

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY
MAY 25, 2022

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Video Teleconference, pursuant to notice at 11:17 a.m. EDT, Lorna John, Vice Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LORNA JOHN, Vice Chairperson
CARL BLAKE, Board Member
CHRISHAUN SMITH, Board Member (NCPC)

ZONING COMMISSION MEMBERS PRESENT:

PETER MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
RYAN NICHOLAS, Attorney Advisor
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

BRANDICE ELLIOTT
CRYSTAL MYERS
KAREN THOMAS
ELISA VITALE

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SARAH BAJAJ, ESQ.
MARY NAGELHOUT, ESQ.

The transcript constitutes the minutes from
the Regular Public Hearing held on May 25, 2022.

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

(11:17 a.m.)

1
2
3 VICE CHAIRPERSON JOHN: We can take one case on
4 the hearing calendar before we take a break for lunch. I
5 believe someone has to leave at noon. So let's see how this
6 goes.

7 MR. MOY: I don't know if it was noon or 2
8 o'clock, but --

9 VICE CHAIRPERSON JOHN: Well, there's a noon --
10 There's a noon break. Someone wants to break at noon.

11 MR. MOY: Oh, okay. Okay.

12 VICE CHAIRPERSON JOHN: Okay.

13 MR. MOY: All right, very well. So the Board is
14 in its public hearing session. The first case, I believe is
15 Application No. 20718 of 9 Tree LLC. This is a self-
16 certified application for special exceptions pursuant to
17 Subtitle F, Section 5220.1 and Subtitle X, Section 901.2 from
18 the court requirements, Subtitle F, Section 202.1, lot
19 occupancy requirement, Subtitle F, Section 304.1. The
20 property is located in the RA-2 zone at 1722 Swann Street NW,
21 Square 152, Lot 91.

22 Madam Vice Chair, the preliminary matter here is
23 that there is a request for party status and opposition firm
24 and Anne Carson under Exhibit 24. And I thought there was
25 also a request for a postponement under Exhibit 31, but

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1 correct me if I'm -- if I'm in error on that point. Thank
2 you.

3 VICE CHAIRPERSON JOHN: Thank you, Mr. Moy. Would
4 you let the parties in please? Is Ms. Pritchard here?

5 MR. PRITCHARD: Mr. Prichard, yes. Good morning.

6 VICE CHAIRPERSON JOHN: Mr. Pritchard. Oh, you're
7 on the phone?

8 MR. PRITCHARD: No, I'm on Webex.

9 VICE CHAIRPERSON JOHN: Okay. Are you choosing
10 not to use your video?

11 MR. PRITCHARD: There we go, sorry.

12 VICE CHAIRPERSON JOHN: Okay.

13 MR. PRITCHARD: Wrong camera. Good morning, Madam
14 Vice Chair and members of the Board.

15 VICE CHAIRPERSON JOHN: Good morning. And Ms.
16 Ferster, are you on this case?

17 MS. FERSTER: Yes. Good morning, Madam Vice
18 Chair. Andrew Ferster here for requesting party in
19 opposition, Anne Carson.

20 VICE CHAIRPERSON JOHN: Okay, thank you. So I'll
21 go ahead and look at the request for party status before
22 addressing the continuance. So I looked at the application.
23 Let me see if I can find my notes. I believe Ms. Carson is
24 the next door neighbor. And as I mentioned in previous
25 cases, the next door neighbor is presumed to have a

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1 significant -- to have an interest that will be more
2 significantly, distinctively, or uniquely affected in
3 character or kind by the opposed zoning action than that of
4 other persons in the general public. So unless any board
5 member objects, I will grant the request for the party status
6 for Ms. Carson.

7 COMMISSIONER MAY: No objection.

8 VICE CHAIRPERSON JOHN: Okay, no objection. Thank
9 you. So now let's look at the request for continuance. And
10 Ms. Ferster, the Board will hear from you now.

11 MS. FERSTER: Yes, this is Andrea Ferster for Ms.
12 Carson. The request actually was filed by the Applicant --
13 (Simultaneous speaking.)

14 VICE CHAIRPERSON JOHN: My apologies. Okay. Mr.
15 --

16 MR. PRITCHARD: Pritchard.

17 VICE CHAIRPERSON JOHN: Pritchard.

18 MR. PRITCHARD: Yes, thank you.

19 VICE CHAIRPERSON JOHN: Please go ahead.

20 MR. PRITCHARD: Yes, ma'am. That was our request
21 for a postponement. We have been working extensively with
22 Ms. Ferster and her client for some time to address some
23 issues she's raised with our request for BZA relief. We've
24 been having lots of discussions with her, as well as other
25 neighbors in the community. I think we've made a lot of

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1 progress. And our hope is, is that if we get a little more
2 time, we can -- we can satisfy her concerns and hopefully get
3 her to withdraw the party status request with a settlement
4 and a construction management agreement.

5 So as Ms. Ferster indicated, they're supportive
6 of the postponement. And we spoke with Mr. Moy about some
7 potential dates that seem to -- that hopefully are available
8 for the Board. So we were hoping to reschedule for June --
9 June 15th.

10 VICE CHAIRPERSON JOHN: Okay. Thank you, Mr.
11 Pritchard. Mr. Moy, do we have any dates?

12 MR. MOY: Madam Vice Chair, thanks for asking.
13 For your verification, we do have decision cases for June
14 15th. We have seven -- seven cases. Well actually, I would
15 say probably six because one is -- will probably be
16 postponed. So I would say for June 15th, we have currently
17 six cases. And then for the following week on June 22nd, the
18 Board has on the docket, six cases as well. So the Board
19 could either go as early as June 15th or as late as June
20 22nd.

21 VICE CHAIRPERSON JOHN: Okay, let's take June
22 15th.

23 MR. MOY: Very good.

24 VICE CHAIRPERSON JOHN: All right. So the request
25 to postpone is granted and the case will be heard on June

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1 16th.

2 MR. PRITCHARD: Thank you very much.

3 VICE CHAIRPERSON JOHN: Thank you, everyone. Have
4 a great day. Okay, the next case, Mr. Moy, when you get a
5 minute.

6 MR. MOY: Okay. This would be Application No.
7 20721 of Phillip J. Cross. This is a self-certified
8 application pursuant to Subtitle X, Section 901.2, special
9 exception under Subtitle E, Section 205.5 and Subtitle E,
10 Section 5201 from the rear edition requirements of Subtitle
11 E, Section 205.4. The property is located in the RF-1 zone
12 at 3553 Holmead, H-O-L-M-E-A-D Place NW, Square 2828, Lot
13 132. And I believe that's all I have. Thank you.

14 VICE CHAIRPERSON JOHN: Thank you, Mr. Moy. Mr.
15 Young, would you let the parties in please? I see Mr.
16 Sullivan, Mr. Buehler. I believe that's it. Would you
17 please introduce yourself for the record, starting with the
18 Applicant?

19 MR. SULLIVAN? Marty Sullivan with Sullivan and
20 Barros on behalf of the Applicant. And with me here as well
21 is Mr. Buehler, the architect and I think Mr. Cross may be
22 here as well.

23 VICE CHAIRPERSON JOHN: Okay. Mr. Buehler, would
24 you introduce yourself for the record?

25 Okay. Mr. Cross?

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1 MR. CROSS: Yes, I'm here.

2 VICE CHAIRPERSON JOHN: Okay. Would you introduce
3 yourself for the record please?

4 MR. CROSS: Yes. My name is Phillip Cross and I'm
5 the Applicant.

6 VICE CHAIRPERSON JOHN: And what is your street
7 address?

8 MR. CROSS: 3553 Holmead Place NW.

9 VICE CHAIRPERSON JOHN: Okay, thank you. Is the
10 ANC here? Okay. There's someone I don't recognize on the
11 screen. Is that Mr. Buehler?

12 MR. BUEHLER: I don't know if you see me.

13 VICE CHAIRPERSON JOHN: Okay, please introduce
14 yourself for the record.

15 MR. BUEHLER: Yes. My name is Shawn Buehler of
16 Bennett Frank McCarthy Architects.

17 VICE CHAIRPERSON JOHN: Okay. And could you give
18 your address as well for the record?

19 MR. BUEHLER: 1400 Spring Street in Silver Spring,
20 Maryland 20910.

21 VICE CHAIRPERSON JOHN: Thank you. So Mr.
22 Sullivan, would you tell us a little bit about your case and
23 how it meets the criteria for approval?

24 MR. SULLIVAN: Yes. Thank you, Madam Chair. If
25 Mr. Young could load the Power Point presentation please.

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1 This proposal is for a third-story addition and a three-story
2 rear addition for which 10-foot rule relief is requested.
3 Next slide please.

4 The property is in the RF-1 zone. It's currently
5 a two-story single family row building. As noted, it's a 3-
6 story addition at the rear and a third story on top of the
7 existing building. And the existing building extends about
8 16 -- almost 17 feet past the adjoining neighbor's rear wall,
9 so the building to the south. And the request would be to
10 go a little further than that to the distance of 23 feet past
11 the rear wall of the adjoining neighbor to the south. So 10-
12 foot rule relief is requested. The ANC 1A supported the
13 application 9-0 and the Office of Planning is in support.
14 And I'll turn it over to Mr. Buehler to take the Board
15 through the plans. Shawn.

16 MR. BUEHLER: Thanks, Marty. Can you go to the
17 next slide please? Next slide please. Here are some
18 photographs that show the existing condition. The house is
19 at the end of its row, so the alley runs along the side of
20 the property. And so we only have one attached neighbor,
21 which you can see in the picture in the top right. It's the
22 only attached neighbor. The picture on the far left shows
23 the back of the property. Go to the next slide please.

24 And again, just context, a map showing the
25 property at the end of its row at the alley, running both to

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1 the north and then behind it. Next slide please. This is
2 the before and after site plans, probably the most relevant
3 of the drawings today. The bottom image is the existing site
4 plans showing the building extending 16 foot 10.5 beyond the
5 neighbor to the south. We'd like to replace that smaller bay
6 in the back of the building with a new addition. The total
7 would be 23 feet deep relative to the neighbor to our south.
8 I think we can go to the next slide please.

9 I'm going to skip existing floor plans. Next
10 slide please. This is showing proposed floor plans with the
11 rear addition for the cellar and first floor. It's an
12 existing two-unit building. The proposed use will also be
13 two units. Next slide please. This shows the top two
14 floors. We are proposing a third floor addition as well.
15 That is also the depth that we're seeking for the lower
16 floors. Next slide please.

17 There would be a roof deck stepped in from the
18 side along the alley and from the front and rear. Next
19 slide. This shows existing and proposed front elevation with
20 the third floor largely stepped back behind the existing
21 mansard roof. Next slide. Rear elevation again with the
22 third floor. Next slide. This is the alley elevation
23 existing. And then the next slide will show the alley
24 elevation proposed.

25 And then let's see, next slide should be sections.

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1 I'm sorry. This is the side facing our neighbor. So the
2 section cut in this slide is through the neighbor that we are
3 attached to. And then you see our addition toward the right
4 end of the drawing at the rear pushing behind their house.
5 That's the existing condition. And then the next slide will
6 show the proposed exactly. Okay, next slide.

7 Existing section showing the mansard roof at the
8 front. And then the next slide shows the proposed with the
9 third floor stepping back from that mansard. And then last
10 for me at least, next slide. These show shadow studies.
11 They're somewhat small. But because we are to the north of
12 our only attached neighbor, we're generally not casting
13 shadows on that particular neighbor at all. The drawing here
14 shows the -- the light grey is the shadow for what would be
15 by right, the -- what's existing -- sorry -- the dark or
16 charcoal is showing the shadows of what would be by right.
17 And then the red is showing the shadows that are resulting
18 from the relief proceeding today. So you can see the shadow
19 impact is fairly minimal. And that's, I think, it for me.

20 MR. SULLIVAN: You can go to the next slide
21 please. So the application meets the general requirements
22 of the RF-1 zone in which 10-foot rule relief is permissible.
23 The third story respects the existing facade and the setback
24 from the mansard roof. Next slide please. Regarding the
25 specific criteria, there is no impact on shade -- light and

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1 air to the property to the south, the adjoining building for
2 which the 10-foot rule relief is requested. And there's no
3 windows also on the south facing wall, so no impact on
4 privacy. Next slide please.

5 And the addition is set back from the front facade
6 and the existing mansard roof to limit its visibility.
7 There's also a number of trees along the block limiting
8 visibility so that the application also complies and as the
9 Office of Planning has opined with the character, scale, and
10 pattern requirement as well. And I think that's it. If the
11 Board has any questions. Thank you.

12 VICE CHAIRPERSON JOHN: Ms. Elliott.

13 MEMBER BLAKE: For the --

14 VICE CHAIRPERSON JOHN: Yeah. There was one
15 question I had when I looked at the plans. I know there was
16 a building located across the alley. I just wanted to look
17 at the fenestration and see the alignment of those windows
18 relative to the windows of the building across the alley.
19 Could you speak to that?

20 MR. BLAKE: You're asking to understand the
21 windows of ours facing north to the alley and how they relate
22 to the building on the opposite side of that alley. Is that
23 right?

24 VICE CHAIRPERSON JOHN: That's correct. I know
25 obviously the face of the alley in the distance. But I

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1 wanted to just verify that the alignment of those windows
2 relative to the ones on that building across the alley.

3 MR. BLAKE: Can we pull the presentation back up?
4 And I think toward the beginning was the site plans. That
5 might be a good place to start on this response. Perfect,
6 right there. I was hoping we were going to show context
7 across the alley. Let's go -- I'm sorry. Let's go backward
8 one more slide as well. Yeah, that's going to be hard to see
9 without zooming in really far.

10 My recollection is that the buildings on the other
11 side of the alley shift forward from ours and are not quite
12 as deep as ours. Because the alley to the north of us, the
13 alley heading up to Spring Road is almost aligned with the
14 back of our existing building. So if you go back to the --
15 if you'd go forward one slide, sorry, to the site plans
16 again. The portion of our building that's proposed shaded,
17 the addition there is roughly where the alley to the north
18 butts into our building. And so I'd have to extend this
19 drawing to show the building to the north of that alley. But
20 given where their alley is positioned, almost their entire
21 building is forward of ours and our addition. I don't know
22 if that helps responds to that question or not.

23 VICE CHAIRPERSON JOHN: Okay, thank you.

24 MR. SULLIVAN: Board Member Blake too, looking on
25 street view, I see there's two small windows on the building

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1 across the alley about smack in the middle of that building.
2 So it's kind of limited on their window space on that side.

3 MEMBER BLAKE: Okay. So essentially they would
4 not line up with them at all. Okay, thank you. I don't have
5 any further questions.

6 VICE CHAIRPERSON JOHN: Okay, thank you. Ms.
7 Elliott, would you introduce yourself please and give us your
8 report?

9 MS. ELLIOTT: Yes. Good morning, Madam Chair and
10 members of the Board. I'm Brandice Elliott, representing the
11 Office of Planning for this BZA case, No. 20721. The Office
12 of Planning is recommending approval of the requested relief.
13 We did provide an evaluation of the relief against the
14 special exception criteria. And found that it met all of the
15 criteria. I'll stand on the record of our report, but I'm
16 happy to answer any questions you have.

17 VICE CHAIRPERSON JOHN: So are there any questions
18 from the Board? Any questions from the Applicant?

19 MR. SULLIVAN: No, thank you.

20 VICE CHAIRPERSON JOHN: Okay. Because I don't see
21 the ANC here. Okay. Mr. Young, is there anyone wishing to
22 testify?

23 MR. YOUNG: We do not.

24 VICE CHAIRPERSON JOHN: Okay, thank you. Do you
25 have a closing statement, Mr. Sullivan? I don't believe you

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1 have a rebuttal.

2 MR. SULLIVAN: No, nothing further. Thank you.

3 VICE CHAIRPERSON JOHN: Okay, thank you. So I'm
4 going to close the record and the hearing and excuse the
5 parties. Thank you.

6 So are we ready to deliberate? Who would like to
7 start? Okay. This is really very straight forward. The
8 issue is an additional six foot extension from what is there
9 now. And so I believe the Office of Planning has done a very
10 good job of explaining how the -- how the application meets
11 the criteria for relief under Section X901.2 and 205.5 and
12 Subtitle E 5201.

13 I believe that the Applicant has shown through the
14 sun studies that there is no significant impact on any
15 adjoining property from this additional six foot extension.
16 And the Office has done a good job of explaining and
17 analyzing the application. I believe that the response to
18 the question of the windows suggests that there should not
19 be an impact on privacy of the property to the north. And
20 DDOT has no objection to the application. I believe that the
21 ANC is also in support. And so does anyone have any
22 additional comments? No. Okay. So then I'll make a motion
23 to approve Application 20721 as read -- as captioned and read
24 by the Secretary and ask for a second, Mr. Blake?

25 MEMBER BLAKE: Second.

1 VICE CHAIRPERSON JOHN: Mr. Moy, would you please
2 take the roll call?

3 MR. MOY: When I say your name, if you would
4 please respond with a yes, no, or abstaining to the motion
5 made by Vice Chair John to approve the application for the
6 relief that's requested. The motion to approve was seconded
7 by Mr. Blake. Mr. Smith? Mr. Blake? Vice Chair John?

8 VICE CHAIRPERSON JOHN: Yes.

9 MR. MOY: Zoning Commissioner Peter May?

10 COMMISSIONER MAY: Yes.

11 MR. MOY: We have a board member not
12 participating, not present. Staff would record the vote as
13 4-0-1. And this on the motion -- And this is on the motion
14 made by Vice Chair John to approve. The motion to approve
15 was seconded by Mr. Blake. Also in support of the motion to
16 approve, Mr. Smith, Zoning Commissioner Peter May, and of
17 course, Mr. Blake, and Vice Chair John. The motion carries
18 on a vote of 4-0-1.

19 VICE CHAIRPERSON JOHN: Thank you. I believe we
20 can get through one more case before we break for a quick
21 lunch. So Mr. Moy, would you call 20723?

22 MR. MOY: Okay. So before the Board is Case
23 Application No. 20723 of Stephen Mallott and Yunus Arslan,
24 A-R-S-L-A-N. This is a self-certified application for
25 special exception pursuant to Subtitle E, Section 205.5,

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1 Subtitle E, Section 5201, and Subtitle X, Section 901.2. And
2 the rear addition requirements, Subtitle E, Section 205.4.
3 The property is located in the RF-1 zone at 109 11th Street
4 SE, Square 968, Lot 822. That's all I have, Madam Vice
5 Chair.

6 VICE CHAIRPERSON JOHN: Mr. Kearley, are you
7 representing the Applicant?

8 MR. KEARLEY: (Audio interference.)

9 VICE CHAIRPERSON JOHN: Good morning. Good
10 morning. Would you introduce yourself for the record please?

11 MR. KEARLEY: Sure. My name is Gregory Kearley.
12 I'm the managing principal for Inscape Studio architecture
13 firm and representing the client. I just want to point out
14 that the client is here as well. And they will share
15 whatever other information that you might need from them
16 during this conversation.

17 VICE CHAIRPERSON JOHN: Okay, thank you. So he
18 can introduce himself if you need to call him at that time.

19 MR. KEARLEY: Okay.

20 VICE CHAIRPERSON JOHN: Okay. Would you tell us
21 about your application and describe how the application meets
22 the criteria for relief?

23 MR. KEARLEY: Sure. This is an application for
24 a special exception. And it's the special exception pursuant
25 to the -- extending further back than 10 feet in an RF-1 zone

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1 district. You're allowed to extend 10 feet further back from
2 your neighbors. We're proposing to extend back 19 feet, so
3 we're asking for a special exception for the 9 feet. And
4 just want to note that there's an existing addition to this
5 structure that's already 19 feet back from the neighbor's
6 property. This is a second story addition, so we're not
7 going back further than what is already existing as a first
8 story addition. This is a second story addition.

9 VICE CHAIRPERSON JOHN: Okay.

10 MR. KEARLEY: Okay? So we believe that we meet
11 the criteria for a special exception. The light and air
12 available to the neighboring properties shall not be unduly
13 affected. The additional 9 feet of building length from what
14 is a matter of right of 10 feet will not unduly affect light
15 and air to the neighboring structures -- to the neighbors.
16 And we actually did a sun study, which is in the record that
17 show that. That confirms that we're not creating adverse
18 shadows and affecting the neighbors in a negative manner.

19 We do not have windows on the side, so we are not
20 interrupting the privacy of our neighbors to the south and
21 to the north. And additionally, together with the rear
22 building view from the street, alley, or other public way
23 shall not substantially visually intrude upon the character,
24 scale, and pattern of the houses. This is not viewed from
25 the front -- from the street. And it's landlocked, so

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1 there's no alley. So we're not creating an adverse effect
2 of the character from any public spaces.

3 I also want to note that this has already been
4 approved by HPO as approved on the staff level and the
5 consent calendar from HPRB. So Historic has already approved
6 the addition. We have met with the ANC and they unanimously
7 voted to be proponents of this addition. We have a number
8 of letters in support. We have no letters in opposition and
9 no known opposition to the project from the neighbors.
10 Stephen and Yunus both met with the neighbors and have
11 reached out to the neighbors. So we feel that we meet the
12 criteria for the special exception. And we already have
13 approval from HPO, HPRB, and the local ANC.

14 VICE CHAIRPERSON JOHN: Okay. Thank you, Mr.
15 Kearley. Does the Board have any questions? No. Thank you.
16 So I'll go to the Office of Planning. Ms. Vitale.

17 MS. VITALE: Good morning, Madam Vice Chair and
18 members of the Board. Elisa Vitale with the Office of
19 Planning. I am sitting in for my colleague, Anne Fothergill.
20 This is for BZA Case 20723. The Office of Planning is
21 recommending approval of the requested special exception to
22 construct an addition that would extend 19 feet beyond the
23 adjoining property to the south. I will rest on the record
24 of the staff report, but I'm available to answer any
25 questions. Thank you.

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1 VICE CHAIRPERSON JOHN: Thank you. So Ms. Vitale
2 -- Ms. Vitale, I just have one quick question. And it might
3 be a typo and this is on Page 3 of the report.

4 MS. VITALE: Okay.

5 VICE CHAIRPERSON JOHN: And I believe the
6 Applicant has not requested any relief for lot occupancy.

7 MS. VITALE: Yes, that is correct. The first
8 floor, it appears is nonconforming with respect to the
9 maximum permitted lot occupancy. Lot occupancy is generally
10 evaluated on a floor by floor basis. The Applicant is
11 proposing a second story addition. That second floor
12 addition would result in a lot occupancy of 40 percent on the
13 second floor, which would be within the 60 percent permitted
14 in the RF-1 zone. And I don't believe the Applicant is
15 requesting lot occupancy relief.

16 VICE CHAIRPERSON JOHN: Okay. So we'll just --

17 MR. KEARLEY: And that is correct. We are not
18 requesting relief because we're under --

19 VICE CHAIRPERSON JOHN: Okay.

20 MR. KEARLEY: -- the threshold of the 60 percent
21 significantly. I think we're 40 plus or minus.

22 VICE CHAIRPERSON JOHN: Right. Thank you. So
23 we'll just make a note that the report has been amended.

24 MS. VITALE: Correct. I think the recommendation
25 on the first page accurately reflects the relief --

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1 VICE CHAIRPERSON JOHN: Okay.

2 MS. VITALE: -- and recommendation.

3 VICE CHAIRPERSON JOHN: All right, thank you. Are
4 there any other questions from the Board? Does the Applicant
5 have any questions for the Office of Planning?

6 MR. KEARLEY: No. Thank you for your time and
7 efforts.

8 VICE CHAIRPERSON JOHN: Mr. Young, is there anyone
9 wishing to testify?

10 MR. YOUNG: Only one witness signed up and that
11 is Barbara Johnson.

12 VICE CHAIRPERSON JOHN: Okay. Would you let the
13 witness in please? Ms. Johnson, can you hear me? Ms.
14 Johnson? Ms. Johnson, can you hear me?

15 MS. JOHNSON: Hi. Hi.

16 VICE CHAIRPERSON JOHN: Good morning, Ms. Johnson.

17 MS. JOHNSON: Good morning.

18 VICE CHAIRPERSON JOHN: Would you state your name
19 and your address for the record please?

20 MS. JOHNSON: My name is Barbara Johnson. I live
21 at 105 11th Street. I'm a neighbor north of 109.

22 VICE CHAIRPERSON JOHN: Okay, thank you. And
23 you'll have three minutes to give you testimony.

24 MS. JOHNSON: I'm in support of the addition of
25 Stephen and Yunus, our good neighbors. And my concern is

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1 noise and it may not impinge on the decision of the Board.
2 But the noise will be significant, so I'm only requesting
3 that the contractor is very careful about keeping the
4 constraints on the noise, whatever that is and not weekends
5 and just to be really aware of that because it's really
6 difficult living next door.

7 VICE CHAIRPERSON JOHN: Okay, thank you. And Ms.
8 Johnson, are you talking about during construction? Is that
9 what your concern is?

10 MS. JOHNSON: Yes. Yes, yes, right.

11 VICE CHAIRPERSON JOHN: Thank you. So I will ask
12 the Applicant, have you discussed with Ms. Johnson how --
13 made a construction agreement and how you would manage
14 construction during the process?

15 MR. KEARLEY: We haven't -- myself hasn't as the
16 architect. Ms. Johnson has sent in a letter of support, so
17 I just want to note that. So thank you, Barbara, we
18 appreciate that.

19 MS. JOHNSON: Sure.

20 MR. KEARLEY: And I know Stephen and Yunus, they
21 could possibly speak about that. But we will give specific
22 direction to the contractor to first meet with Barbara so we
23 can talk with her about the plans. We will stay within all
24 the guidelines and regulations for DC about noise and
25 starting. There's no plans to do any weekend work. Barbara,

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1 I know that's a concern of yours. So we will do what is
2 necessary to communicate with Barbara, the schedule for
3 construction and work with her in terms of any mitigation of
4 noise. So I can let Stephen speak more to that if you want
5 the Owner to speak to that. But we will definitely take her
6 concerns into consideration.

7 VICE CHAIRPERSON JOHN: Okay, thank you. That's
8 your choice. Does the Board wish to hear from Mr. Mallott?
9 Mr. Mallott, did you have a comment?

10 MR. MALLOTT: I'm Stephen Mallott, the Owner of --
11 co-owner of 109 11th Street Southeast in Washington DC and
12 Barbara's neighbor. Thank you, Barbara, for joining. And
13 I would like to say that we have met with each and every one
14 of our neighbors who adjoin our property and have full
15 support to move forward with our project. We've owned the
16 home since 2009 and have been wonderful neighbors and are
17 looking forward to the renovations that we can make and move
18 back in and be good neighbors again.

19 VICE CHAIRPERSON JOHN: Okay.

20 MR. MALLOTT: I'm happy to answer any questions
21 you may have.

22 VICE CHAIRPERSON JOHN: Okay. So can the Board
23 ask you to provide a contact number for Ms. Johnson in case
24 there are any issues during construction? I guess you could
25 just walk next door, but at least --

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1 (Simultaneous speaking.)

2 MR. MALLOTT: Absolutely. Yeah, Ms. Johnson has
3 my cell phone number. She has my partner, Yunus' cell phone
4 number. And we would be happy to provide a contact number
5 with the contractor once we finalize our agreement with him.

6 VICE CHAIRPERSON JOHN: Okay, thank you. So does
7 the Board have any other questions? Thank you. Mr. Young,
8 is there anyone else wishing to testify?

9 MR. YOUNG: No, that's it.

10 VICE CHAIRPERSON JOHN: Okay. So thank you all
11 for your testimony and the Board is going to close the record
12 in the hearing.

13 Are we ready to deliberate? Okay. So I'm going
14 to ask somebody to start. Mr. Blake, is your hand up?

15 MEMBER BLAKE: I will be voting in support of the
16 application. I believe the Applicant has met the criteria
17 for relief pursuant to E5201 and the general standards of
18 X901.2. Based on the information in the record and the
19 testimony at today's hearing, the Applicant certainly has
20 demonstrated that the proposed addition will not have a
21 substantially adverse effect on user enjoyment of the
22 abutting or adjacent properties.

23 From a light and air perspective, their shadow
24 studies demonstrated that there should be no undue impacts.
25 There will be no windows on the sides proposed for the second

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1 floor addition and the balcony faces the rear yard.
2 Therefore privacy should not be unduly compromised. The
3 addition is not visible from 11th Street Southeast. And I
4 would acknowledge HPO's evaluation of the project's visual
5 continuity.

6 With the exception of the request for relief, the
7 project meets the other general development standards of the
8 zoning including lot area, lot width, lot occupancy, rear
9 yard, and building height. I give great weight to the report
10 of the Office of Planning and their recommendation. DDOT has
11 no objections. We see the ANC 6B recommends approval and has
12 stated no wishes or concerns. And I would also note the
13 persons supporting, including Ms. Johnson. And I appreciate
14 the Applicant's willingness to work with her and to
15 communicate the, you know, management strategies and so forth
16 to work with her and make sure she keeps aware. And they
17 limit the noise impact and also indicate the other adjacent
18 neighborhood is supporting.

19 Importantly though, because this is a rear yard
20 addition, I think it's really worth noting CH-- Capitol Hill
21 Restoration Society's support. When I read that, it felt
22 like a glowing support relative to anything they've said in
23 other -- basically read with regard to rear yard expansion.
24 So I would certainly give great -- certainly acknowledge that
25 as well. I would be prepared to support this application.

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1 VICE CHAIRPERSON JOHN: Thank you. Mr. Smith?

2 MEMBER SMITH: I really have nothing to add. Mr.
3 Blake profiled, you know, a very thorough analysis of this
4 case and the reasons why I also support. So I will vote
5 (audio interference).

6 VICE CHAIRPERSON JOHN: Commissioner May?

7 COMMISSIONER MAY: (Audio interference) in favor.

8 VICE CHAIRPERSON JOHN: Thank you. I have nothing
9 to add as well and I'm in support of the application. I
10 thought Mr. Blake did a thorough job. And so I will make a
11 motion to approve Application No. 20723 as captioned and read
12 by the Secretary and ask for a second, Mr. Blake.

13 MEMBER BLAKE: Second.

14 VICE CHAIRPERSON JOHN: Mr. Moy, would you please
15 take the roll call?

16 MR. MOY: When I call your name, if you would
17 please response with a yes, no, abstain to the motion made
18 by Vice Chair John to approve the application for the relief
19 that's requested. The motion to approve was seconded by Mr.
20 Blake. Mr. Smith?

21 MEMBER SMITH: Yes.

22 MR. MOY: Mr. Blake?

23 MEMBER BLAKE: Yes.

24 MR. MOY: Vice Chair John?

25 VICE CHAIRPERSON JOHN: Yes.

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1 MR. MOY: Zoning Commissioner Peter May? There's
2 no other board members participating. Staff would record the
3 vote as 4-0-1. And this is on the motion made by Vice Chair
4 John to approve. The motion to approve was seconded by Mr.
5 Blake. Also in support of the motion to approve, Mr. Smith,
6 Zoning Commissioner Peter May, and of course, Mr. Blake and
7 Vice Chair John. The motion carries on a vote of 4-0-1.

8 VICE CHAIRPERSON JOHN: Okay, thank you. So it
9 is 11:58 and we will break for lunch for 30 minutes. And
10 then if all goes well, we should be out of here before 2:00.
11 We have one more case. Right, Mr. Moy, after lunch?

12 MR. MOY: That's correct.

13 VICE CHAIRPERSON JOHN: Okay. Do I get a medal
14 for this?

15 MR. MOY: Oh, you get more than a medal.

16 VICE CHAIRPERSON JOHN: Okay. Let's reconvene at
17 12:30. Thank you. Thank you, Mr. Moy.

18 (Whereupon, the above-entitled matter went off the
19 record at 11:59 a.m. and resumed at 12:37 p.m.)

20 VICE CHAIRPERSON JOHN: Okay. Mr. Moy, I think
21 we can get started.

22 MR. MOY: Thank you. I think we're all here. So
23 the Board has returned to its public hearing session after
24 a brief lunch recess. And the time is at or about 12:37 p.m.

25 The next case before the Board is Application No.

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1 20710 of TMT Services, LLC. This application, Madam Chair,
2 has been amended and self-certified as an application for a
3 special exception pursuant to Subtitle X, Section 901.2 per
4 the following: Under Subtitle C, Section 305.1 to allow a
5 theoretical lot subdivision two buildings on a single record
6 lot that's being proposed. Subtitle C, Section 714.3 from
7 the screening requirements of external surface parking of
8 Subtitle C, Section 714.2(a). Under Subtitle U, Section 421
9 to allow a new residential development and apartment
10 development with 21 units in two buildings.

11 I said that this is amended because the
12 application to remove the previous request for area variance
13 from the location requirements for bicycle parking, No. 2
14 added special exception relief to Subtitle C, Section 714.3
15 from the parking screening requirements as C-7142(a). And
16 finally, it was added and then it was removed, a request for
17 a variance from the 24 wide driveway requirements under
18 Subtitle C, Section 305.3(b).

19 I know that's a lot, but I would ask the Applicant
20 to confirm what I just announced. The property is in the RA-
21 1 zone and it is at 2340 Ainger, A-I-N-G-E-R Place, Southeast
22 Square 5740, Lot 349.

23 VICE CHAIRPERSON JOHN: Thank you, Mr. Moy. I
24 see, Ms. Wilson. Would you introduce yourself for the record
25 please?

1 MS. WILSON: Hi. Alex Wilson from Sullivan and
2 Barros on behalf of the Applicant in this case.

3 VICE CHAIRPERSON JOHN: And do you have anyone
4 with you today?

5 MS. WILSON: Yes. Matt Lee is our architect and
6 he is here with us.

7 VICE CHAIRPERSON JOHN: Okay. Do you want to
8 introduce him now, Mr. Lee?

9 MR. LEE: Thank you. My name is Matt Lee. I'm
10 the architect and here on behalf of the Applicant.

11 VICE CHAIRPERSON JOHN: Okay, thank you. Can you
12 tell us about your application, Ms. Wilson and why you think
13 it requires approval?

14 MS. WILSON: Great, thank you. We do have a
15 presentation if Mr. Young could please pull that up.

16 VICE CHAIRPERSON JOHN: Thank you.

17 MS. WILSON: Thank you, Mr. Young. Could you
18 please go to the next page? Thank you. So currently there
19 is an existing single family dwelling on site. It's one of
20 the only ones left in the area as the area is primarily made
21 up of larger residential developments and apartment
22 buildings. We are proposing to raise the existing single
23 family dwelling and construct two new apartment buildings,
24 each on their own theoretical lot, although it will remain
25 one record lot and the one development without rental units.

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1 The proposed buildings meet all development standards in
2 terms of the yards, lot occupancy, FAR height. And the
3 buildings are well below allowable FAR for an IZ development
4 for this zone.

5 There will be 21 units total, 13 in Building A,
6 eight in Building B. The units in Building B are flats, so
7 there will be one unit on the cellar and first floor and one
8 unit on the second and third floor. And the units in
9 Building A are set up as row dwellings with two stories.
10 Three of units are IZ units, two in Building A and one in
11 Building B. All IZ units have four bedrooms and two
12 bathrooms, as do the majority of the units in general. The
13 non-IZ units are intended to be part of the voucher program.
14 We are also providing 21 parking spaces as it is not
15 particularly close to any metro station. And the nature of
16 the development is that it's likely to be set up -- it's
17 supposed to be set up like individual homes. So it makes
18 sense in that case to provide new one to one parking ratio.

19 We submitted a TDM plan as requested by DDOT, as
20 well as responses to other DDOT comments related to the
21 screening and vent parking. That is in Exhibit 24. We were
22 originally seeking a variance for the driveway, but BZA
23 finally confirmed we do not need that relief. That was also
24 submitted to the record and emailed from the Zoning
25 Administrator.

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1 So at this time, we are seeking only three special
2 exceptions and no variances. The first special exception is
3 for a new residential development in the RA-1 zone. The
4 second is for a theoretical lot subdivision to have two
5 buildings on a single record lot. And the third is for the
6 screening requirements as DCRA told us we need to have
7 internal screening between the building and parking area And
8 I'll explain that in more detail here shortly.

9 In terms of agency communication, OP is
10 recommending approval. As I mentioned, we've addressed DDOTs
11 concerns with respect to the fencing along Ainger and bike
12 parking on Exhibit 24. Mr. Young, if you could go to the
13 next slide, I'll speak more about our interactions and where
14 we are with the ANC.

15 So this shows our schedule of outreach. I
16 typically direct our staff to reach out multiple times after
17 we file until we get a response from the ANC. In this case,
18 we reached out for over two months. We received a response
19 mid-April. Unfortunately we do not end up on the April
20 agenda. The SMD asked to have a number of meetings before
21 the full ANC. Of course, we were amenable. We talked to her
22 on the phone. And then also our architect, Matt Lee met and
23 picked her up in-person and walked the site with her and her
24 son. They really seemed to like the project. I know from
25 past experience, this ANC prioritizes on-site parking.

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1 That's one of the reasons we were providing you one to one
2 parking ratio.

3 After the on-site meeting, she told our architect
4 that she presented it to the ANC in their closed executive
5 meeting in early May, I believe. And then after that, we
6 followed up with the ANC again to ask if we could finally be
7 placed on their agenda. And they did place us on the May
8 17th agenda. So then something happened that's never
9 happened in the two years I've been doing ANC virtually. We
10 attempted to log in with the link provided to us, as well as
11 the on-line link, but neither of the links worked. Mr. Lee
12 called and texted the SMD for an hour and no new link was
13 provided. No answers were provided.

14 So then after the meeting the next day, we learned
15 that the Chairperson did send staff from Sullivan and Barros
16 a followup link at 8:30 that night, but she was not at the
17 meeting. She does not attend the meetings, so unfortunately
18 no one saw that link. In this case, I think it would have
19 been really well received given the previous feedback from
20 the community. And the fact that this is an area of
21 apartment buildings, you know, we've of course followed up
22 with SMD to see if she would be attending today. I'm hoping
23 someone from ANC might be here, so at least we could have a
24 discussion about moving forward or attending again. But we
25 haven't heard back. We will defer to the Board on how it

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1 would like to handle this. But again, we did present to the
2 SMD and the ANC is well aware of the project. Next slide
3 please.

4 Thank you. With respect to the general special
5 exception requirements, this clip shows that the variance is
6 predominantly made of up apartment buildings. The proposal
7 will be in character with the surrounding area and conforms
8 to all development standards. Next slide please. So the
9 criteria for U-421 relief and theoretical lot relief for
10 relatively similar. They're primarily directed to agencies
11 to provide comments or for us to provide materials. In this
12 case, all relevant materials have been submitted. And the
13 project has been reviewed by the relevant agencies. They are
14 either recommending approval or no objection in DDOTs case.
15 And then the Applicant provided the detailed statement in
16 response to DDOT comments. And the TDM plan has been
17 submitted to the record as well. Next slide please.

18 I'll briefly flip through the slides for
19 theoretical lot relief. It's pretty lengthy. They're
20 primarily directives as to what materials we should submit
21 and how to measure yards and height. And in this case, we
22 meet all the side and rear yard requirements and we are
23 meeting all the development standards. Next slide please.

24 We have provided the relevant information and
25 materials required by C-305.4. Next slide please. Thank

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1 you. And so finally, in terms of the theoretical lot relief,
2 the proposed project will comply with the substantive intent
3 and purpose of this title and will not have an adverse effect
4 on the present character or future development of the
5 neighborhood, which is already primarily large apartment
6 buildings. Next slide please.

7 Thank you. So in terms of this screening relief,
8 there is a bit of confusion with DDOT. So I want to make
9 sure the record is clear on what we're asking for and why.
10 We had a PDRM with DCRA and the reviewer said we needed to
11 provide screening between our parking area and the sidewalk.
12 So where the red lines are shown on this diagram. I tried
13 to push back a bit with the reviewer as I know DCRA does not
14 consistently enforce interior screening like this. But I
15 guess if you read C-714.2(a) strictly, coupled with the
16 definition of surface parking area, one could argue we would
17 need interior screening based on that reading or
18 interpretation of the zoning regulations. So this is
19 probably not what was intended, but I know DCRA said they
20 would enforce it this way for the project. And it's already
21 on their radar, so we are seeking relief so that we don't
22 have to put a fence on top of the sidewalk essentially.

23 We are still providing the normal screening you
24 would expect along Ainger Place and the sidewalk line that's
25 shown in green. And the request is so we don't have to cut

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1 off egress from the surface parking area to the sidewalks
2 next to the building. If you go to the next slide, it shows
3 the 3D. Thank you. So this is a rough idea of where DCRA
4 said the required screening would need to go on top of this
5 sidewalk area next to or surrounding the surface parking
6 area. And so of course the issue with this is that instead
7 of walking to your car, you'd have to exist through gaps that
8 are only allowed every 20 feet. That would also shrink the
9 egress path or eliminate landscaping and it would create an
10 unsafe condition essentially. So we are asking that we don't
11 have to provide a fence on top of the sidewalk. Next slide
12 please.

13 In terms of the criteria for relief, the Board can
14 consider any number of the following. Reviewing the most
15 applicable sections, a strict enforcement of the rule would
16 mean that the driveway and parking area would have to have
17 a fence around it, which would impede egress by increasing
18 the distance between residents parking spaces and their
19 respective homes. It could create a dangerous situation
20 where residents would have to walk much further through a
21 parking area to go around a fence through an opening and get
22 to their respective front doors.

23 There will be appropriate screening along public
24 ways, which was assuming that was the intent of the
25 regulations. The Applicants will have a fence between the

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1 parking area and adjacent property to the east and southeast
2 and a fence on Ainger. And this will ensure safer traffic
3 conditions on site and appropriate walking paths.

4 And with that, I'll turn it over to Matt Lee to
5 briefly walk through the plans. And then we're happy to
6 answer any questions.

7 MR. LEE: Next slide please. Thank you, Alex for
8 going through all that. As Alex mentioned, we have two
9 buildings, 13 units in the front, consisting of two level
10 units exiting on grade. OP asked us to make a couple of
11 accommodations in the design. We've got everyone exiting out
12 through the parking lot. We've rotated that so that the two
13 units are facing Ainger Place in the front, so that there's
14 more of a sense of entry as you come into the site. In the
15 rear building is three stories with the cellar. Those are
16 two-story units, but they are stacked like Alex mentioned.
17 Next slide please.

18 Let's go one more please, Mr. Moy. It's a highly
19 repetitive view. They are bar units. But you can start to
20 see here, we have IZ units scattered throughout in blue. The
21 orange is the standard unit. Each building was asked to
22 accommodate the bike parking. So the rear building, Building
23 B that had the eight units, one of those units accommodates
24 the bike room in the cellar level access from the exterior.
25 And there's a small cellar level in the front 13-unit

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1 building to provide bike parking. Next slide please.

2 Here's a good overview in the bottom left. You
3 can see the diagram of Building A and Building B. Again,
4 this is just kind of locating some site features and things
5 in the parking level -- parking accommodations, as well as
6 the two buildings. Next slide please. Next. These are a
7 couple of details in here we don't really need. This shows
8 the typical units. Each unit is, it's going to have one
9 bedroom with the master on the main level and then three
10 bedrooms upstairs sharing a bathroom. Next slide please.
11 Next. Next please.

12 This is the cellar level. Again, very similar
13 layout. Master on main and then down to the bedroom and the
14 cellar level and then up -- and then up -- in the upper
15 levels. You can probably skip two or three, Mr. Moy. Keep
16 going. Yep. A lot to document on this one. Keep going
17 please. Bike room detailing. Next slide please. Yeah, I
18 think that's probably -- Everybody's gets it. If you have
19 any questions, I'd be happy to answer. Mr. Moy, if you want
20 to skip through the elevations and the color rendering, that
21 would be great. It looks like that might be -- Yep.

22 We went with our contemporary look that Ms. Watson
23 seemed to be pretty happy with. She was very excited about
24 the parking on site. And this is -- this single family house
25 was used as a daycare, but there's some strange construction

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1 on site. So it will all be torn down and cleaned up. We're
2 adding -- trying to add a sense of community to this area in
3 a small, kind of pocket neighborhood. We want to put a
4 playground in-between the yards. We're trying to maximize
5 the green space as much as we can, but at the same be
6 sensitive to the parking requests for the area. She was very
7 excited about 21 parking spaces and the amount of green space
8 we were providing. Next slide please.

9 And that's the back building and an aerial shot.
10 And I'll turn it over there.

11 MS. WILSON: Great. Thank you, Matt. I believe
12 the next slide would conclude our presentation. And we're
13 happy to answer any questions. Oh, apologies. I should have
14 cut the plans down a bit, but I always think it's helpful to
15 include the full presentation in case anyone has any specific
16 questions. So I'd be happy to drop this slide. Thank you.

17 VICE CHAIRPERSON JOHN: Thank you. Ms. Wilson,
18 how many voucher units were there?

19 MS. WILSON: So there are going to be three IZ
20 units, so the rest will be voucher units --

21 VICE CHAIRPERSON JOHN: Okay.

22 MS. WILSON: -- so 18.

23 VICE CHAIRPERSON JOHN: Okay, thank you. Are
24 there any other questions from the Board? Okay. First I'll
25 go from left to right. Commissioner May?

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1 COMMISSIONER MAY: A couple questions about the
2 bike parking situation. So the main building, Building A,
3 I can understand that. It's six or seven steps down on the
4 cellar level below those units. Right?

5 MR. LEE: Correct.

6 COMMISSIONER MAY: All right. But then how does
7 it work in Building B? Because it seems to be cutting into
8 the space of that unit.

9 MR. LEE: It does cut into the space of that unit.
10 So we've accommodated that one unit to have a three bedroom
11 configuration because of the bike parking. We worked with
12 OP, with Alex and a couple other people, to try to remove
13 some of these requirements. They would not let us
14 consolidate the bike parking into Building A. They held
15 steady about it being in the --

16 COMMISSIONER MAY: Okay. I'm not asking that.

17 MR. LEE: Oh, I'm sorry.

18 COMMISSIONER MAY: I mean I want you to have the
19 bike parking the way it is according to regulations. And
20 what you provided, it's not great. I mean having to drag
21 your bike downstairs to get to a cellar level to park your
22 bike is not great, but I guess it's technically compliant.
23 My real question is just, I didn't see where that three-unit
24 was -- three bedroom unit was reflected in the plans. Am I
25 missing that? Is there a drawing somewhere that shows that

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1 in the plans other than the overall?

2 MR. LEE: There should be. I can't give you a
3 sheet number off the top of my head. I don't have the -- We
4 have enlarged plans that show that, but yes, it's called for
5 in the plans. We have an exterior closet for all intents and
6 purposes for the bikes.

7 COMMISSIONER MAY: Okay. Well if you -- if you
8 have a moment to take a look through your plans to see where
9 you show that plan. Because again, I don't see it any of the
10 unit plans. I only see it in the overall building plan,
11 which doesn't show the floor plans and units.

12 (Simultaneous speaking.)

13 MR. LEE: Right. We added that last minute, so
14 we might not have done a blow-up plan for that exact unit,
15 but we're happy to provide. We'll need to do it eventually
16 anyway. But we're happy to provide it if that's --

17 (Simultaneous speaking.)

18 COMMISSIONER MAY: So you don't think there
19 actually is one in your set?

20 MR. LEE: There might not be. I don't have it in
21 front of me, but there not might be. But I can get that to
22 you if you'd like to see that specifically.

23 COMMISSIONER MAY: Okay. Well, we'll see where
24 this goes. Thank you. That's it for me.

25 VICE CHAIRPERSON JOHN: Thank you. Board Member

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1 Smith?

2 MEMBER SMITH: The screening requirement for
3 (audio interference) special exception. On your discussions
4 with the Zoning Administrator, could you have met this
5 requirement by putting landscaping within the landscape strip
6 between the (audio interference). Could you elaborate on
7 that?

8 MS. WILSON: Yeah. So I've had a couple
9 discussions about this specific requirement with this
10 particular zoning reviewer on other projects too. And so he
11 told us unequivocally we needed to have this screening right
12 there on the fence. That landscaping like next to the
13 building wouldn't comply. I'm a little confused about the
14 screening requirement and DCRA's position on it, but at this
15 point, that's where we've landed with them. And I mean, I
16 spent two months arguing with them on another project and we
17 ended up in the same position. So just out of an abundance
18 of caution, we are seeking that relief.

19 MEMBER SMITH: This seems very odd to me, but you
20 know, that's DCRA's interpretation (audio interference) with
21 an abundance of caution. So that was my only question.

22 VICE CHAIRPERSON JOHN: Board member Blake?

23 MEMBER BLAKE: A little bit with regard to the
24 theoretical subdivision. In developing this lot, you chose
25 for what reason to use that to develop the lot, as opposed

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1 to another mechanism? Just I want to get a --

2 (Simultaneous speaking.)

3 MS. WILSON: Yeah. Sure. So the other option would
4 have been to do record lots. So how the theoretical lots are
5 set up now, the back one wouldn't be able to get -- we would
6 not be able to convert that to a record lot without relief
7 because there's no lot frontage. So I guess -- I mean we
8 could have -- You need 30 feet of lot frontage to do an
9 apartment. It just got a little too complex. I mean we did
10 do this due diligence at the earlier stages because obviously
11 it's always better if you can do it in a matter of right way.
12 But I think for permitting, this is also the easiest way to
13 go about it, rather than to create two record lots where you
14 have a parking lot in front of one and then the building in
15 the back.

16 MEMBER BLAKE: Okay, thank you.

17 MR. LEE: Real quick, Mr. Moy, A205(b) had the
18 enlarged plan on that.

19 VICE CHAIRPERSON JOHN: It's Mr. Young.

20 MR. LEE: Sorry, Mr. Young. I thought Mr. Moy was
21 asking -- May was asking about the plan.

22 VICE CHAIRPERSON JOHN: Mr. Young, would you mind
23 pulling up that slide?

24 COMMISSIONER MAY: Thank you.

25 VICE CHAIRPERSON JOHN: All right, thank you.

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1 Does the Board have any other questions? So I'll go to the
2 Office of Planning.

3 MS. MYERS: Crystal Myers with the Office of
4 Planning. We are recommending support of this case. We can
5 stand on the record of the staff report. I'll just note that
6 the Applicant is no longer doing the area variance as they've
7 discussed, so that portion of our report, is not applicable
8 any more. But other than that, the report -- we stand on the
9 record of the staff report and recommend approval. And
10 that's all I have.

11 VICE CHAIRPERSON JOHN: Okay, thank you. Does the
12 Board have any questions? Mr. Blake, is your hand up?

13 MEMBER BLAKE: Yes, it is. Could you talk to me
14 a little bit about the intent of the screening requirement
15 as you understand it?

16 MS. MYERS: I believe the intent is just to provide
17 kind of a safer environment. But I mean the actual
18 interpretation of it is up to DCRA, so we defer to them on
19 that. The Office of Planning just responds to the relief
20 being requested. But the reading of it, that's DCRA. So my
21 understanding of that section is that it's really more about
22 safety.

23 VICE CHAIRPERSON JOHN: Okay. Any other
24 questions? Does the Applicant have any questions for the
25 Office of Planning? Thank you. Mr. Young, is there anyone

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1 wishing to testify?

2 MR. YOUNG: We do not.

3 VICE CHAIRPERSON JOHN: Ms. Wilson, do you have
4 any closing comments?

5 MS. WILSON: No, thank you.

6 VICE CHAIRPERSON JOHN: Okay. So I wanted to go
7 to the Board here before I close the record. So the
8 Applicant has tried to reach out to the ANC. Is the Board
9 interested in hearing from the ANC or making another --
10 asking the Applicant to make another effort to present to the
11 ANC? I have no preference.

12 COMMISSIONER MAY: The Applicant has made a good
13 faith effort and there has been some discussion. And I don't
14 think it's the community or the Board, certainly not the
15 Applicant are going to be well served by extending this
16 process for the sake of getting an ANC report. It's very
17 clearly -- This sort of building is very clearly appropriate
18 in this context and the constraints of the property are such
19 that the relief that they're asking for is necessary. So I
20 would have no problem with preceding with the ANC report.

21 VICE CHAIRPERSON JOHN: Thank you, Commissioner
22 May. Mr. Blake?

23 MEMBER BLAKE: I'll defer to the commissioners.

24 VICE CHAIRPERSON JOHN: Mr. Smith? Okay. And
25 likewise, I believe the Applicant has made a good faith

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1 effort to reach out to the ANC and actually met with the SMD.
2 So I'm satisfied with not requiring the Applicant to make
3 another effort. So at this time, I'll excuse everyone. If
4 you have nothing more to say, Ms. Wilson, we'll just go ahead
5 and close the record. Thank you, all. Have a great day.

6 So are we ready to deliberate? I'll wait. Okay.
7 Are we ready to deliberate? Is anyone going to volunteer?
8 Commissioner May, you have not volunteered all day.

9 COMMISSIONER MAY: It's been a very
10 straightforward day (audio interference).

11 VICE CHAIRPERSON JOHN: Okay.

12 COMMISSIONER MAY: It's not the most complicated
13 thing because (audio interference). I think I've pretty much
14 made the argument for it in --

15 VICE CHAIRPERSON JOHN: Oh, okay.

16 COMMISSIONER MAY: -- the ANC. The building, you
17 know, makes sense. The plans make sense. The way they're
18 proposing to develop it, the site makes sense. The relief
19 seems to be necessary in order to achieve this. And you
20 know, the project seems to be pretty well designed. I mean
21 I don't love having such a huge parking lot, but I don't know
22 that there's any other way to configure the site with a more
23 efficient parking lot. And I don't think that that it (audio
24 interference). I understand that the neighborhood is such
25 that the folks want to have those parking lots on site and

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1 we don't have a regulation that says you can't have a parking
2 lot that big. So there are things I like about the project.
3 Things to maybe not love about the project. But when it
4 comes to the request for us, I don't see any reason why we
5 should not grant the relief requested.

6 VICE CHAIRPERSON JOHN: Thank you. Mr. Blake?

7 MEMBER BLAKE: I agree that the -- I'll be voting
8 in favor of the application. I do think the Applicant has
9 met the burden of proof to receive relief for what they've
10 asked. I do think it's important to have the parking spaces.
11 And I think that the configuration that they've come up makes
12 that work. The safety issue, I do think there is pedestrian
13 safety that comes in here. And it would be nice to see
14 something in maybe those flower boxes to kind of, you know,
15 shifted how people came out. The randomness of people
16 walking to the street always concerns me. But I think -- and
17 not walking into the driveway as they try to go back and
18 forth. And you know, it would be nice to have some type of
19 separation there between that and the actual driveway.

20 But I think that, you know, it makes sense. And
21 I appreciate the Applicant's effort to reach the ANC. I'm
22 disappointed that they didn't get some feedback from them
23 because I always enjoy having that information. But I do
24 acknowledge that there's no opposition from any members of
25 the community on record. So I'm going to be prepared to

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1 support the application.

2 VICE CHAIRPERSON JOHN: Thank you. Mr. Smith?

3 MEMBER SMITH: I agree with the testimony that has
4 been provided thus far. I do believe that the Applicant met
5 the burden of proof (audio interference) the special
6 exceptions. And I think they are fairly reasonable requests,
7 even though I have questions about that interpretation.
8 About the landscaping requirement given the Zoning's animus
9 position on that, I think it is reasonable to grant that
10 request given the narrow nature of the site.

11 As far as the parking, I do -- I agree with Mr.
12 Blake. I think it is important to have, you know,
13 multimodal transit options. The location of the parking
14 doesn't offend me. Where this development would be located
15 is not -- it is not near the -- the way it profiles to the
16 metro station. I think the closest one is probably on Naylor
17 Road, which is still fairly far away. So I think it is
18 reasonable expectation that many of the residents that maybe
19 would drive. But the property is adjacent to some major
20 metro bus lines in the area, as well as they will be divided
21 some by apartments if any residents choose to commute via
22 bike. So with that, I (audio interference).

23 VICE CHAIRPERSON JOHN: Okay, thank you. I was
24 looking to see if we had anything from DDOT and we do. And
25 I believe it is no objection. And --

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1 (Simultaneous speaking.)

2 VICE CHAIRPERSON JOHN: I'm sorry. Is someone
3 speaking?

4 COMMISSIONER MAY: I'm sorry. I just wanted to
5 say they did cite a couple of concerns, but I think the
6 Applicant has addressed those.

7 VICE CHAIRPERSON JOHN: Right. Okay. And that
8 was largely relating to the landscaping and the fence. Okay.
9 And I also am going to give great weight to the analysis and
10 the recommendation of the Office of Planning. Because I
11 think the Office of Planning did a good job of explaining how
12 the criteria meets -- how the application meets the criteria
13 for relief under Section 305.3 and 714.3 and U421.1. And so
14 I'm also in support of the application. And I will make a
15 motion to approve Application No. 20710 as captioned and read
16 by the Secretary. And ask for a second, Mr. Blake.

17 MEMBER BLAKE: Second.

18 VICE CHAIRPERSON JOHN: Mr. Moy, would you please
19 take roll call?

20 MR. MOY: When I call your name, if you would
21 please respond with a yes, no, or abstain to the motion made
22 by Vice Chair John to approve the application for the amended
23 relief requested. This motion was seconded by Mr. Blake. Mr.
24 Smith?

25 MEMBER SMITH: Yes.

1 MR. MOY: Mr. Blake? Vice Chair John?

2 VICE CHAIRPERSON JOHN: Yes.

3 MR. MOY: Zoning Commissioner Peter May?

4 COMMISSIONER MAY: Yes.

5 MR. MOY: We have a board member not present and
6 not participating. The staff would record the vote as 4-0-1.
7 And this is on the motion made by Vice Chair John to approve.
8 The motion to approve was seconded by Mr. Blake also in
9 support of the motion, Mr. Smith, Zoning Commissioner Peter
10 May, and of course Mr. Blake and Vice Chair John. The motion
11 carries on a vote of 4-0-1.

12 VICE CHAIRPERSON JOHN: Thank you, Mr. Moy. Is
13 that all for us today, Mr. Moy?

14 MR. MOY: That's all there is. Nothing from the
15 staff except to award you the World Cup gold trophy.

16 VICE CHAIRPERSON JOHN: I accept. So thanks,
17 everyone and have a great afternoon. You have a full
18 afternoon left. And the person who had a 2 o'clock hard stop
19 is now ahead of schedule.

20 COMMISSIONER MAY: Thank you very much. I
21 appreciate it.

22 VICE CHAIRPERSON JOHN: Thank you so much. Have
23 a great day. Bye.

24 (Whereupon, the hearing in the above-entitled
25 matter was concluded at 1:12 p.m.)

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In the matter of: Public Hearing

Before: DC BZA

Date: 05-25-22

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