

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

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WEDNESDAY

NOVEMBER 10, 2021

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Video Teleconference, 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 Chair (NCPC)
CARL H. BLAKE, Board Member
CHRISHAUN S. SMITH, Board Member

ZONING COMMISSION MEMBER[S] PRESENT:

PETER MAY, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
TRACEY W. ROSE, Sr. Zoning Specialist
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

KAREN THOMAS
MAXINE BROWN-ROBERTS
STEPHEN COCHRAN
MATT JESICK

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

[The transcript constitutes the minutes from
the Regular Public Hearing held on November 10, 2021.]

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

2 9:36 a.m.

3 CHAIRPERSON HILL: Good morning, ladies and
4 gentlemen, Board of Zoning Adjustment. Today is 11-10-2021.
5 The hearing will please come to order.

6 My name is Fred Hill. I'm Chairperson of the
7 District of Columbia Board of Adjustment. Joining me today
8 is Lorna John, Vice Chair, Board Members Carl Blake and
9 Chrishaun Smith and Zoning Commissioner Peter May.

10 Today's meeting and hearing agenda are available
11 on the Office of Zoning's website. Please be advised this
12 proceeding is being recorded by the court reporter and it's
13 also webcast live via Webex and YouTube Live. The video of
14 the webcast will be available on the Office of Zoning's
15 website after today's hearing.

16 Accordingly, everyone who's listening on Webex or
17 by telephone will be muted during the hearing. And also,
18 please be advised that we do not take any public testimony
19 in our decision meeting sessions. If you're experiencing
20 difficulty accessing Webex or with your telephone, then
21 please call the number 202-727-0364. It's also on the
22 screen, 202-727-0364.

23 At the conclusion of a decision meeting session,
24 I shall, in consultation with the Office of Zoning, determine
25 whether a full or summary order may be issued. A full order

1 is required with a decision that contains an adverse to a
2 party, including an affected ANC. A full order may also be
3 needed for a Board's decision differs from the Office of
4 Planning's recommendation.

5 Although the Board favors the use of summary
6 orders when possible, an applicant may not request the Board
7 to issue such an order. In today's hearing session, everyone
8 who's listening on Webex or telephone will be muted during
9 the hearing and only persons who are assigned to participate
10 or testify will be unmuted at the appropriate time. Please
11 state your name and home address before providing oral
12 testimony or your presentation.

13 Oral presentations should be limited to a summary
14 of your most important points. When you're finished
15 speaking, please mute your audio so that your microphone is
16 no longer picking up sound or background noise. Once again,
17 if you're experiencing difficulty accessing Webex, please
18 call 202-727-0364.

19 All persons planning testify either in favor or
20 opposition should have signed up in advanced and will be
21 called by name to testify. If this is an appeal, only
22 parties are allowed to testify. By signing up to testify,
23 all participants completed the oath or affirmation as
24 required by Subtitle Y 408.7.

25 Requests to enter evidence at the time in online

1 virtual hearings such as written testimony or additional
2 supporting documents other than live video which may not be
3 presented as part of the testimony may be allowed pursuant
4 to Subtitle Y 103.13 provided that the person made their
5 request to enter an exhibit into the record, explain how the
6 proposed exhibit is relevant, the due cause to justify
7 allowing the exhibit into the record, including an
8 explanation why the requestor did not file the exhibit prior
9 to the hearing pursuant to Y 206, and how the proposed
10 exhibit would not unreasonably prejudice any parties. The
11 order of procedures for special exceptions and variances are
12 pursuant to Y 409. The order of appeals is pursuant to Y
13 507.

14 At the conclusion of each case, an individual who
15 was unable to testify because of technical issues may file
16 a request for leave to file a written version of testimony
17 to the records within 24 hours following the conclusion of
18 public testimony in the hearing. If additional written
19 testimony is accepted, then the parties will be allowed a
20 reasonable time to respond as determined by the Board. The
21 Board will then make its decision at its next meeting
22 session, but no earlier than 48 hours after the meeting.

23 Moreover, the Board may request additional
24 specific information to complete the record. The Board and
25 staff will specify at the end of the hearing exactly what

1 it's expected and the date when the person must submit the
2 evidence to the Office of Zoning. No other information shall
3 be accepted by the Board.

4 Finally, District of Columbia Administrative
5 Procedures Act requires that the public hearing on each case
6 be held in the open before the public. However, pursuant to
7 Section 405(b) and 406 of that Act, the Board may, consistent
8 with its rules and procedures and the Act, enter into a
9 closed meeting on a case for purposes of seeking legal
10 counsel on a case pursuant to D.C. Official Code Section 2-
11 575(B)(4) and/or deliberating a case pursuant to D.C.
12 Official Code Section 2-575(B)(13) but only after providing
13 the necessary public notice in the case of an emergency
14 closed meeting after taking a roll call vote. Mr. Secretary,
15 do we have any preliminary matters?

16 MR. MOY: Good morning, Mr. Chairman, members of
17 the Board. So I do have a brief announcement related to --
18 regarding preliminary matters related to -- excuse me --
19 applications that are not on today's docket for the record.
20 Case Application No. 20582 of Daniel Carucci has been
21 administratively rescheduled to the public meeting session
22 on November 17, 2021.

23 Case Application No. 20559 of William & Susan Nash
24 has been postponed and continued to November 17th, 2021 as
25 well. We have two case applications rescheduled to December

1 7 -- rather December 15th, 2021. These two cases are
2 Application Nos. 20542 and Application No. -- what is the
3 application number? Well, it's titled as Income One, LLC.
4 I'll come back to you on that case number, but that has also
5 been rescheduled December 15, 2021.

6 And the Case Application No. 20410 of Mamma Lucia
7 of Chevy Chase, LLC has been continued to February 16, 2022.
8 And I believe Mr. Chairman, that's all I have other than
9 there are preliminary matters to specific cases on today's
10 hearing docket. And the Board should address those when I
11 call the case.

12 CHAIRPERSON HILL: Okay. All right, everybody.
13 We have a bunch of stuff going on today. And unfortunately,
14 we're going to lose Ms. John for a little while at one point
15 in the later morning or early morning.

16 And so there have been some -- concerning the
17 appeal, there has been some issues that we need to kind of
18 talk about. So if it's okay, I'd like to go ahead and talk
19 about the appeal first and where we are with that. And so
20 if anybody has a problem, we'll go ahead and do that first.

21 So Mr. Moy, I guess what I had thought we were
22 going to do, there are, like, nine motions or something, I
23 think, there before us. And so what I'd like to do is just
24 have the Board deliberate on the motions and kind of
25 understand where we are with that. So could you -- I guess

1 you can just go ahead and call the case, and then we'll just
2 talk about the motions, correct?

3 MR. MOY: Yes, sir.

4 CHAIRPERSON HILL: Okay, great.

5 MR. MOY: Okay. So the two appeal cases are cited
6 as I am going to read. The first is Appeal No. 20452 of
7 Michael Hays. This is a caption advertised as the appeal
8 from the decision made on November 19, 2020 by the Zoning
9 Administrator, Department of Consumer and Regulatory Affairs
10 to approve the subdivision of Square 192, Lot 108 into two
11 separate lots denoted as Lots 110 and 111 in the RA-8 and RA-
12 9 zones. The property is located at 1733 16th Street,
13 Northwest, Square 192, Lots 108, 110, and 111).

14 The second appeal is Appeal No. 20453 of Dupont
15 East Civic -- strike that. Appeal No. 20453 of Dupont East
16 Civic Action Association. And again, this is the appeal from
17 the decisions made on November 19, 2020 by the Zoning
18 Administrator, Department of Consumer and Regulatory Affairs
19 to approve subdivision of Square 192, Lot 108 into two
20 separate lots, denoted as Lots 110 and 111 in the RA-8 and
21 RA-9 zones. Property located at 1733 16th Street, Northwest,
22 Square 192, Lots 108, 110, and 111. The only other thing I'd
23 like to Mr. Chairman other than the nine motions you just
24 mentioned that last night there was a filing for a consent
25 motion. So that was within the 24-hour block, sir.

1 CHAIRPERSON HILL: Okay. So if the Board is okay,
2 I'd like to go ahead and allow the motion into the record
3 even though it was inside the 24 hours because it looks like
4 someone was sick. And so we'll go ahead and do that, unless
5 the Board has any opposition. And if so, please raise your
6 hand. Seeing no one raise their hand, we'll go ahead and let
7 that in.

8 I guess unfortunately this appeal, so the Zoning
9 Administrator was sick the last time. And so we postponed
10 it. And now the attorney for the appellant -- one of the
11 appellants is sick. So we're going to postpone this again.

12 And I know now unfortunately for all of us we read
13 everything, right? So we're ready to go. So what I'd like
14 to do is there were again, I guess, nine motions, I think.
15 Nine motions. And Ms. John has kindly volunteered to help
16 us through the motions. So I'm going to turn this over to
17 Ms. John to help us through the motions and then see where
18 we get.

19 VICE CHAIR JOHN: Thank you, Mr. Chairman, and
20 good morning, everyone. So I will address the motions in the
21 order they were filed. And as the Chairman said, there are
22 nine motions.

23 So the first motion is from DCRA. DCRA has filed
24 a motion to consolidate the appeals. And unless any Board
25 member objects, I will deny this motion because for

1 administrative purposes, the cases will be held -- heard
2 together as two separate appeals. And if no one objects, I
3 will deny the motion.

4 (No audible response.)

5 VICE CHAIR JOHN: Since no one objected, the
6 motion is denied. The next one is a request for expert
7 status for James McCrery. The Dupont East Civic Association
8 -- Civic Action Association, or DECAA, requests expert status
9 for James McCrery who has not been previously recognized as
10 an expert by the Board.

11 I have reviewed Mr. McCrery's resume and believe
12 he should be qualified as an expert in architecture. And so
13 unless any Board member objects, I will approve Mr. McCrery
14 for expert status in architecture. So the request is
15 granted.

16 ZONING COMMISSIONER MAY: Ms. John?

17 VICE CHAIR JOHN: The next motion is a request --
18 yes?

19 ZONING COMMISSIONER MAY: I'm sorry. I didn't --
20 was muted. I didn't raise my hand fast enough.

21 VICE CHAIR JOHN: Oh, go ahead.

22 ZONING COMMISSIONER MAY: I mean, I was just a
23 little bit unclear. I mean, is it certain that he's being
24 proffered as an expert in architecture?

25 VICE CHAIR JOHN: That was my understanding. Did

1 you have a different understanding?

2 ZONING COMMISSIONER MAY: No, it just wasn't clear
3 to me. I didn't see a very clear thing that that's what it
4 was being proffered as. I mean, it's yes, he was seeking
5 expert status and it's logical that it would be in
6 architecture. But it was not a very thorough connection
7 there.

8 VICE CHAIR JOHN: I agree. But it's clear he's
9 a qualified architect. And because that sort of screams at
10 me, I thought he should be qualified in architecture --

11 ZONING COMMISSIONER MAY: Well, I guess --

12 VICE CHAIR JOHN: -- at least.

13 ZONING COMMISSIONER MAY: Right. So we can admit
14 him as an expert in architecture. And if for some reason the
15 applicant or the appellant thinks that it was some other
16 category of expertise, then I guess they could raise that
17 later.

18 VICE CHAIR JOHN: Thank you. And I don't believe
19 there was an opposition from either Perseus or DCRA.

20 MEMBER SMITH: So for me, it's clarification,
21 piggybacking back off of what Mr. May said and reading this
22 exhibit. The majority of what he's discussing is zoning
23 related. So if we do allow him with expert status from the
24 standpoint of architecture, we would direct his questioning
25 or discussion from a zoning discussion?

1 VICE CHAIR JOHN: Well, Board Member Smith, I did
2 not see a very clear reference to zoning qualifications. The
3 bulk of his -- I think there were five or six pages -- his
4 bio discussed his background in Catholic architecture. And
5 --

6 (Simultaneous speaking.)

7 VICE CHAIR JOHN: Go ahead.

8 MEMBER SMITH: I completely agree with you.

9 VICE CHAIR JOHN: I did not see a clear connection
10 to zoning except for his federal service. Help me here.
11 It's Commission of Fine Arts.

12 MEMBER SMITH: CFA?

13 VICE CHAIR JOHN: CFA. So does anybody else have
14 comments?

15 (No audible response.)

16 VICE CHAIR JOHN: Okay. So I'll go ahead then and
17 grant Mr. McCrery's request for expert status in architecture
18 with a comment that if the appellants feel he's qualified in
19 zoning, then they would have to make a separate request for
20 qualification in zoning. Does that work for everybody?
21 Okay. Thank you.

22 Next is an expert status request for Ravi Ricker.
23 DECAA has also filed a motion to qualify Ravi Ricker as an
24 expert. He's not been previously recognized as an expert by
25 the ward. The request is opposed by DCRA and Perseus, citing

1 Mr. Ricker's lack of a D.C. license or zoning experience.

2 I have reviewed Mr. Ricker's resume and believe
3 that based on his general experience, he can be qualified as
4 an expert in architecture. The Board, however, may take
5 notice of his lack of experience in D.C. zoning matters in
6 evaluating his testimony. So unless any Board member
7 objects, I will approve Mr. Ricker's request for status in
8 architecture.

9 (No audible response.)

10 VICE CHAIR JOHN: Okay. Hearing none, the request
11 is granted. Next, Perseus has filed a motion to exclude
12 proffered expert Ravi Ricker from testifying and discount Mr.
13 Ricker's report. DCRA has also filed a motion in limine to
14 bar Mr. Ricker's testimony as speculative and not relevant.

15 The appellants oppose both motions. So I'm
16 inclined to permit Mr. Ricker to testify as a witness so long
17 as the testimony is relevant to alleged errors of DCRA and
18 it not unduly repetitious or immaterial. The Board will
19 decide the appropriate weight for his testimony and report.
20 So if no Board member objects, I will deny both motions.

21 (No audible response.)

22 VICE CHAIR JOHN: Okay. Hearing none, the motion
23 is denied. Next, DCRA has filed a motion in limine to bar
24 the testimony of Michael Hays. Appellants oppose the motion.

25 I'm inclined to allow Mr. Hays to testify as a

1 witness for DECAA or present his own appeal. However, the
2 Board will limit his testimony to DCRA's zoning -- alleged
3 zoning errors which should be based on a specific zoning
4 regulation. Do we have any objections?

5 (No audible response.)

6 VICE CHAIR JOHN: Since no Board member objects,
7 I will deny the motion. The sixth motion is from the
8 appellants who filed a motion to bar DCRA and Perseus from
9 presenting any expert testimony or alternatively to postpone
10 the hearing and compel disclosure. So the hearing is
11 postponed. And so essentially, we're looking at the motion
12 to compel disclosure because the first part of it is moot.
13 There is no response from either DCRA or Perseus.

14 The Board has no authority to compel disclosure.
15 Subtitle Y does not require the other parties to identify
16 experts or provide statements in advance. Appellants always
17 bear the burden of proof, regardless of whether any other
18 parties or persons participated in a proceeding on Subtitle
19 X 1101.2.

20 The appellants also appear to raise challenges to
21 the D.C. Administrative Procedure Act. This Board has no
22 jurisdiction to hear that issue but will note the objection
23 in the record. Does any Board member have any comments,
24 objections?

25 (No audible response.)

1 VICE CHAIR JOHN: Since no one objects, the motion
2 is denied. Next motion is from appellants who filed a joint
3 motion to supplement their statement of issues, in other
4 words, to amend the appeal to include a claim that the ZA's
5 decision to approve the subdivision violates Subtitle B
6 324.18. That section states that every part of a required
7 yard must be open and unobstructed from the ground up with
8 certain exceptions.

9 Appellants contend that until DCRA and Perseus
10 file their opposition in July, appellant did not know that
11 the ZA's basis -- did not know the ZA's basis for approving
12 the subdivision. DCRA opposes the motion, and DCRA claims
13 that appellants seek to add another irrelevant issue despite
14 the Board's direction to the appellants in July to narrow the
15 issues that are relevant for an efficient hearing. And
16 appellants are precluded from amending their appeals pursuant
17 to Subtitle Y 302.13.

18 Even if no evidence is presented in opposition,
19 appellants have the burden to show how the subdivision was
20 in violation of zoning requirements. This request is also
21 untimely, and there's no evidence that either DCRA or Perseus
22 prevented appellants from raising the issue in a timely
23 manner. Therefore, I'm inclined to deny the motion.

24 However, because Perseus raised Subtitle B 324.18
25 in its response to appeal, the issue is already a part of the

1 case. And appellants may offer testimony in this issue.
2 Does anyone have comments or objections? Okay, Commissioner.

3 ZONING COMMISSIONER MAY: I mean, I would just say
4 it is an interesting issue that was raised. And I do expect
5 -- well, I'm curious enough about it to ask DCRA questions
6 about it. So hopefully, they will be prepared to discuss the
7 substance of the issue.

8 And as you said, it could come up in testimony
9 regardless. So I think that it's worth understanding the
10 Zoning Administrator's logic on this. But I agree that the
11 amendment itself.

12 VICE CHAIR JOHN: Okay. Thank you. Anyone else?

13 (No audible response.)

14 VICE CHAIR JOHN: So next, appellants filed a
15 joint motion for summary reversal and argue that the Board
16 should vacate this use, approval of the subdivision which is
17 a violation of the D.C. Administrative Procedure Act because
18 DCRA's response to two FOIA requests shows that the ZA had
19 no information in which to base a determination that the
20 subdivision complied with zoning requirements. Perseus and
21 the property owner oppose the motion. And they state that
22 appellants do not cite any provision of the zoning
23 regulations or any authority that would provide a basis for
24 the Board to grant an appeal and reverse a prior decision of
25 the zoning administrator by granting summary disposition

1 without holding a hearing.

2 All of the appellants claims under D.C. FOIA and
3 the D.C. Administrative Procedure Act that are not based on
4 the zoning regulations are outside of the scope of the
5 Board's review and a zoning appeal and are thus irrelevant.
6 I agree with Perseus and the property owner that the motion
7 should be denied because it is premised on an alleged
8 violation of the D.C. APA and D.C. FOIA and not on any
9 specific provision of the zoning regulations as required.
10 Additionally, this Board has no jurisdiction to address
11 questions related to the D.C. Administrative Act or FOIA --
12 or the D.C. FOIA. Does any Board member have any questions,
13 objections?

14 (No audible response.)

15 VICE CHAIR JOHN: Since no one objected, the
16 motion is denied. The last motion is a motion to intervene
17 in support of the appeals by Wendy Schumacher. And hope
18 that's the correct pronunciation. Ms. Schumacher lives at
19 1701 16th Street, Northwest across the alley to the south of
20 the temple.

21 This motion to intervene was filed more than nine
22 months after the initial appeal was filed. Therefore, this
23 motion is untimely. Furthermore, the Board may grant
24 intervener status if the specific right or interest of the
25 potential intervener will not be adequately represented by

1 the automatic parties.

2 Ms. Schumacher's claim of error with respect to
3 an existing wall under Subtitle B 324 can be adequately
4 addressed by the appellants. As mentioned earlier, that
5 issue was raised by Perseus in its response and is therefore
6 already part of the appeal. If no Board member objects, I
7 will deny the motion.

8 (No audible response.)

9 VICE CHAIR JOHN: Since no objected, the motion
10 is denied. And that's it for me, Mr. Chairman. Thank you.

11 CHAIRPERSON HILL: Vice Chair John, thank you so
12 much for your help with this. The motions were extensive,
13 and I appreciate all the time that you put in for the
14 motions. I guess, Ms. Nagelhout?

15 MS. NAGELHOUT: Yes?

16 CHAIRPERSON HILL: Do we need to take a vote on
17 the motions en masse? Or are we done with the motions?

18 MS. NAGELHOUT: I think you're done. All of the
19 motions are within the purview of the presiding officer to
20 decide. So it --

21 CHAIRPERSON HILL: Okay.

22 MS. NAGELHOUT: -- can be done by consensus.

23 CHAIRPERSON HILL: Okay, great. Thank you. I
24 assume the applicant -- I'm sorry, the appellants as well as
25 the property owner of the DCRA are listening. So what I just

1 wanted to really clarify for the appellants is that now what
2 has happened, one of the motions was to combine the appeals.

3 And what we're going to do is we're actually --
4 since the -- since as Ms. John had stated -- Vice Chair John
5 had stated, the issues are almost identical that we're going
6 to hear them at the same time. And I would encourage the
7 applicants to work together to have an expeditious hearing.
8 Pursuant to Y 506.2, the appellant and all parties in support
9 except the ANC collectively have a maximum of 60 minutes
10 exclusive of cross examination to present testimony.

11 All parties except in effect the ANC and
12 interveners in opposition collectively get an amount of equal
13 time to that of the appellant and parties in support, but in
14 no case more than 60 minutes exclusive of cross examination
15 to present testimony in opposition. Under Y 506.4, the Board
16 may grant more or less time than allowed in Y 506.2 to
17 present a case provided that the presiding officer ensures
18 reasonable balance in the accumulation of time between the
19 appellant and those parties in support of the appeal and the
20 appellee and those parties in opposition. So what I'm trying
21 to get across is that Mr. Hays and DECAA will have an hour
22 to present their case, not including cross examination.

23 So they should work together to know how they're
24 going to do that. And then -- also then DCRA as well as
25 those opposed to the appeal will have also an hour to give

1 their presentation outside of cross examination or questions
2 that we may have. And I say this again because this -- what
3 I would again recommend the appellant to do is really focus
4 in on the issues as to how the Zoning Administrator erred and
5 not spend a lot of time about parking and loading and things
6 such as that is not really what is going to end up being
7 before us.

8 Because I think there are some interesting
9 questions that we will have as to how the Zoning
10 Administrator came to the decision. But I would encourage
11 the appellant again to focus in on those issues that the
12 Zoning Administrator erred on and not things that are not
13 really within the purview of the appeal. And I mention this
14 again because these appeals tend to go on pretty long.

15 And we don't want to be in a situation where it,
16 again, is going to get continued to another time because we
17 want to be able to hear this efficiently. Mr. Moy, did you
18 know when -- oh, there was another issue. There was, I
19 guess, a late filing.

20 Someone had a late filing. I think it was a Mr.
21 Alan Gambrell. And unless anyone has any issues, I'll go
22 ahead and allow that into the record. And so we're going to
23 go ahead and allow that into the record --

24 (Simultaneous speaking.)

25 MR. MOY: Thank you, sir. Thank you.

1 CHAIRPERSON HILL: Thank you, Mr. Moy. And then
2 as far as a date, I mean, unfortunately, we're -- as I said,
3 the appeals, we set aside a very big block of time for these.
4 And so I don't know when we can get back here again for it,
5 Mr. Moy.

6 MR. MOY: Well, we do -- the Board does have some
7 options, sir. And the -- well, let me put it this way. The
8 next opening for the Board would be March 30th, 2022.
9 Naturally, of course, I'm not going to have very many, if
10 any, applications for that day at all for this -- for these
11 two appeals.

12 So that will be March 30th. Other than that, Mr.
13 Chair, I hesitate to proffer that. We have not scheduled a
14 hearing for February 23rd. So we could entertain a special
15 public hearing just for this one appeal and nothing else.
16 But I only suggest that as a possibility and leave it up to
17 which direction the Board would like to have.

18 CHAIRPERSON HILL: Give me one second.

19 VICE CHAIR JOHN: Mr. Chairman, while you're
20 thinking, I would subject February 23rd.

21 CHAIRPERSON HILL: Okay. Well -- okay. And I
22 think I understand why. I just -- I have a question for Ms.
23 John actually. But February 23rd, got it. Okay. So what's
24 February 23rd -- why -- we're missing a holiday then, Mr.
25 Moy?

1 MR. MOY: Washington's birthday holiday is that
2 Monday, two days prior. Or in this case, it would be --
3 yeah, it would be two days prior. In other words --

4 (Simultaneous speaking.)

5 MR. MOY: Yeah.

6 CHAIRPERSON HILL: So isn't it on President's Day?

7 So --

8 MR. MOY: Yeah, exactly. I'm sorry. Yeah, I'm
9 a little bit behind here. Yeah, you're right.

10 CHAIRPERSON HILL: All the White men except for
11 one day, right? Let's see. All right. So February 23rd,
12 okay, yeah. Let's go ahead and put it on the 23rd unless you
13 guys mind because then it'll just be one -- it'll just be the
14 appeal. And then there won't be a lot of prep work the
15 weekend before because we've already done all the prep work.
16 Is everybody good with that?

17 VICE CHAIR JOHN: Yes, Mr. Chairman. I would just
18 add that there's a lot of information on the background of
19 the dome and all of the architectural history which most of
20 us, I believe, have already read. So I don't think we need
21 to spend time on a lot of background information.

22 CHAIRPERSON HILL: Agreed. Mr. May?

23 VICE CHAIR JOHN: Mr. May --

24 CHAIRPERSON HILL: Oh, sorry. Ms. John, you were
25 going to say something else?

1 VICE CHAIR JOHN: I was just showing you that Mr.
2 May wanted to speak.

3 CHAIRPERSON HILL: Oh, got it.

4 ZONING COMMISSIONER MAY: Thank you. I guess what
5 I'm curious about is between now and then, the record stays
6 open for additional submissions because we've postponed the
7 hearing. The reason I say this is that having read all of
8 that information in one fell swoop, it is unbelievably
9 repetitions.

10 And I don't want to have another round of
11 everybody submitting the same things over and over again and
12 getting into this whole process of making motions and then
13 fighting the motions and submitting the same information
14 again. I mean, just between July and now, there's just been
15 a whole lot of additional documents submitted with very
16 little actual new information. So I would like to avoid a
17 repeat of that between now and February 23rd.

18 CHAIRPERSON HILL: I will turn to Ms. Nagelhout.
19 Ms. Nagelhout, I mean, like, I don't think the Board needs
20 anything else. So can we close the record?

21 MS. NAGELHOUT: No, you can't. The hearing hasn't
22 even really started yet. So the record is open. But I think
23 the Board has made its desires pretty clear.

24 ZONING COMMISSIONER MAY: Oh, no. I'm not done.

25 CHAIRPERSON HILL: Okay, Mr. May.

1 ZONING COMMISSIONER MAY: So I mean, I assumed
2 that the record would have to stay open. But I will say --
3 and I don't want to be unduly repetitious myself. But again,
4 I think there is a perception on the part of some of the
5 parties involved that repeating essentially the same
6 information again is going to be persuasive.

7 And if anything, it is the opposite, right? We
8 don't need to hear the same thing over and over again. And
9 if somebody makes some new point, we don't need to hear the
10 same argument repeated to rebut that point.

11 So again, if there is new relevant information
12 that we need to see, then I would encourage it to be
13 submitted. But I think everybody needs to -- and I mean
14 everybody involved in this, the appellant, DCRA, and Perseus
15 all need to think very carefully before they submit things.
16 You do not win cases by having the most exhibits or having
17 the biggest stack of paper.

18 Make the arguments and make only good arguments
19 between -- and if you don't need to make any more arguments
20 at all, and I frankly don't think you do, let's just go with
21 the record that we have on February 23rd. The last thing I
22 would say is that I think there was also a pretty clear
23 message in the denial of the motion relating to the
24 Administrative Procedures Act purported violations. That's
25 not in our domain.

1 That's not a zoning matter. And so anything
2 submitted on that topic will be worthless and will just cause
3 us to spend more time reading something that we don't have
4 to read. So I just want to caution everybody to be judicious
5 in what they submit to the record. Okay. I'm done. Thank
6 you.

7 CHAIRPERSON HILL: No, thank you, Mr. May. And
8 hopefully the appellants and everyone do understand that they
9 are just hurting their case. So all right. Okay. Let's
10 see. And I guess is that it, Mr. Moy, Ms. Nagelhout? Are
11 we good?

12 MS. NAGELHOUT: I think so.

13 MR. MOY: I'm good. Yeah, I would defer to Mary.

14 CHAIRPERSON HILL: Okay. I think Ms. Nagelhout
15 just say we're good. Okay. So then we're doing this on
16 February 23rd as a favor, right, as a favor. Like, we're
17 giving up our holiday day or President's Day as I'm going to
18 figure out how to call it in a different way and it's going
19 to be more appropriate.

20 All right. Okay. That's it. All right. So then
21 we're done with that. February 23rd, February 23rd, 2-23.
22 Okay. So that's that. And Commissioner May, you're going
23 to stay with us on that case since you've done all of the
24 homework already, correct?

25 (No audible response.)

1 CHAIRPERSON HILL: You're on mute, and I assume
2 you're saying yes.

3 ZONING COMMISSIONER MAY: Yes, I'll be back. And
4 I won't be back the week after that --

5 CHAIRPERSON HILL: Oh.

6 ZONING COMMISSIONER MAY: -- regularly assigned
7 day.

8 CHAIRPERSON HILL: Wonderful. You now put
9 everyone on notice as to when you're going to be back.

10 (Whereupon, the above-entitled matter went off the
11 record at 10:13 a.m. and resumed at 10:23 a.m.)

12 CHAIRPERSON HILL: All right. We're in our
13 hearing session now. So do we need a break, or are we going
14 to go? Okay. We're taking a break. All right. Let's take
15 a quick five-minute break, ten-minute break. And we'll see
16 you all during our -- for our hearing session.

17 (Whereupon, the above-entitled matter went off the
18 record at 10:23 a.m. and resumed at 10:35 a.m.)

19 CHAIRPERSON HILL: Okay, great. Mr. Moy do you
20 want to call our first hearing case?

21 MEMBER SMITH: You're on mute, Cliff.

22 MR. MOY: Oh, man. I got to repeat that again.
23 Okay. I apologize for being tardy, Mr. Chairman. And before
24 I begin with the next case before the Board, I want to go
25 back to 9-3 where I mentioned that one of the cases that was

1 rescheduled or continued to a future date was titled as
2 Income One, LLC continued to December 15, 2021. And that
3 case number is 20553.

4 Thank you, Mr. Chairman. So other than that, the
5 first case in its public hearing session is 20527 of 813 S
6 as in Sierra, NW, LLC. Captioned and advertised as amended
7 for a special exception under the residential conversion
8 requirements, Subtitle U, Section 320.2, and from the rear
9 edition requirements, Subtitle E, Section 205.4.

10 Variance from the lot occupancy restrictions,
11 Subtitle E, Section 304.1. And this would construct an
12 addition and convert an existing mixed use building into an
13 apartment house with three dwelling units in the RF-1 zone.
14 Property is located at 815 and 817 S Street, Northwest,
15 Square 394, Lots 809 and 810.

16 CHAIRPERSON HILL: Thank you, Mr. Moy. Ms.
17 Wilson, can you hear me?

18 MS. WILSON: Yes, I can. Can you hear me?

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

21 MS. WILSON: Hi, I'm Alex Wilson from Sullivan &
22 Barros on behalf of the applicant.

23 CHAIRPERSON HILL: Okay. And Ms. Wilson, who is
24 here with you today?

25 MS. WILSON: Sure. I'm here with Alon Street, who

1 is the owner and developer of the property, and Greg Kearley
2 from Inscape Studio. And he is the project architect.

3 CHAIRPERSON HILL: Okay. All right. So let's see
4 who, if anybody, we get to speak with. Let's see. So Ms.
5 Wilson, if you can go ahead and walk us through your
6 presentation and why you believe that your client is meeting
7 the necessary criteria for us to grant the requested relief.
8 I'm going to put 15 minutes on the clock there so I know
9 where I'm going or where we are, and you can begin whenever
10 you like.

11 MS. WILSON: Great. Thank you so much. Mr.
12 Young, could you pull up the presentation when you have a
13 chance? So for some background here too, we requested to
14 postpone a few weeks ago. I don't know if you remember. It
15 was at the end of the hearing session.

16 And so we postponed to work with the Office of
17 Planning because they were originally recommending denial of
18 the area variance. But now we have their recommendation of
19 approval for all areas of relief. Next slide, please. So
20 before we begin, I'm going to turn it over to Mr. Street to
21 say a few words about the project and background.

22 MR. STREET: Good morning, Chairman, Committee.
23 Thank you for taking the time to review this application.
24 I am a managing member of this project.

25 CHAIRPERSON HILL: Mr. Street, could you just

1 introduce yourself for the record? Sorry.

2 MR. STREET: Sorry. My name is Alon Street, and
3 I live at 1911 11th Street, Northwest, Washington, D.C.
4 20001. So I've actually known -- intimately known about this
5 property since 2012 when I moved into the neighborhood. I
6 basically walked by it every single day as my morning walk
7 with my dog.

8 And earlier this year, another member of this
9 project reached out to me. He was friendly with the owner,
10 Ms. Jackie. And I guess through conversation, she mentioned
11 she wanted to sell the building and he approached me. He's
12 involved with this project as I've known about the site for
13 so long.

14 We purchased it in April of this year, immediately
15 hired (audio interference) who I've worked with on previous
16 projects to work on designing something. This is a historic
17 building. And so we worked really closely with Historic, and
18 Greg will speak to that as to the design.

19 I also immediately -- once we closed in April --
20 started knocking on doors, handing out my cell phone number
21 to anyone who wanted it, if they had any questions throughout
22 the whole process. The only -- the direct neighbor, the only
23 attached neighbor, could never get a hold of that individual.
24 And at the first EPD meeting, one of the Commissioners,
25 Frank, told me that he actually lived abroad, took down my

1 cell phone number, and that's when I started having
2 conversations with the direct neighbor.

3 But we're very excited about this project. I live
4 in the neighborhood. I know what a great project this can
5 be for the neighborhood. I'm happy to answer any questions
6 you all might have. Thank you very much.

7 CHAIRPERSON HILL: Thank you, sir.

8 MS. WILSON: Thank you. Alon. Can you go to the
9 next slide, please? The proposal is to construct a second
10 story addition to the existing building and convert it to
11 three residential units. This requires area variance relief
12 for a lot occupancy to increase the lot occupancy on the
13 second floor to 91 percent, and the first floor is already
14 100 percent.

15 It also requires 10-foot rear relief and relief
16 for the conversion to three units. And then we will touch
17 on this some more. But the specific HPO restrictions
18 severely limit how this building can be developed. And the
19 existing configuration is not conducive to adapted reuse
20 which is driving the need for relief.

21 DDOT has no objection. The ANC is supporting the
22 application. HPRB has already approved, and we were able to
23 work with OPM to provide additional information. And now
24 they're also recommending approval.

25 Alon mentioned this, but there's only one directly

1 abutting building. And that owner is supporting the project.
2 He submitted a letter of support.

3 And there was a letter in opposition from (audio
4 interference). But I just wanted to make the distinction
5 that the building next door is in support. And with that,
6 I will turn it over to Greg to go through the plans.

7 MR. KEARLEY: Hi, my name is Greg Kearley. I'm
8 the principal and owner of Inscape Studio, the architecture
9 firm that's working with Alon on this particular development.
10 Could we go to the next slide, please?

11 So I think everyone is aware of the location of
12 the property. You're at the corner of 9th Street and 7th
13 Street. You can see that shaded in orange. Next slide.

14 These are some images of the existing condition.
15 One thing to note is there's this mural that's been part of
16 the community. And we had worked with ANC and Historic, and
17 we're going to be restoring that mural as part of the
18 project. Next slide.

19 Again, existing conditions and elevations. Just
20 one thing to note is you can see the second floor and how the
21 addition is going to be going east on the second floor to
22 extend that second floor to the alley, the cross alley that's
23 at the side of the property. Next slide. Same thing, so
24 next slide, please.

25 So I'm going to just talk briefly about the units.

1 I know it was important to Alon. It was important to the ANC
2 to have larger units and I guess less units and larger units
3 that could be family friendly.

4 So the units are -- even though this is a condo,
5 it's much like a townhome. They're about 2,000 square feet
6 each. Everyone is well aware of our last two years with
7 COVID. So we're actually having an office study on the first
8 floor in each of the units. If we go to the next slide.

9 And then they're basically three bedroom units.
10 The middle unit, it's not a bedroom because it doesn't have
11 the egress window. It's a study.

12 But really two bedrooms, three bath -- three
13 bedrooms, two bathrooms on the second floor. So there's a
14 lot of flexibility for who's going to purchase these, and
15 families purchase them. Next slide.

16 And these are the proposed elevations. You can
17 see the extension to the east on the second floor. And even
18 though the first floor is 100 percent, this will be about 91
19 percent. There's a small balcony that at the front that
20 offsets with the existing and the addition. Next slide.

21 CHAIRPERSON HILL: Hey, Mr. Kearley?

22 MR. KEARLEY: Yes?

23 CHAIRPERSON HILL: Just so -- I just want to make
24 Ms. Wilson aware that I just kind of want to move as quickly
25 as we can.

1 MR. KEARLEY: Okay.

2 (Simultaneous speaking.)

3 MR. KEARLEY: Let's go to the image, the next
4 slide, and I'll wrap it up in about 30 seconds.

5 CHAIRPERSON HILL: Okay.

6 MR. KEARLEY: This actually is a couple of
7 precedent images. Next slide. So this is what we came up
8 with in terms of the proposal. And again, we worked closely
9 with Historic. We weren't allowed to do a third story which
10 would've been a matter of right. But because of the historic
11 nature and this being on a corner unit, we weren't -- that
12 was not a possibility.

13 And we went through this with ANC. So really the
14 only viable addition to this project is that second story
15 addition which you see here in the rendering. So we feel
16 like we have a project that's consistent with the
17 neighborhood in terms of scale, in terms of proportion, in
18 terms of having a rhythm of these townhomes on S Street.

19 Another thing that was very unique was that the
20 bays on S Street were in public space. And so you were sort
21 of limited to having the bedrooms upstairs and not wanting
22 the bedrooms to be in public space. And that's another
23 reason why we're extending this to the east.

24 So again, we feel this is compatible. It's
25 consistent with the neighborhood, and it's a wonderful

1 addition to the neighborhood. And that wraps up my
2 presentation.

3 CHAIRPERSON HILL: Great. Thanks, Mr. Kearley.
4 Yeah, Ms. Wilson, I'm real interested in just kind of the --
5 in particular, the area variance.

6 MS. WILSON: Yeah, yeah.

7 CHAIRPERSON HILL: And so --

8 (Simultaneous speaking.)

9 MS. WILSON: We can skip directly --

10 CHAIRPERSON HILL: You can go to your -- I'm down
11 to where you're at slide 19. Oh, I'm sorry. Yeah, 19.

12 MS. WILSON: Okay. We can skip there.

13 CHAIRPERSON HILL: Slide 10. Slide 10.

14 MS. WILSON: All right. Great. So in terms of
15 special exception relief, the relief is in harmony with the
16 general purpose and intent of zoning regulations. Granting
17 relief will not tend to adversely affect the use of
18 neighboring properties.

19 We did submit shadow studies demonstrating that
20 the impact on light and air is limited and the applicant has
21 worked with the owner to limit impacts. The addition is
22 limited to the second story rather than an increase in
23 overall building height.

24 Next slide, please. The application meets the
25 requirements of the U 302.2 as there is an existing building

1 on the property and a minimum of 900 square feet per unit.

2 Next slide, please. I've touched on this but the
3 shadow study shows the difference between a matter-of-right
4 addition at 60 percent and only two feet past and the
5 proposed at 91 so it doesn't show 10 feet past versus what
6 is proposed which is normally what we do because lot
7 occupancy is the limiting factor.

8 As you can imagine, there would be even a smaller
9 difference in shadow with 10 feet past versus 38 as what we
10 are showing now, two feet past versus 38 feet. And there is
11 a very small amount of additional shadow at 9:00 a.m. during
12 the summer but the shadow is gone by 1:00 p.m.

13 During the spring, fall, and winter there is a
14 minimal additional shadow and it's also gone by 1:00 p.m.
15 Regarding privacy, the addition will not have any windows
16 facing north. Regarding character, the HPO restrictions
17 drive the need for relief in this case. The addition follows
18 the HPO recommendations that are in place to maintain the
19 character.

20 You can skip two slides, please. For the area
21 variance we are requesting relief to go to 91 percent. Next
22 slide, please. So confluence of factors may be considered
23 for the first prong in this case. The mixed-up nature,
24 history, configuration, condition of the building, and
25 specific restrictions create an exceptional situation. The

1 building was originally used commercially and had three
2 commercial spaces. The residential space on the second floor
3 was used by one of the commercial owners.

4 The first floor spaces can no longer be used
5 commercially without use variance relief and these spaces
6 must be completely renovated for any residential use.
7 Additionally, the existing configuration where the building
8 has a first-floor lot occupancy of 100 percent and only half
9 that on the second story presents layout issues in terms of
10 connecting and utilizing the second floor appropriately.

11 The property is on the corner of two busy streets.
12 It has an existing wall facing east. There are existing bay
13 windows and public space. Generally the building footprint
14 can't be altered. The property is, as I mentioned, a corner
15 property and has two street frontages. The majority of the
16 other contributing properties in the area only have one
17 street frontage.

18 Next slide, please. This has more details about
19 the history and this information is in the record. Again,
20 I'll just note these existing spaces which were originally
21 constructed for commercial use can no longer be used
22 commercially. Only the Checkers Club (the mural on the back
23 is dedicated to the Checkers Club) used this property and
24 they didn't have a C of O to operate so we couldn't find any
25 C of Os past 1989 so it can no longer be used commercially.

1 Next side, please. Regarding the existing
2 building layout, the building occupies 100 percent on the
3 first floor but only 51 percent on the second story. There's
4 a clear separation between the commercial spaces and the
5 residential unit above which was used by a previous Bodega
6 tenant as a residence. Properties on the corner of two busy
7 streets and all first-floor windows are at street level
8 facing 9th Street or F Street.

9 There are existing bay windows in public space
10 that can't be eliminated because of HPO restrictions. Since
11 that mural to the Checkers Club is being maintained, the
12 applicant cannot add or relocate any windows to the rear of
13 the building. Those would be at-risk windows anyway. Or
14 manipulate the existing footprint in any way, the first floor
15 footprint.

16 Next slide, please. Just briefly I wanted to
17 touch on the Court of Appeals case which has a narrow holding
18 that a building isn't unique by virtue of being a
19 contributing structure. I wanted to bring this up because
20 that's not what we're arguing here.

21 In this case the property and the building are
22 unique for other reasons coupled with the specific HPO
23 restrictions. We are not saying this is unique simply
24 because it's a contributing structure. There are other
25 factors that add to that.

1 Next slide, please. For example, one HPO
2 consideration when approving an addition to a contributing
3 structure is whether it is visible from the public ways.
4 When you have an interior row building, you can often do a
5 second or third story addition and just set it back to limit
6 visibility, but for a corner lot that's not really possible.
7 I did include a couple sample cases in the record where row
8 dwellings were permitted to add third stories.

9 Next slide, please. So this building is also
10 distinguishable from other corner lots in the area. It's a
11 large corner lot, only two stories. It takes up 100 percent
12 lot occupancy and was historically used for commercial
13 purposes. We've included a summary of all other corner lots
14 in the area.

15 The lots are either too small to be converted, not
16 in historic districts, have already been converted to either
17 two or three units, and many are already three stories and
18 would not face these same issues. Many we found were
19 historically used commercially.

20 Next slide, please. These photos are also in the
21 record and show how these corner lots are compared to the
22 subject property. As I mentioned, some of them are already
23 three stories.

24 Next slide, please. Regarding the first prong,
25 in summary, no other property in the area is faced with this

1 confluence of factors. The HPO restrictions coupled with the
2 existing building conditions creates an exceptional
3 situation.

4 HPO has either noted a matter of right addition
5 is not viable and the property, as I mentioned, is not unique
6 simply by virtue of being a contributing building in an
7 historic district. It is unique due to other factors
8 discussed coupled with the historic restrictions. Therefore,
9 finding this property unique would not violate narrow holding
10 in the Court of Appeals case. the Dupont case.

11 Next slide, please. This is regarding the second
12 prong. Without the relief the applicant would face a
13 practical difficulty.

14 Next slide, please. But for the specific HPO
15 restriction and the building configuration, the applicant
16 could demolish portions of the existing building and
17 reconfigure the first floor, do a third-story addition, and
18 all of this could be limited to 60 percent, or even 70
19 percent, special exception.

20 "...Smithsonian National Portrait Gallery. I am
21 Dorothy..."

22 MS. WILSON: That was strange. Okay. No windows
23 in public space and each unit would have its own floor.
24 Because of the restrictions the applicant must work within
25 the existing first-floor building plan and is limited to two

1 stories.

2 Next slide, please. So there are really two
3 matter-of-right options. It's to leave the upper story at
4 51 percent, or do a small second-story addition and increase
5 the lot occupancy by only 9 percent to 60 percent.

6 Another third option would still require a lease
7 but only special exception relief to increase the second
8 story to 70 percent instead of the proposed 91 percent. That
9 was also considered as part of the analysis.

10 The difficulties with the three options are
11 directly related to the existing commercial configuration and
12 odd building layout with 100 percent lot occupancy on the
13 first floor and only half that above on the second.

14 As noted, the spaces are disjointed currently and
15 do not have any real connection. The applicant is requesting
16 relief for a larger second story so that the unit layouts
17 make sense and work with the existing first-floor space.

18 Due to the high visibility and commercial
19 configuration on the first floor, the project has been
20 designed with bedrooms on the proposed second story and
21 living spaces on the ground story. The spaces have been
22 designed and reconfigured to protect privacy.

23 For example, the bay windows and public space have
24 been designed as kitchen nooks so without the proposed
25 addition, the project doesn't really work, not even at the

1 70 percent special exception because of the layout.

2 If you could please go to the next slide.

3 CHAIRPERSON HILL: Ms. Wilson.

4 MS. WILSON: Yes.

5 CHAIRPERSON HILL: Can I jump in? Thankfully we
6 have your deck so we are able to go through it. Could I just
7 shoot you down to Slide 31?

8 MS. WILSON: Absolutely. Happy to do that.
9 Right. In this case, due to the exceptional circumstances
10 affecting this property, the applicant would face practical
11 difficulties without the relief as any matter-of-right
12 addition is not viable because it would be too small to make
13 sense economically.

14 Doing a project without an addition is also not
15 viable because of the unique existing layout and difficulties
16 connecting the first and second floors as described. But for
17 the historic restrictions, the applicant could renovate or
18 manipulate the first-floor footprint and construct a three-
19 story building without bay windows and public space and
20 eliminate the need for relief.

21 The Office of Planning agrees with this
22 assessment. As mentioned, using the existing configuration
23 as is for any residential conversion does not make practical
24 sense and would not be feasible due to the existing layout.

25 You can skip to the next slide and I'll summarize.

1 Applicant has included shadow studies the adjacent owner
2 supports. Instead of requesting relief for a use variance
3 from previous commercial uses, the applicant is attempting
4 the adaptive reuse of the building to provide new quality
5 family-sized housing units via a use permitted in the zone
6 through special exception. That is our presentation.

7 CHAIRPERSON HILL: Thanks, Ms. Wilson. Can you
8 tell me -- Mr. Young, drop it.

9 Can you tell me how did the ANC meetings go?

10 MS. WILSON: Mr. Kearley might be able to speak
11 to that a little bit better. It's my understanding that --

12 MR. KEARLEY: Mr. Chair, I can speak to that.

13 CHAIRPERSON HILL: Go ahead, Mr. Kearley.

14 MR. KEARLEY: So we had multiple meetings with
15 ANC. The first ANC was regarding each PRB and the historic
16 nature of the renovation. They voted unanimously to approve
17 the design. We then went through a couple of separate
18 meetings dealing specifically with BZA.

19 They initially had some -- I guess some hesitance
20 to approve based on the relief being sought. That's when we
21 brought in Alex and her firm to really get a better
22 understanding of the specific relief.

23 Once that was understood by the ANC, then they
24 again supported the project in full. We have had a lot of
25 feedback from the ANC, specifically the ZPD Committee of this

1 ANC and they are in support of the project as we have
2 proposed.

3 CHAIRPERSON HILL: Okay. Great, Mr. Kearley.

4 Does the Board have any questions of the
5 applicant? Okay. I'm going to turn to the Office of
6 Planning.

7 MR. JESICK: Thank you, Mr. Chairman and members
8 of the Board. My name is Matt Jesick and I'll be presenting
9 OP's testimony in this case. As the Board is aware, at our
10 initial report at Exhibit 44 OP recommended denial of the
11 variance. At that time in our report we stated that the
12 exhibits submitted to date do not present evidence that the
13 exceptional condition would result in a practical difficulty.

14 Based on that statement, the applicant requested
15 additional time to supplement the record which they did at
16 Exhibit 54. That exhibit describes ways in which other
17 potential development scenarios, including matter of right
18 or special exception scenarios, would be less practical and
19 more difficult than the proposed project.

20 Reasons for this included locating bedrooms on the
21 ground floor with high visibility and bay windows; unusual
22 configurations of the units and the stairwells; and the lack
23 of economic viability of a more conforming solution.

24 So based on those factors, the Office of Planning
25 was able to find that there was a practical difficulty. That

1 was our initial sticking point, but we are now able to say
2 that the application meets the three-prong variance test and
3 we are recommending approval of all the areas of relief. I
4 would be happy to take any questions. Thank you.

5 CHAIRPERSON HILL: Thank you, Mr. Jesick.

6 Does the Board have any questions for the Office
7 of Planning?

8 Mr. Nelson, are you there?

9 MR. NELSON: Yes, sir.

10 CHAIRPERSON HILL: Hi, Mr. Nelson. You're the ANC
11 commissioner. Is that correct?

12 MR. NELSON: I chair the ANC ZPD Committee.

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

15 MR. NELSON: My name is Patrick Nelson and I
16 reside at 730 Fairmont Street in NW and I am the current
17 chair of the Zoning Preservation and Development Committee
18 for ANC-1B.

19 CHAIRPERSON HILL: Okay. Welcome, Commissioner.
20 I didn't see you there earlier. Sorry.

21 MR. NELSON: I turned myself off so I wouldn't be
22 publicly seen.

23 CHAIRPERSON HILL: Sure. Well, yeah.
24 Commissioner, do you have anything you would like to add?

25 MR. NELSON: Yes, I have just a very brief

1 statement. It will probably take a minute or two.

2 CHAIRPERSON HILL: Sure. Go ahead.

3 MR. NELSON: I wanted to just take a minute to
4 give you some information as it relates to the ANC which I
5 hope will help you. This project is in a property that has
6 some importance as a cultural institution in this
7 neighborhood for over 40 years.

8 It has housed the Capital Checkers Club that had
9 60 men representing its members forging the club's history,
10 camaraderie, and cultural significance within the African
11 American community.

12 The ANC has been working with this project since
13 April of 2021 when we first reviewed it for its presentation
14 to the HPRB. We really like the fact that they were
15 converting the large area in front from a concrete slab to
16 a fenced grassy area, along with the fact that the units
17 would be largely 2,000 square feet and three bedrooms which
18 are sorely needed in this area.

19 At that time we addressed to the applicant that
20 we thought they should be looking at going up another floor
21 as we would likely support that better than what they were
22 proposing as it seemed to make more sense in the RF1 zone and
23 we knew their proposing had certain zoning issues. They
24 explained that they had asked the staff at HBRP and were told
25 that the third floor was not going to be approved.

1 We were able to get the applicant to agree to
2 three items of concern for us prior to their HBRP board
3 meeting that we made them aware of and hopefully agree to
4 better the project. That was addressing the storefront
5 pitch, the roofing material of that pitch, the headers and
6 sills to be added on the windows, and the retaining and
7 repairing of the Allen mural at the Checkers Club.

8 The Committee voted to recommend support to the
9 ANC which then accepted the recommendation and voted its
10 support to the project to HPRB. At the May 22nd meeting of
11 HPRB the Board approved the design and incorporated the ANC's
12 requests. The applicant returned to the Committee in June
13 after the NPRB approval of the second floor addition concept
14 and wanted us to review the BZA request.

15 There were concerns among the Committee about what
16 they were asking for as it related to zoning and that there
17 was not enough data to support it and there were issues with
18 the neighbor.

19 Since they had time to resolve these before going
20 to the BZA meeting and the ANC having time to weigh in, we
21 asked them to return. At the Committee meeting in August
22 they still were not able to come to a resolution acceptable
23 to the Committee so we asked them to go and do more work and
24 come back again.

25 When they attended the September Committee

1 meeting, we discussed the relevant points to our
2 satisfaction, considering the practical difficulty of not
3 being able to add the third floor as a matter of right due
4 to HPRB conditions and zoning issues attached. Through that
5 discussion we were able to get clarification along with a
6 resolution to the issues.

7 The Committee was aware of the context of this
8 request and given the fact that the applicant is, per HPRB,
9 unable to do the third floor, they felt to have the project
10 move ahead with the units they wanted and was in support of
11 and should support the request. The Committee recommended
12 to support the request to the ANC, which the ANC supported,
13 and send in the paperwork to the Commission.

14 I just want to take a second and thank you for
15 listening to me and hopefully this explains some of the ANC's
16 position.

17 CHAIRPERSON HILL: Thanks, Commissioner Nelson.
18 Commissioner, how long have you been a commissioner there?

19 MR. NELSON: Since 2015.

20 CHAIRPERSON HILL: All right. Well, thanks for
21 coming in. Thanks for taking time. That was very helpful
22 in helping us to understand more about that building. It's
23 a great neighborhood, by the way.

24 All right. Does anybody have any questions for
25 the Commissioner? Okay.

1 Commissioner, did you have any questions for
2 anybody?

3 MR. NELSON: No, sir.

4 CHAIRPERSON HILL: Thank you.

5 All right. Let's see. Mr. Young, is there anyone
6 here wishing to testify?

7 MR. YOUNG: We do.

8 CHAIRPERSON HILL: Okay. Could you bring that
9 person in, please?

10 MR. YOUNG: Yes, we have two people. One is
11 calling in by phone.

12 CHAIRPERSON HILL: Okay. Is Mr. Halperin one of
13 them?

14 MR. YOUNG: Yes.

15 CHAIRPERSON HILL: Mr. Halperin, can you hear me?

16 MR. HALPERIN: Yes, sir. I can. Can you hear me?

17 CHAIRPERSON HILL: Yes. Could you introduce
18 yourself for the record, please.

19 MR. HALPERIN: Yes. Good morning. I'm David
20 Halperin and I've rented 1805 9th Street for the last two-
21 and-a-half years.

22 CHAIRPERSON HILL: Okay. Mr. Halperin, you'll
23 have three minutes to give your testimony and you can begin
24 whenever you'd like.

25 MR. HALPERIN: Thank you, Mr. Chairman. I hope

1 you've read, or will read, my witness statement. 1805 9th
2 Street is attached to the applicant's building. Part of the
3 building is in my backyard. Other neighbors have opposed on
4 grounds of noise, dust, hazards, crowding, parking,
5 affordable housing.

6 I'm less at risk than some. I have a month-to-
7 month arrangement. I can move, but I can present that if the
8 Board approves on these facts now, it will be saying
9 developers can act with impunity and make community members
10 bear the cost when, instead, this Board should be standing
11 up for the law and for the public. I oppose for four
12 reasons.

13 First, I agree with the original assessment of the
14 Office of Planning that the law does not justify the
15 variance. The applicant made no alterations. He simply
16 changed lawyers and rhetoric. The OP's second assessment
17 somehow concludes with very little reasoning that there exist
18 the required exceptional circumstances.

19 In fact, the applicant could renovate to a useful
20 state without the variance and exceptions. The applicant's
21 wish to make more money through a more extensive
22 transformation is not an exceptional circumstance.

23 Second, the applicant made misleading statements
24 to this Board in his April and May filings which falsely
25 implied that the owner of 1805 already supported the project

1 and falsely stated that the addition would not impact light
2 to 1805. The applicant's more recent filing admits the
3 impact. The Board should consider this conduct in deciding
4 whether to grant the privileges the applicant wants.

5 Third, the applicant sought the exception in
6 variance and reached an agreement with my landlord with no
7 notice to me. The District should think about better
8 notification provisions for tenants. I first learned of this
9 project on September 28th when I saw signs posted on the
10 building regarding your October hearing.

11 Had the applicant, or the landlord, not kept me
12 in the dark, I could have made more informed decisions. I
13 could have participated in the ANC meetings. I also might
14 have been able to have some impact on the deal that was
15 reached.

16 And that's my fourth point. In their negotiation
17 with the applicant, who is a well-financed developer, the
18 family owner of 1805 was outmatched and made a bad deal. the
19 landlord agreed to support the applicant. The applicant
20 agreed to build a skylight and provide \$5,000 for permanent
21 loss of light in the house and backyard, three new neighbors,
22 and six to eight months of six-days-a-week demolition noise,
23 debris, and potential work in the backyard.

24 I'm self employed. I work at home. I would need
25 outside office space, which I especially don't want because

1 of COVID. I won't be able to have family and friends visit
2 or stay over. The rent is \$4,500.

3 I discussed with the landlord a rent reduction.
4 I asked the applicant if he would give the landlord another
5 \$1,100 a month, around \$7,000 total, to better compensate for
6 the actual burdens of the project including the variance.

7 Around the time the OP reversed itself, the
8 applicant told me he would not offer any additional money.
9 If the Board approves the application today, it won't be
10 acting consistent with the law and with its responsibilities
11 so I ask that you reject it.

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

13 Does the Board have any questions for the witness?
14 Okay.

15 Mr. Young, who is next to testify?

16 MR. YOUNG: That would be Ester Layne.

17 CHAIRPERSON HILL: Ms. Layne, can you hear me?

18 MS. LAYNE: Yes.

19 CHAIRPERSON HILL: Ms. Layne, could you introduce
20 yourself for the record?

21 MS. LAYNE: My name is Ester Layne. I'm the
22 homeowner at 1802 8th Street, NW, in Square 394, Lot 82.

23 CHAIRPERSON HILL: Okay. Thank you. You'll have
24 three minutes to give your testimony and you can go ahead and
25 begin whenever you'd like.

1 MS. LAYNE: Okay. I'm just so all upset about
2 here. I bought my house here in 1976. I'm a native
3 Washingtonian. I used to live across the street from F
4 Street at the 1700 block, 1744. There were houses there and
5 they demolished them and build apartments.

6 When we purchased our home here at 1802 there was
7 a parking lot that we had for the residents. They done took
8 and turn that into housing units. My house faces the mural
9 here they showed you. I can walk five steps and I'm at that
10 building. The citizens had a meeting here last week because
11 of all the crime and breaking in, trying to break into the
12 homes, breaking in the cars.

13 On November 10th this is the area of F Street
14 where the officer shot a man for breaking in vehicles. Now,
15 my mental health and safety aspects have been damaged for
16 years but I love DC. The community has changed a lot from
17 all this development, people coming in and wanting to make
18 a dollar. Zoning has to be more concerned about the
19 residents who live in these communities.

20 We are trying to get a security gate back -- there
21 was a security gate when we first bought the home -- to
22 prevent some of the illegal crime that's going on all around.
23 394 Square sits in the middle of all this development;
24 businesses, condos, apartments. Everything you can think of
25 and it's full of crime. That area I thought was only for

1 zoning, for commercial zoning, and that's where it should
2 stay for the safety of the residents.

3 This man, I don't know who he is, but there's
4 always a constant gas leak right there in front of that
5 building. It's been going on for years. The pipe broke and
6 they replaced it. It just happened a month ago. I went out
7 there and said when are you all going to fix it right? You
8 can smell the gas. He ain't even done the real research.
9 Why would you want to jeopardize people like that?

10 Another thing is crime has gotten tremendously
11 bad. I can look out the window and see somebody getting beat
12 up, cars broken into, and everything. It was a beautiful
13 community. We fought hard to clean it up. Then all of a
14 sudden we see developers coming in saying it's nice, it's
15 nice. But it has gotten worse.

16 I mean, we had to call in to get traffic police
17 to control the traffic. I cannot open my window because of
18 the emissions of all the cars that comes through, especially
19 on the weekend. I do not hardly know my community because
20 people come and live here in transit, in and out, in and out,
21 in and out. When I went to the meeting last week I said who
22 are all these new people. I never seen them before.

23 And that ANC meeting is a joke. They know nothing
24 of the history of Shaw 394 Square. When they come to that
25 Checker Club, that Checker Club came later after Mr. Townes,

1 McCollough Cleaners, the Plumbing and Heating Company left.
2 A lot of prominent people been in those buildings.

3 New Baptist Church helped develop these houses
4 here. Politicians would go in those little stores.
5 McCollough Cleaners was akin to Walter McCollough, Sweet
6 Daddy Grace. Look up the history about him. Mr. Townes used
7 to provide training and jobs for the kids in the community,
8 as well as the cleaners and the plumbing company.

9 I've been here since I was 16 years old and bought
10 my house in '76. I am 66 years old. Ms. King, Andrew Young,
11 all these people used to walk around in this neighborhood
12 because they knew people who lived in the neighborhood. He
13 showed the building the way he wanted to put these houses at.

14 It's filthy. He didn't even clean it up. There's
15 trash piled up. There's a basketball court there in front
16 of the Checkers building where it's at. I don't mean to
17 holler but it's just getting me so upset. I want some peace.
18 I bought this house in '76 and crime has risen and risen.
19 We fought the neighborhood.

20 A lot of people have died out and moved. I'm
21 tired. I want some peace in this neighborhood. We don't
22 need any more -- one thing about Shaw is not lacking in
23 living quarters. It's all over the place. He just want to
24 make some money. We don't need no more people here and have
25 crime risen up some more. Come on, you'll.

1 Come and read the reports, the police reports.
2 A couple years ago a lady got killed on a bike at 8th and F.
3 I watched her make her last breath. I've seen a lot of
4 bodies around here make their last breath. We don't need any
5 more people. We are not lacking housing here.

6 CHAIRPERSON HILL: I understand. What is your
7 address again?

8 MS. LAYNE: I'm 1802 8th Street right in front of
9 the mural. I can walk right out my door. If you know
10 there's a wall of wood, that's where our gate was. We trying
11 to get the security gate back up.

12 CHAIRPERSON HILL: Okay.

13 MS. LAYNE: Because at the meeting come to find
14 out a man threatened -- we had a meeting outside. A guy was
15 threatened.

16 CHAIRPERSON HILL: Ms. --

17 MS. LAYNE: And then they talk about accidents;
18 cars, people coming in and wrecking their cars and jumping
19 the wall and breaking in homes. We do not need any more
20 people.

21 CHAIRPERSON HILL: Is it Ms. Lynch?

22 MS. LAYNE: Layne, L-A-Y-N-E. I can tell you a
23 lot of history about this area. I was born in Flaming
24 Hospital.

25 CHAIRPERSON HILL: Ms. Layne --

1 MS. LAYNE: I went to -- there were ANC meetings
2 that I attend. The community is transit and people are dying
3 out and moving. How can they give an opinion what needs to
4 be here?

5 CHAIRPERSON HILL: Okay, Ms. Layne.

6 MS. LAYNE: You can't do that
7 because --

8 CHAIRPERSON HILL: Ms. Layne, give me a second.
9 Give me a second. I mean, I understand. I'm just trying to
10 see if the Board has any questions for you. I'm sorry you
11 are so upset.

12 MS. LAYNE: I want some rest. I don't need no
13 more people. I want a rest from the noise, the loud music
14 on the weekends, the arguing.

15 CHAIRPERSON HILL: I understand.

16 MS. LAYNE: Who wants to move in there? Give us
17 a break please.

18 CHAIRPERSON HILL: All right, Ms. Layne.

19 Does the Board have any questions for Ms. Layne?
20 Okay.

21 CHAIRPERSON HILL: Okay, all right, Ms. Layne.
22 Well, thank you for your testimony. And, Ms. Layne, I can
23 hear there's a lot of frustration going on with you and I'm
24 sorry if --

25 MS. LAYNE: I have a lot of illnesses. I can't

1 sleep at night. I can't open up my business. I'm a cancer
2 survivor. Meantime, my family can't come here because
3 there's nowhere to park --

4 CHAIRPERSON HILL: All right.

5 MS. LAYNE: -- to take care of me. Give us a
6 break. And a lot of the people that started out in 1976
7 purchasing a building, their kids was killed. They done
8 moved. People done got older, died out. And these people
9 that's coming in here now, I do not know them and they do not
10 know the true history of Shaw.

11 CHAIRPERSON HILL: I understand. All right, Ms.
12 Layne, thank you so much.

13 MS. LAYNE: All right, thanks.

14 CHAIRPERSON HILL: Thank you. Thank you so much,
15 Ms. Layne.

16 MS. LAYNE: All right.

17 CHAIRPERSON HILL: All right, okay, Mr. Young, if
18 you could please excuse the witnesses? Okay, all right, Mr.
19 Street, can you hear me?

20 MR. STREET: Yes, sir.

21 CHAIRPERSON HILL: Yes, so, Mr. Street, I don't
22 know. I mean, obviously that's someone who has been, Ms.
23 Layne has been living in that neighborhood a very long time,
24 and obviously there's a lot of different things there that
25 have been going on in that neighborhood. Well, I mean, D.C.

1 has -- a lot of things have changed since the '70s, but are
2 you guys keeping up that property now?

3 MR. STREET: So, personally, I met Ms. Layne when
4 I knocked neighbors' doors. I offered her my cell phone if
5 there was ever any issue with the construction. I will go
6 back and offer her my cell phone again.

7 I read her comments about dust mitigation. We
8 talked to the general contractor and the owner of the company
9 that that's something we're going to have to be very
10 cognizant of while doing work there, dust mitigation.

11 I take her concerns very seriously and I did meet
12 her and heard her, pretty much what you heard today, the same
13 conversation. I'll go back and offer my cell phone. If
14 there's ever an issue, please call me. You know, I give
15 everyone my cell phone. I'm not trying to hide.

16 And I am paying someone local to clean it up.
17 He's trying to be delicate about this. He's been a little
18 indisposed recently, so I'll just come do it myself. I think
19 he's back next week. You know, someone introduced me to him
20 and I called that individual, and he scheduled and I paid
21 him.

22 CHAIRPERSON HILL: Okay, all right, Mr. Street.
23 I just wanted to hear some kind of assurances and also just
24 some understanding. Again, obviously, Ms. Layne is very
25 passionate and just lives around the corner from what's going

1 on.

2 So, please do try to keep as much contact as
3 possible with Ms. Layne and the development and the project
4 if it is to move forward, and then also if you could please
5 assure the Board here that you are going to make sure that
6 this property is cleaned and maintained well if the
7 construction does move forward.

8 MR. STREET: Absolutely, and we'll put
9 construction fencing and we'll, you know, we'll do it the
10 right way as we have on all our projects in the past.

11 CHAIRPERSON HILL: Okay, Mr. Street, have you been
12 before us before?

13 MR. STREET: No, I've never had a BZA case before.

14 CHAIRPERSON HILL: Okay.

15 MR. STREET: Alex has been very informative.

16 CHAIRPERSON HILL: Yeah, well, Mr. Street, I know
17 obviously people like to do matter of right projects as best
18 they can so they don't have to come before us, but what does
19 tend to happen is people do come back before us, and if they
20 didn't do what they said they were going to do the first
21 time, believe it or not, we remember, so just to let you
22 know.

23 MR. STREET: I understand.

24 CHAIRPERSON HILL: Ms. Wilson could probably
25 attest to that as well. Ms. Smith, do you have a question?

1 MEMBER SMITH: Yeah, I have two questions in light
2 of her testimony. She spoke of a gate. I'm assuming that
3 alley was gated at some point. Can you speak to the gate?
4 I believe the alley was probably a public alley, so can you
5 confirm that?

6 MR. STREET: It is a public alley. So, I've lived
7 in the neighborhood since 2012. I don't recall ever seeing
8 a gate there since then. You know, maybe there was one, but
9 there hasn't been a gate there that just pops in my mind.
10 Again, I walk by there every day with my dog. It's my
11 morning walk. If I'm in town, that's my walk.

12 So, you can see, if you go there, you can see
13 where there was a gate, like it's pretty clear. They have
14 like some track that -- I don't want to tell you for sure
15 there hasn't been a gate from this date on, but --

16 CHAIRPERSON HILL: Mr. Street, you don't have any
17 control over the gate, correct?

18 MR. STREET: Correct.

19 MEMBER SMITH: It's a public alley. We wouldn't
20 be able to gate a public alley anyway. My second question
21 is about that mural. Are you proposing to remove the mural?
22 Are you proposing to keep it?

23 MR. STREET: Absolutely keep it. I've spoken to
24 Ms. Price. She's put me in contact with the organization
25 within D.C. I'm trying to find the original muralist and pay

1 him to touch it up, you know, just refurbish it and bring it
2 back to life and make it an essential part of the project.
3 If we can't find the original muralist, I'll take
4 recommendations from the DCRA. I've got the info of who
5 should and I'll pay for that.

6 MR. KEARLEY: Just to follow up on that, that was
7 part of our conversation with the ANC and Historic that we
8 would restore the mural, and we're not going to remove the
9 mural, so that was part of the agreement with ANC and
10 Historic.

11 MEMBER SMITH: Okay, thank you.

12 CHAIRPERSON HILL: Okay, anyone else? Okay, all
13 right, Ms. Wilson, do you have anything to add at the end?

14 MS. WILSON: Thank you.

15 CHAIRPERSON HILL: Okay, all right, I'm going to
16 close the record on the hearing. Let's see, Commissioner
17 May, let's have you start. Why not? If you wouldn't mind.

18 ZONING COMMISSIONER MAY: Sure, so I think this
19 is a close call in terms of whether the project warrants a
20 special exception, but I do think that, just strictly from
21 a zoning perspective, the applicant has made the case and the
22 Office of Planning is convinced and the ANC supports it, so
23 I do think it warrants this special exception relief that's
24 been requested.

25 You know, I'm sensitive to the concern of the

1 tenant of the abutting building. However, again, this is one
2 of these things where there has to be a little give and take.
3 You know, what's the right thing to do in this circumstance
4 given the constraints on the development of the property?

5 You know, we do want to work in concert with what
6 happens on the historic preservation side of things, not that
7 we always give deference to their conclusions, but I
8 understand the realities of trying to develop a property.
9 Yeah, I mean, I think that there is good reason to be able
10 to grant the requested relief in this circumstance.

11 I think there is some impact on the abutting
12 property to the north, but we, you know, in addition to the
13 tenant saying it was a problem, we have the owner saying it's
14 not a problem.

15 And certainly this circumstance where you have a
16 building that sort of turns the corner and wraps around and
17 therefore has more of an impact on light and air on the
18 abutting neighbors, especially when the abutting neighbor is
19 north, I mean, that's not really an unusual circumstance, so
20 I can see my way clear to be able to grant the relief.

21 Regarding Ms. Layne's concerns, I mean, I think
22 that she does have many legitimate concerns about what's
23 going on in the neighborhood, but really little of it goes
24 to the specific circumstances of the zoning relief that's
25 requested here.

1 The property is going to be redeveloped one way
2 or another. You know, conceivably, it might have been redone
3 in a matter of right way that would result in, you know, two
4 units rather than three, but given, you know, the overall
5 need for housing and the relatively modest scale of this
6 development overall, I mean, I think that this is a good
7 thing to do for the neighborhood. It's not just about a
8 developer making a profit.

9 This is going to be a difficult project, I think,
10 for the owner to deliver and to do well with because there
11 are challenges in dealing with a historic building and, you
12 know, this one has some exception challenges, I think, given
13 the configuration of the building and what will need to be
14 done to construct the second floor over the back third of the
15 building, not to mention the removal of the formstone and I
16 have personal experience with that.

17 It can be very challenging and you don't really
18 know what you're going to find until you start peeling it off
19 on how much work you have to do to repair that, the brick
20 underneath.

21 So, yeah, I mean, overall, I think it's worthy of
22 the relief, and I do believe that, you know, the applicant's
23 statements about ongoing outreach and attention to the
24 concerns that are raised by neighbors who are concerned about
25 noise, and dust, and so on. So, I am prepared to support

1 this special exception.

2 CHAIRPERSON HILL: Thank you, Commissioner. Mr.
3 Smith?

4 MEMBER SMITH: Are we breaking this apart to just
5 -- okay, okay. I saw you shake your head. Okay, so the
6 matter of the special exception, I do agree with Mr. May's
7 comments on this particular project and also even down to the
8 request for the variances.

9 This particular property, I mean, its past was a
10 hodgepodge of commercial spaces on S Street, some residential
11 probably above, which does make any redevelopment of this
12 project already of itself, given the configuration of the
13 building, challenging, and also to compound the fact that
14 this is under the jurisdiction of Historic District
15 regulations even more so in this redevelopment.

16 And, you know, I wholeheartedly, looking through
17 the applicant's testimony and also hearing from the Office
18 of Planning on the analysis of the applicant's submissions,
19 I do, you know, wholeheartedly agree that the request by the
20 applicant for the special exception does meet our approval,
21 and also that given the constraints on the site, the request
22 for the variances, I believe that the applicant has met the
23 burden of proof where they do meet those three prongs.

24 I do hear the concerns of the neighbors, of both
25 of the neighbors. It comes down to noise and issues of

1 construction. I do hear that the applicant will continue to
2 engage with the adjacent property owners to ensure that they
3 are being good neighbors during the construction of this
4 project.

5 The neighbors came to file a complaint with DCRA.
6 Some issues have been raised to construction. That would be
7 in addition to filing the building claim.

8 You know, with Ms. Layne's comments, she's exactly
9 right. There has been massive change in Shaw over the past
10 30 years, but some of the issues that she raised when it
11 comes down to crime, I do believe that redevelopment of this
12 building could help mitigate some of the issues of crime here
13 because this is a vacant block.

14 I've seen a lot of, even in person, I've seen a
15 lot of loitering within the little niches in the front of the
16 storefronts fronting along S street, so redevelopment of this
17 property --

18 As Mr. May said, this property will redevelop in
19 some way, shape, or form. It could be, you know, potentially
20 they could have redeveloped it or a developer could have
21 developed it in matter of right stance. I do believe they
22 wouldn't have had issues to redevelop it from, you know, from
23 a matter of right stance, but that would add some additional
24 eyes on the street. That would remove a vacant property off
25 of this corner.

1 And also, the potential for noise and crime will
2 be reduced if this is a residential property as opposed to
3 it returning as a commercial property on this corner. So,
4 I do sympathize with the neighbor, but I do believe that
5 crime may be mitigated in some way, shape, or form with this
6 redevelopment.

7 And as far as that gate, this is public alley.
8 I can't -- I'm drawing a blank of how a gate was put in a
9 public alley in the first place. Maybe it went through some
10 different approval process when it was split up, I'm guessing
11 in the '70s probably, but it's a public alley, so it would
12 be difficult to gate a public alley.

13 So, with that, I stand on OP's analysis and in
14 support of the ANC, and I'll support the request for the
15 special exception and also (audio interference).

16 ZONING COMMISSIONER MAY: Mr. Chairman?

17 CHAIRPERSON HILL: Yes?

18 ZONING COMMISSIONER MAY: If I could just amend
19 my statement, I was -- I think I said a couple of times
20 special exception relief. I meant the variance relief as
21 well as the special exception relief, so I just wanted to
22 make sure it's clear that I was not just supporting the
23 special exception. It was both.

24 CHAIRPERSON HILL: Thank you, Commissioner. Mr.
25 Blake?

1 MEMBER BLAKE: Thank you, Mr. Chairman. I'll
2 first say that the application appears to meet the
3 requirements for the special exemption relief as it relates
4 to the conversion requirements of U 320.2 with meeting those
5 requisites, and also for the 10-foot rule.

6 The light and air issue doesn't seem to be unduly
7 affected, and I also think that the shadow studies
8 demonstrate that, and, of course, the applicant has agreed
9 to put in a skylight which would lessen some of the impact
10 on the property to the north.

11 The work that they're doing to make this building
12 compatible through HPRB and HPO is clearly compatible with
13 the neighborhood, so I think it meets the requirements of E
14 5201, as well as the general standards.

15 As it relates to the area variance for lot
16 occupancy, the first and second prongs are clearly met here.
17 You know, if you think about it, the applicant made a very
18 strong argument that's supported by the Office of Planning's
19 analysis that a confluence of factors really do contribute
20 to an exceptional situation that make this a challenging
21 situation.

22 It underscores the difficulty of developing in a
23 historical district, and we've also seen situations where
24 it's difficult to convert physically a commercial structure
25 to a residential structure.

1 The ideal situation, we could just tear it down
2 and create a structure that fits residential. In this case,
3 you can't. You have to adapt and reuse the existing
4 structure, and with the constraints implied by HPO, it does
5 make it very difficult to make this work.

6 I think it's laudable to have the larger size,
7 family size units, three in particular. I do and am
8 certainly sympathetic to the fact that you can't have the,
9 because of the bay windows in the first place in public
10 space, you can't really have bedrooms down there, so you
11 really do have to have separation, and the configuration
12 makes it especially difficult to accomplish that.

13 So, I definitely see the first prong as being met
14 and I also think the second prong and third prongs of the
15 area of variance relief request have been met.

16 I understand the concerns that everyone has
17 addressed on this with regard to the neighborhood and how
18 it's impacted, but obviously, I believe this is a move in a
19 direction that will actually lessen some of the impacts, the
20 negative impacts which we heard from Ms. Layne and others
21 over time.

22 I note no objection from DDOT, HPRB's support, the
23 support of ANC 1D, and then the support of the adjacent
24 neighbor, so I would be in support of this special exemption
25 and the variance requests.

1 CHAIRPERSON HILL: Okay, thank you, Mr. Blake.
2 I have really nothing to add. I mean, I guess the only point
3 that I will make is that I agree with everything that has
4 been said, and that in terms of the people in opposition, one
5 of the items that was mentioned with the immediate next door
6 neighbor, I do think that this property is going to get
7 developed.

8 It's not a matter of, you know. It's just a
9 matter of what it's going to get developed into, and so there
10 are construction noises and things that one has to deal with
11 while construction is going on. However, I do think that the
12 property owner seems to be genuine in wanting to be a good
13 neighbor and let everyone know what is going on.

14 In terms of Ms. Layne, I mean, I feel so
15 disappointed that there's such frustration, and reasonably
16 so. I mean, again, a lot of things have happened in that
17 neighborhood. A lot of changes have happened in that
18 neighborhood.

19 And I do think that, again, as Commissioner May
20 had mentioned, something will be developed here whether it's
21 two units or, you know, a matter of right, or now with this
22 relief being granted, you know, three units.

23 I think that in the long run, it could benefit the
24 community on a whole by having a new project there as opposed
25 to this building that's currently there now.

1 So, with that, I'm going to go ahead and make a
2 motion to approve application number 20527 as captioned and
3 read by the secretary and ask for a second, Mr. Blake?

4 MEMBER BLAKE: Second.

5 CHAIRPERSON HILL: Motion made and seconded. Mr.
6 Moy, could you take a roll call?

7 MR. MOY: Thank you, Mr. Chairman. When I call
8 each of your names, if you would please respond with a yes,
9 no, or abstain to the motion made by Chairman Hill to approve
10 the amended application for zoning relief for special
11 exception and the variance relief. The motion to approve was
12 seconded by Mr. Blake. Zoning Commissioner Peter May?

13 ZONING COMMISSIONER MAY: Yes.

14 MR. MOY: Mr. Smith?

15 MEMBER SMITH: Yes.

16 MR. MOY: Mr. Blake?

17 MEMBER BLAKE: Yes.

18 MR. MOY: Chairman Hill?

19 CHAIRPERSON HILL: Yes.

20 MR. MOY: And Vice Chair John is not
21 participating. The staff would record the vote as four to
22 zero to one and this is on the motion made by Chairman Hill
23 to approve. The motion was seconded by Mr. Blake.

24 Also in support of the motion to approve is Zoning
25 Commissioner Peter May, Mr. Smith, Mr. Blake, Chairman Hill,

1 Vice Chair John not participating. Again, the motion carries
2 on a vote of four to zero to one.

3 CHAIRPERSON HILL: Thank you, Mr. Moy. All right,
4 that took longer than I thought, so I'm still good. Are we
5 all still good? We're all still good. Okay, let's see, if
6 you would, go ahead and call our next case, Mr. Moy?

7 MR. MOY: Okay, this would be case application
8 number 20539 of 1009 Rhode Island Avenue, LLC. This
9 application is amended for special exceptions from the matter
10 of right uses of Subtitle U Section 401, pursuant to Subtitle
11 U Section 421 and Subtitle X Section 901.2, and from the
12 maximum permitted floor area ratio of Subtitle F Section 302,
13 pursuant to Subtitle F Section 5206.1 and Subtitle X Section
14 901.2.

15 This would raze, R-A-Z-E, an existing two-story
16 principal dwelling unit, and construct a new detached three-
17 story with penthouse and cellar, eight-unit, residential
18 building in the RA-1 zone. The property is located at 1009
19 Rhode Island Avenue, NE, Square 3870, Lot 50.

20 CHAIRPERSON HILL: Okay, great, Ms. Wilson, can
21 you hear me?

22 MS. WILSON: I can, yes.

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

25 MS. WILSON: Hi, Alex Wilson from Sullivan &

1 Barros on behalf of the applicant.

2 CHAIRPERSON HILL: And who is here with you today?

3 MS. WILSON: I'm here with Matt Scorzafava, who
4 is from the ownership team, and Adam Crain, who is the
5 project architect.

6 CHAIRPERSON HILL: Great, thank you. Ms.
7 Scorzafava, can you introduce yourself for the record,
8 please?

9 MR. SCORZAFAVA: Hi, Matt Scorzafava, the
10 applicant.

11 CHAIRPERSON HILL: Mr. Crain, can you introduce
12 yourself for the record? I'm sorry, Mr. Crain, I can't hear
13 you. No, still can't hear you. Maybe try to work on that
14 for a minute. Commissioner Montague, can you hear me?

15 ANC COMMISSIONER MONTAGUE: Greetings, Chairman
16 Hill.

17 CHAIRPERSON HILL: Good morning. Could you
18 introduce yourself for the record, please, sir?

19 ANC COMMISSIONER MONTAGUE: Jeremiah Montague,
20 Jr., vice chair and treasurer of ANC 5C.

21 CHAIRPERSON HILL: Okay, great, thank you,
22 Commissioner, and welcome. Mr. Scorzafava, can you hear me?

23 MR. SCORZAFAVA: Yes, I can.

24 CHAIRPERSON HILL: So, is this now your day job,
25 Mr. Scorzafava? You just got a team putting it together.

1 You're going to come here every other -- haven't you heard
2 of matter of right, Mr. Scorzafava?

3 MR. SCORZAFAVA: I used to do a lot of matter of
4 right projects.

5 CHAIRPERSON HILL: All right, okay. All right,
6 Ms. Wilson, can you hear me?

7 MS. WILSON: Yes.

8 CHAIRPERSON HILL: All right, Ms. Wilson, I've
9 pulled up your PowerPoint and we've gone through a majority
10 of the record already, and by the way, I really appreciate
11 the PowerPoints that you guys put forward because it's easier
12 to kind of follow along.

13 However, I am going to put 15 minutes up on the
14 clock for you to walk us through your application, and if you
15 just kind of make note of that, and you can begin whenever
16 you like.

17 MS. WILSON: Sure, I promise this one will be
18 shorter. So, Mr. Young, could you pull up the presentation
19 when you have a chance? And I'll also note that we've talked
20 to the Office of Planning, and Mr. Jesick is here and can
21 speak to this. I know OP --

22 CHAIRPERSON HILL: Right, all of the items that
23 they spoke about. There was a little confusion to it, but,
24 yeah, go ahead.

25 MS. WILSON: Sure, so it's my understanding that

1 OP is ready to make a recommendation at the hearing. I know
2 their report said they weren't able to make a recommendation,
3 but again, I'll defer to Mr. Jesick.

4 If you go to the next slide, we touched on this,
5 but we're proposing to raze the existing building and
6 construct a new three-story building with eight residential
7 dwelling units. ANC supports the project. And if you could
8 go to the next slide?

9 So, there were some agency requests that were
10 outstanding, and so DDOT requested that we confirm we are
11 meeting the minimum bike requirements, and we are. The
12 requirement is three spaces and we are providing four.

13 The bike room can fit four bikes and it is noted
14 on the plans on page 15 of the plans, although only two are
15 shown, so we do note that four bikes can fit on page 15. I
16 wanted to confirm that.

17 And we submitted additional materials as requested
18 by OP, and if there are any outstanding items from OP, we are
19 happy to address those today too. And with that, I will turn
20 it over to Adam to present the plans, an overview.

21 MR. CRAIN: I think I got my microphone fixed.
22 Can everyone hear me now?

23 CHAIRPERSON HILL: Yes.

24 MR. CRAIN: Great, Adam Crain, project architect
25 with 2Plys. If we could go to PDF page 12? These are 3D

1 renderings of the exterior. There we go.

2 So, just kind of as an overview here, RA-1
3 project. We're looking at eight units, three levels over
4 cellar with a penthouse access as shown. We chose to design
5 this as a fully detached, so prioritize light, air to all the
6 units.

7 As you can see from this rendering, on the right-
8 hand side, we've got the accessible entrance with the ramp
9 going up to the main entry that will be shared by the
10 majority of the units.

11 We do have the entrance to the first floor units
12 also there for direct access. We've got a bay window
13 projecting into public space which we'll submit to DDOT for
14 approval for. Next slide, please?

15 This will show some of the, on the left side, the
16 rear view, providing deck access for the second and third
17 floors. We're showing those as solid, mainly to keep a sense
18 of privacy between any of the adjacent rear yards and those
19 units there. Next slide?

20 This will be a site plan with, of course, finding
21 elevation for clarity. We're showing four parking spaces,
22 one of them compact at the rear, our trash area there on the
23 bottom towards the right-hand side.

24 We are showing a short-term bike parking space
25 kind of on the top left of the site plan there tucked into

1 the side, and you can see we have an accessible ramp entrance
2 and stair to the front yard and the bay window at the front.

3 We do show, as of now, roof deck amenity space.
4 That will be split between the two upper units with a good
5 portion of the roof deck reserved for the GRA requirements.
6 That will meet the green roof area. Next slide, please?

7 This is an overview of the plans. In simple
8 terms, it's two units per floor. We are doing the voluntary
9 IZ bonus here, so we do reserve unit six for the inclusionary
10 zoning. As you can see on the roof terrace of the penthouse
11 space, it's really just ancillary space for the roof deck
12 access. Next slide?

13 Just going over some of the elevations here. You
14 see on the right-hand side, we have that bay window as a
15 prominent feature on the front. We tried to provide a little
16 interest to the elevation on the side rather than just doing
17 the whole thing in HardiePanel one color. We wanted to make
18 an interesting facade on all elevations.

19 On the next slide, to the rear facade, the other
20 front facade. On the next slide, I think this gives a little
21 better sense of the materials that we'd be using. In working
22 with OP and the ANC, we came up with a little more detailed
23 material palette than we've done on some other projects.
24 Next slide?

25 Just sections to the project, showing the

1 corresponding unit colors for variation, and then the next
2 slide would be a final architectural one just showing the
3 other transverse section through there. Back to Alex.

4 MS. WILSON: Great, thank you. If we could go to
5 the next slide? The project meets the general and special
6 exception criteria as the area is made up of a mix of
7 residential uses, including larger residential developments
8 down the street, and it's located on AZ corridor across from
9 a higher density zone.

10 Also, the applicant is providing more parking than
11 necessary to mitigate any potential impacts from additional
12 density. Next slide, please?

13 There are three in-boundary schools and all D.C.
14 public students have the right to enroll in in-boundary
15 schools. Next slide, please?

16 Regarding public streets and surfaces, Rhode
17 Island Avenue is a major transportation corridor in the
18 District. The Rhode Island Avenue Metro is about a quarter
19 mile or five-minute walk from the subject property, and
20 again, the applicant is providing four parking spaces. Next
21 slide, please?

22 As requested by the Office of Planning, the
23 applicant will be providing a canopy over the main entrance
24 to better address the relationship to the street and
25 surrounding neighborhood. The Office of Planning has no

1 objection to the general height and mass of the building
2 which would conform to the zoning regulations.

3 And according to the Office of Planning, the
4 matter of right scenario compared to this IZ scenario should
5 not result in an undue impact to adjacent properties and the
6 level of impact on air flow should be negligible, and the
7 level of privacy for this property and the adjacent
8 properties should be the same, and that is the end of our
9 presentation.

10 MR. SCORZAFAVA: Alex, one comment. I believe one
11 of the things the Office of Planning wanted us to do was add
12 some lighting to the parking area for security and have that
13 lighting face down so that it wouldn't disturb the residents
14 of this building or the residents in the buildings around,
15 so I just wanted to add that to the record that we will do
16 that.

17 MS. WILSON: Thank you.

18 CHAIRPERSON HILL: Okay, thanks, Mr. Scorzafava.
19 Ms. Wilson, can you hear me?

20 MS. WILSON: I can, yes.

21 CHAIRPERSON HILL: Yeah, when you guys are putting
22 together presentations, it would be nice to see like kind of
23 what it looks from the street, like a streetscape, like it's
24 just harder for me to kind of like --

25 I mean, I think you guys do a great job of putting

1 together presentations of the drawings and everything, but
2 it's kind of hard to figure out where it is. I have to kind
3 of like go to Google Maps and kind of figure it all out. You
4 know, if there's a way just to kind of like show what it
5 looks on the street or in the neighborhood.

6 I know even Commissioner May, I don't know what
7 the word is like architecturally that I'm looking for. Do
8 you know?

9 ZONING COMMISSIONER MAY: I'm assuming you're
10 talking about just a rendering from the street.

11 CHAIRPERSON HILL: Okay, an elevation, that's not
12 the word.

13 ZONING COMMISSIONER MAY: Perspective.

14 CHAIRPERSON HILL: Perspective, okay, it's
15 perspective. I'll try to remember, all right. Thank you.
16 Let's see.

17 MS. WILSON: We'll keep that in mind.

18 CHAIRPERSON HILL: Does anybody have any questions
19 for the applicant? Mr. Blake?

20 MEMBER BLAKE: I have two quick questions. The
21 Office of Planning had also asked if you would consider solar
22 panels. Did you do that? And also, I just wanted to confirm
23 the placement of the IZ unit. That's the second floor unit
24 six? And what's the configuration of that unit?

25 MR. SCORZAFAVA: I can answer those questions,

1 Alex, if you want me to. Yeah, so the solar panels, we opted
2 not to add that at this time. We do have another project in
3 a different area that's over 10,000 square feet which is now
4 mandatory to do that, so I believe we're going to stick with
5 those regulations. And then the second question was what
6 again?

7 MEMBER BLAKE: The IZ unit, just confirming that
8 it is the unit six on the second floor and I wanted to get
9 some color on the configuration.

10 MR. SCORZAFAVA: Yeah, so I believe it's a one
11 bedroom, one bath, on the second floor, unit number six.
12 And, you know, a couple of high points from the IZ and some
13 discussions with the neighborhood, the IZ unit, we're
14 purposefully trying to design it to hit the 60 percent AMI
15 level.

16 We have another building in a different location
17 where we have an 80 percent for sale IZ unit that's going on
18 nine months to a year with three lotteries without any
19 interest.

20 So, looking at the economics of this area compared
21 to what the IZ unit would be at the 80 percent AMI, either
22 297,000 or 267,000 compared to at the 60 percent AMI at 183,
23 we felt it was important to use the 20 percent reduction to
24 try to get a unit that we could fit into that 60 percent AMI.

25 MEMBER BLAKE: Thank you.

1 CHAIRPERSON HILL: Anyone else? Commissioner
2 Montague, can you hear me?

3 ANC COMMISSIONER MONTAGUE: I'm at your ready,
4 sir.

5 CHAIRPERSON HILL: Commissioner, do you have any
6 questions for the applicant and/or would you like to give a
7 presentation?

8 ANC COMMISSIONER MONTAGUE: I just have a few
9 comments to make in the public interest.

10 CHAIRPERSON HILL: Okay, go ahead, Commissioner.

11 ANC COMMISSIONER MONTAGUE: As a vice chair, I do
12 note that there has been significant push and pull in
13 negotiations to get this project to the point of where it is.
14 So, I am representing not only the Commission, but those
15 folks that live in the immediate area.

16 Your question about being able to see this from
17 the street was a pertinent question as that block that this
18 development is proposed on basically goes back to the days
19 when Rhode Island Avenue was, I would call it, the motel
20 route out of the city for those visitors coming in and those
21 going out. It was a place where boarding houses and whatever
22 exists. Therefore, the houses that exist right now are
23 generally larger than some that may be found in the immediate
24 vicinity.

25 One of the things that I will mention, and

1 hopefully I'm not stepping outside of what the community
2 interest is, is that there are large single-family residences
3 in this area, and this intends to replace one with an eight-
4 unit building.

5 It is not the only box-like structure that is on
6 the Avenue, but my understanding of the intention and plans
7 along, and then there was a reference made to a similar
8 development by, I guess, this company or this applicant
9 elsewhere in the block, that the boxes, the march of the
10 boxes is proceeding, and that at some point in the not too
11 distant future, the majority of the single-family residences
12 will just vanish and that is sad. It is disappointing. Even
13 given the express need for additional housing, it's still a
14 sad commentary on the direction that that particular area and
15 that block is going.

16 One of the things that the neighbors were
17 concerned about is that since there are going to be multiple
18 projects going on, was the staging, the dirt, the management
19 of rodents, and those kind of mitigations which are outcomes
20 or outgrowths of the project development until it comes to
21 completion.

22 So, there are representations made by the
23 applicant and their team that they will do their best effort
24 to minimize that impact on the adjacent neighbors, both those
25 on the Avenue and those on Bryant Street.

1 So, as you have mentioned in a previous case, we
2 expect in your enforcement ability to make sure that the
3 applicant does live up to the representations that they made.

4 CHAIRPERSON HILL: Okay, all right, thank you,
5 Commissioner.

6 ANC COMMISSIONER MONTAGUE: You're welcome.

7 CHAIRPERSON HILL: Does the Board have any
8 questions for the Commissioner? All right, I'm going to turn
9 to the Office of Planning.

10 MR. JESICK: Thank you, and again, Board members,
11 my name is Matt Jesick and I'll be presenting OP's testimony
12 in this case.

13 As the Board is aware, at our report at Exhibit
14 36, we identified a handful of items that we asked the
15 applicant to address, some outstanding bits of information
16 that were needed in the record, and since the time of our
17 report, the applicant has provided those items, and
18 therefore, OP can now recommend approval of the application
19 as it meets the criteria of Subtitle U, Section 421.

20 I will rest on the record for the rest of my
21 testimony, but I'd be happy to take any questions. Thank
22 you.

23 CHAIRPERSON HILL: Okay, thank you. Does anybody
24 have any questions for the Office of Planning? Does the
25 applicant have any questions for the Office of Planning?

1 MS. WILSON: No, thank you.

2 CHAIRPERSON HILL: Commissioner, do you have any
3 questions for the Office of Planning?

4 ANC COMMISSIONER MONTAGUE: A quick question, Mr.
5 Jesick, as a representative, are you satisfied with the
6 material proposed for the exterior to try and dress up the
7 box?

8 MR. JESICK: Yes, I think the materials that the
9 applicant has selected are appropriate and present a
10 residential character to the building. I believe the siding
11 that was proposed for the main portion of the facade is
12 appropriate, and then the panels, I think the applicant has
13 stated the color, the exact color has not been determined
14 yet, but the representative color, I think, would complement
15 the rest of the architecture.

16 ANC COMMISSIONER MONTAGUE: Thank you.

17 CHAIRPERSON HILL: Okay, Mr. Young, is there
18 anyone here wishing to testify?

19 MR. YOUNG: I do not.

20 CHAIRPERSON HILL: Okay, Ms. Wilson, is there
21 anything you'd like to add at the end?

22 MS. WILSON: No, thank you.

23 CHAIRPERSON HILL: Okay, let's see, okay, does the
24 Board have anything? All right, I'm going to close the
25 hearing and the record. I'm going to excuse everyone. Thank

1 you, Mr. Young.

2 I didn't really have any issues with the project.
3 I'm comfortable with the argument that the applicant is
4 making as to how they're meeting the criteria for us to grant
5 the application. I also thought that, you know, all of the
6 things that OP was asking for were interesting, and I'm glad
7 that we were able to get all of those things answered.

8 I also now understand more where that bike parking
9 is for DDOT's requirement, and then also am pleased about the
10 IZ unit and that it's not, you know, one that's always in the
11 basement, and so, I am prepared to move forward and vote in
12 support. Commissioner May?

13 ZONING COMMISSIONER MAY: I don't have anything
14 to add. I agree with you.

15 CHAIRPERSON HILL: Mr. Smith?

16 MEMBER SMITH: I agree. I don't have anything to
17 add and I agree with your support.

18 CHAIRPERSON HILL: Mr. Blake?

19 MEMBER BLAKE: I will support the project as well.
20 I agree with the observations that you have made as well.

21 CHAIRPERSON HILL: Thank you, and I make a motion
22 to approve application number 20539 as captioned and read by
23 the secretary and ask for a second. Mr. Blake?

24 MEMBER BLAKE: Second.

25 CHAIRPERSON HILL: The motion has been made and

1 seconded. Mr. Moy, if you could take a roll call?

2 (Pause.)

3 CHAIRPERSON HILL: Mr. Moy, can you hear me? I
4 seem to have lost Mr. Moy.

5 MR. YOUNG: He logged off, so I think he's
6 attempting to get back in.

7 CHAIRPERSON HILL: Got it. I wonder if I can call
8 for a vote. I haven't called for a vote yet, but I haven't
9 done the swearing in. I never wanted to do the swearing in
10 on the dais. Did Commissioner Hood, did Chairman Hood ever
11 do the swearing in, Commissioner May?

12 ZONING COMMISSIONER MAY: I don't think so. I
13 don't remember. I mean, we've had a lot of hearings together
14 in our --

15 CHAIRPERSON HILL: It would be weird, not weird,
16 but just it's something that -- I still think the swearing
17 in is just an amazing thing. I promise, but I promise
18 Commissioner, I promise to tell the truth.

19 ZONING COMMISSIONER MAY: Yes.

20 CHAIRPERSON HILL: I think it's so help me God.
21 Isn't it so help me God?

22 ZONING COMMISSIONER MAY: No, it's --

23 CHAIRPERSON HILL: Swear to God?

24 ZONING COMMISSIONER MAY: There's no so help me
25 God.

1 CHAIRPERSON HILL: So, what's the authority, the
2 air?

3 ZONING COMMISSIONER MAY: The individual's
4 personal integrity.

5 CHAIRPERSON HILL: Nice.

6 MS. MEHLERT: Hi, everyone. I'm taking over for
7 Cliff. He lost internet briefly. This is Keara Mehlert.

8 CHAIRPERSON HILL: Okay, great, hello, Mr.
9 Mehlert. So, a motion has been made. It's been seconded.
10 Could you take a roll call vote, please?

11 MS. MEHLERT: Yes, Commissioner May?

12 MR. MOY: Yes.

13 MS. MEHLERT: Mr. Smith?

14 MEMBER SMITH: Yes.

15 MS. MEHLERT: Mr. Blake?

16 MEMBER BLAKE: Yes.

17 MS. MEHLERT: And Mr. Hill?

18 CHAIRPERSON HILL: Yes.

19 MS. MEHLERT: Staff would record the vote as four
20 to zero to one on the motion made by Chair Hill and seconded
21 by Mr. Blake, and Board Member John is not participating on
22 this.

23 CHAIRPERSON HILL: Okay, great. Okay, let's see,
24 then now who is going to take over for Mr. Moy?

25 ZONING COMMISSIONER MAY: Maybe this is a good

1 time to just break for lunch.

2 CHAIRPERSON HILL: Oh, Mr. May, we only have two
3 cases left. You can make it.

4 ZONING COMMISSIONER MAY: We have three.

5 CHAIRPERSON HILL: No, we only got two. Oh, we
6 got three. We only have three. Well, let's see. Give me
7 one second. Mr. Moy is trying to ring in. Hold on one
8 second.

9 (Pause.)

10 CHAIRPERSON HILL: Commissioner May?

11 ZONING COMMISSIONER MAY: Yes?

12 CHAIRPERSON HILL: All right, you have a better
13 idea, I guess.

14 ZONING COMMISSIONER MAY: We need a long break.

15 CHAIRPERSON HILL: No, no, the thing was again we
16 had the appeal.

17 ZONING COMMISSIONER MAY: Right.

18 CHAIRPERSON HILL: And so, that was going to --
19 I wanted to get everything done before the appeal.

20 ZONING COMMISSIONER MAY: Right.

21 CHAIRPERSON HILL: In other words, I wanted to get
22 everything done and then have lunch before the appeal, but
23 I guess let's -- I mean, since -- we'll see if Mr. Moy can
24 now get on and then we'll take a quick lunch. So, let's say
25 if we came back here, you know --

1 ZONING COMMISSIONER MAY: 12:30.

2 CHAIRPERSON HILL: -- 12:40, 12:30, okay.

3 ZONING COMMISSIONER MAY: 12:30.

4 CHAIRPERSON HILL: Okay, well, let's see. I don't
5 know if I can get food and get back at 12:30, so.

6 ZONING COMMISSIONER MAY: 12:40.

7 CHAIRPERSON HILL: You all got your kitchens right
8 there, you know, and so, okay, let's see what happens at
9 12:35, okay? Is that good with everybody?

10 ZONING COMMISSIONER MAY: Yeah.

11 CHAIRPERSON HILL: Okay, all right, let's break
12 for lunch.

13 (Whereupon, the above-entitled matter went off the
14 record at 12:07 p.m. and resumed at 12:43 p.m.)

15 CHAIRPERSON HILL: Could you introduce yourself
16 for the record, Ms. Rose?

17 MS. ROSE: Yes. I'm Tracey Rose, Senior Zoning
18 Specialist with the BZA.

19 CHAIRPERSON HILL: Great. Can you go ahead and
20 introduce our next case, please?

21 MS. ROSE: All right. That would be Application
22 No. 20541 of 1899 Penn Property LLC, as amended, for a
23 special exception under the Penthouse Use Requirements, with
24 Subtitle C, Section 1501.1(d), pursuant to Subtitle X,
25 Section 901, to construct a new penthouse addition to an

1 existing semi-detached commercial use building in the D-6
2 zone, at premises 1899 Pennsylvania Avenue, NW, Square 105,
3 Lot 843.

4 CHAIRPERSON HILL: Great, thank you. Ms. Brown,
5 can you hear me?

6 MS. BROWN: Yes, sir. Sorry. Mr. Hill, can you
7 hear me?

8 CHAIRPERSON HILL: Yeah. Maybe, Ms. Brown, either
9 your computer's on and the phone's on, or -- I don't know.

10 MS. BROWN: I think I just fixed it.

11 CHAIRPERSON HILL: Okay, great.

12 MS. BROWN: All right.

13 (Audio interference.)

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

16 MS. BROWN: Yes. For the record I'm Carolyn Brown
17 of the Brown Law Firm.

18 And I'm joined today by Mr. Will Liebner of MRP
19 Realty, on behalf of the ownership entity, and Mr. Ashton
20 Allan of Studio Architecture.

21 CHAIRPERSON HILL: Okay, great. Well, Mr. Allan
22 and Mr. Liebner, if you could just introduce yourself if we
23 actually get any testimony from you, that would be helpful.

24 Ms. Brown, if you could walk us through your
25 application. I don't think we're going to be able to take

1 a vote on this today, one way or the other --

2 MS. BROWN: Correct.

3 CHAIRPERSON HILL: -- because we need the
4 regulations to kind of get played out one way or the other.
5 But to be efficient, we are going to hear this today.

6 So, if you want to go ahead and walk us through
7 how you believe your applicant is meeting the criteria for
8 us to grant the relief requested.

9 I'm going to put 15 minutes on the clock, just so
10 I know where we are. And you can begin whenever you'd like.

11 MS. BROWN: Great, thank you. And if Mr. Young
12 could pull up our slides, please.

13 As you noted, we're here today to request special
14 exception relief under the newly adopted but not effective
15 regulations regarding habitable penthouse space in the White
16 House security zone under new Subtitle C, Section 1501.1(d).

17 We have favorable reports from the Office of
18 Planning, DDOT, and the Advisory Neighborhood Commission.
19 In fact, we have no opposition to this case. Accordingly,
20 we'll make sure to keep our presentation very brief.

21 Mr. Allan will review for you the proposal, and
22 then I will return to summarize how we meet the special
23 exception relief. So, I'm going to turn it over to
24 Mr. Allan. If you could please introduce yourself for the
25 record.

1 MR. ALLAN: Thank you, Ms. Brown. My name is
2 Ashton Allan. I'm a principal at Studios Architecture here
3 in Washington, DC. If you'd go to the next slide.

4 The building that we're talking about today is
5 1899 Pennsylvania Avenue, which, despite its current
6 appearance, has been a part of our city for about 100 years,
7 and has gone through several different facelifts through that
8 time. Next, please?

9 During one of those renovations, it was included
10 into a larger record lot with adjacent properties, including
11 an existing architectural embellishment at the corner of the
12 1899 property, an additional embellishment at an atrium that
13 connects 1899 Pennsylvania and 1875 Pennsylvania.

14 This is essentially to show the location, which
15 is at the corner of 19th Street, NW, H Street, NW, and
16 Pennsylvania Avenue, NW, where the address comes from at the
17 corner. Next, please.

18 The existing roof is improved with a deck surface
19 and less than 1,000 square feet of habitable area, and was
20 entitled under old zoning, including an architectural
21 embellishment that was also approved under previous zoning,
22 and this case does not contemplate editing those elements of
23 the architecture. Next, please.

24 The proposed addition is, as you see, essentially
25 a low expansion that sits within the one-to-one setback and

1 within all the typical zoning regulations that would be
2 applied to this zone if it were not within the special
3 exception zone around the White House. Next, please.

4 This is an architectural rendering taken floating
5 above H Street or Pennsylvania Avenue, looking back at that
6 addition. Again, this would not be visible from the street.
7 Next, please.

8 This is essentially a plan diagram showing the
9 existing penthouse elements that are to remain, and the
10 addition on the southern part of the screen, as well as the
11 improved deck and the existing architecture embellishment.
12 Next, please.

13 This is a section diagram shown at the closest the
14 addition would get to the building perimeter, showing the
15 intent to meet the one-to-one setbacks on the roof slab
16 existing elevation, essentially meeting those requirements.
17 The existing penthouse was, again, entitled under previous
18 zoning regulations, and is 18'6" tall. Next, please.

19 This is a rendering, again, floating above the
20 intersections of H Street that's going off to the left, and
21 Pennsylvania Avenue that's tipping off to the right. Next,
22 please.

23 Again some more drawings for context showing the
24 section that we looked at previously, as labeled as
25 Section 1. These essentially are for the drawings. We can

1 move through these pretty quickly. Next, please.

2 And elevations and materiality. Next, please.

3 This shows the area calculation for the addition,
4 including accounting for existing spaces that are either
5 being repurposed or altogether unchanged. The hatched area
6 on the top of the page plan north is an exterior mechanical
7 screen area, and then the areas within the existing gray
8 dashed line is what's proposed as the new final line
9 construction. Next, please. And I'll turn it back to
10 Ms. Brown.

11 MS. BROWN: Thank you. I wanted to run through
12 the BZA standard of review. The slide before you shows the
13 new standard that habitable penthouse space can be located
14 within the White House security zone by special exception,
15 after consultation with the Secret Service. Next slide.

16 So, the special exception requirements are that
17 it has to be in harmony with the general purpose and intent
18 of the zoning regulations and map. The proposal conforms to
19 the D-6 use provisions by providing accessory space for
20 commercial office uses, and it conforms to the development
21 standards of the D-6 district as well.

22 Second, the special exception cannot adversely
23 affect the use of neighboring properties. The areas
24 characterized by similar commercial office buildings, many
25 with usable rooftop amenity spaces, and the proposed

1 penthouse expansion, will be adjacent to a glass atrium on
2 the adjoining building, which therefore will not adversely
3 affect that property.

4 Finally, for the special exception, it must meet
5 any other special conditions. And in this case, it's
6 consultation with the Secret Service. And under Exhibit 28B,
7 there is an email confirming that we had a site visit with
8 the Secret Service on July 8th and they had no objection to
9 the proposal.

10 Therefore, we meet the standard for approval of
11 this application, and we look forward to the Board's
12 deliberation and hopefully favorable action upon the
13 effective date of these new regulations. Thank you, and that
14 concludes our presentation.

15 CHAIRPERSON HILL: Thank you. Does the Board have
16 any questions for the applicant? All right, the Office of
17 Planning?

18 MS. MYERS: Good afternoon. Crystal Myers for the
19 Office of Planning. The Office of Planning's recommending
20 approval of this case and we'll stay on the record of the
21 staff report. But of course, if you have questions.

22 CHAIRPERSON HILL: Thank you, Ms. Myers. Does the
23 Board have any questions for the Office of Planning? Does
24 the applicant have any questions for the Office of Planning?
25 Mr. Young, is there anyone here wishing to testify?

1 MR. YOUNG: I do not.

2 CHAIRPERSON HILL: All right, I guess that's it.
3 Ms. Brown, do you have anything to add at the end?

4 MS. BROWN: No.

5 CHAIRPERSON HILL: Okay. All right, I'm going to
6 close the hearing on the record. Mr. Young, if you can
7 excuse everyone from the hearing room.

8 All right, Ms. Bajaj, can you hear me?

9 MS. NAGELHOUT: I'm here if she's not.

10 CHAIRPERSON HILL: Oh, Ms. Nagelhout. All right,
11 so we can't vote on this now, and I don't know when -- I
12 guess we can schedule this for -- can we deliberate?

13 MS. NAGELHOUT: Oh, I suppose we could, just not
14 vote. So, I wouldn't make a motion. But if you wanted to
15 talk some.

16 CHAIRPERSON HILL: Yeah, that's okay. I guess it
17 doesn't matter. Okay, then Ms. Rose, can you hear me?

18 MS. ROSE: Yes, I can hear you.

19 CHAIRPERSON HILL: I don't know if you would know
20 this -- Ms. Nagelhout, maybe you know -- when we could
21 schedule this.

22 MS. NAGELHOUT: I wonder if Mr. May might know.
23 But my sense is that the Commission took some action, but
24 then there was a snag and the case maybe got reopened. I'm
25 not sure.

1 CHAIRPERSON HILL: Okay, I'll tell you what.
2 Ms. Rose, can you hear me? I don't know, Commissioner May
3 doesn't seem to be offering up anything yet.

4 ZONING COMMISSIONER MAY: I don't remember where
5 it stands. I mean, there's so many zoning cases. I can look
6 it up and see where it was left.

7 CHAIRPERSON HILL: Why don't we just go ahead and
8 do this. Ms. Rose, can you hear me?

9 MS. ROSE: Yes, sir.

10 CHAIRPERSON HILL: So, our last hearing date for
11 the year is -- is it the 15th? You don't know.

12 MS. ROSE: Well, let me check the schedule.

13 CHAIRPERSON HILL: I wouldn't be surprised if
14 we're doing it on the 22nd.

15 ZONING COMMISSIONER MAY: Mr. Chairman?

16 CHAIRPERSON HILL: Yes.

17 MS. ROSE: 22nd.

18 ZONING COMMISSIONER MAY: We took final action on
19 this on October 14th. At this point, I don't know how
20 quickly the final language would get published. That's
21 something the Office of Zoning would have to tell us.

22 CHAIRPERSON HILL: Right. All I was going to do
23 is, because I have to put it on somewhere now, I was just
24 going to put it on the 22nd for now, and if it's not ready,
25 then it'll get postponed again. I don't know how long stuff

1 takes to get through you all's process.

2 ZONING COMMISSIONER MAY: Yeah, I don't know. I
3 mean, I don't track it once we make our decisions.

4 CHAIRPERSON HILL: Okay.

5 ZONING COMMISSIONER MAY: I will say I'm scheduled
6 to be here on the 22nd.

7 CHAIRPERSON HILL: Okay, well that makes sense
8 then. All right, Ms. Rose, can you put this on for decision
9 on 12/22?

10 MS. ROSE: Yes.

11 CHAIRPERSON HILL: And then, if you can just
12 check, make sure you and Mr. Moy collaborate, whatever, to
13 see whether or not it's ready.

14 MS. ROSE: Yes, we will look at that.

15 CHAIRPERSON HILL: We can vote on it. Okay?

16 MS. ROSE: All right.

17 CHAIRPERSON HILL: Okay, you can call the next one
18 when you get a chance.

19 MS. ROSE: The next application is No. 20557 of
20 SAS Opportunities LLC, for special exceptions from the lot
21 occupancy requirements of Subtitle E, Section 304.1, pursuant
22 to Subtitle E, Section 5201, and Subtitle X, Section 901.2,
23 from the rear yard requirements of Subtitle E, Section 306.1,
24 pursuant to Subtitle E, Section 5201 and Subtitle X,
25 Section 901.2, and from the penthouse setback requirements

1 of Subtitle C, Section 1502.1(a), pursuant to Subtitle C,
2 Section 5204.1, and Subtitle X, Section 901.2, to construct
3 a third floor and new rooftop deck addition to an existing
4 attached two-story principal dwelling unit in the RF-1 zone
5 at premises 536 Harvard Street, NW, Square 3056, Lot 6.

6 CHAIRPERSON HILL: Okay. Is the applicant here?
7 And if so, could they introduce themselves? Is it
8 Mr. Siddiqui? Mr. or Ms. Siddiqui?

9 MS. SIDDIQUI: Yes.

10 CHAIRPERSON HILL: Can you hear me?

11 MR. SIDDIQUI: Oh, I'm sorry. One second.
12 Apparently, I had my mute button so I couldn't hear you.

13 MS. SIDDIQUI: Hello?

14 CHAIRPERSON HILL: Well, first, Mr. Siddiqui, can
15 you introduce yourself for the record, please?

16 MR. SIDDIQUI: Yes. My name is Asif Siddiqui.
17 I'm the applicant and the owner. We plan to live there. My
18 son plans to live on the upper unit.

19 CHAIRPERSON HILL: Okay, Mr. Siddiqui, give me one
20 second. There was another voice I heard.

21 MS. SIDDIQUI: That's me, Emily Siddiqui. I'm
22 his wife.

23 CHAIRPERSON HILL: Oh. No, there was third voice
24 then maybe. No?

25 MR. SIDDIQUI: No, there's nobody else here.

1 MS. SIDDIQUI: No.

2 CHAIRPERSON HILL: Okay. All right, so you guys
3 are going to present to us? Is that correct?

4 MR. SIDDIQUI: I guess. My general contractor was
5 on line 2 since 9:30, but then he had to leave. So, I guess
6 I can tell you what we're looking for.

7 CHAIRPERSON HILL: Okay. Mr. Siddiqui, why don't
8 you go ahead and tell us about your project.

9 MR. SIDDIQUI: Okay. So, we're building two
10 units, two levels each. The basement level and the first
11 level, and the third and the fourth level as a second unit.
12 And we were looking to make a rooftop deck, and also there
13 was an administrative group. Then, we realize that also we
14 need access from the second unit to go to the parking pad,
15 and we need a circular staircase in the rear. And that was
16 exceeding the 60 percent. It's coming out to 63.4 percent
17 occupancy. So, we were asking for the Board for special
18 exception relief.

19 There was a meeting with the ANC on
20 September 20th. They had basically recommended these for
21 approval, but it's up to you guys. That's where I stand.
22 That's all I know about this.

23 CHAIRPERSON HILL: Okay. All right, Mr. Siddiqui,
24 I'll come back to you. I'm just going to turn to the Office
25 of Planning real quick. I'm having trouble pulling up your

1 record for some reason. Ms. Thomas?

2 MS. THOMAS: Yes, Mr. Chair. Good afternoon,
3 Mr. Chair, members of the Board. Karen Thomas with the
4 Office of Planning.

5 We are recommending approval of Application 20557
6 for the renovation of the existing structure, including
7 relief from the lot occupancy, rear yard and railing setback
8 of the deck, which do not meet the one-to-one requirements
9 of Section C, Subtitle 1502.

10 With respect to Subtitle X, 901, special exception
11 relief for the lot occupancy and rear yard, the proposal is
12 in harmony with the intent of the regulation, as it conforms
13 to all other requirements for this zone, as can be referenced
14 in our report and with respect to the criteria under
15 Subtitle 5201. And so, granting the requested relief here
16 would not create an undue adverse impact.

17 Further, the use of the neighboring property
18 should not be unduly impacted. The proposed addition would
19 not be out of character with rear additions of the
20 residences, the stair addition in particular in the rear yard
21 would be an open structure for access and it should not
22 created shadows or undue effects into the neighbors'
23 properties.

24 Also, with respect to the relief from the railings
25 setback, I would mention on the record that I spoke to the

1 zoning administrator with respect to the roof deck railing,
2 and I don't know if we had a question with respect to the
3 side and rear railings, which did not appear to satisfy the
4 setback, in addition to the front, as referenced in his
5 referral.

6 And Mr. LeGrande confirmed in our discussion that
7 indeed relief would be needed here as well. So, our analysis
8 took that into consideration, as can be seen in the OP
9 report.

10 And I'll just state that given that the large
11 meters, especially at the rear, is where the building is
12 11 feet wide.

13 A total of six feet loss in the upper deck would
14 be unreasonable. The railing would not appear to be
15 extensions of the solid brick wall, and it would not be as
16 visually (audio interference).

17 So, we believe it satisfies the intent of the
18 regulations. And in this regard, we will support this
19 request in total.

20 So, thank you. And I'll be happy to take any
21 questions.

22 CHAIRPERSON HILL: Okay. Does the Board have any
23 questions for Ms. Thomas, Commissioner May?

24 ZONING COMMISSIONER MAY: Yeah. I understood the
25 side and rear wall relief. That made sense to me. But I

1 think even in your report you question the need for relief
2 at the front. And I was wondering if you got clarify from
3 the zoning administrator on that, because I don't really want
4 to be granting relief when it doesn't seem like they need it.

5 MS. THOMAS: Yeah, I asked him about that
6 yesterday, and he mentioned that he was a bit busy. But he
7 mentions he didn't believe it met -- I think it was a
8 staircase, sort of --

9 MR. SIDDIQUI: Staircase in the rear to get access
10 to the parking pad on the second unit.

11 MS. THOMAS: No, we're not speaking about that.
12 I didn't agree, but he insisted they needed it from
13 different. So, he was seeing something that we didn't see.
14 But he didn't pursue it. I just left it alone. I was more
15 interested in getting relief done for the rear, which was --

16 ZONING COMMISSIONER MAY: Yeah. One of the things
17 I'm always very concerned about is granting relief to rooftop
18 setbacks when they're not really needed. Right?

19 And in this case, I can understand the essential
20 need for the relief at the front. The rear not as much, but
21 it's less important at the rear. But certainly at the front,
22 I mean, I just don't understand why that's needed, and I'm --

23 MS. THOMAS: I don't know.

24 ZONING COMMISSIONER MAY: You don't know.

25 MS. THOMAS: Yes, I'm sorry.

1 ZONING COMMISSIONER MAY: Well --

2 MS. THOMAS: I can try to find out. If you can
3 hold this back and I could report back to Mr. Moy about it.

4 ZONING COMMISSIONER MAY: Yeah. It seems to me
5 though, even if we did not grant that relief today, the
6 applicant would likely be able to tweak it so that it meets
7 that setback on the front. Wouldn't that make sense?

8 MS. THOMAS: Yes, it would. Yes.

9 ZONING COMMISSIONER MAY: Okay.

10 MS. THOMAS: We could ask the applicant what
11 prevents him from meeting the front setback.

12 ZONING COMMISSIONER MAY: All right, well, let's
13 circle back to the applicant.

14 MS. THOMAS: Okay.

15 CHAIRPERSON HILL: Commissioner May, I knew the
16 penthouse setback, I was going to be like, oh this is the
17 one. Right. That's okay.

18 ZONING COMMISSIONER MAY: It's a matter of
19 ownership of penthouse setback regulations.

20 CHAIRPERSON HILL: Right. Let's see, what was I
21 going to say? I don't know where to go with this one.
22 Mr. Siddiqui, can you hear me?

23 MR. SIDDIQUI: Yes, I do. I can.

24 CHAIRPERSON HILL: I mean, you're not the
25 architect. Do you understand the question about whether or

1 not you think you need relief from the front, from the
2 setback requirements?

3 MR. SIDDIQUI: I remember them mentioning it, that
4 the third floor would be set back about three feet or so.
5 And it has been designed accordingly, if that's what you're
6 referring to.

7 ZONING COMMISSIONER MAY: No. It's not the third
8 floor, it's the roof deck and the handrail associated with
9 the roof deck.

10 MR. SIDDIQUI: I'm sorry, I don't understand the
11 technical. But when they were talking to the ANC, they did
12 mention all that and they were in agreement with how the ANC
13 wanted.

14 ZONING COMMISSIONER MAY: Who is they?

15 MR. SIDDIQUI: Pardon me?

16 ZONING COMMISSIONER MAY: You said they were in
17 agreement. Who is the they you were talking about.

18 MR. SIDDIQUI: Oh, they, meaning the ANC and my
19 architect at the time, and the GC. They were all in
20 agreement that this is what they would do whatever, and it's
21 being done according to that, I believe.

22 As I understood, I thought it was mostly for the
23 spiral staircase in the rear, that it's going to take -- you
24 have to get to the parking pad, that was exceeding the
25 60 percent, to 63.4 percent.

1 ZONING COMMISSIONER MAY: No, this is about
2 setting the handrail at the front of the building.

3 MR. SIDDIQUI: Right. I wouldn't know the
4 technical aspects, to be honest with you.

5 ZONING COMMISSIONER MAY: Mm-hmm.

6 CHAIRPERSON HILL: Commissioner May, I don't know
7 what -- like, I'm looking at the architectural plans, and I'm
8 not an architect. And so, I do the best I can with them.
9 And since we don't have a PowerPoint with the land use
10 attorney, kind of like to highlight the areas, I mean, I
11 guess it's kind of whether or not you see your concern not
12 being addressed in some way to move forward, and/or then how
13 would you suggest to move forward?

14 ZONING COMMISSIONER MAY: Well, my inclination --
15 I mean, part of the issue here is that it's not adequately
16 documented. Right? There are not the dimensions that show
17 how far the setback is.

18 We also don't know exactly why the zoning
19 administrator came to this conclusion. It may just be a
20 matter of inches.

21 My inclination would be to move forward on the
22 relief for the sidewalls, the sides of the roof deck and the
23 rear, and then of course the lot occupancy, but not grant the
24 relief at the front.

25 I mean, that's my suggestion on how we would move

1 forward. I guess I do have a question for Mr. Siddiqui.
2 Mr. Siddiqui, is there anything that is critically important
3 about how far forward that rail is set on the roof level?
4 I mean, could it move back six inches or a foot without a
5 damaging impact?

6 (Simultaneous speaking.)

7 ZONING COMMISSIONER MAY: One person -- please,
8 one at a time.

9 MR. SIDDIQUI: Well, my architect is online. Can
10 we bring her on? She can explain it to you?

11 ZONING COMMISSIONER MAY: Sure.

12 MR. SIDDIQUI: Her name is Mariah Rippe, from
13 Moment Engineering?

14 ZONING COMMISSIONER MAY: Okay.

15 CHAIRPERSON HILL: Say it again? What's the
16 person's name?

17 MR. SIDDIQUI: Her name is Mariah Rippe,
18 R-I-P-P-E.

19 MS. RIPPE: Yes.

20 CHAIRPERSON HILL: Okay. And Mr. and
21 Ms. Siddiqui, just to let you know, we're talking about the
22 front railing on the roof.

23 MR. SIDDIQUI: Correct.

24 CHAIRPERSON HILL: That's all we're talking about.

25 MR. SIDDIQUI: Okay. Correct.

1 CHAIRPERSON HILL: Mr. Young, can you admit the
2 architect, please?

3 MR. YOUNG: What is the name?

4 MR. SIDDIQUI: Mariah Rippe, R-I-P-P-E, from
5 Moment Engineering.

6 MS. RIPPE: Can you guys hear me?

7 CHAIRPERSON HILL: Yes.

8 MS. RIPPE: Hi. I'm Mariah Rippe. I'm the one
9 who designed this house and worked on this project, and I
10 work with Moment Engineering.

11 CHAIRPERSON HILL: Okay. Did you take the oath,
12 do you know?

13 MS. RIPPE: This morning I did hear it. Yes.

14 CHAIRPERSON HILL: You did hear it. No, I think
15 when you click in, you have to take the oath. I'm just not
16 sure if you clicked in the proper way.

17 MR. YOUNG: I don't think so.

18 MS. RIPPE: I don't believe I did. No.

19 CHAIRPERSON HILL: All right, great. Ms. Rose,
20 are you there?

21 MS. ROSE: Yes, I am.

22 CHAIRPERSON HILL: Ms. Rippe, if you can listen
23 to what Ms. Rose is about to tell you. Okay?

24 MS. RIPPE: Okay, got it.

25 MS. ROSE: Can you raise your right hand and

1 repeat after me? Do you swear or affirm that the testimony
2 you will be giving will be the whole truth and nothing but
3 the truth?

4 MS. RIPPE: I do.

5 MS. ROSE: Thank you.

6 CHAIRPERSON HILL: Okay. Thank you, Ms. Rose.
7 So, Ms. Rippe, Commissioner May is going to have a question
8 for you, all right?

9 MS. RIPPE: Yes.

10 ZONING COMMISSIONER MAY: Yeah. So, first of all,
11 did you have any discussion with the zoning administrator
12 about the relief that you needed? Or did you just submit it
13 and get a letter back from them? I mean, how did --

14 MS. RIPPE: Our office does not submit for BZA
15 hearings. We do the drawings for them, but we -- only we do
16 the drawings. So, I was not apparent to like the whole rest
17 of the documentation. But I know what is going on with the
18 relief.

19 ZONING COMMISSIONER MAY: Oh, good. So, please
20 tell me.

21 MS. RIPPE: Not the front upper rail on the roof
22 deck is in what's in question. It's the lower rail that is
23 on --

24 ZONING COMMISSIONER MAY: Okay. Got it.

25 MS. RIPPE: So, it's on the actual facade of the

1 house. And that's the rail in question, because it can only
2 be right there on the facade to be able to protect from fall-
3 to-ground level, because the parapet wall is less than
4 36 inches from the lower roof deck.

5 ZONING COMMISSIONER MAY: Uh-huh. Okay.

6 MS. RIPPE: So, the only way to have that railing
7 protect and meet the code requirements is to have it on the
8 facade so it won't meet the one-to-one setback. Does that
9 make sense.

10 ZONING COMMISSIONER MAY: Yes, it does make sense.
11 That clears up everything, because that's a completely --

12 MS. RIPPE: Railing.

13 ZONING COMMISSIONER MAY: -- railing, and it's --
14 I mean, I understand the need for relief and that's
15 technically necessary. That might have been something that
16 we took up in the last penthouse regulations. I forget.

17 But the relief there is completely different than
18 if it were on the very top of a building.

19 MS. RIPPE: The top of the building was not in
20 question. Only the very front facade railing, which is
21 required for fall protection, and from the lower roof deck,
22 and then the upper rear rail.

23 And then, I understand that the new one's coming
24 into question on the side.

25 ZONING COMMISSIONER MAY: Yeah.

1 MS. RIPPE: The other two sides that are directly
2 on the property lines were parapet walls, so those are not
3 in question.

4 ZONING COMMISSIONER MAY: So, let me ask you this.
5 Is it essential that pretty narrow piece of deck on the third
6 floor actually be accessible all the way to the front of the
7 building?

8 MS. RIPPE: The only other reason would be because
9 of the windows for egress. If we set the rail back, the
10 windows for egress on the front of that room, you wouldn't
11 be able to get out if the railing was set back.

12 ZONING COMMISSIONER MAY: Well, what if the
13 railing simply went from the front edge of that --

14 MS. RIPPE: The wall?

15 ZONING COMMISSIONER MAY: Or wall --

16 MS. RIPPE: Right, right.

17 ZONING COMMISSIONER MAY: -- to the sidewall. I
18 mean, I guess --

19 MS. RIPPE: That is a possibility. But I think
20 the other reasoning is to be able to access that space. And
21 that's why we're also seeking relief for this.

22 ZONING COMMISSIONER MAY: Mm-hmm. Okay. Well,
23 that's really what I wanted you to say, right?

24 MS. RIPPE: Okay.

25 ZONING COMMISSIONER MAY: I didn't understand why

1 it was. You want to be able to go out there and use that
2 space in some form.

3 MS. RIPPE: Right, right. Most of it's a parapet
4 wall. It's just kind of a partial rail to be able to --

5 ZONING COMMISSIONER MAY: I understand that now
6 through the drawings.

7 MS. RIPPE: Okay.

8 ZONING COMMISSIONER MAY: It's not clear based on
9 the little information we had before this. Okay, so then,
10 back to Ms. Thomas. Since we now have a better understanding
11 of what the relief requirement is from the zoning
12 administrator, does the Office of Planning have any concerns
13 about having a railing that's mounted on top of of the
14 parapet at the front of the building, on top of that second
15 story, so that little bit of space there becomes occupiable?

16 MS. THOMAS: No. No, we don't.

17 ZONING COMMISSIONER MAY: All right, thank you.

18 CHAIRPERSON HILL: That's okay. Okay, thanks.
19 Go ahead, Mr. Blake.

20 MEMBER BLAKE: I'd just be curious how large that
21 space is in front of the windows?

22 MS. RIPPE: It's a three-foot by the width of the
23 property. We're meeting the three-foot setback from the
24 front of the facade for zoning requirements and it creates
25 this little lower deck.

1 MEMBER BLAKE: A three-foot wide lower deck is
2 essentially what we're talking about.

3 MS. RIPPE: Three foot deep by the width of the
4 property.

5 MEMBER BLAKE: Okay, thank you.

6 ZONING COMMISSIONER MAY: Can I ask another
7 question?

8 CHAIRPERSON HILL: Sure.

9 ZONING COMMISSIONER MAY: Ms. Rippe, what is that
10 rail constructed of?

11 MS. RIPPE: We were thinking of a metal guardrail.

12 ZONING COMMISSIONER MAY: Okay. It looks like
13 it's a horizontal rail. Does that mean it's a cable rail?

14 MS. RIPPE: Yes, yes. Some type of modern rail.

15 ZONING COMMISSIONER MAY: I mean, it couldn't just
16 be a pipe rail, because can't do that --

17 MS. RIPPE: We could. We were just trying to do
18 something less visible.

19 ZONING COMMISSIONER MAY: Right. That's what I'm
20 getting at. Right?

21 MS. RIPPE: Okay.

22 ZONING COMMISSIONER MAY: I mean, it's helpful for
23 your future reference if you wind up designing something that
24 comes before the Board of Zoning Adjustment again, a little
25 more documentation along those lines would be helpful, and

1 little bit less of the construction detail. Right?

2 MS. RIPPE: Okay.

3 ZONING COMMISSIONER MAY: That's what we need.
4 We've got some big files that are unwieldy because there's
5 a whole lot of information in there that we don't need.

6 MS. RIPPE: Understood.

7 ZONING COMMISSIONER MAY: But we need to know the
8 stuff that relates to the building itself. So, thank you.

9 CHAIRPERSON HILL: Okay, I've got to do another
10 thing. So, Mr. Siddiqui, can you hear me?

11 MR. SIDDIQUI: Yes, I can.

12 CHAIRPERSON HILL: So, it appears as if the Zoning
13 administrator thinks that you still need relief from the side
14 and rear guardrails. Are you amending your application to
15 include that relief?

16 MS. RIPPE: Can I -- can I --

17 MR. SIDDIQUI: Yeah, can she explain it?

18 CHAIRPERSON HILL: Ms. Rippe?

19 MS. RIPPE: Can I ask the zoning administrator why
20 the sides are -- I understand the one side where it's set off
21 where the dogleg is, where that would need relief. But the
22 other two sides are on the property lines, and those are
23 parapet walls. And they're just solid parapet walls for fire
24 protection, and they're not open rails.

25 We're not asking for those to be open rails, we're

1 asking for those to remain parapet walls. We're not asking
2 for any change in those.

3 CHAIRPERSON HILL: I can ask maybe the Office of
4 Planning. The zoning administrator is not here.

5 MS. RIPPE: Oh, okay. Okay, sorry.

6 CHAIRPERSON HILL: That's all right.

7 MS. THOMAS: Yes, Mr. Chair, we had said it was
8 the rail where the stairs meet the rear, that rear railing.
9 We did not reference the parapet walls.

10 MS. RIPPE: Oh, okay. Okay.

11 MS. THOMAS: And the side.

12 MS. RIPPE: So, that's just part of the stair
13 construction.

14 MS. THOMAS: Yes.

15 (Simultaneous speaking.)

16 MS. THOMAS: But he said that would have needed
17 it as well. So, we included it. So, it's reasonable to
18 request that.

19 MS. RIPPE: So, I think that's what's just the
20 side rail of the stairs, which is part of the stair
21 construction, is what --

22 (Simultaneous speaking.)

23 MS. THOMAS: The side rail at the court area, that
24 small dogleg area, there seems to be a rail there, and as it
25 joins to the rear stair.

1 MS. RIPPE: Okay.

2 CHAIRPERSON HILL: So, Mr. Siddiqui, I'm trying
3 to get this thing a little bit more tidy. So, the zoning
4 administrator believed you need side rail relief, and then
5 also rear rail relief. And I'm asking you, you would like
6 to add this to your application, correct?

7 MR. SIDDIQUI: I guess so. Yes.

8 CHAIRPERSON HILL: Okay. All right, so we're
9 going to go ahead and do that. And now, we're still back
10 here to the front rail, which even I now don't know what I
11 think a little bit. Because, I mean, a three-foot deck --
12 well, I'm just not an architect. So, Mr. Young, is anyone
13 here wishing to testify?

14 MR. YOUNG: We do not.

15 CHAIRPERSON HILL: Okay. Does the Board have
16 any -- I'm looking at Commissioner May a little bit more.
17 But like, does the Board have any questions? Like, do you
18 have any questions? The only other alternative is to send
19 this back, have the architect work with the Office of
20 Planning, and try to understand that front rail. Right?

21 And I don't have a strong enough opinion, I guess.
22 And I'm looking at Commissioner May because I've been working
23 you a long time about this stuff, and if you're comfortable,
24 I suggest we move forward.

25 ZONING COMMISSIONER MAY: So, I mean this is an

1 area where I do not -- I mean, I feel very strongly about
2 setting back on the top of buildings. So, if there is going
3 to be rooftop use, or if there's going to be an actual
4 penthouse, making sure that buildings meet the setback
5 requirements I think is crucially important.

6 That was very clear through all the discussions
7 that we've had over the last seven years, I think, since we
8 started making changes to rooftop regulations specific to
9 penthouses, and as a result of the changes to the Height Act
10 that the Congress had made.

11 That's where my biggest concern is. Right? It's
12 really about creating the impression that a building is
13 taller than it really is. And so, doing those setbacks or
14 railings, even when they're glass railings, or wire railings,
15 is very important so that it doesn't exaggerate the height
16 of the building, particularly in low-density, low-height
17 neighborhoods like this. Right?

18 The rest of the buildings around it are 25 feet
19 tall, something like that. And so, they have an extra story
20 plus an extra four feet of rail, really makes it seem out of
21 place.

22 That is not the case when we're talking about a
23 railing that's sitting on top of the front parapet wall with
24 the building, or the third floor, setback three feet behind
25 it.

1 Now, that three-foot rule, that's something that
2 the zoning administrator basically adopted as a way of how
3 they make decisions with regard to the requirements that any
4 features at the front, like a cornice in this case, be
5 preserved. Right?

6 You can't just blow out the cornice and run the
7 walls straight up. And so, in order to build an addition on
8 top of a two-story building like this, you have to set back
9 three feet to give you some sense that this is an addition,
10 and that it's not part of that original composition that was
11 the row house.

12 Adding a rail, particularly a rail of the type
13 that Ms. Rippe described, I think is less problematic. I
14 think that we have been -- I mean, frankly, we've had so many
15 discussions about this I don't know where we land, but we did
16 have some discussion in the last modification to the
17 penthouse regulations, about whether setbacks for handrails
18 on lower stories of buildings was really necessary.

19 And regardless of where we landed on that, at this
20 moment the zoning administrator is saying that that relief
21 is necessary, I don't object to that relief in this
22 circumstance, because three feet behind it you've got a whole
23 story. Right? The fact that there's a rail right there,
24 it's not really even going to be that obvious to anyone.

25 CHAIRPERSON HILL: Okay.

1 ZONING COMMISSIONER MAY: I don't really have a
2 problem.

3 CHAIRPERSON HILL: Okay.

4 ZONING COMMISSIONER MAY: Sorry for the long
5 explanation.

6 CHAIRPERSON HILL: Okay. No, that's all right.
7 You're going to get to start the deliberation, now that
8 you've already had such a -- now you're warmed up. Now that
9 you're warmed up, Commissioner. So, I'm good.

10 All right, Mr. Siddiqui, do you have anything
11 you'd like to add at the end?

12 MR. SIDDIQUI: No. Just looking for the relief
13 to go ahead with the project, that you guys are okay with it.

14 CHAIRPERSON HILL: Okay. All right, thank you,
15 Mr. Siddiqui. All right, I'm going to close the hearing and
16 excuse everyone, Mr. Young.

17 If we have that appeal today, I would be so much
18 shorter with so many things. All right, Commissioner May,
19 yes or no, Commissioner May? Commissioner May, we've got a
20 six-hour thing ahead of us, okay?

21 All right, so I guess everybody's gone.
22 Commissioner May, would you be willing to start the
23 deliberations, please?

24 ZONING COMMISSIONER MAY: Okay. Well, I'll start
25 by saying that everything that I said three minutes ago is

1 what I would say now, with regard to the setback relief. The
2 sidewalls, also understandable, less visible for the public.
3 And of course the lot occupancy relief I think is pretty
4 minor.

5 So, given the support of the Office of Planning
6 and the ANC, I don't have any issues with this. Thank you.

7 CHAIRPERSON HILL: Thank you Commissioner.
8 Mr. Smith?

9 MEMBER SMITH: I don't have nothing else to add.
10 I support Commissioner May's position in this point on the
11 issue of the setbacks. So, with that I agree with the OP's
12 analysis on this application, and will also support it.

13 CHAIRPERSON HILL: Mr. Blake?

14 MEMBER BLAKE: I agree with the analysis made by
15 Commissioner May and Mr. Smith. The architectural element
16 in the front to me is very interesting, because it also does
17 provide a better visual impact for the front and allows the
18 windows to go to the front. It actually, I think, creates
19 a much nicer design.

20 That said, OP recommends approval and I support
21 that. DDOT has no objection, ANC-6P is in support and
22 they've indicated no issues or concerns, and there were
23 several letters of support, including letters from the
24 adjacent neighbors. So, I would be prepared to support it
25 also.

1 CHAIRPERSON HILL: Okay, thank you. All right,
2 I have nothing additional to add. I'm going to make a motion
3 to approve Application No. 20557, as captioned by the
4 Secretary, including the relief for the side rails and the
5 rear rail, including the one on the front rail, and ask for
6 a second. Mr. Blake?

7 MEMBER BLAKE: Second.

8 CHAIRPERSON HILL: Motion made and seconded.
9 Ms. Rose, if you could take a roll call, please?

10 MS. ROSE: Yes. When I call your name, please
11 indicate your vote with a yes or a no. Mr. May?

12 ZONING COMMISSIONER MAY: Yes.

13 MS. ROSE: Mr. Smith?

14 MEMBER SMITH: Yes.

15 MS. ROSE: Mr. Blake?

16 MEMBER BLAKE: Yes.

17 MS. ROSE: Mr. Hill?

18 CHAIRPERSON HILL: Yes.

19 MS. ROSE: Ms. John is not participating. Staff
20 will record the vote as 4-0-1 on a motion by Mr. Hill,
21 seconded by Mr. Blake, with Mr. Smith and Mr. May in support
22 of the motion to approve the application, Ms. John not
23 participating.

24 CHAIRPERSON HILL: Thank you, Ms. Rose. Okay,
25 Ms. Rose, you can call our next case when you get a chance.

1 MS. ROSE: Next is Application No. 20560, of
2 Bridget and Michael Sewell, for special exceptions from the
3 rear addition requirements of Subtitle E, Section 205.4,
4 pursuant to Subtitle E, Section 205.5, Subtitle E,
5 Section 5201, and Subtitle X, Section 902.1, from the rooftop
6 and upper floor requirements of Subtitle E, Section 206.1,
7 pursuant to Subtitle E, Section 5207, and Subtitle X,
8 Section 902.1, and from the lot occupancy requirements of
9 Subtitle E, Section 304.1, pursuant to Subtitle E,
10 Section 5201, and Subtitle X, Section 902.1, to construct a
11 third-story addition and a three-story rear addition to an
12 existing attached two-story principal dwelling unit, rear,
13 in the RF-1 zone at premises 1713 D Street, SE, Square 1102,
14 Lot 99.

15 CHAIRPERSON HILL: Okay. All right, Ms. Wilson,
16 can you hear me?

17 MS. WILSON: Yes, I can.

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

20 MS. WILSON: Alex Wilson, firm of Sullivan &
21 Barros, on behalf of the applicant.

22 CHAIRPERSON HILL: Okay, and who's with you today?

23 MS. WILSON: I'm here with Eric Goetz, a
24 representative of the owner, and Eric Teran, the project
25 architect.

1 CHAIRPERSON HILL: Okay. Mr. Teran, could you
2 introduce yourself for the record, please? Didn't hear you.

3 MS. WILSON: You're on mute.

4 MR. TERAN: Good afternoon Chairman and members
5 of the Board. My name is Eric Teran and I am the architect.

6 CHAIRPERSON HILL: Great. Mr. Goetz, can you hear
7 me?

8 MR. GOETZ: Yes, I can.

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

11 MR. GOETZ: Yes. My name is Eric Goetz with Blue
12 Star, and I'm here as a representative for the owners.

13 CHAIRPERSON HILL: Okay, great. Thank you. All
14 right, Ms. Wilson, if you can go ahead and walk us through
15 your presentation as to how you believe your client is
16 meeting the relief requested. I've got 15 minutes on the
17 clock just so I know where we are. And you can begin
18 whenever you'd like.

19 MS. WILSON: Great. Thank you so much.
20 Mr. Young, could you pull up the presentation? Thank you.
21 Could you go to the next page, please?

22 The subject property is approved with a two-story
23 single-family row building located in the RF-1 zone. The
24 applicant is proposing to construct a third story addition
25 on top of the existing building, and a three-story rear

1 addition.

2 The addition will extend the existing building
3 14 feet and six inches beyond the rear wall of the building
4 to the east, and a mansard roof element will also be
5 eliminated as part of the project.

6 Accordingly, we are requesting relief from the
7 ten-foot rule, and from the prohibition against eliminating
8 the rooftop original on it. We are also seeking lot
9 occupancy relief. The building itself is not over lot
10 occupancy, but there is a deck that brings the project just
11 over lot occupancy to 62.7 percent.

12 The ANC-6B supports this application. The Office
13 of Planning is recommending approval. DDOT has no objection,
14 and the application has received over a dozen letters as
15 support, including letters from the owners of the immediately
16 adjacent properties. And with that, I will turn it over to
17 Mr. Teran to give a high-level overview of the plans.

18 MR. TERAN: Go to the next slide, please. So,
19 that's the subject property, Lot 99. And the next few photos
20 are just existing photos. Go to the next, please?

21 So, ours is the yellow property right there next
22 to the tall three-story building to the right. And we are
23 proposing to be basically about the same height as the house
24 to the right. Next, please.

25 The left is, once again, from the front, and the

1 right is to the back. We are proposing to be aligned with
2 basically the house to the left on the first floor. The
3 second and third floor, as you will see by the renderings,
4 has a dogleg to help with the shadows to the house to the
5 right. Next, please.

6 Once again, just getting a view of the backyards
7 and how we're proposing being next to an adjacent neighbor.
8 Next, please.

9 And this is just a view from the backyard and to
10 the alley. And just one last thing from that last slide, you
11 can see that the deck is higher than, I believe it's the five
12 feet from adjacent grade, which is why we have to include it
13 in the lot occupancy calculation. Next, please.

14 Once again, that's Lot 99. And the hatch pattern
15 is what we're extending to. And we're going to see some 3-D
16 images next. Next slide, please.

17 So, this would be the proposed house. The
18 proposed addition to the third floor to the right is that
19 third story existing home. Next, please.

20 Once again, from the street level, just seeing the
21 massing. The height is a little bit lower than the existing
22 house to the right and the roof pitches are a little bit
23 different. Next, please.

24 And this is from the backyard. You can see that
25 the back aligns -- it's pretty close to the house to the left

1 and you can see the dogleg on the second and third floor.
2 And that really helps to remove any additional shadows by
3 asking for that extra -- it's a 4'2", 4'6" extra, past that
4 ten-foot allowance. So, if we go to the next, please.

5 Once again, just from the ground, you can see the
6 dogleg and the cellar and the first floor being aligned with
7 the house to the left. And everything under the deck is
8 actually, there's a fence there. So, it won't affect the
9 neighbors to the right. Next, please.

10 These are the plans. I'm happy to talk over them.
11 I don't think there's really too much to look. We could go
12 to the shadow studies, if you want to just skip those few
13 pages, please. Keep on going. It basically tells the same
14 thing as the 3-D images that we've just looked at. Almost
15 there. Here we go.

16 So, here's the shadow studies that we did for the
17 summer and winter solstice. On the left is the proposed, on
18 the right is the matter of rights. As you can see, at
19 9:00 a.m. there's absolutely no effect at all. Next, please?

20 12:00 p.m., the same thing, no issues. Next,
21 please.

22 At 3:00 p.m. is where you do get a little bit of
23 extra shadows you could see on the right, where the
24 highlighted area in red is. So, it's not that much
25 additional. It is just a little bit. Next, please.

1 And this is winter. Once again, nine, there's no
2 issues. Next, please.

3 There, no issues as well. And one more, please.

4 And here again you can see the little bit of
5 additional shadow. And this is actually created on the first
6 floor. The second and third floor are not creating any
7 additional shadows.

8 And that's all for me. I'm happy to answer any
9 questions. Take it back, Ms. Wilson, I think.

10 MS. WILSON: Great, thank you. If you could go
11 to the next slide, please, Mr. Young.

12 Regarding the journal criteria, the building will
13 continue to be used as a single-family dwelling.

14 (Audio interference.)

15 -- and the application has received support from
16 both the adjacent neighbors. Next slide, please.

17 So, lot occupancy and ten-foot-rule relief is
18 evaluated under E-5201. Regarding light and air, the
19 addition will be similar to the existing rear addition on
20 1711 D Street to the west, simply happens with the dogleg.
21 And so, the shadows the he demonstrates that any additional
22 shading is very limited and does not rise to the level of
23 undue. Regarding privacy, there are no east- or west-facing
24 windows. Next slide, please.

25 Regarding character, the area is characterized by

1 two- and three-story row dwellings, and the project leaves
2 similar design elements as other properties in the area.
3 Next slide, please.

4 So, architectural elements are viewed under the
5 same criteria, it's just a different section. Removing the
6 mansard will have no impact on light and air privacy.
7 Regarding character, the mansard roof elements are not
8 universally present on the block and they're not currently
9 present on the directly adjacent property at 1711 D.

10 The area is characterized by row buildings, many
11 of which are third stories. Accordingly, removing the
12 mansard roof does not substantially, visually, intrude on
13 character, air and fire of this along the street.

14 That is it for the presentation, and we are happy
15 to answer any questions.

16 CHAIRPERSON HILL: Okay, thank you. Does anybody
17 have any questions for the applicant?

18 ZONING COMMISSIONER MAY: Yes.

19 CHAIRPERSON HILL: Sure, Commissioner May.

20 ZONING COMMISSIONER MAY: Yeah. So, I'm curious
21 about the road strategy. We have a letter in the record from
22 the Restoration Society suggesting that the applicant could
23 have used a different approach for how that front roof is
24 done.

25 And I'm wondering why the architect chose to go

1 this particular direction with that roof, as opposed to one
2 of the alternate strategies that was suggested, such as the
3 one that was done at 1728 D Street, or doing a setback as was
4 done on another house in that block.

5 MR. TERAN: Yeah. I mean, we looked at first what
6 the adjacent house did. And so, that was kind of our main
7 focus on -- not necessarily 100 percent matching it, but be
8 in character with it.

9 And the reasons for wider windows, or more
10 glazing, is because it's mainly the homeowners. They enjoy
11 natural light --

12 ZONING COMMISSIONER MAY: It's not about the
13 number of windows. It's about the roof. The roof portion
14 of it, right? Having a roof and a dormer with frame windows,
15 versus two window dormers, that's not a big deal. It's the
16 roof pitch. It's the treatment of the roof.

17 MR. TERAN: Some of it's basically following the
18 character with the house right next door.

19 ZONING COMMISSIONER MAY: So, you said it doesn't
20 exactly do that though. Is the only difference the fact that
21 it's a triple window, as opposed to two separate dormers?
22 Is that the only difference?

23 MR. TERAN: Well, that's a difference, and the
24 slope is a little bit steeper than the house to the right.

25 ZONING COMMISSIONER MAY: So, why does the slope

1 have to be steeper? I mean, it seems a rather odd thing to
2 do if you're trying to copy that, to not then just like tilt
3 it up a little bit more. That doesn't seem to make any
4 sense.

5 MR. TERAN: Well, we don't want to have a blank
6 wall making it feel taller. So, we wanted it to be some
7 type of roof feature. And we wanted also to have interior
8 space as well. We don't want to compromise too much of
9 interior space.

10 ZONING COMMISSIONER MAY: So, I'm looking at your
11 presentation where you have the view that shows this
12 property, and then the property right next door to it. And
13 so, can you tell me what your roof pitch of your new mansard
14 is, compared to what is next door?

15 MR. TERAN: I believe you look at the architect
16 plan, the amount of elevation.

17 ZONING COMMISSIONER MAY: Yeah?

18 MR. TERAN: I believe they're the second or third
19 sheet of elevations.

20 ZONING COMMISSIONER MAY: Is it in the PowerPoint,
21 or is it in the --

22 MR. TERAN: It's a sheet on the PowerPoint that
23 was presented.

24 ZONING COMMISSIONER MAY: Okay.

25 MR. TERAN: The black and white architectural

1 plans.

2 ZONING COMMISSIONER MAY: Right.

3 MR. TERAN: It's on the second or third sheet for
4 elevations. I'll pull it up here as well. A line of the
5 adjacent house, and then with this proposed house.

6 ZONING COMMISSIONER MAY: Okay, that's not really
7 obvious to me. It's like the west elevation?

8 MR. TERAN: Yes, the west elevation. So, you can
9 see there's two slanted angles.

10 ZONING COMMISSIONER MAY: Yeah.

11 MR. TERAN: The one to the right is the adjacent
12 house and the one to the left would be this proposed house.

13 ZONING COMMISSIONER MAY: I see. And so, even
14 with a triple-gang window, you think it's really important
15 to have that extra one-foot of head space on the like
16 eastern- and western-most portions of that one room?

17 MR. TERAN: To meet the owner's requirements and
18 how they're going to be living in their space, we want to
19 maximize that.

20 ZONING COMMISSIONER MAY: Okay, well that doesn't
21 make any sense to me. I mean, it's not really a substantial
22 difference. The reason I'm asking these questions is that
23 I can understand the argument that doing something like what
24 was done at 1728 or one of the other ones, where it set back.

25 I mean, the setback one I understand. That's less

1 space. But not doing something that respects that front,
2 that existing mansard piece -- it's not really a mansard, but
3 that little bit of roof, that project, the facade -- I mean,
4 it seems to hinge on the idea of wanting to do something
5 that's similar to what's next door, but then you're making
6 the key element of what's next door, which is the slope of
7 that new mansard.

8 And you're not respecting it. You're just saying,
9 well, they didn't respect it, so -- they didn't respect the
10 original harness features, so I'm not. That's kind of the
11 only similarity between your design and theirs. It doesn't
12 make any sense. And with regard to the argument that, well,
13 not every house on the block has that feature, that's true.

14 But if you look carefully at how those row houses
15 are designed, the variations between them are very
16 particular, and very often very particularly spaced.

17 Like, you'll have three with that overhanging
18 roof, and then it'll be bookended by ones with a straight-up
19 facade that just goes up with a parapet wall.

20 So, I think, frankly, it shows a lack of
21 understanding of the architecture of the street, to take this
22 particular approach. And I don't think that you've made the
23 case that it's worth abandoning that feature at the front of
24 the house for the sake of what you're doing here. I think
25 if you're going to try to replicate what's immediately next

1 door, because that's already a significant departure from the
2 architecture of the block, I can understand that. But that's
3 not what you're saying. Okay. I'll get off my high horse.

4 I understand this neighborhood very well. I live
5 not far from there. The 1700 block of D Street was like a
6 green land 20 years ago. The houses were all perfect. They
7 were intact the way they were originally designed, and they
8 were all in beautiful shape. And now, there are a whole
9 bunch of third floor additions that are disrupting it.

10 But it was blocks like that that were in my mind
11 when we first introduced the regulations regarding third
12 floor additions in row house neighborhoods. It was blocks
13 like that that we very much had in mind. So, this is why I
14 feel strongly about the design. Right? Sorry, Mr. Chairman.
15 I went on too long.

16 CHAIRPERSON HILL: No, no. I'm just trying to
17 figure out where you are. I don't think they want to lose
18 the application. And I'm just a little confused myself.

19 ZONING COMMISSIONER MAY: Well, we'll get to that.

20 CHAIRPERSON HILL: The slant of the roof --
21 right? -- the slant of the roof matching the slant of the
22 roof next door is what you're speaking of. Correct?

23 ZONING COMMISSIONER MAY: I'm saying that they
24 would make a better case for themselves if in fact what they
25 have done. If that's what they've done.

1 CHAIRPERSON HILL: And I'm saying, that's what
2 we're speaking of. Correct?

3 ZONING COMMISSIONER MAY: Yeah.

4 CHAIRPERSON HILL: Okay. And so, is the architect
5 still there?

6 MR. TERAN: Yes.

7 CHAIRPERSON HILL: Oh, Mr. Teran, I'm sorry. So,
8 programmatically, I don't think your client would want to
9 lose a case over that much head space. Correct?

10 MR. TERAN: Correct.

11 CHAIRPERSON HILL: Right. Because we're not
12 talking about much. Again, what Commissioner May is speaking
13 of, he's not even talking about the windows matching next
14 door. It's just the slant of that roof. Right? So, we'll
15 see where we get in a minute. Okay?

16 MR. TERAN: Yeah.

17 CHAIRPERSON HILL: Did I go to the Office of
18 Planning yet? I didn't think so, right?

19 ZONING COMMISSIONER MAY: It's rounded off. That
20 was my questions for the applicant.

21 CHAIRPERSON HILL: Right, right. Okay,
22 Ms. Roberts? Ms. Brown-Roberts?

23 MS. BROWN-ROBERTS: Yes. Good afternoon,
24 Mr. Chairman and members of the BZA. For the record, I'm
25 Maxine Brown-Roberts from the Office of Planning, on BZA

1 Case 20560.

2 The 62 percent lot occupancy in the rear yard
3 extension beyond ten feet are allowed under Subtitle E, 5201.
4 The property is not an end lot and the addition would be
5 similar in height, and the rear extent of the house to the
6 west. So, its light and air should not be substantially
7 affected.

8 To minimize the impact of shadows on the property
9 to the east, they have to kind of set back the second and
10 third floor of the addition. Therefore, light and air to the
11 adjacent properties should not be substantially impacted.

12 The third story addition would not have windows
13 or doors on the side, so the view should match, or not being
14 very different from what currently exists. Therefore, the
15 privacy of adjacent neighbors should not be unduly
16 compromised.

17 The third floor addition would be visible from
18 D Street. However, there's an established pattern and scale
19 along the street frontage. The rear addition would also be
20 visible from the alley.

21 Many of the buildings along the alley have second
22 or third floor additions, with some decks, and so the
23 proposal would not be unusual.

24 Therefore, the proposed additions would not
25 visibly intrude on the character, scale and pattern along the

1 alley. And the house will continue to be used as a single-
2 family residence, with the maximum height and the number of
3 stories allowed in RF-1 zone, and the lot occupancy of 62.7
4 would be within the 70 percent allowed.

5 Regarding the removal of the mansard roof and the
6 architecture element, the applicant proposes to remove and
7 replace it with the mansard roof with a dormer window at the
8 top of the proposed new third floor. And they said that it
9 was similar to the houses to the west and the court roof
10 would be retained.

11 I heard what Mr. May was stating about the roof
12 pitch to be similar to the existing one, and I think that if
13 the applicant were to do that revision, that it would make
14 it into a better project.

15 We are supportive of the mansard roof for the
16 third floor. But I think that the applicant may want to
17 consider what Mr. May has suggested.

18 Regarding the general special exception
19 requirements of Subtitle X, we believe that the proposal
20 would not significantly affect access to light and air and
21 the privacy of adjacent neighbors.

22 The retention of the front facade, another
23 architecture element, is intended to help retain the
24 character of the buildings along the street frontage.

25 In this case, the front portion would be

1 maintained and the proposal would provide the mansard roof
2 on the third floor.

3 And there are other houses without mansard roofs,
4 and the third floor additions, and therefore, the character
5 of the street should not be severely impacted, and would be
6 in harmony with the regulations and map.

7 The proposed addition would not have grossly
8 affected the light and air to the adjacent properties. In
9 addition, there would be no way in the sides in addition to
10 affect the privacy and use of adjacent properties.

11 Therefore, the Office of Planning recommends
12 approval of the requested special exception. Thank you,
13 Mr. Chairman, and I'm available for questions.

14 CHAIRPERSON HILL: Okay. Does anybody have any
15 questions for the applicant? Okay, Mr. Young, does anyone
16 here wish to speak?

17 MR. YOUNG: We do not.

18 CHAIRPERSON HILL: Okay. So, I'm back to, again,
19 the discussion that Mr. May is having -- Commissioner May.
20 And I understand what he is bringing up.

21 And I guess the part that I -- which I'm not an
22 architect -- the issue that CHRS had with this, Mr. May, is
23 it just -- because now I'm just curious, I'm asking you,
24 Commissioner, I suppose -- is it just the slope of that roof?

25 ZONING COMMISSIONER MAY: Well, CHRS had

1 several -- well, they had an issue with the treatment of the
2 front of that third floor addition. And they suggested that
3 the applicant do something that was more splitter to what was
4 done at 1728, which is not the one next door, it's further
5 down the block.

6 And in that case, they retained that sloped roof
7 projecting from the front facade, and then sort of bent up
8 from there with an extended mansard. That was their
9 recommendation. They also did not support going more than
10 ten feet beyond the rear, but that's a separate issue.

11 So, that's what they suggested. Or, setting back
12 from the front wall.

13 CHAIRPERSON HILL: But your suggestion is
14 different than that then, in the front. Correct?

15 MR. TERAN: Correct. Well, CHRS's letter made me
16 think hard about understanding exactly what the logic was in
17 this case for using the approach that they did.

18 And I was waiting to hear that they were basically
19 following what was going on next door, because as much as I
20 think 1728 did a better job, I think that doing that approach
21 in this circumstance would probably look a little bit funny
22 next to the house that was already done.

23 Similarly, doing what's proposed in this design
24 is going to look a little funny when it's next door to a
25 property that has a slightly more sloped mansard. And I

1 think that the rationale for disregarding or getting relief
2 from the requirement to protect that feature on the building,
3 the rationale that makes sense to me would be that you're
4 following the roof pitch that was established on the house
5 next door.

6 PARTICIPANT: That's right.

7 CHAIRPERSON HILL: So then, really, like
8 E5207.1(c) is what we're kind of speaking to. And I guess
9 Mr. Teran -- I mean, what I'm trying to understand -- and
10 most of your fellow Board members aren't with this -- like
11 do you understand what Commissioner May is saying?

12 MR. TERAN: Yes, I do.

13 CHAIRPERSON HILL: Okay. How long would it take
14 you to show something to what Commissioner May is saying?

15 MR. TERAN: In the drawings? About five minutes.
16 Do you want me to change it?

17 CHAIRPERSON HILL: I'll tell you what. I mean,
18 I'm not kidding at all. Mr. Teran, I have another case.
19 Okay? You go ahead and do what you need to do. Okay? When
20 we were live, people would write on a piece of paper. Okay,
21 right?

22 So, somehow, get me something that I can come back
23 to after this next case. Okay?

24 MR. TERAN: Yes.

25 ZONING COMMISSIONER MAY: Mr. Chairman, that's

1 sort of assuming that the applicant is willing to do that.
2 Right?

3 I don't want to see it as an academic exercise.
4 But if the applicant is willing to make that change, then
5 yes, I would like to see that.

6 CHAIRPERSON HILL: I don't think it's an academic
7 exercise. Ms. Wilson?

8 MS. WILSON: I'll forego defending the current
9 design, but if the owners are okay with that and that wraps
10 up this hearing, then we can go ahead and do that.

11 CHAIRPERSON HILL: You figure out what you need
12 to do, Ms. Wilson. Okay? And I'm going to come back. Okay?
13 So, we're going to adjourn this for the next 15 minutes, and
14 then we'll bring you back in.

15 Okay, Mr. Young, if you could let everybody go.
16 All right, and then, let's see. Oh, Mr. Moy, you're back?

17 MR. MOY: Yeah, I decided to. I didn't want to
18 deny Ms. Wilson the privilege of working with such a
19 delightful Board.

20 CHAIRPERSON HILL: Sure. That's not -- because
21 Ms. John is gone. I told her she doesn't have to come back.
22 Oh, Ms. John's back. Oh my gosh. If you all are coming
23 back, I'm going to go then. How's that sound?

24 VICE CHAIR JOHN: I did not get your message, and
25 I echo what Mr. Moy said. I have been monitoring the last

1 case. I wasn't sure where you were in the process, so I
2 didn't log on. I just turned on my video.

3 CHAIRPERSON HILL: Okay, great. I don't think we
4 need you for the case that just happened. But you can stay
5 for this one though.

6 VICE CHAIR JOHN: Okay.

7 CHAIRPERSON HILL: Let's see. Okay, Mr. Moy, can
8 you call our next case?

9 MR. MOY: With pleasure. Thank you, Mr. Chairman.
10 So, this would be Case Application No. 20501 of Milken Center
11 for Advancing the American Dream LLC. This application has
12 been amended for a special exception under the penthouse use
13 regulations of Subtitle C, Section 1501.1(c) and (d), and
14 pursuant to Subtitle X, Section 901.2.

15 This would construct a penthouse and establish a
16 nightclub and restaurant use to two existing ten- and twelve-
17 story buildings in the D-6 zone. The property is located at
18 730 and 734 15th Street, NW, Square 221, Lot 40 and 818.

19 CHAIRPERSON HILL: Okay. Ms. Shiker, can you
20 hear me?

21 MS. SHIKER: Yes, I can. Good afternoon Chairman,
22 members of the Board. I'm Christine Shiker with the law firm
23 of Holland & Knight.

24 CHAIRPERSON HILL: Okay. Ms. Shiker, who do you
25 have with us today?

1 MS. SHIKER: Phil, I have Chris Cohen from Holland
2 & Knight. I have D.B. Crizino and Chadwell Copfer, from the
3 Milliken Center. And then, Mark Gilliland is supposed to be
4 our expert witness and we designated him, but there was a bit
5 of a snafu and he did not get to preregister. So, I would
6 ask if he could be brought in, and then given the oath.
7 Because he did not click on the oath.

8 CHAIRPERSON HILL: Okay, give me one second.

9 MR. GILLIAND: Christie, this is Mark. I think
10 somehow or another I got in. It appears I can share my video
11 and speak. So, I think I'm in good shape.

12 (Simultaneous speaking.)

13 MS. SHIKER: We do need to make sure you've taken
14 the oath if you have not already.

15 CHAIRPERSON HILL: Okay, give me a second. You
16 guys were with us before on this project, right?

17 MS. SHIKER: Back in 2017 and in 2019, the
18 southern part of the site was a standalone building at that
19 time. And you approved the exact relief we're requesting
20 today. It's since been combined into a single lot and we're
21 expanding it onto the next building. So, that's why it looks
22 very familiar to you.

23 CHAIRPERSON HILL: But that work did get done.
24 Correct?

25 MS. SHIKER: Correct, it's been constructed. Yes.

1 CHAIRPERSON HILL: Okay. Well, Ms. Shiker, I'm
2 just trying to see how many people we're going to hear from.
3 And so --

4 MS. SHIKER: It's going to be me and Mr. Gilliland.
5 And then we have people for questions, if you have questions
6 about something that we don't address in our presentation.

7 CHAIRPERSON HILL: Got it. Got it. Got it.
8 Okay, let me think. So, Mr. Moy, if he's in through the
9 process, he checked off the box for the oath. Correct or no?

10 MR. MOY: Yes. If the gentleman went through the
11 course of signing up logging through the WebEx access --

12 CHAIRPERSON HILL: Got it.

13 MR. MOY: -- procedure, then he's in. He's good.

14 CHAIRPERSON HILL: Okay. All right, so
15 Ms. Shiker, why don't you go ahead and walk us through your
16 presentation, and why you believe your client is meeting the
17 criteria for us to grant the relief requested. I got
18 15 minutes on the clock so I know where I am, and you can
19 begin whenever you'd like.

20 MS. SHIKER: Okay, thank you so much. Mr. Young,
21 could you please bring up our PowerPoint presentation, thank
22 you. One step ahead of me. So, we are here today --

23 CHAIRPERSON HILL: Hold on one second, Ms. Shiker.
24 Mr. Moy, can you hear me?

25 MR. MOY: Yes, I can.

1 CHAIRPERSON HILL: I don't know if you can reach
2 out to the applicant on the previous case.

3 MR. MOY: Yes?

4 CHAIRPERSON HILL: But kind of we need to get it
5 into the record, whatever it is that they're going to put
6 forward, so that we can only take a look at it. Right?

7 MR. MOY: Yes. Yes.

8 CHAIRPERSON HILL: So, if you can make sure they
9 know to get it to staff, because I don't think -- Mr. Young,
10 there's not a way to share the screen, right? Like, a person
11 can't share their own computer screen. Correct, Mr. Young?

12 MR. YOUNG: Correct. If they get it put into the
13 record, then I can go into the record and pull it.

14 CHAIRPERSON HILL: All right, but they can't share
15 their screen from their laptop.

16 MR. YOUNG: No.

17 CHAIRPERSON HILL: Okay. All right, Ms. Shiker.
18 Thanks so much. Please go ahead and begin whenever you'd
19 like.

20 MS. SHIKER: Okay. Yes, thank you. Good
21 afternoon again Chairman Hill, members of the Board. I'm
22 Christine Shiker with the law firm of Holland & Knight,
23 representing the applicant in this case.

24 This case is similarly situated to the case you
25 heard a little bit earlier today, in that we are asking for

1 a special exception under the newly adopted penthouse
2 regulations, to allow for penthouse-habitable space within
3 the White House zone as a special exception, versus as a
4 variance. We are also requesting a special exception for a
5 restaurant or bar used in that penthouse space. Next slide,
6 please.

7 So, to that extent we understand that we will have
8 the public hearing today, and that we would then come back
9 to the Board ultimately for deliberations once that final
10 rulemaking has gone into effect. And so, I'll touch on that
11 a little bit at the end.

12 The site is in front of you here. It is Zone D-6
13 and it is comprised of Lot 42, which includes two separate
14 buildings before, but they have now been combined. They're
15 at 730 15th Street, which is on the south side, and then
16 734 15th Street, which is on the north side.

17 As we noted in the beginning, the south portion
18 of the project was previously approved for this exact relief,
19 namely, a penthouse-habitable space in the White House
20 security zone, and for a bar and restaurant use.

21 That has been constructed. It's there. We are
22 looking to expand it, which we're going to walk through in
23 just a minute. Next slide, please?

24 We are pleased to have overwhelming support for
25 the project. The Office of Planning is in support with no

1 conditions, DDOT has no objection, and also did not include
2 any conditions.

3 We met with ANC to be back shortly after filing
4 the application in April, and they voted unanimously to
5 support it.

6 We also had an onsite security meeting with the
7 U.S. Secret Service and they -- it's in the record at
8 Exhibit 8, they have no issues to the proposed use of the
9 penthouse-habitable space. And then, this project is subject
10 to both review by the Commission of Fine Arts and Historic
11 Preservation, and we received concept approvals from both of
12 those bodies.

13 So, with that, what I'm going to do is, I'm going
14 to ask Mr. Gilliland just to summarize what we're planning to
15 do, and then we'll come back to me and I'll summarize the
16 compliance with the burden of proof. Mark?

17 MR. GILLIAND: Thank you, Christie. So, Mark
18 Gilliland here. I'm an architect with the D.C.-based firm of
19 Shalom Baranes Associates. If you could go to the next
20 image, please.

21 The project site includes the 730 and 734
22 structures that are identified here. They both front on
23 15th Street, N.W. and, as was mentioned, they share a common
24 record lot.

25 The site also falls within the boundaries of the

1 Shipstead Luce Act, and those two existing structures are
2 contributing structures to the Financial Historic District.
3 So, the design we're showing you here today, including the
4 rooftop penthouses, have received concept approval from both
5 CFA and the HPBR. Next, please.

6 This slide describes the existing conditions of
7 its penthouse level. In the 730 building, which is seen on
8 the left, that relief that was earlier granted for the
9 habitable space and the restaurant/nightclub type use, that
10 part of the structure has been constructed.

11 After that relief was granted and the work was
12 done, the project expanded to the 734 building, which is the
13 building on the right, which currently includes no habitable
14 penthouse areas, just mechanical roof structures there.
15 Next, please.

16 So, the proposed design of the combined
17 structures, as shown here, it extends that habitable space
18 north to the right on top of the 734 building, and introduces
19 modifications to the approved 730 rooftop, in order to
20 facilitate the connection of the existing structure on 730
21 to this new proposed structure. Next, please.

22 So, this is a before-and-after existing on the
23 left, and the plan on the right describes the modified and
24 expanded proposal. The penthouse setbacks are one-to-one,
25 or exceed one-to-one, from the front and rear of the

1 property, and comply with the zoning regulations.

2 The connections around the corner, as they're
3 shown in gray here, which include things like stairs and
4 elevators, mechanical spaces and such, can be seen along the
5 west and east sides of the penthouse, or the left and right
6 on this plan.

7 These connections leave the existing habitable
8 space on the south to the new habitable area on the north.
9 I would just also note that the exterior terrace is also
10 extended to the north along east side, or the right side, of
11 the proposed plan on the right. Next?

12 CHAIRPERSON HILL: Can I ask you a question?

13 MR. GILLIAND: Oh, certainly.

14 CHAIRPERSON HILL: I'm just curious. Can you go
15 back to that slide? How do you get into the restaurant from
16 the elevator?

17 MR. GILLIAND: So, the new elevators that will
18 access this are on top of the 734 building. So, you'll be
19 coming from a lobby entrance down on 15th Street into a lobby
20 to access those elevators. They're show with those X
21 configurations, the two that are side by side.

22 CHAIRPERSON HILL: Yep.

23 MR. GILLIAND: They'll provide access up to this
24 level. The club operator will occupy some floors below this
25 level, the upper floors of the building.

1 CHAIRPERSON HILL: And so -- but I mean, you come
2 out the elevators and you go outside? No, you come out the
3 elevator and you go left.

4 MR. GILLIAND: You come out those elevators and
5 you're facing north. And you'll turn to the right and move
6 towards 15th Street where those three pairs of doors, sir,
7 are shown, on the right-hand side of the proposed image.

8 CHAIRPERSON HILL: Yeah.

9 MR. GILLIAND: So, you can go outside to that
10 rough terrace there, or you can stay inside in the area
11 that's got that orange-ish tone to it -- and that's interior-
12 habitable area -- and work your way down to the south side
13 of the building, into that existing penthouse-habitable area
14 that's over the 730 building.

15 CHAIRPERSON HILL: Okay. Okay, great, thank you.
16 Just curious.

17 MR. GILLIAND: Back to you I think?

18 MS. SHIKER: Yeah, so if we can go to the next
19 slide, please. This is the general special exception
20 criteria, which is applicable to both areas of relief, with
21 the added notation that for penthouse-habitable space within
22 the White House security zone, there is a requirement for
23 consultation with the Secret Service. Next slide, please.

24 We are fully compliant with the special exceptions
25 standard. We are in harmony with the purposes and intent of

1 the D-6 zone, which allows for mixed residential office
2 retail service, entertainment, cultural uses. I mean, this
3 is the heart of the downtown in the D-6 zone.

4 We are also fully compliant with all of the zoning
5 regulations and requirements for the penthouse. We would not
6 tend to affect adversely neighboring properties. This is
7 primarily a mix of non-residential, office, and museum uses,
8 and we also do not have any objection from the Secret
9 Service. Next slide, please.

10 For the bar and restaurant use, again it's in
11 harmony with the intents and purposes of the D-6 zone, which
12 is to allow for mixed uses in the heart of the downtown
13 district. It's also compatible with the other uses in the
14 area, and is consistent with the existing approved restaurant
15 and bar use on the southern half of the property.

16 And with that, we would be happy to answer any
17 questions that you have. Thank you so much.

18 CHAIRPERSON HILL: Okay. Does the Board have any
19 questions for the applicant? All right, going to turn to the
20 Office of Planning.

21 MR. COCHRAN: Thanks, Mr. Chair. I'm Steve
22 Cochran representing the Office of Planning on Case 20501.
23 OP recommends the Board approve the application for the two
24 special exceptions, after the order for Zoning Commission
25 Case 14-13(e) is published and effective. And that concludes

1 our testimony.

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

4 (Chorus of no.)

5 CHAIRPERSON HILL: Mr. Young, is there anyone here
6 wishing to speak?

7 MR. YOUNG: We do not.

8 CHAIRPERSON HILL: Okay. I'm going to ask a
9 couple of questions. So, Ms. Shiker, so I don't want to
10 know. You guys already know the restaurant?

11 MS. SHIKER: No, not yet. We are working with a
12 variety of options at this point.

13 CHAIRPERSON HILL: So then, there's going to be
14 a level below this level that's going to be part of the club,
15 restaurant, or whatever it is.

16 MS. SHIKER: So, there's currently discussion
17 about having a private club that would operate in some of the
18 upper levels of that building, and then there might be a
19 restaurant associated with that.

20 But we have not made a final decision at this
21 point. But Mr. Gilliland was referring to how this is kind
22 of currently being looked at. But we don't have a specific
23 operator or private club that we've come to agreement with
24 yet.

25 CHAIRPERSON HILL: Got it. I think I remember the

1 last time you guys were through here. You guys were also
2 talking about the private club in the other building?

3 MS. SHIKER: That's correct.

4 CHAIRPERSON HILL: Is that what ended up
5 happening?

6 MS. SHIKER: That building has primarily office
7 uses in it. There is not an operator in the restaurant at
8 this point. It has been constructed, the Housing Correction
9 Trust Fund payments have been made, but it has not been
10 fitted out.

11 CHAIRPERSON HILL: Got it. Right. And the
12 Housing Correction Trust Fund for this is going to be like
13 \$272,000, or something like that?

14 MS. SHIKER: That's correct, and that's in
15 addition to the approximately \$120,000 that has already been
16 paid.

17 CHAIRPERSON HILL: That you already paid. Right.
18 And then -- and I'm just a little curious -- so the Secret
19 Service already came here and they were like, this is fine.

20 MS. SHIKER: So, the Secret Service did not have
21 an objection to the initial one. And then they came back and
22 did a site meeting for this proposed expansion. And they did
23 not have an issue. And again, that's in the record at
24 Exhibit 8.

25 CHAIRPERSON HILL: Right. So, who knows? This

1 may or may not become a public place.

2 MS. SHIKER: May or may not. This approval would
3 allow for it to either be a private restaurant associated
4 with a private club, or to be a publicly accessible
5 restaurant. That's is correct.

6 CHAIRPERSON HILL: Got it. Okay. Just checking
7 in. We all know where this is. We all know this roof deck.
8 We all know the view this is going to have. Just wanting to
9 be curious and clear. Okay, great. Wow. Okay.

10 All right, does anybody have any questions? Okay.
11 All right. All right, let's see. Ms. Shiker, do you have
12 anything you'd like to add at the end?

13 MS. SHIKER: No, Mr. Chairman. We would like for
14 the Board to be able to take action on this as soon as the
15 order is issued, and we did hear the position that the Board
16 took on the last case.

17 We did have a question though. If the final
18 rulemaking is published earlier and is in effect earlier,
19 would it be possible for us to work with staff to have a date
20 moved up to coincide with that, knowing that you want to set
21 it to December 22nd today.

22 CHAIRPERSON HILL: You can go ahead and talk with
23 staff, I suppose. I mean, December 22nd is not that far
24 away. And I don't know what's going to happen in terms of --
25 you have to get Mr. May back. Either that or he'd have to

1 go absentee. But for now, we're going to put it -- Mr. Moy,
2 can you hear me?

3 MR. MOY: Yes.

4 CHAIRPERSON HILL: So, the last one we did with
5 this was 12/22, I think. Right?

6 MR. MOY: Right.

7 CHAIRPERSON HILL: Okay, you weren't here,
8 Mr. Moy. We put it on 12/22 because we didn't know what was
9 going to happen, right? For a possible decision. And
10 Ms. Shiker, by the way, that's two days before a holiday.
11 So, like, we're doing our best to accommodate everybody on
12 a place that's really --

13 MS. SHIKER: Understood. Understood.

14 CHAIRPERSON HILL: Right.

15 MS. SHIKER: Just, if they'll let the opportunity
16 to work with staff and it didn't come out, we won't take that
17 opportunity just because we're ready to go in for permanent.
18 But again, we appreciate you putting it on for the 22nd, and
19 we will look forward to coming for that day, unless --

20 (Simultaneous speaking.)

21 CHAIRPERSON HILL: Got you. Just trying to help
22 your client, Ms. Shiker. I know. Okay, let's see. All
23 right, so I'm going to close the hearing on the record.
24 Mr. Young, can you excuse everybody and we'll see you on
25 12/22. Oh, one second, one second. Don't go away. Mr. Moy?

1 MR. MOY: Before you excuse everyone, staff tells
2 me that Mr. Gilliland may need me to administer the oath.
3 That's what the staff tells me. And so, I think out of the
4 abundance of caution I should do that.

5 And my second question to you, Mr. Chairman, was
6 whether or not Ms. Shiker had asked for expert witness status
7 for Mr. Gilliland. And if he did, did you approve it? Did
8 you grant it? Yes? No?

9 MS. SHIKER: We did request that in our filings.
10 He has been accepted as an expert before and he is in the
11 portal. So, I didn't raise it in the beginning because I
12 thought that meant that he was automatically accepted. If
13 I do need to ask for that, yes, I would like to ask for it.

14 CHAIRPERSON HILL: Okay. Well, out of an
15 abundance of caution, since Mr. Gilliland is already accepted
16 as an expert before us, we'll go ahead and take his expert
17 testimony, unless the Board has any issues. And if so, raise
18 your hand. Mr. May?

19 ZONING COMMISSIONER MAY: How many hundreds of
20 times has Mr. Gilliland gotten expert status? I mean, he's
21 got to be in like the top five before us and gotten that
22 status.

23 MR. GILLIAND: It comes with the gray hair. Yes.

24 CHAIRPERSON HILL: Okay, Mr. May, I am so jealous
25 of this project I don't know what to do. I am besides

1 myself. I'm beside myself. Right?

2 And Mr. Gilliland, right, but he's gotten a chance
3 to work on it. And I remember who did the -- I was jealous
4 of the one before. You know? And so, now, I'm just, I don't
5 know what to do.

6 So, okay. Oh, Mr. Moy, can you administer the
7 oath please, to Mr. Gilliland?

8 MR. MOY: Mr. Gilliland, do you solemnly swear or
9 affirm that the testimony you're about to present in this
10 proceeding -- that you did offer -- is the truth, the whole
11 truth, and nothing but the truth?

12 MR. GILLIAND: I do and I did.

13 MR. MOY: Thank you, sir.

14 CHAIRPERSON HILL: Okay then, perfect. Thank you,
15 Mr. Moy. All right, so I'm going to go ahead and close the
16 hearing and the record. We'll set this for decision on
17 12/22, if not earlier. And if we can do it earlier, we'll
18 do the other one earlier, I guess, as well, just to get in
19 whatever we can to have deliberations.

20 So, now, Ms. John, you're welcome to stay. I
21 don't know, you listened to it, right? So, do you want to
22 stay or do you want to go?

23 VICE CHAIR JOHN: You mean now?

24 CHAIRPERSON HILL: Yeah. We're going to back to
25 the one that you were listening to, but I didn't see you on

1 video.

2 VICE CHAIR JOHN: Okay. Yes, I think I'll leave,
3 because I was not listening from the beginning.

4 CHAIRPERSON HILL: Okay.

5 VICE CHAIR JOHN: But I don't think you need me,
6 really.

7 CHAIRPERSON HILL: I don't know. Not on the last
8 one. Commissioner may's got me all -- Commissioner May's
9 been a dick. Okay? Right? Not in a bad way, but you're
10 good, Ms. John.

11 VICE CHAIR JOHN: Okay. Thank you so much,
12 Chairman Hill. Bye everyone.

13 CHAIRPERSON HILL: Bye.

14 ZONING COMMISSIONER MAY: Bye.

15 VICE CHAIR JOHN: Whenever that is.

16 CHAIRPERSON HILL: Okay. And Commissioner May,
17 I mean, 100 percent I love working with you. I think you do
18 a great job. And you take so much pressure off me when
19 there's architectural stuff. And so, okay.

20 ZONING COMMISSIONER MAY: Thank you.

21 CHAIRPERSON HILL: It's the truth. It's the
22 truth. Mr. Moy, if you can bring back up our previous case?

23 MR. MOY: Yes. So, the Board is now returning to
24 Case Application No. 20560, Bridget and Michael Sewell.
25 Yeah, we'll leave it at that.

1 CHAIRPERSON HILL: Okay, great. Let me see where
2 we are. Ms. Wilson, can you hear me?

3 MS. WILSON: Yes, I can.

4 CHAIRPERSON HILL: Okay. Were you able to kind
5 of get together with your client and the architect? Okay,
6 are we all -- okay. So then, what happened?

7 MS. WILSON: So, Mr. Teran is in the process of
8 updating the plans. I think he might need one more minute.
9 And then, I will be uploading them to BZA submissions, and
10 we did make the change as suggested.

11 CHAIRPERSON HILL: Okay. Mr. Teran, did you get
12 a chance to do that yet?

13 MR. TERAN: Some of the email -- right now.

14 CHAIRPERSON HILL: Okay, let's take ten minutes,
15 okay? Let's take five minutes. Let's come back in five
16 minutes, okay? And then, I'll be back in five minutes.

17 MR. TERAN: Okay.

18 PARTICIPANT: Thank you.

19 MS. WILSON: Are you emailing them to me?

20 MR. TERAN: I emailed them everyone on the Board.

21 CHAIRPERSON HILL: All right, Mr. Moy? Mr. Moy?
22 Okay, all my Board members, did I lose them? Can you come
23 back? Are you gone? I lost everybody.

24 Oh, I lost Mr. May. Oh, good. Okay, just real
25 quick, fellow Board members. So, unless you all have a

1 problem, I'm going to go ahead and admit into the record the
2 thing we're trying to get into the record and take a look at.
3 Okay? And if anybody has any problems with it, please raise
4 your hand.

5 Nobody's raising their hand. Okay, Mr. Moy, I'll
6 ask staff to drop it into the record so we can take a look
7 at it whenever they get it. Okay?

8 MR. MOY: Yeah, we'll do that. And I had it sent
9 directly to you as well.

10 CHAIRPERSON HILL: Oh, good. Perfect. Thank you.

11 MR. MOY: You're welcome.

12 (Whereupon the above-entitled matter went off the
13 record at 2:18 p.m., and resumed at 2:25 p.m.)

14 CHAIRPERSON HILL: Okay, let's see. So, Mr. Moy,
15 I guess, reintroduce us. Call us back, right?

16 MR. MOY: Yes, the Board is back in its open
17 hearing session. And after just a very quick break, and the
18 time is at or about 2:26 p.m.

19 And I believe, Mr. Chairman, the revised drawings
20 by the applicant are in the case record, and hopefully you
21 received it electronically as well.

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

24 MR. TERAN: Yes.

25 CHAIRPERSON HILL: Mr. Teran, your clients are

1 very lucky. You did this really fast. This would have taken
2 me years to do. Like, whatever you just did with this little
3 program, whatever program you did, it would have been like
4 at least a week.

5 MR. TERAN: I'd be happy to give you some lessons.

6 CHAIRPERSON HILL: No, no, no. No, no. No. So,
7 you want to please go ahead and explain to us what you have
8 done?

9 MR. TERAN: Sure. Do you want to bring up the
10 measure? Or --

11 CHAIRPERSON HILL: I don't know. Commissioner
12 May, can we talk -- oh, whatever. There we go.

13 MR. TERAN: So, this is page 7 from the one that
14 was before, that Mr. May looked at. And we basically brought
15 in the roof slope to be matching with the adjacent neighbor.
16 So, you won't see two angles there anymore.

17 And if you go to the next, the three-image,
18 please? Here, this is to the left side. You can see now the
19 right side is matching. If you see on the dormer, there's
20 a little blue. That's where it was before the roof slope,
21 and we moved it back. So, just so you can see that
22 difference. Can we go to the next slide, please?

23 There again, you can see the line on the dormer,
24 the angle, where it's a little bit more white, a little bit
25 more gray. The white part is where we pushed the slope back

1 to match the adjacent dormer, or mansard roof.

2 CHAIRPERSON HILL: Okay, great. You want to drop
3 those, Mr. Young? All right, I mean, it's so simple even I
4 understand. So, does anybody have any questions for
5 Mr. Teran?

6 ZONING COMMISSIONER MAY: No, but I will thank
7 Mr. Teran for his quick work, and the applicant for being
8 responsive to my concerns.

9 CHAIRPERSON HILL: Okay. All right, so we've
10 heard from OP. There was nobody in the record wishing to
11 speak. Correct, Mr. Young?

12 MR. YOUNG: Correct.

13 CHAIRPERSON HILL: Okay. Ms. Wilson, do you have
14 anything you'd like to add at the end?

15 MS. WILSON: No. Thank you.

16 CHAIRPERSON HILL: Okay. All right, I'm going to
17 close the hearing on the record. Excuse everyone, please.
18 See, it's so much fun with all the different zoning
19 commissioners. Everybody brings a different thing to the
20 table. And so, Commissioner May, you get to go first if you
21 wouldn't mind, since you kind of got me to this point.

22 ZONING COMMISSIONER MAY: So, I was the one who
23 made the stink. Yeah, so before we had our little back-and-
24 forth on the roof feature at the front of the house, I was
25 fine with the special exception required for the rear wall

1 extension at 14-6, because that aligns with the neighbor on
2 the one side, and of course we had letters of support from
3 neighbors on both sides.

4 The lot occupancy, I mean this is something that
5 we commonly grant. The only problem, 60 to 62.7 percent,
6 that says these are pretty deep lots. And certainly, that
7 little bit of extra lot occupancy is no big deal.

8 I never really loved losing any kind of
9 architectural element on row houses, and I don't think that
10 they necessarily get the level of respect that they deserve,
11 particularly in row house neighborhoods like this. I mean,
12 in the 1700 block of D Street, SE, as I said before, it was
13 just perfect. Right? It was all built at once and/or in
14 phases by one builder, one design idea, as I recall.

15 And it's a very coherent case and the regulations
16 regarding these elements on the front of houses, the top of
17 the houses, are very important to preserving the character
18 as houses are added onto.

19 So, I think in this circumstance, given that there
20 was already something next door, I don't know how it got
21 approved. It might have been before the regulations went
22 into effect, or it may have been other relief that was
23 granted by the BZA, I don't know.

24 But I think that the best way to sort of make that
25 fit in is to at least make it look its immediate neighbor.

1 And I appreciate the applicant's responsiveness in making
2 that change, because I don't think it will substantially
3 impact their program with the property, and I think it will
4 be a better product in the end.

5 So, for those reasons, I am prepared to support
6 the entire application. Thank you.

7 CHAIRPERSON HILL: Thank you. Mr. Smith?

8 MEMBER SMITH: I'm commenting (audio
9 interference). I thank Mr. May for --

10 (Audio interference.)

11 MEMBER SMITH: So, with that, I will support the
12 application.

13 CHAIRPERSON HILL: Thank you. Mr. Blake?

14 MEMBER BLAKE: Yes. Before, I've been very
15 comfortable with this special exception. I would agree with
16 the May adjustment, as well as improving the overall product
17 aesthetics. And I would be prepared to support.

18 CHAIRPERSON HILL: Okay, thanks. I guess,
19 Commissioner, I do have a comment or thought. Like, see,
20 what happens is, when we have -- we do have some design
21 influence over the things that we do here at the BZA, right?

22 And the one that we kind of sometimes refer to at
23 a general session criteria or the general exception
24 standards, and/or the special treatment in the way of design
25 screening exterior and interior lighting, building materials,

1 or other features for the protection of adjacent or nearby
2 properties, or to maintain the general character or block.

3 I mean, I don't even know, I've kind of lost the
4 Office of Planning, I've lost -- and maybe Mr. Moy and
5 Ms. Nagelhout, you don't have to respond to me right now, but
6 some way that this also kind of gets brought to our attention
7 at times.

8 Like, had Commissioner May not been here, this
9 might not have gone on this way. And I think it is a better
10 design. And maybe Mr. Smith, or maybe another fellow Board
11 member, might have chimed in.

12 What now I feel a little bit unsure of, is that
13 now Commissioner May, we kind of set a trend. Right? Like,
14 now, all of them are going to have to be that way. Right?
15 Or, whoever comes next, and if the BZA is -- I don't know
16 what I'm saying, other than I'm throwing out stuff at a
17 zoning commission maybe, or somebody else, to know that this
18 is a very, like flip-of-the-coin kind of thing sometimes.
19 Right?

20 It's like, the next BZA group of people that's
21 here and they do another one and it doesn't match the roof
22 line, who knows? Right?

23 So, I don't know how that may be -- it seems like
24 it's a bit of a hole, is what I'm trying to point out.
25 Right? And I think it's a better design, and I think that

1 our system isn't perfect. I think it's a pretty good system.
2 But it was like when there was like a turret that got removed
3 one time.

4 I'm saying a bunch of stuff. I think you kind of
5 know what I'm saying, and there's no need for a response.
6 But that's kind of it. Right? Okay, do you have a response?

7 ZONING COMMISSIONER MAY: Very quickly. I'll just
8 say, one of the reasons why I wanted to make a point of this
9 was to sort of get this perspective out there. It's less
10 about the particulars of matching the angle, than it is about
11 the justification associated with making a change like this
12 to an architectural element.

13 I mean, the zoning commission decided that this
14 is something that we should be regulating, that we should be
15 caring about, and I think that the -- unfortunately, it's
16 very easy to get lax about the justification, and just say,
17 well, there are a lot of houses that are done differently on
18 the block, and therefore we can do it.

19 Well, there's a bigger picture here. And that's
20 why I made the point about how pristine that block once was,
21 and how there was a rhythm in those architectural features.

22 Even though there are some differences from the
23 very beginning, there was a plan to it. Right? And I want
24 people to be thinking about that. And those people would be
25 applicants who may be listening, but attorneys who are

1 listening also are participating. But also the Office of
2 Planning, so that they can understand better what we think
3 is important.

4 Now, whether that will be a lasting lesson or not,
5 I don't know. But I think it would have been very difficult
6 for the zoning commission to go much farther in trying to set
7 the ground rules for doing things like this.

8 This is why we have what we have, and we basically
9 learn by going through cases and get educated.

10 CHAIRPERSON HILL: Right. And I agree. And I
11 guess -- and I'm sorry that Vice-Chair John isn't here with
12 us also to kind of talk about this. But I don't want us, the
13 Board --

14 (Audio interference.)

15 -- and what I get concerned about is, there might
16 be a different case and we might not have an architect on
17 that day, or something, and we might say, oh no, this doesn't
18 make sense, when really it does. Right? And we're holding
19 up something.

20 See what I'm trying to say? I'm worried about the
21 inverse of this also, right? Like, we say, oh no, the angle
22 of the roof is the thing, and really it's not. Like, for
23 example, the windows don't match. Right?

24 And so, that's not something that was as much of
25 a concern. Right? I'm just saying, there's a lot of gray

1 in there. Right? You know. And so, I guess it's a learning
2 experience. It is a learning experience.

3 ZONING COMMISSIONER MAY: The design is not a
4 formula and it's not an exact science. And, I mean, I think
5 that the Board benefits from having architectural insights
6 from Board members.

7 CHAIRPERSON HILL: Or different insights. I mean,
8 we all bring different things to the table.

9 ZONING COMMISSIONER MAY: Absolutely. Yes. It's
10 not all about the architecture. Right?

11 CHAIRPERSON HILL: Right. And when you're not
12 here, we get different kinds of things from the zoning
13 commission. I'm just kind of throwing out a bunch of stuff.
14 Okay? All right.

15 That also being said, as far as the criteria for
16 us granting the relief requested, I'm going to agree with my
17 colleagues. I'm going to make a motion to approve
18 Application No. 20560, as captioned and read by the
19 Secretary, and ask for a second. Mr. Blake?

20 MEMBER BLAKE: Second.

21 CHAIRPERSON HILL: Motion made and seconded.
22 Mr. Moy, if you can 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

1 relief requested. The motion to approve was seconded by
2 Mr. Blake. Zoning Commissioner Peter May?

3 ZONING COMMISSIONER MAY: Yes.

4 MR. MOY: Mr. Smith? I believe Mr. Smith said yes
5 to approve.

6 MEMBER SMITH: Yes.

7 MR. MOY: Mr. Blake?

8 MEMBER BLAKE: Yes.

9 MR. MOY: Chairman Hill?

10 CHAIRPERSON HILL: Yes.

11 MR. MOY: And Vice-Chair John is not participating
12 on this case. Staff would record the vote as 4-0-1. And
13 this is on the motion made by Chairman Hill to approve the
14 motion to approve, seconded by Mr. Blake. Also in support
15 of the motion to approve is Zoning Commissioner Peter May,
16 Mr. Smith, Mr. Blake, Chairman Hill, Vice-Chair John not
17 participating. The motion carries on the vote of 4-0-1.

18 CHAIRPERSON HILL: Okay. Thanks, Mr. Moy. And
19 one added little comment. Like, we would have had to tighten
20 this thing up like crazy if we had any appeal coming. Right?

21 There would have been not a lot of -- and so
22 that's another things that's not necessarily that great.
23 Right? Like, we as people can only last for so long. Right?

24 And so, like, we would have had to start the
25 appeal by 1:00. And then, we still wouldn't have been done

1 probably until 6:00, which is just -- I mean, Mr. Moy,
2 sometimes I wonder.

3 Anyway, okay, well, there's a lot of talking going
4 on and I'm doing all of it, except for Commissioner May, who
5 had his fair share today also.

6 ZONING COMMISSIONER MAY: I sure did. Thank you
7 very much.

8 CHAIRPERSON HILL: Okay, Mr. Blake, now you can
9 go home and talk to people as well. And so, everybody have
10 a good day.

11 If anybody has anything to say, please raise your
12 hand. Okay, we stand adjourned, Mr. Moy. Bye bye.

13 ZONING COMMISSIONER MAY: Bye.

14 (Whereupon the above-entitled matter went off the
15 record at 2:40 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC BZA

Date: 11-10-21

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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