

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

NOVEMBER 17, 2021

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 9:30 a.m. EST, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
LORNA L. JOHN, Vice Chairperson
CARL H. BLAKE, Board Member
CHRISHAUN S. SMITH, Board Member (NCPC)

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY HOOD, Chairman
PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD W. MOY, Secretary
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

MATTHEW JESICK
JONATHAN KIRSCHENBAUM
JOEL LAWSON
STEPHEN MORDFIN
CRYSTAL MYERS
KAREN THOMAS
ELISA VITALE

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SARAH BAJAJ, ESQ.
MARY NAGELHOUT, ESQ.
RYAN NICHOLAS, ESQ.

The transcript constitutes the minutes from the
Regular Public Hearing held on November 17, 2021.

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

(9:52 a.m.)

1
2
3 BZA CHAIR HILL: You can call our first hearing
4 case when you get a chance.

5 MR. MOY: All right. This would case Application
6 Number 20507 of 93 Hawaii Ventures, LLC and 98 Webster
7 Ventures, LLC and Solid Brick Ventures, LLC.

8 This is now a petition for a Special Exception
9 from the RA new residential development requirement, Subtitle
10 U, Section 421.1, side yard requirement Subtitle F, Section
11 306.2, minimum court requirement Subtitle F, Section 202.1.

12 Of course, pursuant to Subtitle F, Section 5201,
13 Subtitle X, Section 901.2. This would increase the number
14 of residential units in eleven separate detached residential
15 apartment buildings in the RA-1 zone.

16 The property is located at 65 through 97 Hawaii
17 Avenue Northeast, 66 Webster Street Northeast, 98 Webster
18 Northeast. These are in square 3674, lots 2, 3, 4, 5, 6, 7,
19 8, 9, 10, 11 and 19. And I believe, Zoning Commission Chair
20 Anthony Hood is participating, Mr. Blake is not.

21 As you'll recall, Mr. Chairman, the Board last
22 heard this at its hearing on October 6th and then set it for
23 a limit scope hearing for today's hearing, November 17th.

24 BZA CHAIR HILL: Okay. Mr. Sullivan, can you hear
25 me?

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1 MR. SULLIVAN: Yes, I can. Marty Sullivan with
2 Sullivan & Barros on behalf of the Applicant.

3 BZA CHAIR HILL: Thank you. And who's with you
4 here today, Mr. Sullivan?

5 MR. SULLIVAN: We have the architects, Lizzie
6 Stuart and Michael Cross and the owner, Mark Mlakar should
7 be here, I'm not sure where he is, I will check on that.

8 BZA CHAIR HILL: Okay. Why don't we give you 30
9 seconds to check on it, okay.

10 MR. SULLIVAN: He's here.

11 BZA CHAIR HILL: Oh. I don't see him. Is it Mr.
12 Mlakar? I forget, I'm sorry.

13 MR. MLAKAR: I'm here. I just got the ability to
14 be unmuted.

15 BZA CHAIR HILL: Got it. Can you introduce
16 yourself for the record, please?

17 MR MLAKAR: Yes. Mark Mlakar and I'm the owner
18 of Solid Brick Ventures, 98 Webster Ventures and 66 Webster
19 Ventures.

20 BZA CHAIR HILL: Got it. Okay, thanks. Let's
21 see, oh, the first thing I guess, to my fellow Board members,
22 there's a preliminary matter where there was party status
23 that was requested from -- and I don't have the ability to
24 pull up my other -- give me one second because I need the old
25 ones.

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1 Yes, request for party status from Hawaii
2 Webster's Tenant's Association and your guys will forgive me,
3 I'm working off of one screen today. So, my issue with the
4 party status request is that it's just crazy late, right.

5 I mean, it's only supposed to be -- Ms. Crawford,
6 who are you?

7 MS. CRAWFORD: Good morning. My name is Akela
8 Crawford. I am an attorney from NLSP and I represent the
9 Hawaii Webster Tenant's Association.

10 BZA CHAIR HILL: Oh, okay. All right, Ms.
11 Crawford, I'm sorry. I didn't realize --

12 MS. CRAWFORD: I'm the person that submitted the
13 late party status request.

14 BZA CHAIR HILL: I understand and I didn't know
15 that had let you in and I appreciate the fact that you're --
16 actually, Mr. Moy, I can't remember, when we did party status
17 stuff live, did we bring the party status person up to the
18 dais or you don't remember?

19 MR. MOY: Particularly during those historic days
20 yes, we did. You invited them to the table to speak, yes.

21 BZA CHAIR HILL: Okay. I didn't remember that
22 all. That's interesting. All right, it's been that long.
23 Ms. Crawford, I guess, do you want to go ahead and make your
24 argument for party status?

25 MS. CRAWFORD: Sure. The reason party status

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1 request is late is, you know, it takes time to be retained
2 by -- it took some time to be retained by the Association.

3 And although the party status request is late, I
4 think given the fact that this hearing was, this special
5 hearing -- I'm actually not sure exactly what this hearing
6 is termed but this hearing, the purpose of this hearing is
7 to specifically address the concerns of the tenants that they
8 raised at the October 6th hearing.

9 At that hearing, tenants did not have
10 representation. It took, like I said, it took some time for
11 tenants to obtain counsel and as soon as we were able to get
12 documents signed, that's when we filed.

13 While, you know, if the Board decides that they
14 don't want to allow for party status for the purposes of
15 today's hearing, we are still requesting that party status
16 be granted in the case for other matters that require party
17 status.

18 Again, today I will be testifying, whether it's
19 through party status or not. So, it doesn't really, you
20 know, make a difference in that regard.

21 But we are hoping that due to the fact that the
22 Applicant has been provided an opportunity to submit
23 additional evidence to the record that the Tenant's
24 Association should be allowed to question that testimony and
25 question the Applicant should there be concerns or questions

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1 that are raised today from that evidence and through the
2 testimony today.

3 I think that's just like, you know, in a regular
4 venue like a court that's allowing a party to cross examine
5 a witness or cross examine any document.

6 BZA CHAIR HILL: Okay, Ms. Crawford, thanks.
7 Let's see, Mr. Sullivan, do you have any thoughts or
8 responses?

9 MR. SULLIVAN: Yes. It's clearly not timely. I
10 don't think there's any exception that would allow it to come
11 in and the subject material according to their filing is
12 completely unrelated to anything that the BZA is authorized
13 to consider under a U-421 case.

14 It doesn't have anything to do with the specific
15 criteria under a U-421 decision or the general criteria,
16 which only relate to zoning regulations. They're trying to
17 prosecute a tenant landlord dispute apparently in front of
18 the BZA, which is authorized or competent professionally to
19 handle that.

20 And there are agencies that do that. And beyond
21 that the record has been closed very specifically by the
22 Board just for documents. And in fact, other information was
23 accepted as well, Exhibit 78, which shouldn't have been
24 accepted too because the record was closed.

25 Nevertheless, regardless of the fact, this is not

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1 a landlord tenant case. We have submitted a detailed plan
2 showing certain --

3 BZA CHAIR HILL: Mr. Sullivan, sir, Mr. Sullivan,
4 I got you. Okay.

5 MR. SULLIVAN: Yes, I mean, one other thing. If
6 it was open to this, we could have brought tenants that have
7 a different opinion as well. But we didn't want to burden
8 the Board with that.

9 BZA CHAIR HILL: Okay, all right.

10 MS. CRAWFORD: Can I just add though that --

11 BZA CHAIR HILL: No, no, no, no. No, no, no. No,
12 no, no. Okay. So, let me just think a second. All right,
13 Ms. Crawford, go ahead. What did you want to say?

14 MS. CRAWFORD: I just want to add --

15 BZA CHAIR HILL: Ms. Crawford, I just want to say
16 something. I'm not trying to get into a back and forth
17 already. I already know where I am on this one. I just
18 wanted to understand what was going on.

19 MS. CRAWFORD: Sure.

20 BZA CHAIR HILL: So, please go ahead and because
21 it is their case, right? So, like, you're here to argue your
22 party status request but go ahead and make your statement.

23 MS. CRAWFORD: Sure. Adverse impacts are -- is
24 criteria that the Board is supposed consider in coming to a
25 decision and adverse impacts was essentially the concerns and

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1 issues that the tenants raised at the October 6th hearing.

2 It is actually the purpose for today's hearing for
3 the Applicant to address those concerns regarding 80
4 potential adverse impacts --

5 BZA CHAIR HILL: Okay, okay.

6 MS. CRAWFORD: -- and because of that if they're
7 able to add something to the record, it should be allowed for
8 those people who will be affected by these plans to be able
9 to question or address those, that evidence, those documents.

10 BZA CHAIR HILL: All right. Now, Ms. Crawford,
11 just to let you know, it's the Applicant's case. You don't
12 have party status currently or anything. They get the last
13 word. So now they're going to get to say whatever you had
14 to say and we're not going to have, we're not going to do
15 this again, okay?

16 MS. CRAWFORD: Okay.

17 BZA CHAIR HILL: So, go ahead, Mr. Sullivan.

18 MR. SULLIVAN: The adverse impacts does not mean
19 the universe of anything that can happen in the world related
20 to a development. Just like construction and building code
21 issues are not before the Board, which the Board routinely
22 avoids knowing that there is a system in place to handle that
23 after, after the approval is handled. So, that's all I have
24 to say about that. Thank you.

25 BZA CHAIR HILL: Okay. Mr. Young?

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1 MR. YOUNG: Yes.

2 BZA CHAIR HILL: Could you excuse everyone from
3 the room, please? I'd like to deliberate with my fellow
4 Board members.

5 MR. YOUNG: Yes.

6 BZA CHAIR HILL: Mr. Young, are we good?

7 MR. YOUNG: Yes, you're good.

8 BZA CHAIR HILL: Okay. All right, so this is
9 where I was before. I mean, it's like incredibly late,
10 right? I mean, you get seven days or I think it's 14 days
11 before the first hearing that you're allowed to go ahead and
12 apply for party status, right?

13 Then even that and this before the attorneys we're
14 talking, the items that were brought up in the party status
15 request aren't zoning related items, you know, they're things
16 that did come up in the last hearing that the Board was
17 interested in that now the Applicant has put forward that
18 we're now going to get a chance to hear more about, right?

19 This is not to say by the way that I have, you
20 know, if this had come in on time, you know, maybe we had,
21 we would, I would have different opinion on it and even then,
22 I don't know.

23 Because again, they're not zoning related issues,
24 right? And the last hearing that we had it was extensive.
25 It was very extensive in that everyone did have, there was

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1 someone there representing the tenants and we went through
2 all this stuff.

3 And so, I don't want to get into the merits of the
4 case just yet because we haven't done that yet. But may I
5 hear what you all have to say about the party status request,
6 which I'm currently in denial of. Ms. John?

7 VICE CHAIRPERSON JOHN: Thank you, Mr. Chairman.
8 I agree that the request is not timely and at the last
9 hearing there was a full discussion of the tenants' issues.
10 The hearing went on and on and every single tenant who signed
11 up was allowed to testify.

12 And the issues that the Applicant wants to address
13 right now, that the Applicant's attorney wants to address
14 right now, if granted party status at this stage do not
15 affect the zoning issues.

16 We were, I'll speak for myself, I wanted to hear
17 the Applicant's response only because it was such an
18 overriding concern of the tenants and just to have a complete
19 picture but the Applicant's attorney is correct. These are
20 not zoning issues. These are landlord tenant issues and
21 there is another body that can address the concerns on
22 reentry.

23 The Board, at least I wanted to see what the plans
24 were because there was such a major discussion about those
25 plans and the issue of, you know, the condition of the

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1 property and whether the Applicants, the condition, existing
2 condition would suggest what would happen during the
3 construction. So, I agree with everything you said, Mr.
4 Chairman.

5 BZA CHAIR HILL: Mr. Smith.

6 MEMBER SMITH: I do agree with both of you that
7 I believe this is an untimely application for party status.
8 We do, as Mr. John stated, we do have a lengthy record on the
9 last time we heard this particular case on the issues that
10 are raised by the lawyer that is representing the tenants
11 that submitted the documentation.

12 And what we heard in the previous hearing and what
13 is in that documentation today is impacts that relate to not
14 specifically to zoning concerns as Ms. John stated. We're
15 tasked with addressing adverse impacts as it relates to how
16 this redevelopment, zoning impacts from this redevelopment,
17 this development.

18 There are other agencies within the District of
19 Columbia that are tasked with enforcing tenant relocation and
20 a right to return for policies for those tenants. So, with
21 that, I agree with you and Ms. John. I do believe it's
22 untimely and I wouldn't support agreeing to party status.

23 BZA CHAIR HILL: Chairman Hood.

24 ZC CHAIR HOOD: Yes, Mr. Chairman. I think we
25 come to this question with different experiences. I've had

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1 a case in the past where party status was late and I got a
2 total different experience and directions from the Court.

3 Understanding the Board members, current Board
4 members on the BZA probably have not been through that
5 experience. But let me back up. For me it's 101, it's human
6 kindness.

7 And that's not in the zoning regulations. I put
8 it in the VC process years back. For me it's human kindness.
9 When I heard the comments of those who came down with their
10 concerns and that's right, they don't do zoning every day and
11 that's the way I look at it.

12 Also, as far as the party status, I know the
13 Applicant, we talk about Subtitle Y, 4, 4.3, if you read
14 those it's how it's interpreted. The Board does have
15 discretion. But I also know that it takes groups a while to
16 try to figure out where to go, who to go get, you know, and
17 that's what happened in this case.

18 But when I do look at the issues I believe in
19 Exhibit -- and I'm not going to get into the merits, so bear
20 with me, in Exhibit 77(b)(1), I think that goes to exactly
21 what we wanted to see being instituted to help with some of
22 those issues.

23 I do have to admit that the issues that are being
24 explained for the most part, there are other realms to deal
25 with it but again, I always go to 101 human kindness and I

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1 think Mr. Mlakar in his case has given us what we've asked
2 for, at least what I wanted to see.

3 But I also know that it took the residents a while
4 to figure out who to go to, to get some help and that's what
5 I think they've done. I don't necessarily have a problem
6 with giving them party status.

7 And we do have the flexibility to waive it but I
8 understand the statute and what Counsel, our OZ Counsel has
9 given me for a while, I will back off pushing for that. But
10 I think there are other realms that Ms. Crawford and others
11 can fight their issues but I think we need to stick to the
12 zoning issues.

13 But again, I will just say that there is another
14 regulation that I believe that all of us need to put in place
15 and that's the human kindness and I'll leave it at that.
16 Thank you.

17 BZA CHAIR HILL: Okay, Chairman Hood, how long
18 have I been working with you?

19 ZC CHAIR HOOD: How long you been here?

20 BZA CHAIR HILL: I've been working with you for
21 five years, right, okay? And I just want to let you know and
22 I know you're sitting wherever you're sitting and I'm sitting
23 wherever I'm sitting, right. But I'm just saying like, all
24 of us are human kindness.

25 Everybody on this Board right now is about human

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1 kindness, right? So, I just want to point out real quick
2 like, you know, I'm not, I hate the fact that this is, this
3 whole thing's going on with tenants and all these things,
4 right.

5 I'm just saying I'm stuck, right. So, you want
6 to bring them in as party status and that's fine, I'm just
7 saying like, that is what you would like to do.

8 ZC CHAIR HOOD: So, here's the thing, Mr.
9 Chairman, a lot of this is not said for the Board members.
10 I say a lot of stuff that I say for the Applicant and that's
11 always been the case. You got to remember, the Zoning
12 Commission, we have a little more authority.

13 So, I bring that here even though you all can't
14 exercise it. So, I bring that here because it's hard to go
15 back and forth, back and forth. Now if this had been a
16 Zoning hearing, a PUD case, I would have been, it would have
17 been, all what I said would have applied and would have come
18 into the record. Believe me.

19 But this is not, as you all have told me in your
20 tenures, that you have limited scope and I think Counsel has
21 advised as well. But when I said human kindness, I wasn't
22 talking about the Board not having human kindness. Those
23 comments go to the Applicant because when I read what Mr.
24 Sullivan's Y-40.0 regulations.

25 People don't do, they're not down here Mr.

1 Sullivan every week like we are. Well, some of us are. And
2 I just think that as Mr. Barry taught me years ago, even
3 though this is Zoning, there are a lot of attributes that go
4 into that.

5 So, that's my comment. It was not to throw
6 anything towards any other person. So, don't take it that
7 way.

8 BZA CHAIR HILL: Hey, you --

9 ZC CHAIR HOOD: Don't take it that way.

10 BZA CHAIR HILL: Okay, all right, okay. All
11 right.

12 ZC CHAIR HOOD: I wish I was the Chair and you had
13 to work with me and I, whatever, I'll leave it at that.

14 BZA CHAIR HILL: Oh, like I said, Chairman Hood,
15 you can have this job any day you want it, you know.

16 VICE CHAIRPERSON JOHN: Good morning, gentlemen,
17 how's it going?

18 BZA CHAIR HILL: Good.

19 ZC CHAIR HOOD: I have my own job, all right.

20 BZA CHAIR HILL: All right, Ms. John, did that
21 change your mind at all?

22 VICE CHAIRPERSON JOHN: With respect to the Zoning
23 Commission Chairman, I think throughout all of that, I
24 believe the Chairman agrees with us. That we don't have as
25 much jurisdiction as, or jurisdiction is not as broad as the

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1 Commissions jurisdiction.

2 And so, what might appear to the Chairman as a
3 lack of human kindness really isn't. We're just trying to
4 stay with the regulations and, you know, this is a special
5 case.

6 This really is a special case because there was
7 just so much testimony about the notice issues and so even
8 hearing some of the testimony, it was, speaking for myself
9 it was difficult not to, in this case, ask the Applicant to
10 go a little beyond what we would normally do.

11 Recognizing that we don't have ultimately
12 authority. It's just like when we have hearings that involve
13 matters concerning, you know, the ABC Board or something like
14 that, is it ABC Commission. We might hear the issue but we
15 might not decide it and include it in the order.

16 So, I think that's what's happening here. That
17 if you have live people in front of you discussing the kinds
18 of issues we heard at the last hearing, it's kind of
19 difficult to walk away and I'm sure the Applicant understands
20 that.

21 BZA CHAIR HILL: Ms. John, I will miss your
22 counsel very much if you ever leave. I got to tell you,
23 you're like, you're just, you know, do your family proud, I'm
24 sure.

25 VICE CHAIRPERSON JOHN: Not fair, Mr. Chairman,

1 not fair.

2 BZA CHAIR HILL: Mr. Smith, do you have any
3 questions?

4 MEMBER SMITH: No, I don't have any questions.
5 I agree wholeheartedly with what Ms. John stated. It is
6 heart wrenching. My heart goes out to the Tenant
7 Associations and short of deliberating this, sure, I would
8 love to add some additional, you know, conditions and
9 requirements to protect, you know, tenants' rights.

10 But we as a Board by statute are limited by
11 statute in what we are allowed to do. Yes, the Zoning
12 Commission has a lot more leeway to, you know, additionally
13 require an Applicant to do additional, well condition them
14 more than we are allowed to condition.

15 So, I'll just leave it at that. I don't want to
16 deliberate the case because this is a question about party
17 status, so my opinion hasn't changed.

18 BZA CHAIR HILL: Chairman Hood, you had your hand
19 up.

20 ZC CHAIR HOOD: I just wanted to thank you, Ms.
21 Vice Chair John, that's all.

22 BZA CHAIR HILL: Okay. All right. Okay. I'm
23 going to go ahead make a motion to deny the motion for party
24 status and ask for a second, Ms. John.

25 VICE CHAIRPERSON JOHN: Second.

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1 BZA CHAIR HILL: The motion has been made and
2 seconded. Mr. Moy, if you could take a roll call.

3 MR. MOY: When I call each of your names, if you
4 would please respond with a yes, no or abstain to the motion
5 made by Chairman Hill to deny the request for party status
6 to Ms. Crawford. The motion deny was seconded by Vice Chair
7 John. Mr. Smith.

8 MEMBER SMITH: Yes, to deny.

9 MR. MOY: Vice Chair John.

10 VICE CHAIRPERSON JOHN: Yes, to deny.

11 MR. MOY: Chairman Hill.

12 BZA CHAIR HILL: Yes.

13 MR. MOY: Zoning Commission Chair Anthony Hood.

14 ZC CHAIR HOOD: Yes.

15 MR. MOY: Yes, to deny?

16 ZC CHAIR HOOD: That's where I'm -- yes, to deny.

17 MR. MOY: I just wanted for clarity --

18 ZC CHAIR HOOD: Don't ask me again, Mr. Moy.

19 MR. MOY: I didn't want to be the one to make the
20 mistake. Okay, and we have one Board member not
21 participating, so staff would record the vote as 4-0-1 and
22 this is on the motion made by Chairman Hill to deny.

23 The motion to deny was seconded by Vice Chair John
24 who also supported to motion to deny as did Mr. Smith and
25 Zoning Commission Chair Anthony Hood and the Board member not

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1 participating. So, the motion carries to deny.

2 BZA CHAIR HILL: Okay, thanks, Mr. Moy. Mr.
3 Young, could you bring back in the parties, please.

4 MS. CRAWFORD: We've always been here.

5 BZA CHAIR HILL: Oh, well that didn't happen the
6 way I thought it was going to happen.

7 MS. CRAWFORD: Yeah, I believe everybody was privy
8 to the deliberations.

9 BZA CHAIR HILL: Okay, who was just speaking?

10 MS. CRAWFORD: Ms. Crawford.

11 BZA CHAIR HILL: Oh, Ms. Crawford.

12 ZC CHAIR HOOD: That's what I was going to ask.
13 I was wondering who that was.

14 BZA CHAIR HILL: All right, Ms. Crawford. Well,
15 we'll hear you back again at public testimony, okay?

16 MS. CRAWFORD: Sure. I mean, the point I was
17 making is I think everybody has been, like all participants
18 have been a part of this --

19 BZA CHAIR HILL: Appreciate that and I mean -- I
20 appreciate, it was suppose and I appreciate then everyone's
21 professionalism by not interjecting but, Ms. Crawford, we are
22 going to technically now take you out, Mr. Young, and then
23 we'll bring Ms. Crawford back in during public testimony.
24 Mr. Young, can you do that?

25 MR. YOUNG: Yeah, they're all, they're listed as

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1 attendees.

2 BZA CHAIR HILL: Okay. But Ms. Crawford wasn't
3 listed as attendee as of a minute ago.

4 MR. YOUNG: No, she was. She was just able to
5 unmute herself from the attendee list.

6 BZA CHAIR HILL: So, is that what happens once
7 they're --

8 MR. YOUNG: Yeah.

9 BZA CHAIR HILL: People can just unmute themselves
10 from the attendee list?

11 MR. YOUNG: I think it's once they're brought in
12 as a panelist and then they're removed, then --

13 BZA CHAIR HILL: That's interesting. Okay, well
14 that's something new to learn. Maybe, Mr. Moy, we can talk
15 about that at another time. Mr. Moy, if you could really
16 remember to tell me that, we want to talk about that at
17 another time, okay?

18 MR. MOY: Yes, sir. I got it on my list.

19 BZA CHAIR HILL: Okay. Does that mean, Mr. Young,
20 I love this technical, does that mean when people are brought
21 in for public testimony they then can mute and unmute
22 themselves?

23 MR. YOUNG: Only once they're brought in.

24 BZA CHAIR HILL: Right. Once they're brought in
25 for public testimony.

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1 MR. YOUNG: Yeah.

2 BZA CHAIR HILL: Yeah, they're -- can you look
3 into a fix for that?

4 MR. YOUNG: Yeah, I will.

5 BZA CHAIR HILL: All right. Okay, all right. Mr.
6 Sullivan, can you hear me?

7 MR. SULLIVAN: Yes.

8 BZA CHAIR HILL: Can you go ahead and introduce
9 yourself again for the record?

10 MR. SULLIVAN: Yes. Marty Sullivan from Sullivan
11 & Barros on behalf of the Applicant.

12 BZA CHAIR HILL: Okay. All right, Mr. Sullivan,
13 can you go ahead and tell us what has happened since the last
14 time you were here with us?

15 MR. SULLIVAN: Sure, and then I'll turn it over
16 to Mr. Mlakar to go through it. The Board --

17 BZA CHAIR HILL: Sorry, one real quick, Mr.
18 Sullivan. As far as the, just for the record again, the DDOT
19 conditions that were in Exhibit 53, you guys are agreeing to
20 all the DDOT conditions, correct?

21 MR. SULLIVAN: Yes.

22 BZA CHAIR HILL: Okay. All right, go ahead
23 please.

24 MR. SULLIVAN: So, I think we went through a full
25 hearing last time and the Board requested this time,

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1 scheduled a limited hearing and asked for one piece of
2 information, which was submitted by the Applicant.

3 And so, Mr. Mlakar could go through the Tenant
4 Equity Development Plan and, that he -- and other activities
5 that he's done to address the tenant issues if the Board
6 would like to hear that. I know it's in the record but, so
7 that's all we have, which is directed towards what the Board
8 requested at the end of the last hearing.

9 BZA CHAIR HILL: Okay, great. And I know we're
10 going to ahead and have some questions but, Mr. Mlakar, could
11 you go over that? I mean, I did read it. It is in depth,
12 pretty, you know, detailed. But can you kind of summarize
13 it?

14 MR MLAKAR: Yeah, absolutely. Chairperson Hill,
15 can I just out of a personal, I try to keep everything very
16 professional but just as far as my background, can I just add
17 a personal note that might relate to some of the concerns
18 about kindness towards the tenants and?

19 BZA CHAIR HILL: Sure, go on.

20 MR. MLAKAR: Okay, perfect, thank you. Whenever,
21 I get crucified in front of tenant organizations being an
22 owner and I, you know, I have such an emotional reaction to
23 it because nobody understands where I come from.

24 And, you know, I escaped ethnic cleansing coming
25 from the former Yugoslavia. I was homeless at one point.

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1 I lived in all kinds of conditions. I'm sorry. I am
2 incredibly empathic to all the needs of the tenants.

3 We're dealing with a lot of people and we have all
4 kinds of different human concerns that go, that are
5 incredibly hard to deal with. The buildings are 80 years
6 old. They're falling apart.

7 There's a different issue that's coming up all the
8 time. We have squatters, we have mentally ill tenants that
9 are wreaking havoc that I don't know how to deal with. I'm
10 looking for all kinds of help from different services within
11 the D.C. government.

12 I'm doing everything I can to do the best that I
13 can. We have people that are committing crimes that are bad
14 apples. There's all kinds of reports of some drugs, criminal
15 issues, prostitution. I'm trying to do the best I can to
16 protect the good tenants that are doing everything that they
17 need to.

18 And these issues are overwhelming and I try to do
19 the best I can and I came up with this plan as a solution
20 because, you know, the buildings are, they're falling apart
21 and something drastic needs to be done.

22 And this is the best that can be done in a
23 difficult situation. So, you know, the plan as outlined is
24 one that is, you know, right now we have one vacant building
25 and we have a couple of buildings that only have a couple

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1 residents.

2 And the other buildings we have scattered
3 throughout different vacant units. We have gone through them
4 and started renovating the vacant units in order to be able
5 to move the tenants in the mostly vacant buildings.

6 Once that is taken care of, once the tenants are
7 successfully moved -- and I can't force anybody to move.
8 That's, everything has to be voluntary. I don't have any
9 ability to make anybody do anything that they don't want.

10 I can have a tenant that is the one last tenant
11 in a building and if they don't want to move, that building
12 is not being renovated. There's nothing that I can do about
13 that. I have to offer them something much better than their
14 situation and everything is a negotiation on an individual
15 basis --

16 BZA CHAIR HILL: Mr. Mlakar, Mr. Mlakar, I got
17 you. I mean, I'm, I mean, first of all, thank you for your
18 testimony. I mean, and I'm very aware of all the mechanics
19 of things that need to happen.

20 And so, I don't, we don't need to go too far into
21 that and actually, what I was, the, and now even as I'm
22 thinking about it and going into the record I mean, the
23 information that we had asked of you guys was again, we've
24 gone through all -- and I'm going to turn to the Office of
25 Planning in a minute -- where's the Office of Planning, Mr.

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1 Moy?

2 MR. MOY: I believe --

3 BZA CHAIR HILL: Oh, I got the Office of Planning,
4 all right. So, I got to talk to the Office of Planning in
5 a minute to hear more about the zoning related issues. We
6 got tied up in a lot of things that were going on with the
7 building and we can and those are things that are somewhat
8 within our purview due to some of the regulations that we
9 have.

10 And so, therefore we wanted to know more about how
11 the mechanics might work with this project, right. And so,
12 I don't really have any more questions for you, Mr. Mlakar.
13 Let me do this and then I'll let the Board ask any questions
14 they have. Mr. Lawson, can you hear me?

15 MR. LAWSON: Yes, sir. Morning.

16 BZA CHAIR HILL: Good morning. Could you
17 introduce yourself for the record?

18 MR. LAWSON: Sure. Joel Lawson with the D.C.
19 Office of Planning.

20 BZA CHAIR HILL: Okay. Wow, Mr. Lawson, I didn't
21 know we were going to get you today. So --

22 MR. LAWSON: Brandice Elliott would normally be
23 here but she's out of the country today, so I'm going to try
24 to fill in for her.

25 BZA CHAIR HILL: Okay. I wish I was out of the

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1 country, Mr. Lawson. So, let's see, if you could go ahead
2 and tell us a little bit about the Office of Planning's
3 report concerning the zoning issues and why you believe they
4 meet the criteria for us to grant the relief requested.

5 MR. LAWSON: Okay. Well, the Office of Planning
6 submitted a full report prior to the first edition of the
7 public hearing and Brandice Elliott presented that report at
8 the last hearing.

9 So, that summary exists in the record. For the,
10 but just to kind to do a very high-level summary, Office of
11 Planning found that the Applicant had met the relevant
12 criteria for the relief that was requested for this case.

13 We felt that it warranted the recommendation of
14 approval but we provided in our report, which is, I believe
15 at Exhibit 54 and I'm happy to address and specific questions
16 you may have but as I said, Brandice has provided that
17 summary of our analysis at the previous hearing.

18 BZA CHAIR HILL: Okay. Thanks, Mr. Lawson. All
19 right, I'm going to turn to my Board members. Like, you guys
20 have any questions for the Office of Planning or the
21 Applicant?

22 ZC CHAIR HOOD: Mr. Chairman, yes. I would just
23 say to Mr. Mlakar, I hear you. I do, I will say and this
24 goes back to my earlier point when we were deliberating about
25 party status. I will say that the submission that was given

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1 to us by the Applicant, Mr. Mlakar, is exactly what I was
2 looking for.

3 My only thing is to make sure that it's executed
4 well and I understand all the other difficulties and all the
5 things that are going and I see what you're trying to do as
6 a win-win when it's all said and done.

7 But I think that hopefully that we won't have any
8 tenants who will not allow you to be able to proceed. And
9 I really mean that because I see, after looking through all
10 this and looking at all what the Applicant sent us about
11 party status and how late they were and looking at all the
12 merits of this case, I think if people understand they
13 understand the predictability.

14 And I understand other issues that you brought up,
15 the mental health issues and all that. All that comes in the
16 gamut. But I think if this proceeds, I do believe that this
17 will be a better outcome, not just for the residents but for
18 the city as well. So, I want to make sure you understand
19 where I'm coming from.

20 But there are a lot of applicants who come down
21 and they do, they get real humble when they come in front of
22 the Board or the Zoning Commission and they go out there and
23 do something different. This is not my first rodeo. I'm not
24 saying you.

25 But I'm just saying that's a lot of stuff that we,

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1 you know, everybody when they come in front of these Boards
2 and Commissions, not just the BZA or the Zoning Commission
3 but any Board or Commission in the city, they seem to then
4 found their way.

5 And a lot of people, when you live here you see
6 what's going on. So, I just want to make sure that what
7 you've provided to the record is going to be executed and I
8 believe what you said, you have it on the record.

9 And I know that there are going to be some
10 difficulties but I think at the end of the day it's going to
11 be a better outcome. So, those are my two cents. Thank you,
12 Mr. Chairman.

13 BZA CHAIR HILL: Thank you, Mr. Hood, Chairman
14 Hood. And so, to that note, you know --

15 MEMBER SMITH: I have one follow up.

16 BZA CHAIR HILL: Sure, no. I got you, I just want
17 to make a quick question, Mr. Smith, I'm sorry. The
18 agreement that you guys have in 76(a), Mr. Sullivan, that,
19 we'll have to see how exactly that does or does not be
20 something that we would necessarily be enforceable. But your
21 client is committing to that Exhibit, correct?

22 MR. SULLIVAN: Yes, that's correct.

23 BZA CHAIR HILL: Okay. All right. I'm sorry, Mr.
24 Smith, what was your question?

25 MEMBER SMITH: Well, you know, that was partly my

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1 question. I share the same opinion that Chairman Hood
2 shares, that yes, 76(a) is something that we're looking to
3 see after that last meeting and we want to make sure that
4 it's executed and enforceable.

5 So, I guess we'll have a discussion about how we
6 can ensure that it's enforced as we continue to deliberate.
7 So, my question is to Mr. Mlakar and I'm just looking at some
8 of your steps and I'm just, you know, curious.

9 One of the things that I didn't see within those
10 steps is would tenants have the opportunity, if you're
11 renovating units and I understand they have a right to, you
12 know, refuse relocation. Do they have the option to relocate
13 to a similar unit that you offering them at this particular
14 time?

15 MR. MLAKAR: A similar unit that I'm not
16 renovating in the complex that I own or, I'm sorry, I --

17 MEMBER SMITH: Within this complex.

18 MR. MLAKAR: Oh, absolutely, yeah. Right now, we
19 have a number of vacants and we are trying to encourage and
20 entice. I feel like most people will want to renovate into
21 a more renovated unit.

22 And if they're living in a unit that could use
23 work it's an easy move to go down two buildings into
24 something that is closer to being brand new or fully
25 renovated but not fully developed into a completely new

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1 building type.

2 So, yeah, that is what we're working on right now
3 and it's a slow process. I personally meet with each
4 individual tenant. We discuss this, we work out a plan, we
5 sign an agreement, we figure out what the friction is, we try
6 to deal with all those issues.

7 Sometimes the friction is as minor as, you know,
8 they have immigration paperwork that's tied to a particular
9 address and they're worried that they might not get it at the
10 new address. So, we work with them to figure out how do we
11 deal with that.

12 And there's, you know, 20, 30 different objections
13 so, we have solutions for all of them, we deal with them, we
14 figure it out.

15 MEMBER SMITH: Thank you for that. Thanks for
16 putting that on the record. So, I hope that the Tenant
17 Association and representatives of the Tenant Association
18 hold you to that. You, you know, follow through with that
19 plan. So, thank you.

20 MR. MLAKAR: Absolutely.

21 BZA CHAIR HILL: Ms. John, do you have any
22 questions?

23 VICE CHAIRPERSON JOHN: No, I have no questions,
24 Mr. Chairman.

25 BZA CHAIR HILL: Okay. All right, Mr. Young, is

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1 there anyone in here wishes to speak?

2 MR. YOUNG: We do.

3 BZA CHAIR HILL: Okay. How many do we have?

4 MR. YOUNG: About ten on my list but I'm not sure
5 how many of them are on or testifying.

6 BZA CHAIR HILL: Okay. Let me think, I think, Mr.
7 Moy, there was a Spanish interpreter, is that correct?

8 MR. MOY: Yes, sir. She's in the virtual hearing
9 room when you need her.

10 BZA CHAIR HILL: Okay. Could you bring her on
11 first, please?

12 VICE CHAIRPERSON JOHN: So, Mr. Chairman, while
13 we're waiting, so this is a limited scope hearing, right?

14 BZA CHAIR HILL: Yes.

15 VICE CHAIRPERSON JOHN: Okay. So, are we hearing
16 from ten witnesses on the same issues that are, that may or
17 may not be related to the zoning matters?

18 BZA CHAIR HILL: Unfortunately, Ms. John, I don't
19 how else to do this. Like, you know, I mean, we --

20 VICE CHAIRPERSON JOHN: Okay, Mr. Chairman, thank
21 you. Thank you.

22 BZA CHAIR HILL: No, that's all right. Even the
23 limited scope hearing is on issues that are also somewhat
24 broad and so, I'm a little, I don't know how to do this other
25 than to justify to do this. But I appreciate what you are

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1 trying to say.

2 VICE CHAIRPERSON JOHN: Thank you.

3 BZA CHAIR HILL: Okay. Ms. Siegrist, can you hear
4 me?

5 MS. SIEGRIST: Hello, can you hear me?

6 BZA CHAIR HILL: Yes. Could you introduce your
7 name for the record?

8 MS. SIEGRIST: Absolutely. Maria Claudia
9 Siegrist.

10 BZA CHAIR HILL: Okay. One second. Okay, Mr.
11 Young, who was again, the person who was requesting party
12 status? I think they're still there, right? Is it Crawford?

13 MS. CRAWFORD: Yes. And just to be clear I was
14 not, the Association is seeking party status because they are
15 a party. They are participants to this development that will
16 be significantly affected by this plan that's put, that has
17 been proposed here.

18 BZA CHAIR HILL: No, I understand, Ms. Crawford.
19 You were applying, you weren't applying for party status.
20 The Association was applying for party status.

21 MS. CRAWFORD: Right. And through your all's
22 deliberations I kept hearing about timeliness but there was
23 no discussion about whether or not they would be more
24 significantly, distinctively or uniquely affected in
25 character or kind by the proposed zoning action that we're

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1 talking about today. There was no discussion about --

2 BZA CHAIR HILL: Ms. Crawford, Ms. Crawford --

3 MS. CRAWFORD: -- I just wanted to say that
4 because --

5 BZA CHAIR HILL: -- I just want to state for the
6 record, we, this is not an opportunity for you to reargue
7 what has already been argued, okay.

8 MS. CRAWFORD: I'm not rearguing but when you
9 stated --

10 BZA CHAIR HILL: Yes, you are because --

11 (Simultaneous speaking)

12 MS. CRAWFORD: -- that I was seeking party --

13 BZA CHAIR HILL: -- that's what you're --

14 MS. CRAWFORD: Well, I need it to be clear because
15 you made a statement that Ms. Crawford was seeking party
16 status, so I need it to be clear that you all were clear that
17 the Association is seeking party status.

18 And I also wanted to add that since we all heard
19 the deliberations, there was no discussion of how the
20 Association would be significantly, distinctly affected by
21 the zoning actions today.

22 BZA CHAIR HILL: Okay.

23 MS. CRAWFORD: And that is a part of the decision
24 of whether or not --

25 BZA CHAIR HILL: Ms. Crawford, Ms. Crawford --

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1 (Simultaneous speaking)

2 MS. CRAWFORD: -- to deny or approve it.

3 BZA CHAIR HILL: -- I understand what your first
4 point was. Chairman Hood, you have your hand up.

5 ZC CHAIR HOOD: Yeah, I just want to state for the
6 record, Mr. Chairman, that we knew that Ms. Crawford was
7 representing a group that wanted party status. But, Ms.
8 Crawford, I will tell you that the course of rule on this and
9 I hate to always throw the courts out but they always come
10 back.

11 You have to deal with timeliness before you deal
12 with anything else and that's what I think the discussion
13 was. Timeliness. Before you can go into the merits of
14 affected parties and all that. The problem was it fell out
15 on timeliness. So, I think that's where we started and I
16 don't think we need to go back and forth.

17 That's what it is but you all will have an
18 opportunity in this case to talk about the zoning aspect of
19 it when you get ready to do your testimony. Thank you, Mr.
20 Chairman.

21 BZA CHAIR HILL: Sure. Ms. Crawford, I was asking
22 you whether you had any of the other parties there with you
23 or are you just alone right now.

24 MS. CRAWFORD: I'm just alone. I think Ms.
25 Ballantyne may, I'm actually not sure. She may be with the

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1 tenants if the tenants are not all on individually.

2 BZA CHAIR HILL: Thank you. There was someone who
3 was speaking with all of the tenants. Mr. Young, do you see
4 a Ms. Ballantyne?

5 MR. YOUNG: Yes, I do.

6 BZA CHAIR HILL: Okay, could you bring her up
7 please? Ms. Ballantyne, can you hear me?

8 MS. BALLANTYNE: Yes, I can.

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

11 MS. BALLANTYNE: I'm Anita Ballantyne. I work at
12 Housing Counseling Services.

13 BZA CHAIR HILL: Got it, great. Do you know, the
14 people that signed up to testify, are they all with you or
15 you don't know?

16 MS. BALLANTYNE: Some are with us and some I
17 believe are either calling in or have logged in separately
18 from their homes.

19 BZA CHAIR HILL: Okay. Do you know if the people
20 are with you have taken the oath?

21 MS. BALLANTYNE: They have not yet.

22 BZA CHAIR HILL: They have not.

23 MS. BALLANTYNE: They did online.

24 BZA CHAIR HILL: Right. When they all --
25 everybody signed up individually, correct?

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1 MS. BALLANTYNE: Yes.

2 BZA CHAIR HILL: Okay, because they need to have
3 taken the oath.

4 MS. BALLANTYNE: Yes, yes.

5 BZA CHAIR HILL: Okay. I'm going to start with
6 you and your group, okay?

7 MS. BALLANTYNE: Can we start with some of the
8 tenants who are here?

9 BZA CHAIR HILL: Pardon?

10 MS. BALLANTYNE: Could we start with some of the
11 tenants who are here?

12 BZA CHAIR HILL: Yeah, I'm going to do all of the
13 people that are with you first.

14 MS. BALLANTYNE: Okay, okay.

15 BZA CHAIR HILL: Okay?

16 MS. BALLANTYNE: Thank you.

17 BZA CHAIR HILL: Mr. Sullivan, you had a question?

18 MR. SULLIVAN: Yeah, I would, I'd just like to
19 object to where we're going here because we've probably heard
20 from all the tenants and I think the Board has stated in some
21 of the previous discussion that an acknowledgement that the
22 tenant issues are not a zoning issue before the Board under
23 U-421. And also, if it was, if we knew that we could
24 put on our landlord tenant case as well and bring ten
25 witnesses to testify to the kindness of Mr. Mlakar and

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1 everything he's done in regard to this issue.

2 But I don't think it's properly before the Board.
3 I just want to lodge that. I won't say anything else. I
4 defer to the Board on that.

5 BZA CHAIR HILL: That's all right, Mr. Sullivan.
6 And I'm just, I'm at, and I'll state for the record also, I'm
7 at a bit of a loss, right. Like, we the Board have asked for
8 some information that came up during the last hearing that
9 might be, that might have applied.

10 And I say might have applied to some of the
11 general exceptions, you know, the general standards in X-
12 901.2, right. Will not tend to adversely -- will not tend
13 to affect adversely the use of the neighboring property in
14 accordance with the zoning regulations and zoning maps.

15 That's maybe what we kind of in my opinion were
16 kind of speaking to. This kind of has gotten into an area
17 that is not necessarily in our realm. I will be very clear
18 that this -- and, Ms. Ballantyne, if you can hear me, you
19 know, this is not an opportunity to speak to the character
20 of anyone.

21 And I'm going to be very cautious about this is
22 not an opportunity to speak about character. What this is
23 supposed to be about is speaking about the zoning
24 regulations, right.

25 The zoning regulations that are here before us in

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1 terms of what we're supposed to look at. Now the problem
2 that I have is I'm also with the community that not only are
3 not zoning experts but also are not native English speakers.

4 So, I think we're just going to have to kind of
5 struggle through this. But, Mr. Sullivan, your objection is
6 noted. Okay. All right, Ms. Ballantyne, can you hear me?

7 MS. BALLANTYNE: Yes, I can.

8 BZA CHAIR HILL: Okay. Can you introduce your --
9 how many people are with you?

10 MS. BALLANTYNE: We have two here present with us.

11 BZA CHAIR HILL: Okay. Can you have the first
12 person introduce themselves?

13 MS. PALACIOS: Good morning, Mr. Hill, good
14 morning, everybody. My name is Sonia Palacios. I am --

15 BZA CHAIR HILL: Okay, Ms. Palacios, just to let
16 you know, I don't want to hear about the character or
17 anything about the, you know, the developer, okay. We're
18 here for zoning issues, okay?

19 MS. PALACIOS: All right. With all your excuse,
20 sir, I have a letter here. Would you like me to read it or
21 just speak from my heart?

22 BZA CHAIR HILL: I don't know. Just go ahead and
23 read the letter then, Ms. Ballantyne, let's see what happens.
24 It's not Ms. Ballantyne. What was your name again? I'm
25 sorry.

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1 MS. PALACIOS: Sonia Palacios, sir.

2 BZA CHAIR HILL: Palacios?

3 MS. PALACIOS: Palacios, P-A-L-A-C-I-O-S.

4 BZA CHAIR HILL: Okay. All right, go ahead, Ms.
5 Palacios.

6 MS. PALACIOS: Hello, good morning, everybody.
7 My name is Sonia Palacios. I am here to testify on behalf
8 of my parents who have lived at 69 Hawaii Avenue Northeast
9 Apartment 204 for 60 years.

10 The tenants here receive a letter from the owner
11 saying that he hired a maintenance company and someone who
12 speaks Spanish. The owner waited for people to speak up at
13 the last hearing for him to start doing these things.

14 All of these things should have been already done
15 or happening. It's not much. They are basic and necessary.
16 There are many people here who don't speak English but pay
17 their rent month to month.

18 They have questions and want to know what is going
19 on. It is only fair to them that they have someone who speak
20 their language but the owner, Mr. Mlakar, even tried to have
21 anyone be there for them until he had to present some things
22 to you.

23 He's not doing anything for the tenants. He's
24 doing it for him to save him skin. I don't know what he
25 wants but he doesn't not want anything for these people. I

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1 learned that the owners sent a different letter to the Board
2 than what he sent to the tenants.

3 He will now have counseling services. We did not
4 get the details information that the Board is getting in the
5 letter to the tenants. My question is why we are getting the
6 information that he sent to the Board?

7 It is confusing everybody else because he did send
8 a different letter and I am aware of that. The owner has
9 never had a meeting with the tenants and I am 100 percent
10 sure because I'm speaking on behalf of my parents and my two
11 sisters.

12 Again, he hasn't had a meeting with the whole
13 group because he would be able -- he wouldn't be able to
14 answer every single question. For him to be a landlord he
15 needs to be able to answer to the whole group. Not just
16 individually, one by one. At the last hearing --

17 BZA CHAIR HILL: Ms. Palacios, Ms. Palacios --

18 MS. PALACIOS: Yes, sir.

19 BZA CHAIR HILL: How long's your letter?

20 MS. PALACIOS: Maybe one more minute, sir.

21 BZA CHAIR HILL: Okay, go ahead.

22 MS. PALACIOS: I'm sorry, I read pretty slowly.

23 BZA CHAIR HILL: No problem.

24 MS. PALACIOS: Okay. At the last hearing the
25 owner said that there are gang members here. I live here so

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1 many years and I never saw anyone who I would ever think is
2 a gang member. I don't where he is getting those things
3 from.

4 I got here when I was 13. Now I am 30 and I'm
5 still around and I have never seen a gang member with my own
6 eyes. I am speaking on behalf of the tenants who might not
7 feel comfortable speaking today because they do not speak
8 English and for the women who believe they are supposed to
9 be quiet.

10 But sometimes we have to speak up. I am here to
11 speak up for my neighbors and my family because I believe
12 what this owner is doing is unacceptable and his application
13 should be denied. Thank you, sir. I appreciate your time.

14 BZA CHAIR HILL: Thank you, thank you. Ms.
15 Ballantyne, can you hear me?

16 MS. BALLANTYNE: Yes.

17 BZA CHAIR HILL: Who's next please?

18 MS. BALLANTYNE: Mr. Oscar is next.

19 BZA CHAIR HILL: Okay. Could you introduce for
20 the record, sir?

21 MS. BALLANTYNE: I don't know how you're going to
22 do the interpretation but he's going to speak in Spanish.

23 BZA CHAIR HILL: Okay. Ms. Siegrist, can you hear
24 me?

25 MS. SIEGRIST: I can hear you but I can barely

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1 hear them.

2 BZA CHAIR HILL: Okay. Ms. Ballantyne, can you
3 translate?

4 MS. BALLANTYNE: Can you come a little bit closer?
5 Can you see if she can hear him?

6 BZA CHAIR HILL: Can you try to speak again, sir?

7 MR. MEDINA: Oscar Medina.

8 BZA CHAIR HILL: Okay. So, Ms. Siegrist, please
9 let Mr. Medina know that he has three minutes to give his
10 testimony and he can begin whenever he likes.

11 MR. MEDINA: Good morning, my name is Oscar
12 Medina. I live at 85 Hawaii Avenue. I am here to talk again
13 about the future construction of this building. Since July
14 there's been water coming out of the walls in my apartment.

15 My family's not able to sleep over there. There
16 is a lot of mold in every wall and it makes my wife feel sick
17 because she is asthmatic. Since the last hearing the company
18 has finally been in touch with me regarding these issues.

19 The issue is that they want us to move to another
20 building on Hawaii Avenue. I have no trouble moving but they
21 are refusing to give me anything in writing. So, regarding
22 the something in writing where it could be stated that the
23 rent would be the same and that the lease would be moved
24 over.

25 I have made the request in person and in writing

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1 several times but they have not responded. They have not
2 told me anything. Also, the owner, Natasha and the owner
3 have told, they have told me that we are not allowed to come
4 back into the apartment if we accept their proposal of
5 moving.

6 They stated that they're not going to be doing the
7 remodeling yet. The owner came with a person who spoke
8 Spanish. When I asked how come the remodel --

9 MR. SULLIVAN: Chairman, I'd like to object to
10 this, to where we're going here. You instructed them to
11 stick to the zoning issues and we haven't been anywhere near
12 zoning issues and none of this applies. And also, we don't
13 have the opportunity to respond to it. So, I don't think
14 that's fair.

15 BZA CHAIR HILL: Okay. So, Mr. Sullivan, I'm
16 hearing what you're saying and this is basically where were
17 the last hearing and I don't exactly know how to proceed,
18 right.

19 So just let's go ahead and if you want to have
20 some rebuttal afterwards or if you have a different approach,
21 I've been doing this now long enough to know and you also
22 have, to try to explain zoning during public testimony is a
23 difficult prospect, right.

24 Now, Mr., and I think it was Mr. Oscar, so again,
25 you get three minutes and your three minutes are up. How

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1 much longer is your testimony?

2 MR. MEDINA: About one more minute.

3 BZA CHAIR HILL: Just go ahead and finish, sir.

4 MR. MEDINA: So, when the owner came to speak with
5 me, he said that there's a possibility that the apartments
6 are not going to be renovated because of some sort of
7 purchasing situation.

8 BZA CHAIR HILL: Okay.

9 MR. MEDINA: The owner told me that I could have
10 the opportunity to think about being a landlord eventually
11 but I asked for the qualifications and he said that the
12 minimum income should be \$2,000 per week, which makes it to
13 about \$96,000 a year and my family does not have that kind
14 of income.

15 BZA CHAIR HILL: Okay, all right. All right, Mr.
16 Oscar's time's up. Thank you so much for your testimony,
17 sir.

18 MR. MOY: Mr. Chairman.

19 BZA CHAIR HILL: Yeah, Mr. Moy.

20 MR. MOY: Yeah, staff tells me that you referred
21 to him as Mr. Oscar Osmond but staff tells me that Mr. Medina
22 was not on the list, that he would need to take the oath but,
23 so I suspect, if that was Mr. Osmond then he's okay.

24 BZA CHAIR HILL: Was that Mr. Medina? Ms.
25 Ballantyne?

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1 MS. BALLANTYNE: Yes.

2 BZA CHAIR HILL: Okay. Mr. Medina has to take the
3 oath. If he can come back.

4 MS. BALLANTYNE: If you registered already online,
5 isn't that where the oath is taken?

6 BZA CHAIR HILL: Mr. Young, is that what you're
7 saying? That you do not have him listed?

8 MR. YOUNG: I do not have him on my list.

9 BZA CHAIR HILL: Okay. He'll just have to come
10 back and take the oath real quick here on the video.

11 MS. BALLANTYNE: Okay. He can do that. He's
12 right here.

13 BZA CHAIR HILL: Okay. Okay, go ahead, Ms.
14 Siegrist, can you hear me?

15 MS. SIEGRIST: Yes.

16 BZA CHAIR HILL: Can you repeat the oath that Mr.
17 Moy is about to ask for Mr. Medina?

18 MS. SIEGRIST: Sure. Sure.

19 MR. MOY: Hello, Mr. Medina, do you solemnly swear
20 or affirm that the testimony that you just gave is the truth,
21 whole truth and nothing but the truth?

22 MR. MEDINA: I do swear.

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

24 BZA CHAIR HILL: Okay. Ms. Ballantyne, you have
25 one more person there?

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1 MS. BALLANTYNE: No, we don't have one more person
2 here.

3 BZA CHAIR HILL: Okay. All right, Ms. Ballantyne,
4 thank you so much for all of your help.

5 MS. BALLANTYNE: Yeah. I'm also signed up to
6 testify which I can do later but --

7 BZA CHAIR HILL: Oh, no, no that's okay. I didn't
8 realize you were signed up.

9 MS. BALLANTYNE: I believe Akela, Ms. Crawford is
10 also signed up and she can go first due to time constraints.
11 That would be fabulous.

12 BZA CHAIR HILL: Okay, that's fine. Ms. Crawford,
13 can you hear me?

14 MS. CRAWFORD: Yes, I can hear you.

15 BZA CHAIR HILL: Could you introduce your name
16 once again for the record?

17 MS. CRAWFORD: Absolutely. My name is Akela
18 Crawford. I'm a staff attorney at Neighborhood Legal
19 Services Program and I represent the Hawaii Webster Tenant's
20 Association.

21 BZA CHAIR HILL: Okay. So, Ms. Crawford, again,
22 you know, I think we understand what we're talking about in
23 terms of we're here for all of the zoning concerns and not
24 tenant advocacy or tenant rights.

25 And so, but please go ahead and I think since you

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1 are representing an association, you get four minutes, oh,
2 I'm sorry, five minutes for your testimony and you can go
3 ahead and begin whenever you like.

4 And again, since I can speak pretty clearly to
5 you, we're not here for the character of the land, I'm sorry,
6 the developer. Okay?

7 MS. CRAWFORD: Before I start my testimony though,
8 just for clarity purposes, this limited scope is concerning
9 the Tenant Equity Plan that the Applicant submitted, correct?

10 BZA CHAIR HILL: No.

11 MS. CRAWFORD: Where he's addressing the two
12 issues that you all stated, the concerns with the reentry
13 plan for the tenants as well as the tenants' concerns and
14 issues that were raised at the October 6th hearing.

15 That's what the document that was filed on October
16 8th by the BZA stated. So, that's why I think everyone's a
17 little confused when the tenants are speaking to, they're
18 speaking to the plan that the Applicant filed on the 10th.

19 And those do relate to the tenant issues. Tenant
20 rights and issues as far as being provided transparent and
21 clear information about this proposed redevelopment plan that
22 they're seeking a Special Exception for. You all require,
23 you all asked that the Applicant provide additional
24 information.

25 That is what the tenants reviewed when it was

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1 filed on the 10th and that's what they prepared this
2 testimony for. So, I don't understand why people are being
3 cut off when they're talking about how --

4 BZA CHAIR HILL: Okay, Ms. Crawford --

5 MS. CRAWFORD: -- the owner, the Applicant has not
6 met with them. The Applicant has not met with the tenant --

7 (Simultaneous speaking)

8 BZA CHAIR HILL: Ms. Crawford, God, Ms. Crawford,
9 I'm having such a long day already. Like, I understand, just
10 let me try to ask my questions, right. Ms. Nagelhout, Ms.
11 Nagelhout --

12 MS. CRAWFORD: I --

13 BZA CHAIR HILL: Ms. Nagelhout, can you hear me?

14 MS. NAGELHOUT: I can.

15 BZA CHAIR HILL: Do we need to have a closed
16 emergency meeting to try to get this back to where I think
17 I can manage it or is this proceeding in a manner that seems
18 -- because even, it seems to be a little bit unclear somehow
19 in the direction?

20 MS. NAGELHOUT: Well, it's the Chair prerogative
21 to, how to run the hearing. You have the right to cut off
22 testimony that's not relevant or germane or that's
23 repetitive.

24 You want to stick to the zoning issues. If you
25 want to have a closed meeting we can or if you just want to,

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1 you know, cut the mics, you can do that too.

2 BZA CHAIR HILL: Okay. I'm going to go ahead and
3 have a closed meeting, okay. You guys, Mr. Moy, can you, I'd
4 like to talk to Counsel, sorry --

5 (Simultaneous speaking)

6 MS. CRAWFORD: I'm not able to testify?

7 BZA CHAIR HILL: Chairman Hood, -- no, Ms.
8 Crawford, you'll be able testify.

9 ZC CHAIR HOOD: Mr. Chairman, I think for some
10 clarity, I think that the confusion is, is that we asked for
11 that because there seemed to have been an abundance of not
12 being clear to the residents.

13 That's what we asked for but I think, Mr.
14 Chairman, I don't know if we need a closed meeting but you're
15 the Chairman, so, but I will say that we can come back to the
16 zoning issues and be there.

17 I think the Applicant has supplied what we think,
18 I mean, it's up to the Applicant and I know BZA presenters
19 don't do like the Zoning Commission. Now we would get into
20 exactly what Ms. Crawford is talking about but I don't
21 believe the BZA has the jurisdiction to do this.

22 So, I think we get back to the zoning issues.
23 Yes, there are other forms for the tenants to be able to deal
24 with some of the issues they're having but from this
25 development of what we see, it looks like it's trying to go

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1 in the right -- I understand the concerns and the
2 predictability.

3 But I think from what's being proposed, I think
4 that this will be better outcome from what I'm seeing. At
5 first, Ms. Crawford, previously before you were obtained, we
6 were not even getting that.

7 We wanted to make sure there was some certainty
8 for the residents. Now that outside the scope and we asked
9 for that but we tried to pull it back it in and at least give
10 the residents some assurances even though that was outside
11 the scope.

12 And, Mr. Chairman, I think you're right, I don't
13 know if need, at the end of the day it's between the Chair
14 and the Board to decide how this is going to proceed but I
15 think we need to go right back to the zoning issues and be
16 done with it because this is getting out of hand just to the
17 zoning issues and I would agree with you.

18 BZA CHAIR HILL: Okay. I only got, I got three
19 fellow Board members. I just, I want to talk to Counsel for
20 a minute, okay. So, I'm going to ahead and read into the
21 Emergency Closed Meeting and talk with Counsel, okay. So,
22 Mr. Moy, I think I have those documents. Let me check.

23 MS. CRAWFORD: Can I just state for the record,
24 I do have a time constraint where I need to be off by 11:30.

25 VICE CHAIRPERSON JOHN: Ms. Crawford, may I ask,

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1 are you planning to testify as to the zoning issues? That
2 is, how the application meets the criteria for relief under
3 --

4 MS. CRAWFORD: Yes.

5 VICE CHAIRPERSON JOHN: -- Sections U-421.1?

6 MS. CRAWFORD: I'm speaking to the zoning issues
7 that are, that should be addressed here, yes.

8 VICE CHAIRPERSON JOHN: Okay. And we're not going
9 to be discussing the Tenant Equity Development Plan?

10 MS. CRAWFORD: The Tenant Equity Development Plan
11 is related to the Special Exception request here and that
12 also relates to the zoning consideration.

13 VICE CHAIRPERSON JOHN: Okay. And --

14 (Simultaneous speaking)

15 MS. CRAWFORD: And D.C. -- in addition to the
16 zoning laws, the Board also has to ensure that their decision
17 is in compliance with D.C. law period. So, my testimony is
18 in regards to that.

19 VICE CHAIRPERSON JOHN: Okay, Ms. Crawford. Give
20 me a minute, all right. Before this Board, okay, we often
21 have issues that are not specifically within our jurisdiction
22 like construction agreements.

23 The Board sometimes would ask an Applicant to
24 provide their construction agreement. But we do not
25 incorporate those in for an order.

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1 MS. CRAWFORD: Right.

2 VICE CHAIRPERSON JOHN: So, nothing you say about
3 this Tenant Equity Development Plan will be a requirement by
4 this Board. So, you're welcome to discuss it if you would
5 like to but assuming that we grant relief, it will not be a
6 condition of this order.

7 MS. CRAWFORD: My testimony is in regards to the
8 zoning regulations and the considerations that must be
9 reviewed in order to come to a proper decision here. Yes.

10 VICE CHAIRPERSON JOHN: Okay. So, Mr. Chairman,
11 with this clarification I have no objection to this testimony
12 and I think it would be well within your rights as the
13 Counsel stated to limit any further testimony regarding this
14 Tenant Equity Development Plan or any consideration of
15 whether or not the Applicant met with a tenant and what the
16 specific conditions for a particular tenant, what the
17 specific conditions were.

18 It's well beyond the scope of this hearing and it
19 should be heard at maybe the body that has jurisdiction over
20 landlord-tenant matters. We originally granted leeway to the
21 tenants, well I did because there was a language issue.

22 And as the Chairman said it is very difficult to
23 explain to people who do not come before this Board regularly
24 what zoning issues are. So, with that said, Mr. Chairman,
25 we have to get back on track and I think we need to, from

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1 here on out, limit testimony to the zoning issues.

2 Because everything we've heard so far, we've heard
3 over and over since the last hearing. So, that would be my
4 two cents. We have a long day ahead and I think it's within
5 the Chairman's jurisdiction to limit testimony.

6 BZA CHAIR HILL: Okay, Ms. John, you've been very
7 helpful today and I really appreciate it. As the Vice Chair
8 I appreciate your support. I don't think, I think Ms.
9 Crawford just said she has another appointment at some point.
10 Is that what you said, Ms. Crawford?

11 MS. CRAWFORD: Yes.

12 BZA CHAIR HILL: Okay. So, Ms. Crawford, please
13 go ahead and give your five minutes of testimony as Ms. John
14 has advised.

15 MS. CRAWFORD: Okay. I'm going to skip around
16 because I don't want to speak to things that you all won't
17 consider so, bear with me. In the District of Columbia there
18 are explicit laws in place that protect the rights of tenants
19 as well as govern how an owner may renovate or redevelop
20 their property.

21 Today we here to discuss the Applicant's request
22 for a Special Exception and whether or not they have
23 sufficiently addressed the issues and concerns raised by the
24 tenants at the October 6th public hearing.

25 In reviewing the record before the Board, I'm left

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1 with a list of questions that demand a deeper inquiry into
2 the Applicant's proffered plans for the properties in
3 question.

4 While the general requirements for a Special
5 Exception focus greatly on the technical plans of a surveyor
6 or an architect, the Board must also assess whether the plans
7 which require the Special Exception are in compliance with
8 D.C. law and pose no potential adverse impact on the existing
9 community.

10 Unfortunately, the Tenant Equity Development Plan
11 for the residents submitted by the Applicant falls short in
12 addressing the tenants' concerns and issues with this
13 proposed project.

14 As a result, Hawaii Avenue Tenant's Association,
15 HWTA, would like to request that the Board ask the Applicant
16 the following questions to appropriately address those
17 concerns.

18 Can the Applicant provide a clear statement on how
19 many units, buildings will be converted to condos as a result
20 of the proposed redevelopment plan? At the October 6th
21 public hearing the Applicant stated some are going to be
22 condos, some are going to be apartments, it's a mix.

23 However, the recently submitted equity plan, the
24 Applicant states only 93 Hawaii will be converted to a condo.
25 Is the Applicant confirming under oath that this project will

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1 only include one building that is converted to a condo,
2 specifically 16 units will be for sale?

3 Are they confirming that at no point in time
4 throughout this project that will change? Also, it's
5 important to ascertain this information due to the explicit
6 laws that are in place that provide specific rights and
7 protections for tenants during a condo conversion, i.e., The
8 Conversion Act and The Condominium Act, which also implicate
9 TOPA rights.

10 In particular, has the Applicant submitted an
11 eligibility to convert application with DHCD? And if so,
12 which application did they file? That application is
13 required by law in order to convert a building.

14 If an applicant is seeking a Special Exception for
15 proposed plans, it seems that the Applicant should have
16 already taken the necessary statutory requirements for those
17 proposed plans before seeking said Special Exception.

18 It's premature at this point and as a result it
19 should be denied. There are, as I stated, there are explicit
20 laws in D.C. that govern how these projects proceed and
21 again, those steps have not been taken.

22 In addition to the plan, to the equity plan that
23 was presented, it doesn't go far enough to ensure any of the
24 concerns that the tenants have raised. What does good
25 standing mean?

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1 There has to be a general and very clear
2 definition of good standing so tenants can make sure that
3 they are not at risk of being displaced as a result of this
4 proposed development plan.

5 I'm skipping around, so please again bear with me.
6 In addition to the fact that there is no evidence in the
7 record of any form, any application submitted to DHCD in
8 order to convert the condo, the building 93 Hawaii into a
9 condo, there are other concerns.

10 That even if there was an application, whether it
11 be a not a housing accommodation exception or a vacancy
12 exception, which in this case the Applicant has stated that
13 93 Hawaii is already vacant.

14 We, the Tenant's Association would say that we
15 would actually contest that that vacancy was done properly.
16 According to the Applicant's previous testimony the Building
17 93, 93 Hawaii is vacant and according to public record it has
18 been vacant since December 2020.

19 However, in order to qualify for the vacancy
20 exception, the property must be vacant for at least 12
21 months. It has not been 12 months since December 2020. So,
22 even if the Applicant had filed for an eligibility to convert
23 under this exception, it would likely be deemed premature and
24 rejected by DHCD.

25 Alternatively, if the Applicant was able to

1 successfully submit a vacancy exception application, the
2 Association would contest that because witnesses have
3 overwhelmingly testified before this Board.

4 Detailing multiple instances in which the
5 Applicant may have unreasonably interfered with a tenant's
6 comfort, safety or enjoyment of a rental unit for the
7 purposes of causing a tenant to vacate their unit by
8 knowingly circulating inaccurate information.

9 BZA CHAIR HILL: Ms. Crawford --

10 MS. CRAWFORD: If these assertions are found to
11 be true the Applicant would be in violation of D.C. Code
12 Section 42-34 --

13 BZA CHAIR HILL: Ms. Crawford, Ms. Crawford, just
14 to let you know, you've run out of time. If you want to go
15 ahead and wrap it up.

16 MS. CRAWFORD: Okay, I'm wrapping it up right now.
17 HWTA is hopeful that the Board will execute the necessary due
18 diligence before deciding whether to grant the Applicant's
19 request.

20 It is not HWTA's intent to delay the necessary
21 updates and maintenance the properties require but it is
22 their intent to invoke their rights as tenants in demanding
23 that the Applicant engage in a fair and transparent manner
24 when proposing major changes to their current residences.

25 At the end of the day before the BZA should

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1 approve a Special Exception for plans for proposed
2 development plans, those proposed development plans should
3 absolutely be in compliance with D.C. law.

4 And they should have already put in place the
5 necessary statutory requirements required to convert a condo
6 to a, I mean, I'm sorry, an apartment to a condo before
7 asking for a Special Exception for that particular project.

8 Based on the --

9 BZA CHAIR HILL: Okay --

10 MS. CRAWFORD: -- testimony provided today it is
11 clear -- this is my conclusion.

12 BZA CHAIR HILL: Okay, well you're way over time
13 already --

14 (Simultaneous speaking)

15 MS. CRAWFORD: Based on testimony provided today
16 it is clear that the Applicant has not taken the necessary
17 steps to proceed with the plans before applying for the
18 Special Exception.

19 In conclusion, we are asking the Board to deny the
20 Applicant's request, include all testimony provided today as
21 part of the official record and that HWTA be provided party
22 status in this case for the purposes of responding to any
23 said decision.

24 BZA CHAIR HILL: Okay, all right. Thank you, Ms.
25 Crawford.

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1 MS. CRAWFORD: Thank you.

2 BZA CHAIR HILL: Mr. Young, who else do you have
3 with me today?

4 MR. YOUNG: A Mr. Richardson, who's calling in by
5 phone and Cynthia Williams.

6 BZA CHAIR HILL: Okay. Okay, Mr. Richardson, can
7 you hear me?

8 MR. RICHARDSON: I can.

9 BZA CHAIR HILL: Okay, Mr. Richardson, could you
10 introduce yourself for the record, please?

11 MR. RICHARDSON: Okay. My name is Milton
12 Richardson and I reside at 98 Webster Street. Ms. Crawford
13 pretty much cleared up my concerns and comments. I believe
14 the Applicant should be denied as said during Ms. Crawford
15 testimony.

16 All those areas are pretty clear to me as well the
17 historical practices of the Applicant. The pattern hasn't
18 changed and I don't think it's enhancing to the community as
19 it a failure to really address a community that didn't need
20 such improvement until now.

21 So, at this point I think that my testimony is
22 pretty short. Again, I don't need to repeat what has already
23 been said.

24 I just, I think the residents as well as our
25 representatives or those who represent the Applicant being

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1 denied is pretty clear on why and the history, the patterns.
2 I don't see those changing. I just see a community
3 demolition for no cause other than for profit.

4 BZA CHAIR HILL: Okay, all right. Thank you, Mr.
5 Richards. Is it, you said Ms. Wilson, is that what you said
6 Mr. Young?

7 MS. WILLIAMS: Williams.

8 BZA CHAIR HILL: Oh, Williams, Williams.

9 MS. WILLIAMS: It's Cynthia, good morning.

10 BZA CHAIR HILL: Good morning. Can you introduce
11 yourself for the record please, Ms. Williams?

12 MS. WILLIAMS: Yes, sir. Cynthia Williams, good
13 morning, everyone.

14 BZA CHAIR HILL: Good morning, Ms. Williams. Ms.
15 Williams, you'll have three minutes to give your testimony
16 and you can begin whenever you like.

17 MS. WILLIAMS: Okay. I am still in opposition to
18 this proposal and a couple of things before I just make my
19 point. Mr. Mlakar said that we have squatters climbing the
20 area, drugs, prostitutes, which we don't and I just wanted
21 to make that little point.

22 Since the last hearing October the 6th, as of the
23 day, we still have issues with properties that need to be
24 addressed, which would be in violation of the law if the
25 properties are not kept up to code like Ms. Crawford

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1 indicated.

2 I received a letter from the landlord property
3 manager on October 26th stating we could stay or choose one
4 of these options, which was on the back of the letter. The
5 selections were upgrade one bedroom apartment, which the
6 development would take approximately two years.

7 Receive initial down payment assistance to
8 purchase market rate condo. After I research, pricing in all
9 four wards in the D.C. area, condos start at \$483,000 on up.
10 Same for apartments, \$15,000 to up to \$4,000 a month.

11 An offer was made for the District including their
12 rezone programs, zoning program. This is a lottery system.
13 Names are picked randomly. There are no guarantees that
14 tenants will be able to go back to the same units with no
15 increase in rent.

16 Also, a cash buyout of a lease as well as
17 relocation assistance, this is not feasible for me. I
18 receive disability so, the proposed the condos and apartments
19 are not affordable and any relocation would be extremely
20 difficult.

21 In closing, we as tenants have the right to stay
22 in our buildings and will repair what maintenance done inside
23 and outside our apartments on a regular basis. We pay our
24 rent and we deserve better. Thank you for allowing me to
25 speak.

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1 BZA CHAIR HILL: Thank you, Ms. Williams. Thank
2 you so much for your testimony.

3 MS. WILLIAMS: Yes, sir.

4 BZA CHAIR HILL: Now is that everyone's testimony,
5 Mr. Young?

6 MR. YOUNG: Yes.

7 BZA CHAIR HILL: Okay. Mr. Young, if you could
8 please excuse everyone from the hearing room that has given
9 --

10 MR. YOUNG: Sorry, we have one more who's calling
11 in by phone also.

12 BZA CHAIR HILL: Okay. And do you have their
13 name?

14 MR. YOUNG: Theodore Proctor.

15 BZA CHAIR HILL: Proctor?

16 MR. YOUNG: Yes.

17 BZA CHAIR HILL: Mr. Proctor, can you hear me?

18 MR. PROCTOR: Yes, sir, Mr. Chairman. This is Mr.
19 Theodore Proctor.

20 BZA CHAIR HILL: Good morning, Mr. Proctor.

21 MR. PROCTOR: Good morning, sir.

22 BZA CHAIR HILL: Mr. Proctor, you'll have three
23 minutes to give your testimony and you can begin whenever you
24 like.

25 MR. PROCTOR: Yes, sir. My name is Mr. Theodore

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1 Proctor. I'm in Building 81 on Hawaii Avenue. Ever since
2 April the 3rd, 2012 and I'm still totally against any
3 construction that is supposed to transpire on this property.

4 As far as I'm concerned, M Square Management is
5 in retaliation mode. They're telling you all one thing and
6 doing another. And they're definitely against me and they're
7 still --

8 BZA CHAIR HILL: Mr. Proctor, Mr. Proctor, I'm
9 sorry. I know it's really hard to kind of understand this.
10 But like, we're really here just to about kind of the zoning
11 issues and not --

12 MR. PROCTOR: Okay.

13 BZA CHAIR HILL: -- the company may or may not be
14 moving through the process. If you could kind of try to
15 stick to the zoning issues that would be helpful.

16 MR. PROCTOR: Okay. Well, I did hear someone else
17 speak, Mr. Chairman, about letting the squatters assume
18 occupancy and assume occupancy and resume, assume residency
19 and occupy these apartments.

20 This is creating a very dangerous environment,
21 okay. These people don't have no rental lease or anything.
22 I'm going to keep this short, Mr. Chairman. Just to be
23 clear, on October the 7th, I made a maintenance request the
24 day after the last hearing just to see how they would react.

25 It was totally ignored. On October the 8th I did

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1 the same thing. The maintenance request was totally ignored.
2 On October 12th, front door to the building broken, insecure
3 from squatters and people coming in and out of these
4 apartment buildings. That was ignored.

5 On October the 12th I did it again. That was
6 ignored. On October the 14th I made a maintenance request
7 for simply just to have my blinds replaced. That was
8 ignored. On November the 2nd I made a maintenance request.

9 Need venetian blinds replaced, hallway lights are
10 out, it's dark down here on the first floor, it's dark. That
11 was ignored. Okay. The bottom line, Mr. Chairman, anytime
12 that a person cannot be trusted to just replace your venetian
13 blinds, do you really think that I trust this real estate
14 company?

15 The new cleaning company did transpire. The trash
16 removal is okay so far. The new landscaping company, that
17 did transpire. That's our original maintenance man, he's
18 highly qualified for the position. We're glad to see him
19 back.

20 The rat infestation, I haven't seen as many. I
21 hope to God they're not in the building by now. Okay. The
22 last cash buyout offer that I had from M Square Management
23 was they would pay the first month's rent and the moving
24 expenses.

25 I mean, really. I mean, the weight of being, of

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1 having to move out does not coincide with the offer that he's
2 proposing. I was one of the first people to receive a move
3 out offer and this is the best he can do?

4 BZA CHAIR HILL: Okay.

5 MR. PROCTOR: First month's rent? I'm in total
6 opposition to anything M Squared is doing at this time.
7 They're very disrespectful and they're conniving and they're
8 desperate.

9 BZA CHAIR HILL: Okay --

10 MR. PROCTOR: I'm done. Thank you.

11 BZA CHAIR HILL: Okay. Thank you so much. All
12 right, Mr. Young, could you please excuse everyone from the
13 hearing room?

14 MS. BALLANTYNE: So, this is Anita Ballantyne.

15 BZA CHAIR HILL: Oh, Ms. Ballantyne. Oh, I'm
16 sorry, you didn't get to speak.

17 MS. BALLANTYNE: It's fine. I mean, I'm also a
18 bit, sorry, I'm trying to turn on my camera.

19 BZA CHAIR HILL: Sure.

20 MS. BALLANTYNE: I'm also a bit flummoxed because
21 I'm sitting here trying to edit my comments to not frustrate
22 you all in bringing up issues that, you know, you don't want
23 to or can't consider. So, I'm, I would still like to say a
24 few words though.

25 BZA CHAIR HILL: Ms. Ballantyne, at this point,

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1 Ms. Ballantyne, we're just going to have to process through
2 all this after we're done. So, go ahead and say whatever you
3 wanted to say.

4 You have three minutes, you know, you know -- and
5 you may or -- and this is going to make me speak with the
6 Secretary and Legal Counsel to try to understand how to even
7 help the community know what are the issues that are before
8 us. But please go ahead and give your testimony. Could you
9 introduce yourself again for the record?

10 MS. BALLANTYNE: Yes. I'm actually representing
11 Housing Counseling Services, I'm Anita Ballantyne from
12 Housing Counseling Services.

13 BZA CHAIR HILL: Okay. So, that's a different
14 group than the one that asked for party status?

15 MS. BALLANTYNE: Yes, yes. The Tenant Association
16 asked for party status.

17 BZA CHAIR HILL: Right. Through Ms. Crawford.

18 MS. BALLANTYNE: A law firm, Neighborhood Legal
19 Services and the attorney, Ms. Crawford, yes. I work at
20 Housing Counseling Services. I am not an attorney.

21 BZA CHAIR HILL: Right. So, what I'm trying to
22 get at and again, at this point, I'm clear and we will,
23 someone will provide clarity for me at a later time.

24 I'm not sure if you've already gotten your five
25 minutes or not. But we're going to go ahead and give you

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1 five minutes, okay. Because you're representing an
2 association and again, if you can, try to understand that
3 we're not here to talk about Mr. Mlakar, okay. So, please
4 go ahead --

5 (Simultaneous speaking)

6 MS. BALLANTYNE: Then I don't know what you're
7 talking about. I don't know about speaking about Mr. Mlakar.
8 I am responding to though and to the last hearing where the
9 Applicant was asked to present before you information
10 regarding their due diligence as to the tenants' issues and
11 concerns.

12 And also, the reentry plan. And I don't feel that
13 the landlord has addressed either one of those significantly
14 and therefore, I don't think, I think this Special Exception
15 should not be approved.

16 I think tenants mentioned that since the last
17 hearing the landlord has not, has failed to engage with the
18 tenants as an association to discuss what they would like to
19 have seen done at the property.

20 And to see what tenants want or need at the
21 property. So, there hasn't been a meeting with the tenants
22 to talk about that. The tenants still have significant
23 problems in their units.

24 And rather than have those fixed, they're offering
25 to move tenants into new units in the property in buildings

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1 that, you know, currently don't even have heat. Like, I'm
2 in a building right now that doesn't have heat and hasn't had
3 heat for the last four days.

4 And this is one of the units that they're offering
5 to a tenant who has ongoing issues inside their apartment.
6 And, you know, as far as the redevelopment plan, what tenants
7 received about, tenants have not received the information
8 that you all have received.

9 You all have received the Tenant Equity Plan,
10 which is several pages and fairly detailed. The tenants have
11 not received that same plan. So, it's confusing to tenants
12 why the BZA gets the benefit of a very detailed plan with
13 lots of information.

14 And those who are living here are left to muddle
15 through a flier that was left in their lobby with no
16 particular details as the details that you all received. So,
17 I think that is a concern that the tenants have based on the
18 last hearing.

19 What you asked them to present to you, the tenants
20 did not receive the same information. In fact, information
21 they received is different. It's distinct from what you all
22 received in your Tenant Equity Plan.

23 So, the tenants aren't sure which is the actual
24 plan. And, you know, within that Tenant Equity Plan that you
25 all don't want to hear about, there are still some pretty,

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1 I think some pretty important questions that need to be asked
2 and haven't been asked because the tenants have been cut off
3 or told not to talk about the Tenant Equity Plan.

4 But there are issues about, you know, the whole
5 plan is contingent on tenants agreeing to move and --

6 BZA CHAIR HILL: Ms. Ballantyne, Ms. Ballantyne,
7 I do want to say one thing for the record. Nobody's being
8 cutoff and nobody's being told they can't talk about things,
9 right. Everyone has been allowed to talk extensively about
10 whatever we're trying to do.

11 And I know you're not a zoning attorney, right.
12 And I'm not a zoning attorney, right. I go through the
13 regulations, I'm on a Board here because I've been serving
14 in this capacity for about five years.

15 I look at the zoning regulations that I'm told to
16 look at and this has gotten a little bit into areas that are
17 again, and I know we've said this now many times and you were
18 with us before and I hope you understand that I'm not trying
19 to do anything to stop you from having an opportunity to
20 speak.

21 We're just not the venue for a lot of the things
22 that you're talking about. But I just want to be clear that
23 no one is trying to cut anyone off. I'm just trying to keep
24 us on track of why we're actually here.

25 But it's very difficult after people have made

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1 their presentation, they've practiced, they've written things
2 down, to on-the-fly change things and I understand that.
3 That's why I'm not trying to interpret anyone to try to bring
4 them back to certain areas that are actually within our
5 purview.

6 So, I just want to put that, I just wanted to
7 point that out because you say that I've been cutting people
8 off.

9 MS. BALLANTYNE: Well, I think a few, a couple of
10 the tenants, I mean respectfully, I feel like a couple of the
11 tenants who tried, who spoke today earlier felt a bit cut
12 off.

13 BZA CHAIR HILL: Okay.

14 (Simultaneous speaking)

15 MS. BALLANTYNE: But I mean, we don't need to --

16 BZA CHAIR HILL: And I just, I mean, I think we
17 both are on the, we're not really on opposite sides. I just
18 want to respond by saying respectfully I'm not trying to cut
19 anybody off. I'm just trying to stop people from talking
20 about things that we don't have any purview over. But please
21 go ahead and continue.

22 MS. BALLANTYNE: Okay. Yeah, so again, the most
23 important thing here is that the tenants are, continue to be
24 in the dark. That the Applicant has provided information to
25 the BZA that has not been provided to tenants.

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1 The Applicant has claimed that they have met with
2 every tenant. In fact, in the Tenant Equity Plan they have
3 stated that they have met, they've provided this information
4 to every single tenant.

5 And that's simply not true. Most of the tenants
6 we've spoken to have not been contacted, are not aware of the
7 Tenant Equity Plan, didn't learn about it until we told them
8 about it once we found it in the records.

9 So, a lot of this is really concerning to tenants
10 because they are the ones who are primarily affected by this
11 whole redevelopment, right. They are the ones who will have
12 to move up to two times according to the Tenant Equity Plan.

13 They are the ones who will have to wait five years
14 according to the Tenant Equity Plan to have a completed unit
15 and they are the ones who, you know, don't know exactly how
16 much these units will cost and don't know exactly how much
17 down payment is being offered to them.

18 They don't know when this is all starting. So,
19 you know, I think the tenants are the ones -- and it's
20 unfortunate as you say, that there is no forum for where the
21 tenants can bring up these concerns.

22 And, you know, and that's why they're here today
23 because at the last hearing you were, they were, the
24 Applicant was asked to present a plan and the tenants are
25 responding to the plan that was not presented to them.

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1 And that's why you're hearing, you know,
2 information that does not, you know, does not fall within the
3 purview of the BZA. Because they're simply responding to
4 what was asked of the Applicant at the last hearing, which
5 we still don't feel has been provided to the tenants.

6 BZA CHAIR HILL: Okay. Okay, thanks, Ms.
7 Ballantyne. And, Ms. Ballantyne, I know you guys are doing
8 good work and so, I wish you the best with what, with the
9 work you're doing.

10 MS. BALLANTYNE: Thank you. I appreciate it.

11 BZA CHAIR HILL: All right. Is there anyone else,
12 Mr. Young?

13 MR. YOUNG: No, we don't.

14 BZA CHAIR HILL: Okay. So, Mr. Young, I need to
15 understand this. So, now everyone is still in the hearing
16 room, is that what you're trying to tell me?

17 MR. YOUNG: No. Not everyone.

18 BZA CHAIR HILL: No, what I'm saying is it that
19 they can unmute their mic and now break up our discussion?

20 MR. YOUNG: They can. They are not supposed to.

21 BZA CHAIR HILL: Right. Okay. So, we need to fix
22 that.

23 MR. YOUNG: Yeah.

24 BZA CHAIR HILL: Okay. And the other question
25 that I have for you is if we all now leave again and all come

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1 back in again, does that fix it?

2 MR. YOUNG: No.

3 BZA CHAIR HILL: Okay. All right, well there you
4 go then. All right, so just so everybody knows, yeah, you
5 don't have to worry, Mr. Sullivan, I --

6 (Simultaneous speaking)

7 MR. SULLIVAN: Just a quick addition. When I get
8 knocked out of the meeting, I don't have any means to talk,
9 I think on my end. Like there's the mute button and video
10 button goes away when I'm kicked out. So, I don't think I
11 can speak.

12 BZA CHAIR HILL: Okay. Well, Mr. Young tried.
13 The reason why I asked Mr. Sullivan is I have been
14 interrupted, we the Board have been interrupted after this
15 was over. And so, I don't know what's happening now.

16 So, we have now had all of our public testimony,
17 we have the Office of Planning here. Mr. Sullivan, there has
18 been a tremendous amount of testimony that has been given and
19 so, I would now allow you time for rebuttal on anything you'd
20 like to provide rebuttal on.

21 And then, before we do that however, I just want
22 to ask the Board if they have any final questions of the
23 Applicant? Okay, I don't see any. So, Mr. Sullivan, would
24 you like to give some rebuttal?

25 MR. SULLIVAN: I'll be very brief. I would just

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1 like to just reiterate 901.2 the general Special Exception
2 criteria, will be in harmony with the general purpose and
3 intent of the zoning regulations and zoning maps.

4 It will not tend to affect adversely the use of
5 neighboring property in accordance with the zoning
6 regulations and zoning maps and will meet such special
7 conditions as may be specified in this title.

8 The title being the zoning regulations. And 901.4
9 regarding conditions, the only, I said, you know, we're fine
10 with conditions if the Board wanted to do that. My only
11 issue with -- because he is committed to doing them.

12 But 901.4 states that the BZA may impose
13 requirements pertaining to design, appearance, size, signs,
14 screening, landscaping, lighting, building materials or other
15 requirements it deems necessary to protect adjacent or nearby
16 property or to ensure compliance with the intent of the
17 zoning regulations.

18 All of this relates to the zoning regulations.
19 I don't have anything to rebut about anything they've said.
20 I'd like to and I'm sure Mr. Mlakar would like to because
21 he's been impugned here and his reputation in a public
22 setting where it shouldn't have been and it's not the proper
23 form for it.

24 But since no, nothing was stated specifically in
25 regard to any of these requirements either under the general

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1 Special Exception criteria or the specific criteria, I don't
2 have rebuttal on any of that testimony. Thank you.

3 BZA CHAIR HILL: So, are you resting or are you
4 asking whether I want, whether Mr. Mlakar wants to speak?

5 MR. MLAKAR: I mean, I --

6 BZA CHAIR HILL: Mr. Mlakar, I'm just asking Mr.
7 Sullivan. He is being paid to represent you. Mr. Sullivan
8 --

9 MR. SULLIVAN: I think we're done. I think we're
10 done here and we'll rest. Thank you.

11 BZA CHAIR HILL: Okay. All right. Okay, so no
12 one has anything else, right? Okay, I'm going to now close
13 the hearing and the record and excuse everyone. Mr. Moy, can
14 you hear me?

15 MR. MOY: Yes, sir, I'm here.

16 BZA CHAIR HILL: Ms. Nagelhout, can you hear me?

17 MS. NAGELHOUT: I can.

18 BZA CHAIR HILL: At some point I'd like to talk
19 to you guys about how there might be a guide or something
20 that we can provide people in the record to understand what
21 it is that we're actually looking at that is not something
22 that they have to research themselves. So, I'm just making
23 a point.

24 Now, I'm turning to my fellow Board members. This
25 was a very difficult hearing and it was a learning experience

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1 for me in that the last hearing we heard a lot of testimony
2 about issues that I think are outside the BZA's purview.

3 There was discussion about whether it is or isn't
4 in their purview and we wanted to hear some things about this
5 plan as to how people were going to be, how this process was
6 going to take place.

7 And I was really asking for it because again, and
8 it's stretching the X-901.2 in terms of affecting neighboring
9 property, right. The neighboring property zoning
10 requirements are like light and air, you know, harmony with
11 the zoning regulations.

12 Not whether or not the next-door neighbor is being
13 compensated properly for something that could happen and I
14 think that's outside of our -- so, and I'm not, and I'll,
15 everybody will get a chance to speak.

16 And I know that -- and, Chairman Hood, I know
17 you've been on the Zoning Commission for a very long time and
18 so, you've had a lot more experience with this kind of stuff.
19 But I have, I'm glad I don't have, I'm glad I'm not in this
20 area of D.C. law, right.

21 So, however, and I will state that I completely
22 emphasize with the anxiety that happens when these type of
23 changes take place.

24 So, I'm going to start with that. Outside of that
25 now, when I go back to looking at -- and we did ask for that

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1 item that was in Exhibit 76(a) and I thought it was very
2 detailed out.

3 And whether or not it was something that was
4 necessary from us, I did find it comforting. When I went
5 back and looked at the zoning regulations that we're supposed
6 to look at I actually was in agreement with the analysis that
7 the Office of Planning had given concerning all of the
8 different aspects to the areas that we're looking in within
9 the standards.

10 There's actually not a lot of them, you know, and
11 they're pretty simple, I think. And what ended up happening
12 is where we now with this deliberation. I'm going to let
13 someone else be more specific with some of the deliberations
14 because I just, I need a minute.

15 But I would agree with the Office of Planning's
16 recommendation as to how they're meeting the criteria to
17 grant this application. I mean, the ANC is in support of the
18 application. So, the ANC had also agreed to how they believe
19 they're meeting the criteria.

20 And I do take some comfort in 76(a) with regard
21 to the plan, although I don't think we can put that in as a
22 condition but I do think, as has been told to me before, we
23 can reference it in the order.

24 Therefore, at least it's there for the, all the
25 parties concerned. So, those are my thoughts. I'm going to

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1 turn to you, Mr. Smith, next.

2 MEMBER SMITH: Sorry, I was gathering my own
3 thoughts. So, you know, first off, I want to, you know,
4 reiterate Chairman Hood started off this conversation with
5 human sympathy. I completely sympathize with the residents.

6 And I do hear the concerns that they raise when
7 it comes down to the management of the property and these are
8 their homes that they've lived in for, what I've heard today
9 and from the last hearing, for decades.

10 I hear the concerns that they have with that in
11 mind. My concern and I understand that, you know, the
12 testimony that we heard, many of them I'm kind of impartial
13 to but understanding what we're tasked with regulating, the
14 zoning regulations.

15 This case is here for us for a handful of things.
16 They're here for us, they're here today for a Special
17 Exception relief for redevelopment of these existing
18 apartments. And we're, our hands are tied to ensuring that
19 those apartments, that this redevelopment meets a certain set
20 of limited criteria.

21 Subtitle U-421 and those criteria are fairly
22 technical on it, criteria that we must adhere to. Existing
23 and planned area schools to accommodate the number of
24 students that can be expected to reside in the project.

25 Based on what was submitted, they meet that

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1 criteria. They need public streets, recreation, other
2 services to accommodate the residents can be expected, that
3 could be expected to reside in the development. That's, you
4 need residents, whether it's a current resident, future
5 resident. They meet that criteria.

6 U-421 only three, as the Chairman stated, this is
7 based on we're receiving feedback from the Office of Planning
8 regarding site plan, how the buildings sit on the property.
9 The Applicant does not propose to demolish the buildings.
10 He's renovating them, he's adding an additional story.

11 So, the site plan largely wouldn't change. Going
12 through the range of building constructions. The other
13 revisions that the Chairman stated light, air, parking,
14 recreation, landscaping and grading, those are the other
15 criteria.

16 Moving to 421.4, that is again a fairly technical
17 question. It requires the Applicant to submit a site plan
18 and show floor plans and elevations, which he has done. He
19 has met those bare bones criteria.

20 Nothing in that criteria unfortunately speak to
21 tenant rights and I'm completely sympathetic to that but
22 tenant is outside of the scope of this Board. There are
23 other Boards within the District of Columbia that do regulate
24 or ensuring that their tenants are heard in these particular
25 matters.

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1 Especially rent control units and there is a form
2 for that dialogue. I do believe that in requesting this
3 Tenant Equity Plan, even though I don't believe that we can
4 legally put it into the order, it is on record.

5 And it can be used in other venues as an
6 enforcement mechanism to hold the Applicant's feet to the
7 fire to implement those, the criteria or not the criteria but
8 the various steps that he has stated that he will execute.

9 So, but, you know, I share the same opinion as
10 Chairman Hill. In looking at the Office of Planning's
11 recommendations or their analysis of this request, it does
12 meet all of these standards that we're required to look at,
13 the very littlest things that we're required to look at.

14 So, with that I would, you know, support the
15 application and I will also state that just because a Special
16 Exception is granted does not mean that a development can
17 proceed.

18 There are other steps that must, that a developer
19 must adhere to that may be administrative that may or may
20 require another set of approval from a different Board. So,
21 as, you know, Vice Chair John stated, we see construction
22 requests all the time.

23 And then we may request that information, we can't
24 condition it but an Applicant must adhere to that in order
25 for them to proceed or for them to complete their project.

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1 This particular instance, I do believe there are
2 other steps that this Applicant did in the tenant makeup here
3 that the Applicant must adhere to for him to even pull a
4 building permit and break ground and turn dirt.

5 So, I believe there are other steps in this
6 process that I think the tenants can advocate for in another
7 venue that I believe may be even more keeping to some of the
8 concerns that were raised. So, with that, I will support
9 this application.

10 BZA CHAIR HILL: Thank you, Mr. Smith. Vice Chair
11 John.

12 VICE CHAIRPERSON JOHN: Thank you, Mr. Chairman.
13 I have very little to add to what you and Board Member Smith
14 have said. I thought Board Member Smith did a really good
15 job of stating where we are. I wanted to note that there
16 would be a total of 16 IZ units as the Applicant described
17 and I believe Board Member Smith talked about that there
18 added parking spaces.

19 I believe there are 54, which might be more than
20 what is required. And as Board Member Smith stated, this is
21 really a very straightforward application under Subtitle U-
22 421.1, the Applicant is redeveloping the building.

23 The footprint will remain the same. There will
24 be a third story on all of the buildings and so, I agree that
25 we perhaps should have, in hindsight, continued this case for

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1 decision instead of a limited scope hearing.

2 In retrospect, because the, we did not really need
3 to take testimony on the redevelopment because it's not
4 within the Board's purview and in asking for this information
5 the Board was doing what it normally does with construction
6 agreements, which is to ask the parties to work together to
7 come up with a construction agreement.

8 And the Board does not incorporate it into the
9 order but merely notes that the parties have reached this
10 agreement. We did look at issues such as the trash and
11 certain maintenance aspects because that would relate to
12 adverse impact during a construction if the Applicant is
13 taking care of those issues now, there's a likelihood that
14 the Applicant would continue to do so, and we can make that
15 inference.

16 However, I think this a straightforward
17 application. I'm in support of the application and the ANC
18 is also in support of the application and the Applicant has
19 agreed to comply with DDOT's conditions and that's it. Thank
20 you, Mr. Chairman.

21 BZA CHAIR HILL: Thank you, Vice Chair John.
22 Chairman Hood.

23 ZC CHAIR HOOD: Thank you, Mr. Chairman, I won't
24 be long. I would tell you I believe the Applicant has met
25 our regulations under Subtitle X-901.2, Subtitle U-421.1,

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1 Subtitle F-5201 and what they are asking for also under
2 Subtitle F-5201 from the court requirements.

3 I will say this though, Mrs., the young lady who
4 represented the Tenant's Association, caused me to have to
5 sit here and go back and look at our requirements under
6 Special Exception review.

7 I did not hear her in presentation to us any
8 statutes that are in Title 11 as was stated by other Board
9 members that there are other avenues to some of these things
10 to be addressed.

11 I believe that the Board is within its
12 jurisdiction. I know a lot of times I personally try to
13 stretch it and I want to thank Ms. Nagelhout for trying to
14 focus me back. I do try to push the regulations to the limit
15 and sometimes I might try to push them beyond the limit.

16 But I will say that the agreement or the proposal
17 that we asked for, we got. The Applicant, I believe, I hear
18 her say it's not in our jurisdiction. We can't put in any
19 conditions. While that may be so, I've learned from an
20 attorney years ago that we can -- he calls it point to it.

21 I'm sure Ms. Nagelhout help me appreciate that.
22 He said that we can point to it and I think that's the same
23 thing that other Board members are saying as far as the
24 reference.

25 Mr. Chairman, I think that what we did was just

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1 part of what we would ask for under the new human kindness
2 rule that I think that we all have. We asked for that
3 because that was missing. That too was missing and with so
4 much unpredictability.

5 But I think in the long run the Applicant has made
6 his case and has ANC support and I believe that, I think that
7 the situation over there, through this process and other
8 processes to come, will be better, development for the
9 residents for the who live there. So, those are my comments
10 and thank you, Mr. Chairman.

11 BZA CHAIR HILL: Thank you, Chairman Hood. All
12 right, I'm going to go ahead and make a motion then to
13 approve Application Number 20507 as caption read by the
14 Secretary including the conditions that are in DDOT in
15 Exhibit 53 and ask for a second. Ms. John?

16 VICE CHAIRPERSON JOHN: Second.

17 BZA CHAIR HILL: Thank you, Ms. John, thank you.
18 Mr. Moy, the motions been made, could you please take a roll
19 call?

20 MR. MOY: Thank you, Mr. Chairman. When I call
21 each of your names, if you would please respond with a yes,
22 no or abstain to the motion made by Chairman Hill to approve
23 the application for the relief requested including the
24 conditions that's contained in the DDOT's report as
25 referenced by the Chairman in his motion.

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1 The motion to approve is also seconded by Vice
2 Chair John. Mr. Smith.

3 MEMBER SMITH: Yes.

4 MR. MOY: Vice Chair John.

5 VICE CHAIRPERSON JOHN: Yes.

6 MR. MOY: Chairman Hill.

7 BZA CHAIR HILL: Yes.

8 MR. MOY: Zoning Commission Chair Anthony Hood.

9 ZC CHAIR HOOD: Yes.

10 MR. MOY: And we have a Board member not
11 participating on this application, Mr. Chairman. Staff would
12 record the vote as 4-0-1 and this is on the motion made by
13 Chairman Hill to approve, second by Vice Chair John to
14 approve.

15 Also, in support of the motion to approve is
16 Zoning Commission Chair Anthony Hood, Mr. Smith and of
17 course, Vice Chair John and Chairman Hill. No other Board
18 members. Motion carries under a vote of 4-0-1.

19 BZA CHAIR HILL: Okay. Thank you, Mr. Moy. All
20 right, Chairman Hood, is that the last one for you today?

21 ZC CHAIR HOOD: You think so? No, I'm with you
22 all day, I think.

23 BZA CHAIR HILL: Oh, I thought you were --

24 ZC CHAIR HOOD: I know you're trying to get rid
25 of me but I'm with you all day.

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1 BZA CHAIR HILL: No, okay. All right.
2 Commissioner Shapiro, you were under a time constraint, were
3 you not?

4 COMMISSIONER SHAPIRO: I have some flexibility.
5 If you need to -- I mean, I have something at one o'clock but
6 it's something that I am flexible with.

7 BZA CHAIR HILL: Oh, no, no, that's okay. I
8 certainly hope we don't go that long. I just, we haven't had
9 a break yet. So, can we just go ahead and take a break and
10 we'll come back in like ten minutes? Okay, thank you,
11 everyone.

12 (Whereupon, the above-entitled matter went off the
13 record at 11:54 a.m. and resumed at 12:15 p.m.)

14 BZA CHAIR HILL: All right, Mr. Moy, if you could
15 call us back in and call our next case?

16 MR. MOY: The board has returned it its public
17 hearing session after a quick break and the time is now at
18 or about 12:15 p.m.

19 The next case application before the Board is
20 Application No. 20280 of VBS Community Builders LLC. This
21 is an application that's been amended for special exceptions
22 under the residential conversion requirement, Subtitle U,
23 Section 320.2, and from the rear addition requirements,
24 Subtitle E, Section 205.4, Pursuant to Subtitle X, Chapter
25 9.

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1 The property is the project would convert an
2 existing residential building into a three-unit apartment in
3 the RF-1 Zone. The property is located at 622 I Street, NE
4 (Square 857, Lots 32 and 113).

5 Mr. Chairman, as you'll recall, this application
6 has gone through a series of multiple continuances, but most
7 recently the Board granted a continuance to ANC: 6C8 from the
8 docket of November 3rd to November 17th.

9 Other than that, Mr. Chairman, I believe the Chair
10 of ANC 6C filed this morning a letter which is, I believe,
11 was reaffirming their opposition.

12 But I would ask for confirmation on that with Mr.
13 Eckenwiler. And that's it for me, Mr. Chairman.

14 BZA CHAIR HILL: Okay. Thank you, Mr. Moy.
15 Okay, Ms. Moldenhauer, can you hear me?

16 MS. MOLDENHAUER: Yes, I can. Good afternoon,
17 Chairman Hill and members of the Board.

18 BZA CHAIR HILL: Could you introduce yourself for
19 the record, please?

20 MS. MOLDENHAUER: Sure, Meridith Moldenhauer from
21 the law firm of Cozen O'Connor here on behalf of the
22 applicant.

23 BZA CHAIR HILL: And who is here with you today,
24 Ms. Moldenhauer?

25 MS. MOLDENHAUER: I don't see Marina (phonetic),

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1 but Whitney Smith, on behalf of the applicant is here in the
2 panel group. I see that Emilie Rottman, on behalf of Square
3 134 Architects is here.

4 Others out, if possible could let in Mr. Smith or
5 Brian Wells. I'm not sure who's --

6 BZA CHAIR HILL: Okay, we'll see we get. Ms.
7 Rottenweil -- I'm sorry, Rottman, can you introduce yourself
8 for the record, please?

9 MS. ROTTMAN: Hi Emilie Rottman, Square 134
10 Architects.

11 BZA CHAIR HILL: Great. Commissioner Eckenwiler,
12 could you introduce yourself for the record?

13 MR. ECKENWILER: Sure Mark Eckenwiler, Vice Chair
14 ANC 6C on behalf of ANC. Mr. Chairman, I do have one
15 preliminary matter, if you would indulge me for one minute.

16 BZA CHAIR HILL: Sure, go ahead.

17 MR. ECKENWILER: I wanted to make the Board aware
18 that one of the co-owners of the abutting property at 624 I
19 Street -- that's Ms. Hagen -- has been waiting patiently all
20 morning, and I understand it's not your fault.

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1 But she now has a conflict. She had a pre-
2 existing obligation from 12:15 until 1:30. And I know that
3 she is eager to testify, so I'm also aware the Board is
4 trying to juggle other considerations -- Commissioner
5 Shapiro's time, Ms. Moldenhauer's time.

6 But if the Board were to take a lunch break now
7 or perhaps take another case and then go to lunch and come
8 back and take up this case, that would afford Ms. Hagen an
9 opportunity to testify.

10 BZA CHAIR HILL: Is Ms. Hagen gone?

11 MR. ECKENWILER: Her obligation began at 12:15 so
12 she is tied up with something else right now. I don't know
13 if she's still in the room or not. But she's advised me that
14 she'll be available --

15 BZA CHAIR HILL: Is Ms. Hagen --

16 MR. ECKENWILER: -- again.

17 BZA CHAIR HILL: I understand, Commissioner. Give
18 me one second. Is Ms. Hagen there, Mr. Young?

19 MR. YOUNG: She is not.

20 BZA CHAIR HILL: Okay. I guess, Mr. Eckenwiler,
21 let's see where we get because Commissioner Shapiro has to
22 go at 1:30. Commissioner Shapiro?

23 COMMISSIONER SHAPIRO: For what it's worth, if we
24 were to take this up at 2 o'clock, that would work for me.

25 BZA CHAIR HILL: Okay, I'm just trying to figure

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1 this out. I'm sure you guys heard the last one. Ms.
2 Moldenhauer, what is your day looking like?

3 MS. MOLDENHAUER: We obviously would be willing
4 to try to accommodate neighbors and the ANC in this request.
5 I'm just emailing with or texting with my client to try to
6 find out that answer as well.

7 I know that there were other individuals from the
8 community that were planning on testifying during public
9 comment, but I don't know if this would impact them as well
10 because they've been following the schedule.

11 BZA CHAIR HILL: Yeah, it's impact -- Commissioner
12 Eckenwiler, I appreciate this. We'll figure out how to
13 accommodate Ms. Hagen's testimony either in writing or we'll
14 try to come back and figure it out since everybody's here.

15 Commissioner Eckenwiler, I got to say, you also
16 have a very difficult job, you know, as an ANC and I also
17 empathize with your job. So let's see, okay, Ms.
18 Moldenhauer, what I'd like to do is, if you can go ahead and
19 let us know what happened since the last time you were here.

20 And then I know that you have a PowerPoint and
21 then also, I suppose, if, when you are going through your
22 PowerPoint, there are some conditions that you seem to
23 propose that you thought might be able to mitigate some of
24 the issues.

25 And I suppose if you could also highlight those

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1 during your presentation, that would be helpful. I'm going
2 to go ahead and put 15 minutes on the clock just so I know
3 where we are, and you can begin whenever you like.

4 PRESENTATION - Square 134 Architects

5 MS. MOLDENHAUER: Thank you, Chairman Hill. I'll
6 first start off, as you asked for a brief background and we
7 have, as you said, a short presentation.

8 This case was first filed on March 13th, 2020, a
9 year and eight months ago. The case was actually filed two
10 days after the mayor issued its first declaration for a
11 public health emergency due to COVID on March 11th.

12 The initial hearing was scheduled on October 2020,
13 seven months after the initial filing due to the pandemic.
14 The applicant at that time presented to the ANC and the PDE
15 committee and was optimistic that a compromise and mitigation
16 could get the ANC onboard.

17 The applicant requested a postponement and engaged
18 an extensive outreach including holding Zoom meetings,
19 meeting one-on-one with neighbors given the pandemic and
20 received letters of support that are in the record.

21 They modified the facade three times and then set
22 back the facade based on comments from the ANC. Despite
23 these efforts, the applicant received an opposition letter
24 from the ANC and then presented to the Board in October 2020.

25 At that time, the applicant included a variance

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1 request from the 900-square foot requirement. The Board
2 expressed concerns over the variance relief during that
3 hearing but generally seemed supportive of the special
4 exception relief.

5 Thus, the applicant requested a postponement to
6 engage with the neighbor, Ms. Robinson, to acquire 15 square
7 feet for the deficient portion of the property to then remove
8 the variance.

9 The applicant acted in good faith in negotiating
10 with Ms. Robinson, presented improvements, terms, conditions
11 for the purchase of the 15 square feet and also requested two
12 postponements due to the neighbor's need for more time to
13 sign the agreement after she expressed that she got COVID and
14 was sick.

15 Despite the applicant delay of these cases, it
16 took another five months. The neighbor became unresponsive
17 and eventually did not agree to reach an agreement even after
18 verbally agreeing to terms and having terms drafted and
19 presented by the attorney.

20 These delays were caused in good faith and every
21 attempt to try to come to an agreement and reach a compromise
22 with the neighbors. In early June of 2021, we returned to
23 this Board for a second hearing now removing the variance and
24 providing additional conditions and proffers that we'll talk
25 about later.

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1 But no hearing occurred because the case was
2 postponed due to late comments from both abutting neighbors,
3 Ms. Robinson and Ms. Hagen. The Board asked for an updated
4 shadow study which the applicant promptly filed in June of --
5 on June 30th.

6 Now, in early August, the Board heard the full
7 case. The Board asked for additional supplemental material
8 and expressed concerns over the height of the rear addition.

9 The applicant, in connection with filing the
10 supplemental material requested by the Board also requested
11 to reopen the record and substantially change the project,
12 removing a full floor off the rear addition.

13 The ANC objected to the filing of the revised
14 plans without an ANC meeting. The Board then accepted the
15 new plans and postponed the case for 30 days to allow for ANC
16 review.

17 The ANC then asked for a two-month postponement
18 due to their full docket and the applicant respectfully
19 requested that. The applicant then presented the new and
20 revised plans to the ANC and the ANC subcommittee.

21 Unfortunately, as you'll hear from Commissioner
22 Eckenwiler, they returned a resolution in opposition of the
23 current proposed project. I'll know ask if Mr. Young can
24 pull up the presentation.

25 But we believe that -- and we are grateful that

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1 the Board is hearing the cases today. We believe that, based
2 on the history here, you can see the applicant has worked and
3 has had good faith efforts.

4 These delays have been attempts to work with the
5 ANC and work with the community. Next slide. As discussed
6 earlier, the project's been reduced and the rear yard
7 addition is now only a two-story structure.

8 The project has gone from five units to three
9 units. We have removed the variance request and removed the
10 waiver for the alteration of the rooftop element and only are
11 asking now for two Special Exception reliefs: Special
12 Exception to convert and the Special Exception to extend 10
13 feet past the adjacent property. Next slide.

14 Here is a picture of the existing condition of the
15 property. You can see, on the right-hand side, the large
16 size of the rear addition along with the trees and the
17 foliage that we'll discuss later. These trees will be
18 removed in connection with construction, but you can see that
19 they already create a large amount of shadow. Next slide.

20 Here you can see the proposed addition and
21 proposed project. The proposed structure, as you can see
22 within the dimension here, is 39 feet, four and three-fourths
23 inches separated from 620 I Street, Ms. Robinson's property.

24 Thirty-nine feet of separation is more than
25 substantial to create no adverse impact. In fact, if you had

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1 two buildings that are located on a parallel street with no
2 alley and complied with the RF 20-foot rear yard requirement,
3 those homes would be separated by 40 feet. This project is
4 only 7 and one-fourth inches less than that requirement.

5 Additionally, based on the contextual studies of
6 the neighborhood, including images here, looking at Point 2
7 of the rear of 610 H Street, which is The Apollo, which has
8 a smaller separation, along with other images that are in the
9 record at Exhibit 100(b)(1), this is consistent with the
10 character and this distance is quite substantial. Next
11 slide.

12 Here is I Street. The property is about halfway
13 down at that second tree on the left. As you can see, I
14 Street has a unique character with the rear of The Apollo
15 that fronts on A Street. That's the Whole Foods.

16 And then, you can see, on the left, images of the
17 second -- third-story additions along the property consistent
18 with the project which were to be set back. Next slide.

19 Here is an image of the existing alley. The
20 proposed project is not shown in this picture but would be
21 located behind that second alley structure that's in gray,
22 which 621 (sic) I Street. This alley has 20 alley structures
23 located on it.

24 BZA CHAIR HILL: You said -- you said 628 I
25 Street. Is that correct?

1 MS. MOLDENHAUER: No, sorry, it would be located
2 behind the 624 I Street building which exists today.

3 BZA CHAIR HILL: Oh, okay.

4 MS. MOLDENHAUER: It's actually -- our proposal's
5 where all those trees are, depending -- it looks like one of
6 those, if you pour the water and the hair grows, that's
7 pretty much where our project is.

8 And so this alley has 20 alley structures. Six
9 of those alley structures are two-story structures, similar
10 to what is being proposed today. Next slide.

11 Letters of support from abutting property owner --
12 individuals in the neighborhood. Next slide.

13 We've already talked about this, kind of the
14 multiple changes from the front facade now setting back three
15 feet and removing the need for relief here. Next slide.

16 The existing proposed structure and this is just
17 a site plan. There will be one unit in the front portion of
18 the structure and then two units in the rear portion of the
19 structure that would both be large family-size units. Next
20 slide.

21 Here you can see on the top image, the top image
22 is the prior proposal with the three-structure we had at one
23 point during kind of the discussion and the modification of
24 the project set back, that third floor. You can see on the
25 bottom image that we've completely removed that third floor

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1 altogether. Next slide.

2 Here you can see the two-story portion of the
3 structure along with the meaningful connection and some of
4 the mitigation elements that Chairman Hill asked to point
5 out. These are some of the privacy mitigation, and you can
6 see there is screening by any of the windows that would both
7 protect and provide privacy for both 622 I and 624 I.

8 But importantly, I want to note here is the height
9 of the structure. The height of the structure, now that it's
10 only a two-story, is at 21 feet, 2-3/8 inches. Under
11 Subtitle E-5002.1, and accessory building in an RF may be two
12 stories and 22 feet in height. And under Subtitle E-5100.1,
13 an alley structure may be 20 feet and two-stories.

14 The applicant removed the third floor and the
15 addition is now 21 feet, 2-3/8 inches, which is consistent
16 with an accessory building for height and only one foot and
17 2-3/8 inches taller than that which would be permitted for
18 an alley structure. Next slide.

19 Here on the top you can see a contextual image of
20 the alley adding in the proposed project. The top image is
21 the prior massing of a third-story structure. On the bottom
22 you can now see it barely pops up a little bit over 624 I
23 Street, and it's obviously much shorter than 628 I which is
24 the other larger alley structure in the foreground of this
25 image. Next slide.

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1 COMMISSIONER SHAPIRO: Mr. Chair?

2 BZA CHAIR HILL: Yes, Mr. Shapiro?

3 COMMISSIONER SHAPIRO: Can I just ask Ms.
4 Moldenhauer to -- because this -- I'm just -- I'm confused
5 by this. I'm confused on what perspective we're looking at
6 here. If it's -- if I can indulge you, Mr. Chair, just ask
7 her to explain this just a little bit more what we're --

8 MS. MOLDENHAUER: Sure. Sorry, can Mr. Young go
9 up to the existing alley picture? And then we're going to
10 just toggle back. I think this helps because they're both
11 the same image. Toggle up more. I think it's maybe -- up.
12 Up. Up. Up. Okay.

13 So the image that you were seeing is the same
14 vantage point as this picture is today. So 628 I is a
15 condominium that's existing today. 624 I is existing today.
16 And the, as I said, kind of the hair, is where our building
17 is.

18 So now this is of the image. If we go back down
19 to image, I think Slide 11, Mr. Young, please -- Slide 12
20 actually, sorry. Okay, so same vantage point. So you have
21 in the -- closest to us is 628 I. Then you have 624.

22 And on the upper image you see the three-story
23 structure where it's popping out a full height above 124 I.
24 But now in the new proposed building, you can barely see it.
25 It's just that sliver that's right above the two-story garage

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1 structure at 624 I Street.

2 COMMISSIONER SHAPIRO: Thank you, Ms. Moldenhauer.
3 Mr. Chair, that's what I was looking for. Thank you.

4 MS. MOLDENHAUER: Next slide. So these are some
5 of the proffered conditions that are specifically outlined
6 and described in words later on in the presentation.

7 But just to kind of walk through what these
8 include, in addition to the privacy screening that I showed
9 in the facade rendering that would be on the windows, it also
10 proffered to plant, as you can see here in this triangular
11 portion of the lot, to plant trees that would create a
12 buffer.

13 In this 39-foot depth, obviously, this would be
14 on our property to create some foliage and some separation
15 from 620 I and the proposed project.

16 In addition to that, we proposed to provide like
17 a wooden trellis that would allow for vegetation to green on
18 the lower portions and sometimes individuals discussed the
19 tree provides a canopy, but it doesn't obviously create the
20 same kind of greenage or foliage on the lower level or kind
21 of the eye visibility point.

22 So we've proposed both along with an anti-glare
23 film. This was brought up, I think, at the very, very
24 beginning of the case a year and eight months ago, maybe not
25 that far ago, about potential glare that would be created by

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1 the windows, creating a heat impact on 620 I and 624.

2 And so we proffered an anti-glare film that would
3 reduce that aspect. Next slide.

4 So we are here today on just, on two special
5 exception reliefs. Special exception for an apartment
6 building to convert to a three-unit building. In a normal
7 three-unit conversion, you would only require 2,700 square
8 feet of lot area.

9 The project that we are talking about today has
10 4,484 square feet. So it is more than sufficient to house
11 the proposed three units and we believe that it meets the
12 Special Exception standards.

13 In addition to that, there is the special
14 exception to extend more than ten feet past the adjoining
15 property owner. This has been modified. In the past, this
16 was a waiver of one we originally filed for, but now it is
17 specifically under the Special Exceptions standards which I
18 think provides some clarity to the Board to assist in
19 understanding what the standard is. And we believe we
20 satisfy that. Next slide.

21 So there's a Special Exception standard now for
22 both the conversion and the 10-foot relief is that it is in
23 harmony with the purpose and intent of the zoning
24 regulations. The Office of Planning report, in all three of
25 their reports, was supportive of the Special Exception

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1 standard.

2 This property is a large property that is adjacent
3 to the H Street corridor and, as shown, it's consistent. The
4 proposed development is consistent with those projects around
5 it and other additions on the third floor in the front on I
6 Street which has been set back as well as the proposal for
7 the separation of other properties in the Square and in the
8 community.

9 In addition, it is directly across from a 430-unit
10 apartment building and the large alley network of multiple
11 alley structures. As I said, there are over 20 alley
12 structures and six at least have two-story structures. With
13 the reduction in the height, it is now consistent with the
14 overall appearance of the alley in that proposal.

15 We have letters of support from individuals in the
16 community that, in their opinion, believe this is consistent
17 with the community and the alley that they live on. Next
18 slide.

19 No adverse impact to surrounding properties. We
20 believe that the reduction of the two-story structure has
21 reduced and created no additional adverse impact. The
22 project does comply with the height, yard and lot occupancy
23 standards for all other aspects of the project.

24 Additionally, the in for the setback here of a
25 courtyard that is over 39 feet from the neighbor at 621 I

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1 provides a substantial amount of distance between the rear
2 of their property and this proposed property.

3 In addition to that, there are mitigating factors
4 that we're proposing including the -- I'll go into it -- the
5 planting of trees, the vegetation and additional requirement.

6 There are no eastern facing walls and there is
7 proffers that we'll address for 624 I Street that would
8 create no adverse impact for 624. In addition to that, there
9 was a shadow study of it that is in the record at 125 A
10 Street which showed that there is minimal impact from the
11 project as compared to a by-right structure.

12 And in addition, when it's compared to the
13 existing foliage, as we showed kind of this larger trees that
14 would be removed, the actually comparison between the
15 existing shadows created by the trees would obviously then
16 end up creating kind of like a minor to no adverse impact by
17 the shadow. Next slide.

18 So we have worked extensively to try and address
19 items that are in the record that have identified concerns
20 from abutting neighbors. And this is a list of proffers that
21 we proposed and we still propose in our -- in the OP report.

22 One, the existing fence along the shared property
23 line, a lot line, with 624 I Street shall not be altered or
24 removed by the applicant except by written agreement of the
25 owners. This is indicated and obviously we would work with

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1 the owners to coordinate any improvements of that fence if
2 necessary.

3 The applicant shall construct a new fence along
4 the shared lot line with the neighboring property at 620 I
5 and 616 I Street. The fence shall have a wood material and
6 shall be no less than six-feet in height and shall be
7 installed no later than the date of the Certificate of
8 Occupancy.

9 The applicant shall plant either evergreen hedges
10 or canopy trees adjacent to the northern lot line of 620 I
11 Street. The trees shall have no less than six feet in height
12 and shall be planted no later than the Certificate of
13 Occupancy date.

14 Again, trying to provide buffering for both 620,
15 it's identifying that location but that buffering as they
16 would provide trees and a canopy for both 620 and 624.

17 The applicant shall construct a wooden trellis
18 adjacent to northern lot line of 620 I. Wooden trellis shall
19 be installed no later than the date of the Certificate of
20 Occupancy.

21 In regard to concerns of privacy by 624 I, we've
22 included that the applicant shall not construct any Juliet
23 balconies facing the interior courtyard as depicted in the
24 specific sheet on Exhibit 100(b)(2) and that the applicant
25 shall install antiglare film on all windows facing the

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1 interior court as described at SD1.11 at Exhibit 100(b)(1).

2 So based on the above, we are available for
3 questioning but we believe that we satisfy the Special
4 Exception criteria and we believe that the conditions we
5 proposed more than adequately mitigate or address any
6 concerns that have been raised.

7 BZA CHAIR HILL: Okay, thanks Ms. Moldenhauer.
8 I looked through all your proposed conditions. Were they --
9 which exhibit are they in?

10 MS. MOLDENHAUER: I know they're in the OP
11 exhibits. I know that they're in one of our exhibits to be
12 -- let me -- I'll get back with you on that. One moment.

13 BZA CHAIR HILL: Okay, thank you. All right, does
14 the Board have any questions for the applicant?

15 MS. NAGELHOUT: Mr. Chair, it was Exhibit 107.

16 BZA CHAIR HILL: Oh, thanks so much, Ms.
17 Nagelhout.

18 MEMBER SMITH: Okay, this is --

19 BZA CHAIR HILL: Okay, sure. All right, Mr.
20 Smith.

21 MEMBER SMITH: Ms. Moldenhauer, on your Slide 11,
22 I was just interested in the treatment on the windows at the
23 second floor. It looks like some kind of trellis-like
24 structure. Is that the anti-glare screening that you're
25 referencing?

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1 Or is it some kind of -- just a different type of
2 design or treatment that you're just doing on the windows?

3 BZA CHAIR HILL: I'll actually let Ms. Rottman,
4 who's the project architect, describe that since they can do
5 a much better job than I will.

6 MEMBER SMITH: Okay.

7 MS. ROTTMAN: Sure thing. Thank you, and Ms.
8 Moldenhauer. There is actually two different conditions.
9 We were proposing to put a screening element to increase
10 privacy and the level of, I guess, transparency of the window
11 itself where those screens could slide in and out.

12 And we also found a transparent film that can be
13 applied to the exterior of the window that reduces the
14 transfer of glare when the sun hits the window itself. So
15 we were intending to do both of those elements. But they're
16 two separate elements.

17 MEMBER SMITH: Okay, so the first element can
18 move? Is that what you're saying?

19 MS. ROTTMAN: There are movable louvers. I don't
20 know if you have access to architectural presentation, but
21 if you were to go to Page 7 in whatever was the latest
22 architectural presentation we submitted or if I could share
23 my screen real quick I could just pull it up that way.

24 BZA CHAIR HILL: Yeah, you can't share your
25 screen, I'm afraid.

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1 MS. ROTTMAN: Okay. Those louvers are essentially
2 on a track where they could slide in front of the window to
3 increase level of privacy.

4 BZA CHAIR HILL: Do you know which exhibit you
5 might be speaking to?

6 MEMBER SMITH: It's 119 (b), not sure if it's (1)
7 or (2).

8 VICE CHAIRPERSON JOHN: 119(b)(1) or the one after
9 that.

10 MS. ROTTMAN: I'll get that. I'll log into the
11 record right now.

12 MS. MOLDENHAUER: I'm pulling it right now and
13 I'll give Mr. Young, I think, a --

14 VICE CHAIRPERSON JOHN: It's 119 --

15 MS. MOLDENHAUER: Member John is correct, yeah.

16 MEMBER SMITH: It's (1) -- (b)(1), SD1.2?

17 MS. ROTTMAN: SD1.6 is the one I'm looking at
18 where it says screening, solar glare is removable on a sheet.

19 MS. MOLDENHAUER: Yes, if Mr. Young could -- I
20 don't know if he can -- bring up Exhibit 100(b)(1) and go to
21 Page 12 we could all look at it together.

22 MEMBER SMITH: Okay, so I think get the gist of
23 this one. Where you conditioning that as part of Condition
24 6? That seems to just relate to the film.

25 MS. MOLDENHAUER: We're happy to modify that. I

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1 think, again, this might have just been kind of the timing
2 of when this was provided. But obviously, this is -- these
3 images are part of the renderings. There is a last set of
4 plans.

5 So the plans we also included when the Board asked
6 us to supplement the record, we actually starting showing
7 these on the plans as well. So this is part of the last plan
8 set. But we're happy to do either. Either one. It can be
9 referenced to the plan set or it can be referenced through
10 a modification of the wording and the condition.

11 MEMBER SMITH: Well, I can see it in the plan set.
12 That's fine. If we can -- if you're open to a condition that
13 would, you know, harks back or points to that, to this with
14 the plans, I mean --

15 MS. MOLDENHAUER: Yes, that's the intention. So
16 we would be open to that condition.

17 MEMBER SMITH: Okay. Thank you.

18 BZA CHAIR HILL: And just so I'm clear, the -- Ms.
19 Rottman, if you move the louver, that's where the anti-glare
20 stuff is on the window, right?

21 MS. ROTTMAN: Yes, the anti-glare stuff is on the
22 window itself. The company that we found that offered it is
23 this company called LINTEC.

24 BZA CHAIR HILL: Okay, you can still see through
25 the window. It's just anti-glare?

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1 MS. ROTTMAN: Correct. It's just a coating or a
2 film that gets applied to the glazing itself.

3 BZA CHAIR HILL: Got it.

4 MS. ROTTMAN: So you can still be able to see
5 through the window, but the sun, as it hits that reflective
6 surface, would not bounce off with the same level of
7 brightness or glare into somebody's eyes.

8 BZA CHAIR HILL: Got it. Mr. Smith, does that
9 answer your question?

10 (No audible response.)

11 BZA CHAIR HILL: Okay, anyone else? Okay,
12 Commissioner Eckenwiler?

13 MR. ECKENWILER: Yes, Mr. Chairman.

14 BZA CHAIR HILL: Can you hear me?

15 MR. ECKENWILER: Yes, I can. Can you hear me?

16 BZA CHAIR HILL: Yeah, Commissioner Eckenwiler,
17 do you want to trade jobs every now and again?

18 MR. ECKENWILER: I'm going to take the fifth on
19 that one, Mr. Chairman.

20 BZA CHAIR HILL: Okay. All right, Commissioner
21 Eckenwiler, can you please give your testimony?

22 TESTIMONY - COMMISSIONER ECKENWILER

23 MR. ECKENWILER: Sure, Mr. Chairman. The ANC
24 voted again last week to oppose this application. The chief
25 ground is that, in our view, this project would still have

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1 a substantially adverse effect on the privacy of the adjacent
2 dwellings, contrary to the requirements of Section E-
3 5201.4(b).

4 The applicants own drawings make clear that the
5 views from the upper story of that rear addition would not
6 be adequately screened by the proposed fence or foliage.

7 You can see it at Exhibit 119 (b)(2), Sheet SD3.7
8 for a clear depiction that the screening has no impact with
9 respect to the second story.

10 And the other point that I would make, you know,
11 the applicant has placed this heavy emphasis, both in its
12 written submissions and presentations to ANC and now to the
13 Board on the volume of letters of support. We did not find
14 those persuasive for a number of reasons.

15 One, most of those properties are nowhere near the
16 zone of impact to formulate letters. And as I pointed out
17 at the last hearing, many of those letters are in fact --
18 they simply make factually false assertions.

19 So if you look, for instance, at Exhibit 57, the
20 letter says, the only portion of the addition -- I'm adding
21 the addition there -- which extends passed ten feet is the
22 one-story hallway. So it literally describes something that
23 is not this plan, which is a one-story hallway within a
24 multi-story, rear addition topic.

25 So whoever signed this version of the support

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1 letter either didn't bother to read it or didn't understand
2 that this did not conform to any version of the plans for
3 this project.

4 And for that reason, we afforded no weight to
5 these letters contrasted with the testimony and written
6 filings you have from the owners of both 620 and 624 I Street
7 in opposition. And I'll just note that there are some recent
8 filings. Those are at Exhibits 128 through 130. Also in
9 opposition, a memo from 628 I Street.

10 So that's all I have. I'm happy to answer any
11 questions for the Board.

12 BZA CHAIR HILL: Okay, thanks, Commissioner.
13 Commissioner, what do you think the ANC would have liked to
14 have seen different?

15 MR. ECKENWILER: I anticipated you were going to
16 ask me that question, Mr. Chairman. And I suppose I'd say
17 we take these as they come to us. It's not our job to
18 propose a project.

19 I will say that this -- we always use this as kind
20 of a Frankenstein monster of a project, you know, putting
21 together two lots and creating this really odd structure with
22 this extremely long connecting corridor.

23 But as I said, I believe this was at the July
24 hearing, you know, we have had some conversations about, you
25 know, what the alternatives might be like, but the ANC has

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1 not taken any position on what affirmatively we want on this
2 site. That's just not what was before us and so we didn't
3 go down that road.

4 BZA CHAIR HILL: Okay, thanks, Commissioner.
5 Commissioner Shapiro?

6 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.
7 Commissioner Eckenwiler, if you -- I don't -- it's maybe like
8 Chairman Hill's question, maybe harder to answer with a whole
9 lot of specificity.

10 But are you -- what percentage of your concern is
11 around the nature of this project and the impact on the
12 adjacent neighbors -- because you get how matter-of-right is
13 versus a project like this? And what -- how much of your
14 concern is around the precedent that this might set?

15 MR. ECKENWILER: In all honesty, Commissioner, I
16 think it's really hard to quantify. They're certainly both
17 factors in the thinking and in the discussions that we've
18 had.

19 COMMISSIONER SHAPIRO: Okay. All right, that's
20 I had, Mr. Chair. Thank you, Commissioner.

21 BZA CHAIR HILL: Anyone else for the Commissioner
22 or the applicant? Ms. John?

23 VICE CHAIRPERSON JOHN: I have a question for the
24 applicant. And, Ms. Moldenhauer, what are you referring to
25 as your matter-of-right option? And do you have a rendering

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1 or an image or a slide that shows what that might be?

2 And then you -- I'm sure you have it, but is there
3 a rendering of the rear of the project?

4 MS. MOLDENHAUER: Yes, so we did file a precedent
5 for the matter-of-right structure and, you know, focusing
6 obviously mostly on -- I'm trying to pull up the exhibit.

7 So if you -- I don't know again if -- if we're
8 looking at now Exhibit 119(b)(2). And if you go to Sheet
9 SD4.1, which is PDF 10 out of 17.

10 VICE CHAIRPERSON JOHN: Hold on.

11 MS. MOLDENHAUER: I'll wait a second for anybody
12 in the public or --

13 VICE CHAIRPERSON JOHN: Yeah, SD4.1?

14 MS. MOLDENHAUER: Yes.

15 VICE CHAIRPERSON JOHN: Yeah, it's --

16 MS. MOLDENHAUER: It's PDF Page 10 of 17.

17 VICE CHAIRPERSON JOHN: Yeah, okay. So I guess
18 what would be more useful to me would be -- let's see --
19 SD4.2, that's the front. So the front of the matter-of-
20 right, okay. So can you talk about that a little bit?

21 MS. MOLDENHAUER: So if you're looking at SD4.2 --

22 BZA CHAIR HILL: Mr. Young, can you pull it up
23 because I'm trying to find where we are. Which exhibit --

24 MS. MOLDENHAUER: Exhibit 119(b)(2).

25 BZA CHAIR HILL: 119(b)(2). And then which slide?

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1 MS. MOLDENHAUER: We can start off with, I think,
2 slide SD4.3 which is Slide 12, actually. That's the rear
3 because Board Member John was asking about the rear.

4 VICE CHAIRPERSON JOHN: Okay. So while you're
5 waiting to put it up, so the rear --

6 MS. MOLDENHAUER: So what --

7 VICE CHAIRPERSON JOHN: Go ahead.

8 MS. MOLDENHAUER: Oh, so what we're showing on the
9 right is a matter-of-right structure on the alley lot. An
10 alley lot of this size can have a lot occupancy up to 90
11 percent and they also only require a setback of five feet
12 from a street-facing lot.

13 So we're showing a 5-foot setback from either side
14 and a 5-foot setback towards I Street and then showing it at
15 the permitted height for an alley structure.

16 VICE CHAIRPERSON JOHN: Okay, so this would be,
17 if you were to subdivide the lot, right?

18 MS. MOLDENHAUER: If you were to keep the alley
19 lot as an alley lot.

20 BZA CHAIR HILL: And so what would you do in that
21 building, Ms. Moldenhauer?

22 MS. MOLDENHAUER: Under the zoning regulations,
23 permitted usage would include agricultural, both residential
24 and large, either a large greenhouse or for other types of
25 agricultural growing uses permitted by right as well as an

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1 artist's studio would be permitted by right in a structure
2 of this size.

3 VICE CHAIRPERSON JOHN: So you would have two
4 units in the front? I've forgotten whether or not you said
5 this lot is already subdivided. Is it a separate lot?

6 MS. MOLDENHAUER: Based on the zoning regulations
7 and -- sorry, those from the zoning map and what was filed,
8 it's two lots.

9 VICE CHAIRPERSON JOHN: Okay.

10 MS. MOLDENHAUER: And so once we originally filed
11 it. And I don't --

12 VICE CHAIRPERSON JOHN: Okay, so now it's two lots
13 and you're proposing to combine them into one lot and --
14 okay. So you're saying if it remained as a separate lot, you
15 could build this structure?

16 MS. MOLDENHAUER: Correct. Or if it remained as
17 two separate lots, what would we do, what could be done? And
18 we're not doing that because we're here. We've been here for
19 a long time, you know, and so it's always kind of funny, when
20 we have to do these like hypothetical situations if no one's,
21 you know.

22 But again, as the zoning regulations show, compare
23 what can be done by right. And I think we're focused on the
24 shadow that could be cast by the rear structure. You know,
25 we're not as concerned about the front structure.

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1 The ANC and Mr. Eckenwiler talked mostly about the
2 connection and the rear structure, so we're talking about the
3 rear structure. And, you know, if this was a, you know,
4 again, by-right-permitted structure here, it could be --
5 sorry, be built to a height and alley structure of 20 feet.

6 The proposal is one-foot 2-3/8 inches taller than
7 that based on the height measurements per the rear addition.
8 And so the shadow studies, if we scroll down, the shadow
9 studies then show -- and I have -- there was actually another
10 shadow study which we put a different color in so it could
11 be a little bit easier to read.

12 But the shadow studies I think are easier to read
13 are 125(a). I apologize, but those views just -- we changed
14 the color in them because I think some of the board members
15 were -- if we open up the shadow studies at Exhibit 125(a),
16 that's just the shadow studies. I'll give everybody a moment
17 to pull up 125(a).

18 And what we show is in the red with the gray is
19 the proposed project, and then as a matter-of-right. And
20 then in the gray with the red is -- what's beyond with the
21 red slashed is the shadow beyond what would be permitted by
22 a by-right scenario.

23 And then what's in the green is the reduced shadow
24 from a by-right scenario to what we're proposing. So green
25 is actually a reduction of shadow. And the slashed red is

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1 the increase in shadow.

2 And so you can see that there is a minor amount
3 of shadow being caste by the proposed project, mostly in the
4 middle of the day in June and September. But if you go down
5 to the very last image here, which is Slide 5 of 5 at Exhibit
6 125(a), as we talked about the crazy hair that the building
7 is with all these trees right now, the very large rear lot.

8 And it currently has a lot of kind of unruly trees
9 that are going to be removed with the proposal. Those trees
10 caste the shadow that you can see at the bottom here. And
11 this proposal in, I think, a general sense here, a net zero
12 in regard to adverse impact when you're comparing the
13 existing shadow cast by the trees when looking at, then, the
14 proposed structure.

15 I hope that answers your question, Board Member
16 John. I'm happy to answer anything else if I didn't address
17 everything.

18 VICE CHAIRPERSON JOHN: That was helpful, thank
19 you.

20 BZA CHAIR HILL: Okay, anyone else for the
21 applicant? Commissioner Eckenwiler, do you have any
22 questions for the applicant?

23 MR. ECKENWILER: I do not, Mr. Chairman.

24 BZA CHAIR HILL: Okay. I'm going to turn it to
25 the Office of Zoning.

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1 MR. JESICK: Good morning, Mr. Chairman. You said
2 Office of Zoning. I assumed you mean Office of Planning.

3 BZA CHAIR HILL: Oh, I'm sorry, Office of
4 Planning.

5 OFFICE OF PLANNING

6 MR. JESICK: My name is Matt Jesick. I am filling
7 in today for Brandice Elliott. And the Office of Planning
8 continues to recommend approval of this application.

9 OP reviewed the latest exhibits, primarily
10 Exhibits 119 and studied the revised shadow studied. OP
11 concluded that, while there would be some additional shadow
12 cast by the project onto nearby properties, the new shadow
13 impacts would not rise to the level of an undue impact.

14 Therefore, OP continues to recommend approval as
15 we feel that the project meets the relevant criteria. OP
16 also supports the conditions of approval that were proposed
17 by the applicant. And we would also be supportive of the
18 amendment proposed by Board Member Smith to incorporate the
19 louver structures on the windows for the second floor of the
20 rear structure.

21 I'd be happy to try and answer any questions for
22 you. Thank you.

23 BZA CHAIR HILL: Okay, thanks. I think they were
24 already proposing it. And I think that's correct, Ms.
25 Moldenhauer. The louvers were already to be proposed. We

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1 were just clarifying that the anti-glare is behind the
2 louvers. Correct?

3 MS. MOLDENHAUER: I don't the terminology's there.
4 I think we would be adding the louvers.

5 MEMBER SMITH: It is in the graphics, but I think
6 I'll be happy if it's in there.

7 MS. MOLDENHAUER: Correct.

8 MEMBER SMITH: The conditions are the same.

9 MS. MOLDENHAUER: Yes, in terms that it's correct.

10 VICE CHAIRPERSON JOHN: That's Condition 6. What
11 am I missing? The applicant shall install anti-glare film
12 on all windows facing the interior courtyard.

13 MEMBER SMITH: That doesn't include the windows.

14 VICE CHAIRPERSON JOHN: Oh, I see.

15 MS. MOLDENHAUER: If you just added the words "and
16 louvers on the exterior of the windows as showing in the
17 plans" I think that would be fine.

18 BZA CHAIR HILL: Okay. Does anybody have any
19 questions for the Office of Planning? Does the applicant have
20 any questions for the Office of Planning?

21 MS. MOLDENHAUER: No. Thank you, Mr. Jesick, for
22 filling in today.

23 BZA CHAIR HILL: Commissioner Eckenwiler, do you
24 have any questions for the Office of Planning?

25 MR. ECKENWILER: No questions, Mr. Chair.

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1 BZA CHAIR HILL: Mr. Jesick, I hope Ms. Elliott
2 is somewhere nice. Okay, let's see. Mr. Young, who is here
3 wishing to testify?

4 MR. YOUNG: We have one witness, Alex Horowitz.

5 BZA CHAIR HILL: Okay, oh great. Okay, Mr.
6 Horowitz, can you hear me?

7 MR. HOROWITZ: Yes, I can hear you. Thank you.

8 BZA CHAIR HILL: Great. Could you please
9 introduce yourself for the record?

10 MR. HOROWITZ: Sure, my name's Alex Horowitz.

11 BZA CHAIR HILL: And where do you live, Mr.
12 Horowitz?

13 MR. HOROWITZ: I'm at 919 6th Street, NE.

14 BZA CHAIR HILL: Okay, so Mr. Horowitz as a member
15 of the public, you'll have three minutes to testify and you
16 can begin whenever you like.

17 PUBLIC TESTIMONY

18 MR. HOROWITZ: Okay, great. Thanks a lot. Well,
19 I live at 919 6th Street, NE, so just diagonally northwest
20 of the proposed project. And my wife and I bought this
21 house about ten years ago and have lived here since and have
22 seen fewer vacant home in the neighborhood since we moved in.

23 And my wife had previously rented in the
24 neighborhood around the corner also before we moved back to
25 it and then bought a home here. We have two young kids and

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1 they ride their bikes without training wheels, I may say, in
2 the alley frequently.

3 We took the training wheels off a couple weeks
4 ago, so they learned to ride, balance bikes when they were
5 two and then training wheel bikes at three and now they're
6 riding up and down the alley. And they ride with other kids
7 in the alley who live on K Street, on I Street and on 7th,
8 who all play back there.

9 And we think it would be terrific to have more
10 homes on the alley. We now have an apartment over our garage
11 facing the alley. Our tenant's lived back there for a few
12 years. She's had a good experience.

13 And there's certainly been some crime in the alley
14 since we have been here. We think it would be terrific to
15 have more housing on the alley, more eyes there. And our
16 neighborhood doesn't have enough homes.

17 Some of our friends have moved away when they've
18 had kids because they can't find three-bedroom homes in the
19 neighborhood. There aren't that many of them available.
20 We're pretty tight on supply. Everything sells real fast.
21 And so it would be great to have more homes in the
22 neighborhood, especially three-bedroom ones and especially
23 ones on the alley.

24 I think that'd be good. I'd feel better about our
25 tenant coming back late at night if there were more folks

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1 living on the alley. There are a few residences back there
2 now. And everyone I've talked to, whose kids play in the
3 alley, think it would be helpful also if we were to replace
4 vacant lots with homes and three-bedrooms at that, so that
5 there could be other kids playing back there too.

6 Our neighborhood businesses have been hard hit
7 during COVID. Having more people in the neighborhood and
8 more potential customers, think it would be a good thing,
9 help more of them survive.

10 And so, I'd be excited about having new neighbors
11 back there, especially the alley-facing homes.

12 BZA CHAIR HILL: Okay, thanks, Mr. Horowitz. So,
13 for the record, you're here in support. Correct?

14 MR. HOROWITZ: Yes.

15 BZA CHAIR HILL: Okay. All right, does the Board
16 have any questions for the witness? Does the applicant have
17 any questions for the witness?

18 MS. MOLDENHAUS: No questions, thank you.

19 BZA CHAIR HILL: Commissioner Eckenwiler, do you
20 have any questions for the witness?

21 MR. ECKENWILER: I do not, Mr. Chair. I did want
22 to alert you that the representative for 620 I Street just
23 emailed me and said he's going to try to get into the meeting
24 right now.

25 BZA CHAIR HILL: Okay. Is that the person who was

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1 unable to attend?

2 MR. ECKENWILER: No, the earlier comments I
3 offered were about Ms. Hagen that she's with 624 I Street,
4 and she's the one who's tied up till 1:30.

5 The person I just contacted by email was Ms.
6 Denika Robinson who's the authorized representative for the
7 owner of 620 I.

8 BZA CHAIR HILL: Okay. Mr. Young, do you see this
9 person's name?

10 MR. YOUNG: I do not.

11 BZA CHAIR HILL: What's the person's name again,
12 Commissioner Eckenwiler?

13 MR. ECKENWILER: It's Denika, D-E-N-I-K-A,
14 Robinson. And I emailed her probably a minute ago. She was
15 inquiring the link, so I sent her the Webex link.

16 BZA CHAIR HILL: Okay. We'll give her a minute.
17 Let me think. All right, Ms. Moldenhauer, do you have
18 anything you'd like to add at the end?

19 MS. MOLDENHAUER: No, I think that we have worked
20 hard to try and address concerns you've heard from Ms. Hagen
21 at 624 I Street as well as Ms. Robinson from 620 I Street.

22 And we believe that given that there's the special
23 exception, that the impacts here, they do not rise to a level
24 of an adverse substantial impact. And any concerns that are
25 raised by them have been substantially mitigated by the 6.A

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1 of the additions, conditions that have been proffered in the
2 record and by the reduction in the structure to now be inline
3 or more in line with obviously what would be permitted from
4 an alley or accessory dwelling structure.

5 And we believe that the proposal for three homes
6 here on this very large lot is more than adequate to satisfy
7 the special exception relief. And we hope the Board agrees
8 and would be supportive of the application.

9 BZA CHAIR HILL: Okay. Thank you. Let's see, so
10 this is what I propose to my fellow board members. It's 1:10
11 right now. Supposedly, the one more witness who is available
12 is going to be available at 1:30 and then also there seems
13 to be one more person who's trying to testify.

14 If Ms. Moldenhauer is available, I would suggest
15 we go ahead and break for lunch and come back at 1:35 and
16 then see if we can continue with this hearing. Does that
17 sound fair to the Board?

18 MEMBER SMITH: Mr. Shapiro, are you available
19 during time or are you not available until 2:00?

20 COMMISSIONER SHAPIRO: Mr. Chair, you said we're
21 going to come back at 1:35, in 25 minutes?

22 BZA CHAIR HILL: 1:35

23 COMMISSIONER SHAPIRO: For what it's worth, it
24 would be better for me if it were later, but I'm not -- I can
25 make this work. So whatever you, whatever the majority needs

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1 to do, I'll make it work.

2 BZA CHAIR HILL: How much time -- I understand.
3 How much time, will you have after -- do you have till 1:45?

4 COMMISSIONER SHAPIRO: I mean, practically
5 speaking, I'm already -- I'm here, I'm with you so I'm
6 already kind of messed up with the other thing I was supposed
7 to be doing, which I can do right now.

8 So if you ask me, what's the perfect world for me,
9 it would be to come back to you all sometime after 2 o'clock,
10 like 2:15, 2:30. That would be the best thing for me. But
11 I'm telling you, I can make anything work.

12 BZA CHAIR HILL: Okay, well, then the fact that
13 you've given me a little bit of flexibility, I'm going to
14 continue to make your life difficult then. So let's come
15 back at 1:35, okay? Let's take a quick lunch. Commissioner
16 Eckenwiler, can you hear me?

17 MR. ECKENWILER: I can, Mr. Chairman.

18 BZA CHAIR HILL: Can you try to reach out to your
19 constituent and make sure they're available at 1:35?

20 MR. ECKENWILER: I'm going to email them right
21 now.

22 BZA CHAIR HILL: Okay, great. All right,
23 everyone, we'll come back at 1:35. We're going to break for
24 lunch, okay? All right, thank you.

25 (Whereupon, the above-entitled matter went off the

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1 record at 1:12 p.m. and resumed at 1:47 p.m.)

2 BZA CHAIR HILL: My Moy, you want to call us back
3 in?

4 MR. MOY: Yes. Thank you, Mr. Chairman. The
5 Board is back in its hearing session after a quick lunch
6 break and the time is at or about 1:47. This is the returned
7 continued case, Application No. 20280 of VBS Community
8 Builders LLC.

9 BZA CHAIR HILL: Okay. Let's see if we can get
10 everybody back.

11 Ms. Moldenhauer, can you hear me?

12 MS. MOLDENHAUER: Yes, I can.

13 BZA CHAIR HILL: Okay, great. All right. So,
14 let's see.

15 Oh, Commissioner Eckenwiler, you said there was
16 two people who -- were you able to reach them?

17 MR. ECKENWILER: I emailed them at 1:12. I'm
18 going to take a look at the attendee list. I do not see Ms.
19 Robinson or Ms. Hagen. I'm just going to check my in-box
20 really quickly. I haven't heard anything back from them
21 since I emailed at 1:12.

22 BZA CHAIR HILL: Okay.

23 Commissioner Shapiro.

24 COMMISSIONER SHAPIRO: I'm sorry. At the risk of
25 continuing to be playful, are those chairs in the hearing

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1 room behind Mr. Eckenwiler? I just wanted to make sure.
2 Thank you.

3 BZA CHAIR HILL: You haven't seen that yet,
4 Commissioner Shapiro? That was a new one. I don't know
5 where you got those. Where did you get the picture,
6 Commissioner Eckenwiler?

7 MR. ECKENWILER: I spent a non-inconsiderable
8 amount of time going through video finding screen grabs that
9 I could use for the virtual background. I figured if you
10 have the dais, I can have the chairs.

11 BZA CHAIR HILL: Excellent. I love it. Very
12 good. Brings us back to old times which one day maybe we'll
13 be there again. I don't know when.

14 Let's see. Okay. Well, I don't know what to do
15 now. I mean, Mr. Moy, I guess -- I mean, the problem that
16 I'm having, Ms. Nagelhout, is like, you know, I mean, I hate
17 to leave the record open for this or postpone this
18 deliberation because when we have been in the chamber, if
19 people aren't there to testify, they are not there to
20 testify. Correct, Ms. Nagelhout?

21 MS. NAGELHOUT: I'm sorry. When people were not
22 there?

23 BZA CHAIR HILL: Yeah. Like, in other words, when
24 we would have public testimony in the hearing room, we would
25 ask if anybody has any testimony to give. If people were

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1 there, they gave testimony. If they weren't there, they
2 didn't give testimony and that is what we had one. I don't
3 really think that I want to leave the record open and delay
4 deliberations unless the Board thinks -- I'll look to my
5 fellow Board members. I mean, I'm a little confused again
6 today, you know.

7 Commissioner Shapiro.

8 COMMISSIONER SHAPIRO: I believe the person we are
9 referring to we have written testimony from.

10 BZA CHAIR HILL: Commission Eckenwiler.

11 MR. ECKENWILER: Yes, Mr. Chairman. There is a
12 letter in the record from Ms. Hagen. I want to say that's
13 maybe Exhibit 130.

14 BZA CHAIR HILL: Okay, give me a second.

15 MR. ECKENWILER: There is not anything from Ms.
16 Robinson. Yes, Exhibit 130.

17 MS. NAGELHOUT: But I believe Ms. Robinson did
18 testify earlier.

19 BZA CHAIR HILL: Oh, okay. All right. Then that
20 makes that easy. I'm looking to Ms. Hagen right now. Just
21 a second. Okay, all right. Then I'm comfortable that Ms.
22 Hagen has had her opportunity to give her testimony, as has
23 the other person so I'm not going to keep this open for those
24 public testimony items.

25 Does anybody have anything they would like to ask

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1 in conclusion of anyone? Okay. Then I'm going to go ahead
2 and close the hearing and the record. As always, good to see
3 everybody, including you, Commissioner Eckenwiler. Have a
4 nice day.

5 I'm going to put myself on un-video so I can have
6 a couple bites of my sandwich. I'm going to ask for someone
7 else to start deliberation. I'm going to pick on Mr. Smith.
8 Does everybody need a minute? Mr. Smith, are you good to
9 begin?

10 MEMBER SMITH: I'm good.

11 BZA CHAIR HILL: Okay, thanks.

12 MEMBER SMITH: We've seen this project a number
13 of times now. It's been continued a couple times. I will
14 say that this application is much improved from the original
15 application. The application that we saw originally was for
16 five units. It was for this building in the rear with a
17 connection that was three stories.

18 I'm happy to see that the applicant has done some
19 work with the Civic Association to address some of their
20 concerns with privacy, density, scale of this particular
21 project by reducing the rear addition down from three to two
22 stories to attempt to address some of the privacy concerns
23 raised by the neighbors and by the ANC and by reducing the
24 density down from five to three units.

25 Given these particular changes, and also the

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1 conditions that the applicant proposes to incorporate within
2 this special exception to further address issues of privacy
3 with the property that I believe will probably be the most
4 impacted which would be 620 by putting in not only a fence
5 but also a trellis and landscaping treatments along that
6 property line to address some of the privacy concerns with
7 that neighbor.

8 Given the design changes to this applicant, I do
9 believe that the applicant has met the burden of proof for
10 us to be able to grant a special exception for this
11 particular project. I do believe that while I understand the
12 precedent that this may set, I'm see some concern in the ANC
13 for multi-unit development embedded within this block. Not
14 only multi-unit development but one with the connection to
15 the rear apartment, the rear building facing the alley.

16 I do believe that with these changes, the alley
17 building is largely based on the designs that I've seen based
18 on the respective that I see along the alley. That building
19 is largely in keeping with the scale of a decent amount of
20 the alley structures along that alley.

21 I believe the applicant has sufficiently addressed
22 issues of adverse impact by redesigning the building and
23 incorporating the extensive list of conditions. I stand on
24 OP's staff report, their analysis of the new treatments that
25 were outlined by the applicant in their presentation. I will

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1 support the application but I would make a recommendation
2 regarding these conditions.

3 I do want to incorporate all conditions and
4 recommend modifying condition 6 recommended by the applicant
5 by including the language of louvers into that condition.
6 I would like to hear from the Board as well, but modifying
7 condition 5. Condition 5 says the applicant shall not
8 construct any Juliet balconies.

9 Considering that privacy is a major concern, I
10 would want to remove that language that says "applicant" and
11 just modify the condition to say that, "Juliet balconies
12 facing the internal courtyard shall be prohibited in
13 perpetuity. We wouldn't see a building permit come through
14 in the future for any type of Juliet balcony that may affect
15 the privacy of the adjacent property owner.

16 BZA CHAIR HILL: All right. Thanks, Mr. Smith.
17 If we do get to the point where this gets approved, and I
18 don't know yet whether we will, if you wouldn't mind reading
19 through those conditions for me when the motion is made just
20 as you just did, unless the Board objects, because I don't
21 think those were difficult.

22 Ms. John.

23 VICE CHAIRPERSON JOHN: Thank you, Mr. Chairman.
24 Mr. Smith did such a good job with his summary that I really
25 don't have a lot to say. I say this all the time and then

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1 I end up finding things to say but truly I am really pleased
2 that the applicant has reduced the massing of that building
3 on the alley. I believe the applicant's explanation of, I
4 believe, Exhibit 121 that showed what the by-right option
5 would be and what's being proposed now. It's very clarifying
6 so I'm in support of the application.

7 I'm disappointed that the ANC was not able to
8 support the application or that the neighbors are still in
9 opposition. I do note that the applicant has tried to
10 address their privacy concerns and issues regarding light and
11 air so I believe the applicant has done a good job with
12 reducing the massing and the courtyard, especially the
13 screenings. I agree with Board Member Smith that condition
14 5, if we get to that point, could be clarified.

15 I would like to hear his proposed language if we
16 get to that point because as I read condition 5, it does say
17 there will be no Juliet balconies facing the internal
18 courtyard as described in the exhibit. That is something
19 that we can talk a lot about. I think this revised proposal
20 is light years ahead of where we started. Thank you, Mr.
21 Chairman

22 BZA CHAIR HILL: Commissioner Shapiro.

23 COMMISSIONER SHAPIRO: Thank you, Mr. Chairman.
24 Similar to Vice Chair John, I don't have a lot more to say.
25 I think that my colleagues have described well and actually

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1 this is exactly where I'm coming from. I think this is a
2 better project based on all these deliberations and back and
3 forth. I don't believe that there is undue impact on light
4 and air and privacy. There is some, as there often is in
5 urban areas, so I'm comfortable with supporting this project.

6 You know, it's unfortunate for me that the
7 neighbors aren't on board and that the ANC still has lots of
8 concerns. I certainly take that into account and give that
9 great weight, the specifics of the concerns. My read on this
10 is similar to where Board Member Smith was. I appreciate
11 OP's report and it's where I'm at as well so I'll be
12 supporting this project, Mr. Chair.

13 BZA CHAIR HILL: Okay. Thank you all. I don't
14 have a lot to add. I would say that it is due to the work
15 of the ANC that these things also kind of get changed a
16 little bit or that there's this push and pull. Otherwise,
17 you know, I do think the project is a better project now than
18 it was before. The concerns that I had were really again --
19 the main concern I had really was like from 620(i).

20 That now, you know, really kind of knowing that
21 they are just a few inches short of where they might have
22 been in a different kind of development from the back of the
23 home to the other back of the home, and that the mitigating
24 conditions concerning the glazing, the landscaping, and the
25 louvers even on the window there, I do think are helpful to

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1 the point that it might even be a better project, you know,
2 in terms of what 620 is actually living with now.

3 So I did think that -- I would speak to the
4 applicant in terms of there had been in the last hearing
5 everything about trash and collecting trash and construction
6 and keeping the site clean. I hope to Chairman Hood's good
7 neighbor policy, you know, they really try to keep the site
8 clean and tidy so that this work can be done in a manner that
9 is not going to affect the community as much as just
10 construction does in general, development does in general.

11 That being the case then, I'm going to make a
12 motion and then turn to -- also they went from five to four
13 to three units, right? It slowly changed over time to the
14 point where it is not as evasive as it was in the beginning.
15 I'm going to go ahead and make a motion to approve
16 Application No. 20280 as captured and read by the secretary
17 including the conditions that Mr. Smith is going to
18 articulate.

19 MEMBER SMITH: Okay. Modifying condition 5 to
20 say, "The construction of any Juliet balcony facing the
21 internal courtyard shall be prohibited." No. 6, adding in,
22 "After shall install anti-glare film" adding in the words
23 "and louvers --

24 BZA CHAIR HILL: Okay.

25 MEMBER SMITH: -- the internal courtyard is

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1 described on Sheet SD1.11 of Exhibit 119. Those are my
2 conditions.

3 BZA CHAIR HILL: Thank you. All the conditions
4 that are existing in Exhibit 10 in addition to.

5 I would ask for a second, Ms. John.

6 VICE CHAIRPERSON JOHN: Second.

7 BZA CHAIR HILL: Motion made and seconded.

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

9 MR. MOY: When I call each of your names, if you
10 would please respond with a yes, no, or abstain to the motion
11 made by Chairman Hill to approve the application for the
12 amended relief including in the motion the six conditions for
13 the modification to No. 5 as expressed in the motion. This
14 motion to approve was seconded by Vice Chair John.

15 Zoning Commissioner Peter Shapiro.

16 COMMISSIONER SHAPIRO: I vote yes.

17 MR. MOY: Mr. Smith.

18 MEMBER SMITH: Yes.

19 MR. MOY: Vice Chair John.

20 VICE CHAIR JOHN: Yes.

21 MR. MOY: Chairman Hill.

22 BZA CHAIR HILL: Yes.

23 MR. MOY: We have a Board Member not participating
24 on this application. Staff would record the vote as 4-0-1
25 and this is on the motion by Chairman Hill to approve with

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1 the conditions as stated along with the modification of the
2 language under condition 5. The motion was seconded by Vice
3 Chair John to approve. Also in support of the motion to
4 approve is Zoning Commissioner Peter Shapiro. Again, Mr.
5 Smith, Vice Chair John, and Chairman Hill. Staff will record
6 the vote as 4-0-1. The motion carries, sir.

7 BZA CHAIR HILL: Thank you, Mr. Moy.

8 Mr. Moy, you can call our next case when you get
9 an opportunity.

10 COMMISSIONER SHAPIRO: Thank you, all.

11 BZA CHAIR HILL: Goodbye, Commissioner Shapiro.
12 Thanks for your help with the timing.

13 MR. MOY: The next application before the Board
14 is Application No. 20563 of Kilmurry, K-I-L-M-U-R-R-Y,
15 Properties, LLC. This application is for area variance from
16 the lot width requirements of Subtitle D, Section 302.1.
17 This will construct a new detached three-story principal
18 dwelling unit, R-1-B zone. The property is located at 4236
19 South Dakota Avenue, NE (Square PAR, Lot 01470197. The
20 preliminary matter here, Mr. Chairman, the applicant has
21 filed a request to postpone and continue. It is under
22 Exhibit 36 that was filed Monday, November 15th.

23 BZA CHAIR HILL: Okay, great. Thanks, Mr. Moy.

24 Mr. Sullivan, can you hear me?

25 MR. SULLIVAN: Yes. Marty Sullivan with Sullivan

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1 and Barros on behalf of the applicant.

2 BZA CHAIR HILL: Thank you. Could you tell me why
3 you need the extension or the continuance?

4 MR. SULLIVAN: Yeah, we have a negative report
5 from the Office of Planning and so we would like some more
6 time. We think there may be some things we can work out
7 either as the application currently stands or else to work
8 with some neighbors maybe to come to a different solution so
9 we wanted a chance to do that.

10 BZA CHAIR HILL: Mr. Moy, when can we come back
11 with this?

12 MR. MOY: I understand the applicant is requesting
13 a date for January 12th or a date after January 12th if it
14 accommodates the Board. Looking at the schedule, Mr.
15 Chairman, the hearing dates for January 12th and January 26th
16 are not accommodating for the Board to take this case up.
17 I would suggest for you either February 2nd where I have nine
18 applications and one expedited so February 2nd is a
19 possibility. It's probably the best because the two hearings
20 after that I've got 11 cases and then 14 cases.

21 BZA CHAIR HILL: And then you, Mr. Moy -- I mean,
22 we had basically started to send everybody back to March I
23 thought, right? The end of March?

24 MR. MOY: Yes.

25 BZA CHAIR HILL: You're saying you have nine cases

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1 now on February 2nd?

2 MR. MOY: That's right. Nine plus an expedited
3 review case. If you want to count that as a full case,
4 that's 10 cases.

5 BZA CHAIR HILL: When are we back -- what are you
6 scheduling out to right now?

7 MR. MOY: I'm scheduling out to March 9th.

8 BZA CHAIR HILL: March 9th. How many on March
9 9th?

10 MR. MOY: I was planning to put six cases on that
11 day. This could be the 7th case.

12 BZA CHAIR HILL: Okay. Mr. Sullivan, I don't know
13 how much time you may or may not need and I don't know how
14 long this hearing might go because just that you have a lot
15 of work it seems to do. I would propose March 9th for you.

16 MR. SULLIVAN: We're fine with that.

17 BZA CHAIR HILL: Okay. All right. March 9th.
18 How many cases do we have now, Mr. Moy?

19 MR. MOY: I can make this either the 6th or 7th
20 case.

21 BZA CHAIR HILL: Well, then I want it to be the
22 6th. I don't understand.

23 MR. MOY: I can do that because I'm in the midst
24 of this week --

25 BZA CHAIR HILL: Okay. Let's try --

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1 MR. MOY: -- solidifying the cases, yeah.

2 BZA CHAIR HILL: Yeah. I mean, just because we
3 can probably all survive 10 cases doesn't mean we want to get
4 to 10 cases.

5 MR. MOY: I understand. I know when I get a
6 little bit pushy, Mr. Chairman.

7 BZA CHAIR HILL: I mean, I know it's not your
8 fault. It's not our fault either but, you know, we're only
9 human. Okay. All right.

10 Okay. Then we'll see you March 9th, Mr. Sullivan.

11 MR. SULLIVAN: Thank you.

12 BZA CHAIR HILL: Okay. All right, Mr. Moy. You
13 can call the next one.

14 MR. MOY: Okay, let's see. This will be -- all
15 right. This will be case Application No. 20545 of Tressa
16 Guenov, G-U-E-N-O-V. Sorry if I'm mispronouncing that name.
17 This is an application for special exception from the rear
18 addition restrictions of Subtitle D, Section 1260.3.

19 And, of course, this is pursuant to Subtitle D,
20 Section 1206.4, Subtitle D, Section 5201, and Subtitle X,
21 Section 901.2. This would construct a third story and rear
22 addition with roof deck to an existing attached two story
23 with cellar principal dwelling unit in the R-20 zone. The
24 property is located at 3625 T Street, NW (Square 1296, Lot
25 342)

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1 Mr. Chairman, I believe there are two letters in
2 support from neighbors that was filed within our 24-hour
3 block.

4 BZA CHAIR HILL: Okay. Unless the Board has any
5 objection, I would like to go ahead and allow the neighbors'
6 letters into the record so we can have a full record we are
7 able to take a look at. If anyone has any objection, please
8 raise your hand. Seeing none, could the staff please add
9 those into the record?

10 MR. MOY: One second while I pull up the record.
11 Yes. Thank you.

12 BZA CHAIR HILL: Okay. Ms. Stuart, can you hear
13 me?

14 MS. STUART: Yes, I can.

15 BZA CHAIR HILL: Could you introduce yourself for
16 the record, please?

17 MS. STUART: Absolutely. Good afternoon. My name
18 is Elizabeth Stuart. I'm here presenting on behalf of the
19 applicant from R. Michael Group.

20 BZA CHAIR HILL: Okay. Ms. Stuart, if you want
21 to go ahead and walk us through your client's application and
22 why you believe we should grant the requested relief. I'm
23 going to give you 15 minutes on the clock so I know where we
24 are and you can begin whenever you'd like.

25 MS. STUART: Absolutely. Thank you. We do have

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1 a presentation. It's under Exhibit 39 in the case file.

2 BZA CHAIR HILL: I pulled it up.

3 MS. STUART: Perfect. Thank you. Good afternoon.
4 We're here today to discuss the property located at 3625 T
5 Street, NW. We are seeking relief from Title 11, Subtitle
6 D, Section 1206.4 proposing a rear addition greater than 10
7 feet past the adjoining neighbors. The property is located
8 on the north side of T Street, NW, between 36th Street, NW,
9 and 37th Street, NW.

10 Next slide, please. The proposed rear addition
11 extends roughly 20 feet from the farthest wall of the
12 neighbor to the west and roughly 10 feet from the farthest
13 wall of the neighbor to the east.

14 Next slide, please. These shadow studies show the
15 anticipated effect of the rear addition. The shadow study
16 on the left represents the matter-of-right solution with only
17 a 10-foot rear addition. The shadow study on the right
18 represents the proposed relief for a total of roughly a 20-
19 foot addition to the rear. The portion in red that you see
20 shown on the right side is the area of access that the shadow
21 causes from matter of right to our proposed.

22 Next slide, please. This is the winter solstice
23 again showing the same thing. The property is located on the
24 north side of the block and oriented north to south.
25 Therefore, the majority of shadows cast on the neighboring

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1 properties are limited to the morning and the evening. We
2 have received support from the Office of Planning and a
3 letter of non-opposition from the ANC which can be seen in
4 Exhibit 37.

5 Thank you for your time this afternoon and we are
6 happy to answer any questions you may have.

7 BZA CHAIR HILL: Okay. Does the Board have any
8 questions for the applicant? Okay. I'm going to turn to the
9 Office of Planning.

10 VICE CHAIRPERSON JOHN: Mr. Chairman.

11 BZA CHAIR HILL: Oh, sorry. I didn't see you, Ms.
12 John.

13 VICE CHAIRPERSON JOHN: Yes. I don't believe
14 there's a completed -- I'll come back to it, Mr. Chairman.
15 I can't find my notes.

16 BZA CHAIR HILL: Mr. Smith.

17 MEMBER SMITH: Ms. Stuart, I don't see a letter
18 in the record from 3627 T Street. Maybe I'm overlooking it
19 but have you had any conversations with them?

20 MS. STUART: Yes. So the adjacent neighbor at
21 3627 T Street has provided a letter of support. It was one
22 of those items of the preliminary matter. It was only filed
23 this morning. For the neighbor on the other side, our client
24 has had a positive conversation with them but they did not
25 provide a letter of support.

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1 MEMBER SMITH: Okay. Thank you. That's all I
2 wanted to know.

3 BZA CHAIR HILL: Thank you.

4 Can I turn to the Office of Planning, please?

5 MS. VITALE: Good afternoon, Mr. Chair, and
6 members of the Board. Elisa Vitale with the Office of
7 Planning. The Office of Planning is recommending approval
8 of the requested rear yard relief and we're happy to stand
9 on the record of the OP Report. I am available to answer any
10 questions that you might have. Thank you.

11 BZA CHAIR HILL: Thank you. Does the Board have
12 any questions for the Office of Planning?

13 Does the applicant have any questions for the
14 Office of Planning?

15 MS. STUART: We do not. Thank you.

16 BZA CHAIR HILL: Just one second.

17 Ms. Vitale, I have a question. So in terms of the
18 design, and I'm a little ignorant, like the Office of
19 Planning had no issues with the design in terms of that third
20 floor kind of bumping out forward instead of bumping out --
21 not bumping out, back. The Office of Planning was fine with
22 that addition.

23 MS. VITALE: This property is located in a zone
24 where there is not an upper floor addition. You know, review
25 criteria, whereas in some other residential zones we would

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1 review any alterations or additions that impacted a rooftop
2 architectural element. Those criteria don't apply in this
3 particular zone so we were strictly reviewing the rear yard
4 relief that would allow the applicant to extend beyond 10
5 feet past the farthest rear wall of an adjoining property.
6 Hopefully that answers your question. If I'm not addressing
7 your question --

8 BZA CHAIR HILL: No, you are. Just curious
9 because we had a case last week that was a little bit -- you
10 know, since I'm not an architect so the next door units, I
11 mean, they may or may not do similar things. Just because
12 it doesn't all line up, the Office of Planning is not
13 concerned with that type of aspects.

14 MS. VITALE: In this instance the applicant as a
15 matter of right can add that third floor on their design-
16 related criteria for the review of that. Our review focused
17 on the area of relief that was requested which was for the
18 rear yard.

19 BZA CHAIR HILL: Got it.

20 Mr. Blake.

21 MEMBER BLAKE: Yes. In terms of the street and
22 alleyscape I think you had mentioned in your report that
23 there were several other houses that had done third-floor
24 additions on the street. I didn't see anything in the record
25 that reflected a picture of that. I guess Google Earth

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1 really didn't -- was a little dated so it didn't show
2 anything as well. Are you comfortable with that aspect as
3 well?

4 MS. VITALE: Certainly there are other third-story
5 additions in this area in the Burleith neighborhood. As I
6 mentioned, you know, going up they are within the matter-of-
7 right height limit, within the matter-of-right number of
8 stories and it would not be out of character with the
9 surrounding neighborhood.

10 MEMBER BLAKE: All right. Thank you.

11 BZA CHAIR HILL: Okay. Thank you. Anyone else?

12 Mr. Young, do you have anyone here wishing to
13 speak?

14 MR. YOUNG: We do not.

15 BZA CHAIR HILL: Okay. Ms. Stuart, do you have
16 anything you'd like to add at the end?

17 VICE CHAIRPERSON JOHN: Mr. Chairman.

18 BZA CHAIR HILL: Yes.

19 VICE CHAIRPERSON JOHN: I had a question.

20 BZA CHAIR HILL: Of course. I didn't see your
21 hand. I'm sorry.

22 VICE CHAIRPERSON JOHN: Yes. I found my notes.
23 It appears that there is no structure marked on the plat,
24 either existing or proposed. That's at Exhibit 2.

25 MS. STUART: Let me pull that up real quick. That

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1 seems to be an error. It looks like this is just the plat
2 straight from the surveyors and it doesn't have the existing
3 and proposed, as you noted. We could certainly upload one
4 to the record if you'd like to include that as a provision.

5 VICE CHAIRPERSON JOHN: Okay. Could you do that
6 today?

7 MS. STUART: Yes, absolutely.

8 VICE CHAIRPERSON JOHN: Okay.

9 That's it, Mr. Chairman.

10 BZA CHAIR HILL: Okay. Thanks.

11 All right. Then I'm going to close the hearing
12 and the record except for the item that just was requested
13 by Vice Chair John. If you could please excuse everyone.

14 Okay. I did have a few questions but I didn't
15 have a whole lot of issues with this application. I would
16 agree with the analysis that the Office of Planning has
17 provided. Also I'm comfortable with how they are meeting the
18 criteria and want to grant the relief requested. I'm going
19 to be voting in favor.

20 Mr. Smith, would you like to elaborate anything?

21 MEMBER SMITH: No, I agree with your analysis of
22 the project and I would support the application.

23 BZA CHAIR HILL: Vice Chair John.

24 VICE CHAIRPERSON JOHN: I agree with your -- I'm
25 sorry. My video is off. I agree with your analysis, Mr.

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1 Chairman. This application is fairly straightforward and I
2 think the shadow study did not show substantial impact on the
3 neighboring properties so I'm going to support the
4 application.

5 BZA CHAIR HILL: Mr. Blake.

6 MEMBER BLAKE: Yes. I, too, would be comfortable
7 supporting the application and would reiterate the comments
8 made by the other members on the Board. It certainly does
9 meet the specific conditions of the 5201 and the standards
10 of X-901.2. As well, DDOT has no objections. ANC-2E, again,
11 had no comment regarding the application so I am prepared to
12 support. I note the letter of support from the adjacent
13 neighbor.

14 BZA CHAIR HILL: Thank you.

15 ZC CHAIR HOOD: Thank you, Mr. Chairman. I have
16 nothing to add. I would agree with the comments of all of
17 my colleagues, especially looking at the matter of right
18 versus what is being proposed in the shadow studies. Thank
19 you.

20 BZA CHAIR HILL: Thank you, Chairman Hood.

21 I'm going to make a motion to approve Application
22 No. 20545 as captured and read by the secretary and ask for
23 a second.

24 Ms. John.

25 VICE CHAIRPERSON JOHN: Second.

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1 BZA CHAIR HILL: Motion made and seconded.

2 Mr. Moy, if you could take a roll call, please.

3 MR. MOY: When I call each of your names, if you
4 would please respond with a yes, no, or abstain to the motion
5 made by Chairman Hill to approve the application for the
6 relief requested. The motion to approve was seconded by Vice
7 Chair John.

8 Zoning Commissioner Chair Anthony Hood.

9 ZC CHAIR HOOD: Yes.

10 MR. MOY: Mr. Smith.

11 MEMBER SMITH: Yes.

12 MR. MOY: Mr. Blake.

13 MEMBER BLAKE: Yes.

14 MR. MOY: Vice Chair John.

15 VICE CHAIR JOHN: Yes.

16 MR. MOY: Chairman Hill.

17 BZA CHAIR HILL: Yes.

18 MR. MOY: Staff would record the vote as 5-0-0 and
19 this is on the motion made by Chairman Hill to approve. The
20 motion to approve was seconded by Vice Chair John. Also in
21 support of the motion to approve is Zoning Commission Chair
22 Anthony Hood, Mr. Smith, Mr. Blake, Vice Chair John, Chairman
23 Hill. The motion carries, sir, on a vote of 5-0-0.

24 BZA CHAIR HILL: Okay, great. Thank you, Mr. Moy.

25 Feel free to call the next one when you get a chance.

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1 MR. MOY: This would be case Application No. 20546
2 of George Preston Ratliff and Alexandra Ratliff. This is an
3 application for a special exception from the lot occupancy
4 requirements, Subtitle E, Section 304.1, pursuant to Subtitle
5 E, Section 5201 and Subtitle X, Section 901.2, from the rear
6 yard requirements of Subtitle E, Section 306.1, pursuant to
7 Subtitle E, Section 5201 and Subtitle X, Section 901.2. This
8 would construct a rear addition to an existing attached two-
9 story with basement principal dwelling unit RF-1 zone. This
10 is located at -- the project is located at 2916 18th Street
11 (Square 2587, Lot 492).

12 BZA CHAIR HILL: Great. Thank you.

13 Mr. DeBear, can you hear me?

14 BZA CHAIR HILL: Would you please introduce
15 yourself for the record.

16 MR. DEBEAR: My name is Eric DeBear and I am land-
17 use counsel for the homeowners.

18 BZA CHAIR HILL: Okay, great. Who is here with
19 you today?

20 MR. RATLIFF: You've got Preston Ratliff, and my
21 wife and my Alex Ratliff as well.

22 BZA CHAIR HILL: Okay, great. Welcome, you guys.

23 MR. RATLIFF: Thank you.

24 BZA CHAIR HILL: Let's see. All right. Mr.
25 DeBear, if you want to go ahead and walk us through your

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1 client's application and how you believe they are meeting the
2 standard for us to grant the requested relief. You have 15
3 minutes on the clock there and you can begin whenever you'd
4 like.

5 MR. DEBEAR: Absolutely. If Mr. Young could just
6 pull up the PowerPoint, that would be great. This is Preston
7 and Alex's proposal for to add a rear deck on the back of
8 their single-family home.

9 Next slide, please. The property is located in
10 the R-F-1 zone, Lanier Heights, just beside the Adams Morgan
11 neighborhood.

12 Next slide, please. Just a little background on
13 the property before I turn it over to my client. You can see
14 both the front and the rear of the home on the upper right-
15 hand images there. Again, the home front is on 18th Street.

16 To the rear of the home is a 15-foot wide alley,
17 and beyond that is the Harvard Village Apartment complex
18 which actually has an open courtyard that is directly across
19 the alley from the Ratliff property. I would also note that
20 currently there is a three-foot deck on the back of their
21 property and beneath that on the ground level they use for
22 parking.

23 With that, I'll move to the next slide, Mr. Young,
24 and turn it over to my clients to talk a little bit about the
25 project and the reason for it.

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1 MR. RATLIFF: Thank you, Eric, and thank you
2 everybody for your time. My name is Preston Ratliff, as I
3 said. This is my wife Alex. We moved into the neighborhood
4 in 2019 and, as Eric indicated, our goal here is we're kind
5 of just requesting an extension of our existing deck.

6 The main reasons for that, No. 1 is kind of
7 growing family. My wife Alex is pregnant and we want to have
8 some outdoor space where our to-be-born child can kind of
9 play around. Currently all we have is our front porch which
10 is kind of opened down towards the stairs so there is no real
11 safe area for the child to play.

12 The second piece is rear access. Because the
13 current allowance is only three feet, there's no room to kind
14 of have stairs for the deck and so this new design will allow
15 us to have rear access from the parking out back up into the
16 main part of the house which will allow us to keep the
17 basement unit to have its own access, or when we have family
18 come and visit hopefully and help us with the kiddo.

19 Then the last piece is kind of one that I think
20 we undervalued or under estimated when we purchased the home
21 in 2019, which is useable outdoor space. With COVID, you
22 know, we've been at the house a lot and with the way work has
23 kind of moved and everything, we continue to spend a lot of
24 time here. We now place a ton of value on having that kind
25 of useable outdoor space which we are currently just a little

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1 bit short of.

2 So there's a few other smaller items but those are
3 kind of the main reasons that we kind of hoped to achieve a
4 larger deck size. You know, through this process -- this is
5 a new process to us that we've never been through, but it was
6 definitely an interesting and enlightening process. We went
7 through two ANC meetings which was pretty cool but,
8 ultimately through those meetings, you know, the ANC was
9 supportive.

10 We also received -- I'm sorry. Next slide,
11 please. We also received a recommendation of approval from
12 the Office of Planning. And then, lastly, we just sort of
13 spoke with our neighbors. Our focal point was our two
14 abiding neighbors. We didn't want to impact their enjoyment
15 of their home. You know, we're friends with them. We
16 printed out the plans and walked through those with both
17 abiding neighbors to the north and to the south.

18 The only request we received was to ensure their
19 privacy for the north neighbor. That's why as you'll see
20 when Eric kind of walks you through the design in the
21 exhibits we added a lattice screen to the north side because
22 we're a little bit higher than them so we're not looking down
23 into their kitchen space. We've incorporated that into the
24 design and that will be part of the construction if we are
25 able to achieve the support.

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1 We got another letter from another neighbor two
2 doors down. We're just really close with him and his wife
3 and they have a little one as well. That was kind of the
4 process to date. I would be happy to answer any questions
5 if anyone has any. Otherwise, I'll turn it back to Eric.

6 MR. DEBEAR: Thanks, Preston.

7 Paul, if you could move to the next slide. I'm
8 just going to briefly walk through the plans and then the
9 special exception standard.

10 As we've spoken about, this is the proposed site
11 plan for the rear deck addition. It's 175 square-foot deck.
12 As I'll talk about, the request is to reduce the rear yard
13 to 10-and-a-half feet and to increase the lot occupancy above
14 the 60 percent threshold but within the 70 percent special
15 exception threshold.

16 Next slide, please. Here's just an overhead
17 showing the dimension. I'll just note the two parking spaces
18 that will be located underneath the open-air deck, the ground
19 level, the staircase that Preston noted will provide access
20 on that first-floor level to their kitchen. Then there are
21 existing evergreen trees along that northern lot line in
22 addition to the proposed lattice.

23 Next slide, please. Here are just two elevations,
24 one on the left from the northern side. Again, you can see
25 the lattice. There's an existing fence as well, and then the

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1 rear elevation on the right side.

2 Next slide, please. Here is a rendering. Just
3 one thing I'll note, as Preston said, while this is a special
4 exception, there is good reason to increase the existing deck
5 which is only three feet and can't even really fit a grill
6 or, at least, comparably a grill. In addition to that, just
7 provided actual more useable outdoor space for their growing
8 family.

9 Next slide, please. As I noted, there are two
10 special exception requests; increasing the lot occupancy to
11 67.6 percent above the 60 percent maximum, and then
12 decreasing the rear yard because the deck is a structure from
13 20 feet required to the-and-a-half feet.

14 Next slide, please. We do believe the proposal
15 is harmonious with the purpose and intent of the regulations.
16 As we've discussed, it further is the single family
17 residential use of the home. With that being said, the open
18 air deck on the ground level really maintains the low-density
19 field, or lower-density field of the block. It is also a
20 consistent proposal with the nearby homes that front on 18th
21 Street, many of which do have decks.

22 Next slide, please. In terms of adverse impact,
23 we don't believe there will be any adverse impact in terms
24 of light and air. Again, primarily because this is all a
25 structure under the zoning regulations, it's not enclosed so

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1 the open-air nature of it limits any impact on light and air.
2 I would also note that the 15-foot-wide alley at the open
3 green space at the apartments across the way provide plenty
4 of open feeling around the back of the property.

5 In terms of privacy, as Preston mentioned, they
6 added the lattice while they were discussing this project
7 with the northern neighbor and, indeed, they have obtained
8 a letter of no objection from that neighbor. They have a
9 letter of support from the neighbor to the south. Both of
10 those are in the record along with one other letter of
11 support from the neighbor lots away.

12 Just one note on privacy. We do believe these
13 properties along 18th Street are relatively shallow lots that
14 are primarily used for parking in the rear so this would not
15 be a situation where the deck is overhanging primary social
16 space for some other neighboring property.

17 Next slide, please. Finally, I just want to
18 briefly walk through the special conditions. We've already
19 talked about light, air, and privacy which are (a) and (b),
20 the special conditions for lot occupancy and rear yard
21 relief. In terms of (c), that the project will not
22 substantially visually intrude on the character, skill, and
23 pattern of houses along the street, again, this obviously
24 does not impact the street frontage on 18th Street.

25 With that being said, many of the homes on this

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1 block do have decks. Again, the deck does not read as a
2 structure, as I had previously mentioned, so the visual
3 change of the existing conditions will be relatively minimal
4 and will certainly be consistent with the residential feel
5 of the neighborhood.

6 Next slide, please. With that, we're open to any
7 questions the Board might have.

8 BZA CHAIR HILL: Okay, great. Thank you, Mr.
9 DeBear.

10 Does the Board have any questions of the
11 applicant? Okay.

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

13 MR. KIRSCHENBAUM: Good afternoon, Chair Hill, and
14 members of the Board of Zoning Adjustment. I'm Jonathan
15 Kirschenbaum with the Office of Planning. We recommend
16 approval of the two special exception requests and we rest
17 on our staff report. Please let me know if you have any
18 further questions. Thank you.

19 BZA CHAIR HILL: Thank you, Mr. Kirschenbaum.

20 Does anybody have any questions for the Office of
21 Planning? Does the applicant have any questions for the
22 Office of Planning?

23 MR. DEBEAR: No.

24 BZA CHAIR HILL: Mr. Young, is there anyone here
25 wishing to speak?

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1 MR. YOUNG: We do not.

2 BZA CHAIR HILL: Mr. DeBear, is there anything you
3 want to add at the end?

4 MR. DEBEAR: I do not.

5 BZA CHAIR HILL: Okay. I'm going to close the
6 hearing and the record. Please excuse everyone.

7 Would someone else like to start?

8 Vice Chair John.

9 VICE CHAIR JOHN: I'll start, Mr. Chairman. This
10 is really quite straightforward and I think applicant did a
11 good job in stepping through how the application meets the
12 criteria for lot occupancy relief under Subtitle E-304.1 and
13 rear yard relief on Subtitle E-306.1. I believe the Office
14 of Planning also did a good job in analyzing the application
15 and also showing how the application meets the requirement.

16 So it's really fairly straightforward. I don't
17 have any issues with the application. The Office of Planning
18 is in support. DDOT has no objection. The ANC is also in
19 support of the application and has no issues or concerns.
20 I will be supporting this application.

21 BZA CHAIR HILL: Thank you, Ms. John.

22 Mr. Smith.

23 MEMBER SMITH: I really don't have anything in
24 addition to add. Ms. John, I think, summed up the issues of
25 this case and the reasons why we can support this application

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1 so I will also be in support.

2 BZA CHAIR HILL: Thank you.

3 Mr. Blake.

4 MEMBER BLAKE: Yes. I, too, will be in support
5 of this application. It meets the conditions of E-5201 and
6 X-901.2, an enclosed deck shall not cast any new shadows on
7 neighboring properties. The deck from a privacy perspective,
8 the deck isn't facing any new windows. The privacy lattice
9 and evergreen streets coupled with the 15-foot alley and open
10 court in the apartment building to the rear should mitigate
11 any privacy issues.

12 The visual intrusion should be minimal as there
13 are other decks along the alley. This one actually looks
14 very similar, just a little bit bigger than the one that
15 currently exist at three feet. So giving substantial weight
16 to the Office of Planning for a recommendation, and nothing
17 all the additional sources from DDOT, ANC-1C, and the persons
18 in support I am prepared to support it as well.

19 BZA CHAIR HILL: Thank you.

20 Chairman Hood.

21 ZC CHAIR HOOD: Mr. Chairman, if I would say any
22 more than what I've already heard, I would just be saying it
23 just to hear myself talk, but I would agree with all of my
24 colleagues.

25 BZA CHAIR HILL: Great. Thank you, Chairman Hood.

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1 All right. I have nothing else to add. I'm going
2 to make a motion to approve Application No. 20546 as captured
3 and read by the secretary and ask for a second.

4 Ms. John.

5 VICE CHAIRPERSON JOHN: Second.

6 BZA CHAIR HILL: Motion made and seconded.

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

8 MR. MOY: When I call each of your names, if you
9 would please respond with a yes, no, or abstain to the motion
10 made by Chairman Hill to approve the application for the
11 relief requested. The motion to approve was seconded by Vice
12 Chair John.

13 Zoning Commissioner Chair Anthony Hood.

14 ZC CHAIR HOOD: Yes.

15 MR. MOY: Mr. Smith.

16 MEMBER SMITH: Yes.

17 MR. MOY: Mr. Blake.

18 MEMBER BLAKE: Yes.

19 MR. MOY: Vice Chair John.

20 VICE CHAIR JOHN: Yes.

21 MR. MOY: Chairman Hill.

22 BZA CHAIR HILL: Yes.

23 MR. MOY: Staff would record the vote as 5-0-0 and
24 this is on the motion made by Chairman Hill to approve. The
25 motion to approve was seconded by Vice Chair John. Also in

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1 support of the motion to approve is Zoning Commission Chair
2 Anthony Hood, Mr. Smith, Mr. Blake, Vice Chair John, Chairman
3 Hill. The motion carries, sir, on a vote of 5-0-0.

4 BZA CHAIR HILL: Thank you, Mr. Moy.

5 All right. Whenever you're ready, Mr. Moy, you
6 can call our next one.

7 MR. MOY: This would be case Application No. 20558
8 of Yi-Ru Chen andCarolynn Race, R-A-C-E. This is an
9 application for a special exception from the rear yard
10 requirements of Subtitle D, Section 306.1, pursuant to
11 Subtitle D, Section 5201 and Subtitle X, Section 901.2. This
12 would construct a one-story, rear porch addition, to an
13 existing, detached, two-story plus cellar, principal dwelling
14 unit in the R-1-B zone. The property is located at 3622
15 Patterson Street, NW (Square 1999, Lot 62).

16 BZA CHAIR HILL: All right. Thank you, Mr. Moy.

17 Mr. Corell, can you hear me?

18 MR. CORELL: Yes, sir. I can.

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

21 MR. CORELL: Absolutely. My name is Matthew
22 Corell. I am the partner at DBMC Design and on behalf of
23 Carolynn Race and Yi-Ru Chen of 3622 Patterson Avenue --
24 Patterson Street, excuse me.

25 At this point I would like to turn it over to the

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1 owners so they can talk to you briefly.

2 BZA CHAIR HILL: Sure.

3 Ms. Chen, Ms. Race, could you introduce
4 yourselves, please, for the record?

5 MS. RACE: Hi. I'mCarolynn Race.

6 MS. CHEN: I'm Yi-Ru Chen.

7 MS. RACE: First, I just wanted to say we've
8 listened to quite a bit of today's hearing and you guys put
9 a new definition on public service. Thanks for your service.
10 We appreciate it. And thanks for taking the time to hear our
11 case today.

12 BZA CHAIR HILL: Well, thank you very much for
13 saying so and welcome. I hope you've enjoyed it and it's
14 been enlightening.

15 MS. RACE: It's been an experience, yeah. We are
16 -- we've owned our house here since 2009. We've been D.C.
17 residents since 2002. We're seeking to add a screen porch
18 in the backyard to increase the livability of our space.
19 We've wanted to do this for a long time and COVID really
20 brought to light the need to have outdoor space that's
21 covered that our nine-year-old daughter can play in and have
22 play dates with your friends masked safely so we are seeking
23 that small addition.

24 We have unanimous support from the ANC. The
25 Office of Planning has also recommended approval. Our

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1 architect, Matt, can share more about our request. Thank
2 you.

3 BZA CHAIR HILL: Great.

4 MR. CORELL: Thank you, Carolynn.

5 Sorry, Chairman Hill. You may continue.

6 BZA CHAIR HILL: No, go ahead, please, Mr. Corell.

7 MR. CORELL: Great. Mr. Young, can you pull up
8 the architecture plans and drawings, please. Is that
9 possible?

10 MR. YOUNG: Yes. Was that Exhibit 6?

11 MR. CORELL: I believe so. Architectural Plans
12 and Elevations.

13 As he's pulling that up, I'll talk briefly about
14 the conditions that we have. One thing about this lot in
15 particular is it's a disadvantaged lot in that it is 2,000
16 square feet under what zoning code requires for a property
17 in the R-1-B zone. It's at 3,000 square feet so 2,000 less.
18 Additionally, one of the setbacks that we have --
19 disadvantages that we have is the front yard has a build-to
20 restriction line which is pretty much right at the front of
21 the house.

22 The other complication to the property is that the
23 house itself is already encroaching in the rear yard so it's
24 at 19 foot, seven inches, I believe. Maximum -- foot, four
25 inches of the existing rear yard where code requires 25 feet.

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1 As you can see from the drawings, once they pop up, we are
2 proposing to increase, or decrease, the rear yard to seven
3 foot one.

4 Mr. Young, when you get a chance, if you could
5 forward to the second page A001.

6 BZA CHAIR HILL: Just so I know, which exhibit are
7 you trying to pull?

8 MR. CORELL: It's the architectural plans and
9 elevations. I believe it's Exhibit 6.

10 MS. RACE: It is Exhibit 6.

11 BZA CHAIR HILL: Thank you.

12 MR. CORELL: This is it. Mr. Young, can you go
13 to the next page, please?

14 So this is the site to give you an idea of where
15 this is located. There's an alleyway to the east of the
16 property, 15-foot wide alley -- Oh, I'm sorry, 12-foot wide
17 alley. This is the front of the house.

18 Go to the next slide, please. Next page, please.

19 So the rear yard at the rear of the property,
20 which is shown in the upper right-hand corner, of the
21 drawing, as you can see, there is a wooden fence that is
22 entirely on the applicant's property. The property to the
23 south, which would be the rear yard, is the six-foot wood
24 fence. As you can see, the six-foot wood fence is almost
25 entirely above the eight-foot wood fence and that's because

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1 there is a significant grade difference between the two
2 properties.

3 Next slide, please. So looking at the existing
4 plan to give you an illustration as far as where the
5 properties are, the property to the east is a two-story
6 detached house which also has an addition that was
7 encroaching the rear yard which is a nine foot and three-
8 quarter inch rear yard. Then the property directly to the
9 south which is a three-story addition and has almost a 10-
10 foot rear yard.

11 Next slide, please. Here you can kind of get an
12 idea of the difference in the topography. You are looking
13 toward the south. The sort of red dash line is the actual
14 property line. As you can see, the site marker on the east
15 where the alley is there's a 30-inch difference in grade and
16 steps up to eight feet as you go west along the property.

17 Next slide, please. This is the sort of roof
18 elevation. Again, you can kind of see the shed roof.

19 Next slide, please. This is an elevation showing
20 what it would look like from the rear yard as you are
21 standing with your back against the fence.

22 Next slide, please. This is looking due east.
23 If you look, you can kind of see on the first-hand side the
24 difference in the grades between the property to the south
25 and the proposed property.

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1 Next slide, please. This is from looking at the
2 alley way looking due west.

3 So, in conclusion, we don't believe this is
4 affecting the light and air of any of our neighbors primarily
5 because the property to the south is at a much higher
6 elevation. Similarly to the east, there is a 12-foot alley
7 that separates the two houses, and the same thing for the
8 house to the west. We are adhering to the minimum side yard
9 required.

10 This is only a single story addition so shadow
11 shouldn't play a part to anybody who is an adjacent neighbor.
12 We don't believe that we are affecting anybody's privacy in
13 any way, shape, or form as the proposed addition is covered
14 and already below the adjacent neighbors and far enough
15 removed from the side yard so that we wouldn't necessarily
16 have any issues with privacy.

17 With that we conclude our presentation. Are there
18 any questions?

19 BZA CHAIR HILL: Thanks, Mr. Corell.

20 Does the Board have any questions of the
21 applicant?

22 Ms. John.

23 VICE CHAIR JOHN: Thank you. Can you go back, Mr.
24 Young, to Exhibit 6, page 12? I'm just trying to orient
25 myself here. Is this where the addition will be put?

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1 MR. CORELL: I don't believe there is a page 12.

2 VICE CHAIR JOHN: Exhibit 6, PDF 12. This is the
3 photograph of the wooden fence on the left and the table, the
4 dining table with red cushions.

5 MR. CORELL: Yes, ma'am. You're talking about
6 A002 which is page 3.

7 VICE CHAIR JOHN: I'm just quoting from the
8 exhibit. Okay. So, yes. Can you pull that up, Mr. Young?
9 There you go. So the photograph to the top right as you face
10 the screen.

11 MR. CORELL: Yes, ma'am.

12 VICE CHAIR JOHN: Is that where the addition will
13 be built?

14 MR. CORELL: Yes, ma'am.

15 VICE CHAIR JOHN: Okay. That's what I was trying
16 to clarify. Thank you.

17 BZA CHAIR HILL: Okay. Anyone else?

18 I'll turn to the Office of Planning.

19 MS. MYERS: Good afternoon. Crystal Myers for the
20 Office of Planning. The Office of Planning is recommending
21 approval and we can stand on the record of the staff report.

22 BZA CHAIR HILL: Okay. Does anyone have any
23 questions of the Office of Planning? Does the applicant have
24 any questions of the Office of Planning?

25 MR. CORELL: No.

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1 BZA CHAIR HILL: Mr. Young, is there anyone here
2 wishing to testify?

3 MR. YOUNG: We do not.

4 BZA CHAIR HILL: Okay.

5 Mr. Corell, do you have anything to add at the
6 end?

7 MR. CORELL: No, sir.

8 BZA CHAIR HILL: Okay. I'm going to close the
9 hearing and the record. Everyone have a good day. I'm glad
10 that you all got to enjoy.

11 MR. CORELL: Thank you.

12 BZA CHAIR HILL: Let's see. As far as this
13 application, I didn't have any issues with it. I thought it
14 was pretty straightforward. I think that the explanation
15 that the applicant has given in terms of the request for
16 relief is sufficient. I also would agree with the analysis
17 the Office of Planning has proposed. The ANC is not opposed.

18 I wish I would have asked. I forgot. I always
19 not opposed kind of an interesting ANC determination.
20 Nonetheless, I'm comfortable with the application. I'm
21 comfortable with approving it and I'm going to be voting to
22 approve.

23 Mr. Smith.

24 MEMBER SMITH: I agree with your analysis,
25 Chairman Hill, and I will vote to support it given the OP's

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1 analysis of the project.

2 BZA CHAIR HILL: Vice Chair John.

3 VICE CHAIR JOHN: I will support the project as
4 well. It's really very straightforward and the applicant did
5 a good job explaining how the project needs the criteria for
6 relief and I will give great weight to OP's analysis.

7 BZA CHAIR HILL: Thank you.

8 Mr. Blake.

9 MEMBER BLAKE: I would agree that the project
10 meets the standards of D-5201 and X-901.2. It's a simple
11 open screen one level porch. The privacy impacts are
12 mitigated by a sizable yard, a huge drop. An eight-foot
13 wooden privacy fence mitigates any visual intrusion issues
14 so I would be very comfortable supporting this.

15 BZA CHAIR HILL: Thank you.

16 Chairman Hood.

17 ZC CHAIR HOOD: Yes, Mr. Chairman. I think it
18 meets all the standards that are required to look at in this
19 particular case. I found it's always interesting that a lot
20 of us say, including myself, and I'm sure others, I'm glad
21 to hear the applicant said this, that COVID has changed how
22 we look at things. That was very interesting. I hear that
23 comment a lot so I'll be voting to support this. Thank you,
24 Mr. Chairman.

25 BZA CHAIR HILL: Thank you, Chairman Hood.

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1 I'm going to make a motion to approve Application
2 No. 20558 as captured and read by the secretary and ask for
3 a second.

4 Ms. John.

5 VICE CHAIRPERSON JOHN: Second.

6 BZA CHAIR HILL: Motion made and seconded.

7 Mr. Moy, if you could take a roll call, please.

8 MR. MOY: Yes, thank you, Mr. Chairman.

9 When I call each of your names, if you would
10 please respond with a yes, no, or abstain to the motion made
11 by Chairman Hill to approve the application for the relief
12 requested. The motion to approve was seconded by Vice Chair
13 John.

14 Zoning Commissioner Chair Anthony Hood.

15 ZC CHAIR HOOD: Yes.

16 MR. MOY: Mr. Smith.

17 MEMBER SMITH: Yes.

18 MR. MOY: Mr. Blake.

19 MEMBER BLAKE: Yes.

20 MR. MOY: Vice Chair John.

21 VICE CHAIR JOHN: Yes.

22 MR. MOY: Chairman Hill.

23 BZA CHAIR HILL: Yes.

24 MR. MOY: Staff would record the vote as 5-0-0 and
25 this is on the motion made by Chairman Hill to approve. The

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1 motion to approve was seconded by Vice Chair John. Also in
2 support of the motion to approve is Zoning Commission Chair
3 Anthony Hood, Mr. Smith, Mr. Blake, Vice Chair John, and
4 Chairman Hill. The motion carries, sir, 5-0-0.

5 BZA CHAIR HILL: Thank you, Mr. Moy.

6 If it's all right with the Board, we'll go ahead
7 and do one more and then take a break if that's okay.

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

9 MR. MOY: This will be case Application No. 10565
10 of 1517 Wisconsin Avenue, LLC. This application is in for
11 a special exception from the lot occupancy requirements of
12 Subtitle G, Section 404.1, pursuant to Subtitle G, Section
13 1200, and Subtitle X, Section 902.1. This would construct
14 a third-story addition to an existing attached three-story
15 mixed use building in the MU-4 zone. The project is located
16 at 1517 -- the project is located at 1517 Wisconsin Avenue,
17 NW (Square 1271, Lot 48).

18 BZA CHAIR HILL: Okay, great.

19 Mr. Sullivan, can you hear me?

20 MR. SULLIVAN: I can, yes. Thank you. Marty
21 Sullivan with Sullivan and Barros on behalf of the applicant.

22 BZA CHAIR HILL: Okay. Who is here with you
23 today, Mr. Sullivan?

24 MR. SULLIVAN: The architect, Mr. Eric Gronning,
25 and the property owner Steve Mottaghi.

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1 BZA CHAIR HILL: Okay. I guess we'll get to see
2 whoever we get to see in a minute. I'm just opening up your
3 slide deck. Let's see. If we get to these other witnesses,
4 they can introduce themselves. Oh, never mind. Go ahead.

5 Mr. Gronning, can you hear me?

6 MR. GRONNING: Yes, sir. I can.

7 BZA CHAIR HILL: Can you introduce yourself for
8 the record, please?

9 MR. GRONNING: My name is Eric Gronning. I am the
10 architect for the project.

11 BZA CHAIR HILL: Thank you.

12 Is it Mr. Mottaghi?

13 MR. MOTTAGHI: Correct, yes.

14 BZA CHAIR HILL: Mr. Mottaghi, could you introduce
15 yourself for the record, please?

16 MR. MOTTAGHI: Sure. I'm Steve Mottaghi. I'm the
17 owner of 1517 Wisconsin.

18 BZA CHAIR HILL: Great, okay.

19 Mr. Sullivan, if you want to walk us through the
20 application as to why you believe your client is meeting the
21 requested relief that we should approve. I'll put 15 minutes
22 on the clock so I know where we are and you can begin
23 whenever you'd like.

24 MR. SULLIVAN: Okay, thank you. We do have a
25 PowerPoint in the record if that can be loaded. Thank you.

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1 So the property is 1517 Wisconsin Avenue, NW. The
2 relief being requested is for lot occupancy.

3 Next slide, please. The lot occupancy relief is
4 just for the third floor, The building itself is already at
5 an 82 percent lot occupancy and we are requesting that same
6 lot occupancy for the third floor as a special exception to
7 add residential units to this mixed-use building.

8 Next slide, please. We do enjoy the support of
9 ANC-2E and the Office of Planning and no objection from DDOT.

10 I'll turn it over to Mr. Gronning to take you
11 through the plans. Thank you.

12 Next slide, please.

13 MR. GRONNING: Good afternoon, Commissioners. My
14 name is Eric Gronning. I'm the architect for the project.
15 Please go to page 5.

16 1517 Wisconsin is located between P and Q Street,
17 NW. It is on the east side of Wisconsin Avenue shown towards
18 the middle right on the screen. We are proposing, you know,
19 a second and third floor addition to the rear of the
20 property. It will not be visible from public space.

21 Next slide, please. 1517 is this tan building
22 with the green awning shown here to the right. That's the
23 view from Wisconsin Avenue.

24 Next slide, please. Please go to slide 10, or
25 page 10. It's a site plan. Very good.

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1 On the screen is the site plan of the entire
2 block. 1517 is the unshaded building in the center of this
3 site plan.

4 Next slide, please. These are images of the rear
5 of the property. 1517 is a three-story building at Wisconsin
6 Avenue and it goes to two stories in the rear, and then
7 finally one story at the very back of the property. It can
8 best be see in the lower right-hand image. You can see how
9 it graduates down to one story.

10 Next slide, please. This is the existing site
11 plan. Wisconsin Avenue is over to the left. The existing
12 building to the north is shown shaded. That's at the top.
13 The recently approved footprint of 1515 is shown shaded to
14 the bottom. You can see 1517 aligns with the building to the
15 north and we are not proposing to extend the footprint. It
16 stays where it is. It currently covers 82 percent of the lot
17 and the rear yard is 23 feet, 2 inches.

18 Next slide, please. This is the proposed site
19 plan. Our addition is shown shaded in yellow and the area
20 to the left is an existing third-story portion of the
21 building facing Wisconsin Avenue.

22 Next slide, please. These are just existing floor
23 plans on the right. The 3D to the left is the existing
24 conditions. You can see the three-story addition facing
25 Wisconsin Avenue and then it lowers towards the rear.

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1 Next slide, please. These are the proposed plans.
2 The lower bottom right is the existing cellar. First floor
3 there is no addition above that. And then above that is the
4 second floor and you can see highlighted in yellow where we
5 are proposing the second story addition. The floor above
6 that is the third floor. Highlighted in yellow are the areas
7 of the addition there. Then to the left of that is the roof
8 plan.

9 Next slide, please. These are two 3D renderings
10 showing the building that's proposed. The drawing on the
11 left, again, you can see the three-story addition from
12 Wisconsin, and then the right is the depiction from the rear.

13 Next slide, please.

14 BZA CHAIR HILL: Mr. Gronning.

15 MR. GRONNING: Yes.

16 BZA CHAIR HILL: Can you go back one slide, Mr.
17 Young? I was trying to figure this out. So you can't go out
18 the back. Is that correct?

19 MR. GRONNING: That's right. It's land locked.

20 BZA CHAIR HILL: So that's somebody else's yard
21 in the back. Correct?

22 MR. GRONNING: No, there is the rear yard. It's
23 23-foot deep. That fence that you see the neighboring
24 property is behind this property.

25 BZA CHAIR HILL: Okay. Because we had similar

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1 stuff like this not that long ago.

2 I'm just curious, Mr. Sullivan. What was the
3 outreach from the neighbors from behind there?

4 MR. SULLIVAN: I can have Mr. Mottaghi talk about
5 that because this is the same application and it was the
6 property next door might be the one you're thinking about.
7 My understanding is Mr. Mottaghi has been in touch with them
8 since then. We can do that now if you want or --

9 BZA CHAIR HILL: No, we can come back around to
10 it. Did that other thing get done, Mr. Sullivan, or you
11 don't know?

12 MR. SULLIVAN: The other project?

13 BZA CHAIR HILL: Yeah.

14 MR. SULLIVAN: I think it's probably in
15 permitting. Is that correct, Eric?

16 MR. GRONNING: That's correct, yes.

17 BZA CHAIR HILL: Okay. All right. We can talk
18 about it when we get to Mr. Mottaghi. Okay.

19 MR. GRONNING: Next slide, please. These are two
20 sections. The one above is the existing section.
21 Highlighted in purple is the existing building. The section
22 below you can see the area of addition shown in yellow. You
23 can see that it's not significantly higher than the existing
24 building there. We purposely are keeping it as low as we can
25 by making the floor to ceiling height eight feet.

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1 Next slide, please. These are the existing and
2 proposed front elevations. There's no work here so they are
3 identical.

4 Next slide. This is from the south and the
5 existing elevation is above and the proposed is below. We
6 are highlighting the recently approved 1515 Wisconsin Avenue
7 which is shaded. You can see our addition beyond that just
8 above. I think it's about three feet and one inch taller
9 than 1515.

10 Next slide, please. This is the elevation from
11 the north. Again, the existing north at 1519 is shaded and
12 you can see in the lower drawing our proposed addition just
13 above.

14 Next slide, please. And these are the rear
15 elevations existing showing the approved 1515 is to the left.
16 To the right our proposed addition is the color of the shaded
17 renderings to the right.

18 BZA CHAIR HILL: Which one is the one that Mr.
19 Mottaghi owns, Mr. Sullivan?

20 MR. GRONNING: If you look at the image on the
21 right, it's the taller of the two that are shaded. If you
22 see the green roof, it's the one to the right of that.

23 BZA CHAIR HILL: Okay, great. Thank you.

24 MR. GRONNING: You're welcome.

25 Next slide, please. And these are renderings that

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1 we put together for the benefit of the neighbors behind who
2 we've had discussions with. The 1517 building, if you look
3 at the image on the right, is the taller of the two. The one
4 on the left is 1515 Wisconsin which was approved recently but
5 is still under permit.

6 Next slide, please. That's just another rendering
7 of what the rear yard is proposed to look like.

8 Those are all the presentation images that I have
9 and I can answer any questions, I hope.

10 MR. SULLIVAN: And we have some more slides I can
11 go into for the special exception criteria as well.

12 Go to the next slide, please. So the project does
13 meet the requirements of 901 and the specific requirements.
14 The granting of the special exception will be in harmony with
15 the general purpose and intent of the MU zone. This is a
16 mixed-use project. The neighboring properties are similar
17 properties that include a mix of commercial and low to
18 moderate density residential uses.

19 The project will complement the surrounding
20 character by providing new residential units. With the
21 exception of lot occupancy, the proposed additions to the
22 building would safely conform to the provisions of the MU-4
23 zone. Building height is much lower than the maximum
24 permitted and the rear yard is about eight-feet deeper than
25 the minimum required.

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1 Next slide, please. And the second general
2 requirement, the granting of the special exception, will not
3 tend to affect adversely the use of neighboring property.
4 To the south of the property is 1515, a similar-sized
5 building. Same for the property to the north. This addition
6 essentially just fits into the opening between 1515 and 1519.
7 Again, there is quite a large rear yard.

8 This is probably the time where Mr. Mottaghi can
9 talk about his interactions with the neighbors.

10 Steve.

11 MR. MOTTAGHI: Yes. We've been communicating with
12 them and I promised them that for these buildings and there's
13 two other ones that are next to it that I own where we are
14 going to plant evergreens that they have selected for the
15 height and so on for their privacy. We are working with them
16 on everything they are asking to make sure they're happy.
17 I've been around this neighborhood for 42 years so I want to
18 make sure everybody's happy. I would like to stay around for
19 another 42 years.

20 MR. SULLIVAN: Thank you. Next slide, please.
21 I think that might be it. Yeah, there are no specific
22 criteria. It's just the general criteria. Does the Board
23 have any questions?

24 BZA CHAIR HILL: All right. Does the Board have
25 any questions of the applicant?

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1 ZC CHAIR HOOD: Mr. Chairman, I just want to say
2 to Mr. Mottaghi I appreciate your comments. That's all I
3 want to say.

4 Thank you, Mr. Chairman.

5 MR. MOTTAGHI: Thank you so much.

6 BZA CHAIR HILL: Anyone else have questions?
7 Okay. Then I guess I'm going to ask Mr. Mottaghi.

8 Mr. Mottaghi, you own all four of those ones right
9 next to each other?

10 MR. MOTTAGHI: Yes, 1511, 1513, 1515, and 1517.
11 Yes, Mr. Chairman.

12 BZA CHAIR HILL: And how long have you had those?

13 MR. MOTTAGHI: The first one I bought in August
14 of '85.

15 BZA CHAIR HILL: I'm glad that you had such a
16 learning experience from the last time.

17 MR. MOTTAGHI: Yes, sir.

18 BZA CHAIR HILL: So I was a little curious because
19 I remember there was a big discussion. I even think maybe
20 Chairman Hood was on this one. This is just for my
21 curiosity. You all can't leave that back door so everybody
22 has to come in and out of the front. Correct?

23 MR. MOTTAGHI: Yes, we only have -- yes.

24 BZA CHAIR HILL: All right.

25 MR. MOTTAGHI: There is no way for them to exit

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1 in the back, no.

2 BZA CHAIR HILL: Right. Okay.

3 MR. MOTTAGHI: Everybody has to come in the front
4 and out the front. We don't have a back.

5 BZA CHAIR HILL: So the trash has to come out the
6 front as well?

7 MR. MOTTAGHI: Yes, correct.

8 BZA CHAIR HILL: All right. Okay. All right.
9 Let's see. Can I turn to the Office Planning?

10 MR. MORDFIN: Good afternoon. I'm Stephen Mordfin
11 with the Office of Planning. The Office of Planning is in
12 support of this application and stands on the record and I'm
13 available for any questions. Thank you.

14 BZA CHAIR HILL: Okay. Does anyone have any
15 questions for the Office of Planning?

16 Mr. Sullivan, do you have any questions for the
17 Office of Planning?

18 MR. SULLIVAN: No, thank you.

19 BZA CHAIR HILL: Mr. Young, is there anyone here
20 wishing to speak?

21 MR. YOUNG: We do not.

22 BZA CHAIR HILL: Okay. Mr. Mottaghi, I don't know
23 how old you are but I wish you luck on 40 more years.

24 MR. MOTTAGHI: Well, I'm 60 so I would like to get
25 to that 100 mark.

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1 BZA CHAIR HILL: All right. Okay.

2 MR. MOTTAGHI: This is hoping I get there, you
3 know?

4 BZA CHAIR HILL: It's actually possible then.
5 It's a possible number.

6 MR. MOTTAGHI: We really hope so, sir.

7 BZA CHAIR HILL: All right.

8 MR. MOTTAGHI: Thank you so much. Thank you, sir.

9 BZA CHAIR HILL: Of course.

10 Mr. Sullivan, anything else?

11 MR. SULLIVAN: No, thank you.

12 BZA CHAIR HILL: Okay. All right. We are going
13 to go ahead and close the hearing and the record. Excuse
14 everyone. Thank you for your time.

15 I'm just going to keep picking on other people
16 because I'm having a long day.

17 Mr. Smith, would you mind?

18 MR. SMITH: Sure. Well, this one isn't as
19 straightforward as the previous ones but I do believe
20 listening to the applicant's presentation, and in looking at
21 OP's analysis and report, I do believe that they have
22 justifiably demonstrated that we can support this application
23 for special exception for lot occupancy requirements.

24 The request before us, I believe, would increase
25 the number of residents. I do believe that the number of

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1 residents would locally support the various businesses and
2 retail. I do believe that the rear addition, looking at
3 architectural drawings, will not be visible from Wisconsin
4 Avenue and would provide access to the rear yard. Given what
5 I've seen and looking at OP's analysis, I would support the
6 applicant's request for the special exception.

7 BZA CHAIR HILL: Okay, thanks.

8 Vice Chair John.

9 VICE CHAIR JOHN: I'm in support of the
10 application, Mr. Chairman. The applicant is adding a third
11 floor to sort of fill out the gap. The addition is not
12 visible from Wisconsin Avenue so the applicant just needs lot
13 occupancy relief for the third floor. It is already -- the
14 project is already at 82 percent. It's a very
15 straightforward application. I don't really have any
16 concerns and I would be supporting the application.

17 BZA CHAIR HILL: Thank you.

18 Mr. Blake.

19 MEMBER BLAKE: Sure. I would agree that this
20 application meets the standards of G-1200 and 902.1 for lot
21 occupancy relief. The proposed development conforms to the
22 provisions of the MU-4 zone and the rear yard will remain
23 providing a buffer to the residential houses on 33rd Street.
24 I would certainly want to commend the applicant on his
25 improved dialogue with those residents on 33rd Street because

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1 this is -- I know the last case had a lot of discussion and
2 I'm happy to see that dialogue has continued to improve so
3 I would be very comfortable supporting this application.

4 BZA CHAIR HILL: Thank you. Mr. Blake, you've
5 been around long enough now that you are actually seeing
6 things that have happened before.

7 MEMBER BLAKE: You're right, I'm seeing things.

8 BZA CHAIR HILL: Chairman Hood.

9 ZC CHAIR HOOD: I would support the comments of
10 all my colleagues again. This is also designed with what the
11 MU zone is supposed to do. I also want to commend the
12 applicant for where he's come from previously to where he is
13 now. I think the regulations in front of us desire our
14 approval so I will be voting in favor. Thank you.

15 BZA CHAIR HILL: Okay. Thank you, everyone. I
16 don't have anything to add. I'm going to go ahead and make
17 a motion to approve Application No. 20565 as captured and
18 read by the secretary and ask for a second.

19 Ms. John.

20 VICE CHAIRPERSON JOHN: Second.

21 BZA CHAIR HILL: Motion made and seconded.

22 Mr. Moy, if you could take a roll call.

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

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1 relief requested. The motion to approve was seconded by Vice
2 Chair John.

3 Zoning Commissioner Chair Anthony Hood.

4 ZC CHAIR HOOD: Yes.

5 MR. MOY: Mr. Smith.

6 MEMBER SMITH: Yes.

7 MR. MOY: Mr. Blake.

8 MEMBER BLAKE: Yes.

9 MR. MOY: Vice Chair John.

10 VICE CHAIR JOHN: Yes.

11 MR. MOY: Chairman Hill.

12 BZA CHAIR HILL: Yes.

13 MR. MOY: Staff would record the vote as 5-0-0 and
14 this is on the motion made by Chairman Hill to approve. The
15 motion to approve was seconded by Vice Chair John. Also in
16 support of the motion to approve is Zoning Commission Chair
17 Anthony Hood, Mr. Smith, Mr. Blake, Vice Chair John, Chairman
18 Hill. The motion carries, sir, on a vote of 5-0-0.

19 BZA CHAIR HILL: Okay. If it's okay with you guys,
20 we'll just take a couple of minutes and come back. By the
21 way, like I recant my whole thing about this dais background.
22 I'm on board. I'm with you. I like it. Okay. See you all
23 in a little bit.

24 (Whereupon, the above-entitled matter briefly went
25 off the record.)

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1 BZA CHAIR HILL: Can you just go ahead and call
2 us back in and call our next case?

3 MR. MOY: Yes, indeed. The Board is back in its
4 Public Hearing Session after a brief recess. And the time
5 is at or about 3:36 p.m.

6 With that, the next case application before the
7 Board is Case Application Number 20568 of 1801 Maryland
8 Avenue, or MD Avenue, LLC. This application is as amended
9 for Special Exception under the zone boundary requirements
10 as Subtitle A, Section 207.2 pursuant to Subtitle X, Section
11 902.1.

12 This would extend the portion of the less
13 restrictive use zone 35 feet and construct a new semi-
14 detached, five-story with penthouse 28-unit residential
15 apartment building in the MU-7 in RA-2 zones.

16 This is property located at 1801 through 1805
17 Maryland Avenue, Northeast, Square 4488, Lot 36 and 37.

18 The only other thing I have for you, Mr. Chairman,
19 that I believe there was a request as a preliminary matter
20 for expert witness status to a Ronald Schneck, Schneck,
21 Schneck, S-C-H-N-E-C-K, Architecture.

22 I believe the Board has already granted that in
23 the past but I've been wrong before. But it would not hurt
24 to reaffirm his status, Mr. Chairman.

25 BZA CHAIR HILL: Okay. That's okay. I know that,

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1 I know that Mr. Schneck has been approved as an expert
2 before. So we're going to go ahead and keep him as an expert
3 now unless the Board has any issues, raise your hand.

4 Seeing none, okay, Ms. Hottel-Cox, can you hear
5 me?

6 MS. HOTTEL-COX: Yes.

7 BZA CHAIR HILL: Could you introduce yourself for
8 the record, please?

9 MS. HOTTEL-COX: For the record, Meghan Hottel-Cox
10 with Goulston and Storrs.

11 BZA CHAIR HILL: Okay. And Mr. Hottel-Cox, who's
12 here with you today?

13 MS. HOTTEL-COX: Jared Kahn with the Applicant,
14 as well as Ron Schneck.

15 BZA CHAIR HILL: Okay. Mr. Kahn, could you
16 introduce yourself for the record, please?

17 MR. KAHN: Hi, I'm Jared Kahn representing the
18 ownership.

19 BZA CHAIR HILL: Mr. Schneck, could you introduce
20 for the record, please?

21 MR. SCHNECK: Ron Schneck, Square 134 Architects.
22 Thank you.

23 BZA CHAIR HILL: Great, thank you.

24 All right. Ms. Hottel-Cox, if you want to go
25 ahead and just walk us through your client's application as

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1 to how you believe they're meeting the standard for us to
2 grant the relief requested.

3 I'm going to put 15 minutes on the clock just so
4 I know where we are and you can begin whenever you like.

5 MS. HOTTEL-COX: Thank you very much.

6 Good afternoon. Again, my name is Meghan Hottel-
7 Cox and I, along with my colleague, Jeff Utz, are with
8 Goulston and Storrs representing the Applicant in this case.

9 We're excited to be hear on behalf of 1801
10 Maryland Avenue, LLC, today, to present a new 30 unit
11 residential building at 1801 to 1805 Maryland Avenue,
12 Northeast.

13 We are asking for a Special Exception approval to
14 shift the zone boundary line at the property by up to 35 feet
15 to create an optimal design that fits within the context of
16 the neighborhood.

17 I would note that after our initial application
18 the Applicant revised the west facade of the building and
19 removed the original request for court relief.

20 There are currently two residential building
21 onsite containing 12 units. The property consists of two
22 record lots, Lot 36 and Lot 37, which will be subdivided into
23 a single lot as part of this project.

24 Lot 36 is split zoned with the majority of the lot
25 in the MU-7 zone and a small portion on the east in the RA-2

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1 zone. Lot 37 is located entirely in the RA-2 Zone.

2 Lots 36 and 37 are equal in size and we are
3 requesting the zone boundary line shift to take the
4 transition from the MU-7 Zone to the RA-2 Zone to the
5 existing property line between the two lots which is the
6 midway point of the property.

7 This zone boundary shift meets the Special
8 Exception requirements to be consistent with the present
9 character and future development potential of the
10 neighborhood.

11 The property serves as a transition point between
12 the mixed use medium density designation on the future land
13 use map to the west which allows for greater density and
14 height, and the medium density residential designation to the
15 east which allows for lesser density and height.

16 The project has a stepped up design accommodating
17 this transition and the zone boundary shift allows that to
18 happen at the natural midpoint of the property as we will
19 detail more in our presentation.

20 I am happy to report that we are here today with
21 the support of the Office of Planning and a report of no
22 objection from the District Department of Transportation.

23 DDOT conditioned their report on the project
24 meeting the bicycle requirements which the project is doing.

25 Additionally, the ANC submitted a resolution into

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1 the record in support for the project and the requested
2 relief. We greatly appreciate the ANC's time working with
3 us on this project.

4 With that, as I mentioned, we have two witnesses
5 today. Jared Kahn will testify on behalf of the Applicant
6 and Ron Schneck will Square 134 Architects will walk through
7 the design of the building. Both Jared and Ron will further
8 illustrate how the project and the application satisfy the
9 standards for the requested relief.

10 MR. KAHN: Thank you, Mr. Chair and Board Members
11 for the opportunity to be here. There's just a few items
12 that I want to briefly highlight for everyone.

13 Our 30 unit proposed project will be adding
14 approximately 1948 square feet of inclusionary zoning. We
15 plan to spread that across two to three units. Currently
16 there are none.

17 By the pursuit of the Special Exception shifting
18 the zoning boundary line, we believe that we can achieve the
19 optimal design for the development as well which gives us
20 numerous challenges.

21 And lastly, we are happy to have earned unanimous
22 support for ANC 5D. We have spent over a year discussing the
23 project with the community, spending lots of times meeting
24 with local stakeholders and elected officials to incorporate
25 all the feedback in the design and develop the best possible

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1 project. And that's all. Thank you very much.

2 BZA CHAIR HILL: Ms. Hottel-Cox, did you need that
3 slide deck or does it matter?

4 MS. HOTTEL-COX: Yes, I was about to ask for that.

5 BZA CHAIR HILL: Okay. Great, thanks.

6 MR. SCHNECK: Perfect. Thank you, Mr. Chair and
7 Board Members.

8 Again, Ron Schneck, Square 134 Architects and
9 thank you for the slides.

10 This first image is the cover sheet to our
11 application. This is a view of the proposed project on,
12 along Maryland Avenue from the north. The sort of two
13 different masses again are at the zone boundary line.

14 To the left we have 1805 Maryland Avenue and to
15 the right we have 1801 Maryland Avenue. As mentioned, the
16 overall design in concept is to provide a meaningful
17 transition from sort of the larger scale MU-7 Zone and the
18 slightly smaller scale of the RA-2 Zone to the north.

19 Next slide, please?

20 This shows an aerial of the site and it begins to
21 explain a little bit and the difference in scales. Right now
22 to page left you can see much larger lots, much larger scale
23 of buildings, whereas to the right, smaller scale, you know,
24 almost exclusively residential.

25 Next slide, please?

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1 This slide documents and shows where the boundary
2 line, the zoning boundary is and where, how it is slightly
3 off from the property line between the two buildings.

4 Next slide, please?

5 This shows the area basically that we're asking
6 the zone boundary lines would shift to and we have the 35
7 foot radius there showing in relationship to the corner of
8 the site.

9 Next slide, please?

10 This is the proposed building site plan from the
11 site.

12 Next slide, please?

13 This is our zoning analysis sheet. I won't go
14 over it in much detail but if there are questions I can
15 absolutely go through it. Just wanted to bring to the point
16 that this basically confirms that we are complying to all the
17 other zoning regulations.

18 Next slide, please?

19 This is elevation along Maryland Avenue. Again,
20 sort of what we're experimenting with here is a creation of
21 an architectural language that allows both volumes, the sort
22 of one on the right which is the MU-7 to the one on the left,
23 the RA-2 to sort of allow them to be their own sort of
24 massing and represent a little bit more scale of where they
25 are in the context and yet, we have an architectural language

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1 that begins to stitch that together.

2 Next slide, please?

3 This is the west elevation and due to the fact
4 that this is the property line side of the building, we're
5 limited to, you know, fenestration above an easement on the
6 first floor.

7 But what we have done is we've created sort of a
8 basically a tier of decks to both bring light further into
9 the building as well as just sort of visually activate that
10 facade a little bit.

11 Next slide, please?

12 This is the view basically from the rear of the
13 building from the alley. One of the things I just wanted to
14 point out here is one of the goals to this project is to
15 provide as much outdoor space as we can and you can see that
16 from the patios along the 1805 portion.

17 Next slide?

18 Same, this is a section cut through the buildings
19 to the north and you can see the same thing, sort of the rear
20 yard we're proposing on the 1801 building, additional outdoor
21 space.

22 Next slide, please?

23 The views, just perspective views, the one on the
24 left is sort of on the north side of Maryland Avenue which
25 you saw pretty much from the cover sheet and then the one on

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1 the right just sort of from the south side of Maryland
2 Avenue.

3 Again, the whole idea is to create these
4 transitional objects that, you know, we believe sort of
5 mirror both the existing context as well as what we sort of
6 anticipate the future context to be.

7 Next slide, please?

8 And this just shows the site plan as you can see
9 here. The eighteen O, both 1801 and 1805 portions, we are
10 programming outdoor space on the roof.

11 Next slide, please?

12 So these are the floor plans. I'll start with the
13 cellar. One thing to note here is, you know, because of the
14 footprint that these buildings occupy, there's, you know,
15 we're sort of limited in terms of our ability to get a
16 meaningful central core circulation.

17 And so what we're doing here is, you know,
18 enabling a core so that it can share both sides of the
19 property, the 1805 and the 1801.

20 Next slide, please?

21 Again, so this is first floor. It shows you the
22 entry into the building and again, these are the units that
23 we're proposing. In general, they're sort of larger units
24 and that's intentional.

25 And next slide, please? And next slide.

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1 This just shows that, so we, with the stair core
2 basically, kind of needs to be where it needs to be in order
3 to get to the 1801 portion and so we have to shift it over
4 once we get up to the fourth floor.

5 Next slide, please?

6 And that's the sort of top. So this one shows you
7 the top floor or the fifth floor of 1801 and 1805 together.

8 And next slide, please?

9 And then this is the roof plan essentially of the
10 entire building. And I think that's it. I'll be happy to
11 take questions and again, thank you for your time.

12 MS. HOTTEL-COX: Thanks Ron.

13 And that concludes our presentation and we're
14 happy to take question.

15 BZA CHAIR HILL: Great, thank you.

16 Does anybody have any questions for the Applicant?

17 Chairman Hood?

18 ZC CHAIR HOOD: Yes, just Ms. Hottel-Cox, if
19 you'll indulge me for a moment? I know that the, I think
20 that the exact statute, hold on a second, anyway, let me ask
21 you, okay.

22 Are you relying on A-207.1? Why would you tell
23 me or convince me that that's not a rezoning when you're
24 moving over to the RA-1? Why is that not a rezoning?

25 MS. HOTTEL-COX: The zone boundary shift from MU-7

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1 to RA-2?

2 ZC CHAIR HOOD: Yes, yes.

3 MS. HOTTEL-COX: I think the regulations recognize
4 that split zone sites create inherent difficulties in
5 development and simply shifting the zone boundary line
6 slightly is very different from rezoning an entire parcel.

7 And so I think that's the intent behind the
8 regulations and why the Board is allowed to do this as part
9 of a Special Exception, as opposed to needing to go through
10 a rezoning.

11 I will note that the area that we are proposing
12 to shift the zone boundary line is still within the same
13 future land use map designation as the portion of the
14 property that's in the MU-7 Zone and that actually extends
15 further up into Lot 37.

16 So this would not be inconsistent with the future
17 land use map and the comprehensive plan more generally which
18 I know the Board is supposed to consider broadly as part of
19 the applications.

20 But the regulations I think do anticipate for
21 split zone sites a different overall process and something
22 that's much more minor than an actual full rezoning that
23 would require going to the Commission.

24 ZC CHAIR HOOD: Okay. Thank you, Ms. Hottel-Cox.
25 I was just making sure you're relying on Subtitle A-207.1

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1 My Council did brief me on this particular question as well,
2 so thank you.

3 Thank you, Mr. Chairman.

4 BZA CHAIR HILL: Thank you, Chairman.

5 Anyone else for the Applicant?

6 All right. Turning to the Office of Planning,
7 please?

8 MS. THOMAS: Yes. Good afternoon, Mr. Chairman,
9 Members of the Board. Karen Thomas for the Office of
10 Planning.

11 And the Office of Planning is in support of this
12 application and we will rest under record of our Board.
13 Thank you.

14 BZA CHAIR HILL: Okay. Thank you.

15 Does anybody have any questions for the Office of
16 Planning?

17 Does the Applicant have any questions for the
18 Office of Planning?

19 MS. HOTTEL-COX: No questions.

20 Mr. Young, is there anyone here wishing to speak?

21 MR. YOUNG: Yes, I have Kathy Henderson who's
22 calling in on my phone so I'll unmute her now.

23 BZA CHAIR HILL: Okay, great.

24 MS. HENDERSON: Can you hear me?

25 BZA CHAIR HILL: Yes, can you hear me?

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1 MS. HENDERSON: I can. Unfortunately, I'm in
2 another meeting so I would simply say that I unfortunately
3 don't --

4 BZA CHAIR HILL: Ms. Henderson --

5 MS. HENDERSON: Can you hear me?

6 BZA CHAIR HILL: Ms. Henderson, can you introduce
7 yourself for the record?

8 MS. HENDERSON: Yes. I am Kathy Henderson the
9 past representative for ANC 5D05 and I am an member --

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1 BZA CHAIR HILL: Okay.

2 MS. HENDERSON: -- I continue to be a member of
3 this community. I support redevelopment of the site.
4 However, the 35 foot height increase is a no-no and I would
5 like to respectfully request that the record be left as is
6 so that myself and other members of our community can
7 supplement the record.

8 We didn't know about this. Our commissioner is
9 in the process of being recalled for not engaging the
10 community, among other things, and we want to be able to be
11 heard and we've not been able to be heard as a community
12 under the current representative.

13 BZA CHAIR HILL: And Ms., and I'm sorry, I just
14 have a hard time hearing you. What was your last name again?

15 MS. HENDERSON: It's Kathy Henderson.

16 BZA CHAIR HILL: Okay.

17 MS. HENDERSON: Former commissioner for ANC 5D05.

18 BZA CHAIR HILL: So Ms. Henderson, I have a report
19 from your ANC that they were in support.

20 MS. HENDERSON: Well, as I stated, they are not
21 informed by the community. We didn't know about the hearing
22 and the process. We've not had an opportunity to speak. So
23 we simply ask that the record remain open for a reasonable
24 amount of time so that we may supplement the record with our
25 testimony.

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1 I am supportive of redevelopment but I oppose the
2 height increase and I think that it's disruptive to the
3 Maryland Avenue rhythm of the properties, four unit buildings
4 and low garden-style buildings that currently exist there.

5 We have an unfettered view of the Capitol. We
6 want to make sure that we maintain that and certainly we need
7 to, we just need to look at this project and the ANC has not
8 afforded us that opportunity.

9 And again, our commissioner is in the middle of
10 a recall process because she does not represent our
11 interests.

12 BZA CHAIR HILL: Ms. Henderson, who's we?

13 MS. HENDERSON: I'm sorry?

14 BZA CHAIR HILL: You keep saying we? Who is the
15 we?

16 MS. HENDERSON: We as in the community.

17 BZA CHAIR HILL: Okay. And you are appearing here
18 as an individual, correct?

19 MS. HENDERSON: I don't think you're
20 understanding. As I indicated, our commissioner is in the
21 process of being recalled because she does not represent our
22 interests, does not inform us about cases.

23 So this matter was, and most people in the
24 community don't even know when or where the ANC 5D meetings
25 are. They're held virtually but other, most people don't

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1 participate because they don't have the opportunity to do so.

2 BZA CHAIR HILL: Right. Ms. Henderson, I'm just
3 trying, and don't, don't, I'm not trying to be controversial
4 with you, I'm just trying to understand. If you're
5 (telephonic interference)

6 MS. HENDERSON: I'll say again, I am the past
7 representative for ANC 5D05.

8 BZA CHAIR HILL: Okay. And when --

9 MS. HENDERSON: I was very clear about that.

10 BZA CHAIR HILL: When were you the commissioner?

11 MS. HENDERSON: My term ended in 2018.

12 BZA CHAIR HILL: Okay. And who's the current
13 commissioner of your ANC?

14 MS. HENDERSON: It's being recalled. It's Sydelle
15 Moore.

16 BZA CHAIR HILL: I know, but the SMD that you
17 represented?

18 MS. HENDERSON: It's 5D05 in which this project
19 is located.

20 BZA CHAIR HILL: And may I ask who's the current
21 SMD in that?

22 MS. HENDERSON: I'll say it again, it's Sydelle
23 Moore and she's being recalled.

24 BZA CHAIR HILL: The current SMD?

25 MS. HENDERSON: 5D05.

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1 BZA CHAIR HILL: Okay, great. Okay. All right.
2 Does the Board have any questions for Ms.
3 Henderson?

4 VICE CHAIRPERSON JOHN: Just one question.

5 Ms. Henderson, are you aware that there is a
6 letter from the Commission --

7 BZA CHAIR HILL: Ms. John, hold on. We might have
8 lost Ms. Henderson. I can't tell if she's still there.

9 VICE CHAIRPERSON JOHN: Just for the record --

10 MR. YOUNG: She's on, I just put her on mute while
11 you were talking.

12 BZA CHAIR HILL: Oh, okay.

13 Go ahead, Ms. John, could you start again, please?

14 VICE CHAIRPERSON JOHN: Yes. There's a letter in
15 the record at Exhibit 43 from Commissioner Moore, Chairperson
16 ANC 5D.

17 And the Commission voted 6-0 to support the
18 Special Exception application. And because it meets the
19 requirement for great weight, the Board must give it great
20 weight. So that's what I wanted to add. I'm sure she's --

21 (Simultaneous speaking)

22 BZA CHAIR HILL: Okay.

23 ZC CHAIR HOOD: Ms. John, Mr. Chairman, the vote
24 was 6-0 to one. We had one abstention.

25 VICE CHAIRPERSON JOHN: Got it.

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1 ZC CHAIR HOOD: I just want to make sure we got
2 it captured.

3 BZA CHAIR HILL: Okay.

4 Ms. Henderson, do you have anything else to add?

5 MS. HENDERSON: Again, I would like to be able to
6 submit written testimony outlining in detail my opposition
7 and members of my community that also opposed to the height,
8 raising of the height to 35 feet in this instance.

9 BZA CHAIR HILL: I understand, Ms. Henderson. So
10 the Board has heard you and you --

11 MS. HENDERSON: And I'm Commissioner Henderson.

12 BZA CHAIR HILL: Pardon me?

13 MS. HENDERSON: I said my title is still
14 Commissioner Henderson.

15 BZA CHAIR HILL: Okay, well, Commissioner
16 Henderson, I'm, the Board has heard you and we'll see what
17 happens, okay? Thank you for your testimony.

18 All right. Mr. Young, is there anyone else?

19 MR. YOUNG: No, that's it.

20 BZA CHAIR HILL: Okay, great.

21 Let's see. Ms. Hottel-Cox do you have anything
22 to add in response to everything we just heard from Ms.
23 Henderson, Commissioner Henderson?

24 MS. HOTTEL-COX: I'm happy to let Jared kind of
25 speak a little bit more about the community outreach but I

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1 did just want to note that we have presented to the ANC
2 multiple times including to their planning and zoning
3 committee and then at the October ANC meeting and then again
4 at the November ANC meeting before their vote.

5 And all of those were properly noticed and so we
6 do feel that there has been significant outreach to the
7 community. As Mr. Kahn said, we have been talking to the
8 community about the development of this site for a year and
9 they have had a lot of outreach.

10 So we believe the record is full and we believe
11 that everyone has had a significant opportunity to review the
12 project and respond if they wanted to.

13 BZA CHAIR HILL: Okay. Well, I'll see now what
14 my fellow Board Members have to say. I mean, I don't know,
15 you know, if we were to, I'm a little bit torn, I'll let you
16 know, because I kind of am, kind of later in the day, insofar
17 as we have a letter from the ANC which is what we're supposed
18 to give great weight to.

19 Whether or not somebody's being recalled, I mean,
20 that's completely outside of anything that I have to try to
21 figure out, right.

22 The other commissioners, I mean, the ANC has more
23 than one commissioner and so six of them voted in favor and
24 I guess there was one abstention is what Chairman Hood just
25 said. I don't have the letter right in front of me.

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1 So many other people in the ANC voted in favor of
2 the project and what Ms. Henderson, Commissioner Henderson
3 seems to be speaking to is something that it sounded was
4 like, you know, views and height which is not really
5 something that the, as we know through the courts, you're not
6 entitled to a view, right.

7 So and if the Commissioner was the commissioner
8 in 2018 and we're now here in 2021. So I don't know whether
9 to, you know, keep the record open and move forward, and,
10 and, have a vote on this, you know, the first day back after
11 thanksgiving just out of an abundance of caution or to go
12 ahead and move forward. I'll let the Board chew on that for
13 one second as I ask Ms. Hottel-Cox.

14 Ms. Hottel-Cox what kind of a timeline are you
15 guys on?

16 MS. HOTTEL-COX: I mean, we would appreciate the
17 Board being able to act quickly. This is a project that the
18 Applicant would like to move forward with soon and I can let
19 Mr. Kahn speak to that more.

20 BZA CHAIR HILL: Okay. Before you speak to it,
21 Mr. Kahn, what I'm trying to figure out, Ms. Hottel-Cox, is
22 whether two weeks is actually going to do anything or not to
23 you? And Mr. Kahn I guess can go ahead and answer that
24 question.

25 MS. HOTTEL-COX: So I think two weeks wouldn't

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1 have a significant impact on the project timeline if it is
2 limited to that two weeks, but we really do feel that this
3 case has had the sufficient notice and so to leave the record
4 open for something that was, you know, brought to the Board
5 for the hearing but to leave the record open for a case that
6 has had the notice out there, was posted correctly, just
7 seems to be outside of the normal course for a BZA case.

8 BZA CHAIR HILL: Okay. And I'll agree and
9 actually, and I'm looking to my fellow Board Members, you
10 know, we've now taken the person's testimony. The person's
11 testimony is in the record.

12 You know, I don't see how it's necessary and the
13 record has been open and available for quite some time now.
14 So I guess I'm leaning towards not keeping the record open
15 because we've now heard the testimony.

16 And I guess I'll let you all chew on that for a
17 second and whoever has an answer first can raise their hand.

18 Chairman Hood? Vice Chair John?

19 ZC CHAIR HOOD: Sometimes when you've been around
20 a while you know people. I know Commissioner Henderson is
21 a former commissioner.

22 My only hesitation is two weeks is not going to
23 necessarily do any harm, I don't believe. And also I know
24 that the ANC as it stands today, they're the legal
25 representation. They were the ones who have the great weight

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1 and they voted in favor of it.

2 But I'm often leery when residents come down and
3 say they didn't have an opportunity to respond. I know what
4 Ms. Hottel-Cox is saying and they also, but she said she
5 wanted to supplement the record.

6 She wanted to supplement the record I believe for
7 zoning issues and I didn't hear her speak of the zoning
8 issue. I heard her talk about the height but we know that
9 the courts have already said nobody buys a view. So that's,
10 if that's Ms. Henderson's issue and she wants to apply that
11 the courts have already ruled on that for us. We don't have
12 to rule on that.

13 So I don't know, I just, whenever I hear that, two
14 weeks is not going to hurt. Always interesting to see what
15 residents have to say if they want to opine or get into the
16 case. And I do know Ms. Henderson's, full disclosure, I do
17 know her work that she's done across the city for years so
18 I'll just leave it at that. Thank you, Mr. Chairman.

19 BZA CHAIR HILL: Okay. Now before -- sorry, Ms.
20 Hottel-Cox?

21 MS. HOTTEL-COX: I'm sorry. I was just --
22 In March of this year?

23 Just to make the Board aware, Mr. Kahn did have
24 conversations with Ms. Henderson back in February and March
25 of this year about this project. So she has been aware of

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1 the project for a while.

2 BZA CHAIR HILL: Okay. Honestly, I'm kind of, and
3 I know my other fellow Board Members are going to have their
4 opinions. I mean, again, if you leave the record open for
5 one week for one letter and then Ms. Hottel-Cox would have
6 an opportunity to respond to the letter and then we can vote,
7 I don't necessarily have an issue if we're on that tight, a
8 timeline.

9 The problem, the only reason why I'm again mildly
10 hesitant, or I shouldn't say is like, you know, the phone was
11 all jumbled up and you can't really figure out what's going
12 on in terms of the testimony but I'll go around the Board.

13 Ms. John, what are your thoughts?

14 VICE CHAIRPERSON JOHN: Thank you, Mr. Chairman.

15 I'm inclined to not grant the request because we
16 have the letter in the record from ANC 5D that supports the
17 project and is entitled to great weight.

18 It was sent to us after a duly noticed public
19 meeting on November 9th, 2021 and it describes how many
20 commissioners were present, whether there was a quorum and
21 the vote. Based on this letter, it's entitled to great
22 weight.

23 The other thing is that, well, I think it's a bit
24 late to come in and to ask the Board to go against what the
25 commission has already, ANC has already submitted and there

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1 is no information in the file authorizing anyone else to
2 speak on behalf of ANC 5D.

3 So those would be my thoughts. And one more
4 thing, the letter also describes the relief requested and
5 addresses the issue of the increased height as well. So I
6 don't know whether it would benefit.

7 MS. HOTTEL-COX: The letter's in support of Case
8 Number 20568.

9 VICE CHAIRPERSON JOHN: Oops, I'm so sorry.

10 MS. HOTTEL-COX: The letter's in support of BZA's
11 Special Exception case for 1801 to 1805.

12 VICE CHAIRPERSON JOHN: Sorry. I'm sorry about
13 that. My laptop is reading from some random file and I don't
14 know how that happened but I guess it was intended for some
15 levity.

16 So anyway, I was finished, Mr. Chairman, and I'm
17 just not inclined to grant the request for all of those
18 reasons.

19 BZA CHAIR HILL: Okay. And I also kind of agree
20 with you, Ms. John, so all right, let me go to Mr. Smith.

21 MEMBER SMITH: I tend to agree with both of you
22 currently. We have a letter in the record from the ANC that
23 does explicitly state the various requests before us today
24 for relief. So the ANC has been notified based on a meeting
25 that's occurred amongst the ANC which has been duly noticed

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1 onto the adjacent property on this.

2 And we have a, based on this letter, we have a
3 vote in support. There is one abstention, yes. But I do
4 believe that the Applicant has complied with the letter of
5 law of notification and in reaching out to the ANC.

6 Now I do hear the former ANC commissioner's, you
7 know, some of the concerns that were raised, kind of sort of.
8 It was kind of jumbled, there was a lot of noise in the
9 background. She currently isn't pursuing ANC commission.

10 Based on what she stated are questions about views
11 and height, as it has already been stated, a protection to
12 a view would not hold up in court.

13 Matter of fact, to the west that all these sites
14 commercially zoned that'd need to go away in all honesty even
15 if this development didn't go through.

16 On a portion of this development it can get up to
17 that height so again, the view will go away, it just won't
18 be as wide of a building at that height.

19 So I don't see what a week or two would do to
20 change that viewpoint. So with that I'm inclined to not keep
21 it open and let's move forward with this application.

22 BZA CHAIR HILL: And Mr. Blake?

23 MEMBER BLAKE: Yes, I would agree with those two
24 observations although the letter certainly meets the standard
25 for great weight and the response in the letter was very

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1 thoughtful and it touched exactly on the issues before us and
2 it showed a degree of education about the topic. So it
3 wasn't just willy-nilly or hastily done in my opinion based
4 on the text.

5 The Applicant said that they've had several
6 meetings with the ANC which were duly noted so there's been
7 a communication with the community at some level.

8 I would be less concerned with the political
9 matters of the ANC which don't really concern the Board. So
10 I would be in favor of simply closing the record and moving
11 on.

12 BZA CHAIR HILL: Okay. All right. So anyway so
13 as I said, it's a, it's also an odd request because we
14 normally are just taking testimony from members of the public
15 and we have now had our testimony. So I, you know, I'm
16 inclined to just kind of move forward on the record.

17 Okay. Let's see. Does anybody have any final
18 questions for anybody, for Ms. Hottel-Cox or anyone from the
19 Board?

20 All right. Ms. Hottel-Cox, do you have anything
21 you'd like to add at the end?

22 MS. HOTTEL-COX: No, thank you very much for your
23 time today.

24 BZA CHAIR HILL: Okay. All right. And then I'm
25 going to go ahead and close the record and the hearing and

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1 excuse everyone. Oh, wait. Oh, Ms. Hottel-Cox, can you get
2 Ms. Hottel-Cox back in?

3 Ms. Hottel-Cox I can still speak. I don't think
4 you can see me.

5 BZA CHAIR HILL: Oh, great. No, if you can still
6 speak. Just for clarification, the DDOT looked at the short
7 term and nine long term parking spaces to meet the
8 requirements? That was in there, correct?

9 MS. HOTTEL-COX: Yes. And the, in the
10 presentation that Mr. Schneck went through, we showed the
11 bike parking that was DDOT's, just they had a question to
12 confirm that we were meeting that requirement and we are.

13 BZA CHAIR HILL: Okay. Maybe I missed that.
14 Okay, great. Okay. Thank you so much.

15 MS. HOTTEL-COX: Thank you.

16 BZA CHAIR HILL: All right. I'm going to begin
17 closing the hearing and the record. Okay. After taking a
18 look at all of the information in the record and also by
19 hearing the testimony from the applicant, I believe they have
20 actually met the standard for us to grant this relief that's
21 being requested.

22 I think that oddly enough, other than the one
23 piece of testimony that we received at the end here, I mean,
24 they're providing like IZ units. They are, you know, I do
25 believe meeting the criteria for the project.

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1 I mean, I kind of think it's kind of an
2 interesting that Chairman Hood had in terms of like, you
3 know, rezoning and everything and how this is actually
4 something that we can do under special exception.

5 However, I thought that the Applicant made their
6 case. In addition to that, the Office of Planning's analysis
7 I believe was accurate and they are also in support and then
8 once again as I mentioned before the ANC.

9 Now I don't know if you can hear that. Can you
10 all hear the air blower that's going on? Okay, good. All
11 right. So somebody's clearing leaves.

12 All right. But so I'm going to be voting in
13 support of the application.

14 Mr. Smith?

15 MEMBER SMITH: I have nothing to add. I would
16 just note that the application for us to move that zone line
17 further to the east to increase the height of the building
18 would support that additional affordable housing style that
19 you were referencing on checking to go with this application.
20 So with that I will support this application.

21 BZA CHAIR HILL: Vice Chair John?

22 VICE CHAIRPERSON JOHN: I agree that the
23 application meets the requirement and to, I'm sorry, to shift
24 the boundary line under Subtitle A-207.2 and I will give
25 great weight to the analysis of the Office of Planning, as

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1 well as give great weight to ANC's letter of support and
2 that's it, Mr. Chairman.

3 BZA CHAIR HILL: Thank you.

4 Mr. Blake?

5 MEMBER BLAKE: As well I would agree with the
6 comments made by the other Board Members in support of the
7 application. I believe the evidence in the record and
8 testimony heard today, the Applicant has met the burden of
9 proof.

10 The one thing I point out, there was some issue
11 to some point around the issue of parking and I think the
12 Applicant is providing six included spaces which exceeds the
13 minimum of five and I think the aid was well-served by public
14 transportation and I feel very comfortable supporting this
15 application.

16 BZA CHAIR HILL: Thank you.

17 Chairman Hood?

18 ZC CHAIR HOOD: I believe the Applicant has met
19 all of the subtitles that we're supposed to look at in the
20 place particularly Subtitle A with the boundary shift.

21 That's my job, to make sure there's no rezoning
22 so I actually was very well-briefed on that to begin with.
23 And also the Applicant responded as well. So I don't have
24 any objections to this.

25 I do remember, I did recall all of my colleagues

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1 about moving forward. I do know there's a striking a balance
2 whenever you have a resident that comes down and expresses
3 a concern.

4 I know that full ANC has voted and this has been
5 vetted so I don't have any problems with the processing and
6 the procedure in which we're moving forward. Thank you, Mr.
7 Chairman.

8 BZA CHAIR HILL: Thanks, Chairman Hood.

9 All right. I'm going to make a motion to approve
10 Application Number 20568 as captured and read by the
11 secretary and ask for a second, Ms. John?

12 VICE CHAIRPERSON JOHN: Second.

13 BZA CHAIR HILL: The motion made and seconded.
14 Mr. Moy, if you could take a roll call?

15 MR. MOY: Yes. When I call each of your names,
16 if you could please respond with a yes, no, or abstain, to
17 the motion made by Chairman Hill to approve the application
18 for the amended relief requested and the motion to approve
19 the second by Vice Chair John?

20 Zoning Commission Chair Anthony Hood?

21 ZC CHAIR HOOD: Yes.

22 MR. MOY: Mr. Smith?

23 MEMBER SMITH: Yes.

24 MR. MOY: Mr. Blake?

25 MEMBER BLAKE: Yes.

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1 MR. MOY: Vice Chair John?

2 VICE CHAIRPERSON JOHN: Yes.

3 MR. MOY: Chairman Hill?

4 BZA CHAIR HILL: Yes.

5 MR. MOY: Staff, we record vote as 5-0-0 and this
6 is on the motion made by Chairman Hill to approve a motion
7 to approve a second by Vice Chair John.

8 Also in support of the motion to approve, Zoning
9 Commission Chair Anthony Hood, Mr. Smith, Mr. Blake, Vice
10 Chair John, and Chairman Hill, the motion carries on a vote
11 of 5-0-0.

12 BZA CHAIR HILL: Okay. Thank you, guys. I'm
13 going to jump in and out of muting just so the leaf blower
14 doesn't bother people.

15 But Mr. Moy, if you can call our last case when
16 you get a chance?

17 MR. MOY: This would be Case Application Number
18 20540 of April Leonard and Regina Leonard Danielson. This
19 is a request for a Special Exception from the rear addition
20 restrictions of Subtitle D, Section 306.3 pursuant to
21 Subtitle D, Section 306.4, Subtitle D, Section 5201, Subtitle
22 X, Section 901.2

23 This would construct a two-story rear addition to
24 an existing, semi-detached, principal dwelling unit in the
25 R-2 Zone. The property is located at 5412 Blaine Street,

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1 Northeast, Square 5252, Lot 75.

2 Mr. Chairman, for you to know and the Board, there
3 I believe was a filing today, this morning, from ANC 7C
4 that's in the record and I believe was a letter in support
5 with one condition.

6 BZA CHAIR HILL: Okay. Let me see. Is it Ms.
7 Felder?

8 MS. FELDER: Yes, I'm here.

9 BZA CHAIR HILL: Okay. Could you introduce
10 yourself for the record, please?

11 MS. FELDER: Yes. My name is Tenika Felder. I
12 am the architect of record on the project and --

13 BZA CHAIR HILL: All right. Sorry. Ms. Felder,
14 who's with you today?

15 MS. FELDER: I have the homeowners, Ms. April
16 Leonard and also Ms. Regina Leonard Danielson, I'm sorry.

17 BZA CHAIR HILL: Okay. Ms. April, could you
18 introduce yourself for the record, please? You're on mute.

19 MS. LEONARD: Well, hi. I'm April Leonard and I
20 reside at 5412 Blaine Street, Northeast.

21 BZA CHAIR HILL: Okay, Ms. Leonard. You can go
22 ahead and just put yourself on mute then.

23 And is it Dr. Danielson?

24 DR. DANIELSON: Yes.

25 BZA CHAIR HILL: Could you introduce yourself for

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1 the record, please?

2 DR. DANIELSON: Hi. My name is Dr. Regina
3 Danielson. I am the co-owner of the property at 5412 Blaine
4 St.

5 BZA CHAIR HILL: Okay.

6 Ms. Felder, if you want to go ahead and walk us
7 through your application as to why you believe your client
8 is meeting the criteria for us to grant the relief requested?
9 I'm going to put 15 minutes on the clock so I know where we
10 are and you can begin whenever you like.

11 MS. FELDER: Okay. Can I have the slide
12 presentation? Thank you.

13 Good afternoon, Mr. Chairman and Board Members.
14 As mentioned, my name is Tenika Felder and I am the architect
15 on behalf of the Applicant.

16 BZA CHAIR HILL: Ms. Felder is that, Ms. Felder,
17 I'm sorry. Is that presentation in the record?

18 MS. FELDER: Yes.

19 BZA CHAIR HILL: Do you know what the exhibit --

20 MS. FELDER: It should, it's the same one as the
21 architectural package.

22 BZA CHAIR HILL: Okay.

23 MS. FELDER: Yes.

24 BZA CHAIR HILL: Great, thank you. I'm sorry,
25 please continue.

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1 MS. FELDER: Okay. As mentioned, I'm the
2 architect on behalf of the Applicants, Ms. April Leonard and
3 Dr. Regina Leonard Danielson who are the owners of 5412
4 Blaine Street, Northeast.

5 Next slide, please?

6 We are seeking relief for Special Exception from
7 Subtitle D-306.4 to construct a new one-and-a-half story rear
8 addition to an existing single family semi-detached
9 residential building in an R-2 Zone.

10 And the reason for the relief is because the
11 proposal addition will extend farther than the ten feet
12 beyond the farthest wall of the adjoining building.

13 Next slide, please?

14 We have presented our case before the Capital View
15 Civic Association and the ANC's 7C and we have received
16 unanimous support from both.

17 The Office of Planning also recommends approval
18 and DDOT had no objections to our proposal. We've also
19 received several letters of support from surrounding
20 neighbors.

21 Next slide?

22 This is an aerial view of the project site. The
23 subject property is located --

24 BZA CHAIR HILL: Ms. Felder?

25 MS. FELDER: Yes, sir?

1 BZA CHAIR HILL: I'm sorry, the ANC, can you go
2 back one slide Mr. Young?

3 The ANC had wanted you as a condition to present
4 in front of the Capital View Civic Association, correct?

5 MS. FELDER: Yes, which we did and we have a
6 letter of support in the record.

7 BZA CHAIR HILL: Okay, great. Thank you.

8 MS. FELDER: From the Capital View Civic
9 Association, yes.

10 BZA CHAIR HILL: Okay. Please continue.

11 MS. FELDER: Okay. So this is an aerial view of
12 the project site. The subject property is located on the
13 block between 54th and 55th Streets, Northeast.

14 Next slide?

15 The subject property is an existing two story
16 duplex with an adjoining neighbor to the right of the
17 property. These are views of the subject property from
18 Blaine Street with the subject property outlined in red.

19 Next slide?

20 This is an existing view of the rear of the home.

21 Next slide, please?

22 The subject property is located in the R2 Zone
23 with a lot area of 2121 square feet. The site plan is
24 illustrating the existing building with the proposed
25 addition. With the new addition, we meet all other zoning

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1 criteria for the R-2 Zone including lot occupancy, building
2 height, and side yard requirement.

3 Next slide, please?

4 Here are the existing floor plans and elevations.
5 The existing first floor contains a living area, and a
6 kitchen, and the second floor contains two bedrooms and one
7 bath and these are also the existing elevations as well.

8 Next slide?

9 These are the proposed floor plans. The first
10 floor has a new rear addition that extends 27 feet into the
11 rear yard and consists of a redesigned and enlarged kitchen,
12 a bedroom, and a full bath.

13 The proposed second floor has an addition that
14 extends 16 and a half feet into the rear yard, accommodating
15 a new enlarged bedroom.

16 Next slide?

17 These are the proposed elevations for the new
18 addition. And of course, from Blaine Street the front
19 elevation remains unchanged. So the, since the new addition
20 is going to be in the rear of the building, it will not be
21 visible from Blaine Street.

22 Next slide, please?

23 We completed a shadow study to illustrate how the
24 proposed new addition will not unduly affect the light and
25 air available to the neighboring and adjoining properties.

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1 The front of the home, just to kind of orient you
2 the, on this shadow study, the subject property is
3 highlighted in red. As you can notice on the right side of
4 the property, there are three story apartment buildings that
5 are there and then right on the next block is a large school.
6 So this is, these houses are sandwiched like right between
7 those different properties.

8 So with the shadow study, the front of the home
9 has southern light exposure while the rear of the home with
10 the new addition has the northern exposure.

11 So the sun actually travels along the front of the
12 home along Blaine Street from the east to the west or from
13 the right to the left. So you can see how this, with this
14 existing condition, this is without the addition, how the
15 light and the shadowing is not really, doesn't have a real
16 effect on the neighboring property.

17 Next slide, please?

18 This is the shadow study showing the proposed new
19 addition. Again, because of the path of the sun and the fact
20 that the addition is on the northern side and not the
21 southern side, the new addition does not cast really any
22 greater shadows than it did from when we had the existing
23 conditions.

24 So again, having this proposed new addition will
25 not affect the light and air available for the neighboring

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1 property and especially the adjoining neighbor.

2 So one of the main reasons why the homeowner is
3 constructing this addition is due to a medical condition that
4 one of the homeowners has where her ailment really makes it
5 difficult for her to be able to navigate going up and down
6 stairs.

7 And of course, she would very much like to stay
8 in her home so this proposed new addition allows her to be
9 able to create a bedroom and a full bath on the first floor
10 and to make some much-needed improvements to her home to make
11 it conducive and comfortable for her to live in.

12 And also in the record, is a letter from her, a
13 medical letter stating the reason for her condition. So for
14 all of these reasons, we ask that the Board please
15 respectfully grant approval for this application and I'm
16 happy to answer any questions you may have.

17 BZA CHAIR HILL: Okay, thank you.

18 Does the Board have any questions for the
19 Applicant?

20 Mr. Blake?

21 MEMBER BLAKE: Yes, one quick question. With
22 regard to the next door neighbor, could you give us a, first
23 give us a little bit of a sense of the interaction you've had
24 with the neighbor in terms of describing your project and so
25 forth?

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1 And second, could you, the status of the building
2 currently, is it unoccupied or is it, what's the status of
3 the building right now?

4 MS. FELDER: So right now the current status of
5 the building, the contractor has received the demolition
6 permit to start the work. We didn't realize we would have
7 to go through this process because every, the drawings were
8 currently in permit review.

9 So actually the homeowners moved out of the home
10 and so the home is currently unoccupied but I will turn it
11 over to the homeowners to allow them to speak on their
12 interaction with the neighbor regarding this.

13 MS. LEONARD: Hi, this is April Leonard. We've
14 been working on this project since 2019 and I'm contracting
15 with Ms. Felder and also our contractor, Shawn Hicks.

16 And so we've been informing our neighbor over the
17 past two years that we would be making some improvements to
18 our house due to our electrical, due to my sister's medical
19 ailments, and due to just overall the house deteriorating
20 because it was built in 1942.

21 And so at the point in time that we've been
22 discussing this with our neighbor she had no objections like
23 that she actually brought forward to us.

24 So and then we did demolition and still no
25 objections during demolition back in January of this year.

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1 And all of the sudden in July, that's when we received the
2 letter that she had some objections to us planning to do the
3 renovations but the house is unoccupied at this time.

4 MEMBER BLAKE: There was also a picture in the
5 file of some pretty messed up conditions with filth all over
6 the place. Has that been cleaned up and everything?

7 MS. FELDER: Yes. I was actually at the property
8 earlier this week and yes, all of the whatever, the debris --

9 DR. DANIELSON: Excuse me?

10 MS. FELDER: -- that was not there.

11 DR. DANIELSON: Tenika, can you all hear me?
12 Hello?

13 BZA CHAIR HILL: Yes? Is that Dr. Danielson?

14 DR. DANIELSON: Yes, the pictures of the debris
15 actually weren't for our house. Those pictures were
16 uploaded. Those were for our adjoining neighbors. That's
17 her backyard, not ours.

18 MEMBER BLAKE: Oh, okay. Okay.

19 BZA CHAIR HILL: All right. Okay. Anybody else
20 have questions for the Applicant? Oh, Chairman Hood?

21 ZC CHAIR HOOD: Well, I figure the process on the
22 BZA is to raise my hand so that's why I keep raising my hand.

23 Ms. Felder, I do have a question for you. I'm
24 just curious. I still, I think this was taken off the
25 consent calendar. Why, and I'm sure there has to be a

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1 reason, all that you all have been through.

2 Why was this, was is this even in front of the
3 Board? It sounds like there's some medical reasons that this
4 needs to be done and I know previously at one time things
5 that came in front of the Board that had medical reasons, it
6 was taken to them for reasonable accommodations in front of
7 BZA which never had to go through this process. Are you
8 aware of that or?

9 MS. FELDER: No, I wasn't. So again, the project,
10 all of the drawings have been completed. It's been in permit
11 review and actually, the reason why we came before BZA was
12 that when it went through zoning, zoning stopped it and said
13 you need to go before BZA in order to get the approval for
14 the addition because it extended further than the ten feet.

15 ZC CHAIR HOOD: Okay. Because I know in the past
16 some years back when the issues were medical, when things
17 need to be adjusted for BZA meetings we look at stuff, well,
18 not look at it.

19 When things need to be adjusted for medical
20 reasons, that it didn't come in front of the Board. It was
21 taken from us and sent to reasonable accommodations and taken
22 care of there.

23 But anyway, I'll leave that alone. I'm sure that
24 the powers that be that reviewed the case probably would have
25 known that but I wanted to just put that on the record.

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1 Typically we wouldn't, if it's a medical issue it
2 would go to reasonable accommodations and DCRA and be done.
3 Wouldn't have to go through all of this. So I'll just leave
4 it at that.

5 Thank you, Mr. Chairman.

6 BZA CHAIR HILL: Thank you, Chairman Hood.
7 Chairman Hood, I think, I can remember and I don't know if
8 this is the one or not but I think they didn't have an ANC
9 letter and so I think we pulled it because of that. Like we
10 didn't know, you know, what the, we had no idea what the ANC
11 had to say about it or whether or not they'd submitted
12 anything to the ANC so I think that's why I pulled it but I'm
13 not sure.

14 ZC CHAIR HOOD: Yes, but I mean even before that.
15 I'm just curious. This is one I'm going to ask our legal
16 counsel, OZLD, because I'm just curious why, I know there's
17 a reason but why was this not pulled from us and having to
18 have to go through all this for a medical issue which, it's
19 an easier process for reasonable accommodations.

20 BZA CHAIR HILL: Got it. Chairman Hood, if you
21 guys don't raise your hand on the ZC, what, does everybody
22 just talk at the same time and then whoever talks loudest
23 goes first? How does that work then?

24 ZC CHAIR HOOD: No, I'll tell you. That's not
25 part of the public record. I'll tell you later. You and I

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1 can have that discussion.

2 BZA CHAIR HILL: Okay. Okay.

3 ZC CHAIR HOOD: That's not dealing with any case.

4 BZA CHAIR HILL: Okay. I was just curious. Got
5 it.

6 Anybody got any more questions for the Applicant?

7 All right. Can I turn to the Office of Planning?

8 MR. JESICK: Hi. Good afternoon. Mr. Chairman
9 and Members of the Board, my name is Matt Jesick and I'll be
10 presenting you the OP's testimony in this case.

11 The Office of Planning reviewed the application
12 against the criteria of Section 5201 and found that it meets
13 the relevant criteria and therefore we are recommending
14 approval. The rest my testimony I will rest on the record
15 but I'll be happy to take any questions. Thank you.

16 BZA CHAIR HILL: All right. Does anybody have any
17 questions for the Office of Planning?

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

20 MS. FELDER: No, no questions.

21 BZA CHAIR HILL: Mr. Young, is there anyone here
22 wishing to speak?

23 MR. YOUNG: Yes, we have one person who's calling
24 in by phone. That's Valerie Steen.

25 BZA CHAIR HILL: Steen? Okay.

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1 MS. STEEN: Yes.

2 BZA CHAIR HILL: Ms. Steen, can you hear me?

3 MS. STEEN: Yes, I can.

4 BZA CHAIR HILL: Could you go ahead and introduce
5 yourself for the record, please?

6 MS. STEEN: My name is Valerie Steen. I reside
7 with the other, at the other part of the semi-detached at
8 5414 Blaine Street, Northeast, Washington DC.

9 BZA CHAIR HILL: Got it. Okay, Ms. Steen, you'll
10 have three minutes to give your testimony and can begin
11 whenever you like.

12 MS. STEEN: Okay. I'd just like to comment, I
13 want to admit the proposal as submitted. Last night I had
14 a hard time uploading it. It was of the neighbor's property,
15 their construction process.

16 When they gutted out the house, all the stuff was
17 in the middle of the yard all over the place. Also the stuff
18 that they cut down they left in their yard for three, four
19 months.

20 Also in regards to the debris that was left in my
21 yard, my yard was ransacked. I had lids on containers, I had
22 stuff stacked up neatly. Someone came in my yard after my,
23 the guy who does my yard left my back gate open and went
24 through my stuff, dumped some stuff out.

25 I've been very ill so I haven't been able to

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1 really deal with what happened back there. All the lids was
2 stolen off the containers, stuff was just destroyed.

3 So by putting the destroyed articles in trash bags
4 and trying to lug it to a trash can to dump it, it's very
5 hard when it's wet and it's heavy.

6 Another thing, I was originally told of a
7 construction, it was one story at the back end of their
8 house.

9 It was never a two story addition, it was never
10 regarding Ms. Danielson's hip surgery because she had moved
11 out after she got married and it's just her sister that was
12 living there. She and he husband live at another address so
13 they hadn't lived there for quite some time, for a couple
14 years.

15 So it was only a one story and I was thinking it
16 would only take up the part of their, the patio area. I had
17 no idea it was going to be that astronomical.

18 So I wanted the exhibit added in that I submitted
19 late last night because I had a hard time downloading it
20 because they, you know, someone, you know, you know, came
21 over on my property, took pictures of my back yard being
22 ransacked and I wonder if, you know, they may have been a
23 part of it.

24 I don't know. I can't, you know, say it because
25 I didn't have my cameras up. So anyway, that is what I want

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1 to say. So I wanted that added to the exhibit, how their
2 house, their yard looked after the gutting out of their home,
3 that was the third picture I submitted and when they cut down
4 their tree limbs and left it in the middle of their yard for
5 four months tops without it being bagged, put to the curb,
6 or anything. So I've been dealing with a lot of stuff
7 between them.

8 We were normally on friendly terms and like I
9 said, when I told Ms. Danielson that they were probably, you
10 know, you know, when she mentioned, oh, yes, we're going to
11 do construction, it was supposed to happen last year, the end
12 of last year.

13 And I said, well, you know, the noise problem
14 would, you know, be a problem but I still thought it was a
15 one-story added on addition to, you know, to where the patio
16 was instead of a two story monstrosity that they're
17 constructing now.

18 So I was not informed otherwise. I was still led
19 to believe it wasn't for Ms. Danielson's handicap, it was for
20 her mother whose husband had passed away and they were
21 thinking that she was going to move down to D.C.

22 BZA CHAIR HILL: Okay. Okay, Ms. Danielson.

23 MS. STEEN: Now whether, it didn't have nothing
24 to do with Ms. Danielson's rehabilitation issues or whatever,
25 her disability.

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1 BZA CHAIR HILL: Okay.

2 MS. STEEN: Because I have disabilities too.

3 BZA CHAIR HILL: Okay.

4 MS. STEEN: More than what she has but we won't
5 go there.

6 BZA CHAIR HILL: I'm sorry, I'm sorry. Okay, Ms.
7 Steen, thank you. Do you have --

8 MS. STEEN: Steen.

9 BZA CHAIR HILL: Steen, Steen, I'm sorry. Ms.
10 Steen, do you have Ms. Danielson's contact information?

11 MS. STEEN: I have a cell phone number. I don't
12 know her, I did, you know, when I submitted the report to
13 DCRA, I did submit --

14 BZA CHAIR HILL: Okay.

15 MS. STEEN: -- a letter in the mail to an address.

16 BZA CHAIR HILL: You all have a way to get in
17 touch with each other. Or Ms. Felder, do you know Ms.
18 Steen's contact information?

19 MS. FELDER: I just know her address. I don't
20 know her telephone number.

21 BZA CHAIR HILL: I don't mean a phone number but
22 you had that address, you can figure out, I'm going to make
23 sure people are talking to each other.

24 DR. DANIELSON: Mr. Hill?

25 BZA CHAIR HILL: Who's speaking? Who?

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1 DR. DANIELSON: This is Dr. Danielson. I do have
2 Ms. Steen's contact information. She has text me before.

3 BZA CHAIR HILL: Okay.

4 DR. DANIELSON: And we have text back and forth.
5 She has my contact information.

6 BZA CHAIR HILL: Okay. Okay, okay, okay. That's
7 all I need to know, that you all have each other's --

8 MS. STEEN: Yes, I do have her phone number. I
9 do have her phone number, yes.

10 BZA CHAIR HILL: All right. Okay.

11 All right. Does anybody have any questions for
12 Ms. Steen? Okay.

13 All right, Ms. Steen, thank you so much for your
14 testimony.

15 MS. STEEN: All right. Thank you.

16 BZA CHAIR HILL: Bye bye.

17 All right. So Dr. Danielson?

18 DR. DANIELSON: Yes, Mr. Hill?

19 BZA CHAIR HILL: If this were to move forward, can
20 you make sure you contact Ms. Steen and let her know
21 everything that's going on, when construction's happening,
22 and I don't know, I don't want to get into like, you know,
23 who said what or what the condition of the yard is but, you
24 know, please make sure that your crews are not doing anything
25 to Ms. Steen's property, okay?

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1 DR. DANIELSON: I can. Can I respond to the
2 statement she made?

3 BZA CHAIR HILL: Yes, sure.

4 DR. DANIELSON: So the statements about the debris
5 in our yard, the cutting of bushes, my sister and I have
6 never left anything in the yard from for four months.

7 We do cuttings because the property is unoccupied
8 currently. It's been unoccupied since August of last year.
9 I did get married and my husband and I moved into an
10 apartment because we could not stay in the house.

11 So we moved and stayed somewhere different and the
12 house has been vacant since August of 2019. So we do come
13 to the property. We're not there. My sister's not there and
14 we're not there either.

15 We come to the property to maintain the property
16 and trim the hedges. When we come to trim the hedges, it
17 usually takes about a two or three day process where we're
18 piling up the hedging and then we have to bag it in bags and
19 call for bulk collection.

20 BZA CHAIR HILL: Okay. Ms. Steen, I got you. I
21 understand. I'm just saying make sure you do everything you
22 can to keep your property clean and make sure if this does
23 go forward, the construction people do not bother Ms. Steen's
24 property, okay?

25 DR. DANIELSON: I can definitely do that. I can

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1 definitely do that.

2 BZA CHAIR HILL: Okay. That's all I need to know.

3 All right. Let's see. Okay. Does anybody have
4 any more questions for anybody from my fellow Board Members?
5 Okay.

6 Ms. Felder, do you have anything you'd like to add
7 at the end?

8 MS. FELDER: No.

9 BZA CHAIR HILL: Okay.

10 All right. I'm going to go ahead a close the
11 hearing on the record. Oh, wait, wait, wait, wait. Ms., oh,
12 yes, no I got that, right. So you guys got a letter from ANC
13 and it's my favorite yet. No, that's not the one.

14 Commissioner Holmes. Commissioner Holmes, right.
15 Okay, great. All right. Okay.

16 All right. I'm going to go ahead and close the
17 hearing on the record. I'm going to let everybody go. Thank
18 you.

19 Okay. I mean, oddly enough I thought it was a
20 little bit of an odd property. I had to kind of work my, I
21 mean, and odd project. I had to kind of work my head around
22 it to see what I thought.

23 But after hearing the presentation, I do think
24 that they're meeting the standard for us to grant the relief
25 requested. I would actually agree with the Office of

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1 Planning's report.

2 I was concerned about the ANC not having provided
3 anything actually but Commissioner Holmes who's very active
4 in his ANC is very active, you know. He's now submitted a
5 letter in support so that gives more confidence in the
6 community aspect to this.

7 I do think that I'm hopeful that the two neighbors
8 will continue to contact each other in terms of this, again,
9 Commissioner Hood, you're just going to be, Chairman Hood,
10 you're just going to be the good neighbor posse guy for as
11 long as I know now.

12 That like, you know, really is important to let
13 people know what's going on, when it's going on, so that no
14 one's surprised.

15 And I do, I'm assured now from the conversation
16 that they both have each other's phone numbers, that that
17 will happen.

18 It is a very deep lot actually. And so it is
19 otherwise I would be more concerned about how far back
20 they're going. The shadow studies have made me feel better
21 about it considering the northern direction which the
22 building is facing. Otherwise I might have had a little bit
23 more concern.

24 They're not bumping all the way out. That second
25 floor is cut back in, so allowing more light and air, so

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1 that's making me feel more comfortable with it. So overall,
2 I'm going to be able to vote in favor of the application.

3 Mr. Smith, would you be able to go next?

4 MEMBER SMITH: Oh, sure. I don't have anything
5 in addition to that to add. Based on, you know, (audio
6 interference) end of the day. Yes, I don't have anything to
7 add. I agree with everything I've heard stated before me and
8 others in this particular project. So I will vote in support
9 of it given OP's report for this application.

10 BZA CHAIR HILL: Vice Chair John?

11 VICE CHAIRPERSON JOHN: Thank you, Mr. Chairman.
12 I am in support of the application. I'm encouraged that the
13 ANC submitted a letter and that the applicant met with the,
14 let me get the name, Capital View Civic Association, who are
15 also in support.

16 I reviewed Ms. Steen's letter in the file and I
17 don't know the exact exhibit. But in it she raises privacy
18 issues and impacts with light and air and most of her letter
19 involves construction issues.

20 And so if we approve this application, I would
21 urge Ms. Felder and the owners to reach out to Ms. Steen to
22 come to some arrangement about how construction issues will
23 be handled.

24 She also raises the water runoff and issues with
25 the electrical lines and so some of those things that will

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1 be dealt with at permitting.

2 But in any event, as Commissioner Hood says, the
3 good neighbor policy would require some sort of accommodation
4 to Ms. Blaine to address her concerns about construction
5 issues.

6 Other than that, I think this application is
7 fairly straightforward and I will give great weight to the
8 Office of Planning's analysis and note that DDOT is in
9 approval and that's it. And I also give great weight to the
10 ANC's report.

11 BZA CHAIR HILL: Okay, great. Thank you. Thank
12 you.

13 Mr. Blake?

14 MEMBER BLAKE: Mr. Chairman, I have nothing to
15 add. I would support the comments that have been made by my
16 colleagues.

17 BZA CHAIR HILL: Thank you.

18 Chairman Hood?

19 ZC CHAIR HOOD: I too have nothing to add. I
20 think you all have covered it very well. I will be voting
21 in support of this.

22 BZA CHAIR HILL: Thank you.

23 I'm going to make a motion to approve Application
24 Number 20540 as captured and read by the secretary and ask
25 for a second, Ms. John?

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1 VICE CHAIRPERSON JOHN: Second.

2 BZA CHAIR HILL: The motion made and seconded.

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

4 MR. MOY: When I call each of your names, if you
5 would please respond with a yes, no, or abstain, to the
6 motion made by Chairman Hill to approve the application for
7 the relief requested. The motion to approve was seconded by
8 Vice Chair John.

9 Zoning Commission Chair Anthony Hood?

10 ZC CHAIR HOOD: Yes.

11 MR. MOY: Mr. Smith?

12 MEMBER SMITH: Yes.

13 MR. MOY: Mr. Blake?

14 MEMBER BLAKE: Yes.

15 MR. MOY: Vice Chair John?

16 VICE CHAIRPERSON JOHN: Yes.

17 MR. MOY: Chairman Hill?

18 BZA CHAIR HILL: Yes.

19 MR. MOY: If staff would record vote as 5-0-0 and
20 this is on the motion made by Chairman Hill to approve, the
21 motion was seconded by Vice Chair John.

22 Also in support of the motion to approve, Zoning
23 Commission Chair Anthony Hood, Mr. Smith, Mr. Blake, and of
24 course, Vice Chair John and Chairman Hill. The motion
25 carries on a vote of 5-0-0.

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1 BZA CHAIR HILL: Okay. Thanks, Mr. Moy.

2 Okay, everybody, I'd like to say first of all I'm
3 very thankful. Thanksgiving's coming up, I'm very thankful
4 of having all of you as my friends even though some of you
5 are now just video friends.

6 But still nonetheless, friends and I'm thankful
7 for the Office of Zoning staff and all of the Office of
8 Zoning Legal Counsel and thankful for the mayor to allowing
9 me to keep having this wonderful and opportunity.

10 But again, I'm thankful and I'm going to go around
11 the horn. If anybody wants to say any kind of thankfulness,
12 thankfulness, and I'm going to go in to the same order that
13 I've been going all day.

14 Mr. Smith, do you want to say thank you?

15 MEMBER SMITH: Sure. Thank you to all of my
16 colleagues and I have, the majority of you I haven't met in
17 person. So thank you for being here with me along this
18 journey for almost two, what, a year-and-a half now and
19 thankful for technology, thankful for working electricity.
20 So thank you.

21 BZA CHAIR HILL: Vice Chair John, you got some
22 thanks to give?

23 VICE CHAIRPERSON JOHN: I give thanks every day,
24 Mr. Chairman. I do, I do. I practice gratitude. And so on
25 this Thanksgiving eve, I would like to express gratitude

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1 because the Chairman is forcing me to speak and I feel like
2 a hostage.

3 But I just wanted to thank everyone for their
4 dedication and that, you know, all show up every week with
5 a lot of energy and passion and somehow we get through these
6 days especially the difficult ones, with humor and with
7 humanity.

8 And so thank you, everybody. I'm not calling any
9 names but you all know who you are because we, when the
10 public sees us they don't really appreciate just how much
11 work goes into preparing one of these cases for the hearing.

12 So I want to thank everybody who touches these
13 applications and say Happy Thanksgiving. I will be having
14 a lot of turkey. I've already ordered my turkey and I'm
15 going to try to reach out and touch somebody else that might
16 not have been able to order turkey this year.

17 BZA CHAIR HILL: Very good, Vice Chair John, thank
18 you.

19 Mr. Blake, you got some thankful to give?

20 MEMBER BLAKE: Wow, that's hard to follow that one
21 but yes, I want to say thank you, guys, for tolerating me in
22 my rookie season. I appreciate everything. The Board has
23 been great individually and collectively, every one of you.
24 Thank you.

25 BZA CHAIR HILL: Chairman Hood, you got some

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1 thanksgiving wishes?

2 ZC CHAIR HOOD: I always have. I align myself
3 with Vice Chair John. I'm thankful every day. I'm always
4 thankful. I wake up and I'm thankful. The god I serve, but
5 let me just say this, I thank each and every one of you on
6 BZA, the Zoning Commission.

7 I also really want to really thank the residents
8 of this city who come down and they testify and they might
9 not always agree but we appreciate the input because their
10 input makes our decision and our outcomes a lot better.

11 And I also want to, I don't necessarily like to
12 get into names but I really want to point out the staff. And
13 when I say the staff, I mean Office of Zoning, Office of
14 Planning, Office of Zoning, the Legal Division, our DDOT, the
15 residents of the city, everybody who helps us to help
16 formulate a decision.

17 I'm very thankful of that because a lot of their
18 insight they give us help us come up with better insight and
19 I think better outcomes.

20 So I'm thankful for everybody who's under the
21 sound of my voice and I'm just thankful to be thankful to be
22 thankful.

23 And also I'm so thankful that every third Saturday
24 of the month my friend and I, we go and deliver food in
25 certain areas to the needy so we continue to do that. This

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1 actually, this coming Saturday we'll be doing the same thing.
2 We're partnering with some churches to give out some turkeys
3 so it doesn't just stop here. And I thank all of us because
4 this is a labor of love.

5 So I'm thankful for you, Mr. Chairman, for
6 allowing me this opportunity to be able to hear myself talk.
7 Thank you.

8 BZA CHAIR HILL: Mr. Moy, I didn't mean to leave
9 you out there, Mr. Moy. You disappeared on me.

10 MR. MOY: Oh my god. Okay. Okay, well, I can't
11 top any of this. It's not that I ever would anyhow but on
12 behalf of the OZ staff, the BZA staff, the ZC staff, we have
13 great gratitude, appreciation, and thankfulness that we have
14 such a dedicated and committed Board Members as well as the
15 Zoning Commission which is as well.

16 And I think each of us, each of you work very hard
17 to serve the public because from the staff, you know how hard
18 you work. We work more than just on the Wednesday hearing,
19 we know that.

20 So yes, this is, I wish you could stay like this
21 forever.

22 (Laughter.)

23 MR. MOY: I would rather.

24 BZA CHAIR HILL: Well, you keep wishing that way,
25 Mr. Moy.

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1 Let's see. So happy Thanksgiving, everybody. I'm
2 out for two weeks. Ms. John is going to cover for me. So
3 I will see you all in December, all right?

4 VICE CHAIRPERSON JOHN: Thank you for that
5 announcement, Mr. Chairman. You must forget that you are
6 forbidden to announce your absence in advance. Now all these
7 lawyers are going to start requesting continuances.

8 BZA CHAIR HILL: Oh, no, no, no, no, no. Don't
9 do that.

10 VICE CHAIRPERSON JOHN: They'll continuances. just
11 so you know.

12 BZA CHAIR HILL: I forgot. Well, first of all I
13 forgot. I won't do that again. And second of all, no, they
14 want you more than they want me.

15 Okay. Thank you.

16 ZC CHAIR HOOD: I will say since you all did this,
17 now tomorrow night when we have our meeting I'm going to have
18 to do something similar.

19 BZA CHAIR HILL: Yes.

20 ZC CHAIR HOOD: And I'll make it look like it was
21 my idea. No, I'm just kidding. Happy Thanksgiving,
22 everybody.

23 (Simultaneous speaking.)

24 VICE CHAIRPERSON JOHN: Some of us didn't call
25 names because we knew we would forget somebody so I think we

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1 need to add the ANCs since some people were calling names and
2 we didn't, so.

3 BZA CHAIR HILL: Absolutely. Bravo. Bravo to the
4 ANCs.

5 ZC CHAIR HOOD: I agree but when I said residents,
6 that includes all of us, everybody. I didn't, residents, you
7 don't leave nobody out.

8 VICE CHAIRPERSON JOHN: All right. All right,
9 Commissioner Hood.

10 VICE CHAIRPERSON JOHN: I always have an answer
11 for you, Vice Chair.

12 BZA CHAIR HILL: Happy Thanksgiving.

13 ZC CHAIR HOOD: See you all later.

14 VICE CHAIRPERSON JOHN: Happy Thanksgiving,
15 everybody.

16 BZA CHAIR HILL: Bye bye.

17 VICE CHAIRPERSON JOHN: Bye. Be safe.

18 BZA CHAIR HILL: Be safe.

19 (Whereupon, the above-entitled matter went off the
20 record at 4:52 p.m.)
21
22
23
24
25

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In the matter of: Public Hearing

Before: DC BZA

Date: 11-17-21

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



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