lot of the discussion was
4 | about the lot occupancy question that neighbors had brought up.
5 | There really is, you can tell from the opponents' letters, there
6 | really hasn't been much discussion about the decks or the parking
7 | length relief. It's more about the use change to eight units and
8 | to that lot occupancy question, in my opinion.

9 | CHAIRPERSON HILL: Okay. All right. Anyone else? Can
10 | we turn to the Office of -- oh, Commissioner Miller, were you
11 | about to say something?

12 | VICE CHAIR MILLER: No.

13 | CHAIRPERSON HILL: Okay. I'm going to turn to the
14 | Office of Planning, please.

15 | MS. THOMAS: Yes. Good afternoon, Mr. Chair, Members of
16 | the Board. Karen Thomas with the Office of Planning for
17 | Application No. 20521. And we are recommending approval of the
18 | applicant's request to increase of the lot occupancy to 65 percent
19 | and for the provision of compact spaces instead of the nine-by-
20 | nineteen spaces as are there, as detailed in our report. For the
21 | record, OP believes the addition of the decks, that a proposed
22 | addition should not create adverse impact on the neighbors
23 | including to the light and air available to those residents as a
24 | deck is open structures, which would not hinder the elements.

25 | The applicant provided shadow studies to show the

1 difference in shadows between the matter of right and what is
2 proposed, and we can see that negligible impact is observed there.
3 The decks are similar to other decks in the neighborhood. And,
4 you know, they're just classic recreation space, small one-bedroom
5 units. So, with respect to meeting the intent of regulations and
6 the Subtitle X, Section 901, the increase in the lot occupancy
7 would remain well within the requirements of the special
8 exception, that is below the maximum of 70 percent, which is the
9 control on the lot's density.

10 And as noted before, there should not be an adverse
11 impact on the use and enjoyment of neighboring properties as the
12 decks should not impact light and air and privacy to the closest
13 neighbors next door.

14 With respect to the provision of the compact spaces, the
15 request is justified due to the irregular hammer-shape of the
16 alley abutting the applicant's property, which really creates a
17 practical difficulty in providing the required dimensions for
18 parking in that area. And a desire for the security of the
19 property with a provision of a secured roll-up gate. So, granting
20 the relief on the whole should not adversely impact neighbors'
21 properties. As a provision of parking is anticipated,
22 particularly where alley access is available, and the spaces would
23 be provided at the 90-degree egress and egress required by the
24 regulation and compact spaces are anticipated by the regulations.

25 So, we believe that this relief would allow residents to

1 have rear vehicle access without hindering neighbors' use of the
2 alley. And I will stop there. And I will be happy to take any
3 questions. Thank you.

4 CHAIRPERSON HILL: Okay. Does the Board have any
5 questions for the Office of Planning? Mr. Smith?

6 BOARD MEMBER SMITH: I just have one question as a
7 follow-up to Chairman Hill's question to Mr. Sullivan. Can you
8 confirm that the raised deck to the rear of the property would not
9 count against lot area? I mean, lot occupancy? I'm sorry.

10 MS. THOMAS: The raised deck? The decks add five
11 percent to the lot occupancy of the entire addition.

12 BOARD MEMBER SMITH: So, I'm referencing the ground
13 level raised area. It's like a, you know, you walk up a set of
14 steps, maybe four or --

15 MS. THOMAS: Oh, yeah.

16 BOARD MEMBER SMITH: -- five steps that (indiscernible).

17 MS. THOMAS: So, the -- well, if it's not above four
18 feet, or if it's on the same level as the first level. I'm not
19 sure. I'm sorry. I'm a little confused. The back, the deck on
20 the first level you're talking about? I think it contributes to
21 the lot occupancy; all the decks is my understanding contribute to
22 the lot occupancy.

23 BOARD MEMBER SMITH: So, let me, just for clarification.
24 It was --

25 MS. THOMAS: Let me --

1 BOARD MEMBER SMITH: -- three --

2 MS. THOMAS: Let me get the plans. Hold on.

3 BOARD MEMBER SMITH: -- protruding decks. There's one
4 off the penthouse level, the third-floor level, the second-floor
5 level. I'm referencing the first floor back patio, if that's how
6 you want to describe it. If you look at Exhibit 41A on page 18.

7 MS. THOMAS: So, if it's less than four feet above
8 grade, like I said before, it does not count towards lot
9 occupancy.

10 BOARD MEMBER SMITH: Is that above natural grade?

11 MS. THOMAS: Yes.

12 BOARD MEMBER SMITH: All right. Thank you.

13 CHAIRPERSON HILL: Okay.

14 BOARD MEMBER SMITH: That's the only question.

15 CHAIRPERSON HILL: Thanks, Mr. Smith.

16 Mr. Miller, did you lean forward? No?

17 VICE CHAIR MILLER: No. I didn't mean to indicate that
18 I wanted to ask questions. Thank you, Ms. Thomas, for your
19 report.

20 CHAIRPERSON HILL: Okay. Thanks, Ms. Thomas, for your
21 report as well. Mr. Sullivan, do you have any questions for the
22 Office of Planning?

23 MR. SULLIVAN: No, thank you.

24 CHAIRPERSON HILL: Okay. Mr. Young, is there anyone
25 here wishing to speak? And first of all, is there anyone here

1 wishing to speak in support?

2 MR. YOUNG: Not in support. I have three in opposition.

3 CHAIRPERSON HILL: Okay. Great. Can you bring them in,
4 please?

5 MR. YOUNG: Yes. One is calling in by phone, so I'll
6 bring the other two up.

7 CHAIRPERSON HILL: Okay. Let's take the phone person
8 first, maybe?

9 MR. YOUNG: Okay. I'll unmute him now.

10 CHAIRPERSON HILL: Okay. Can you hear me, sir, ma'am?

11 MR. BLODNIKAR: Yes, hello? Am I speaking with Fred,
12 Fred Hill?

13 CHAIRPERSON HILL: Yes. Could you identify yourself,
14 please, sir?

15 MR. BLODNIKAR: Yes. This is Eric Blodnikar, I live
16 four, I'm sorry, seven houses away from the proposed property.

17 CHAIRPERSON HILL: Okay. Blonger (ph.)?

18 MR. BLODNIKAR: Blodnikar, B-l-o-d-n-i-k-a-r.

19 CHAIRPERSON HILL: Blonger. Okay.

20 MR. BLODNIKAR: Blodnikar.

21 CHAIRPERSON HILL: Blongnikar (ph.)?

22 MR. BLODNIKAR: Yeah. The name is Eric Blodnikar,
23 B-l --

24 CHAIRPERSON HILL: Oh, Blodnikar. I'm sorry.

25 MR. BLODNIKAR: Yeah.

1 CHAIRPERSON HILL: Got you. I just wanted to know how
2 to pronounce it. I'm sorry.

3 MR. BLODNIKAR: Blodnikar.

4 CHAIRPERSON HILL: Mr. Blodnikar, okay. As a member of
5 the public, you'll have three minutes to testify. And you can
6 begin whenever you'd like.

7 MR. BLODNIKAR: Okay. I'm also speaking on behalf of
8 Adams Morgan for Reasonable Development Organization. So, I'll be
9 brief.

10 CHAIRPERSON HILL: Mr. --

11 MR. BLODNIKAR: It shouldn't take any more than --

12 CHAIRPERSON HILL: Mr. Blodnikar, do you have a letter
13 stating that?

14 MR. BLODNIKAR: I'm listed on their site as a co-
15 facilitator. I shouldn't take more than three minutes.

16 CHAIRPERSON HILL: No, no. That's not even it. If, I
17 need something in the record that you, saying that you're speaking
18 on behalf of somebody.

19 MR. BLODNIKAR: Oh, I see.

20 CHAIRPERSON HILL: And I don't have anything --

21 MR. BLODNIKAR: Okay.

22 CHAIRPERSON HILL: I don't have anything in the record
23 that says that you're speaking on behalf of somebody.

24 MR. BLODNIKAR: Okay.

25 CHAIRPERSON HILL: So, go ahead and, I mean, go ahead

1 and give your testimony and --

2 MR. BLODNIKAR: All right.

3 CHAIRPERSON HILL: -- as a member of the public.

4 MR. BLODNIKAR: Okay. That's fine. If you need to
5 strike the Adams Morgan from Reasonable Development portion or
6 notation, that's fine.

7 CHAIRPERSON HILL: Okay. Good. I mean, I just don't
8 have it in the record, I don't think.

9 MR. BLODNIKAR: I see.

10 CHAIRPERSON HILL: Okay. Go ahead, sir.

11 MR. BLODNIKAR: Great. Great. So, let's see here.
12 Like I stated, I'm a resident located within 200 feet of the
13 proposed property. My house is approximately seven lots away. I
14 would normally say seven houses away, but since 2016, every
15 single-family house that has been purchased on my block has been
16 systematically converted into multi-unit condo buildings. Two
17 units used to be the norm for decades, then it became four, now
18 it's eight. Some lots have even been combined into 16-unit condo
19 buildings. So, I'm getting at just the sustainability of this
20 rapid overdevelopment that's occurring on my block and how it's
21 negatively impacting the existing residents and will confound new
22 residents as well.

23 Most notably, has been the overtaxing of the existing
24 stormwater and sewer lines, which were installed 100 years ago and
25 were designed around single-family houses, not eight-unit condo

1 buildings. This past summer, a number of people on our block had
2 water backed up into their basements due to their fixtures,
3 stormwater and sewage.

4 Another case in point is the number of private garbage
5 trucks and recycling trucks that will be used going down the
6 alley. Given that these are all condo buildings, they all have
7 private services. We're talking up to eight to ten different
8 private traffic, excuse me, services going up and down the alley
9 multiple times a week. This is a very narrow alley without any
10 turnaround, so these garbage trucks are forced to drive back into
11 the alley or, you know, back in and back out. Either way, it's
12 causing trouble for people getting access to their back yards and
13 even use of the alley.

14 In regards to the specific aspects of the 2240 project,
15 I oppose the 85 -- I'm sorry, I oppose the 65 percent lot
16 occupancy exception as requested by the developer as they can
17 simply reduce the size of their project to comply. Neighbors
18 already feel as if they're getting crowded out of their rear yards
19 by the towering rear yard additions allowed by right. The
20 additional five percent will only make the situation worse.

21 Furthermore, the basement unit projects significantly
22 into the rear yard as noted on the plat. Now, the plat shows
23 this, yet projections are not being counted towards lot occupancy.
24 I know there was some discussion of that from the Commissioners
25 and other departments. But in fact, this is not a natural grade.

1 This is a manufactured basement cellar level that is projecting
2 far into the back of the yard. The actual lot occupancy is really
3 around 70 percent, not the 60 percent allowed or the 65 asked by
4 the developer. This extremely loose interpretation of the zoning
5 code regarding lot occupancy as it relates to this basement level
6 is going to set a terrible precedent and will surely be
7 replicated, not only on this block, but throughout the city.

8 So, I ask the Zoning Board to deny the current 65
9 percent lot occupancy requested and rule that the rear basement
10 level cannot project into the rear yard as shown on the plat
11 without being counted towards the total lot occupancy. Just one
12 other quick note of clarification. Across the alley from this
13 project is not just simply a commercial structure, it is the Marie
14 Reed Elementary School. There are playgrounds along the back of
15 the structure and the school itself.

16 So, that is all I have for the moment. Thank you.

17 CHAIRPERSON HILL: Thank you. Thank you, sir. Does the
18 Board have any questions for this witness? Okay. All right. Mr.
19 Blodnikar, I'm going to let you go and you're free to listen. And
20 thank you so much.

21 MR. BLODNIKAR: All right. Appreciate it.

22 CHAIRPERSON HILL: Bye-bye. All right. Who is next
23 with us? I see Mr. Gambrell. Mr. Gambrell, can you hear me?

24 MR. GAMBRELL: Yes, I can.

25 CHAIRPERSON HILL: Okay. And then, I hear, is there a

1 Helen here? I see someone named Helen. Mr. Young, is that
2 correct? Helen Walsh?

3 MS. WALSH: Yes. Can you --

4 CHAIRPERSON HILL: Mr. --

5 MS. WALSH: -- hear me?

6 CHAIRPERSON HILL: Yeah. Ms. Walsh, can you hear me?

7 MS. WALSH: Yes. Am I unmuted now?

8 CHAIRPERSON HILL: Yeah, you're unmuted. Can you hear
9 me?

10 MS. WALSH: Okay. Yes, I can hear you.

11 CHAIRPERSON HILL: Okay. Can you go ahead and first
12 give your name and address for the record?

13 MS. WALSH: My name is Helen Walsh, and my address is
14 2217 Ontario Road. And I drafted a letter on behalf of my,
15 include -- on behalf of my neighbors who live on this stretch
16 across the street from the proposed project as well as from Eric.

17 CHAIRPERSON HILL: As well as from Eric. Okay. Let me
18 just make sure I pull up the right exhibit here. Right. Okay.
19 Okay. Do you know which one that is in by any chance, Ms. Walsh?

20 MS. WALSH: It's --

21 CHAIRPERSON HILL: Which exhibit?

22 MS. WALSH: It's a letter from several, many -- it's on
23 the last page, I think.

24 CHAIRPERSON HILL: Yep.

25 MS. WALSH: Or second page.

1 CHAIRPERSON HILL: Yep.

2 MS. WALSH: The --

3 CHAIRPERSON HILL: I got it.

4 MS. WALSH: Oh, okay. Yeah.

5 CHAIRPERSON HILL: I got you. Okay. Can you see that,
6 can you see the clock, Ms. Walsh?

7 MS. WALSH: Yeah, and I will try to keep it brief
8 because I think Eric said a lot of, made a lot of the points that
9 I'm going to make.

10 CHAIRPERSON HILL: That's okay. That's okay.

11 MS. WALSH: Do you want me to start?

12 CHAIRPERSON HILL: That's --

13 MS. WALSH: Okay.

14 CHAIRPERSON HILL: You, yeah. Go ahead and start
15 whenever you begin. I'm just letting you know you have three
16 minutes to testify and you --

17 MS. WALSH: Okay.

18 CHAIRPERSON HILL: -- can just watch the clock there.

19 MS. WALSH: Okay. So, I just wanted to let you know
20 that I, we support having increased density so more people can
21 afford to live here. But the proposed density for this project is
22 excessive, especially on top of all the other, I guess, ten pop-
23 ups at least that have happened just on our block. And I think
24 that this will adversely affect us, especially on parking and
25 traffic. Most of us on this letter live in one of the 15

1 townhouses across the street from the proposed project, and we
2 don't have off-street parking or an alley for contractors to
3 access. And the 22-unit apartment building North of us has no
4 off-street parking either. I don't know whether it has access to
5 an alley. So, parking is already difficult for us and for
6 visitors and for delivery vans and repair trucks and traffic is
7 really becoming dangerous.

8 And this is no small matter given the many children in
9 the area. This is, it's not just the Marie Reed School, it's the
10 Briya Preschool and it's also a lot of children on our block. And
11 frankly, this is an accident waiting to happen. And we saw the
12 accidents that happened just recently with children trying to
13 cross the street.

14 I am concerned about this calculation. It seems to me
15 that it's a miscalculation that should be corrected, and perhaps
16 we need a more official, formal view from the government about
17 whether this is correct or not.

18 I'm also, we're very concerned that this developer is
19 the one who owned the project on Kennedy Street, where there was a
20 collapse and partial paralysis of a contractor. There's supposed
21 to be an investigation, there was a statement by the mayor's
22 office. We've not heard anything about what's happened on that.
23 There's no report from DCRA about the status of the investigation.

24 And just getting to the case itself, the developer knew
25 the lot size and the regulations when he bought the property. He

1 can meet the regulations and put in balconies and regular parking
2 spots if he puts in fewer units. And that's what the regular,
3 that's what we think these residential zoning rules are supposed
4 be for. You know, I'm not a lawyer and this is very
5 (indiscernible) and this stuff. But you know, we look to you to
6 try to prevent excessive density so that the area is still
7 livable, and it's becoming a little unlivable.

8 If the developer can't do this, I'm pretty confident
9 that another investor can step up. They're constantly texting us
10 and calling us and mailing us to buy out our houses. So, I
11 respectfully ask that you deny both requests and direct the
12 developer to stick to the correct calculations.

13 I wanted to give you a little bit more context. Until
14 -- and Eric is right. Until this, until recently, this block had
15 only one multi-unit building, the 22-unit apartment building. All
16 the other buildings, except for the dry cleaners on the corner
17 were single-family homes. And you know, as I said, we have no
18 off-street parking. Marie Reed is a very busy playground, and
19 it's on one side of the street, just next to this proposed
20 project. Parents park there while they're dropping off and
21 picking up their kids. And they're mostly little ones. They're
22 not the, like, 5th graders, they're, like, preschool and a little
23 older than that. And I think that there, these other pop-ups
24 around here, I don't think there have been any zoning exceptions
25 requests, so we've not been able to express our views to you about

1 | this problem that we're facing.

2 | We're also within a block or two of several mid-sized
3 | affordable housing apartment buildings with few, if any, parking
4 | spaces. And there are three more developments coming in the works
5 | of affordable housing within a half a block. We've asked DDOT,
6 | we've asked ANC, our councilmember, and the mayor's office for
7 | help with parking and traffic issues, and we've gotten nowhere.
8 | The process is not transparent, and some have actually pointed to
9 | you guys as the reason why parking is so difficult.

10 | So, please consider tightening up your parking
11 | requirements in the future and deny this request, please. But
12 | take into account the impact on existing neighbors and the
13 | cumulative impact --

14 | CHAIRPERSON HILL: Ms. Walsh --

15 | MS. WALSH -- it's --

16 | CHAIRPERSON HILL: -- I'm just letting you know --

17 | MS. WALSH: Too much?

18 | CHAIRPERSON HILL: -- you've gone over. If you just want
19 | --

20 | MS. WALSH: Okay.

21 | CHAIRPERSON HILL: -- to wrap it up just a little bit?

22 | MS. WALSH: I'll leave it at that. But I do, I just
23 | want to say that, you know, we're not in a magical world where
24 | everybody can get rid of their cars, you know? We need them to go
25 | to work, to go to medical appointments. We can't rely entirely on

1 public transportation as the pandemic has shown us. So, I think
2 everybody else has made the case that I want to make, but --

3 CHAIRPERSON HILL: Okay.

4 MS. WALSH: -- you know, that's it for me. Thank you
5 very much for --

6 CHAIRPERSON HILL: Okay.

7 MS. WALSH: -- your time. I appreciate it.

8 CHAIRPERSON HILL: Okay. Thanks, Ms. Walsh. Thanks for
9 you taking the time to speak with us.

10 Does anybody have any questions for Ms. Walsh? All
11 right. Okay.

12 Thanks, Ms. Walsh. All right.

13 MS. WALSH: Thank you.

14 CHAIRPERSON HILL: Mr. Gambrell, can you hear me?

15 MR. GAMBRELL: Yes, I can.

16 CHAIRPERSON HILL: Okay. Can you introduce yourself for
17 the record, please?

18 MR. GAMBRELL: Sure. This is Alan Gambrell, a resident
19 of Adams Morgan.

20 CHAIRPERSON HILL: Okay. Mr. Gambrell, you can go
21 ahead. You will have three minutes to give your testimony, and
22 you can begin whenever you like.

23 MR. GAMBRELL: Okay. Thanks, Board Members. Once
24 again, I want to start out by again, extending my apologies to
25 Clifford Moy for my angry reaction and outburst to him earlier

1 this year when I was unable to patch in to another BZA hearing
2 remotely. And I did email and call Mr. Moy. I haven't heard
3 back, so I just wanted to publicly restate that apology just to
4 make sure that that got to Mr. Moy. I do respect his work, and
5 I'm sorry that happened.

6 Today, my submission in opposition is Exhibit 34. And
7 it's, it pretty clear, it lays out the problem, which has already
8 been stated, that the 65 percent lot occupancy request is in
9 error. The actual lot occupancy is, in fact, around 69 percent.
10 And you can see that really clearly in Exhibit 34, page 2, and
11 also the cover page of the applicant. I might add that at the ANC
12 1C meeting, the developer when queried about this, he referred to
13 the space as a cellar and said there was an areaway, a required
14 areaway on the back. Therefore, it's part of the building.

15 As per the Zoning Regulations on lot occupancy, they're
16 crystal clear and are summarized on page 1 of Exhibit 34, which I
17 provided. There is absolutely nothing in those definitions that
18 excludes a building that is less than four feet above grade.
19 Nothing. And I'm, frankly, rather shocked that the Office of
20 Planning would make such an assertion. It's possible the
21 applicant may have heard otherwise from DCRA that somehow this
22 part of the building is in the rear yard and is of limited height
23 and, thus, does not count in lot occupancy. That is an
24 interpretation that is completely contrary to the Zoning
25 Regulations.

1 Frankly, it's not clear to me why the applicant just
2 didn't ask for a 70 percent special exception. They probably
3 would have gotten it. Regardless, this is a really big deal. If
4 this is allowed to pass, DCRA will have changed the 60 percent lot
5 occupancy to 70 percent across the board without triggering a
6 special exception request. That's a big problem. And it's not
7 the job of DCRA and the Zoning Administrator to rewrite the Zoning
8 Regulations. I would hope that Mr. Miller, as a Zoning
9 Commissioner here today would address this overreach by DCRA.

10 I'm going to wrap this up by turning to the Office of
11 Planning's report and, specifically, the parking exception. As
12 Marty Sullivan pointed out, ANC 1C did not take a position on this
13 parking special exception. I did want to drill down and note that
14 the submitted plans to pick two garbage cans for eight units,
15 there's been a statement that there are, in fact, four cans. I
16 don't believe there are four cans officially in the record, but
17 let's do the math for a minute in terms of practicality. How do
18 eight units survive on two garbage cans and two recycling cans?
19 That's a practical difficulty. And I'm not opposed to the parking
20 modification, but I do think that the future residents certainly
21 deserve some kind of consideration in terms of what's going to
22 work for them as homeowners in terms of dealing with their
23 garbage.

24 Just in closing, I hope the Board will step up and
25 protect the integrity of the Zoning Regulations and require the

1 applicant to accurately depict the lot occupancy and accurately
2 request a 69 percent special exception. Thanks.

3 CHAIRPERSON HILL: Okay. Thank you, Mr. Gambrell. And
4 thank you for your commentary earlier about Mr. Moy. I'm sure
5 he's listening and is available and heard you.

6 Let's see, Mr. Gambrell, you're talking about that
7 cellar area, right? Being counted as lot occupancy, the area
8 under the deck, correct?

9 MR. GAMBRELL: Correct. Correct.

10 CHAIRPERSON HILL: Right. Okay. That's what I thought.
11 All right. Let's see, does anybody else have any questions for
12 Mr. Gambrell from the Board?

13 And Mr. Sullivan, I had neglected to ask you, did you
14 have any questions of any of the witnesses?

15 MR. SULLIVAN: No, I don't. Thank you.

16 CHAIRPERSON HILL: Okay. All right. Thank you, Mr.
17 Gambrell. All right.

18 Let's see, so I'll go back to you, Mr. -- and maybe I'll
19 go back to the Office of Planning, also. To, Mr. Sullivan, this
20 is what I meant by the deck, and this is what I meant, just again,
21 to -- and it always comes down to this basement cellar stuff,
22 right? Like, do you -- you don't think that that area underneath
23 that patio, whatever you want to call it, right, deck is counting
24 towards lot occupancy, correct?

25 MR. SULLIVAN: It does not count towards lot occupancy

1 | because of B324, which is an exception to lot occupancy. And it's
2 | also the same exception that is for the reason that our stairs
3 | don't also count in lot occupancy, the stairs to that deck. This
4 | is a, something -- Mr. Gambrell talked about it changing
5 | precedent. This has been the interpretation for as long as I've
6 | been around. It's probably since 1958, actually. The question
7 | has never even come up. So, any structure that's four feet or
8 | less above grade does not count against yards or lot occupancy.

9 | And actually, it, somebody mentioned the city should do
10 | something official and formal. We actually have a building permit
11 | for this project, but for the decks. So, it's approved at the --

12 | CHAIRPERSON HILL: Right. You already got the cellar --

13 | MR. SULLIVAN: -- requested lot occupancy.

14 | CHAIRPERSON HILL: You've already gotten that cellar
15 | approved?

16 | MR. SULLIVAN: Yes.

17 | CHAIRPERSON HILL: Right. Okay. All right. Okay. I
18 | don't know what you all think. So, does anybody have -- well, Ms.
19 | Thomas, you agree with everything that was just said, correct?

20 | MS. THOMAS: Yes, Mr. Chair. I do. And the fact that
21 | it's permitted says it all.

22 | CHAIRPERSON HILL: Right. Yeah. They've already got a
23 | permit.

24 | MS. THOMAS: Yes.

25 | CHAIRPERSON HILL: I mean, the only reason that I was,

1 kind of, hesitating about it was whether or not we wanted to get
2 a, you know, determination letter of some kind from the Zoning
3 Administrator. But if it's already been permitted, then I don't
4 see what the need is. And so, I don't know if my fellow Board
5 Members have anything else in terms of clarification concerning
6 the record on this lot occupancy issue. And if so, if you want to
7 raise your hand? Okay.

8 Then, let's say -- all right. Then, Mr. Sullivan, do
9 you have anything that you'd like to add at the end?

10 MR. SULLIVAN: No, I don't. Thank you.

11 CHAIRPERSON HILL: Okay. All right. All right. Going
12 to close the hearing and the record.

13 Oh, yeah, Mr. Sullivan, hold on. Hold on.

14 MR. SULLIVAN: I'm sorry, one point I did want to make,
15 we do have the support of both immediate neighbors.

16 CHAIRPERSON HILL: Got it. Thank you.

17 MR. SULLIVAN: And the neighbors that spoke don't live
18 next door to it. They're not affected --

19 CHAIRPERSON HILL: Okay.

20 MR. SULLIVAN: -- by it. In fact, Mr. Gambrell might be
21 half a mile away or more. And it doesn't represent anybody that
22 lives that close to this property, as far as I know.

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

24 MR. GAMBRELL: Mr. Hill, may I speak?

25 CHAIRPERSON HILL: Thank you for adding that into the

1 record. Did somebody say something?

2 MR. GAMBRELL: Yeah, Mr. Hill. This is Alan Gambrell.
3 May I --

4 CHAIRPERSON HILL: Oh, Mr. Gambrell --

5 MR. GAMBRELL: -- make one comment?

6 CHAIRPERSON HILL: Mr. Gambrell, we've already taken
7 your testimony.

8 MR. GAMBRELL: Okay.

9 CHAIRPERSON HILL: I'm sorry.

10 And, Mr. Young, if you could excuse the witnesses from
11 the room, please? Thank you. Okay.

12 Does the Board have any final comments or questions?
13 Commissioner Miller?

14 VICE CHAIR MILLER: Yeah, I'm sorry, Mr. Chairman. I
15 just meant to ask Mr. Sullivan, could you just address Mr.
16 Gambrell's point? I'm not sure I got it, that there wasn't enough
17 room for all of the trash cans that you're now proposing? Is, I,
18 could you just respond to his concern about the trash cans?

19 MR. SULLIVAN: I think I'll ask Mr. Cross, he's more
20 familiar with that. But I know that, I know there's room. There
21 is on the plan, four trash cans.

22 MR. CROSS: Yeah, we have, we are currently showing four
23 trash cans, you know, but I think Mr. Gambrell's note about
24 whether it's in the official record, I'm not exactly sure how it
25 is filed. But it is certainly shown in these presentation

1 drawings and the most recent uploads. We have four trash cans at
2 the rear of the property, those are all full size 64-gallon roller
3 cans. And to the point about how the eight units are going to use
4 those cans, the owner of the property has previously stated that
5 this building will be under private trash collection, and
6 therefore, the collection frequency will be adjusted to ensure
7 that the cans meet the occupants' needs.

8 VICE CHAIR MILLER: Okay. Okay. Thank you very much
9 for that information.

10 BOARD MEMBER SMITH: Mr. Chairman?

11 CHAIRPERSON HILL: Yep. Go ahead, please, Mr. Smith.

12 BOARD MEMBER SMITH: Mr. Sullivan, I'm looking at the
13 section that I think you referenced. Did you say Section 324.1 in
14 relation to how that cellar would be allowed to project or
15 wouldn't count against lot occupancy? Can you explain that a
16 little bit more? Because this section relates to structures that
17 require open spaces.

18 MR. SULLIVAN: Yeah. I mean, I can explain it with a
19 building permit. I can explain it with our self-certification.
20 And I can explain it with 40 years or more interpretation that any
21 structure that's not more than four feet above grade doesn't count
22 in lot occupancy pursuant to that exception because lot occupancy
23 is a required open space.

24 BOARD MEMBER SMITH: Okay. So, I would -- Mr. Chair, I
25 retract my, you know, previous silence on this. I think I would

1 welcome an interpretation from the Zoning Administrator to confirm
2 that interpretation. I think it would be beneficial, you know,
3 going forward for us to have that clarity to ensure that that,
4 something of that nature wouldn't count against lot occupancy.

5 CHAIRPERSON HILL: Okay. All right.

6 MR. SULLIVAN: Can I submit the building permit? Or can
7 we ask counsel to weigh in on what the meaning of self-
8 certification is?

9 CHAIRPERSON HILL: Mr. Sullivan --

10 BOARD MEMBER SMITH: I know what --

11 CHAIRPERSON HILL: -- I know --

12 BOARD MEMBER SMITH: We know what self-certification is.

13 CHAIRPERSON HILL: -- what the meaning of self-
14 certification is, and I'm just trying to figure out some stuff
15 here as to how we're going to move forward, right? Okay. And if
16 my fellow Board Members want some information, then we're going to
17 get some more information. Okay? All right.

18 MR. SULLIVAN: And we can submit the building permit,
19 which I suspect --

20 BOARD MEMBER SMITH: You can submit the building permit -
21 -

22 MR. SULLIVAN: -- because it's not in appeal.

23 BOARD MEMBER SMITH: You can submit the building permit,
24 you know, I welcome any additional information that you have. But
25 I do want that letter from the Zoning Administrator as well.

1 MR. SULLIVAN: Thank you. We can submit that. I was
2 just submitting my objection for the record. Thanks.

3 CHAIRPERSON HILL: Okay. Okay. So, let's see, all
4 right. I'm going to go ahead -- does anybody else have anything
5 else they'd like to add? Okay. All right.

6 So, Mr. Sullivan, you wanted to submit the building
7 permit, is that correct?

8 MR. SULLIVAN: Yes, if we have to, we can submit the
9 building permit.

10 CHAIRPERSON HILL: I'm just --

11 MR. SULLIVAN: Typically, I mean, it's a new procedure
12 to submit determination letters and building permits to prove --

13 CHAIRPERSON HILL: I was --

14 MR. SULLIVAN: -- self-certification.

15 CHAIRPERSON HILL: Mr. Sullivan, if you --

16 MR. SULLIVAN: We have it, though.

17 CHAIRPERSON HILL: If we were -- I wish so much that we
18 were together in the same room and we could, kind of, like, get
19 the vibe off of each other, right? Okay? I'm also trying to make
20 sure that we have a complete record in case there's any
21 clarification, in case there's any issues with any of the people
22 that are necessarily studying this case, right? And I want to
23 make sure that we have enough information, that the Board has
24 enough information. And the only thing that I'm a little confused
25 of is, obviously, just this cellar issue. It seems to come up all

1 the time, right? And if, you know, if we have the correct lot
2 occupancy -- I just don't want to come back here in a situation
3 where I'm going through this again on some kind of an appeal, and
4 I have to go through this all over again, right? So, you know.

5 MR. SULLIVAN: But just to be clear, it's not a cellar
6 issue, it's a structure issue. And it doesn't matter what's under
7 it, it's just like a porch or a deck. So, this is, it doesn't
8 relate to the cellar, just to be, I just want to make sure that's
9 clear because I think there might be some confusion there.

10 CHAIRPERSON HILL: I appreciate --

11 MR. SULLIVAN: It doesn't matter what's under it.

12 CHAIRPERSON HILL: I thought -- I appreciate that. But
13 I thought that's the whole thing that we're discussing, isn't that
14 correct, Mr. Smith? Give me a second, Mr. Sullivan.

15 MR. SULLIVAN: Okay.

16 BOARD MEMBER SMITH: Yes. Yes. That's exactly correct.

17 CHAIRPERSON HILL: Okay. All right. So, okay. Then,
18 we want a zoning determination letter that the lot occupancy is
19 what is being stated. Is that what you're looking for, Mr. Smith?

20 Hold on --

21 BOARD MEMBER SMITH: Yes.

22 CHAIRPERSON HILL: -- a second, hold on a second, Mr.
23 Sullivan. Is that what --

24 BOARD MEMBER SMITH: That's exactly --

25 CHAIRPERSON HILL: -- you're looking for?

1 BOARD MEMBER SMITH: -- what I'm looking for.

2 CHAIRPERSON HILL: Okay. Mr. Sullivan, what is it that
3 you'd like to add?

4 MR. SULLIVAN: We have a building permit. A zoning
5 determination letter could take months. And so, as, seeing how as
6 the building permit is a greater assurance than a determination
7 letter, then I would ask -- then, especially because we're -- so,
8 now we're at the point where --

9 CHAIRPERSON HILL: Okay. Give me a second --

10 MR. SULLIVAN: -- I've self-certified something --

11 CHAIRPERSON HILL: Give me a second, Mr. Sullivan. I
12 didn't know a zoning determination letter takes months, okay? I
13 thought a zoning determination letter also took as much time as I
14 get something from the Office of Planning, right?

15 Mr. Moy, how long does a zoning determination letter
16 take? Or Ms. Nagelhout, if you want to.

17 MR. MOY: Since my tenure here, Mr. Chairman, it varies.
18 I do know it depends on the workload over at the ZA Office. So, I
19 know I haven't given you a definitive answer. As Mr. Sullivan
20 says, it could be months, or it could be weeks. I won't know
21 until I reach out to the ZA myself if that's something the Board
22 wants me to do.

23 CHAIRPERSON HILL: Okay. So, this is not -- and I
24 apologize, even for this. Mr. Smith, I appreciate your interest
25 and clarity on this. I didn't know, understand the timing

1 situation, right? And so, I don't know if, you know, the building
2 permit is the building permit, this is a self-certified
3 application. I and Mr. Smith knows, because I was also, kind of,
4 curious of this, I was also interested in the zoning determination
5 letter so that we could have a fuller record. And I'm looking at
6 Mr. Smith right now, by the way. And so, I don't know now. I
7 mean, now, it's like, you know, it's self-certified.

8 And I'm just having a conversation with our Board
9 Members because this is a weird virtual world, so give me a
10 second. Is that, again, months to get a decision, I don't
11 necessarily know if I need it now and it can ride with what is
12 already before us in terms of the building permit and the fact
13 that it's self-certified. Yeah. And that we've had the feedback
14 from the Office of Planning, I suppose.

15 So, now, Mr. Smith, knowing that it takes a couple of
16 months to get something like this, what do you think?

17 BOARD MEMBER SMITH: My question, you know, can I pose
18 that same question, Ms. Nagelhout, does it have to be a formal
19 determination letter from the Zoning Administrator, or the Zoning
20 Administrator can, you know, send something to us confirming that
21 interpretation?

22 MS. NAGELHOUT: I'm not sure what you're looking for
23 here. I agree with the applicant that the Zoning Administrator
24 has made that determination already in this particular case in
25 issuing the permit. I don't know what more he can say. And I

1 don't know what value an additional email or communication from
2 the Zoning Administrator who may have moved on to other things by
3 now, what that gives you in this case that you don't already have.

4 BOARD MEMBER SMITH: Okay. So, if you're stating as our
5 Counsel that a building permit can be treated as his
6 interpretation being that he granted --

7 MS. NAGELHOUT: In this case, yes. Because if it
8 exceeded the matter of right lot occupancy, they would have had to
9 have gotten relief. Or, you know, the way it, the way the system
10 works is under the zoning, under the BZA Rules, an applicant can
11 self-certify an application and take his chances that the ZA will
12 agree with that. And if the ZA does and somebody doesn't like
13 that determination, they could file an appeal of that
14 determination. That didn't happen here, so, you know, you have a
15 permit that is DCRA's way of stating that the zoning regs were
16 complied with other than the relief they're asking for now.

17 BOARD MEMBER SMITH: Okay. I got you. So, you know,
18 based on your statement, you know, I retract it. I will treat it,
19 Mr. Sullivan, if you want to submit the building permit into the
20 record, you know, I'll treat that as a confirmation. And we'll
21 see what happens going forward.

22 MR. SULLIVAN: Sure. We can do that. I just, okay,
23 sure.

24 CHAIRPERSON HILL: Okay. Okay.

25 MR. SULLIVAN: I want to say one thing about, please,

1 just for timing in case, so we don't get bumped too far waiting
2 for that or, hopefully, maybe you can decide to say leave the
3 record open for that. But a requirement, and as somebody that
4 brings forward quite a few applications, it would be helpful for
5 us to know for the future. We're required to do one of two
6 things, either submit a letter from the Zoning Administrator
7 saying that we're asking for the correct relief or certify to it
8 as either a lawyer or an architect that we're asking for the
9 correct relief. If we're going to be required to, in most cases,
10 always submit something from the Zoning Administrator, it makes
11 self-certification irrelevant. And we could prepare for that
12 ahead of time. We self-certify almost all of the applications,
13 most people do just to --

14 CHAIRPERSON HILL: Okay, Mr. Sullivan. Mr. Sullivan, I
15 got you. I just want to let you know, Mr. Sullivan, I think you
16 understand what I'm saying, in that we're not trying to change
17 anything. We're not trying to change the way things are done.
18 And we go through this many, many times over. I haven't done, I
19 think you said 40 years, 20 years, I don't remember how many years
20 you threw out there, right? But I'm doing, I've done it for five.
21 I'm not trying to change anything, I'm just trying to make sure
22 that there's a full enough record so that there aren't going to be
23 any issues moving forward with this particular case, right? And
24 so, that's all I was trying to get to. And so, I think we're fine
25 and we'll figure out what's going to go on with you, if you want

1 to submit that permit, okay?

2 Does anybody have any questions for the applicant or the
3 Office of Planning? All right. Okay. I guess, I don't even know
4 if you, I mean, now we can get to deliberations, and we'll see
5 what happens. I'm going to close the -- Mr. Sullivan, do you have
6 anything that you would like to add at the end?

7 MR. SULLIVAN: No, thank you.

8 CHAIRPERSON HILL: Okay. So, I'm going to close the
9 hearing and the record, except leaving the record open for the
10 building permit, okay? And we'll see where we get with
11 deliberations. So, I'm going to go ahead and wait for everybody
12 to be let go.

13 I mean, I can start a little bit. I mean, I'm just, I
14 was just trying, and I -- Mr. Smith, I appreciate it, right?
15 Like, trying to, and I'm looking at you now. Trying to figure
16 out, you know, if we had enough information in the record to move
17 forward, right? It sounds as though, you know, they now have a
18 building permit that says that the Zoning Administrator has
19 already approved the lot occupancy and that that actually doesn't
20 count towards lot occupancy. Now, if somebody else wants to
21 challenge that, I guess they can, right? But that now has been a
22 permit, right?

23 Outside of that, then has the applicant made their
24 argument for the relief that they're asking for, right? I'll go
25 back even to now the ANC, and the ANC, who is actually the

1 governing -- not governing body, you know, the on-the-ground
2 people there in the neighborhood. They have gone ahead and, you
3 know, voted in favor of this application, meaning they're
4 comfortable with the number of units that are possibly coming
5 online there. And they have gone ahead and worked with their
6 community to, at least, discuss it, right? So, that's one item.

7 The second is that the Office of Planning has gone
8 through their analysis in terms of whether or not they are meeting
9 this request and whether the relief is being made in a way that
10 satisfies the standards with which we are supposed to grant this
11 request. And then, we are charged with looking through those
12 different standards and seeing if we agree with the applicant's
13 testimony as well as all of the other testimony that we've
14 received from people. I actually am going to agree with the
15 arguments that the applicant has put forward. I'm just looking
16 through the different subtitles right here, again, and would agree
17 with the arguments that they're making towards the regulations.

18 And I will also agree with the argument that the Office
19 of Planning is putting forward. I was also, you know, looking for
20 some more clarification on the lot occupancy question. However,
21 as the building permit has already been issued, therefore, the
22 Zoning Administrator has determined that it is accurate, I feel a
23 little bit more comfortable with that analysis. And, again, as
24 far as the testimony from the other people in the neighborhood, I
25 am disappointed that they aren't concerned about the way that the

1 development is taking place in their neighborhood, at least some
2 people are, I mean, it can't be everybody because the ANC voted in
3 favor of it. And I would also agree with the arguments toward the
4 parking.

5 So, unless you all want to wait for the, for anything, I
6 can go ahead and vote for approval. And I will go ahead and turn
7 to see what you have to say next, Mr. Smith?

8 BOARD MEMBER SMITH: I don't really have anything in
9 addition to say other than what you just stated, Mr. Chair. I am
10 comfortable with the approach that you would take that Mr.
11 Sullivan would submit within the record. And I'm not arguing to
12 hold this up. I'm comfortable with the fact that they received
13 the building permit, the Zoning Administrator has made a
14 determination through that building permit, that it does meet the
15 lot occupancy requirements.

16 You know, other than that, you know, on the hearing, I
17 hear what the neighborhood is saying. They're concerned about the
18 densification within their neighborhood. I would also say, you
19 know, what's before us today isn't the density. It's, or the
20 number of units that they're proposing, for eight. It is the lot
21 occupancy; it is the parking space dimension requirements. The
22 area zone RA-2, which does allow for apartment uses within the
23 neighborhood. So, the intent of that zone is for apartment
24 houses, more than two units within any, with, on a property
25 potentially if a property owner wants to develop it in a manner

1 that's keeping with the RA-2 Zone regulations. And in this
2 particular case, other than those two provisions, it is in keeping
3 with the RA-2 Zone regulations.

4 Based on what was presented today and based on what
5 we've heard from the Office of Planning, I do believe they've met
6 the standards for us to be able to grant the special exception, so
7 I will be in support.

8 CHAIRPERSON HILL: Okay. Commissioner Miller?

9 VICE CHAIR MILLER: Thank you, Mr. Chairman. Can you
10 hear me? I seem to be having some internet connection problems.
11 If, I'll turn off my video if --

12 CHAIRPERSON HILL: I can hear you.

13 VICE CHAIR MILLER: Okay.

14 CHAIRPERSON HILL: I can hear you.

15 VICE CHAIR MILLER: Okay. I appreciate the discussion.
16 I concur with the comments of the Chairman and Board Member Smith.
17 And I appreciate the dialogue that you had with the applicant and
18 the Office of Planning about that issue, obviating the need for me
19 to have that discussion. So, I think the applicant has met the
20 standard for relief both in lot occupancy and in the parking
21 dimension. And I'm giving great weight to the ANC that is
22 supportive of the relief for the lot occupancy and took no
23 position after a three-to-three vote on parking dimension. And
24 giving great weight, also, to the Office of Planning that supports
25 the relief. I would be in support of this application.

1 CHAIRPERSON HILL: Okay. Let's see, I'm going to go
2 ahead then -- oh, I'm sorry. Mr. Blake?

3 BOARD MEMBER BLAKE: Yeah. Everything really has been
4 said. I, too, would be in support of it. The only thing I would
5 also note on the parking dimension side is the support of DDOT,
6 which has no objection and relief, supports relief for both.

7 CHAIRPERSON HILL: Okay. Great. I will go ahead and
8 make a motion then to approve Application No. 20521 as captioned
9 and read by the Secretary and ask for a second, Mr. Blake?

10 BOARD MEMBER BLAKE: Second.

11 CHAIRPERSON HILL: The motion has been made and
12 seconded.

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

14 MR. MOY: Thank you, Mr. Chairman. When I call each of
15 your names, if you would please respond with a yes, no, or abstain
16 to the motion made by Chairman Hill to approve or grant the relief
17 requested by the applicant in this application. The motion was
18 seconded by Mr. Blake.

19 Zoning Commissioner Rob Miller?

20 VICE CHAIR MILLER: Yes.

21 MR. MOY: Mr. Smith?

22 BOARD MEMBER SMITH: Yes.

23 MR. MOY: Mr. Blake?

24 BOARD MEMBER BLAKE: Yes.

25 MR. MOY: Mr. Chairman Hill?

1 CHAIRPERSON HILL: Yes.

2 MR. MOY: We have a Board Member not participating.
3 Staff would record the vote as 4-0-1. And this is on the motion
4 made by Chairman Hill to grant, seconded by, the motion was
5 seconded by and in support by Mr. Blake. Also, in support of the
6 motion to approve is Zoning Commissioner Rob Miller, Mr. Smith,
7 and of course, Mr. Blake and Chairman Hill. Motion carries on a
8 vote of 4-0-1.

9 And before I close out on this application, Mr.
10 Chairman, with your indulgence, I'd like to formally accept Mr.
11 Gambrell's apology. I have always respected and will continue to
12 respect Mr. Gambrell's views on zoning matters and planning
13 matters in the city. He has passion and enthusiasm. I always
14 have been an advocate for citizen participation, and I consider it
15 a vital component of the planning process. And Mr. Gambrell does
16 all of that, and I believe that his participation in the city
17 makes the city and this community a better place to live. That's
18 all I have to say, Mr. Chairman. Thank you.

19 CHAIRPERSON HILL: Thank you, Mr. Moy. That was well
20 said, and I'll second that motion. All right. Okay. Do we need
21 a break? Or are we going to keep going? We're all good? Okay.
22 Let's keep going. All right.

23 Mr. Moy, you can call our next one, if you'd like.

24 MR. MOY: The next Case Application before the Board is
25 Application No. 20522 of James Barbour, that's B-a-r-b-o-u-r, and

1 Ariel Gold. This is captioned and advertised for special
2 exception from the penthouse setback requirements, Subtitle C,
3 Section 1502.1., and from the lot occupancy requirements of
4 Subtitle E, Section 304.1, which would construct an accessory
5 structure with roof deck for an existing attached two-story with
6 cellar principal dwelling unit in the RF-1 Zone. The property is
7 located at 617 A Street Northeast, Square 868, Lot 55.

8 As a preliminary matter, Mr. Chairman, there, I believe
9 an affidavit of maintenance was submitted but it was submitted
10 within our 24-hour block, so that's there for the Board's action.
11 And let's see, I think -- hold on one second. I believe, yeah,
12 that's, I believe that's all I have for this, Mr. Chairman. Thank
13 you.

14 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Moy.
15 Ms. Fowler, can you hear me?

16 MS. FOWLER: Yes, hello.

17 CHAIRPERSON HILL: Hello. Could you introduce yourself
18 for the record, please?

19 MS. FOWLER: Hi, yes. I'm Jennifer Fowler with Fowler
20 Architects. I'm the agent on this project.

21 CHAIRPERSON HILL: Okay. Unless the Board has any
22 issues, I want to go ahead and please allow the affidavit of
23 posting and maintenance into the record. I think it was just, or
24 is it just posting? The affidavit into the record. And with
25 this, if anybody has an issue, please raise your hand. All right.

1 I don't see anybody.

2 All right, Ms. Fowler, I'm going to go ahead and if you
3 could, just please explain how you believe that your client is
4 meeting the standard to approve the relief requested. And is
5 there anything you'd like us to bring up or are you just going to
6 talk us through it?

7 MS. FOWLER: Yeah. I was just going to keep it brief.
8 It's a pretty small, straightforward project, so I don't think we
9 need to pull anything up. But this is essentially a proposal for
10 a carport, kind of, quasi-garage carport with a roof deck on top.
11 There's an existing, kind of, set of walls. There's a garage and
12 then, a landscape wall on two sides. So, we're basically just,
13 kind of, filling in a partial roof over that structure.

14 The proposed structure is going to cover 70 percent --
15 right now, we're at about 59.9 percent, going to 69 percent. And
16 we're adding a new stair from the yard going up to the second
17 floor. And we've, kind of, had the stair, kind of, go into that
18 lot occupancy. So, the part of the stair that comes beyond the
19 garage is below the four-foot mark, so it's not counting towards
20 occupancy. So, the extra occupancy that we're asking for is just
21 the, kind of, the portion, it's the 11' 3" by 19' 9". So, that's
22 the one element of relief.

23 We, also, are asking for railing setback relief. We
24 initially filed this, or we started looking at plans with parapet
25 walls, which would not require any relief, but the neighbor at 619

1 we've worked with closely and they requested that we, you know,
2 use an open railing. So, we revised the plans, and we added the
3 relief of the setback. So, and my understanding is that relief is
4 going to be going away soon but we're keeping it in our proposal
5 now. So, we do have railings, kind of, lining the second floor of
6 this.

7 So, we have support from the two adjacent neighbors, we
8 got 619 and 615. We've also gotten support of the Restoration
9 Society and the ANC as well and Historic Preservation is
10 comfortable, they're signing off at staff level.

11 So, I will leave it at that. Again, it's very
12 straightforward. Really, almost no impact to the neighbors.
13 We're really just extending the wall 18 inches higher than what it
14 is now, plus the railing. So, I will leave it open to questions.

15 CHAIRPERSON HILL: Okay. Thank you. I was just
16 flipping through your architectural plans as you were talking.

17 Does anybody have any questions for the applicant? All
18 right. I'm going to turn to the Office of Planning.

19 MS. FOTHERGILL: Good afternoon, Chairman Hill, and
20 Members of the Board. I'm Anne Fothergill for the Office of
21 Planning. And the Office of Planning has recommended approval of
22 the two special exceptions that were requested. The lot occupancy
23 special exception pursuant to Subtitle E 5201.4 and the roof deck
24 railing setback special exception, which we found that the
25 criteria of Subtitle C 1504.1.

1 And I will rest on the record in support of the
2 application, and I'm happy to take any questions.

3 CHAIRPERSON HILL: Thank you. Does the Board have any
4 questions for the Office of Planning? Does the applicant have any
5 questions for the Office of Planning?

6 MS. FOWLER: No, thank you.

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

9 MR. YOUNG: We do not.

10 CHAIRPERSON HILL: Ms. Fowler, do you have anything that
11 you'd like to add at the end?

12 MS. FOWLER: No, nothing else to add. Thank you very
13 much for your time.

14 CHAIRPERSON HILL: Okay. Mr. Young, if you could
15 please, I'm going to close the hearing and the record, if you
16 could please excuse everyone from the hearing room? Okay. Does
17 somebody else want to talk? Mr. Smith?

18 BOARD MEMBER SMITH: Sure. I believe that this is a
19 fairly straightforward application. I do believe that the request
20 from the applicant is fairly modest in nature. The request to
21 special exception by the applicant, the first one is for penthouse
22 setback requirements and the second one is for the lot occupancy
23 requirements. Based on the testimony that I've heard today from
24 the applicant and in reading the staff report presented by the
25 Office of Planning, presented to us by the Office of Planning, I

1 do believe that the applicant has demonstrated that they have met
2 the requirements for us to be able to grant the special exceptions
3 for both of the reliefs that they have requested under Subtitle C,
4 1502; and Subtitle C, 1504; and the general special exception
5 standards, Subtitle E 5201 and 304.1.

6 I would note that the, well, we didn't get a report from
7 the ANC, I don't believe. It's not in the notes that I have here,
8 and we didn't receive any objection from DDOT for this
9 application. So given the scale and nature of this application, I
10 will support this, the request for the special exception.

11 CHAIRPERSON HILL: Okay. Thank you. Commissioner
12 Miller?

13 VICE CHAIR MILLER: Thank you. I concur with Board
14 Member Smith's comments.

15 CHAIRPERSON HILL: Mr. Blake?

16 BOARD MEMBER BLAKE: Yes. Yes. I concur as well. The
17 open railings make for a much better design as compared to the
18 solid parapet wall and it lessens the potential adverse effect on
19 the neighbors' light, air, and privacy. And it certainly would be
20 visually less intrusive. We talked already at length recently
21 about lot occupancy, we feel comfortable with the situation there.
22 And I recommend that DDOT has no objection as well. And I do
23 believe the ANC did indicate something on this, but maybe not.
24 But I'm in support, absolutely.

25 CHAIRPERSON HILL: They submitted a letter in support,

1 the ANC, as well as letters of support from neighbors. I don't
2 have anything additional to add other than what my, from what my
3 colleagues had said. I'm going to go ahead and make a motion to
4 approve Application No. 20522 as captioned and read by the
5 Secretary and ask for a second, Mr. Blake?

6 BOARD MEMBER BLAKE: Second.

7 CHAIRPERSON HILL: The motion has been made and
8 seconded, Mr. Moy, if you'd take a roll call?

9 MR. MOY: Thank you, Mr. Chairman. When I call each of
10 your names, if you would please respond with a yes, no, or abstain
11 to the motion made by Chairman Hill to approve the application for
12 the relief requested. The motion was seconded by Mr. Blake.

13 Zoning Commissioner Rob Miller?

14 VICE CHAIR MILLER: Yes.

15 MR. MOY: Mr. Smith?

16 BOARD MEMBER SMITH: Yes.

17 MR. MOY: Mr. Blake?

18 BOARD MEMBER BLAKE: Yes.

19 MR. MOY: Chairman Hill?

20 CHAIRPERSON HILL: Yes.

21 MR. MOY: Staff would -- and we have one Board Member
22 not participating -- staff would record the vote as 4-0-1. And
23 this is on the motion made by Chairman Hill to grant the
24 application. The motion was seconded by Mr. Blake. Also, in
25 support of the motion to approve is Zoning Commissioner Rob

1 Miller, Mr. Smith, Mr. Blake, and Chairman Hill. The motion
2 carries on a vote of 4-0-1.

3 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy. If you
4 guys can do it, maybe we'll do one more and then, we'll take a
5 break. Is that all right? Okay. Because I know that we have to
6 take a hard stop at 3:50, so I'd rather, if we can somehow get
7 through them, there's only two left. The next one may take longer
8 than I thought -- or the last one, I don't know, or whatever. So,
9 we'll see.

10 So, Mr. Moy, could you please go ahead and call our next
11 case?

12 MR. MOY: Yes, thank you, sir. This would be case
13 Application No. 20523 of AMSQ LP, this is the application
14 captioned and advertised for a special exception from the matter-
15 of-right uses of Subtitle I, Section 302, which would construct a
16 penthouse addition to an existing detached commercial building in
17 the D-3 Zone. The property is located at 300 New Jersey Avenue
18 Northwest, 51 Louisiana Avenue Northwest, Square 631, Lots 808 and
19 809.

20 And the only other thing I have, Mr. Chairman, is that
21 the applicant submitted their PowerPoint, which I believe is under
22 Exhibit 34.

23 CHAIRPERSON HILL: Okay, great. Is it Ms. Prince (ph.)?
24 Or is it --

25 MR. FERRIS: It'll be me --

1 CHAIRPERSON HILL: -- Mr. Ferris?

2 MR. FERRIS: -- Chairperson.

3 CHAIRPERSON HILL: Okay. Mr. Ferris, could you
4 introduce yourself for the record, please?

5 MR. FERRIS: Yes, my name is Lawrence Ferris with the
6 Law Firm of Goulston and Storrs, land use counsel for the project.

7 CHAIRPERSON HILL: Okay. And who is here with you, Mr.
8 Ferris?

9 MR. FERRIS: I have Mark Witschorik from Jamestown and
10 Owen McCrory from HKS Architect.

11 CHAIRPERSON HILL: Okay. And so, Ms. Prince is here
12 why? Ms. Prince, can you introduce yourself?

13 MS. PRINCE: I'm just on the team and watching the
14 hearing.

15 CHAIRPERSON HILL: Okay. Great. I didn't, okay. All
16 right. Okay.

17 Let's see, Commissioner Eckenwiler, can you introduce
18 yourself for the record?

19 COMMISSIONER ECKENWILER: Certainly, Mr. Chairman. Can
20 you hear me okay?

21 CHAIRPERSON HILL: Yep.

22 COMMISSIONER ECKENWILER: Great. Mark Eckenwiler, Vice-
23 Chair ANC 6C, here on behalf of the ANC.

24 CHAIRPERSON HILL: Okay. Great. Okay. All right, Mr.
25 Ferris, why don't you go ahead and walk us through how you believe

1 your client is meeting the standards for us to grant this relief
2 that's being requested? I'm going to put 15 minutes on the clock
3 just so I know where we are. And you can begin whenever you'd
4 like.

5 MR. FERRIS: All right. Thank you so much. Good
6 afternoon, again, Chair Hill and Members of the Board. Again, I'm
7 Lawrence Ferris with Goulston and Storrs, land use counsel for
8 this project. And actually, I realized, I don't think I see the
9 presentation on my screen. If we could -- great. Perfect. And
10 Mr. Young, if we could please advance to the next slide? Thank
11 you so much.

12 We are here today for the property located at 300 New
13 Jersey Avenue Northwest. This is the America Square building
14 located at the corner of D and New Jersey Avenue. It's between
15 Union Station and the Capitol. This is the office building that
16 old, includes the old Acacia building that has a Louisiana Avenue
17 address, so you might notice that in the application. The Acacia
18 building faces over on to the Senate Park.

19 Our application pertains only to the Northern wing, the
20 newer wing of the building that was constructed in 2009. The
21 property is located in the D-3 Zone and this application requests
22 special exception approval pursuant to Subtitle I, Sections 605.6
23 and 605.7 for work within the Capitol Security Sub-Area. Next
24 slide, please. The building has an existing rooftop deck that is
25 being used today as well as an existing mechanical penthouse. And

1 our proposal is to convert a portion of that mechanical space into
2 a penthouse habitable -- or a habitable penthouse space and to
3 construct a roughly 6,000-square-foot habitable addition to the
4 penthouse.

5 So, again today, with me today are Mark Witschorik from
6 Jamestown who can provide some background on the building and the
7 proposed project as well as a little information about our
8 outreach with the U.S. Capitol Police about the penthouse, as well
9 as Owen McCrory from HKS, the project architect who will walk us
10 through the plans for the renovated terrace and the proposed
11 habitable penthouse. We are proffering Mr. McCrory as an expert
12 in architecture and his resume is in the record at Exhibit 29B for
13 the Board's consideration. Would you like to consider that now or
14 wait until we get to --

15 CHAIRPERSON HILL: Thanks, Mr. Ferris.

16 MR. FERRIS: -- his report?

17 CHAIRPERSON HILL: No, that's all right. Are you going
18 to -- is Mr. McCrory, he's going to give testimony?

19 MR. FERRIS: He is.

20 CHAIRPERSON HILL: Okay. I'm looking through his resume
21 in your exhibit. I don't have any questions for Mr. McCrory.

22 Does the Board have any questions in hearing from Mr.
23 McCrory as an expert? All right, great.

24 Mr. McCrory, you're now in our book and, Mr. Ferris, can
25 you please continue?

1 MR. FERRIS: All right. So, before we dive into our
2 presentation, I would just note that we have reports and support
3 from the Office of Planning, that's Exhibit 31. And DDOT raised
4 no objection, that's Exhibit 32. The application was also
5 forwarded to the Architect of the Capitol, which is involved in
6 this review. And that was forwarded when we filed, and we have
7 also emailed them directly about this application. In previous
8 Capitol Security cases, they have been focused on making sure that
9 any comments from the U.S. Capitol Police are addressed. That's
10 really been their primary concern. So, we have focused our
11 outreach primarily with the U.S. Capitol Police, although we have
12 kept the Architect of the Capitol updated as we move along. And
13 we can provide an update on that outreach with Capitol Police as
14 part of our presentation today.

15 We also presented the project to ANC 6C. Obviously, our
16 single-member District Commissioner -- I'm sorry, the Chair of the
17 Zoning Committee is here today to present to the Board. We
18 presented to the ANC at its Zoning Committee meeting on September
19 1st and at the full ANC meeting on September 9th. And the ANC
20 voted unanimously to support the application and their report is
21 at Exhibit 35 of the record. The ANC did condition their support
22 on any approval including a prohibition against amplified music
23 being played on or projected out onto the rooftop terrace. And as
24 we noted in our prehearing submission, we have no objection to the
25 ANC's condition as proposed in their report.

1 So, with that, I will hand it over to Mark Witschorik to
2 give you a little more background on the project.

3 MR. WITSCHORIK: All right. Thank you, Lawrence. And
4 good afternoon. Thank you for your time and consideration. My
5 name is Mark Witschorik, I'm with Jamestown. We are the owners of
6 America's Square 51 Louisiana and 300 New Jersey, and I'm
7 responsible for our Washington, D.C. portfolio and look forward to
8 giving you just a brief update on the project.

9 So, our goal is to deliver this expanded penthouse as an
10 amenity for our tenant community. We believe that it will be a
11 great offering for the tenants to be able to utilize the space
12 year-round. There is currently a tent, but enclosing it will open
13 it up for some new uses for our community. And we're also very
14 excited, we've thought through this, and we believe it can be a
15 useful amenity for the safety of the Hill. We've reached out to
16 Chief Gouter (ph.) at the Capitol Hill Police and offered the
17 penthouse, the space for use on high-profile days for personnel as
18 well as any technology that may be helpful to secure the Capitol
19 and the Region in the neighborhood on specific days. And the
20 initial feedback has been positive. We're working on getting a
21 tour with their facilities team, and that is progressing, but our
22 goal is to try and deliver a new penthouse that works for our
23 tenant community, the surrounding neighborhood, as well as the
24 Capitol. We really take a lot of pride in being a partner to the
25 community in the circumstance.

1 So, we look forward to any questions. Happy to jump in
2 with them. And with that, I'll turn it back to Lawrence as well
3 as our team.

4 MR. FERRIS: Thanks, Mark. And with that, we'll hand it
5 over to Owen McCrory to walk us through the design.

6 MR. MCCRORY: Good afternoon. And the slide you're
7 looking at now shows a little more detailed view of the whole
8 America's Square complex, which includes the lower right-hand
9 corner, the original building that was built in the 1930s. And
10 then, on the left side along 1st Street is a 1950s addition. And
11 then, at the top of the page running along E Street on the North
12 side and opening up to New Jersey on the right side is the 300 New
13 Jersey building that we're discussing. The existing penthouse is
14 basically that larger square that is, that's called that as top of
15 existing penthouse and the height.

16 The proposed addition is the darker gray hedged area
17 that's, kind of, an L-shape that wraps around from the South side
18 of the existing penthouse around to the East side. And all three
19 buildings are joined together by a triangular shaped atrium that
20 was built at the same time, it was around 2009 with the 300 New
21 Jersey building. So, if we could go to the next slide.

22 This is the existing conditions as they are today. It's
23 approximately 8,690 square feet of mechanical space and access to
24 the current roof deck. The current roof deck also wraps around
25 from the South side around the East side. And you can, kind of,

1 see here that it also includes, currently there's an existing tent
2 structure on a large portion of that Eastern side.

3 And then, if we go to the very next slide, this shows
4 the proposed addition in the light blue. And you can see that
5 we're, kind of, extending it along the South side. We've got some
6 restrooms in the lower left-hand corner and wrapping it around to
7 the East side. Although, we're setting the building the new
8 construction back from the sides, the main, the sides of the
9 building will be more in line with where the existing penthouse
10 is. And we're re-wrapping that with another roof deck, again,
11 that wraps around the South and extends, or somewhere around the
12 North side. We're also going to incorporate some sliding panels
13 so we can open up the interior space with the exterior on nice
14 days. So, let's go to the next slide.

15 And this, kind of, just shows you a 3D view, the overall
16 intent of the design is to be really, very low-key to blend
17 seamlessly with the architecture of the existing building. And
18 use the same materials and modules that are on the existing
19 building to fit in. You can see the existing structure, kind of,
20 popping up in the back. The new proposed addition is actually
21 going to be three feet lower than the existing penthouse. And
22 again, it will be set back from all the building facades, maintain
23 a 20-feet. And you can see the proposed deck that wraps around
24 the corner.

25 And then, if you'd go to the next slide, we just have

1 another view that's, kind of, more from the Northeast showing how
2 it connects to the existing penthouse, you know, a slight offset
3 on the vertical plane as well as lowering it. It makes a nice
4 connection massing-wise between the two. Yeah, you know, just
5 trying to keep this fairly low-key, keep it where it somewhat
6 blends in with the existing building and feels like it's part of
7 the original design.

8 And that's, pretty much, it. If you go one more slide,
9 we put in just some views from the -- we have one more slide.
10 There you go. This just shows, you know, what the view is from up
11 there. A spectacular view of the Capitol, obviously. That's,
12 kind of, it, unless there's questions.

13 MR. FERRIS: All right. Thanks, Owen. So, with that,
14 just in conclusion, I'll just say that we believe we meet the
15 relevant standards for approval, that a renovated rooftop terrace
16 and penthouse addition is compatible with the surrounding
17 development, which consists primarily of large commercial and
18 federal office buildings and hotels that are similar in size and
19 scale with the building. The rooftop terrace and penthouse will
20 be used, as Mark said, as an amenity for the building's tenants,
21 which is similar to other rooftop decks downtown and in the
22 immediate vicinity.

23 As we discussed, we are working directly with the U.S.
24 Capitol Police to ensure that the penthouse does not present any
25 security risk to the Capitol Building or Capitol Grounds and we'll

1 continue that work with the Capitol Police. And that includes our
2 proposal for a permanent guard station in the penthouse for use by
3 federal security personnel as needed.

4 Lastly, the project is fully in harmony with the general
5 purpose and intent of the D-3 Zone and will not adversely affect
6 neighboring properties, which consists largely of other high-
7 density commercial buildings characteristic of downtown. So, we
8 believe we meet the standards for approval of the requested
9 relief. And with that, I will conclude our presentation and we're
10 happy to answer any questions.

11 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Ferris.

12 Let's see, does the Board have any questions of the
13 applicant? Commissioner Miller?

14 VICE CHAIR MILLER: Thank you, Mr. Chairman. Thank you
15 all for your presentation. I think that the applicant has made
16 the case that it, that they meet the special exception criteria
17 for the Capitol Security Sub-Area special exception criteria and
18 the general exception criteria in terms of compatibility.

19 Did you have something from the Capitol Police in
20 writing? Or are they just didn't want to put anything in writing?
21 They're going to have this, they're going to have a guard station
22 up there, I mean, that's pretty secure for that space. But do you
23 have, we have anything in writing in the record or is there
24 anything you can provide us?

25 MR. FERRIS: Our conversations are still ongoing with

1 | them. Yeah, so we would be continuing to work with them to get
2 | something in the record if the Board would like, but we do not
3 | have anything yet. We're trying to --

4 | VICE CHAIR MILLER: Okay.

5 | MR. FERRIS: -- nail down a date for a site visit with
6 | personnel right now. We thought that meeting was going to happen
7 | this week. It might be next week, but --

8 | VICE CHAIR MILLER: Yeah.

9 | MR. FERRIS: -- that is still in process.

10 | VICE CHAIR MILLER: Okay. And I would just note as your
11 | presentation noted, at least in writing, that the additional
12 | penthouse habitable space not only makes the rooftop more an
13 | amenity for the building tenants and increases the attractiveness
14 | of the rooftop, it really triggers the contribution to the
15 | housing, affordable housing, the city's affordable Housing
16 | Production Trust Fund estimated at this time to be over half a
17 | million dollars, which is significant. And this is exactly the
18 | kind of result that I think we, what we wanted to get when we,
19 | when the Zoning Commission changed the regulations for habitable
20 | penthouses and (indiscernible) office buildings. So, I think this
21 | is a very worthy project. So, I appreciate all the work that's
22 | gone into it, and I guess I didn't have any questions. I already
23 | got into deliberation, sorry, Mr. Chairman.

24 | CHAIRPERSON HILL: All right. Okay. Anyone else have
25 | questions? Okay. Let's see, I'm going to go to the Office of

1 Planning, please.

2 MR. COCHRAN: Thank you, Mr. Chair. I'm Steve Cochran,
3 I'm representing Office of Planning in this case. Other than
4 noting that the ANC has filed a report since OP put its report
5 into the record, I'd be happy to stand on the record. And of
6 course, I'm open to answering any questions.

7 CHAIRPERSON HILL: Okay. Is anyone --

8 MR. COCHRAN: We recommend approval.

9 CHAIRPERSON HILL: Yeah.

10 MR. COCHRAN: We recommend approval, just to be clear.

11 CHAIRPERSON HILL: Got you. Thank you, Mr. Cochran.
12 Does anybody have any questions for the Office of Planning? No?
13 Okay.

14 Commissioner Eckenwiler, do you have any questions for
15 either the applicant or the Office of Planning?

16 COMMISSIONER ECKENWILER: No questions, Mr. Chairman.

17 CHAIRPERSON HILL: Okay. Commissioner Eckenwiler, would
18 you like to give us your testimony?

19 COMMISSIONER ECKENWILER: Sure. I'll be very brief, Mr.
20 Chairman. I know it's been a long day. As Mr. Ferris mentioned,
21 you have in the record at Exhibit 35, the letter of support from
22 the ANC. We just propose one condition. I do want to note, there
23 is a little bit of a nuance, the requested condition is for no
24 amplification devices of any kind. So, it's not just restricted
25 to music, but I don't think that's really a point of disagreement.

1 I just wanted to clarify the scope of our request. And,
2 you know, as we mentioned in the letter, we've been asking for
3 this a lot. This is not a reflective request; we always look to
4 the surrounding area. And we would just note that the reason in
5 this specific case is that there are hotels immediately to the
6 North of the site, including the Hyatt Hotel directly across
7 D Street. So, we are trying to keep in mind to, the interests of
8 those, at least, temporary guests as well as others in the area.

9 So, with that, Mr. Chairman, and that one condition, ANC
10 6C is pleased to support this project.

11 CHAIRPERSON HILL: Okay. Thanks, Commissioner
12 Eckenwiler.

13 Mr. Ferris, is your client understanding of this
14 particular condition and in agreement?

15 MR. FERRIS: We are.

16 CHAIRPERSON HILL: Okay. All right. So, okay. Let's
17 see, does anybody have any questions for the Commissioner? Okay.

18 Mr. Young, is there anyone here wishing to testify?

19 MR. YOUNG: We do not.

20 CHAIRPERSON HILL: Okay. Mr. McCrory, can you hear me?

21 MR. MCCRORY: Yes, I can.

22 CHAIRPERSON HILL: How did you do so many projects in
23 Texas and just a couple of ones in, like, Northern Virginia?

24 MR. MCCRORY: Well, I split time between Texas and
25 Washington, so I, you know, over the years, had a lot of developer

1 clients that brought me to Texas, so.

2 CHAIRPERSON HILL: Okay.

3 MR. MCCRORY: Worked out that way.

4 CHAIRPERSON HILL: Just didn't think a lot of people
5 from Texas left there, so.

6 MR. MCCRORY: That's true.

7 CHAIRPERSON HILL: Okay.

8 MR. FERRIS: He got his headshot --

9 CHAIRPERSON HILL: All right.

10 MR. FERRIS: -- in D.C., though.

11 CHAIRPERSON HILL: Well, I mean, you have to, you know,
12 you have to read through the resume and, you know, like, I don't
13 know exactly what I would do. But there was just, it's Texas,
14 Austin, Dallas, Texas, but and then, like, you know, then, like,
15 Vienna, you know, or Herndon. And I'm just like, you know, so.

16 MR. MCCRORY: Right. There is a few in the District.

17 CHAIRPERSON HILL: Pardon me?

18 MR. MCCRORY: There is a few in the District in there.

19 CHAIRPERSON HILL: No, no. I know, but there's a lot of
20 Texas in there. Right.

21 MR. MCCRORY: Yes.

22 CHAIRPERSON HILL: So, okay. All right. Let's see,
23 Mr. Ferris, you got anything you'd like to add at the end?

24 MR. FERRIS: No. Thank you for your time.

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

1 ahead and excuse the -- close the hearing and the record and
2 excuse the witnesses.

3 COMMISSIONER ECKENWILER: Thank you, Mr. Chairman.

4 CHAIRPERSON HILL: Thank you. Thank you, Commissioner.

5 Okay. I know that the big thing we were trying to
6 figure out was the whole architecture of the Capitol and the
7 Security and the Capitol Security Sub-Area. I mean, I am
8 comfortable with the analysis that we're provided by the Office of
9 Planning, as well as that of the testimony of the applicant, as
10 well as that of the ANC also, and their request or condition that
11 no amplified amplification be provided on that rooftop. So, I'm
12 in support of this application and would be voting to approve.
13 And I'm going to turn to Mr. Smith to help me with anything after
14 that.

15 BOARD MEMBER SMITH: No, Chairman Hill, I don't have any
16 additional information to provide. I agree with your analysis,
17 and I would support the application with those conditions.

18 CHAIRPERSON HILL: Commissioner Miller?

19 VICE CHAIR MILLER: I concur. Thank you.

20 CHAIRPERSON HILL: Mr. Blake?

21 BOARD MEMBER BLAKE: Yeah, I would concur. And noting
22 also, the, again, the affordable housing trust fund contribution.
23 While the AOC has not filed something, it also has not registered
24 any objection. And there have been no issues or concerns raised
25 by the public, so I'd be perfectly comfortable supporting.

1 CHAIRPERSON HILL: Okay. Great. All right. I'm going
2 to go ahead and make a motion then to approve Application No.
3 20523 as captioned and read by the Secretary and ask for a second,
4 Mr. Blake?

5 BOARD MEMBER BLAKE: Second.

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

8 MR. MOY: Before I make the roll call, Mr. Chairman, on
9 your motion, did it or did --

10 CHAIRPERSON HILL: Oh, I'm sorry.

11 MR. MOY: -- it not include the ANC's -- okay.

12 CHAIRPERSON HILL: I appreciate that. Let me do it
13 again. I'm going to make a motion to approve Application No.
14 20527 (sic) as captioned and read by the Secretary including the
15 condition that was requested by the ANC concerning no
16 amplification on the rooftop penthouse and ask for a second, Mr.
17 Blake.

18 BOARD MEMBER BLAKE: Second.

19 CHAIRPERSON HILL: Once again, Mr. Moy, the motion is
20 made and seconded, if you could please take a roll call?

21 MR. MOY: Thank you, Mr. Chairman. When I call each of
22 your names, if you would please respond with a yes, no, or abstain
23 to the motion made by Chairman Hill to approve the application for
24 the relief requested along with the one condition added. The
25 motion in support was made by, was seconded by Mr. Blake.

1 Zoning Commissioner Rob Miller?

2 VICE CHAIR MILLER: Yes.

3 MR. MOY: Mr. Smith?

4 BOARD MEMBER SMITH: Yes.

5 MR. MOY: Mr. Blake?

6 BOARD MEMBER BLAKE: Yes.

7 MR. MOY: Chairman Hill?

8 CHAIRPERSON HILL: Yes.

9 MR. MOY: We have a Board Member not participating.
10 Staff would record the vote as 4-0-1 and this is on the motion
11 made by Chairman Hill to approve, seconded by Mr. Blake. Also, in
12 support of the motion to approve Zoning Commissioner Rob Miller,
13 Mr. Smith, Mr. Blake, and Chairman Hill. Motion carries, sir, on
14 a vote of 4-0-1.

15 CHAIRPERSON HILL: Okay. Thanks, Mr. Moy. Okay, guys,
16 I know as I mentioned, we've got a 3:50 cut-off. Can we just take
17 a quick five-minute break? And we'll come back, okay? Great.
18 Thank you.

19 (Whereupon, the matter recessed and then reconvened.)

20 VICE CHAIR MILLER: I am here. Sorry.

21 CHAIRPERSON HILL: Okay. That's all right. Okay. Mr.
22 Moy, if you could go ahead and call our next case?

23 MR. MOY: All right. Thank you, Mr. Chairman. The
24 Board is back in session after a very, very brief respite, and the
25 time is at or about 3:04 p.m. The last case before the Board on

1 today's docket is Case Application No. 20527 of 813 S, S as in
2 Sierra, Northwest LLC. This application is captioned and
3 advertised as amended for a special exception under the
4 residential conversion requirements of Subtitle U, Section 320.2;
5 and from the rear addition requirements, Subtitle E, Section
6 205.4; area variance from the lot occupancy restriction of
7 Subtitle E, Section 304.1. This would construct three new
8 attached two-story townhomes to an existing mixed-use building,
9 RF-1 Zone. The property is located at 815 and 817 S Street
10 Northwest, Square 394, Lots 809 and 810.

11 And Mr. Chairman, there were two submissions that came
12 into the record or, it's actually not in the record yet because of
13 the 24-hour block. One is the applicant's PowerPoint submission,
14 and the other one are letters and photographs from the opposition
15 neighbors.

16 CHAIRPERSON HILL: Okay. Mr. Sullivan, could you
17 introduce yourself for the record, please?

18 MR. SULLIVAN: Sure. Marty Sullivan with Sullivan and
19 Barros on behalf of the applicant.

20 CHAIRPERSON HILL: And who is here with you today, Mr.
21 Sullivan?

22 MR. SULLIVAN: Actually, Ms. Wilson is going to be doing
23 the presentation, although I have a motion to make first. Greg
24 Kearley, the architect is with us, and Alon Street is with us,
25 although I don't see his photo up, and he's with the, he's

1 principal with the applicant.

2 CHAIRPERSON HILL: Okay.

3 MR. SULLIVAN: There he is.

4 CHAIRPERSON HILL: Mr. Kearley, could you introduce
5 yourself for the record, please?

6 MR. KEARLEY: Greg Kearley, I'm with Inscape Studio, the
7 architect for the project.

8 CHAIRPERSON HILL: Okay. Ms. -- that's all right. Ms.
9 Wilson, could you introduce yourself for the record?

10 MS. WILSON: Hi, Alex Wilson from Sullivan and Barros on
11 behalf of the applicant.

12 CHAIRPERSON HILL: Ms. Wilson, nice to see you. Welcome
13 back.

14 MS. WILSON: Thank you. Yeah, I've been on some
15 maternity leave and then, Marty's been taking over a few hearings
16 that had some conflicts, so great to be back.

17 CHAIRPERSON HILL: See, Mr. Sullivan, you sometimes, you
18 know -- anyway, all right. Okay. I don't know. All right.
19 Let's see, who's Mr. Alon Street?

20 MR. STREET: I am, sir. I am the managing member of the
21 project.

22 CHAIRPERSON HILL: What's your name, sir?

23 MR. STREET: Alon Street.

24 CHAIRPERSON HILL: I thought that was the name of your
25 firm. All right. Okay. Mr. Sullivan, you have something you'd

1 | like -- well, first of all, well, it sounds like you have
2 | something to say, right?

3 | MR. SULLIVAN: I do, as usual. So, the, there's been
4 | some -- we've been working, continuing to work with the Office of
5 | Planning throughout this because it, as you know, the Office of
6 | Planning right now cannot get behind the variance argument. They
7 | support the other areas of relief. So, we've been working very
8 | hard trying to pull together information in an argument that would
9 | satisfy the Office of Planning. And we're actually hopeful that's
10 | going to happen, although, you know, we have no promises that
11 | will. But we came up with a good bit of information in the last
12 | couple days that the Office of Planning would need time to review.
13 | So, when you compare -- and because the Office of Planning is
14 | currently in opposition, we actually prepared a pretty lengthy
15 | presentation because we wanted to make sure we hit all the bases
16 | and really fleshed out our argument.

17 | So, with that concern tied into the hard stop of being
18 | able to get through the case and have the Board fully look at it,
19 | coupled with the Office of Planning's preference to review it some
20 | more and maybe submit a supplemental support that might make it,
21 | give this a quicker, cleaner hearing, we'd like to ask for a
22 | postponement. And --

23 | CHAIRPERSON HILL: Okay.

24 | MR. SULLIVAN: -- of course, we don't want to postpone
25 | too much, if that's possible. If it's going to postpone a lot,

1 then we could do --

2 CHAIRPERSON HILL: I understand.

3 MR. SULLIVAN: -- go through what the Board would like
4 to hear today and at least get started.

5 CHAIRPERSON HILL: I understand. Okay. Let's see, so
6 what I'd like to do then is, Mr. Moy, there were some letters or
7 there were some things that came from people in opposition. Is
8 that correct, Mr. Moy?

9 MR. MOY: Yes.

10 CHAIRPERSON HILL: Okay. And then, there was the
11 PowerPoint that Mr. Sullivan was going to possibly submit. Is
12 that correct?

13 MR. MOY: Correct, sir.

14 CHAIRPERSON HILL: So, why don't we go ahead and let the
15 opponents' letters into the record, okay? Or the opponents',
16 whatever they want into the record. Let's not take Mr. Sullivan's
17 PowerPoint yet because I don't know what his PowerPoint is
18 actually going to end up looking like, okay? And then, when can
19 we come back? Like, Mr. Jesick, are you there?

20 MR. JESICK: Yes, Mr. Chairman.

21 CHAIRPERSON HILL: Thanks. So, Mr. Jesick, could you
22 introduce yourself for the record, please?

23 MR. JESICK: Yes, my name is Matt Jesick with, I'm with
24 the Office of Planning representing OP on this case.

25 CHAIRPERSON HILL: Okay. Thanks. So, Mr. Jesick, I,

1 | you know, who knows what you're going to say, like, I'm not, I
2 | don't know whether you're going to say yes or no, or whatever your
3 | analysis might end up being. So, how much time do you think you
4 | might need?

5 | MR. JESICK: Well, we haven't received any materials
6 | from the applicant. We've had discussions about what their
7 | updated variance argument might consist of. But nothing's been
8 | submitted to the record as of yet, so we would need at least a few
9 | weeks, I think, to go through everything and prepare a
10 | supplemental report.

11 | CHAIRPERSON HILL: Okay. So, then you're talking about
12 | November 3rd, perhaps?

13 | MR. JESICK: That could be doable.

14 | CHAIRPERSON HILL: Well, what, Mr. Moy, do we have on --
15 | I mean, I don't even know the dates anymore. Like, now, it's just
16 | getting out of, completely out of control. I mean, I don't even
17 | know, like, 11 cases, 10 cases. How many cases we got on November
18 | 3rd?

19 | MR. MOY: Mr. Chairman, I was going to suggest for your
20 | consideration, based on what I'm hearing just now from the
21 | applicant and Matt Jesick to revisit this application, actually,
22 | November 10th. That would secure that everything's going to be in
23 | the record and then, maybe perhaps OP's supplemental, let's say
24 | due a week prior to that, which would be November the 3rd, if
25 | that's doable. And of course, I'm assuming the applicant is going

1 to complete whatever he's going to complete so that OP would be
2 ready to move forward.

3 CHAIRPERSON HILL: Okay. Let's see, Mr. Jesick, I saw
4 you nod your head in terms of getting a report back by November
5 3rd. Is that saying that's possible?

6 MR. JESICK: Yes, that sounds good.

7 CHAIRPERSON HILL: Okay. And then, Mr. Sullivan, I have
8 noted that you did get, you have already gone, you guys have
9 already gone to the ANC and they're in support. So, if -- Mr.
10 Moy, how many cases do we have on November 10th?

11 MR. MOY: This would make this the ninth case. But of
12 course, I'm not including the expedited case, and I have a place
13 order for time extension. So, you know, those usually don't
14 occupy a great deal of time for the Board. That's --

15 CHAIRPERSON HILL: Okay, all right. Okay, all right.

16 MR. MOY: Okay.

17 CHAIRPERSON HILL: All right. So, Mr. Sullivan, we'll
18 come back with you on November 10th. Okay. All right. Okay.
19 All right, well, then let's -- does the Board have anything before
20 I, we do this? No? Okay. All right, then, Mr. Sullivan or Ms.
21 Wilson, we'll see you guys back on November 10th.

22 MS. WILSON: Thank you.

23 CHAIRPERSON HILL: Thank you.

24 MR. SULLIVAN: Thank you.

25 CHAIRPERSON HILL: Okay. Okay. All right. Mr. Moy, do

1 we have anything else before the Board today?

2 MR. MOY: Nothing from the staff, sir.

3 CHAIRPERSON HILL: Okay. All right, you guys. Well, I
4 guess that's it today. I don't know. I was, I think I didn't
5 have -- I ate too late in the day. It got me a little bit, I was
6 a little bit edgy, you know, I'm going to try to eat, I'm going to
7 have a better breakfast. I'll be more, I'll be calmer. I think,
8 like, you know, I'm going to take Commissioner Miller --
9 Commissioner Miller is always, like, so just relaxed.

10 VICE CHAIR MILLER: I watch you and I feel relaxed that
11 you're in charge.

12 CHAIRPERSON HILL: No, no, no. So, see, like -- and I'd
13 like to, I'd love to see, like, Ms. John just lose it one day or
14 Commissioner Miller just lose it one day, you know? Everybody
15 should get a chance to just lose it at least once, you know?
16 Because Lord knows I don't like it when it's me.

17 BOARD MEMBER SMITH: It's Commissioner Miller's room.
18 That's a very calming room.

19 CHAIRPERSON HILL: Right. Right. I agree. He's got a
20 nice little Zen space going. All right.

21 Does anybody else have any fun commentary before we
22 excuse ourselves? All right. Okay. See you guys next week.
23 Bye.

24 (Whereupon, the above-entitled matter went off the
25 record at 3:15 p.m.)

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCZC

Date: 10-13-21

Place: Teleconference

was duly recorded and accurately transcribed under my direction;
further, that said transcript is a true and accurate record of the
proceedings.



GARY EUELL