

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

APRIL 27, 2022

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

- ROBERT MILLER, Vice Chair

OFFICE OF ZONING STAFF PRESENT:

- CLIFFORD MOY, Secretary
- PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

- JOEL LAWSON
- KAREN THOMAS
- STEPHEN COCHRAN
- MATT JESICK
- ELISA VITALE

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

The transcript constitutes the minutes from  
the Regular Public Hearing held on April 27, 2022.

## C-O-N-T-E-N-T-S

|                                                                       | <u>PAGE</u> |
|-----------------------------------------------------------------------|-------------|
| Application No. 20640 of Rachel Harriot . . . . .                     | 4           |
| Application No. 20602 of Azeb Gabriel and<br>Aimaz Gabriel . . . . .  | 22          |
| Application No. 20686 of Nexstar Media Group, Inc. . . . .            | 36          |
| Application No. 20688 of JL 3628 Whitehaven<br>PKWY NW, LLC . . . . . | 47          |
| Application No. 20691 of Jessica Earhart . . . . .                    | 57          |
| Application No. 20692 of Amelia Browne . . . . .                      | 66          |
| Application No. 20696 of Taichi DC, LLC . . . . .                     | 72          |
| Application No. 20637 of 2812 Gainesville ST SE, LLC . . . . .        | 99          |
| Application No. 20567 of Hillsdale College . . . . .                  | 113         |
| Election of Vice Chair and Chair . . . . .                            | 135         |
| Adjourn . . . . .                                                     | 139         |

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

2 10:30 a.m.

3 CHAIRPERSON HILL: All right, Mr. Moy. When you  
4 get a chance, you can call our first case, which is 20640,  
5 I believe. Well, our next case, I should say.

6 MR. MOY: Yes, sir. The Board is in its public  
7 hearing session now, and this case before the Board is  
8 Application No. 20640 of Rachel Harriot, H-A-R-R-I-O-T. This  
9 is the applicant's self-certified application for a special  
10 except pursuant to Subtitle E § 205.5 and Subtitle X § 901.2.  
11 The property is located at 739 12th Street, S.E. (Square 995,  
12 Lot 54). The property is located in the RF-1 zone.

13 And just double-check something for a second, sir.  
14 Yes, that's all I have for you on this application, sir.

15 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy.  
16 Let's see. Is it Mr. Campbell?

17 MR. CAMPBELL: Yes, good morning.

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

20 MR. CAMPBELL: Yes, good morning. My name is  
21 Johnathan Campbell. I'm the architect representing Rachel  
22 Harriet for this case.

23 CHAIRPERSON HILL: Okay. Mr. Campbell, if you can  
24 go ahead and walk us through the application as to why you  
25 believe your client is meeting the -- tell us more about the

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1 project and why you believe your client is meeting the  
2 requirements for us to grant the relief requested. I'm going  
3 to put 15 minutes on the clock there so I know where we are,  
4 and you can begin whenever you like.

5 MR. CAMPBELL: Okay. Good morning. I have a  
6 slide deck to follow along with me as I explain the project,  
7 and we believe we met the burden for the relief.

8 All right. So this project is a rear addition in  
9 the RF-1 zone.

10 Next slide, please. The project is to construct  
11 a two-story rear addition to the existing principal dwelling.  
12 It's a two-story with basement. The property is located in  
13 the historic district of Capitol Hill. We're requesting  
14 special exemption relief for the rear addition requirements.  
15 We have letters of support from the neighboring tenant at 737  
16 12th Street and the neighboring property owner at 741 12th  
17 Street, and we have also received letters of support from the  
18 ANC. We have received one letter of opposition from the  
19 Capitol Hill Restoration Society.

20 And next slide, please. So the property is  
21 located here along 12th Street. It has a front elevation and  
22 a rear elevation. You can see in the rear elevation the  
23 property at 741 12th Street has received approval from this  
24 board in 2020 to construct a rear addition that's  
25 approximately 20 feet and 6 inches from our property at 739

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1 12th Street. And then the property to the north of us, 7  
2 12th Street, has an existing one-story rear enclosed porch  
3 that's approximately 10 feet deep. So our property sits in  
4 the middle of those two, and we're proposing to construct a  
5 rear addition.

6 The next slide, please, will show us more detail.  
7 So here you can see the existing condition of the home. It  
8 has had some deteriorating exterior materials on the rear  
9 facade. So this project is going to help repair and remedy  
10 this, so this is very important for the owners to help reduce  
11 the damage that's currently being done to their property.

12 Next slide, please. And the property to the  
13 north, 737 12th Street, here's the rear facade. It has a 10-  
14 foot deep enclosed rear porch, as I explained previously.

15 Next slide, please. Again, the property to the  
16 south is constructing their two-story addition with a  
17 basement. And this, again, was approved by BZA in 2020.

18 Next slide, please. So here's the proposed infill  
19 for the property. We're proposing to construct a rear  
20 addition that will extend 15 feet beyond the neighbor to the  
21 north. That is 5 feet greater than the by-right of 10 feet  
22 that's allowed.

23 So next slide, please. And here's a more detailed  
24 description of how that appears. The by-right is marked at  
25 10 feet, and our proposal is 15 feet beyond to the north.

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1           Next slide, please. So these are the existing  
2 architectural plans of the current home. You know, that  
3 deteriorating rear porch structure has been removed, you can  
4 see in the photographs.

5           Next slide, please. Here's the proposed layout  
6 for the extension to the rear.

7           Next slide, please. Elevations. These elevations  
8 show and depict the finishes, as well as the scale, of the  
9 addition, two-story addition. The historic review of this  
10 property was approved by the Historic Board of Preservation.

11           Next slide, please. We provided shadow studies  
12 for the ANC, as well as for the neighbor to the north, to  
13 depict how this would impact their property. The shadow  
14 studies show the by-right condition, as well as the proposed  
15 full 15-foot extension.

16           Next slide, please. And this is the other shadow  
17 study showing the 15-foot extension.

18           Next slide, please. So we believe we meet the  
19 standards for the special exception relief. The proposed  
20 addition does not alter the dwelling or increase the number  
21 of dwelling units allowed by Zoning. We also intend to  
22 provide or maintain open space in the rear of the lot,  
23 approximately 51 feet of open space. This is in concert with  
24 the other adjacent properties in the rear of 12th Street.

25           The adjoining property at 737, again, has an

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1 existing one-story enclosed porch that is approximately 10  
2 feet deep, and the property at 741 12th Street is  
3 constructing a new rear addition that's approximately 20 feet  
4 and 6 inches deep from our property.

5           We believe that our new extension will not reduce  
6 the light and air significantly from the neighboring  
7 properties. The shadow study depicts this. We also believe  
8 that the difference of only 5 feet does not reduce the  
9 openness and restriction of air to the adjacent property to  
10 the north.

11           The applicant is not proposing any windows to the  
12 north or south, therefore not reducing the privacy and it  
13 will maintain the existing privacy of each neighbor to the  
14 north and south.

15           Our proposed rear deck does not substantially  
16 block the visual or intrude on the character and scale of the  
17 patterns along the alley of 12th Street, S.E. Therefore,  
18 there will be no visual, there will be no visual -- pardon  
19 me. The proposed structure and rear deck will not be seen  
20 from the front and side. Therefore, we're demonstrating  
21 compliance with paragraphs A, B, and C of Title 5201 and  
22 Subtitle X § 901.2.

23           Next slide, please. So in conclusion, the  
24 property meets the tests for the relief, and we believe that  
25 also the Board took great weight in approving the property

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1 to the south of us for their rear addition that extends 20  
2 feet and 6 inches. The planning department also provided a  
3 report in favor of our project, and we also believe that we  
4 are not creating an addition that will burden the use and  
5 enjoyment of the neighbors' property.

6 The owners, I don't believe they're available now  
7 to participate --

8 CHAIRPERSON HILL: That's okay, Mr. Campbell. I  
9 got you. Go ahead. Mr. Young, could you drop the slide  
10 deck?

11 MR. CAMPBELL: Any questions or comments?

12 CHAIRPERSON HILL: Yes, I'm going to turn to my  
13 fellow Board members. Does the Board have any questions of  
14 the applicant?

15 All right. I'm going to turn to the -- oh, sorry,  
16 Mr. Blake.

17 MEMBER BLAKE: Could you just clarify, you said  
18 you did have the dialogue with the neighbor to the north,  
19 correct?

20 MR. CAMPBELL: Yes. So the neighbor to the north,  
21 the tenants that live there provided support. The owner of  
22 the property does not live in the United States. We have  
23 been communicating with the neighbor via email, and we've  
24 provided the shadow studies and we've answered their  
25 questions regarding construction of the proposed addition.

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1 So we've done our due diligence in communicating with the  
2 owner of that property. However, they did not extend a  
3 letter for our use here.

4 MEMBER BLAKE: Thank you.

5 CHAIRPERSON HILL: I'm going to turn to the Office  
6 of Planning.

7 MS. MYERS: Crystal Myers for the Office of  
8 Planning. The Office of Planning is recommending approval  
9 of this case. We can stand on the record of the staff  
10 report, but I will note that, in our report, we refer to the  
11 extension as being 25 feet and that is because it relates to  
12 the next-door neighbor's, their house. And our understanding  
13 is that they have a screened porch in the rear so --

14 CHAIRPERSON HILL: Ms. Myers, you broke up.

15 MS. MYERS: -- addressed that. Sorry?

16 CHAIRPERSON HILL: You broke up --

17 MS. MYERS: Did you hear me?

18 CHAIRPERSON HILL: Yes, I heard enough. You  
19 started talking about the screened porch.

20 MS. MYERS: Okay. Sorry about that.

21 CHAIRPERSON HILL: You started to talk about the  
22 screened porch.

23 MS. MYERS: Yes, yes. I just wanted to make sure  
24 it wasn't confusing.

25 CHAIRPERSON HILL: Okay. Mr. Blake.

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1           MEMBER BLAKE: Yes, that actually is a critical  
2 part. I did not hear you. You broke up quite a bit when you  
3 said that. I would like to get clarification on that. The  
4 measurement point, is it from the rear wall or is it from the  
5 rear of the porch? And what's the criteria that you used to  
6 make that assessment?

7           MS. MYERS: It's really a zoning administrator  
8 interpretation. We agree with the extension that the  
9 applicant is proposing. It's just more how the measurement  
10 is being done. And it's really going to be up to the ZA to  
11 determine how it's being done. But the actual length of this  
12 we have no issue with. It's just more if it's being done  
13 from the rear wall of the house or from the rear wall of the  
14 neighbor's screened porch addition.

15           Our understanding is that it would be from the  
16 rear wall of their house, but I think there's been some new  
17 interpretations on that and maybe the applicant can explain  
18 this a little bit better. But that is the difference between  
19 our 25 feet references in our report and the 15 feet that's  
20 been, I guess the applicant updated their plans showing 15  
21 feet. And I know from previous cases that's been a little  
22 bit of un-clarity with what the zoning administrator is now  
23 interpreting.

24           So I just wanted to explain that it wasn't, it  
25 wasn't something that was a typo in our report. It was

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1 something that the Office of Planning has had one  
2 understanding of things, and the ZA, I think, is interpreting  
3 things a little bit differently than what we originally  
4 understood it to be.

5 But as for this case, the extension, the length  
6 of it, we are in support. It's just it's more of what is  
7 that number, is it 15 or is it 25? But especially since we  
8 said we were okay with the 25, if the ultimate decision is  
9 that this is a 15-foot extension, then, clearly, we have no  
10 issue with that because we've already recommended approval  
11 for 25.

12 So I just wanted to clarify that. It's really a  
13 ZA, a zoning administrator call on that.

14 MEMBER BLAKE: Ms. Myers, has the ZA published an  
15 interpretation on that?

16 MS. MYERS: I am not aware of it. I believe there  
17 was an email that the ZA has given one of my colleagues. In  
18 the email, the ZA said that screened porches are not  
19 included. So it would be from the rear wall again, so it  
20 would be the 25 feet. But I don't think he has actually  
21 looked at this case. Perhaps it's a question for the  
22 applicant because the applicant did revise their plans, so  
23 perhaps they got some sort of clarity or had a conversation  
24 with the ZA that had them change it from 25 to 15.

25 CHAIRPERSON HILL: Mr. Campbell, did you hear from

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1 the ZA?

2 MR. CAMPBELL: I did not hear from the ZA on this  
3 particular measurement. We did apply for a building permit  
4 two years ago, and this was the, you know, this course of  
5 action was what they recommended we do for approval for the  
6 enclosed addition.

7 My interpretation of what we're proposing is that  
8 the screened porch, because it is a covered porch and it  
9 contributes to the lot occupancy of the adjacent property,  
10 that it would be considered an addition to the property that  
11 we would be able to measure from.

12 CHAIRPERSON HILL: Okay. Right, if it goes  
13 towards the lot occupancy. Okay. Anybody have any more  
14 questions, Ms. John or -- oh, Commissioner Miller first.

15 ZONING COMMISSIONER MILLER: Thank you, Mr.  
16 Chairman. Yes, just following up on dialogue between Mr.  
17 Blake and Ms. Myers. Thank you for your report, Ms. Myers,  
18 first of all.

19 And I know the Office of Planning is looking at  
20 a lot of zoning regulation issues, and I think the 10-foot  
21 rule is on that large, very large list of things that you are  
22 looking at in terms of whether it needs any refinement. So  
23 when you, I just would ask that, when the Office of Planning  
24 gets to that point of looking at the 10-foot rule, look at  
25 this issue of the measuring, whether it should or should not

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1 include a screened porch such as this. That's all I would  
2 ask for the future. Thank you.

3 CHAIRPERSON HILL: Did I see someone else's hand  
4 for the Office of Planning or the applicant?

5 VICE CHAIR JOHN: I think, while we wait for that,  
6 maybe we could have something from the ZA clarifying, you  
7 know, what the applicant is saying, that if it contributes  
8 to lot occupancy, then it's appropriate to count that, you  
9 know, as the rear wall. So maybe we could have some  
10 clarification in the meanwhile because this is going to keep  
11 coming up.

12 CHAIRPERSON HILL: Okay. I guess that's --

13 VICE CHAIR JOHN: It's for the Office of Planning  
14 to --

15 CHAIRPERSON HILL: Got it. So Ms. John is asking  
16 for, you know, when, Ms. Myers, you get something or figure  
17 out something, if you could us with that clarification to the  
18 Board.

19 MS. MYERS: On this case, you would like us to --

20 CHAIRPERSON HILL: In general, in general, I  
21 think, is what Vice Chair John is saying.

22 VICE CHAIR JOHN: Yes, if I could say what I'm  
23 thinking. There's an email floating around which the Board  
24 has not seen, and, apparently, the Office of Planning is  
25 operating on that email. And there is merit to both

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1 arguments that, if it contributes to lot occupancy, then it  
2 should count; but if it's just -- I don't know. We'd like  
3 to see what the ZA's reasoning is. I don't know what's the  
4 proper channel to make this request, but it's come up in a  
5 couple of cases recently, I believe.

6 Ms. Nagelhout, is this the correct way to request  
7 this?

8 MS. NAGELHOUT: I think either the applicant or  
9 the Office of Planning could request something from the ZA;  
10 is that what you were proposing?

11 VICE CHAIR JOHN: Well, I don't need it for this  
12 case, but I would like to have something from the ZA in the  
13 interim while we wait on clarification in the regulation.

14 MS. NAGELHOUT: I can ask him, in that case. But,  
15 ultimately, it's the Board's call. The Board is the ultimate  
16 interpreter of the regulations. So I understand you want his  
17 input, but you could make your decision, as well.

18 VICE CHAIR JOHN: I understand, but I also  
19 understand that there are two different theories floating  
20 around, which I really haven't seen the reasoning for them.  
21 So I'm just trying to get input. And I respect what you say.  
22 The Board makes a decision, but we keep, you know --

23 MS. MYERS: And to be clear, I just want to say,  
24 to be clear, this is a self-certified application. The  
25 applicant changed their numbers after OP filed the report,

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1 so we went with the 25 and that's how we understood. Like  
2 I said, that's how OP has understood the measurement to be  
3 taken from. But this is self-certified, and so the applicant  
4 has the right to, you know, disagree with OP and et cetera  
5 because the applicant has certified this themselves.

6 VICE CHAIR JOHN: Thank you. I understand that  
7 it's self certified. That was not my issue. I don't need  
8 the clarification for this case because I believe -- well,  
9 I'll wait to deliberate. Okay. Thank you, Mr. Chairman.  
10 I have nothing more.

11 CHAIRPERSON HILL: Thank you, Vice Chair John.  
12 All right. Mr. Young, is there anyone here who wishes to  
13 speak? Okay. Does the Board have any final questions?

14 All right. I'm going to close the hearing on the  
15 record. Thank you, Mr. Campbell.

16 MR. CAMPBELL: Thank you.

17 CHAIRPERSON HILL: Okay. In this particular case,  
18 I am comfortable with the analysis that the Office of  
19 Planning has provided, as well as that of the ANC, which is  
20 in support but had some concerns; but I think those are  
21 somewhat alleviated or at least been clarified by the  
22 question that Mr. Blake had asked. And that DDOT had no  
23 objection.

24 There is, you know, I guess there has been some  
25 discussion, as Vice Chair John just put forward again,

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1 whether the, in my opinion, I guess, it kind of goes towards  
2 lot occupancy. That would be an understanding as to why the  
3 measurement would be taken from whatever point it was that  
4 lot occupancy ended, if I'm saying that correctly. And also,  
5 I guess, it really depends on the shadow study for me as to  
6 whether or not that, you know, is affecting the neighboring  
7 property. I would, again, as Vice Chair John said, ask for  
8 clarification from the zoning administrator as to that one  
9 issue.

10           And then CHR, as they did in their letter, there  
11 is this kind of, that I've seen them make before that I also  
12 am taking into consideration. I don't know what I think of  
13 it overall that there's kind of like a general, you know,  
14 kind of sneaking out of these row homes, as they kind of like  
15 build off of each other as time goes by. And we have always  
16 had, you know, since this started, since I've been here and  
17 the 10-foot rule existed, you know, before they used to just  
18 go back and fill out the lot occupancy, and so that's why you  
19 would get the pop-backs that would go all the way to the end  
20 of, you know, whatever the lot occupancy was. And that's why  
21 the Zoning Commission took the actions that they did to come  
22 up with the 10-foot rule, and then the 10-foot rule,  
23 sometimes it's like, you know, you can't even get a bathroom  
24 in for 10 feet, so it almost makes the expansion not worth  
25 the price. So it kind of ended that.

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1           So I think that's where we got to a certain  
2 extent, but, in terms of this particular case, I'm  
3 comfortable voting in favor of it.

4           Mr. Smith, do you have any comments?

5           MEMBER SMITH: No, no, I don't think I have too  
6 many comments. I am in support of the application. I would  
7 state that, you know, I'm glad that the applicant submitted  
8 a shadow study. It looks like what the applicant proposes  
9 to build wouldn't substantially, wouldn't have any  
10 substantial impact beyond what occurred when this was built,  
11 which was the by-right extension. But we do have a letter  
12 from the current tenant of the space in support of this  
13 particular application.

14           I did read CHRS's letter, and it seems like that  
15 they don't support these types of requests for special  
16 exceptions beyond the by-right extension. But I do recognize  
17 that and I understand that, but that's the reason why we have  
18 a special exception to ensure that these additions do not  
19 have an adverse impact on adjacent properties if they go  
20 beyond that by-right 10-foot extension from the adjacent  
21 properties. It seems to me that this proposed extension  
22 wouldn't have substantial adverse effect, so I'll support it.

23           CHAIRPERSON HILL: Thank you. Mr. Blake.

24           MEMBER BLAKE: Yes, thank you, Mr. Chair. I would  
25 agree with the analysis you've made and Board Member Smith.

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1 In this case, it was an expedited review that was moved to  
2 the hearing session because of the lack of clarity on the  
3 measurements, which I think we discussed today. I don't  
4 think we have complete clarity. I think there was some good  
5 arguments met about the rear wall versus the rear wall of the  
6 building, but it would be good to get that resolved at some  
7 point as to the approach that we're using for that.

8 I would agree with the relief, as read in the  
9 title. So I will be in favor of supporting this application,  
10 and I do agree with Mr. Smith that the Capitol Restoration  
11 Society is clearly concerned with the extensions that  
12 continue and the creep that's taking place, and I can totally  
13 support and understand that. But in this case, I believe the  
14 applicant has demonstrated that it's not going to cause an  
15 adverse effect on the neighboring property to the north,  
16 which is the area of greatest concern.

17 So I'm voting in favor. Thank you.

18 CHAIRPERSON HILL: Thank you, Mr. Blake.  
19 Commissioner Miller.

20 ZONING COMMISSIONER MILLER: Thank you, Mr.  
21 Chairman. I concur with my colleagues. I support this  
22 application for the reasons that my colleagues have stated,  
23 as well as the reasons set forth in the applicant's  
24 presentation, as well as the Office of Planning and ANC  
25 reports. Thank you.

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1 CHAIRPERSON HILL: Thank you. Vice Chair John.

2 VICE CHAIR JOHN: Thank you, Mr. Chairman. I'm  
3 also in support, and I would note that, even if we construe  
4 this as a 25-foot addition, there is still 51 feet of rear  
5 yard left. So in terms of life in there, there should not  
6 be much adverse impact on the neighboring properties. It's  
7 a huge property. I mean, so it's 51 feet left. I don't mean  
8 huge. I mean long rear yard.

9 So I'm in support.

10 CHAIRPERSON HILL: Okay. I'm going to go ahead  
11 and make a motion to approve Application No. 20640 as  
12 captioned and read by the Secretary and ask for a second, Ms.  
13 John.

14 VICE CHAIR JOHN: Second.

15 CHAIRPERSON HILL: The motion made and seconded.  
16 Mr. Moy, if you'd take a roll call.

17 MR. MOY: When I call your name, if you would  
18 please respond with a yes, no, abstain to the motion made by  
19 Chairman Hill to approve the application for the relief  
20 requested. The motion to approve was seconded by Vice Chair  
21 John.

22 Zoning Commissioner Rob Miller.

23 ZONING COMMISSIONER MILLER: Yes.

24 MR. MOY: Mr. Smith.

25 MEMBER SMITH: Yes.

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1 MR. MOY: Mr. Blake.

2 MEMBER BLAKE: Yes.

3 MR. MOY: Vice Chair John.

4 VICE CHAIR JOHN: Yes.

5 MR. MOY: Chairman Hill.

6 CHAIRPERSON HILL: Yes.

7 MR. MOY: Staff would record the vote as 5 to zero  
8 to zero. And this is on the motion made by Chairman Hill to  
9 approve. The motion to approve was seconded by Vice Chair  
10 John. Also in support of the motion: Zoning Commissioner Rob  
11 Miller, Mr. Smith, Mr. Blake, Vice Chair John, Chairman Hill.

12 The motion carries, sir, in a vote of 5 to zero  
13 to zero.

14 CHAIRPERSON HILL: Okay, great. All right.  
15 Thanks, everybody. We've done a lot of work already, which  
16 is pretty amazing. We've done five expedited reviews and  
17 also a case and then as well as a decision.

18 I'd like to take a 10-minute break. We have eight  
19 cases left, so just to give you all an FYI. And we'll see  
20 you at 11:10. Thank you.

21 (Whereupon, the above-entitled matter went off the  
22 record at 10:58 a.m. and resumed at 11:11 a.m.)

23 CHAIRPERSON HILL: All right, Mr. Moy, can you  
24 hear me?

25 MR. MOY: Yes, I'm here.

1 CHAIRPERSON HILL: If you want to call our next  
2 case.

3 MR. MOY: Okay, the Board is back in its public  
4 hearing session, and the time is at or about 11:11 a.m. in  
5 the morning, or a.m., this is morning, right.

6 So, the next case before the Board is Application  
7 No. 20602 of Azeb, A-Z-E-B, Gabriel and Aimaz, A-I-M-A-Z,  
8 Gabriel. This is an amended self-certification, an amended  
9 self-certified application for special exceptions, pursuant  
10 to Subtitle X, section 901.2.

11 Under Subtitle U, Section 421, to allow new  
12 residential development, and under Subtitle F, Section  
13 5206.1, from the floor area requirements of Subtitle F,  
14 Section 302.3, to utilize bonus FAR for IZ.

15 The property is located at 1011, or 1-0-1-1 Rhode  
16 Island Avenue, N.E., Square 3870, Lot 51, and the property  
17 is in the RA-1 zone.

18 CHAIRPERSON HILL: All right, great, thank you Mr.  
19 Moy.

20 Mr. Sullivan, can you hear me?

21 MR. SULLIVAN: I can, yes, thank you, Mr. Chair.

22 Marty Sullivan, with Sullivan and Barros, on  
23 behalf of the applicant.

24 CHAIRPERSON HILL: Great. Mr. Sullivan, if you  
25 want to tell us why you believe your applicant is meeting the

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1 criteria for us to grant the relief requested, I'm going to  
2 put 15 minutes on the clock, and you can begin whenever you  
3 like.

4 MR. SULLIVAN: Thank you.

5 Mr. Young, if you could load the PowerPoint,  
6 please?

7 And, with me here today, by the way, is the  
8 architect Adam Crain. And, with the contract purchaser, Matt  
9 Scorzafava.

10 So, this is 1011 Rhode Island Avenue, N.E.

11 Next slide, please.

12 The relief being requested is for a new  
13 residential development in the RA-1 zone. It's currently a  
14 detached, single-family dwelling.

15 Applicant's proposing to raze the existing  
16 building and construct a new three-story building, with eight  
17 residential units, four parking spaces.

18 One of those eight units is an inclusionary zoning  
19 unit, and therefore, the applicant's also requesting the  
20 special exception approval for the voluntary IZ bonus.

21 Next slide, please.

22 The Office of Planning is in support, as is DDOT.  
23 And, the ANC has voted to support, I believe the resolution  
24 was filed last night or this morning. So, the ANC was  
25 unanimously in support of the application.

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1           Next slide, please, and I'll turn it over to Mr.  
2 Crain.

3           MR. CRAIN: Hello, Adam Crain with 2Plys, the  
4 project architect.

5           So again as Marty mentioned, 1011 Rhode Island  
6 Avenue. This is adjacent to 1009, which is another case we  
7 brought to the BZA for a similar approval several months ago.

8           Next slide.

9           Showing some context images here. And, you can  
10 advance two slides to number 7, I believe.

11          So, this is a 3-D perspective here. We had  
12 originally presented a mirrored, a mirrored plan to what was  
13 previously approved at 1009 to the ANC.

14          After some discussions with them, they requested  
15 that we modify the facade from something more modern, to  
16 something that was a, fit in with the residential character  
17 of the street.

18          So, we had a couple of rounds of revising the  
19 facade with some gabled roofs as you see here, that they  
20 ended up being quite pleased with.

21          Next slide, please.

22          Showing another angle of the front, the rear with  
23 some balconies.

24          Next slide.

25          So, the site plane here providing four parking

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1 spaces at the rear, one of those are compact. Fully detached  
2 building with two side yards.

3           You see we've got trash allocated towards the rear  
4 by the parking, and walkways all the way around. We're  
5 proposing a bay window in public space, that's been submitted  
6 to that for approval.

7           Next slide.

8           This is an overview of the floor plans. Eight  
9 unit apartment building, three levels over cellar. Very  
10 briefly, at the cellar level we've got the long-term bike  
11 storage as required by zoning. A three-bedroom and a two-  
12 bedroom.

13           On the first floor, you've got the two two-bedroom  
14 units. On the second floor, again, two, a two-bedroom unit  
15 in red, and then the one-bedroom IZ unit, unit 6 there on the  
16 bottom.

17           And, the third floor has two more two-bedroom  
18 units that also have rooftop access.

19           Go to the next slide and there's just more  
20 detailed plans, I believe, with the floor plans, so we can  
21 skip through to slide number 19.

22           Showing some of the materials as requested in the  
23 facade by the Office of Planning. Brick, brick and hardy  
24 siding. Some of these are really meant to tie into the  
25 other, other buildings on the street.

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1           And, if you want to go to early slide 24. This  
2 would show it in context with the adjacent building that was  
3 previously approved at 1009, next door.

4           (Pause.)

5           So, that's the proposed 1001 is on the left there,  
6 1009 is on the right. So, similar floor plans with the  
7 mirror and the bay windows. You can see where we modified  
8 this as requested by the ANC.

9           I'll turn it back over to Marty.

10          MR. SULLIVAN: Thank you, Adam.

11          Next slide, please.

12          Next slide, please.

13          This is the, there was a grading and landscape  
14 plan, which was filed just yesterday I believe, or the day  
15 before.

16          So, the application on both areas of relief, is  
17 in harmony with the purpose and intent of the zoning  
18 regulations and zoning maps, and will not tend to affect  
19 adversely, the use of neighboring property.

20          The RA-1 zone provides for areas predominantly  
21 developed with low to moderate density development, and the  
22 project is moderate density, multi-family residential  
23 building.

24          The area is made up of a mix of larger residential  
25 developments. This is in the area of the Rhode Island Metro

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1 Station.

2           Some single-family dwellings, commercial uses, and  
3 several similar projects, as the Board knows. They've seen  
4 quite a few projects for this relief on this block, and in  
5 this neighborhood, including 1009 Rhode Island, and 1005  
6 Rhode Island, which were recently approved.

7           And, the building will be set back from  
8 neighboring properties, providing more parking than  
9 necessary, and also the design was something as noted by  
10 Adam, that came about with the cooperation of the ANC, and  
11 the Office of Planning.

12           Next slide, please.

13           On the specific requirements, it was referred to  
14 D.C. Public Schools, and regarding public streets and  
15 recreation, the property is located on Rhode Island, a major  
16 transportation corridor.

17           The Metro Rail Station's approximately 1400 feet  
18 away, and applicant's providing more parking than required.

19           Next slide, please.

20           In the final specific requirement that it was  
21 referred to the Office of Planning, and I would refer to the  
22 Office of Planning's report, which has made detailed findings  
23 on the elements listed here in 421.3.

24           And, I think that's it for our presentation.  
25 We're available for any questions.

1 Thank you.

2 CHAIRPERSON HILL: All right, Mr. Young, if you  
3 could drop the slide deck.

4 Thank you.

5 Does the Board have any questions for the  
6 applicant?

7 Commissioner Miller?

8 ZONING COMMISSIONER MILLER: Thank you, Chairman.  
9 And thank you Mr. Sullivan and Mr. Crain for the applicant's  
10 presentation.

11 You might have touched on this and I might have  
12 missed it, did you respond to the, well first of all, thanks  
13 for being responsive to ANC and OP concerns about the, with  
14 the design and material changes you made, to make it look  
15 more residential in character with the neighborhood.

16 But did you, did the applicant have a, respond to  
17 the OP comments about the location of the voluntary  
18 inclusionary zoning unit, which you mentioned, and the light  
19 sconces?

20 Did you add those light sconces? The design show  
21 incorporating a lighting sconce next to the front entrance,  
22 I think I saw that, and one next to the cellar side  
23 residential unit entrance, similar and identical in  
24 appearance to the sconces proposed for the first floor side  
25 entrance.

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1 Did you respond to those two comments of OP, the  
2 IZ unit location, and the light sconce issue?

3 MR. CRAIN: Yes, we did. We got, we have a page  
4 dedicated to that lighting. Page 18. I'm not sure what the  
5 exact comment was, but the IZ unit is located at the rear of  
6 the second floor, and I'm not sure if they're just asking  
7 where it was. Or was there a specific question about the  
8 location?

9 ZONING COMMISSIONER MILLER: It was just asking  
10 to identify the location, which --

11 MR. CRAIN: Yes.

12 ZONING COMMISSIONER MILLER: -- and then I guess  
13 we just evaluate whether it's a comparable unit in an eight  
14 unit apartment, and it appears to be.

15 Thank you.

16 CHAIRPERSON HILL: All right, anyone else have any  
17 questions?

18 Vice Chair John?

19 VICE CHAIR JOHN: This is not related to this  
20 particular application, but I'm just curious.

21 So, I don't know if Mr. Sullivan knows, but by my  
22 notes, these, there have been developments at 1001-3, 1005,  
23 1007, 1009, 1011.

24 Is this the same developer on all of these  
25 properties? Do you know, Mr. Sullivan?

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1 MR. SULLIVAN: No, it's not. Well, 1009 was the  
2 same.

3 VICE CHAIR JOHN: Uh huh.

4 MR. SULLIVAN: But no, the projects are different  
5 developers.

6 VICE CHAIR JOHN: Okay. So, is the block pretty  
7 much fully developed now, or are there a few more houses?

8 MR. SULLIVAN: I think I'll defer to Mr.  
9 Scorzafava on that one.

10 VICE CHAIR JOHN: Okay. Yes?

11 MR. SCORZAFAVA: I believe that next to 1009, 1007  
12 is some type of, is not developed yet but it was, it was  
13 redeveloped a while ago into some type of hospital, or like  
14 a temporary home.

15 And, then there, on the corner I forget the name  
16 of the address, it was developed into an apartment building  
17 many years ago, probably in the 70s.

18 There's two residential houses next to us. One  
19 of those houses directly next to us did a major renovation  
20 a few years ago, and that's what led to a lot of the  
21 residential changes of our building.

22 Because they clearly have shown a desire that they  
23 want to stay for a long time, because of the upgrades they  
24 made to their house.

25 So, they wanted the building next to them to have

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1 more of a residential feel than the 1009 project.

2 VICE CHAIR JOHN: Okay. Thank you, just curious  
3 looking at all of the renovations.

4 Thanks.

5 MR. SCORZAFAVA: Okay.

6 CHAIRPERSON HILL: Great. Anyone else for the  
7 applicant?

8 (No audible response.)

9 CHAIRPERSON HILL: All right, good, turn to the  
10 Office of Planning?

11 MR. JESICK: Thank you, Mr. Chairman and members  
12 of the Board. My name is Matt Jesick, and the Office of  
13 Planning is happy to rest on the record in support of the  
14 application.

15 We appreciate that the applicant worked closely  
16 with the ANC on this project, and that they also addressed  
17 the concerns that we raised in our report.

18 And, that concludes my verbal testimony, but I'm  
19 happy to take any questions.

20 Thank you.

21 CHAIRPERSON HILL: Thank you, Mr. Jesick.

22 Does anyone have any questions for the Office of  
23 Planning?

24 (No audible response.)

25 CHAIRPERSON HILL: Mr. Young, is there anyone here

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1 wishing to speak?

2 Mr. Sullivan, you have anything at the end?

3 All right, going to close the hearing, and the  
4 record. Mr. Young, if you could please excuse anyone.

5 (Pause.)

6 Would someone else like to talk? Does anybody  
7 want to raise their hand?

8 VICE CHAIR JOHN: I can start.

9 CHAIRPERSON HILL: Okay, great.

10 VICE CHAIR JOHN: I thought this was fairly  
11 straightforward, and that the applicant is meeting all of the  
12 criteria for relief. I'm pleased that we're having another  
13 IZ unit.

14 And, I don't really have a lot to add. It's a  
15 fairly, you know, very, very straightforward as I said  
16 before.

17 So, I'd welcome other comments.

18 CHAIRPERSON HILL: Mr. Smith?

19 MEMBER SMITH: Yes, I'll go.

20 I agree with the Vice Chair's comments on this.  
21 I do believe it's fairly straightforward. I will note that,  
22 that, you know, I would congratulate the applicant on meeting  
23 with the ANC, and coming to a positive conclusion where they  
24 can support it.

25 Because we've had what, two other apartment, two

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1 other projects similar to this in the general vicinity, it  
2 might next door. I think one was next door, where we did  
3 receive some opposition from the ANC.

4 So, kudos to them for recognizing that the ANC was  
5 uncomfortable with some of these types of projects in the  
6 area.

7 And, for them to get on top of meeting with them,  
8 and making sure that that project is corrected in a manner  
9 that the ANC would support this project.

10 And, as Ms. John stated, I would welcome the  
11 additional IZ unit.

12 So, with that, I think I give full weight to OP's  
13 staff report, and I do believe that they met the burden of  
14 proof for us to be able to bring a special exception.

15 So, I will be voting in support.

16 CHAIRPERSON HILL: Thank you. Commissioner  
17 Miller?

18 ZONING COMMISSIONER MILLER: Thank you, Mr.  
19 Chairman.

20 I concur with the comments of my colleagues, and  
21 support the application.

22 CHAIRPERSON HILL: Thank you. Mr. Blake?

23 MEMBER BLAKE: (No audible response.)

24 CHAIRPERSON HILL: You're no mute, Mr. Blake,  
25 sorry.

1 MEMBER BLAKE: Off mute now?

2 CHAIRPERSON HILL: Now you're good.

3 MEMBER BLAKE: Okay, yes, I will support the, I'll  
4 be voting in favor of supporting the application that meets  
5 the burden of proof.

6 CHAIRPERSON HILL: What? You're on mute again.  
7 I don't know why happened. You started to say?

8 MEMBER BLAKE: (No audible response.)

9 CHAIRPERSON HILL: Now I can't hear you.

10 MEMBER BLAKE: (No audible response.)

11 CHAIRPERSON HILL: Still can't hear you.

12 MEMBER BLAKE: Okay, let me check.

13 CHAIRPERSON HILL: Now I can hear you, now I can  
14 hear.

15 MEMBER BLAKE: That's strange.

16 CHAIRPERSON HILL: Now we can't hear you.

17 MEMBER BLAKE: Um.

18 CHAIRPERSON HILL: Now we can hear you.

19 MEMBER BLAKE: You can hear me? Okay.

20 CHAIRPERSON HILL: Yes.

21 MEMBER BLAKE: Yes, I'm going to vote in favor and  
22 I'm going to, I'm done for now.

23 CHAIRPERSON HILL: Okay.

24 All right, I'm going to make a motion to approve  
25 Application No. 20602, as captioned and read by the

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1 secretary, and ask for a second. Ms. John?

2 VICE CHAIR JOHN: Second.

3 CHAIRPERSON HILL: Motion made and second. Mr.  
4 Moy, if you could take a roll call?

5 MR. MOY: When I call your name, if you would  
6 please respond with a yes, no, or abstain, to the motion made  
7 by Chairman Hill, to approve the application for the relief  
8 requested.

9 The motion to approve was second by Vice Chair  
10 John.

11 Zoning Commissioner Rob Miller?

12 ZONING COMMISSIONER MILLER: (No audible  
13 response.)

14 MR. MOY: Mr. Smith?

15 MEMBER SMITH: Yes.

16 MR. MOY: Mr. Blake?

17 MEMBER BLAKE: (No audible response.)

18 MR. MOY: Vice Chair John?

19 VICE CHAIR JOHN: Yes.

20 MR. MOY: Chairman Hill?

21 CHAIRPERSON HILL: Yes.

22 MR. MOY: Staff would record the vote as 5-0-0,  
23 and this is on the motion made by Chairman Hill, to approve.  
24 The motion to approve was second by Vice Chair John.

25 Also in support of the motion to approve, Zoning

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1 Commissioner Rob Miller, Mr. Smith, Mr. Blake, Vice Chair  
2 John, and Chairman Hill.

3 The motion carries, sir, and the vote, on the vote  
4 of 5-0-0.

5 CHAIRPERSON HILL: Thank you, Mr. Moy.

6 You can call the next one when you get a moment.

7 (Pause.)

8 MR. MOY: The next case before the Board, is  
9 Application No. 20686 of Nexstar, N-E-X-S-T-A-R, Media Group,  
10 Inc. This is the applicant's self-certified application for  
11 a special exception pursuant to Subtitle C, Section 1304.2,  
12 and Subtitle X, Section 901.2.

13 This would be from the one-to-one roof-mounted  
14 antenna setback requirements of Subtitle C, Section 1304.1B,  
15 and from the roof mounted antenna height requirements of  
16 Subtitle C, Section 1304.1B.

17 The project is located at 2121 Wisconsin Avenue,  
18 N.W., Square 1299, Lot 1026. And the property is located in  
19 the MU-27 zone.

20 CHAIRPERSON HILL: Thank you.

21 Ms. Brown, can you hear me?

22 MS. BROWN: Me?

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

25 MS. BROWN: Yes, I'm Carolyn Brown with the Brown

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1 Law Firm, on behalf of Nexstar Media Group.

2 I am joined by Larry Geurin, the Manager of  
3 Building Services and Construction at Nexstar, David Bangura,  
4 Vice President and General Manager, of WDCW and WDVM TV  
5 stations, and Mr. Michael Bert, Director of Engineering at  
6 Nexstar.

7 CHAIRPERSON HILL: Okay, great.

8 Ms. Brown, if you want to go ahead, and I see your  
9 PowerPoint. If you want to walk us through why you believe  
10 your applicant, your client, is meeting the relief, meeting  
11 the criteria for us to grant the relief requested.

12 And, you can begin whenever you like.

13 MS. BROWN: Great, if we could have the slide deck  
14 pulled up, please.

15 (Pause.)

16 MS. BROWN: Thank you.

17 We're here today seeking your approval of our  
18 special exception application, to install two new replacement  
19 satellite dish antennas that don't meet the height or setback  
20 requirements.

21 There are currently four satellite dish antennas  
22 on the roof, and two will be replaced to provide more gain  
23 and cleaner signal above the noise floor, due to frequency  
24 encroachment in the C-band spectrum for the 5G network  
25 rollout.

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1 Next slide.

2 This slide shows you the release of a request, and  
3 the existing antenna height is just a little over 15 feet.  
4 The proposed height will be 17, and there would be, the  
5 setback will be roughly 15 feet, and the maximum allowed is  
6 12 feet with a 12 foot setback.

7 Next slide, please.

8 This just gives you a brief history. We can move  
9 on to the next slide, just establishes that the station was  
10 involved, established there in 2000.

11 The need for the satellite dishes is to  
12 consolidate news programming of the Hagerstown Station, and  
13 the station here in the District.

14 As I mentioned, it was needed to boost the signal  
15 because of the static from the 5G rollout. And, we're not  
16 able to meet the setback because of the structural beams and  
17 columns within the existing roof, that are needed to support  
18 the weight of the antennas.

19 Next slide.

20 Just a quick location aerial view.

21 Next slide.

22 Street view. You'll see the antennas labeled from  
23 left to right as D, C, B, A. Antenna B is being replaced in  
24 the same location, and antenna C is being replaced but  
25 relocated to the north of the building.

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1 Next slide.

2 Again, the antennas in question.

3 Next slide.

4 The new location of antenna C to the north.

5 Next slide.

6 This is a view of the antenna, the profile.

7 Next slide.

8 So here we're running through the special  
9 exception standards, of Sections 1312 of Subtitle C. We have  
10 provided the service area map in our statements.

11 We've also provided a map showing the applicant's  
12 other antennas on the site. And, we have a list also, of all  
13 the other antennas in the area.

14 We have also complied with the site and roof plan  
15 requirements. We have the elevation drawing of the  
16 structure, and proposed antennas.

17 Next slide.

18 We were missing the photograph of the antenna,  
19 based on the Office of Planning report, so here is a picture  
20 of it. We have given information on the mounted antenna  
21 height, relative to tree tops.

22 Because of its location on Wisconsin Avenue, the  
23 antennas are mostly higher than any of the tree tops.

24 And, any other information that you deem necessary  
25 based on the Office of Planning report, no other information

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1 is recommended.

2 Next slide.

3 For the special exception standards of Subtitle  
4 X 901.2, on the left again you see the standard, and on the  
5 right is how we comply.

6 The replacement antennas with the height increase  
7 of approximately one and a half feet, will allow the  
8 continued high quality signal necessary for the transmission  
9 of a news stations, and other educational and cultural  
10 television shows, for residents across the city.

11 The antennas will not affect adversely, the use  
12 of neighboring property. They've been in this location since  
13 at least 2000, and the replacement antennas will not create  
14 any appreciable change to the favorable conditions of the  
15 area.

16 And, the third criteria is to make sure that you  
17 comply with the specific criteria, which we've just outlined  
18 above.

19 Next slide.

20 And, based on this presentation and the other  
21 materials in the record, we would respectfully request your  
22 approval of our application.

23 Thank you.

24 CHAIRPERSON HILL: Thank you, Ms. Brown, for your  
25 presentation.

1 Does anybody have any questions of the applicant?

2 VICE CHAIR JOHN: Ms. Brown, can you direct us to  
3 the slide that shows not only the applicant's antennas, but  
4 the other providers? That's the part I didn't see.

5 MS. BROWN: We probably did not include that as  
6 a slide, but it is in our application submission, and I will  
7 find a page reference for that.

8 VICE CHAIR JOHN: Okay.

9 (Pause.)

10 MS. BROWN: I'm sorry, it's in the architectural  
11 drawings that are submitted to the record, and I believe is  
12 Exhibit 6.

13 VICE CHAIR JOHN: Okay, but it does show where the  
14 other providers' antennas are?

15 MS. BROWN: It shows where the AT&T cell antennas  
16 are, which are on the roof of the penthouse.

17 VICE CHAIR JOHN: Okay.

18 MS. BROWN: So, that is actually going to be the  
19 tallest antenna element on this building. The overall height  
20 of the penthouse, it's 15 feet.

21 So, these two new proposed antennas will, you  
22 know, be about a little, you know, roughly two feet above the  
23 penthouse.

24 And, then on top of the penthouse, the AT&T  
25 antennas are roughly nine feet, nine and a half feet tall.

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1 VICE CHAIR JOHN: Okay, thank you.

2 MS. BROWN: You're welcome.

3 CHAIRPERSON HILL: Thank you. Anyone else?

4 (No audible response.)

5 CHAIRPERSON HILL: All right, go to the Office of  
6 Planning?

7 (Pause.)

8 CHAIRPERSON HILL: Do I hear the Office of  
9 Planning?

10 (No audible response.)

11 CHAIRPERSON HILL: I don't see the Office of  
12 Planning.

13 Mr. Young, do you have the Office of Planning?

14 MR. YOUNG: I had Karen Thomas. Let me see. Yes,  
15 she's here.

16 CHAIRPERSON HILL: Ms. Thomas, can you hear me?

17 MS. THOMAS: I can hear you. Can you hear me?

18 CHAIRPERSON HILL: Yes.

19 MS. THOMAS: Okay, yes. Thank you, Mr. Chairman,  
20 members of the board. Karen Thomas with the Office of  
21 Planning.

22 We are happy to rest on your record of, in support  
23 of this application. There has been a broadcast station at  
24 this location for over 20 years, and we are in support of  
25 this application.

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1 Thank you. We don't believe that there is any  
2 adverse impact to their request.

3 Thank you.

4 CHAIRPERSON HILL: Thank you, Ms. Thomas.

5 Ms. Thomas, I just have a quick question. Like,  
6 I think we're probably all familiar with that building, and  
7 also the antennas that have been there.

8 If it was, if there weren't any antennas on that  
9 building and this were brand new, meaning a brand new  
10 proposal, would Office of Planning look at it kind of  
11 differently? I'm just curious.

12 MS. THOMAS: That's hard to say. I don't believe  
13 so, but again, it would have to be that what's going on  
14 around there. We look at the front issues, or concerns that  
15 any of us may have, or.

16 CHAIRPERSON HILL: You've always been able to see  
17 those dishes pretty easily?

18 MS. THOMAS: Yes. I mean dishes on the whole,  
19 satellite dishes, there is no way, you know, it's very  
20 difficult to screen a satellite dish. Or sometimes due to  
21 this, just their sheer size, to locate them on a roof and  
22 sort of meet all the setback requirements.

23 And, in this case, you know, 17 feet from two feet  
24 to 15 feet, there's not much appreciable difference; you  
25 can't detect that. And, it's set back fairly well.

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1 CHAIRPERSON HILL: I was just curious about that  
2 one question. Thank you.

3 MS. THOMAS: Yes.

4 CHAIRPERSON HILL: Does anybody have any questions  
5 for the Office of Planning?

6 (No audible response.)

7 CHAIRPERSON HILL: Is there anyone here wishing  
8 to speak, Mr. Young?

9 MR. YOUNG: We do not.

10 CHAIRPERSON HILL: Ms. Brown, do you have anything  
11 you'd like to add at the end?

12 MS. BROWN: Just that we also have the support of  
13 ANC.

14 CHAIRPERSON HILL: Okay, thank you, Ms. Brown.  
15 All right, going to close the hearing and the  
16 record. Mr. Young, if you could excuse everyone, please.

17 (Pause.)

18 CHAIRPERSON HILL: I would agree with the analysis  
19 that the, I'm sorry, I would agree with the argument the  
20 applicant has put forth, as well as the analysis of the  
21 Office of Planning, as to how they're meeting the criteria  
22 for us to grant the relief requested.

23 Again, as Ms. Thomas just mentioned, like they're  
24 moving the, I mean those disks, those satellite dishes you've  
25 been able to see for years.

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1           And, so they're just kind of moving it a couple  
2 of feet and she didn't say it would be a noticeable  
3 difference, and I would agree with the Office of Planning in  
4 that way.

5           Also, the ANC is in support, and so I am going to  
6 be voting in favor.

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

8           MEMBER SMITH: No, I don't have anything to add.  
9 I agree with your analysis, and I will support the  
10 application.

11           CHAIRPERSON HILL: Thank you. Mr. Blake?

12           MEMBER BLAKE: Yes, sir. I agree with the  
13 analysis, and I, too, would support the application.

14           CHAIRPERSON HILL: Commissioner Miller?

15           ZONING COMMISSIONER MILLER: Thank you, Mr.  
16 Chairman, I concur.

17           CHAIRPERSON HILL: Thank you. Vice Chair John?

18           VICE CHAIR JOHN: I agree with the analysis. I'll  
19 just add a couple thoughts, that the antennas have been there  
20 for 20 years and they're basically replacing and relocating  
21 one.

22           And, that the two foot setback should not cause  
23 any additional adverse impacts.

24           So, I'm in support of the application.

25           CHAIRPERSON HILL: Thank you.

1           Going to make a motion to approve Application No.  
2 20686 as captioned and read by the secretary, and ask for a  
3 second, Ms. John?

4           VICE CHAIR JOHN:    Second.

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

7           MR. MOY:    When I call your name, if you would  
8 please respond with a yes, no, or abstain, to the motion made  
9 by Chairman Hill, to approve.  The motion to approve was  
10 second by Vice Chair John.

11           Zoning Commissioner Rob Miller?

12           ZONING COMMISSIONER MILLER:  Yes.

13           MR. MOY:    Mr. Smith?

14           MEMBER SMITH:  Yes.

15           MR. MOY:    Mr. Blake?

16           MEMBER BLAKE:  Yes.

17           MR. MOY:    Vice Chair John?

18           VICE CHAIR JOHN:  Yes.

19           MR. MOY:    Chairman Hill?

20           CHAIRPERSON HILL:  Yes.

21           MR. MOY:    Staff would record the vote as 5-0-0,  
22 and this is on the motion made by Chairman Hill, to approve.  
23 The motion to approve was second by Vice Chair John, who was  
24 also in support of the motion.

25           Also, others in support of the motion, Zoning

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1 Commissioner Rob Miller, Mr. Smith, Mr. Blake, of course Vice  
2 Chair John, and Chairman Hill.

3 The motion carries, sir, on the vote of 5-0-0.

4 CHAIRPERSON HILL: Thank you.

5 Commissioner Miller, can you hear me?

6 ZONING COMMISSIONER MILLER: I can.

7 CHAIRPERSON HILL: Do you remember Captain Twenty?

8 ZONING COMMISSIONER MILLER: Only vaguely.

9 Refresh my memory.

10 CHAIRPERSON HILL: Maybe he's a little -- I see  
11 Mr. Blake smiling. That's okay, you can Google Captain  
12 Twenty on Channel 20.

13 ZONING COMMISSIONER MILLER: I guess I'm too old,  
14 is what you wanted to say.

15 CHAIRPERSON HILL: You're a little older. Yes,  
16 you're not in the right window. Sorry.

17 (Laughter.)

18 CHAIRPERSON HILL: Okay, Mr. Moy, you can call our  
19 next one when you get a chance.

20 (Pause.)

21 MR. MOY: The next case before the Board is  
22 Application No. 20688, of JL 3628 Whitehaven PKWY NW, LLC.  
23 This is the applicant's self-certified application for  
24 special exception under Subtitle D, Section 1206.4, and  
25 Subtitle D, Section 5201, pursuant to Subtitle X, Section

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1 901.2.

2 From the rear addition requirements of Subtitle  
3 D, Section 1206.3. This is located at 3628 Whitehaven  
4 Parkway N.W., Square 1296, Lot 367. The property is located  
5 in the R-20 zone.

6 CHAIRPERSON HILL: Thank you. Ms. Wilson, can you  
7 hear me?

8 MS. WILSON: Can you hear me?

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

11 MS. WILSON: Sure. Alex Wilson, from Sullivan and  
12 Barros, on behalf of the applicants in this case.

13 CHAIRPERSON HILL: Okay. Ms. Wilson, I'm going  
14 to go ahead and let you walk us through your presentation.  
15 I might limit you at certain points, as we kind of go through  
16 it.

17 If you want to kind of just summarize what your  
18 applicant is trying to do, I see that you have 25 slides,  
19 which is fine.

20 MS. WILSON: We don't intend to go through all 25.

21 CHAIRPERSON HILL: Okay.

22 MS. WILSON: I can limit it.

23 CHAIRPERSON HILL: Okay.

24 If you want to go ahead and pull that up, Mr.  
25 Young, and allow Ms. Wilson to walk us through the

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1 presentation.

2 MS. WILSON: Great, thank you.

3 And, the owners should have been let in. They  
4 were signed up to testify, it's Linda McElcott and Julie  
5 Fletcher. Just in case you have questions at the end.

6 Mr. Young, could you go to the next slide, please?

7 Thank you.

8 The property is currently improved with a two-  
9 story single family row building. It is located in the R-20  
10 zone.

11 The owners are proposing a third story addition,  
12 and a three-story rear addition, and are requesting relief  
13 from the 10-foot rule, for portions of that rear addition as  
14 it will go an additional eight feet past the 10-foot mark,  
15 with respect to the rear wall of the adjoining building to  
16 the east.

17 And, an additional two feet past the rear wall of  
18 the adjoining building to the west.

19 For some context on the size of the addition  
20 relative to the lot, even with the proposed addition, the  
21 building will only occupy 34 percent of the lot, which is  
22 about half of the permitted lot occupancy, and have over  
23 triple the size of the required rear yard. And, the height  
24 is permitted by right.

25 The owners have communicated with both neighbors.

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1 The more impacted of the two neighbors is the one to the  
2 east, and she is very supportive.

3 And, I think originally the neighbor to the west  
4 had some questions, so we did not get a signed letter from  
5 her, she was out of town. But we're happy to say she's not  
6 opposing. She's communicated that to us.

7 And, of course the ANC asked us to present a CMA  
8 agreement to both neighbors, and we've done that. That CMA  
9 agreement, and proposed CMA conditions, was uploaded to the  
10 record just to evidence that we fulfilled the ANC's request  
11 for best efforts, and continuing to work with those  
12 neighbors.

13 I'd say the goals of the 10-foot rule regulation  
14 are met in this case, as the regulation is directed towards  
15 the addition as it relates to neighboring buildings, and  
16 making sure the neighbors are okay with such an addition.

17 And, we are meeting all other development  
18 standards for this lot, as well as the specific special  
19 exception criteria, which I can briefly walk through.

20 OP is recommending approval, and the ANC is  
21 supporting this project.

22 Next slide, please.

23 This just shows the property relative to the  
24 adjacent properties. It's at the end of the block on  
25 Whitehaven. It only takes up about 17 percent of the lot

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1 right now.

2           As I mentioned, even with the addition, it will  
3 only occupy 34 percent of the lot. So, we are in no way  
4 maximizing the footprint. It's just to allow some additional  
5 room for modern living standards, with possibly two adults  
6 working from home.

7           And, so with respect to the first prong of the  
8 general special exception criteria, the proposal will not  
9 impair the intent and purpose of the zoning regulations, as  
10 the use itself is the matter of right.

11           It's a single-family home, and we are well below  
12 the permitted matter of right footprint. We are just limited  
13 by what's existing to the east and the west.

14           Next slide, please.

15           It's a little difficult to see the actual property  
16 on any street view, because there are large trees at the  
17 front.

18           And, I'll note that the proposed third-story  
19 addition from the front, is not subject to the 10-foot rule.  
20 We're seeking relief for the rear, but I did just want to  
21 provide some context.

22           Next slide, please.

23           And, this just shows that there are other third  
24 story additions along the front and rear.

25           Next slide, please.

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1           This is a photo of the rear yard. Both adjacent  
2 houses have already extended beyond the rear wall of this  
3 subject property.

4           Considering the length of the backyard, which will  
5 remain at 70 feet, the addition will not be substantial, and  
6 that it does not even go to the end of that patio, and the  
7 neighbors will still be able to enjoy their deck space.

8           We provided shadow studies showing very limited  
9 impact. And, so with respect to the general special  
10 exception criteria, the relief will not adversely affect the  
11 use of neighboring properties.

12           Next slide, please.

13           Next slide, please.

14           Thank you.

15           In terms of the specific criteria for approval,  
16 the shadow studies demonstrate that the additional eight feet  
17 of length, will not unduly affect the light and air.

18           The neighbors to the east is supporting, and she  
19 is arguably the most impacted neighbor. The addition will  
20 not have any windows facing the neighboring building to the  
21 east or west.

22           With respect to character, there are a variety of  
23 building types and sizes on this block. The rear addition  
24 will be 70 feet from the rear property line and alley, and  
25 there is a fence along the rear lot and side lot lines, which

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1 should limit visibility from the alley.

2           And, other buildings' additions have similar rear  
3 setbacks.

4           Next slide, please.

5           Next slide, please.

6           Thank you.

7           And, this just shows the rear as I mentioned, that  
8 is a fence, which will limit visibility. And, there will be  
9 a 70-foot rear. I mentioned that three times.

10           Next, actually, Mr. Young, could you skip to slide  
11 16, please? I think that's the most relevant plan page.

12           Great, thank you.

13           So, this shows the rear elevation. It's similar  
14 to other renovated homes on the block.

15           This does conclude our presentation, although we  
16 have other floor plans and shadow studies in our slide deck  
17 if you are interested, to review those or have any questions.

18           Our architect, Ms. Jones, is here.

19           CHAIRPERSON HILL: Okay, thanks, Ms. Wilson.

20           I know that we have the whole PowerPoint  
21 presentation, which is very helpful with the shadow studies,  
22 as well as the architectural plans.

23           Is there any questions that the Board has for the  
24 applicant at this time?

25           (No audible response.)

1 CHAIRPERSON HILL: I'm going to turn to the Office  
2 of Planning?

3 MS. ELLIOTT: Good morning, Mr. Chairman, members  
4 of the Board. I'm Brandice Elliott, representing the Office  
5 of Planning, for BZA Case 20688.

6 They are requesting the rear wall extension  
7 relief, which is a special exception.

8 The Office of Planning is recommending approval  
9 of that, and we will rest on the record of our report, but  
10 I'm happy to answer any questions you have.

11 CHAIRPERSON HILL: Thank you. Does the Board have  
12 any questions for the Office of Planning?

13 (No audible response.)

14 CHAIRPERSON HILL: Mr. Young, is there anyone here  
15 wishing to speak?

16 MR. YOUNG: We do not.

17 CHAIRPERSON HILL: Ms. Wilson, do you have  
18 anything at the end?

19 MS. WILSON: No, thank you all.

20 CHAIRPERSON HILL: Okay. I'm going to close the  
21 hearing, and the record. Mr. Young, if you'd please excuse  
22 everyone.

23 (Pause.)

24 CHAIRPERSON HILL: Okay, I was comfortable with  
25 the argument that the applicant has made for the relief

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1 that's being requested.

2 I am happy, or happy's the wrong word. I am  
3 pleased that the ANC was able to work with the applicant, in  
4 terms of agreeing to a CMA agreement.

5 I don't necessarily think it's something that the  
6 Board would put in as a condition, however, I would note it  
7 in the record, as well as the written order. I think it's  
8 Exhibit 27 is the CMA, and also I think 28.

9 And, then also the ANC was in support; DDOT had  
10 no objections, and as I mentioned, I would agree with the  
11 applicant.

12 I'm going to be voting in favor of the  
13 application.

14 Mr. Smith, would you like to add anything?

15 MEMBER SMITH: I agree with what you stated. I  
16 agree with the analysis presented by the Office of Planning,  
17 for us to be able to support this application.

18 And, so I will be voting in support.

19 CHAIRPERSON HILL: Mr. Blake?

20 MEMBER BLAKE: Yes, I, too, will be voting in  
21 support of the application. I think the applicant met the  
22 burden of proof, and I appreciate the agreement with the  
23 adjacent neighbor, and the adjacent neighbor's support.

24 I'll be voting in favor.

25 CHAIRPERSON HILL: Commissioner Miller?

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1 ZONING COMMISSIONER MILLER: Thank you, Mr.  
2 Chairman. I concur with my colleagues.

3 CHAIRPERSON HILL: Vice Chair John?

4 VICE CHAIR JOHN: Thank you, Mr. Chairman.

5 I am in support, and I would also add that even  
6 with the addition, the 18 foot to the east, the lot occupancy  
7 is still 34 percent, and the rear yard is still at 70  
8 percent, I mean 70 feet.

9 So, there shouldn't be much adverse impact, so I'm  
10 in support.

11 CHAIRPERSON HILL: Thank you.

12 I'm going to make a motion to approve Application  
13 No. 20688, as captioned and read by the secretary, and ask  
14 for a second. Ms. John?

15 VICE CHAIR JOHN: Second.

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

18 MR. MOY: When I call your name, if you would  
19 please respond with a yes, no, or abstain, to the motion made  
20 by Chairman Hill, to approve. The motion to approve was  
21 second by Vice Chair John.

22 Zoning Commissioner Rob Miller?

23 ZONING COMMISSIONER MILLER: Yes.

24 MR. MOY: Mr. Smith?

25 MEMBER SMITH: Yes.

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1 MR. MOY: Mr. Blake?

2 MEMBER BLAKE: Yes.

3 MR. MOY: Vice Chair John?

4 VICE CHAIR JOHN: Yes.

5 MR. MOY: Chairman Hill?

6 CHAIRPERSON HILL: Yes.

7 MR. MOY: Staff would record the vote as 5-0-0,  
8 and this is on the motion made by Chairman Hill, to approve.  
9 The motion to approve was second by Vice Chair John, who is  
10 also in support of the motion.

11 Others in support of the motion to approve, Zoning  
12 Commissioner Rob Miller, Mr. Smith, Mr. Blake, and of course,  
13 Vice Chair John and Chairman Hill.

14 The motion carries on a vote of 5-0-0.

15 CHAIRPERSON HILL: Thank you, Mr. Moy.

16 If you could call our next case, please, Mr. Moy,  
17 when you get a chance.

18 (Pause.)

19 MR. MOY: Your next case is Application No. 20691,  
20 of Jessica Earhart. This is the applicant's self-certified  
21 application for special exception pursuant to Subtitle E,  
22 Section 5201, and Subtitle X, Section 901.2.

23 And, the relief special exceptions is from the  
24 side yard requirements of Subtitle E, Section 207.2, lot  
25 occupancy requirements, Subtitle E, Section 304.1, and the

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1 rear yard requirements of Subtitle E, Section 306.1.

2 The property is located at 1274 Oates Street,  
3 N.E., Square 4060, Lot 48. And, the property is located in  
4 the RF-1 zone.

5 CHAIRPERSON HILL: Okay, thank you.

6 Mr. Heisey, can you hear me?

7 MR. HEISEY: Yes, I can.

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

10 MR. HEISEY: Yes, Mr. Chairman, Board members,  
11 thank you.

12 I'm Joel Heisey, and I'm representing the  
13 applicant for the special exception for the deck.

14 CHAIRPERSON HILL: Okay, great, Mr. Heisey.

15 Mr. Heisey, if you want to go ahead and walk us  
16 through your client's application, and why you believe that  
17 they are meeting the required standard for us to grant the  
18 relief requested. And, you can begin whenever you like.

19 MR. HEISEY: Thank you.

20 I haven't prepared a formal slide presentation.  
21 You guys are always pretty good about reviewing documents  
22 that are in the record. And, this seems to be a fairly  
23 straightforward case.

24 As you are aware, it's an existing deck. It was  
25 there when the owner, Ms. Earhart, bought the property. She

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1 wants to raze the deck, to make the parking space underneath  
2 usable.

3           When we were going through the building permits,  
4 Zoning flagged it that this had never been properly permitted  
5 originally.

6           So, we're going through this process to get the  
7 special exception and relief needed, to be able to  
8 reconstruct the deck in its same location. And, the same  
9 size.

10           We've requested a side yard special exception.  
11 Office of Planning doesn't think that's necessary, however,  
12 in past cases that I've had before you here, because it is  
13 set back three feet not zero or five feet, I've left it in.

14           I'll leave it at your discretion if you think  
15 that's still needed or not.

16           We are building the, or actually here I'll refer  
17 you to the photos in Exhibit 5. It shows the front and rear  
18 of the house, and the existing deck. And, the underneath  
19 where the parking.

20           Currently it's an old driveway that sloped into  
21 a garage that has been closed up for years. And, the deck  
22 is too low to currently allow a car to go under there, so  
23 it's really an unusable parking space.

24           And, then if you go on the second page if you are  
25 looking at those, the last picture on the bottom right, is

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1 the adjoining property has a deck that is very similar to  
2 what we're proposing, even though ours will be a little bit  
3 further out, and probably a little bit higher.

4 CHAIRPERSON HILL: Mr. Heisey?

5 MR. HEISEY: Yes?

6 CHAIRPERSON HILL: Let me interrupt you, because  
7 I'm going to ask then since you don't have a PowerPoint,  
8 which is fine, and I am opening up the different exhibits and  
9 have looked, and reviewed the record.

10 I'm just going to ask the Board if they have any  
11 direct questions that they'd ask the applicant?

12 MR. HEISEY: Sure. I think it's, one thing I  
13 would like to say, for neighbors' support, Ms. Earhart would  
14 like to address that.

15 We have gone before the ANC's zoning committee.  
16 They recommend approval. However, somewhere between their  
17 zoning committee and getting before the full ANC, it didn't  
18 get on to that agenda. And, my inquiries to them about it  
19 went unanswered.

20 Office of Planning is in support of this proposal,  
21 as well. And, I'll let Ms. Earhart address her contact with  
22 the neighbors for their support.

23 CHAIRPERSON HILL: Okay, Ms. Earhart, could you  
24 introduce yourself for the record, please?

25 MS. EARHART: Sure. Hi, my name is Jessica

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1 Earhart, and I'm the owner.

2 CHAIRPERSON HILL: Okay.

3 MS. EARHART: Of 1274 Oates. The neighbors that  
4 are in 1272, they gave a verbal okay. They are a bit  
5 elderly, and they did not want to sign anything. They were  
6 very hesitant to sign anything.

7 But we have provided them with the plans and they  
8 said okay, and they said that we could stand on their  
9 property in order to put up the fencing if we needed to, or  
10 anything like that. So, they were okay with it.

11 And, the neighbors in 1276 actually just sold  
12 their house, and then the neighbors directly behind me,  
13 that's a vacant home.

14 So, I have out of the three, one that says okay  
15 and then the other two. One is vacant --

16 CHAIRPERSON HILL: Okay.

17 MS. EARHART: -- and one is moving.

18 CHAIRPERSON HILL: Okay.

19 All right, I'm going to turn to the Office of  
20 Planning?

21 MS. MYERS: Good afternoon, Crystal Myers, for the  
22 Office of Planning. The Office of Planning is recommending  
23 approval of this case. We can stand on the record of the  
24 staff report.

25 As for, I will note that as for the side yard, we

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1 believe it may not be required but this is self-certified,  
2 and so we did review this application and our approval, or  
3 recommendation of approval does include the side yard relief  
4 as well.

5 CHAIRPERSON HILL: Okay, thank you.

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

8 (No audible response.)

9 CHAIRPERSON HILL: Mr. Young, is there anyone here  
10 wishing to speak?

11 MR. YOUNG: We do not.

12 CHAIRPERSON HILL: All right, okay, Mr. Heisey,  
13 do you have anything you'd like to add at the end?

14 MR. HEISEY: No, I believe our case and the record  
15 states why we meet the criteria for approving this special  
16 exception, and look forward to your discussions.

17 If you have any other questions, I'm available.

18 CHAIRPERSON HILL: Thank you, Mr. Heisey.

19 All right, I'm going to close the hearing, and the  
20 record. Mr. Young, if you could please excuse everyone.

21 (Pause.)

22 CHAIRPERSON HILL: Okay, I actually did think this  
23 was relatively straightforward. I didn't particularly have  
24 any issues with it, them replacing that deck and making the  
25 parking space usable.

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1 I am glad to hear that the ANC is in support. Oh,  
2 I'm sorry, I'm sorry. That I did have some questions about  
3 the ANC, but I'm glad that the applicant has spoken to that  
4 concern a little bit, in terms of they've been trying to  
5 reach out to the ANC, and I guess the ANC just wasn't  
6 necessarily interested in this case.

7 And, then I guess the outreach that the applicant  
8 has made to the adjoining properties, I'm satisfied with that  
9 particular outreach. And, also just thought that they were  
10 meeting the criteria for us to grant the relief requested.

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

12 MEMBER SMITH: I don't have anything to add. I  
13 do agree with you that this is a fairly straightforward  
14 application, for them to do this rear deck addition.

15 Replacing the existing deck, and looking at some  
16 images along the alley, it looks that this particular deck  
17 would be largely in keeping with what's already out there  
18 along that alley. So, it would be in character.

19 So, I agree with your analysis and OP's analysis  
20 of this case, and I'll support the application.

21 CHAIRPERSON HILL: Thank you. Mr. Blake?

22 MEMBER BLAKE: Yes, I'll be voting in support of  
23 the application as well, and I agree that the criteria's been  
24 met to be granted relief.

25 It's a small lot, smaller area, less than 1300

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1 square feet. Substandard in terms of lot width and lot area.  
2 I don't think it will have any impact on lot occupancy.

3 Both are non-conformant with the, with only three  
4 feet of additional height, the proposed deck should not  
5 result in a substantially greater impact on the neighbors'  
6 light, air or privacy.

7 I appreciate the outreach to the adjoining  
8 neighbors, and unfortunately, the ANC did not weigh in, but  
9 so there's nothing to give great weight to, but again, I  
10 acknowledge there's no opposition from the neighbors.

11 So, I'm in support.

12 CHAIRPERSON HILL: Thank you. Commissioner  
13 Miller?

14 ZONING COMMISSIONER MILLER: Thank you, Mr.  
15 Chairman.

16 I concur with my colleagues, and support this  
17 application.

18 CHAIRPERSON HILL: Vice Chair John?

19 VICE CHAIR JOHN: Thank you, Mr. Chairman.

20 I agree with all of the comments so far, and I'm  
21 in support.

22 CHAIRPERSON HILL: Okay, thank you.

23 I'll make a motion to approve Application No.  
24 20691 as captioned and read by the secretary, and ask for a  
25 second, Ms. John?

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1 VICE CHAIR JOHN: Second.

2 CHAIRPERSON HILL: Motion been made and seconded.

3 Mr. Moy, if you'll take roll call?

4 MR. MOY: When I call your name, if you would  
5 please respond with a yes, no, or abstain, to the motion made  
6 by Chairman Hill, to approve the application for the relief  
7 requested. The motion to approve was second by Vice Chair  
8 John.

9 Zoning Commissioner Rob Miller?

10 ZONING COMMISSIONER MILLER: Yes.

11 MR. MOY: Mr. Smith?

12 MEMBER SMITH: Yes.

13 MR. MOY: Mr. Blake?

14 MEMBER BLAKE: Yes.

15 MR. MOY: Vice Chair John?

16 VICE CHAIR JOHN: Yes.

17 MR. MOY: Chairman Hill?

18 CHAIRPERSON HILL: Yep, I mean yes. Thank you.

19 MR. MOY: Staff would record the vote as 5-0-0,  
20 and this is on the motion made by Chairman Hill to approve.  
21 The motion to approve was second by Vice Chair John, who is  
22 also in support.

23 Others in support of the motion to approve, Zoning  
24 Commissioner Rob Miller, Mr. Smith, Mr. Blake, and of course,  
25 Vice Chair John, and Chairman Hill.

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1 The motion carries on a vote of 5-0-0.

2 CHAIRPERSON HILL: Okay, great, thanks, Mr. Moy.

3 You can call our next one when you get a chance.

4 (Pause.)

5 MR. MOY: The next case before the Board is  
6 Application No. 20692, of Amelia Browne. This is an  
7 application for a special exception pursuant to Subtitle D,  
8 Section 5201, and Subtitle X, Section 901.2, from the rear  
9 yard requirements of Subtitle D, Section 306.2.

10 The property is located at 1359 Rittenhouse  
11 Street, N.W., Square 2789, Lot 116. And, the property is in  
12 the R-3 zone district.

13 CHAIRPERSON HILL: All right, thank you.

14 Mr. Tejada, can you hear me?

15 MR. TEJADA: Yes, I do.

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

18 MR. TEJADA: Yes, Mr. Chairman.

19 My name is Hernan Tejada, I'm part of the  
20 applicant's team to help you go through this relief.

21 CHAIRPERSON HILL: Got it.

22 MR. TEJADA: And, let me know.

23 CHAIRPERSON HILL: Mr. Tejada, if you want to go  
24 ahead and tell us about your applicant's application, and  
25 what you're trying to do?

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1 MR. TEJADA: Uh huh.

2 CHAIRPERSON HILL: And, tell us how you're meeting  
3 the requirement for the relief requested.

4 MR. TEJADA: Sure.

5 CHAIRPERSON HILL: If you don't, why don't you  
6 tell us a little about your application.

7 MR. TEJADA: I'm sorry, say that again?

8 CHAIRPERSON HILL: Please go ahead and walk us  
9 through what you're trying to achieve.

10 MR. TEJADA: Sure, no problem.

11 Well, it's going to be pretty straight-forward,  
12 it's a pretty straight-forward deck project, it's a second  
13 story deck, that is going to encroach only two feet inside  
14 the rear setback, which is set to 20. It's going to be 18.  
15 Just only two feet is a rear deck again.

16 It's very clear to see in the plan in Exhibit 2,  
17 how we only encroach two feet inside the setback. And,  
18 mainly it's the only relief we're requiring.

19 And, we already been discussing this with the ANC,  
20 and the Office of Planning, which we actually went back and  
21 forth, explaining them the project, and in consequence, both  
22 entities have issue reports of approval.

23 Also, we received the approval from the DDOT, that  
24 there was no issues with the alley if any problem were to  
25 come forth. We have plenty of letters of support, not just

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1 from the adjacent, but the adjoining neighbors, and the ones  
2 across the alley.

3 So, we caught basically entire pretty much almost  
4 the entire visually, visual sides of the addition, if you  
5 want to call it that way.

6 In regards to the burden of proof, basically the  
7 three items that --

8 (Simultaneous speaking.)

9 CHAIRPERSON HILL: Yes, Mr. Tejada, let me  
10 interrupt you one second.

11 MR. TEJADA: Sure.

12 CHAIRPERSON HILL: I'm just going to see. I like  
13 to turn to the Office of Planning first real quick, and then  
14 I get some questions from my board members if they have  
15 anything.

16 Sorry to interrupt you, Mr. Tejada.

17 MR. TEJADA: Oh, no problem.

18 CHAIRPERSON HILL: Where is the Office of  
19 Planning?

20 MR. TEJADA: I believe it was.

21 CHAIRPERSON HILL: Oh, that's all right, Mr.  
22 Tejada, I'm asking Mr. Young.

23 MR. YOUNG: It was supposed to be a Ms. Brown-  
24 Roberts, but I don't see her on. So, I just brought Mr.  
25 Lawson on. I'm not sure if he knows.

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1 CHAIRPERSON HILL: Mr. Lawson, do you happen to  
2 hear us?

3 MR. LAWSON: (No audible response.)

4 CHAIRPERSON HILL: Your exhibit is in Exhibit 29,  
5 Mr. Lawson.

6 MR. LAWSON: Hi, I'm sorry, I was having trouble  
7 with my computer. Can you hear me now?

8 CHAIRPERSON HILL: Yes, would you like to --

9 (Simultaneous speaking.)

10 MR. LAWSON: I'm sorry.

11 CHAIRPERSON HILL: -- introduce yourself for the  
12 record, please?

13 MR. LAWSON: Yes, I'm sorry. My name's Joel  
14 Lawson, with the D.C. Office of Planning.

15 Actually, Karen Thomas was going to cover this  
16 case for Maxine Brown-Roberts, but our report is in the  
17 record regarding this application, and we're also happy to  
18 stand on the record with that.

19 CHAIRPERSON HILL: Okay, thank you.

20 Does anybody have any questions for Mr. Lawson,  
21 the Office of Planning, that is?

22 (No audible response.)

23 CHAIRPERSON HILL: All right, Mr. Young, is there  
24 anyone here wishing to speak?

25 MR. YOUNG: We do not.

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1 CHAIRPERSON HILL: All right, I'm going to go  
2 ahead and close the hearing, and the record. Thank you, Mr.  
3 Tejada, thank you Mr. Lawson.

4 MR. TEJADA: Right, thank you.

5 (Pause.)

6 CHAIRPERSON HILL: All right my fellow Board  
7 members, this seems to be kind, I mean I love it, I'm going  
8 to jinx myself now, seems to be kind of a straightforward day

9 And, so I want to say that, you know, I didn't  
10 particularly think again this was much of an issue. I  
11 thought it was pretty clear that they're meeting the  
12 requirements for us to grant the relief requested. I mean  
13 again, it's a minor amount of relief that they're requesting.

14 I would agree with the analysis that the Office  
15 of Planning has provided, and also that of the ANC in Exhibit  
16 31. DDOT had no objections, and they actually had a  
17 surprising amount of, a ton of support for such a small  
18 project.

19 But nonetheless, I'm going to be voting in favor  
20 of this application.

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

22 MEMBER SMITH: I have nothing to add. I  
23 completely agree with your analysis on this particular case  
24 analysis, as far as the application.

25 CHAIRPERSON HILL: Thank you. Mr. Blake?

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1 MEMBER BLAKE: Yes, I'm in support of the project  
2 as well. It only shaves about two feet from the required  
3 rear yard. Office of Planning is in support. DDOT has no  
4 objection.

5 And, obviously there's several persons in support,  
6 including adjacent neighbors and the ANC's in support. So,  
7 I feel comfortable supporting this application.

8 CHAIRPERSON HILL: Thank you. Commissioner  
9 Miller?

10 ZONING COMMISSIONER MILLER: Thank you, Mr.  
11 Chairman, I concur with my colleagues, and I support this  
12 application.

13 CHAIRPERSON HILL: Thank you. Vice Chair John?

14 VICE CHAIR JOHN: I am also in support of the  
15 application.

16 CHAIRPERSON HILL: Thank you.

17 All right, then I'm going to make a motion to  
18 approve Application No. 20692 as captioned and read by the  
19 secretary, and ask for a second, Ms. John?

20 VICE CHAIR JOHN: Second.

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

23 MR. MOY: When I call your name, if you would  
24 please respond with a yes, no, or abstain, to the motion made  
25 by Chairman Hill, to approve the application for the relief

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1 requested.

2           The motion to approve was second by Vice Chair  
3 John.

4           Zoning Commissioner Rob Miller?

5           ZONING COMMISSIONER MILLER: Yes.

6           MR. MOY: Mr. Smith?

7           MEMBER SMITH: Yes.

8           MR. MOY: Mr. Blake?

9           MEMBER BLAKE: Yes.

10          MR. MOY: Vice Chair John?

11          VICE CHAIR JOHN: Yes.

12          MR. MOY: Chairman Hill?

13          CHAIRPERSON HILL: Yes.

14          MR. MOY: Staff would record the vote as 5-0-0,  
15 and this is on the motion made by Chairman Hill to approve.  
16 The motion to approve was second by Vice Chair John, who is  
17 also in support of the motion.

18                 Others in support, Zoning Commissioner Rob Miller,  
19 Mr. Smith, Mr. Blake, of course, Vice Chair John and Chairman  
20 Hill.

21          The motion carries on a vote of 5-0-0.

22          CHAIRPERSON HILL: Thank you, Mr. Moy.

23          You can call our next case, Mr. Moy.

24          (Pause.)

25          MR. MOY: The next case before the Board is

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1 Application No. 20696 of Taichi, T-A-I-C-H-I, DC, LLC. This  
2 is a self-certified application for special exception under  
3 Subtitle U, Section 513.1E, pursuant to Subtitle X, Section  
4 901.2, to allow a fast food restaurant use.

5 The property is located at 1357 Wisconsin Avenue,  
6 N.W., Square 1243, Lot 70, and the property is located in the  
7 MU-4 zone.

8 CHAIRPERSON HILL: Hello, Mr. Williams, can you  
9 hear me?

10 MR. WILLIAMS: I can, Chairman Hill, thank you.

11 CHAIRPERSON HILL: Thank you. Could you introduce  
12 yourself for the record, please?

13 MR. WILLIAMS: Yes, my name's Zach Williams, I'm  
14 a land use attorney with the law firm of Venable,  
15 representing the Applicant today.

16 CHAIRPERSON HILL: Okay, great. Mr. Williams, I  
17 see your PowerPoint, I'm going to let you go ahead and pull  
18 that up and walk us through why you believe your client is  
19 meeting the relief requested.

20 I guess there's a couple of issues -- well, not  
21 issues -- but if you can kind of, like, speak to the trash,  
22 and where, you know, trash management, where you plan on  
23 putting that, and then some of the, kind of, discussion that  
24 you've had with the ANC. And I'm going to let you begin  
25 whenever you like.

1 MR. WILLIAMS: Great, thank you. Mr. Young, if  
2 you could pull up that presentation, we'll get started.

3 Thank you again, the Applicant today is Taichi  
4 Bubble Tea, it's a franchise restaurant that is proposing to  
5 open at 1357 Wisconsin Avenue, Northwest, in the Georgetown  
6 neighborhood. Next slide, please.

7 Here's a quick excerpt from the zoning map showing  
8 the property at which this restaurant is proposed, it's  
9 Square 1243, Lot 70, zoned MU-4. Next slide, please.

10 This is a rendering of what the building will look  
11 like, it's currently under renovations, and the building that  
12 we are talking about is actually the building on the left  
13 here with the two white facades on the two awnings. The  
14 space that this restaurant would be going into is the one on  
15 the right, so the more southerly of the two storefronts.

16 And that is a property that's already been  
17 approved by the CFA, the renovation is fully approved, the  
18 construction, the exterior, and this is what it will look  
19 like when completed. Next slide, please.

20 This is the proposed rendering of the inside of  
21 the restaurant, and just to sort of back up for a minute  
22 here, the relief sought today is for a fast food  
23 establishment, in the MU-4 zone, and we'll get into why this  
24 technically qualifies for a fast food establishment, though  
25 we believe it's not going to operate as your, sort of,

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1 traditional fast food would.

2           This is a rendering of what the proposed  
3 restaurant would look like when you walk in, this is going  
4 to be a restaurant that serves, as you would expect, bubble  
5 teas, as well as ramens, ramen bowls, and things like that.

6           It's a popular restaurant in the other locations  
7 it's located in, this is going to be its first restaurant in  
8 the District. Next slide, please.

9           Here's just another view of the rendering of the  
10 interior and what this restaurant will look like, if  
11 approved. Next slide, please.

12           And here's one more rendering of the menu boards,  
13 and this sort of operates like the Chipotle model, if you  
14 will, where you go to the counter, your food is prepared in  
15 front of you and you take it to sit down inside of the  
16 restaurant. The restaurant will have seats and tables as  
17 well, for patrons. Next slide, please.

18           Here's some interior layouts of the restaurant,  
19 you can see it's on two levels, be the primary level as well  
20 as the basement level. And there'll be tables as well as the  
21 ordering bar for the patrons on the first level, and then on  
22 the basement level there'll be additional seating as well.  
23 Next slide, please.

24           As I mentioned, the relief sought today is special  
25 exception relief, we are in the MU-4 zone and in the MU-4

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1 zone a fast food establishment requires a special exception.  
2 While this restaurant is technically considered a fast food  
3 establishment under the zoning regulations, just as a  
4 Chipotle might be, it's not going to function, sort of, as  
5 a traditional fast food might.

6           And what I mean by that is that, this is a  
7 restaurant where we expect patrons will order their food  
8 that's prepared on the spot and then will eat, you know,  
9 either in the store or will take it to go.

10           The types of foods, as I mentioned, are going to  
11 be a variation on rice bowls, salad bowls, burritos, ramen,  
12 teas and other beverages. There'll be 42 tables in this  
13 restaurant, with 94 seats in total. Next slide, please.

14           We believe the use meets the conditions for a  
15 special exception, there are special conditions for a fast  
16 food establishment under Subtitle G, Section 513. Most of  
17 those special conditions don't apply here, things like drive-  
18 throughs and other similar types of conditions that will not  
19 be applicable to this application.

20           The application also meets the condition of  
21 Subtitle X 901.1's general special exception conditions. And  
22 we'll go through that here quickly, we believe this will be  
23 in harmony with the neighborhood, this is a retail,  
24 restaurant-heavy portion of Wisconsin Avenue.

25           Just adjacent to us on this block, we have the

1 Compass Coffee with the Georgetown Marquee, we have &pizza,  
2 a 7-Eleven, a Bank of America, Wells Fargo, so this use we  
3 believe will fit in with the harmony, and harmonize with the  
4 surrounding commercial uses.

5           There won't be any impacts at the rear of the  
6 property, the customer entrance will be on Wisconsin Ave, all  
7 of the trash collection will be handled at the front of the  
8 store. And this was something that was discussed with the  
9 community and ANC, the trash company that the Applicant has  
10 hired will come into the store where it will be stored, take  
11 the trash out of the store and then collect it and move on.

12           That'll all be done at the front of the store, now  
13 it can be done at the rear of the store if folks determine  
14 that that makes more sense, but for now it will be at the  
15 front of the store, and it will be within the conditions that  
16 were set by the ANC in its resolution of support.

17           Another condition, and something that the  
18 Applicant agreed to, were the hours of operation, and this  
19 is meant to ensure there are no significant impacts on the  
20 community, and the hours of operation are listed on this  
21 slide. So it'll be 11:00 to 10:00 p.m., Monday through  
22 Thursday, 11:00 to 11:00 p.m. Friday and Saturday, and 12:00  
23 to 10:00 p.m. on Sunday -- and those hours were negotiated  
24 with the ANC as well. Next slide, please.

25           This is just a illustration of the trash plan and

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1 it indicates where the trash receptacles inside the  
2 restaurant will be, this is something that we discussed and  
3 went over with the ANC 2E. This was probably the primary  
4 concern, and it's something that all the retailers on this  
5 street have to deal with. Trash is handled at the curb at  
6 the front of the store, just as it is for the other retailers  
7 on Wisconsin Ave, and this area.

8 We can show here on this plan where the trash is  
9 kept inside the store and how it will be collected and taken  
10 from those receptacles, out to the curb where it will be  
11 collected by the trash company directly. Next slide, please.

12 As I mentioned, we met with ANC 2E, and we  
13 received unanimous support for the project. There were two  
14 conditions that we negotiated with the ANC and agreed to, the  
15 Applicant accepts both of those conditions, and the Office  
16 of Planning also recommends approval of the special  
17 exception, and we respectfully request your approval of the  
18 relief sought here. Thank you.

19 CHAIRPERSON HILL: Okay, thanks. If it's okay  
20 with my fellow board members I'm going to turn to the Office  
21 of Planning first, and then I'll see if anybody has any  
22 questions of anyone.

23 Mr. Cochran, could you please introduce yourself?

24 MR. COCHRAN: Sure. Thank you, Mr. Chair, I'm  
25 Steve Cochran, representing the Office of Planning in Case

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1 20696. Pursuant to U-513.1(c), and Subtitle X, Chapter 9,  
2 OP recommends special exception approval of a use that is not  
3 by right under Subtitle U-512.

4 OP is not proposing any conditions, we do note  
5 that DDOT has no objection as long as the Applicant works out  
6 a loading management plan, prior to the C of O. That  
7 concludes our report but, of course, we're open to any  
8 questions.

9 CHAIRPERSON HILL: Okay, thank you. Mr. Williams,  
10 can you hear me?

11 MR. WILLIAMS: I can.

12 CHAIRPERSON HILL: You guys are understanding  
13 about putting together a loading management plan, before the  
14 C of O is issued, is that correct?

15 MR. WILLIAMS: Yes, we can do that.

16 CHAIRPERSON HILL: Okay. All right, and right,  
17 those conditions are in that ANC report. All right, does the  
18 Board have any questions of the Office of Planning or the  
19 Applicant?

20 (No audible response.)

21 CHAIRPERSON HILL: All right. Oh, Commissioner  
22 Miller?

23 ZONING COMMISSIONER MILLER: Thank you, Mr.  
24 Chairman. You might have covered this, if the Applicant's  
25 still with us I just wanted to confirm that they have no

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1 objection to the addition of the ANC 2E's condition,  
2 suggested conditions, to their approval on trash collection  
3 and the store's operating hours?

4 MR. WILLIAMS: That's correct, part of that  
5 condition is, that's the reason we have decided to hire a  
6 trash company that can come and collect the trash during  
7 store hours. One of the other options was to have the trash,  
8 sort of, left at the curb and collected over night, but  
9 because of that ANC condition we've hired a different company  
10 to do that.

11 ZONING COMMISSIONER MILLER: Okay, thank you very  
12 much. Thank you, Mr. Chairman.

13 CHAIRPERSON HILL: Sure. Mr. Blake?

14 MEMBER BLAKE: Yeah. Two quick questions, the  
15 first, with regard to the load management port, can you give  
16 me some sense of some of the items that would be included in  
17 that report, just so I can get a sense of where that would  
18 be going, because it'd be kind of loose ended, open ended.

19 The second thing is, could you give me a sense of  
20 what the trigger point is that creates this as a fast food  
21 restaurant versus a service, or I guess it's just a service  
22 style, but I just want to get clarification on that?

23 MR. WILLIAMS: Is that a question for myself or  
24 the Office of Planning?

25 MEMBER BLAKE: It's a question for you.

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1 MR. WILLIAMS: Okay. The loading management plan  
2 will include where the loading will take place, when it will  
3 take place, how often that will occur. Here, it's going to  
4 be primarily, you know, materials for the food that's going  
5 to be prepared on site, and other materials for storage of  
6 food and food containers.

7 As far as the fast food question goes, I think  
8 the, sort of, primary trigger here is that there's not going  
9 to be waiter service. So this is food that's prepared in  
10 sort of a to-go container, if you will, and then it's taken  
11 by the customer to eat either, in the store at a table, or  
12 to eat to-go.

13 I mean, there's been a lot of, sort of,  
14 discussions about fast food establishments, and, you know,  
15 the breadth of that of that definition, because it does  
16 appear to cover, sort of, uses that are broader than our,  
17 sort of, traditional fast food would be.

18 But it's been pretty consistently interpreted to  
19 include, what I call, sort of, the Chipotle style, & pizza  
20 style of ordering at the counter, taking it to go. But you  
21 don't have waiter service, you sort of bus your own table,  
22 and that's sort of the trigger.

23 But I'll defer to Mr. Cochran at the Office of  
24 Planning, if I misstated any of that.

25 MR. COCHRAN: The Applicant has summarized it very

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1 well.

2 MEMBER BLAKE: Thank you.

3 CHAIRPERSON HILL: Okay. Anyone else have any  
4 questions?

5 (No audible response.)

6 CHAIRPERSON HILL: Sure, Ms. John?

7 VICE CHAIR JOHN: Yes, I have a question for the  
8 Office of Planning, did you have any comment on the, DDOT's  
9 condition about a loading plan? I was looking through the  
10 regulations and I don't know if that's a requirement for us  
11 to approve it. Do you have a comment?

12 MR. COCHRAN: We don't, because it's something  
13 that has to be done prior to the C of O. I think it provides  
14 incentive for the applicant to work out a good loading plan,  
15 otherwise they can't open their business. And DDOT is  
16 usually very good about working with the applicant on that.

17 VICE CHAIR JOHN: I know, but maybe someone can  
18 help me with the regulation on that? I'm trying to  
19 understand the regulation as far as --

20 (Simultaneous speaking.)

21 MR. COCHRAN: I'm not familiar with the zoning  
22 regulations stipulating any particular requirements for a  
23 loading plan, there just has to be one. Obviously the  
24 loading plan would have to restrict deliveries during rush  
25 hours on Wisconsin Avenue, and things like that.

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1           VICE CHAIR JOHN:  And that's what I'm looking for  
2 because if we need to see a loading plan before we can  
3 approve it, then I don't think we can approve it today.  
4 That's my question, and I don't have the regulation in front  
5 of me.  I don't know if the Applicant knows, but where is  
6 that requirement, is it a DDOT issue or is it a BZA issue?

7           CHAIRPERSON HILL:  As far as I'm aware, that is  
8 not a requirement of the special exception relief.

9           VICE CHAIR JOHN:  That's what I was looking for  
10 in the special exception relief, unless of course --

11                   (Simultaneous speaking.)

12           CHAIRPERSON HILL:  Yeah.  It's not part of the  
13 conditions or the requirements.

14           VICE CHAIR JOHN:  Okay.  So what are you all  
15 planning to do, in terms of your loading plan?

16           MR. WILLIAMS:  Well that's something that will be  
17 worked out at permitting with DDOT, so I don't know that we  
18 have the fine details on that yet.

19                   But as Mr. Cochran mentioned, that will be when  
20 we set forth when the loading will take place, the hours that  
21 it will take place, the consistency of it, how often that  
22 will be occurring, but I don't know that we have that nailed  
23 down at this point in time.

24           VICE CHAIR JOHN:  Okay.

25           MR. COCHRAN:  If I might?

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1 VICE CHAIR JOHN: Go ahead.

2 CHAIRPERSON HILL: Go ahead, Mr. Cochran.

3 MR. COCHRAN: A loading plan, in my experience,  
4 is typically required for, certainly for a PUD, I'm not that  
5 familiar with any BZA case that I've dealt with where the  
6 specifics of the loading plan have been part of a decision.

7 VICE CHAIR JOHN: Thanks for the response.

8 CHAIRPERSON HILL: Okay. All right, let's see,  
9 Mr. Young, is there anyone here wishing to speak?

10 MR. YOUNG: Yes, we have two witnesses.

11 CHAIRPERSON HILL: Okay, you want to bring them  
12 in?

13 (No audible response.)

14 CHAIRPERSON HILL: And are their names -- can you  
15 give me their names also, Mr. Young?

16 MR. YOUNG: Nora Burke and Patrick Burke.

17 CHAIRPERSON HILL: Oh, okay. Mr. Burke, can you  
18 hear me?

19 (No audible response.)

20 MS. BURKE: I can hear you. Pat, unmute.

21 CHAIRPERSON HILL: Oh, Ms. Burke. --

22 (Simultaneous speaking.)

23 MS. BURKE: Yeah, well no, Patrick's on too, I  
24 just, I can't figure out how to start my camera. Oh, that's  
25 --

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1 (Simultaneous speaking.)

2 CHAIRPERSON HILL: That's all right, we can hear  
3 you.

4 MS. BURKE: Okay.

5 CHAIRPERSON HILL: Could you introduce yourself  
6 for the record?

7 MS. BURKE: Sure, my name is Nora Burke, my  
8 husband Patrick and I own the property at 3148 O Street,  
9 which is right across the alley, we're the end unit, so our  
10 entire side of the house, the back of the house, faces the  
11 alley right across from this property --

12 CHAIRPERSON HILL: Can you give me your address  
13 again, I'm sorry?

14 MS. BURKE: Sure, 3148 O Street.

15 CHAIRPERSON HILL: Okay, great. Okay. Ms. Burke,  
16 you'll have three minutes to give your testimony, there's a  
17 clock there on the screen and you can begin whenever you  
18 like.

19 MS. BURKE: Okay. So we've owned this place for  
20 30 years, we've been dealing with the construction on this  
21 property for over five years and it's been a nightmare, to  
22 say the least.

23 So we were concerned about the tenant coming in  
24 there, and some specific things are trash, I think I read in  
25 the application something about the trash would not be on the

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1 alley, but we already see two trash cans placed there on the  
2 property. But also, you know, if it's not going to be there,  
3 where is going to be, because there's certainly no room on  
4 the front to have it outside in the front of the building.

5           How is it going to be contained, I read something  
6 about some brick wall going up, but, you know, I'm just, I'm  
7 very concerned about the trash, the noise, and, you know,  
8 employees hanging outside, smoking whatever they're going to  
9 be smoking.

10           Because this is a residential alley and we've just  
11 been putting up with so much from this owner for five years  
12 that I have very little faith of anyone following the rules  
13 there, so I'd really like some reassurances of what's going  
14 to be happening with the trash there, and how -- I mean, we  
15 have a bad rat problem on the alley, a very bad rat problem  
16 on the alley, and I don't want food remnants to make it even  
17 worse. We're trying to get it under control.

18           MR. WILLIAMS: And thanks, Nora. Just beyond that  
19 --

20           CHAIRPERSON HILL: One second, give me one second.  
21 So, Ms. Burke, is that the end of your testimony?

22           MS. BURKE: Sure, yeah, Pat can hop in.

23           CHAIRPERSON HILL: Okay. Mr. Burke, could you  
24 introduce yourself for the record?

25           MR. BURKE: Patrick Burke, D.C. resident, retired

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1 Metropolitan Police officer.

2 CHAIRPERSON HILL: Okay. Mr. Burke, what's your  
3 address again, are you at the same address?

4 MR. BURKE: 3148 O, as in ocean, Street,  
5 Northwest.

6 CHAIRPERSON HILL: Okay, great. Thank you, Mr.  
7 Burke. Again, Mr. Burke, you'll have three minutes as a  
8 member of the public to give your testimony, and you can  
9 begin whenever you like.

10 MR. BURKE: Yeah, I'll start just articulating the  
11 issue with the rat problem that's existed without even having  
12 a restaurant in that location, so we're extremely concerned  
13 about food, the way the garbage is collected, the hours, the  
14 potential for noise impacting quality of life.

15 You know, especially, I know with these types of  
16 locations that, we're concerned about having employees  
17 loitering in the back at hours that could impact quality of  
18 life. And once again, with any activity happening  
19 specifically on the alley.

20 MS. BURKE: Like the hours of trash pickup at 6:00  
21 a.m. or whatever --

22 CHAIRPERSON HILL: Okay, give me a -- I apologize,  
23 Mr. Burke. You guys have to go one at a time.

24 MS. BURKE: Sorry.

25 CHAIRPERSON HILL: That's all right. So, okay,

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1 Mr. Burke, is that all of your testimony?

2 MR. BURKE: That is all my testimony, I'm just  
3 concerned about the quality of life along the alley, any  
4 additional people that are going to be -- once again, it's  
5 a residential property directly abutting a commercial  
6 property. We're concerned about quality of life for the  
7 residents of -- long term residents of Washington D.C..

8 CHAIRPERSON HILL: Sure. Mr. Burke and Ms. Burke,  
9 you guys have been there for 30 years?

10 MR. BURKE: Yes. November will be 30 years.

11 CHAIRPERSON HILL: Okay, no, I'm just saying, I  
12 mean, I know that area there. All right, okay, does anybody  
13 have any questions for the witnesses?

14 (Simultaneous speaking.)

15 VICE CHAIR JOHN: One quick question.

16 CHAIRPERSON HILL: Sure, Ms. John?

17 VICE CHAIR JOHN: How wide is that alley?

18 MS. BURKE: It's, like, eight feet.

19 VICE CHAIR JOHN: Okay, thank you.

20 CHAIRPERSON HILL: Okay, Mr. Blake?

21 MEMBER BLAKE: Yeah, this might be a better  
22 question for someone else, but I'm just curious to know how  
23 many, are there other restaurants in the direct vicinity of  
24 that that would be contributing to this rat problem? Just,  
25 are there other ones, and I just probably want to get the

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1 Applicant to tell me, what was in that location prior to  
2 this?

3 MS. BURKE: Well I can tell you -- this is Nora,  
4 if you want me to answer that. Currently the only other  
5 food-serving thing there would be the Compass Coffee, which  
6 has only been there, you know, maybe at most, what, four  
7 years or something like that, the rat problem's been going  
8 on a lot longer than that.

9 And then, but I do know that there is another  
10 application, I believe, either in or in process for the  
11 property directly to the south of this property that is  
12 planning to, you know, apply, or I don't know if they've  
13 already been through it.

14 MEMBER BLAKE: And to the Applicant, can you tell  
15 me what was in the property before?

16 MR. WILLIAMS: Well the property is being  
17 renovated --

18 (Simultaneous speaking.)

19 MR. COCHRAN: Retail clothing.

20 MR. WILLIAMS: Yeah. There was a men's clothing  
21 store, but the property's been changed and is under  
22 renovation, so it's sort of a new space, if you will.

23 CHAIRPERSON HILL: Okay. Ms. Burke or Mr. Burke,  
24 did you guys go to your ANC meeting?

25 MR. BURKE: No, I wasn't able to make the ANC

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1 meeting, but expressed my concerns to our ANC commissioner.

2 CHAIRPERSON HILL: Got it. And then, so you've  
3 seen the conditions that they have -- well, not conditions,  
4 the items that they, that the neighbor had agreed to in the  
5 ANC report?

6 MS. BURKE: I had --

7 (Simultaneous speaking.)

8 MR. BURKE: I'm sorry. Your audio's breaking up  
9 on me, I wasn't able to hear that.

10 CHAIRPERSON HILL: Sure. Have you seen the items  
11 that the Applicant has agreed to, which are within the ANC  
12 report?

13 MR. BURKE: I have not.

14 CHAIRPERSON HILL: Okay. Because they speak to  
15 some of your trash concerns in that ANC report, just to let  
16 you know, and that's in Exhibit -- trying to find it --

17 ZONING COMMISSIONER MILLER: Eighteen.

18 CHAIRPERSON HILL: Thank you. Exhibit 18. It  
19 might be handy if you guys take a look at Exhibit 18 and then  
20 see some of the comments concerning the trash, but we'll talk  
21 about that a little bit now as well.

22 Okay, does anybody have any questions, again, for  
23 the witnesses?

24 ZONING COMMISSIONER MILLER: Just to thank Chief  
25 Burke for his service to the District of Columbia

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1 Metropolitan Police Department, all those 26 years or  
2 something like that, I think, and then the U.S. Marshall's  
3 service. We appreciate your service.

4 CHAIRPERSON HILL: Thank you, Commissioner Miller.  
5 Okay. All right, let me just go ahead and, if I could, keep  
6 you guys there for a minute, but if you want to -- I don't  
7 know if you can just stay on hold there for Mr. Young.

8 Right, so, Mr. Williams, I know there's items  
9 concerning the trash, right? Concerning the alley there, I  
10 mean, has your Applicant thought of any things that they  
11 might put in place, in terms of employees with regards to the  
12 alley and how they might smoke in the alley or treat the  
13 alley?

14 MR. WILLIAMS: We haven't really addressed that  
15 because we don't have any plans to use that alley, it's  
16 really not meant for the commercial space here, it's for the  
17 residents. And we negotiated with our SMD Rick Murphy about  
18 this trash question, and we agreed not to have any trash  
19 collection in that alley -- collection or receptacles there.

20 So there's not going to be any food or trash back  
21 there at any time, as part of the condition. And I don't  
22 know any reason why anyone would use the alley, it's really  
23 not, there's no use for it for the store, for the restaurant.

24 CHAIRPERSON HILL: I understand, I was just  
25 wondering whether your client had thought about, like, you

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1 know -- and the answer could be no -- but had thought about,  
2 you know, employees smoking or anything like that in the  
3 alley.

4 MR. WILLIAMS: We haven't discussed it. I don't  
5 anticipate why that would be an issue, but we haven't  
6 discussed that specifically.

7 CHAIRPERSON HILL: Okay. All right, okay, I'm  
8 going to go ahead and excuse the witnesses, thank you. Mr.  
9 Young --

10 (Simultaneous speaking.)

11 MS. BURKE: Thanks.

12 CHAIRPERSON HILL: Thank you. Okay, I guess, Mr.  
13 Williams, now I'm just trying to figure out this smoking  
14 thing in the alley, right? Like, is there, you know, I mean,  
15 I see that you worked with the ANC about trash.

16 The alley, I mean, I know where we are with where  
17 that alley is and all of the different retail establishments  
18 that are there on Wisconsin Avenue. Is your -- your  
19 Applicant's not here, right?

20 MR. WILLIAMS: He should actually be here.  
21 Though, I mean, I can speak on his behalf. If we want to put  
22 a condition about no smoking in the alley, I don't think  
23 that's going to be an issue.

24 CHAIRPERSON HILL: Okay. I don't necessarily  
25 think it's a condition that the Board would put in place,

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1 unless my fellow board members think that's something that  
2 would be necessarily within our purview.

3           However, I think that it's something that could  
4 be addressed in the record, and also in the order, concerning  
5 no smoking in the alley. And you, Mr. Williams, think that  
6 your Applicant would not have an issue with this?

7           MR. WILLIAMS: I'm sure about that.

8           CHAIRPERSON HILL: Okay. All right, then that's  
9 something that we can reference in the order.

10           All right, does anybody else have any questions  
11 for the Applicant?

12           (No audible response.)

13           CHAIRPERSON HILL: All right. Okay, I'm going to  
14 go ahead and close the hearing and the record. Thank you,  
15 Mr. Williams.

16           MR. WILLIAMS: Thank you.

17           CHAIRPERSON HILL: Okay. All right, yeah, I  
18 didn't actually have a whole lot of issues with the  
19 application. I mean, there was, I believe that they're  
20 meeting the criteria for us to grant the relief requested.

21           I would agree with the analysis that have been  
22 provided by the Office of Planning, I think that -- I mean,  
23 I actually, you know, think that the retail that is going in  
24 there, I mean, there's a lot of issues with, I know that  
25 Georgetown is trying to, you know, keep their retail.

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1           We've had a lot of conversation about the retail  
2 issues that Georgetown is having, and trying to get more  
3 retail in there. It seems as though this is actually a  
4 decent franchise that seems to be trying to go in there, and  
5 that they seem to be willing to be good neighbors to the  
6 community there as far as their trash mitigation plan.

7           And now that, I would just reference the  
8 conditions that are in the record in the ANC report, and then  
9 also reference in the order the no smoking in the alley, so  
10 that that would be something that would be less of a concern  
11 to the immediate community.

12           And, other than that, I don't have any issue with  
13 it, I mean, the loading management plan, I think that that's  
14 something that can be addressed with DDOT and the Applicant  
15 prior to the Certificate of Occupancy, however, I am voting  
16 in approval for the application. Mr. Smith, is there  
17 anything you'd like add?

18           MEMBER SMITH: No, I don't have anything to add,  
19 I would just make a recommendation that -- I would say I'm  
20 in support of it, but would make a recommendation to add  
21 those conditions that the ANC requested to the order -- hours  
22 of operation and how trash will be removed.

23           CHAIRPERSON HILL: So, Mr. Smith, you'd like to  
24 add those actually into the order, which is fine with me,  
25 that's what your --

1 MEMBER SMITH: Yeah.

2 CHAIRPERSON HILL: Advocating for? Okay. That's  
3 fine with me. Mr. Blake?

4 MEMBER BLAKE: Yes, I would agree with Mr. Smith's  
5 observation on that. I think that a lot of the issues that  
6 were raised by the neighbors are addressed by those  
7 conditions, and it is a very small alley that can't really  
8 do too much commercial activity.

9 And it is unfortunate that being so close to an  
10 MU zone, you will have the issue of rats, but that's pretty  
11 common throughout the District. So I think that the  
12 conditions that have been mentioned would be very helpful in  
13 mitigating some of the issues that were discussed, and so I  
14 would be in support of the application. I believe it meets  
15 the criteria otherwise.

16 CHAIRPERSON HILL: Thank you. Commissioner  
17 Miller?

18 ZONING COMMISSIONER MILLER: Thank you, Mr.  
19 Chairman. Yes, I concur with the comments of my colleagues  
20 and support this application for the reasons set forth by the  
21 Applicant in their presentation and statement, and as well  
22 as the Office of Planning and support by the ANC 2E.

23 You probably were going to do this, Mr. Chairman,  
24 but I'll just read into the record, since we're going to go  
25 with the conditions suggested by the ANC, I just wanted to

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1 read those conditions into the record and leave for our  
2 counsel to refine it in any way that's appropriate in  
3 consultation with the Applicant's counsel.

4           So the ANC's conditions for their approval were,  
5 Number one, all trash will be stored inside the store at all  
6 times, and not in the alley at the rear of the premises.  
7 Trash will be removed from the interior of the store through  
8 the front door on Wisconsin Avenue for the purpose of pickup  
9 by the Applicant's commercial trash service. Trash  
10 containers will be placed in front of the store on Wisconsin  
11 Avenue, Northwest, early in the morning on pickup days before  
12 the store opens in the morning, and will not be allowed to  
13 remain outside after the store opens.

14           Number two, condition recommended by the ANC, was  
15 the store's operating hours will be from 11:00 a.m. to 10:00  
16 p.m. on Monday through Thursday, from 11:00 a.m. to 11:00  
17 p.m. on Friday and Saturday, and from 12:00 p.m. to 10:00  
18 p.m. on Sunday. I think we have a suggestion from our  
19 counsel that the verb, will be, the store's operating hours  
20 will be, to change that to, the store's operating hours shall  
21 not exceed the hours of 11:00 a.m. to 10:00 p.m., just so  
22 that's worded correctly.

23           And with those conditions recommended by the ANC,  
24 as tweaked by our counsel, I am in support of this  
25 application, Mr. Chairman. Thank you.

1 CHAIRPERSON HILL: Okay, thank you. Vice Chair  
2 John?

3 VICE CHAIR JOHN: I have nothing to add. I'm in  
4 support because of all of the reasons stated so far, and I  
5 concur with the Office of Planning's recommendation.

6 CHAIRPERSON HILL: Okay, thank you. So I'm going  
7 to go ahead and make a motion to approve Application Number  
8 20696 as captioned and read by the secretary, including the  
9 conditions that Vice Chair Miller read, which are also  
10 included in the ANC's report in Exhibit 18, and referencing  
11 in our order the Applicant had agreed to non-smoking in the  
12 alley behind the building, and ask for a second, Ms. John?

13 VICE CHAIR JOHN: Second.

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

16 MR. MOY: When I call your name, if you would  
17 please respond with a yes, no, or abstain to the motion made  
18 by Chairman Hill to approve the application for the relief  
19 requested, as well as, I believe, Mr. -- you mentioned the  
20 two conditions as Mr. Miller had mentioned, cited. That was  
21 in your motion as well, correct, sir?

22 CHAIRPERSON HILL: Yes.

23 MR. MOY: Okay, and this motion with conditions  
24 was second by Vice Chair John. Zoning Commissioner Rob  
25 Miller?

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1 ZONING COMMISSIONER MILLER: Yes.

2 MR. MOY: Mr. Smith?

3 MEMBER SMITH: Yes.

4 MR. MOY: Mr. Blake?

5 MEMBER BLAKE: Yes.

6 MR. MOY: Vice Chair John?

7 VICE CHAIR JOHN: Yes.

8 MR. MOY: Chairman Hill?

9 CHAIRPERSON HILL: Yes.

10 MR. MOY: Staff would record the vote as five-to-  
11 zero-to-zero, and this is on the motion made by Chairman Hill  
12 to approve with conditions, the motion was second by Vice  
13 Chair John, also in support. Others in support of the motion  
14 is Zoning Commissioner Rob Miller, Mr. Smith, Mr. Blake, Vice  
15 Chair John, and Chairman Hill. The motion carries on a vote  
16 of five-to-zero-to-zero.

17 CHAIRPERSON HILL: Okay, thank you, Mr. Moy. So  
18 if you guys are okay with this, like, we have two more cases  
19 and I can go ahead and vote for trying to power through,  
20 unless you all have -- I mean, we can take a quick break and  
21 power through or we can just power through.

22 So I'm going to call our next case, unless  
23 somebody raises their hand. Okay, do you want to take a 10  
24 minute break?

25 VICE CHAIR JOHN: Ten minute break, please.

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1 CHAIRPERSON HILL: Okay, 10 minute break.

2 VICE CHAIR JOHN: Yeah.

3 CHAIRPERSON HILL: Okay. Thank you, we'll be back  
4 in 10 minutes.

5 (Whereupon, the above-entitled matter went off the  
6 record at 12:49 p.m. and resumed at 1:06 p.m.)

7 CHAIRPERSON HILL: Mr. Moy, if you'd call us back  
8 in and please call our next case?

9 MR. MOY: The Board has returned to its Public  
10 Hearing session after a brief recess, and the time is at or  
11 about 1:07 p.m. The next case before the Board is  
12 Application No. 20637 of 2812 Gainesville Street, Southeast,  
13 LLC.

14 This Application is self-certified for Special  
15 Exceptions, pursuant to Subtitle X, Section 901.2, under the  
16 Subtitle U, Section 421, to allow a new residential  
17 development.

18 And, under Subtitle F, Section 5206.1, from the  
19 floor area ratio of Subtitle F, Section 302.2, this is  
20 located at 2812 Gainesville Street, SE (Square 5729 W, Lot  
21 2). This is in the RA-1 Zone District.

22 And, Mr. Chairman, there are three documents that  
23 were submitted late and not in the record. One is a revised  
24 plans from the Applicant, as well as the Applicant's  
25 PowerPoint, and there was a letter of support from ANC 8B.

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1 CHAIRPERSON HILL: Okay. And, unless the Board  
2 has any issues, I like to put everything into the record, and  
3 if you have any issues, please raise your hand. Mr. Moy,  
4 could you drop all those into the record?

5 And then, I think that, probably, the Applicant  
6 has its PowerPoint, so they can walk through the PowerPoint,  
7 while those are being dropped into the record and then we can  
8 take a look, during the presentation.

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

11 MR. SULLIVAN: Good afternoon, Members of the  
12 Board. My name is Marty Sullivan, with Sullivan and Barros,  
13 on behalf of the Applicant.

14 CHAIRPERSON HILL: Thank you. Mr. Sullivan, if  
15 you could, go ahead and walk us through your Applicant's  
16 presentation, as to why you believe they're meeting the  
17 criteria for us to grant the relief requested, and you can  
18 begin whenever you like.

19 MR. SULLIVAN: Thank you, Mr. Chair. I -- also  
20 with me here, is the Applicant Owner, Mr. Winston Cox, if  
21 there are any questions for him. And Rob McClennan, the  
22 architect, should be here, but I don't see him online. If  
23 he doesn't come -- oh, there he is. So --

24 CHAIRPERSON HILL: Okay.

25 MR. SULLIVAN: -- I'll get --

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1 CHAIRPERSON HILL: -- I got your --

2 MR. SULLIVAN: -- started. Thank you.

3 (Simultaneous speaking.)

4 CHAIRPERSON HILL: Okay. Thanks, Mr. Sullivan.

5 I have your PowerPoint up, as well.

6 MR. SULLIVAN: Okay.

7 CHAIRPERSON HILL: And I might, you know --  
8 whenever -- curtail some of your slide, because you got 31  
9 right now. We'll see, meaning, where we get with some of  
10 this, in terms of the questions, but if you can kind of like  
11 hit some of the highlights with us and then we'll see where  
12 we get, okay?

13 MR. SULLIVAN: Understood. Thank you. We will --  
14 we'll be mindful of that. So, Mr. Young, if you could load  
15 the presentation? Thank you very much. This is 2812  
16 Gainesville Street.

17 This is, yet, another RA-1 application for new  
18 residential development, where this one's a little bit  
19 different, it's on a vacant lot adjacent to a side alley and  
20 it's in, actually, in an apartment area. So where there's  
21 other apartment buildings, rather than a single-family home  
22 areas, as many of these are.

23 Next slide, please. It's going to be three  
24 stories, eight dwelling units, one IZ units, lot occupancy  
25 of 36.7, providing four parking spaces, where one space is

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1 required, and also asking approval for the IZ Program.

2           Next slide, please. DDOT has not objected. The  
3 Office of Planning Report has requested some additional  
4 information, and I apologize to Ms. Vitale and -- and the  
5 Board for some of these late filings, shoring up the  
6 application, but I think we're in pretty good shape, now.

7           We've made some changes, making a more convenient  
8 access to the trash and changed materials in the front, in  
9 response to a comment from the Office of Planning and got the  
10 landscaping and grading plans in.

11           The ANC 8B did vote to support the application,  
12 as you heard. There is a letter from Mr. Trent and the SNB,  
13 in that regard. And the next slide, please. And I'll turn  
14 it over to Mr. McClennan.

15           Rob, if you could go through, briefly, go through  
16 this. I don't think you need to go through the floor plans,  
17 but just do some context and -- and the elevations, would be  
18 great. Thank you.

19           MR. MCCLENNAN: Great. Good afternoon. Thank you  
20 for taking the time today to look at this project. The site,  
21 as Marty mentioned, is an -- is an empty lot, currently. It  
22 is in an area that is predominantly apartment buildings that  
23 are typically two to three stories.

24           Next slide. This just shows you some of the  
25 context, again, the three-story, or two-story apartment

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1 buildings, most of which, date back to, I think, probably the  
2 '50s and '60s. Next slide.

3 This just shows the front of our building. A  
4 couple of changes that have occurred, because of comments  
5 from OP, are the panels at the front, which are the sort of  
6 maroon color elements were originally going to be a phenolic  
7 panel.

8 We have switched that to a brick material. The  
9 grey color, which is where the windows are, would be a metal  
10 panel, and the white area would be, either, stucco or  
11 exterior installation finish system.

12 Next slide. Marty went through the zoning, but  
13 we are -- we are by right project. Next slide. Just shows  
14 the site area in context. We're, you know, in the middle of  
15 an RA-1 Zone.

16 Next slide. Another context, showing the  
17 surrounding area. As Marty indicated, really, it's very --  
18 I -- I don't think there's any single-family homes, within  
19 that initial block or two.

20 Next slide. This close-up view of the lot. You  
21 can see it has an alley to, both, the east and to the rear.  
22 Next slide. More context, we can come back to these, if  
23 needed.

24 Next slide. More context. Again, we can come  
25 back to these. Next slide. Next slide. Now just some

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1 images of the finish system we are proposing. We did switch  
2 to brick.

3           Next slide. I -- several plans, I won't spend a  
4 lot of time with this, but it's two units per floor and these  
5 are two-bedroom two-bath units. All of the units are two-  
6 bedroom two baths.

7           This is the seller plan, so these -- these units  
8 are slightly below grade, with area ways to get light and air  
9 into the units. Next slide. This does contain the bike  
10 storage. We have room for three bikes. It is one level  
11 down, so it is up -- basically eight feet down from finished  
12 grade.

13           This shows the ground level, you can see the --  
14 the unit to the right. It will be our IZ unit, so there's  
15 a ground floor unit. This will also be our Fair Housing  
16 unit, because it's on an accessible path.

17           Keep going. Next slide. Upper level, second and  
18 third floor. Next slide. Roof plan. We are proposing a  
19 rood deck that is accessed by a small stair that projects up.  
20 This meets all of the required penthouse setbacks.

21           And then the -- the western roof, the upper roof,  
22 would be for the mechanical equipment. Next slide. The site  
23 plan. This shows we've revised the trash location, per a  
24 comment of OP, the Office of Planning. So the trash now is  
25 located in the upper-left corner of the site.

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1           That would be within the fenced area, at the rear.  
2 So residents would come out the front door, take a right, go  
3 down a path, go through a gate to take you to the backyard,  
4 down another pathway and then the trash bins and recycling  
5 bins would be there and would be accessed through the alley  
6 by a trash service -- service, excuse me.

7           Next slide. Front elevation showing, you know,  
8 compliance with height and type yard setbacks. Next slide.  
9 Side elevation from the alley. Next slide. Rear elevation.  
10 Next slide. And, finally, I'm sorry, this is the alley  
11 elevation, excuse me. This is alley elevation, again,  
12 showing the compliance with the height.

13           We did do the split-level of this building to  
14 respond to grade, by the way. So I think that's -- that's  
15 something that I think this building does very well, is  
16 there's a lot of topography across the site.

17           So by doing the split-level, we think, first of  
18 all, added some excitement to the architecture, but also  
19 allowed the building to just sort of sit better within the  
20 sloping site that we -- we were given.

21           Next slide. Building sections. Again, this kind  
22 of shows the split-level strategy we're -- we're creating  
23 here. Next slide. One more section and I think the final  
24 slide is coming up.

25           Next one. And these are just some exterior

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1 elevations and renderings. This shows the building from the  
2 front. Next slide. Coming -- looking west on the -- on  
3 Gainesville. Next slide. And, Marty, I'll turn it back over  
4 to you.

5 MR. SULLIVAN: Thanks, Rob. Mr. Chairman, I think  
6 I can stand on the record on these slides. It -- it's  
7 obviously within purpose with the harmony and intent.

8 CHAIRPERSON HILL: No that's great, Mr. --

9 MR. SULLIVAN: And --

10 CHAIRPERSON HILL: -- Sullivan.

11 (Simultaneous speaking.)

12 MR. SULLIVAN: Yes.

13 CHAIRPERSON HILL: I got you --

14 MR. SULLIVAN: Okay.

15 CHAIRPERSON HILL: -- Mr. Sullivan.

16 (Simultaneous speaking.)

17 MR. SULLIVAN: All right.

18 CHAIRPERSON HILL: Okay.

19 MR. SULLIVAN: Thank you.

20 CHAIRPERSON HILL: That's great and I do thank  
21 Commissioner Trantham for dropping that exhibit into the  
22 record. And I know we've worked with him before and -- and  
23 appreciate his efforts.

24 Let's see, does anybody have any question -- well,  
25 let me turn to the Office of Planning, first, and I'll come

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1 back for questions, if that's all right? Ms. Vitale?

2 MS. VITALE: Good evening, Mr. Chair and Members  
3 of the Board, Elisa Vitale, with the Office of Planning, for  
4 BZA Case 20637.

5 In the OP Report filed in the record, we had  
6 indicated that we were generally not opposed to the project,  
7 but that we could not make a recommendation, because  
8 additional information that's required under the -- the  
9 criteria for this relief was required.

10 The Applicant has supplemented the record with the  
11 requested information. It did come in a bit too late for OP  
12 to get a supplemental report into the record, but I -- I will  
13 note, OP, can now support the requested relief.

14 This would be for a multi-family residential  
15 building in the RA-1 Zone, as well as the -- the FAR increase  
16 for a voluntary IZ opt-in project. As noted by the  
17 Applicant, they provided a landscape and grading plan.

18 They have responded to the comment about materials  
19 and have incorporated brick detailing in the front facade  
20 that -- that better responds to the surrounding neighborhood  
21 character.

22 They have relocated the trash enclosure, so that  
23 residents won't have to traverse up, you know, across the  
24 parking lot and into the alley to dispose of trash. I think  
25 the one item that had -- that Applicant responded to, but you

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1 know, we would still encourage them to see if there is --  
2 there's another solution.

3           The bike room is still in the basement, so  
4 residents would have to, you know, trek -- trek upstairs with  
5 their bikes to -- to get out the front door of the buildings,  
6 since there's just the one -- one entry and exit for the  
7 building.

8           But, otherwise, the -- the Applicant has responded  
9 to all of OP's comments. We believe they meet the criteria  
10 for the relief. We would recommend approval of the requested  
11 relief and we're happy to file a supplemental in the record  
12 if -- if the Board requests that, just -- just to have that  
13 on the record that we can now support the relief.

14           I'll stop there and can answer any questions.  
15 Thank you.

16           CHAIRPERSON HILL: Okay. Thanks, Ms. -- thanks,  
17 Ms. Vitale. I think we would like that into the record,  
18 regardless of what happens today, and we'll keep that open  
19 for the -- for the record.

20           Let's see, does the Board have any questions of  
21 the Applicant?

22           All right. Mr. Young, is there anyone here  
23 wishing to speak?

24           MR. YOUNG: We do not.

25           CHAIRPERSON HILL: Mr. Sullivan, anything you'd

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1 like to add at the end?

2 MR. SULLIVAN: No, but thank you.

3 CHAIRPERSON HILL: Okay. I am -- I was -- sorry.  
4 Commissioner Miller?

5 ZONING COMMISSIONER MILLER: I -- I guess, just  
6 for Mr. Sullivan, or Mr. McClennan, in response to OP's  
7 comment about whether or not there's any other place to put  
8 the bike storage, so that resident's don't have to take the  
9 bikes up and down the stairs, from the basement. Is there --  
10 did you explore that?

11 MR. MCCLENNAN: We did look at it. We -- we  
12 considered it. There -- the -- really, the only space that  
13 we have available without significantly, you know, changing  
14 the units and probably even losing bedrooms out of the units,  
15 would be -- yes.

16 So we -- we -- we felt a basement was the right  
17 place for it. It's only one level down. You know, I'm a --  
18 I'm -- I bike everywhere I go and I'm constantly taking my  
19 bike up and down stairs, so I -- we understand the comments.

20 But there really was not an easy solution to put  
21 it on the ground floor, without significantly losing square-  
22 footage out the -- the units and probably taking a bedroom  
23 away.

24 ZONING COMMISSIONER MILLER: Okay. Okay. Thank  
25 you for that response.

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1 CHAIRPERSON HILL: Okay. Anyone else?

2 All right. I'm going to close the hearing and the  
3 record. Mr. Young, if you could excuse everyone, please?  
4 Oh, I'm sorry I'm not closing the record. I'm going to leave  
5 the record open for a supplemental report from the Office of  
6 Planning.

7 However, I think we can deliberate on this. Mr.  
8 Blake.

9 MEMBER BLAKE: We just have a meeting to vote on  
10 this, or just --

11 CHAIRPERSON HILL: I think we can go ahead -- I'm  
12 happy to go ahead and deliberate and take a vote. And then  
13 afterwards we can go ahead and just leave the record open for  
14 the Office of Planning.

15 I didn't have any issues with it. I mean, I  
16 thought that it was good project. I thought that,  
17 considering, you know, we've had a lot of issues with other  
18 work in the RA-1 Zone, but usually that's been around homes.  
19 So as was indicated, this is kind of surrounded by apartment  
20 buildings, even though it's a -- a vacant lot.

21 They -- I think that the design is a good design  
22 and I also think that they're meeting the criteria for us to  
23 grant their relief requested. I would agree with the verbal  
24 analysis that the Office of Planning has provided and that  
25 we need to get those updated landscaping plans for the record

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1 and they are now in the record.

2 I will also, again, thank the Commissioner  
3 Trantham for his timeliness getting us at least something  
4 into the record, although, it's not great weight, as a vote,  
5 it is something that I believe, you know, proves that the ANC  
6 was in support. So I will be voting in favor of this  
7 application. Mr. Smith, do you have anything to add?

8 MEMBER SMITH: I don't have anything to add. I  
9 agree with your analysis on this particular case and I -- I  
10 will support the application, with OP putting the  
11 supplemental report in for the record also.

12 CHAIRPERSON HILL: Thank you. Mr. Blake?

13 MEMBER BLAKE: I feel comfortable supporting the  
14 application. I would rely on the testimony of the Office of  
15 Planning in their analysis. I also would point out that  
16 there are no objections from neighbors, neighboring  
17 properties, so in that regard, I would be supportive of the  
18 application.

19 CHAIRPERSON HILL: Thank you. Commissioner  
20 Miller?

21 ZONING COMMISSIONER MILLER: I concur with my  
22 colleagues and I support this application.

23 CHAIRPERSON HILL: Thank you. Vice Chair John?

24 VICE CHAIR JOHN: I concur, as well, and I support  
25 the application and I thought this was a good design.

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1 CHAIRPERSON HILL: Thank you. Going to make a  
2 motion to approve Application Number 20637 -- 20637, as  
3 captioned, read by the Secretary, leaving the record open for  
4 a report from the Office of Planning, and ask for a second,  
5 Ms. John?

6 VICE CHAIR JOHN: Second.

7 CHAIRPERSON HILL: The motion being made and  
8 seconded, Mr. Moy, could you take a roll call?

9 MR. MOY: If you would please respond with a yes,  
10 no, or abstain, to the motion made by Chairman Hill, to  
11 approve the application for the relief requested. The motion  
12 to approve was seconded by Vice Chair John. Zoning  
13 Commissioner Rob Miller?

14 ZONING COMMISSIONER MILLER: Yes.

15 MR. MOY: Mr. Smith?

16 MEMBER SMITH: Yes.

17 MR. MOY: Mr. Blake?

18 MEMBER BLAKE: Yes.

19 MR. MOY: Vice Chair John?

20 VICE CHAIR JOHN: Yes.

21 MR. MOY: Chairman Hill?

22 CHAIRPERSON HILL: Yes.

23 MR. MOY: The staff would record the vote, as five  
24 to zero to zero, and this is on the motion made by Chairman  
25 Hill to approve. The motion to approve was seconded by Vice

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1 Chair John, in support of the motion to approve, Zoning  
2 Commissioner Rob Miller, Mr. Smith, Mr. Blake, Vice Chair  
3 John, and Chairman Hill, the motion carries on a vote of five  
4 to zero to zero.

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

7 MR. MOY: This would be Case Application Number  
8 20567 of the Hillsdale College. This is an amended self-  
9 certified application for area variances, pursuant to  
10 Subtitle G, Section 101.5, and Subtitle X, Section 1002.

11 And this would be from the maximum permitted FAR  
12 requirements at Subtitle G, Section 702.1, and the height  
13 requirements of Subtitle F, Section 703.1. Let's see, this  
14 property is located at 227 through 235 Massachusetts Avenue,  
15 NE, (Square 756, Lot 49), and the property is located in the  
16 MU-26 Zone.

17 CHAIRPERSON HILL: Thank you. Mr. Williams, can  
18 you hear me and if so, could you introduce yourself for the  
19 record?

20 MR. WILLIAMS: Yes, Chairman Hill. Zachary  
21 Williams, land use attorney, with the law firm of Venable,  
22 representing the Applicant Hillsdale College.

23 CHAIRPERSON HILL: Thank you, Mr. Williams. Mr.  
24 Williams, if you want to go ahead and pull up your PowerPoint  
25 presentation and walk us through why you believe your

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1 Applicant is meeting the relief requested.

2 I might cut some of your presentation, based upon  
3 some of our needs. If you can maybe just highlight some of  
4 the issues, and then the Board would be able to kind of  
5 determine what kind of questions they have. And you can  
6 begin whenever you like.

7 MR. WILLIAMS: Thank you.

8 CHAIRPERSON HILL: And, Mr. Williams, I don't mean  
9 to speed you through this, actually. Since it is a variance,  
10 if you can, really, hit the criteria, as to why you believe  
11 you're meeting the -- the -- the factors for us to grant the  
12 variance.

13 MR. WILLIAMS: Will do. Mr. Young, if you could  
14 pull those slides up, we'll get started. Great, thank you.  
15 Again, this is the Application of Hillsdale College and my  
16 name's Zack Williams, I'm representing the Applicant today.

17 Next slide, please. This is an application  
18 related to an existing Hillsdale College campus property,  
19 known as the Kirby Center. It's located at 227 Massachusetts  
20 Avenue, NE.

21 The campus the college has recently purchased the  
22 -- the two, actually, the three properties to the east of the  
23 existing campus, but those are not the subject of today's  
24 amended relief that we are seeking.

25 Next slide, please. Here, the existing

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1 conditions, the property that we're talking about today is  
2 the property that you can see on the right. It's the -- it's  
3 a three-row home, traditional row-home structures. They  
4 actually function, as a single building, at this point and  
5 they are -- house the Hillside College Washington, D.C.  
6 Program, and have done so for the better part of the last ten  
7 years or so.

8           Next slide, please. The proposed addition that  
9 we're seeking relief for today, is an addition on the  
10 existing fourth story of this building. The fourth story  
11 only goes about halfway back to the rear of the building and  
12 the -- the addition that we're posing would be 949 square  
13 feet.

14           You can see shaded, here, in yellow sort of an  
15 overhead view of the addition and the square footage that  
16 that would occupy on the existing roof. So it would occupy  
17 about half of the remaining roof that -- that -- that's  
18 there, once you get past the -- to the rear of the existing  
19 fourth story.

20           The proposal is to -- is to house a -- a -- an  
21 extended library for the college, and we'll talk a little bit  
22 about the importance of that, as well. Next slide. This  
23 application we're seeking variance relief.

24           In order to build this 949-square-foot addition,  
25 the College needs area variance relief, for FAR and height.

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1 We are in the MU-26 Zone, where FAR is limited to 2.5 for  
2 non-residential uses and height is limited to 40 feet, or 3  
3 stories.

4           Given this is a fourth-story rear addition,  
5 existing fourth-story addition, we need relief from both, FAR  
6 and height. The FAR would be increased from 2.45, which is  
7 what's existing now, to 2.62.

8           Next slide, please. Under the area variance  
9 standards that, I'm sure, the Members of the Board are very  
10 familiar with, we essentially have three primary standards  
11 that we have to meet, in order for relief to be granted.

12           First, is the extraordinary exceptional situation  
13 or condition test, and that must be based -- may be based on  
14 what we call a confluence of factors, as the -- the courts  
15 have told us.

16           That can include such things as historic property  
17 concerns, architectural structural challenges, grade changes,  
18 subdivision history. We've seen those factors, in support  
19 of -- of variances in the past.

20           The second major factor is peculiar and  
21 exceptional practical difficulties to the owner property and,  
22 finally, the belief must not present any substantial  
23 detriment to the public good or substantially impair the  
24 intent, purpose, integrity of the zone plan.

25           Next slide. Starting with the first standard,

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1 extraordinary, exceptional situation or conditions. We have,  
2 what I was saying, is a confluence of factors here that we  
3 believe supports the test, for an area variance.

4           The number one factor is that is an historic  
5 district, this is an historic building. It's a contributing  
6 historic building. These are three row homes that were  
7 originally built in the late 18 -- 19 -- 1800s, and they were  
8 converted into an office in the 1970s, well before the  
9 college owned the property.

10           Because they were built as row homes, the original  
11 structural and demising walls are still intact in much of the  
12 interior of the building. They still structurally function  
13 in many ways, like row homes. Three existing row homes, even  
14 though the interior layout has obviously been changed over  
15 time to accommodate a non-residential use.

16           Another major issue is the grade change, and we'll  
17 talk about that. There is significant grade change, not only  
18 from the rear to the front of the property, but also going  
19 from east to west, of several feet.

20           And what this causes is that, most of the basement  
21 level accounts towards FAR, whereas, typically with a row  
22 home property in the District that's sort of basement level  
23 is partially under grade, to the extent that it does not  
24 count towards the FAR. So our FAR is inflated here, because  
25 of the grade issues on the site.

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1           Finally, there's a very wide view shed in front  
2 of this building. If you're familiar with this area, it's  
3 essentially the intersection of three streets along Mass Ave  
4 and Third Street, and you can see these buildings from pretty  
5 far away.

6           Why does that matter? It restricts our ability  
7 to make any additions, as far as penthouses go, and that was  
8 the original relief we sought in this application. There's  
9 almost -- there's basically no way.

10           We've tested every single option. There's no way  
11 to build a penthouse on this building that's out of view out  
12 of sight, and because of that, we could not get Historic  
13 Preservation Staff to support.

14           So a penthouse is available for the Zoning  
15 Regulations, but the College cannot build it, because of the  
16 historic -- not -- not because of the Historic District  
17 Regulations, only, but because of that very, very wide view  
18 shed. There's just no way to build that, without it -- some  
19 portion of it being seen.

20           Next slide, please. This just shows the original  
21 three residential row home lots and you can see them sketched  
22 out there, on a map from the early 1900s. And that just  
23 illustrates how these buildings were originally built and  
24 originally the layout of these three subdivided properties.

25           (Off the record comments.)

1 MR. WILLIAMS: It's now one property that's been  
2 consolidated. Next slide, please. These are interesting.  
3 This is actually the -- the internal layouts that show the  
4 internal demising walls of those original structures and how  
5 they still remain in place.

6 The structure of this building is still in many  
7 ways dependent on those original party-demising walls that  
8 you would see in a residential row home. And this slide,  
9 this is the basement illustration, here.

10 Next slide, please. This is the second level, so  
11 you -- they continue, those walls continue up. Now they've  
12 been removed in certain areas, but they can't be completely  
13 removed, because they still provide the core structure of the  
14 building.

15 Next slide, please. This is the third level.  
16 Again, you still see those walls and -- that are -- that are  
17 present. And then, finally, on the fourth level, next slide.  
18 On the fourth level, the walls are almost entirely intact.

19 Now, why do I mention that, because that is a  
20 peculiar and exceptional condition of this property that  
21 restricts the ability of the College to and the flexibility  
22 of the College to convert that space to college uses.

23 And it just provides limitations that would  
24 otherwise not be the case for a typical university or office  
25 building that you would have in the District. Next slide,

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1 please.

2           The grade change I mentioned, here, you can see  
3 it illustrated. At the back of the property the basement is  
4 almost entirely below grade. At the front of the property  
5 it is entirely above grade. So there's significant grade  
6 change from rear to the front of the property, here.

7           Our understanding is that -- that Massachusetts  
8 Ave was re-graded at some point in time and, you know, we do  
9 have a historic consultant onboard for that, but you know  
10 that's something that we haven't been able to nail down, yet.

11           But, this is the existing condition of the  
12 property, and so only a very small portion of that can be  
13 excluded from FAR, even though it's a basement, with some low  
14 ceiling heights, I think between seven feet -- seven inches  
15 and seven feet nine inches.

16           It functions as a basement, just as any other row  
17 home, traditional row home from this era would, but it counts  
18 towards FAR, because so much of it is above grade. Next  
19 slide, please.

20           This is looking from the rear, so the grade not  
21 only changes from the rear to the front of the site, it also  
22 changes from the west to east of the site. You can see it  
23 actually drops down.

24           Now, to give you an idea of how much this grade  
25 is changing, be it, the property adjacent to the east is

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1 almost two-and-a-quarter feet above the property, here, at  
2 Kirby Center.

3           So there's a significant grade change that's  
4 effecting how FAR is calculated here that you wouldn't  
5 typically see for these types of structures in the District.  
6 Next slide, please. I talked about that wide view-shed  
7 angle, here are some examples of how far -- from how far away  
8 you can see these buildings.

9           Now, if you get -- if you look closely in these  
10 photos, we have superimposed the penthouses that we were  
11 trying to build on top of the Kirby Center. You can see them  
12 back there, shaded, at the roof line, and as you can see,  
13 even that far away from the building you could -- you could  
14 see them.

15           Because of the wide angle, there was just no way  
16 to build a penthouse that could get past the -- the --  
17 really, the critical historic preservation issue, which is  
18 we just don't want to be able to see these additions in the  
19 Historic District.

20           So that really limited the ability of the College  
21 to make an expansion and to expand in place and -- and add  
22 this library that they need. Next slide, please. Here are  
23 some additional views of the property.

24           And -- and again you can see, just behind those  
25 turrets you can see -- well, they're not turrets, but just

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1 behind the -- the roof line you can see that shaded  
2 penthouse. Mass Ave is wide, but just beyond Mass Ave, and  
3 D, Street's an even wider view-shed.

4           There was just no way. We tried every permutation  
5 we could to build a penthouse on the roof, which otherwise  
6 would be permitted under zoning, we just couldn't do it to  
7 get it through the Historic Regulations review.

8           Next slide, please. So I'm moving on to the  
9 practical difficulties test. Hillsdale College is -- is --  
10 is -- wants to expand in place. I mean, this is their campus  
11 in D.C., and they feel strongly about this area and they want  
12 to continue to use this space and the adjacent buildings to  
13 expand their campus.

14           The library is critical. There are currently  
15 about 2,000, 2,500 volumes that they're in storage. They're  
16 just sitting in storage, they can't display them, because  
17 they don't have library space.

18           The expansion here would allow 105 linear feet of  
19 book shelving and that would allow the College to rotate  
20 1,000 or more books for display and for use of the -- the  
21 students of the college.

22           I've already mentioned that the College can't  
23 expand in any other way on this building. Now that's  
24 actually also the case for the adjacent building that is even  
25 further below FAR. It's -- it's a much lower building, but

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1 the same issue is there.

2           There's no way to do an -- any type of expansion,  
3 because of the Historic District and those very wide view  
4 angels, view-shed angles. This is the only way for the  
5 College to expand in place, if you will, is to have this --  
6 this variance relief.

7           Next slide, please. Finally, we don't even believe  
8 there would be any substantial detriment to public good or --  
9 or that this would impair the intent, purpose, integrity of  
10 the zone plan.

11           First of all, all listed university uses are  
12 allowed uses, in the MU-26 Zone. MU-26 Zone actually  
13 encourages re-adaptive reuse of commercial buildings and even  
14 mentions that that's the case, even for buildings that are  
15 otherwise over FAR. That's actually out of the zoning  
16 regulations.

17           We know that Mass Ave location is primarily  
18 commercial district, even though these buildings are  
19 residential, originally, most of the buildings, or many of  
20 the buildings are now commercial, along this portion of  
21 Massachusetts Ave, NE.

22           The proposed vision is entirely out of view, as  
23 well. Unlike the penthouses, we can completely shield this  
24 addition, so it will not be seen from that very wide view-  
25 shed angle.

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1           We've also got support in the record from the  
2 adjacent condo building, not only from the residential board,  
3 but the commercial board, the condo building just adjacent  
4 to the west has commercial uses at ground floor and  
5 residential condo uses on the floors above. The  
6 representatives of the -- of both boards have submitted  
7 letters in the record supporting the relief here.

8           Next slide, please. We also had ANC-6C support.  
9 Now this -- this was important to us, because we've been  
10 working with ANC-6C and their Planning Zone Committee, for  
11 months, on this application. We originally proposed the  
12 penthouses, we weren't able to get their support for that.

13           We worked closely with them to try to come up with  
14 a plan that they could support. Ultimately, they were able  
15 to come and support this application unanimously and we were  
16 proud of that effort and building that consensus and that  
17 letter is in the record, as well. I believe, it was  
18 submitted yesterday.

19           Finally, the Office of Planning also worked very  
20 closely and collaborated with us. We needed to make sure  
21 that we could meet that variance test and we worked closely  
22 with the Office of Planning to ensure that we could -- we  
23 could do that, and we're proud to have their support, as  
24 well.

25           And that concludes my application today -- my

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1 presentation today. Thank you.

2 (Pause.)

3 MR. WILLIAMS: Chairman Hill, I will say, I do  
4 have the representative from the College here that can speak  
5 to the -- the reason why the -- the -- the College is asking  
6 for this relief.

7 Now, I know that you mentioned you -- you wanted  
8 to maybe expedite through, but Dr. Spaulding is here, to  
9 speak for a minute --

10 CHAIRPERSON HILL: Sure --

11 MR. WILLIAMS: -- if you want --

12 CHAIRPERSON HILL: -- go ahead, Mr. Williams.  
13 Give me a second. I appreciate that, Mr. Williams. Mr.  
14 Young, could you drop down the -- the -- the deck, please?  
15 Did you say it's Dr. Spaulding?

16 MR. WILLIAMS: Matt -- Matthew Spaulding.

17 CHAIRPERSON HILL: Dr. Spaulding, can you hear me?

18 DR. SPALDING: I can hear you, can you hear me?

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

21 MR. SULLIVAN: Sure. I don't know if -- I don't  
22 think my camera is working, is that -- is that okay?

23 CHAIRPERSON HILL: That's fine. Would you like  
24 just to go ahead and give your brief testimony?

25 DR. SPALDING: Sure. Sure. And I do want to

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1 thank you for your time in allowing me to make a very brief  
2 comment. I'm Matthew Spaulding. I'm Vice President of  
3 Hillsdale College, which is a college based in Michigan, but  
4 I am based here in Washington, D.C. I'm also the Dean of our  
5 Graduate School.

6 We've sent undergraduates here, since I think the  
7 1970s, like most colleges, we're licensed here. And a few  
8 years ago we -- we founded a graduate school, currently, at  
9 about 45 students, probably will grow to about 85 students.

10 Part of the graduate school and for our  
11 undergraduate use, which is about 25 students a semester, we  
12 have a lending library, to support the -- the semester use  
13 for the undergraduates, but for the graduate students for a  
14 master's degree.

15 And so the -- the need for additional library  
16 space, if you were to visit our building, which you're  
17 welcome to at any time, then you'll see that we have library  
18 space pretty much throughout our building, wherever we can.

19 But, we are completely out of -- out of space by  
20 several thousand volumes, and having that addition is really  
21 crucial to continue our operations, and especially growing  
22 our graduate school, which should, if we continue on plan,  
23 will double in the next few years.

24 And we very much like where we're at. We love the  
25 District and our location and our building, which we're

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1 preserving and look forward to staying there. And, again,  
2 thank you for your time and -- and consideration of this --  
3 this variance, to allow us to continue our work.

4 CHAIRPERSON HILL: Thank you, Dr. Spaulding. All  
5 right. Does the Board have any questions of anybody, before  
6 I turn to the Office of Planning? Commissioner Miller?

7 ZONING COMMISSIONER MILLER: No questions, just  
8 to thank Dr. Spaulding for Hillsdale's presence in the  
9 District of Columbia and your continued desire to be here and  
10 expand.

11 CHAIRPERSON HILL: Thank you, Commissioner Miller.  
12 I'm going to turn to the Office of Planning.

13 (Off the record comments.)

14 CHAIRPERSON HILL: Mr. Jesick, I can't hear you.

15 MR. JESICK: How about now, can you hear me now?

16 CHAIRPERSON HILL: Yes. You're a little low, but  
17 I think we can hear you. We'll just listen quietly.

18 MR. JESICK: Okay. Sorry about that, I'll start  
19 over -- start over. Thank you, Members of the Board. My  
20 name is Matt Jesick. The Office of Planning is happy to rest  
21 on the record, in support of the application.

22 I'm happy to go through as much analysis, as the  
23 Board would -- but our conclusions were very similar to the  
24 Applicant's conclusions, in that they didn't meet the  
25 variance test, so we could support the requested FAR and

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1 height variances.

2 (Audio interference.)

3 CHAIRPERSON HILL: Okay. Thank you, Mr. Jesick.  
4 I -- I -- I heard you say you'll rest on the record and then,  
5 also, if we have some questions. Let's see, does the Board  
6 have any questions for the Office of Planning?

7 All right. Mr. Young, do we have anybody here  
8 wishing to speak?

9 Okay. Mr. Williams, do you have anything like  
10 that, at the end?

11 MR. WILLIAMS: I do not.

12 CHAIRPERSON HILL: Okay. I -- I'm going to close  
13 the hearing and the record. Thank you, Mr. Williams.

14 MR. WILLIAMS: Thank you.

15 (Audio interference.)

16 CHAIRPERSON HILL: Would someone else like to  
17 talk, this being our last case today, before I begin the  
18 deliberations?

19 VICE CHAIR JOHN: Okay. So I -- I will start.  
20 Just --

21 CHAIRPERSON HILL: Okay.

22 VICE CHAIR JOHN: -- throw a few thoughts out  
23 there. I was concerned about, whether or not the Applicant  
24 met the criteria for the exceptional condition. But, in  
25 looking at the application and listening to the presentation

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1 again, and since this is an area variance, I think that the  
2 most persuasive argument to me is that, the Applicant  
3 considered other options, like putting the extra space on the  
4 roof, but because of the wide view-shed it wasn't possible  
5 to -- to locate the space in the -- in the penthouse.

6           And the other issue was that, the three townhouses  
7 still maintain a lot of the -- a lot of the party walls,  
8 which would make it difficult to move things around, as they  
9 would like.

10           So because I think that that critical element was  
11 satisfied, I didn't have any difficulty accepting the  
12 arguments concerning substantial impairment to the intent,  
13 purpose and integrity of the Zoning Regulations, or a  
14 substantial detriment to the public good.

15           So I think that the Office of Planning did a good  
16 analysis and I'm prepared to support the application, for the  
17 reasons I suggested. I don't think that, just because it's  
18 a historic building, I don't think that that's dispositive.

19           And I didn't think that the argument about the  
20 basement counting towards the FAR, F-A-R, I don't think that  
21 was persuasive to me, either, because that's pretty true of  
22 any, you know, townhouse in the city that has a basement,  
23 instead of a cellar. So I wasn't able to -- I -- I didn't  
24 agree with that argument, but I'm in support of the  
25 application. That's it, Mr. Chairman.

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1 CHAIRPERSON HILL: Thank you, Vice Chair John.  
2 Mr. Smith?

3 MEMBER SMITH: You know, I -- I largely believe  
4 in what -- what Ms. John wads saying, you know, originally  
5 when I first read this case, I was concerned that I may not  
6 be able to -- well, I won't say that I won't be able to.

7 Initially, before hearing the presentation, I --  
8 I was struggling with some of the arguments that OP was  
9 making that Ms. John hit the nail on the head. I do think  
10 that the -- the basement argument was persuasive.

11 It's a usable basement, it's just, you know, lower  
12 ceiling heights. That doesn't mean that the space isn't  
13 usable, even if -- making it usable for a library is just  
14 probably would be as efficient, as the -- as the Applicant  
15 would want for a library, but it's a useable space.

16 And, as Ms. John stated -- and this is a comment  
17 that I -- I disagree with this argument that it's uncommon  
18 to have that type of space in the District. It's very common  
19 to have basements in the District, as opposed to cellars, so  
20 I didn't find that argument persuasive.

21 But I did agree with the argument that was  
22 presented by the Applicant, during the presentation, about  
23 the different types of -- the size that they attempted to  
24 pursue in constructing a penthouse that the Historic  
25 Preservation supports.

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1           So we were up against that and, also this issue  
2 of the load-bearing walls. So I found that those arguments  
3 more persuasive than anything else that I read in the OP  
4 Staff report.

5           But -- but, I will say that this Staff Report was  
6 a thorough staff report and I agree with some points and  
7 didn't agree with some, but I do agree from that standpoint  
8 that they met the first prong, and I do agree with OP's  
9 analysis that they met the last variance, no substantial  
10 detriment to the public good.

11           This would be a fairly modest addition of -- of  
12 the fourth story of the building, out of view from the public  
13 view shed, and I do believe it would be a substantial  
14 impairment to the zone plan.

15           Because again that this is a fairly normal  
16 addition not bringing that the bulk and mass that is being  
17 added, it's fairly comparable -- or -- or it's not any larger  
18 than that -- than that stair overrun that currently is to the  
19 rear of the building anyway, so it'll -- it still -- itself.

20           With that, I do support the variance. I do  
21 believe that they've met the test for us to be able to grant  
22 the variance and I'll support it.

23           CHAIRPERSON HILL: Thank you, Mr. Smith. Mr.  
24 Blake? I'm sorry, Commissioner -- who did I miss? Now I'm  
25 all messed up. Mr. Blake, we'll go with you next.

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1           MEMBER BLAKE: Sure. I'm going to support the  
2 application. I think that, when going through variance test,  
3 what I focused on was the -- the fact that it -- it -- it  
4 wasn't a very -- at -- at first glance, it really isn't a  
5 very compelling case.

6           However, when you look at the confluence of  
7 factors argument, which if you know, they're individually  
8 not, you know, uniquely great things, but they do in  
9 combination add up to something.

10           I think, in this case, the historical use, the  
11 wide-angle frontage matters. I think that the grade changes  
12 do contribute to the less-functionality of the basement  
13 level.

14           At some level you could just argue, you could just  
15 dig out the basement and make the ceilings higher and build  
16 the library there, but this is a standard of practical  
17 difficulty and I think, as Mr. Smith pointed out, it's much  
18 easier to do what they're trying to do than that solution to  
19 the problem. It's not an -- an all -- either or, this is  
20 just an -- it's a -- the standard's not that -- not that  
21 great.

22           I think, from a practical difficulty standpoint,  
23 I do think that the Office of Planning nailed it in its  
24 analysis of the issues, regarding practical difficulty, you  
25 know, library expansion is -- is -- is not possible in other

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1 -- practical in other areas. Load-bearing walls matter. And  
2 I think that the, you know, the penthouse attempt was valid,  
3 which was, you know, not allowed.

4           And I think that the proposed addition will help  
5 to -- the College to achieve its mission, which we know that  
6 case law supports the, you know, things like that and to give  
7 them some -- some advantage for not-for-profit organizations.

8           So I think to continue to function and -- and  
9 evolve their mission. So I think that, all of those things  
10 together, there's no substantial detriment to the Zoning  
11 Regulations and that you have support from the neighboring  
12 town -- condo building and so forth.

13           Again, I credit the Office of Planning and offer  
14 the variance with the analysis they did on that and I give  
15 great weight to the report, and also acknowledge the ANC's  
16 support and the letter of support from the adjacent building  
17 owners. I will support this.

18           CHAIRPERSON HILL:       Thank you, Mr. Blake.  
19 Commissioner Miller.

20           ZONING COMMISSIONER MILLER:   Chairman, I concur  
21 with my colleagues and I support this application.

22           CHAIRPERSON HILL:   Thank you. I also concur with  
23 my colleagues and support this application. I'll make a  
24 motion to approve Application Number 20567, as captioned read  
25 by the Secretary and ask for a second, Ms. John?

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1 VICE CHAIR JOHN: Second.

2 CHAIRPERSON HILL: The motion will be made and  
3 seconded. Mr. Moy, if you could take a roll call?

4 MR. MOY: When I call your name, if you would  
5 please respond with a yes, no, abstained to the motion made  
6 by Chairman Hill to approve the application for the relief  
7 that's requested.

8 The motion to approve is seconded by Vice Chair  
9 John. Zoning Commissioner Rob Miller?

10 ZONING COMMISSIONER MILLER: Yes.

11 MR. MOY: Mr. Smith?

12 Mr. Blake?

13 Vice Chair John?

14 VICE CHAIR JOHN: Yes.

15 MR. MOY: Chairman Hill?

16 CHAIRPERSON HILL: Yes.

17 MR. MOY: Staff would record the vote as five to  
18 zero to zero, and this is on the motion made by Chairman Hill  
19 to approve. The motion to approve was seconded by Vice Chair  
20 John, also in support of the motion to approve, Zoning  
21 Commissioner Rob Miller, Mr. Smith, Mr. Blake, Vice Chair  
22 John, and Chairman Hill, the motion carries on a vote of five  
23 to zero to zero.

24 CHAIRPERSON HILL: Thank you, Mr. Moy. So, Mr.  
25 Moy, I did do a -- find out a little bit more about a

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1 question about our election and I do believe we can move  
2 forward today.

3           And so if there's anything -- if that would be --  
4 I don't know what type of things you need to happen, Mr. Moy,  
5 in terms of doing an election now? I -- if you can just kind  
6 of advise us on how to proceed?

7           I believe that nominations would be of --  
8 appropriate and I would be happy to make a nomination. Is  
9 there anything you need to do, Mr. Moy, prior to this?

10           MR. MOY: Nothing prior to this, other than  
11 nominations being made, but if -- if you have not already  
12 consulted with Ms. Nagelhout, I would suggest you do that.

13           CHAIRPERSON HILL: I -- I believe that I can  
14 consult with Ms. Nagelhout. There was a concern and, I don't  
15 know, Ms. Nagelhout, if you're aware of this, but I guess,  
16 there was a concern about some of -- or there's a Board  
17 Member who is currently in a holdover.

18           And I believe that, because some research was done  
19 that because of the public health emergency, it was  
20 suspending counting days of holdovers, so we could actually  
21 move forward with nominations. Ms. Nagelhout, do you have  
22 any concerns or thoughts?

23           MS. NAGELHOUT: That this is not a zoning issue,  
24 and so I'm kind of learning about this on the fly, but the --  
25 the holdover period makes an exception for days during the

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1 public health emergency, so I think the -- even though a term  
2 has ended, the holdover period would not start to count until  
3 after the end of the public health emergency, which I  
4 understand ended in mid-February.

5 CHAIRPERSON HILL: Okay. So it appears as though  
6 that we could move forward?

7 MS. NAGELHOUT: Yes.

8 CHAIRPERSON HILL: Okay. All right. Then I'm  
9 going to go ahead and move forward and make some nominations  
10 and I would like to make a nomination for Ms. Lorna John to  
11 continue her role as Vice Chair here at the BZA, and it is  
12 much appreciated in all that she does. And I would ask for  
13 a second from Mr. Blake, if I could?

14 So we have now nominated and seconded the motion  
15 for Ms. Lorna John to continue in her role as the Vice Chair  
16 of the Board of Zoning and Adjustments for the District of  
17 Columbia. And, Mr. Moy, I believe, do we take a roll call  
18 vote?

19 MR. MOY: We have done that in the past. I think  
20 we can continue with that if you wish, Mr. Chairman.

21 CHAIRPERSON HILL: Yes, please do so, Mr. Moy.

22 MR. MOY: So -- so the motion was made by the  
23 Chairman to nominate Lorna John to continue in her role as  
24 the Vice Chair. The motion was seconded by Mr. Blake. So  
25 when I call your name, if you would indicate your -- your --

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1 your vote to approve or deny the motion made by the Chairman.

2 Let's see. Oh. Okay. Zoning Commissioner Rob Miller?

3 ZONING COMMISSIONER MILLER: Yes.

4 MR. MOY: Mr. Smith?

5 Mr. Blake?

6 Chairman Hill?

7 CHAIRPERSON HILL: Whole-heartedly yes.

8 MR. MOY: Wholeheartedly yes. Okay. And Ms.

9 Lorna John gets a vote, as well, so Ms. Lorna John?

10 VICE CHAIR JOHN: I'm happy to vote for myself.

11 MR. MOY: Staff would record the vote as five to  
12 zero to zero. The motion carries, sir.

13 CHAIRPERSON HILL: Great. Thank you.  
14 Commissioner Miller, may I ask, do you have anything to add?

15 ZONING COMMISSIONER MILLER: I will first want to  
16 thank Commissioner John for her service and look forward to  
17 your confirmation by the Council for reappointment by the  
18 Mayor -- Mayor's reappointment of you, next week.

19 I would like -- like to nominate -- I would like  
20 to move and nominate and approve Fred Hill as Chair of the  
21 Board of Zoning Adjustment, and thank Fred for his  
22 outstanding service as Chair of BZA and his willingness to  
23 continue to serve. So that's my motion and ask for a second,  
24 please?

25 VICE CHAIR JOHN: Second.

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1 CHAIRPERSON HILL: So, Mr. Moy, I guess that  
2 motion's been made and seconded, if you could continue to  
3 take a roll call vote?

4 MR. MOY: Yes. Thank you, sir. So when I call  
5 your name, if you would please indicate your vote with a yes  
6 or no. Mr. Smith?

7 Mr. Blake?

8 MEMBER BLAKE: Yes.

9 MR. MOY: Yes, I can say this now. Vice Chair  
10 John?

11 Zoning Commissioner Rob Miller?

12 ZONING COMMISSIONER MILLER: Yes.

13 MR. MOY: And Mr. Fred Hill?

14 CHAIRPERSON HILL: I think you missed Mr. Blake.

15 VICE CHAIR JOHN: No.

16 MR. MOY: No, I -- I -- I've -- I've checked him  
17 off on my list.

18 CHAIRPERSON HILL: Oh, I'm sorry. Yes. Yes.

19 MR. MOY: Yes, okay. So now Staff will record the  
20 vote as five to zero to zero, and this is -- was on the  
21 motion made by Zoning Commissioner Rob Miller to nominate Mr.  
22 Fred Hill to continue as Chairman. Congratulations to -- to  
23 the both of you.

24 CHAIRPERSON HILL: Thank you. Very kind and very  
25 kind of all of you to nominate us and continue to support the

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1 work that we're doing. So -- all right. Unless anyone has  
2 anything else, I'm going to go ahead and have us adjourn.

3 Wonderful. We'll see you all next week. Thank  
4 you.

5 (Whereupon, the above-entitled matter went off the  
6 record at 2:00 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: 04-27-22

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

*Neal R Gross*

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Court Reporter

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