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GOVERNMENT OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

OCTOBER 19, 2022

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

- Lorna L. John, Vice Chairperson
- Chrishaun S. Smith, Member
- Carl H. Blake, Member

ZONING COMMISSION MEMBERS PRESENT:

- Anthony Hood, Chairman
- Peter May, Commissioner

OFFICE OF ZONING STAFF PRESENT:

- Clifford Moy, Secretary
- Paul Young
- Matthew Jesick

The transcript constitutes the minutes from the Regular Public Hearing held on October 19, 2022.

T-A-B-L-E O-F C-O-N-T-E-N-T-S

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Case No. 20779 - Application of 1224 Brentwood Road  
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Case No. 20749 - Application of the Catholic Charities  
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P-R-O-C-E-E-D-I-N-G-S

(9:30 a.m.)

1  
2 CHAIRPERSON HILL: Morning, ladies and gentlemen.  
3 Board of Zoning Adjustment, today's date is 10/19/2022. This  
4 public hearing will please come to order. My name is Fred Hill.  
5 I'm Chairperson of the District of Columbia Board of Zoning  
6 Adjustment. Today with me is Vice Chairwoman John, Board Members  
7 Carl Blake, Chrishaun Smith, and Zoning Commissioners Peter May  
8 and Chairman Anthony Hood.

9  
10 Today's meeting and hearing agenda are available on the  
11 office's website. Please be advised this proceeding is being  
12 recorded by a court reporter and is also webcast live via WebEx  
13 and YouTube Live. The video broadcast will be available on the  
14 Office (indiscernible) website after today's hearing.  
15 Accordingly, everyone who is listening on WebEx or by telephone  
16 will be muted during the hearing. Also, please be advised that  
17 we do not take any public testimony and our decision  
18 (indiscernible) exception. If you're experiencing difficulty  
19 accessing WebEx or with your telephone call-in, then please call  
20 the OZ Hotline number at 202-727-5471 to receive WebEx, call-in  
21 or log-in instructions.

22 At the conclusion of the decision (indiscernible)  
23 session, I shall in consultation with (indiscernible) issued. A  
24 full order is required when the decision contains adverse to a  
25 party, including affected ANC or may as be needed for a decision  
difference in the Office of Planning's recommendation. Although

1 the Board favors the use in some areas whenever possible, an  
2 Applicant may not request the Board to issue such an order.

3 In today's hearing session, everyone who's listening  
4 on WebEx or by telephone will be muted during the hearing, and  
5 only persons who have signed up to participate to testify will  
6 be unmuted at the appropriate time. Please state your name and  
7 home address before providing oral testimony or your  
8 presentation. Oral presentation should be limited to a summary  
9 of your most important points. When you're finish speaking,  
10 please mute your audio so that your microphone can is longer pick  
11 up sound or background noise.

12 All persons planning testify either in favor/opposition  
13 should have signed up in advance. They'll be called by name and  
14 testify. If this is an appeal, only parties are allowed to  
15 testify. By signing up to testify, all participants will read the  
16 oath or affirmation as is required in Subtitle 1.408.7. Request  
17 to enter evidence at the time of the online virtual hearing, such  
18 as written testimony or additional supporting documents other  
19 than live video, which may not be presented as part of the  
20 testimony, may be allowed pursuant to Subtitle 1-103.13 provided  
21 that the persons made a request to enter an exhibit a), how the  
22 proposed exhibit is relevant; b), the good cause to justify  
23 (indiscernible) exhibit in the record, including an explanation  
24 of why the requester did not file the exhibit prior to the  
25 (indiscernible). Pursuant to Y-206 and how

1 (indiscernible) did not unreasonably prejudice any party order  
2 of procedures, possession, exceptions and variances pursuant to  
3 Y-409.

4 At the conclusion of each case, an individual who was  
5 unable to testify because of technical issues may file a request  
6 for leave to file a written version of the planned testimony to  
7 the record within 24 hours following a conclusion of public  
8 testimony in the hearing. If additional written testimony is  
9 accepted, then parties will be allowed a reasonable time to  
10 respond as determined by the Board.

11 The (indiscernible) decision at its next meeting  
12 session may no earlier than 48 hours after the hearing. Moreover,  
13 the Board may request additional specific information to complete  
14 the record. The Board (indiscernible) specify the end of the  
15 hearing exactly what is expected and the date when persons must  
16 submit the evidence to the Office of Zoning. No other information  
17 shall be accepted by the Board.

18 Finally, District of Columbia Administrative  
19 Procedures Act requires a public hearing on each case be held in  
20 the open for the public. However, pursuant to Section 405(b) and  
21 406 of that Act, the Board may, consistent with its rules and  
22 procedures and the Act, and through the closed meeting  
23 (indiscernible) purposes of senior legal counsel on a case  
24 pursuant to D.C. Official Code Section 2-575(b)(4) and/or  
25 deliberate on a case pursuant to D.C. Official Code Section 2-

1 575(b)(4) and/or deliberate on a case pursuant to DC Official  
2 Code Section 2-575(b)(13), but only after providing necessary  
3 public notice. In the case of emergency closed meeting, I obtain  
4 roll call vote.

5 Mr. Secretary, do we have any preliminary matters?

6 MR. MOY: Good morning, Mr. Chairman, members of the  
7 Board. I do have a brief announcement regarding today's docket.  
8 A preliminary matter. There are or have been two case  
9 applications that have been withdrawn from today's hearing  
10 docket. First is Application No. 20563 of Kilmurry Properties  
11 LLC withdrawn by the Applicant, and also at Case Application No.  
12 20791 of the Washington Metropolitan Area Transit Authority, also  
13 withdrawn by the Applicant. Other than that, Mr. Chairman, there  
14 are preliminary matters, two other cases you'll be hearing today,  
15 and I'll call those for your attention when I call the case.

16 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Moore.  
17 All right. I believe I'm not on the first case, so Vice-Chair  
18 John, if I might pass it over to you and I will excuse myself.  
19 Thank you.

20 VICE CHAIR JOHN: Thank you. (Indiscernible) is the  
21 board -- you should call the first case.

22 MR. MOY: Yes, ma'am. Thank you. So this would be  
23 Case Application No. 20779 of 1224 Brentwood Road NE, LLC. This  
24 is a self-certified application pursuant to Subtitle X, Section  
25 901.2, special exceptions under Subtotal U, Section 421 to allow

1 a new residential development. It's apartment house. And under  
2 Subtitle C, Section 714.3 from the Surface Parking Screening  
3 Requirements, Subtitle C, Section 714, Properties located in the  
4 RA-1 zone at 1224 Brentwood Road, NE, Square 3938, Lot 29. And  
5 this was last heard at the Board's hearing on September 14th, and  
6 participating on this continued hearing on this application is  
7 Vice Chair John, Mr. Blake, Mr. Smith and Zoning Commission Chair  
8 Anthony Hood. Thank you.

9 VICE CHAIR JOHN: Thank you, Mr. Moy. (Indiscernible.)

10 MR. SULLIVAN: I'm Marty Sullivan with Sullivan  
11 (indiscernible) on behalf of the Applicant.

12 VICE CHAIR JOHN: Thank you. Can you tell us about  
13 what happened since the last hearing, and I believe the Board had  
14 asked for some submissions, feedback from the church and the ANC.  
15 So it turns out that if you could spend just a couple of minutes  
16 talking about this (indiscernible). And I (indiscernible) if I  
17 (indiscernible). You talked about shrubbery and the wear that  
18 helps to prevent the lights on the cars. I don't know  
19 (indiscernible) report on it, (indiscernible) report, but I do  
20 think the shrubbery would help to mitigate any potential impact  
21 from the lights on the cars. Just a (indiscernible).

22 MR. SULLIVAN: Okay. Thank you. Yeah, the Board had  
23 asked for a response from ANC 5C and then some information from  
24 the Applicant about outreach to the church, which has been done.  
25 And with us is -- oh, we've also provided -- it wasn't on the

1 memo, but it was requested by the Board or discussed for a  
2 rendering and some materials. So the architect, Rich Marcus, is  
3 here with us. And also, I believe one of the principals should  
4 be here as well. Hugo Camacho. And if he's not, I can speak  
5 for him. But he was intending to be here. So regarding that -  
6 - we have a two-page PowerPoint, if I could bring that up.

7 VICE-CHAIR JOHN: Mr. Young, could you bring up the  
8 (indiscernible)?

9 MR. SULLIVAN: Go to page 2, please. Thank you, sir.  
10 An update with the (indiscernible) Baptist Church adjacent across  
11 the alley. The Applicant has -- did drop off the plans for the  
12 letter and then followed up and spoke with Bishop to express  
13 their concerns about the project.

14 Regarding the ANC, we did get on the ANC's full agenda  
15 and I sat through a whole meeting until the end of the meeting  
16 when they said you have to go to an SMD meeting first before you  
17 can come to a full meeting. And then we were unsuccessful again  
18 in getting an SMD meeting despite multiple attempts. So I don't  
19 have any explanation for why we never made it to the agenda.

20 Next slide, please. If the Board has any questions for  
21 the architect about this, and I can talk about the screening  
22 briefly while you're looking at that. The screening relief is  
23 for -- so the requirement is that you not have more than 20 feet  
24 of an opening in the perimeter parking. Of course, the cars need  
25 to get in and we have more than 20 feet in the driveway. So what



1 that leads to is putting up a nominal -- nominal fence sometimes  
2 in the middle of that driveway, which has little effect.

3           So we're basically asking for a relief to put up that  
4 nominal fence in the middle to break up the 20 feet so you would  
5 end up with something slightly less than 20 feet on each side.  
6 The criteria for that, for relief from that, I'd see 714. Governs  
7 the screening requirements. The BZA may consider impacts on the  
8 pedestrian environment within adjacent streets, sidewalks, and  
9 other public areas and existing vegetation buildings or  
10 productive screening walls located on adjacent property.

11           And we notice that there are existing fences and  
12 shrubbery on adjacent properties and so simply requiring the  
13 short fence on the -- in the middle of the parking lot wouldn't  
14 change that situation or would serve any purpose in regards to  
15 what Section 714 is attempting to accomplish. And the Board can  
16 also consider existing topographic conditions and traffic  
17 conditions, again, which it will alter the traffic conditions in  
18 this case. So I don't know if that addresses the question, Madam  
19 Chair.

20           VICE-CHAIR JOHN: Thank you for that. Yeah, thank you  
21 Mr. Sullivan. So the shrubbery is on the side of the  
22 (indiscernible).

23           MR. SULLIVAN: Yeah, I'm not -- yeah, it's on adjacent  
24 properties and I don't really think it has much effect on it one  
25 way or the other.

1 VICE-CHAIR JOHN: Thank you.

2 MR. SULLIVAN: Thank you. And again, Mr. Marcus is  
3 here, or if the Board has any questions for him or for myself or  
4 for Mr. Camacho, I believe, is here on the outreach to the church.  
5 Thank you.

6 VICE-CHAIR JOHN: Thank you. Does the Board have any  
7 questions?

8 (No response.)

9 VICE CHAIR: Mr. (indiscernible) --

10 COMMISSIONER HOOD: Yes, quick question. So thank you.  
11 And let me just ask, with the entrance to the parking is on the  
12 backside, right? It's not on -- is it around back? MR.

13 SULLIVAN: Yes, it's in the back on the alley. So there's a  
14 requirement that you have some sort of fence up. I mean, frankly,  
15 I think it works better and it's better for traffic without a  
16 fence in the middle of the four spaces. But to technically meet  
17 the requirement, you put a fence up and sometimes an Applicant  
18 does that and it -- frankly, it doesn't it doesn't look great  
19 and it doesn't accomplish anything, in my opinion. And so we've  
20 asked for this release several times. COMMISSIONER HOOD:

21 All right. Well, thank you. And also thank your Applicant for  
22 reaching out to the church, as well.

23 Thank you, Madam Chair.

24 VICE-CHAIR JOHN: Mr. Young, is there anyone signed up  
25 to testify?

1 (No response.)

2 VICE-CHAIR JOHN: Ms. Thomas, do you have anything to  
3 add?

4 MS. THOMAS: I'm sorry. No. Good morning, Madam Chair.  
5 Karen Thomas with the Office of Planning. No, I don't have  
6 anything else to add, except just to probably say that we will  
7 continue our support of this application. Thank you.

8 VICE-CHAIR JOHN: Thank you. You have any closing  
9 comments, Mr. Sullivan?

10 (No response.)

11 VICE-CHAIR JOHN: Thank you. Thank you for coming.  
12 Thank you for the update.

13 Mr. Young, please excuse the parties.

14 So are we ready -- oh, I (indiscernible) the hearing.  
15 Are we ready to deliberate? Okay. I don't see anyone saying  
16 no, so I'll start. So this application is for -- it's a new  
17 development and for special exception (indiscernible) to allow a  
18 residential development apartment house, which is allowed in the  
19 (indiscernible). And the application meets all of the  
20 development standards as described by the Office of Planning and  
21 its report. (Indiscernible) the Office of Planning's report and  
22 just go over briefly some of the things that I thought  
23 (indiscernible), especially with respect to (indiscernible),  
24 which is (indiscernible) the project meets all of the parking  
25 requirements and just needs -- needs the screening as the

1 Applicant just explained.

2           The screening is required. It is more than 20-foot  
3 distance and the gap surrounding the rear lot line towards the  
4 alley. I thought that the explanation given that the Applicant  
5 as well as the Office of Planning in terms of how the application  
6 meets the criteria for (indiscernible)for it meets the standard.  
7 I believe that having a parking pad at the rear of the alley is  
8 not unusual under these circumstances. And I agree with the  
9 Applicant that I think small things (indiscernible) might be less  
10 useful. So I think that the Applicant has met the requirements.

11           Oh, with respect to the church, to the church, I think  
12 there was some concern of impact of the (indiscernible) on the  
13 church parking or in the church -- church's operations. And I  
14 believe the Applicant reached out to the church (indiscernible).

15           With respect to the ANC lack of participation, and I'm  
16 really very disappointed that we weren't able to get information  
17 from the ANC, but I (indiscernible).

18           The significant effort to reach out to the ANC because  
19 this is not a substantial request relief in this case, but the  
20 screening, in my view, is not significant under these  
21 circumstances. I'm comfortable not hearing from the ANC, but  
22 there's nothing (indiscernible). So many programs that  
23 (indiscernible) ask for comments from the Board, just starting  
24 with you, Mr. Smith.

25           COMMISSIONER SMITH: Sure. I think you have, you know,

1 succinctly summarized this particular case. I do believe that  
2 the Applicant's met the burden of proof us to grant special  
3 exemption, also give great weight to (indiscernible) their report  
4 on this case, but I'll make a few points.

5           In regards to the surface parking screening  
6 requirements, I agree with your analysis and the Applicant's  
7 analysis of this particular case. The regulations seemed to work  
8 against, based on the size of this lot, the amount of parking  
9 that they're providing, it seems to me that the regulations  
10 themselves are a little redundant in this particular case. I do  
11 believe that putting up that small screen would be a hindrance  
12 to traffic in sight line for anyone pulling into these parking  
13 spaces, pulling out of the parking spaces. Also note that there  
14 is a topographical difference to the rear of the property adjacent  
15 to the -- to the church's parking lot. So that wall, I believe,  
16 or that knee wall is there does serve as some type of visual  
17 break, I think, along the alley there. And again, that parking  
18 would back up to additional parking at the church. So I don't  
19 think that any type of screening will serve -- that small bit of  
20 screen with serve any type of good or purpose. So I do believe  
21 that Applicant's met the proof, the burden of proof for us to  
22 grant them the special exemption from the surface parking  
23 screening requirements.

24           In regards to (indiscernible) 21, while I do believe  
25 that the design leaves, you know, a lot to be desired, I do

1 believe that it could have been a little bit more effort to tie  
2 that into some of the craftsman style houses that's there, but  
3 that's not a standard for us to evaluate a U-421. It would have  
4 been great to hear more from the ANC in the SMB on that particular  
5 design but, of course, we haven't heard from them. And as the  
6 gentleman that regularly represents this ANC has stated, they're  
7 going through some internal issues, it sounds like. But again,  
8 it would be great to hear from the ANC,, but otherwise I do  
9 believe that they have met the standard for us to grant the  
10 special exceptions. They meet the criteria of Subtitle U-421 and  
11 also the special -- the standard special exception standards.  
12 And I will support the application for both special exceptions.

13 VICE-CHAIR JOHN: Thank you, Board Member Smith.  
14 Commission Smith, would you like to --

15 COMMISSIONER HOOD: Well, I think that the relief  
16 requested, I think has been, far as I'm concerned, is very de  
17 minimis. The the measures that have been put in place for us to  
18 be able to approve this application, I think, have been met. I  
19 appreciate them reaching out to the church. I figured that would  
20 work, but I just wanted to make sure the church personally and I  
21 think we all personally had knowledge of what was going on. I  
22 think this whole design is going to be an improvement. I think  
23 it's going to jump start some other stuff that's going on in that  
24 area. And as far as the ANC, I believe that Commissioner  
25 (indiscernible) and her commission, which is the commission I

1 belong to, had a problem with it, I believe we would have known.  
2 So with that, I feel confident moving forward this and I think  
3 the relief of what's being requested is very de minimis. Thank  
4 you, Madam Chair.

5 VICE-CHAIR JOHN: Thank you, Commissioner Hood  
6 Commissioner Blake?

7 COMMISSIONER BLAKE: I'll try to be brief. I believe  
8 the Applicant has met the criteria set out to tell 421. I also  
9 believe that the Applicant met the criteria for a special  
10 exception relief for the surface parking screening requirements,  
11 so -- that's 714. And I would agree that granting the waiver is  
12 (indiscernible), pretty much should not conflict with the general  
13 intent and purposes of the zoning regulations, and it probably  
14 is for the best.

15 I was initially concerned with the Applicant's  
16 community outreach, specifically lack of ANC and community input  
17 to the record, although we don't have anything from the ANC, but  
18 I am satisfied at this point to be with the Applicant's community  
19 outreach efforts. We've talked -- it's been relatively detailed  
20 in Exhibits 28 about what they've done with regard to the Bishop,  
21 and the Church, and the conversation they've attempted to have  
22 with the ANC. I also note that what was in the Applicant's slide  
23 also about that.

24 We received testimony from one person in opposition,  
25 the (indiscernible) neighbor trying to relate it to construction

1 issues, congestion, foot traffic, crime, loss of single-family  
2 home, and the impact on the character of the neighborhood. I  
3 will note that the DDOT reviewed the application materials and  
4 it determined that the proposed action would not have any adverse  
5 impacts on the District's transportation network.

6           And based on the testimony received from the Office of  
7 Planning, and looking at the rendering Exhibit 29, I believe this  
8 project, while larger than the existing single-family home, it's  
9 relatively modest in scale with only four units, at least for the  
10 RA-1 (phonetic) zone. And it meets the developmental standards,  
11 as you pointed out, Madam Vice Chair, and this is not a historical  
12 zone, and this project is not at odds with the character of the  
13 neighborhood, which actually has a variety of structures,  
14 including single-family homes, apartment buildings, as well as  
15 institutional facilities and a surface parking lot.

16           So I believe the record demonstrates the granting of  
17 relief will be in harmony with the general purpose intended zoning  
18 regulations and the granting requested it will not adversely  
19 affect the use of neighboring property. I give great weight to  
20 the Office of Planning's recommendation for approval. Note that  
21 DDOT has no objection to the project or request to  
22 (indiscernible). I'll be voting in favor of the application.

23           VICE-CHAIR JOHN: Thank you, Mr. Blake. So I'll make  
24 a motion to approve Application No. 20779 as captioned  
25 (indiscernible) secretary. Ask for a second, Mr. Blake.



1 COMMISSIONER BLAKE: Say again.

2 VICE-CHAIR JOHN: Mr. Moy, will you please state  
3 (indiscernible)?

4 MR. MOY: One moment, Vice-Chair. When I call your  
5 name for your vote, please to -- when I call your name, please  
6 respond with your vote.

7 Zoning Commission Chair Anthony Hood?

8 COMMISSIONER Hood: Yes.

9 MR. MOY: Mr. Smith?

10 MR. SMITH: (No audible response.)

11 MR. MOY: Mr. Blake?

12 MR. BLAKE: Yes.

13 MR. MOY: Vice-Chair John?

14 VICE-CHAIR JOHN: (No audible response.)

15 MR. MOY: And we have one Board member not  
16 participating. Staff would record vote as four to zero to one.  
17 And the (indiscernible) motion made by Vice-Chair John to approve  
18 the application for the relief requested. The motion to approve  
19 was second by Mr. Blake. Also in support of the motion, Zoning  
20 Commission Chair Anthony Hood, Mr. Smith, and of course Mr. Blake  
21 and Vice-Chair John. Motion carries on a vote of four to zero  
22 to one.

23 COMMISSIONER HOOD: Thank you, everybody. Have a good  
24 day.

25 VICE-CHAIR JOHN: Good day, Commissioner Hood. Thank

1 you.

2 CHAIRPERSON HILL: Vice-Chair John, I don't know  
3 whether you want to or not, like, your sound is a little weird.  
4 It sounds good -- I mean, I can hear you, but I don't  
5 -- you want to -- I don't know if you want to log off and log  
6 back on and just see.

7 VICE-CHAIR JOHN: Okay. Thank you. Thank you. I'll  
8 try that.

9 (Pause.)

10 VICE-CHAIR JOHN: Okay. Is this any better, Mr. --

11 CHAIRPERSON HILL: It's about the same, but it's still  
12 good. I can, I mean, you're clear, you're understood -- you're  
13 very clear.

14 VICE-CHAIR JOHN: Okay. Thank you.

15 CHAIRPERSON HILL: It's not that bad. You just sound  
16 a little -- yeah. Okay. Mr. Moy, do you want to go ahead,  
17 welcome Commissioner May. Mr. Moy, you want to go ahead and call  
18 -- oh, actually, you know what, Mr. Moy, that's right -- we have  
19 a commissioner who is going to be -- is only available, I think,  
20 10:45; is that correct? So and that's the commissioner that's  
21 part of 20749 and 20751, correct?

22 MR. MOY: That's correct, sir.

23 CHAIRPERSON HILL: Well, let's go ahead do 20749 next,  
24 please.

25 MR. MOY: All right. Thank you, sir. So the next case

1 application before the Board is Application No. 20749. This is  
2 of the Catholic Charities of the Archdiocese of Washington. This  
3 is a self-certified application pursuant to Subtitle X, Section  
4 901.2 for special exceptions under X-104.1 U, 203.1. and U 4.8.1  
5 to allow a new private school; and under C 703.2, which would  
6 allow a reduction in the required number of vehicle parking  
7 spaces. Property site is located in the RA-1 Zone, at 801  
8 Buchanan Street, NE, Parcel 135, Lot 71.

9 And as to preliminary matters. The first is that the  
10 Applicant is proffering expert witness status to Ms.  
11 (indiscernible) for architecture and Ms. Natalie Ramirez, also  
12 expert status in architecture and urban design. Those are an  
13 exhibit -- under Exhibit 31-D, resumes in both exhibit. And  
14 finally, Mr. Chairman, there -- oh, let's see. It's one -- it's  
15 a preliminary matter. The Applicant submitted their PowerPoint  
16 presentation yesterday, and that was within the 24-hour blocks  
17 of the -- the Board should address whether you want to allow  
18 their PowerPoint into the record. And that's all I have for the  
19 moment, sir.

20 CHAIRPERSON HILL: Okay. That's it. Ms. Batties,  
21 could you introduce yourself for the record, please?

22 (No response.)

23 CHAIRPERSON HILL: You may be on mute. And while you're  
24 trying unmute, unless the Board has any issues, I'd like to go  
25 ahead and allow the PowerPoint into the record, so I'd like to

1 see it. If you could go ahead and drop that into the record,  
2 please, Mr. Moy. Because I don't see it in the record. And then  
3 if you guys want to look at the expert witnesses resumes, I've  
4 already reviewed them and I don't have any issues with them. If  
5 you all do, let me know and then I'll wait for Ms. Batties still.  
6 Ms. Milanovich, can you hear me?

7 MS. MILANOVICH: I can, yes.

8 CHAIRPERSON HILL: Okay. I just want to make sure it's  
9 working. Okay. Ms. Batties, any luck?

10 (No response.)

11 CHAIRPERSON HILL: Okay. No problem, Commissioner.  
12 And I'm sorry, is it Lucio? Lucia. Commissioner Lucio, how are  
13 you today? Could you introduce yourself for the record, please?

14 MS. LUCIO: I'm fine, thank you. Thank you. My name  
15 is Emily Singer Lucio. I'm the ANC commissioner for ANC 5A03,  
16 single member district.

17 CHAIRPERSON HILL: Thank you, Commissioner. Thanks for  
18 joining us. I know you got to go attend 45.

19 MS. LUCIO: Thank you. I appreciate you doing this.

20 CHAIRPERSON HILL: Oh, thank you for enjoying it. Takes  
21 time. And we'll just wait for our -- well, go around the table  
22 anyway. Ms. Milanovich, can you introduce yourself for the  
23 record?

24 MS. MILANOVICH: Sure. Good morning. My name is Jamie  
25 Milanovich with Well and Associates. We are the transportation

1 consultant for the project.

2 CHAIRPERSON HILL: Got it. Let's see what we've got  
3 here. Ms. Ramirez, can you hear me? If so, could you introduce  
4 yourself for the record.

5 MS. RAMIREZ: (Indiscernible). I am the  
6 (indiscernible) director at (indiscernible), and also the project  
7 manager for this project.

8 CHAIRPERSON HILL: Got it. Okay. And see. I don't  
9 see Ms. Sword (phonetic) with us. I pronouncing her name  
10 correctly.

11 MS. MILANOVICH: She's unable to attend today.

12 CHAIRPERSON HILL: Okay. No problem. I was going to  
13 have fun with Ms. Sword. My mother's from a state of India.  
14 Well, India took it over. I don't think that was (indiscernible),  
15 but he took it over in 1974, so I (indiscernible).

16 So let's see. Who else? Well, anybody else is going  
17 to testify, you want to speak up and I'll get your introductions  
18 out of the way?

19 (No response.)

20 CHAIRPERSON HILL: Okay. Okay. Ms. Batties, you might  
21 want to try calling, just the phone. The phone line is 202-  
22 727-5471. And then they can at least just let you in on that  
23 audio and you keep the video going there.

24 MS. BATTIES: Can you can you guys hear me now?

25 CHAIRPERSON HILL: Yes.

1 MS. BATTIES: Okay. Great. Now, Commissioner May, now  
2 you know why I go through what I did for the Zoning Commission  
3 meeting. This is exactly why.

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

6 MS. BATTIES: Sir, Leila Batties with the law firm of  
7 (indiscernible). I'm joined by my colleague Chris Cohen, should  
8 be on the line also, representing Catholic Charities of the  
9 Archdiocese of Washington. There anything else you need for terms  
10 of the introduction right now, Mr. Chair?

11 CHAIRPERSON HILL: I don't think so, Ms. Batties. I'm  
12 just trying to get your PowerPoint folks when they load it up  
13 and it looks like they have -- they brought it up. Yep. Okay.  
14 Great. All right. So Ms. Batties, we have the commissioner with  
15 us and, yeah, so we are going to go ahead and the commissioner  
16 is with us only for until 10:45. So if you could maybe give a  
17 little bit of an introduction, Ms. Batties, we're going to hear  
18 from commissioner. Okay. And then I'm trying to think when is  
19 a good break, because I see your whole PowerPoint. Why don't  
20 you go ahead and start your case and then if you think there's a  
21 good spot in the middle of it there, we can -- I want to hear  
22 from the commissioner before she has to go at 10:45.

23 MS. BATTIES Okay. Great. What I will do is I'll give  
24 my opening remarks to the application and then I'll turn it over  
25 to Commissioner. Well, you know, we can -- oh, it's already

1 10:20. Yeah, I'll do my opening remarks and then I'll turn it  
2 over to Commissioner Lucio.

3 CHAIRPERSON HILL: Perfect.

4 MS. BATTIES: That's great.

5 CHAIRPERSON HILL: Thank you.

6 MS. BATTIES: And, Mr. Young, this isn't in the  
7 PowerPoint.

8 So again, good morning. I'm sorry for the delay.  
9 Catholic Charities of the Archdiocese of Washington is  
10 represented by a group of us, not just (indiscernible), but also  
11 the architectural firm and a complete unknown. And the traffic  
12 consultant was (indiscernible) -- I'm sorry, Wells and Associates  
13 representing Catholic Charities in support of its zoning  
14 application to support the construction of the Catholic Charities  
15 Education Center at 801 Buchanan Street NE.

16 The new facility will have two uses. First, and the  
17 Lieutenant Joseph Kennedy Institute, commonly referred to as the  
18 Kennedy School, which has operated at the same property since the  
19 late 1950s. And then also the Child Development Center, which  
20 is also operated on the site for a very long time and provides  
21 low (indiscernible) care for people that live in the area.

22 Next slide, please. So this is just a slide that shows  
23 an aerial view of the site. For context, the Kennedy School is  
24 there on the 6.79-acre site. Catholic Charities is looking to  
25 construct a new school on the eastern two acres, more or less,

1 and then redevelop the balance of the site, the 4.8 acres, with  
2 a new townhome community that will be part of the next  
3 application.

4           Next slide, please. So there are two requests that  
5 need to be approved by the Board in order for the school to --to  
6 be approved. The first is a special exception that would allow  
7 the school use on the site. And the second is a special exception  
8 to permit 31 compliant spaces -- parking spaces where 37 are  
9 required under the regulations. And so in the last single note,  
10 before turning this over to Commissioner Lucio, this application  
11 is a companion application to the following case be the Case No.  
12 20751. And Catholic Charities, the CFO, M.J. Moreau, is here to  
13 explain that relationship. But I think this is a good place to  
14 stop because Commissioner Lucio can talk about both projects and  
15 how they relate to one another and the community's review of  
16 those topics. Thank you.

17           CHAIRPERSON HILL: Thank you. Mr. Young, if you could  
18 drop the slide back for us, please.

19           Commissioner Lucio, could you introduce yourself for  
20 the record once again, please.

21           COMMISSIONER LUCIO: Sure. Thank you, Mr. Chair. My  
22 name is Emily Singer Lucio. I'm the ANC commissioner for 5A03.

23           CHAIRPERSON HILL: Commissioner Lucio, we see your  
24 report. Could you please tell us how the ANC meeting went, how  
25 the community has been involved and what their thoughts were?



1           COMMISSIONER LUCIO: Sure. Can I -- is it okay if I  
2 read my testimony?

3           CHAIRPERSON HILL: Yeah, sure. Go ahead.

4           COMMISSIONER LUCIO: Okay. Great. So I am here today  
5 to provide testimony regarding the proposal to build a new school  
6 for the Joseph Kennedy School, as well as the proposed residential  
7 townhome development on the same site as the school on Buchanan  
8 Street NE. And while these are separate BZ Applicants, which Ms.  
9 Batties explained, since one impacts the other, my testimony will  
10 be addressing both.

11           I understand that they are both two separate projects,  
12 but I want to talk about them together since they impact each  
13 other.

14           Since learning about the plans to develop this property  
15 just over a year ago, I reached out to the developer and requested  
16 that they work with the team at Ascension, who operates Providence  
17 Hospital, to work together as the development proceeds to ensure  
18 the protection and allowance of greenspace and amenities for the  
19 neighborhood and our community. The Kennedy School orders, the  
20 current Providence Hospital Ascension Health Complex. Given the  
21 large area of land that these two properties own in my single-  
22 member district, I felt it was important to ensure that the  
23 greenspace and community amenities would be provided and  
24 available to the entire community.

25           We have received agreement from the development team

1 that the greenspace and neighborhood amenities are to be are to  
2 be included in the development plans. It is my understanding  
3 that these two organizations will be providing a fenced-in dog  
4 park, a soccer field, a playground, and walking trails. These  
5 would not be built until sometime in 2025, 2026, when the when  
6 the townhomes are developed.

7 I want to be clear that the ANC does support the need  
8 for a new school building to replace the existing Joseph Kennedy  
9 School structure. This building is in significant need of repair.  
10 While there is support for the new construction of a school,  
11 there is a greater amount of caution for the Residential Townhome  
12 Development Project.

13 As these two at these two projects are directly linked,  
14 I feel it is important to discuss both of them together. As  
15 portrayed to our community, this project is not set to begin  
16 construction until 2025. Given this timeline, our community  
17 requests that the developer continue to work with us and stay in  
18 communication as these projects move forward and allow the  
19 community to provide feedback along the way.

20 We have received their environmental and traffic study  
21 and both of these issues continue to be of great concern to our  
22 community. And again, I encourage the developer to continue to  
23 work with us as these projects move forward to ensure that they  
24 are the least disruptive to our community. Therefore, we are  
25 requesting that the developer of this project continue to share

1 their plans, including their traffic impacts and construction  
2 schedules, so the community can better understand the impact this  
3 project will have on its neighbors. It will be  
4 critically important for both the Joseph Kennedy School Project  
5 and the new Townhome Development Project, along with the  
6 Ascension and their developer to provide their scheduled plans  
7 and traffic impact plans for their respective projects so our  
8 community can make informed decisions about these projects.

9 In conclusion, I do want to state that the  
10 redevelopment of the Joseph Kennedy School has a full support of  
11 the community. We understand that the development of the  
12 townhomes directly impacts that school, and it is for that reason  
13 that we will support both projects and kindly ask that once the  
14 school is finished and the Townhome Development Project gets  
15 underway, which we anticipate will be around the same time as the  
16 Ascension projects, that these two developers come back to the  
17 community and reengage with us, showing their overall scope for  
18 the entire piece of land and both developments, including the  
19 community amenities. Thank you very much.

20 CHAIRMAN HILL: Thank you, Commissioner. Okay. Does  
21 the board have any questions for the commissioner? Okay. Ms.  
22 Batties, do you have any questions for the commissioner?

23 MS. BATTIES: No, I do not.

24 CHAIRMAN HILL: And you heard all of the things that  
25 the commissioner had spoken about. Like, I mean, I'm not -- just

1 to be mindful of time for the commissioner that you and the  
2 Applicant has agreed to, the testimony that the commissioner has  
3 given is not in conflict with what you had thought, correct, Ms.  
4 Batties?

5 MS. BATTIES: It is not. We have been working, and not  
6 during our presentation, but we have worked very closely with  
7 Commissioner Lucio with (indiscernible) and we have presented a  
8 list of conditions that the Applicant is agreeable to directly  
9 from the community outreach for this project. And it's pretty  
10 extensive, given the standard of review for the case, and that's  
11 the (indiscernible) I'm referring to.

12 So her testimony is not in conflict, and we look forward  
13 to continuing to work in the community, as we've said. Catholic  
14 Charities, although they're selling the townhouse portion of the  
15 site, they will be on the properties over in on the property  
16 there. That's the stakeholder. And so the Applicant, and I mean  
17 all overall, Catholic Charities, its development partner are the  
18 stakeholders in the community and look forward to continuing to  
19 work with the community.

20 COMMISSIONER LUCIO: I will concur with that statement  
21 and also just add that the revised plans went through several  
22 iterations based on our meetings and requests from the community.  
23 So I will concur that they have been very good partners in working  
24 together and listening to the community and their desires.

25 CHAIRMAN HILL: Thanks, Commissioner. Some of the

1 conditions might not be conditions that we, the board, would  
2 necessarily have to be able to implement just because they might  
3 be out of our purview, but I'm glad to hear that you guys are on  
4 the same page, so. Okay. Great. All right. Oh, sorry.  
5 Commissioner May.

6 COMMISSIONER MAY: Yeah, I mean, there is one thing  
7 about Commissioner Lucio's testimony that that I was surprised  
8 by, which was the soccer field. You're talking about the  
9 continued use of the existing field until construction starts,  
10 or is there going to be a new field? Because I don't see where  
11 that is in the plans now.

12 COMMISSIONER LUCIO: No, so that that's going to be  
13 more along the lines with the Ascension Providence development.

14 COMMISSIONER MAY: Oh, okay.

15 COMMISSIONER LUCIO: The issue is when you see the  
16 slides that Ms. Batties is going to share with you, there's a  
17 piece of land on the backside of their development. It's a it's  
18 a small section of their property. But it is going to -- we  
19 asked specifically that it be where it's located so that it can  
20 adjoin with the Providence property, and so that once they start  
21 demolition and start leveling the land, it will align with that.  
22 And then together those amenities, that all those many that I  
23 mentioned, will be provided. The majority of them will sit on  
24 the Providence property but will align with the edge of this one.

25 COMMISSIONER MAY: Okay. Got it. That makes more

1 sense. Thank you.

2 CHAIRMAN HILL: Okay.

3 MS. BATTIES: And I think, Commissioner, just to be  
4 clear for the members of the Board, we are going to be -- we've  
5 committed to (indiscernible) the property owner to the south, the  
6 developer to the south for the Ascension site and have committed  
7 to fund the construction of a dog park and a tot lot. All of  
8 the other amenities that Commissioner Lucio mentioned, I just  
9 don't want it to be (indiscernible), our site will not have a  
10 soccer field. We're just working to collaborate with that  
11 developer to provide publicly accessible recreation space.

12 COMMISSIONER MAY: Yeah, I got that. Thank you.

13 CHAIRMAN HILL: Okay. Great. All right. Anyone else  
14 for the commissioner? Okay. Commissioner, you're welcome to  
15 stick around as long as you like. If you drop off, please go  
16 ahead and drop off. And if you have a question for us, please  
17 let us know. And then Ms. Batties, can go ahead and continue.

18 MS. BATTIES: Thank you all very much. I will stay in  
19 the background until (indiscernible). Thank you.

20 CHAIRMAN HILL: Thank you.

21 MS. BATTIES: And I want to thank Commissioner Lucio  
22 for all her efforts during this process as well. You'll see  
23 we've had a pretty extensive outreach process. But if you can,  
24 Mr. Young, would you please pull the slide back up and go to  
25 (indiscernible)? I'm going to now turn the Applicant's

1 presentation over to M.J. Morrow who is the CFO for Catholic  
2 Charities. And she will talk about the school, the relationship  
3 to the townhouse development, and the need for the new facility.

4 MS. MORROW: And thank you, Leila. And thank you,  
5 Commissioner for letting -- Chairman, for letting me speak. Sorry  
6 I was unable to introduce myself earlier. I was unable to unmute  
7 myself at that point. And for some reason, the video is not  
8 starting when I try and turn on my camera.

9 CHAIRMAN HILL: No problem. That's okay.

10 MS. MORROW: So I'm M.J. Morrow, the CFO of Catholic  
11 Charities, and wanted to give just a little bit of background.  
12 As both Leila and Commissioner Lucio mentioned, this is a  
13 companion application with townhouse development adjacent. For  
14 over ten years, we've been looking to try and figure out how to  
15 redevelop this site or basically how to get a renovated or new  
16 school for the Kennedy School and our Child Development Center,  
17 because the building designed in the '50s just doesn't work.

18 The population that we serve at our facility is  
19 generally special needs. We have an inclusive child care center  
20 for children from six weeks until they leave for preschool that  
21 serves both children with developmental differences and those  
22 developing typically. So we are licensed by Aussie (phonetic)  
23 and take referrals for the children from there.

24 Our school is for young people with all-day IEPs,  
25 children who are unable to be mainstreamed into other schools.

1 All of our referrals currently come from Aussie. So while it  
2 says we are a private school, really non-public school. But with  
3 all of our students coming as referrals through the office, you  
4 know, through Aussie. In order to fund a large portion of the  
5 new school construction, we are selling 4.8 acres to a townhouse  
6 developer. You know, as a not for profit, this, you know, we  
7 have to raise the money to build this new school and and child  
8 development center, and that is a significant portion of the  
9 funds that will be needed for the new development and why it  
10 really needs to be a companion project.

11           You know, we are just, as everyone has said, we have  
12 operated in the neighborhood since the 1950s. We believe we have  
13 been a good neighbor and want to continue to be a good neighbor  
14 and stakeholder serving the children in D.C., you know, by  
15 providing both a special purpose school and a affordable licensed  
16 child care. And we can't wait to have it in a new modern facility.  
17 Thank you.

18           CHAIRMAN HILL: Thank you.

19           MS. BATTIES: Next, Chairman Hill, is Natile Ramirez.  
20 She's an architect with the firm of Complete Unknown, and she's  
21 going to go the site plan and building design as well as the  
22 programing for the building. So -- I'm sorry, and Mr. Young,  
23 could you change to the next, please. Natile, are you on?

24           MS. RAMIREZ: One. My name is Natile (indiscernible).  
25 I'm the (indiscernible) for this project with the Complete



1 Unknown. We're a non-profit design firm, and we're really focused  
2 on providing innovative and thoughtful design and continuing the  
3 legacy of 30 years of providing design excellence in the DC area.

4           So we're going to start with the floor plan and kind  
5 of go through the program elements. Our building will be about  
6 36,000 square feet and be comprised of the Kennedy School as well  
7 as the Child Development Center. We are providing (indiscernible)  
8 client spaces and seven (indiscernible) spaces. The building  
9 height is a two-story building with a height of 31  
10 (indiscernible).

11           The Kennedy School will have about 60 kids and the  
12 Child Development Center will have between 40 and 45 kids on  
13 site. Onsite we will have about 46 staff and faculty and the  
14 school's operation is between 7:00 a.m. and 6:00 p.m. So looking  
15 looking at the floor plans, starting with the first floor --  
16 little bit more sense (indiscernible), but basically we're  
17 looking at the new -- now north is facing page (indiscernible)  
18 so (indiscernible). So coming off of (indiscernible) Cannon  
19 Street, we concentrated the administrative spaces of both the  
20 Kennedy School and the Child Development Center. So to the south  
21 on that first floor are, in red, are the admin spaces of the  
22 Child Development Center, and the blue area are the children  
23 spaces.

24           To the left, the red area is the Kennedy School and  
25 Green Spaces, and then the shared program between both the Kennedy

1 School and the Child Development Center, which is library and  
2 multi-purpose room. Moving up the building, it's (indiscernible)  
3 used for the Kennedy School, and these two floors are connected  
4 with a celebrated and central ramp, which is (indiscernible)  
5 accessible. We pride ourselves on creating a very inclusive  
6 space, which (indiscernible) an elevator which is not conducive  
7 to some of our users of the space.

8 CHAIRMAN HILL: Mr. Ramirez, I'm sorry. can I ask you  
9 just one second -- Mr. Young, can you drop the slide deck for  
10 me?

11 Commissioner Lucia, it's just been pointed out to me.  
12 Are you there, Commissioner?

13 COMMISSIONER LUCIO: (No audible response.)

14 CHAIRMAN HILL: Could you just kind of -- since we're  
15 losing you, could you give us your testimony for the next. I  
16 don't know how different it may be, but the next case also.

17 COMMISSIONER LUCIO: Yeah, I will. I was just making  
18 sure it was all corrected and I was going to send it, email it  
19 right now. But, yeah, I was just going to present the same  
20 testimony.

21 CHAIRMAN HILL: Okay. All right. So the testimony  
22 that you gave in 20749 for the record, would be the similar  
23 testimony to 20751. And you're going to submit your testimony  
24 for the record for 2751 -- 20751, correct?

25 COMMISSIONER LUCIO: Correct.

1 CHAIRMAN HILL: Okay. Thanks, Commissioner.

2 COMMISSIONER LUCIO: Thank you very much.

3 CHAIRMAN HILL: Wherever you're going later today is  
4 fun. Okay?

5 COMMISSIONER LUCIO: No, it's not, but that's okay.  
6 Thank you very much.

7 CHAIRMAN HILL: All right. Well, then I hope that this  
8 was fun.

9 COMMISSIONER LUCIO: It was a blast. Thank you so  
10 much.

11 CHAIRMAN HILL: All right. Ms. Batties, you can  
12 continue, please -- or, I'm sorry, Ms. Ramirez. Mr. Young, if  
13 you could please bring back up the slide deck. Thank you.

14 MS. RAMIREZ: All. Next slide, please. So here looking  
15 at the site plan and again to orient us north, the spacing page  
16 left. So (indiscernible) in the center of the site with a drop  
17 off area, off of Buchanan serving primarily the Child Development  
18 Center. A separate entrance to the Kennedy School is located to  
19 the south of the site where located the bus loop and parking.  
20 We really tried to pull that traffic off of Buchanan and locate  
21 it to the rear of the site. The building creates a  
22 central exterior courtyard, provide a shelter, a safe space for  
23 the kids. And to complement the three-unit (indiscernible),  
24 we've broken down the mass of our building into smaller segments.  
25 Next slide, please.

1           Here you're looking at a bird's eye view or kind of  
2 hovering over Buchanan right now looking south. There we see  
3 that two-story building articulation, which is appropriate for  
4 the residential neighborhood. We've broken up the building to  
5 against each of the (indiscernible) as well as to be at a scale  
6 that's more relatable to kids. We've offset the building from  
7 Buchanan Street to create a green buffer that's open and  
8 welcoming.

9           It's a little separate from this view, but the site  
10 actually does have a (indiscernible) slope from north to south.  
11 And so these segments also terrace around that (indiscernible)  
12 to help us navigate the slope site. In this view, we can also  
13 see one of our sustainability features, which is a prominent  
14 green roof, which occupy about 75 percent of that area. We are  
15 committed to green strategies and this building will be all  
16 electric, which is why with the Carbon Free DC Initiative.

17           Next slide, please. We are creating a very open and  
18 welcoming entry. This is the entry off of Buchanan Street.  
19 (Indiscernible) a lot of glazing here to announce entry and to  
20 create this opening welcoming experience. We have a balcony  
21 protected over that entry to provide a sheltered entryway for the  
22 children and their families. We're utilizing durable building  
23 materials, included light grade, vertically oriented metal  
24 paneling, architectural aluminum with a wood finish as well as  
25 glazing.

1           We imagine during the daytime, light will cascade the  
2 shadows along that metal facade, while their work with the world  
3 will provide that connection to nature. Next slide, please.

4           Here we're looking at the primary building elevations.  
5 So we see that mixture of wood and metal and glass. Here we see  
6 that it is the two-story building, but it does terrace, so those  
7 four levels do terrace up towards the rear of the site. Windows  
8 of different sizes and heights are (indiscernible) placed along  
9 the facade. And we really were thinking about the eye level of  
10 the different users. So we'll have infants through the 22 year  
11 olds, and so being very thoughtful in those window elevation  
12 locations and for providing natural daylight into the learning  
13 spaces. All right. Next slide, please.

14           MS. BATTIES: So the next couple of slides just relate  
15 to the special exception criteria for the private school and the  
16 parking as set forth in the regulations and the Office of Planning  
17 did do a very good job. And our (indiscernible) demonstrate in  
18 detail how we complied with the title (indiscernible) Section  
19 203.1 (phonetic). Primarily, I'll say, as it relates to the  
20 private school, (indiscernible) is that has been on the site  
21 since the 1950s. So it's not a new use in that regard. And the  
22 operations of the school, in terms of the number of students, the  
23 hours of operation and transportation to and from the school for  
24 the students will be, as it's always been on the site, and we've  
25 done a lot of community outreach. There was never any comments

1 or concerns raised about the operation of the school.

2           And so so just from that kind of very restful measure,  
3 the school is not objectionable or creates conditions that would  
4 be adverse to the surrounding area. Next slide. And this is  
5 the general special exception criteria. Again, given the use has  
6 been there for several decades without any issues related to  
7 traffic and noise. The the application for it complies with the  
8 general special exception criteria, Subtitle X, Section 901.2  
9 (phonetic). Next slide, please.

10           And then the regulations allow for special exception  
11 relief for the number of parking spaces for this type of  
12 (indiscernible). And here I don't know if you can recall in the  
13 plan, we have 31 compliant spaces and then immediately behind a  
14 portion of the spaces are seven (indiscernible) spaces. And we  
15 believe in this case that's appropriate and sufficient given how  
16 the school operates. People aren't coming in and out of those  
17 spaces during the day. They'll be reserved for staff and faculty.  
18 The school will be on site the entire school day. This is not a  
19 school where parents drive their students, their children to  
20 school. All of the kids come to school and leave the school on  
21 the bus -- on busses. So it's parking to serve the staff, faculty  
22 and staff at school and not parents primarily. So the  
23 (indiscernible) spaces will be sufficient to support the  
24 operations of the school.

25           And then there -- the regulations with some other

1 criteria, like two or three other criteria, only one of which  
2 needs to be met in order for the board to grant special exception  
3 relief. And we meet actually three of those conditions. And  
4 one will be, again, kind of the unique operation of the school.  
5 And then there's the issue of the heritage trees outside that  
6 really impact kind of the siting of the site. Mainly, the  
7 heritage trees and the topography kind of limit and form the  
8 development and present inherent challenges to, you know, fully  
9 developing the site to accommodate all of the parking spaces that  
10 are required. Next flight.

11           And this, Board members, is the list of community  
12 meetings that the Applicant has attended. Now, interesting, most  
13 of the meetings are driven by the townhouse development, not by  
14 the school development, so I just want to make that clear. But  
15 because of the two applications, again, our companion application  
16 for projects are presented to the community multiple times. And  
17 this is a list of those communities. And we're happy to say as  
18 it relates to the school and the townhouse community will  
19 ultimately receive unanimous support from the community.

20           And so I will stop there. I do want to note in case  
21 there's questions about the operation of the school or anything  
22 related to the site plan, not only is our Mr. Mayor and the forum  
23 here, but we also have the (indiscernible) executive director of  
24 the Kennedy School available and a lot of the two or three traffic  
25 sources available. Thank you.

1 CHAIRMAN HILL: Thank you, Ms. Batties. Does the Board  
2 have questions of the Applicant or any of the witnesses at this  
3 point? Sure. Commissioner May.

4 COMMISSIONER MAY: Yeah, I was just interested in a little  
5 more information about the heritage trees, which is a constraint  
6 on the property, but they're shown on the plan as transplanted  
7 heritage trees. So are they being transported within that portion  
8 of this subdivided site or are they coming from the -- the rest  
9 of the development?

10 MS. BATTIES: Natile or you or someone else on the team  
11 available to answer that question.

12 MS. RAMIREZ: (No audible response.)

13 MS. BATTIES: Natile?

14 MS. RAMIREZ: All right. I'm back. Yes, as I'm --  
15 Sharon Bradley -- with Bradley (indiscernible) on the call.

16 MS. BATTIES: Sharon?

17 MS. BRADLEY: Sharon Bradley, principal of Bradley  
18 Design in the District. And you are correct. The heritage trees  
19 are being transplanted from the adjacent site to our site.

20 MS. BATTIES: It makes sense, but the property  
21 (indiscernible) Catholic Charities owns now, right?. So the  
22 entire --

23 MS. BRADLEY: Correct.

24 COMMISSIONER MAY: Understand. Okay. It's interesting  
25 the site has a constraint, since they --theoretically, you're



1 removing them. They could be moved in a place that didn't appear  
2 in the place that didn't appear (indiscernible), but there are  
3 other reasons why the parking makes sense. But back to this. I  
4 mean, moving heritage trees, that's no small undertaking, right?  
5 I mean, what's the what's the (indiscernible) of these trees that  
6 you're moving?

7 MS. BATTIES: 33 inch and 36 inch, and the project is  
8 using a company that has done this successfully many times in the  
9 past. The Fannie Mae building, for example, well-publicized  
10 example in the District where that was -- a similar sized oak  
11 was moved successfully.

12 COMMISSIONER MAY: Okay. Well, yeah, I'm aware it can  
13 be done. I've been involved in projects where trees have been  
14 moved, but it's hugely expensive, but I'll leave it at that.  
15 That's the way it has to go. It's actually interesting to me  
16 that that -- the school site received these trees, since it looks  
17 like, you know, otherwise the existing school site is just going  
18 to be completely bulldozed to jam in as many row houses as  
19 possible. But we can talk about that in the next story.

20 CHAIRMAN HILL: Ms. Morrow, you had a question.

21 MS. MORROW: Oh, yeah. All I was going to comment is  
22 that, you know, one of the reasons for the siting of the relocated  
23 heritage trees on the school site is to maximize the proceeds  
24 from the sale of the townhouse site to allow the maximum  
25 development on that site. So yes, you are correct, Commissioner

1 May.

2 COMMISSIONER MAY: Right. Right. And each -- moving  
3 each one of them is going to be like the cost of a townhouse or  
4 --

5 MS. MORROW: Well --

6 COMMISSIONER MAY: -- (indiscernible).

7 MS. MORROW: -- that is a cost that the townhouse  
8 developer is willing to undertake as part of this process.

9 COMMISSIONER MAY: I can understand why, because there  
10 are a lot of townhouses there. All right. Thank you.

11 CHAIRMAN HILL: Vice Chair John.

12 VICE CHAIR JOHN: Thanks, Mr. Chairman. I have to  
13 question about trying to find parking within 600 feet of the lot.  
14 Was an effort made to try to find something nearby to meet  
15 (indiscernible) because I believe the requirement, instead of  
16 3.2, is there can't be parking on the lot or with (indiscernible).

17 MS. BATTIES: Jamie, do you want to address that person?

18 MS. MILANOVICH: To my knowledge, no, there was no  
19 outreach to determine whether parking was available within 600  
20 feet. I think the most logical place for that would be the  
21 property to the south; however, with the impending redevelopment  
22 of that site, I'm not sure that there would be any type of  
23 guarantee for spaces in the long term. And we are providing that  
24 the required number of spaces sort of -- so per the zoning  
25 regulations we would be required to provide 37. We're actually

1 providing 38. It's just that seven of those spaces will be tandem  
2 spaces. But the school has indicated that they can successfully  
3 manage those. There'll be employee parking spaces and so they  
4 can can successfully manage those and have employees that work  
5 longer hours using the tandem spaces so that they're not locked  
6 in when they need to need to arrive or to leave.

7 VICE CHAIR JOHN: Okay. Thank you.

8 CHAIRMAN HILL: Okay. Okay. All right. Let's see.  
9 Could I turn to the Office of Planning?

10 MR. COCHRAN: My name is Steve Cochran, and I'm  
11 representing the Office of Planning in this Case 20749. Looking  
12 at the conditions for the school, sections U-203 and X-104 were  
13 all geared toward ensuring that a private school that's developed  
14 in a residential neighborhood actually fits in with the  
15 neighborhood and doesn't disrupt it. Most importantly, doesn't  
16 disrupt it.

17 This school has been there since 1958. It's only moving  
18 a few hundred yards to the east. It's going to be moving with  
19 the same number of students, the same number of faculty, and the  
20 same number of children in the daycare center. So there would  
21 not likely be much impact from moving essentially the same school  
22 a little bit to the east in the same neighborhood.

23 With respect to the -- I could go into the details on  
24 that, but that's also in our report. With respect to the parking  
25 and the special exception from C-703.2, it's an unusual situation

1 in that all of the Kennedy Institute students are bussed to  
2 school. They're required to be bussed to school. They're all  
3 picked up and dropped off by private busses.

4 There's was also parent drop-off for the daycare. So  
5 those two uses don't generate any parking in and of their selves.  
6 Obviously, staff and faculty do as the Applicant has stated, the  
7 staff, at least the faculty of the school is required to be there  
8 all day. They're simply not allowed to leave the site because  
9 of the need for the supervision of the students.

10 This is the kind of unusual situation that makes  
11 stacked parking feasible. If you're there all day, you can easily  
12 make arrangements to have cars stacked in a way where since you  
13 don't need to get out during the day, anybody, if they're stacked.  
14 With respect to the exceptional situation that leads to this, we  
15 place most of it on the access road that would be in between this  
16 site and the townhouse site.

17 The school, understands, and given the population,  
18 wants to be pretty much as separate as possible, almost as  
19 isolated as possible from the community because of the  
20 constraints, the behavioral constraints of some of the students  
21 that they're serving. So they wanted to have the road in between  
22 the school site and the town hall site, so there wouldn't be a  
23 lot of wandering from one to the other.

24 You can even see that in the way that the landscaping  
25 is designed to ensure, obviously, of the school site. So that

1 road constrained the site of all -- you understand Commissioner  
2 May's concern about the trees? It does seem like, to some extent,  
3 a little bit of a -- if not self-imposed, it's a voluntarily-  
4 adopted position to take the trees onto that site. So  
5 that's why we gave more weight to the the impact of the roadway.  
6 But together with -- to the need for the separation, the need  
7 for the north/south way and to some extent the trees, that  
8 together they seem to meet the criteria for the smart parking  
9 special exception.

10           With respect to the 600 square feet that Ms. John asked  
11 about, first off, we've got the condition that the neighborhood  
12 asked for that there be no parking -- residential parking for the  
13 townhouse site (indiscernible) parking improvements. That should  
14 -- that does to me indicate the neighborhood would be too minimal  
15 towards having onsite parking in the neighborhood.

16           That leaves the development to the south. Accession  
17 and Providence Hospital have had discussions with this Applicant  
18 about their plans. They have not had discussions with the Office  
19 of Planning. They seem to be in the preliminary stage of coming  
20 up with their development plans, which wouldn't make it very easy  
21 for them to say that they would be willing to accept parking  
22 spaces from another development. They're just not that far along.

23           So again, that seems to address the 600 space -- excuse  
24 me, the 600 foot could possibly go located off the site. So  
25 (indiscernible) recommends that you approve the application with

1 respect to anything having to do with that north/south roadway  
2 and the condition that we're suggesting for the certificate of  
3 occupancy, we would refer you to the DDOT report for 20751. We  
4 are willing -- we just our condition to dovetail the DDOT  
5 condition on that. That report was filed after ours was filed,  
6 so we we just -- any modifications to our condition that are  
7 needed only by the (indiscernible) report we accept. But  
8 then we -- it's unusual in that we were referring to a condition  
9 for a roadway that isn't actually on the site of the application  
10 before you right now. But there, as several people has said,  
11 they're so intertwined that it's difficult to consider one  
12 without also considering the other.

13 So that concludes our report and (indiscernible) happy  
14 to answer any questions.

15 CHAIRMAN HILL: Okay. Thanks. You guys, a couple of  
16 things. If I could just take a quick break, if everybody doesn't  
17 mind. I'm sorry, just a really quick break. And then the other  
18 is I know that -- I don't know Mr. (indiscernible) doesn't know  
19 this, but I think we are going to have a couple of questions  
20 about the OP conditions and how they're tying to use of a private  
21 road. So that's kind of, at least as I understand it, I don't  
22 know. We'll have to see. But let me come back and like five  
23 minutes, if that's okay. Okay. Thank you.

24 (Off record.)

25 (On record.)

1           CHAIRMAN HILL:   Okay.  Thanks, everybody.  Okay.  All  
2 right.  So we're back after a short break.  All right.  So Mr.  
3 Cochran, can you do me a favor?  Can you go over again what the  
4 Office of Planning conditions are?

5           MR. COCHRAN:    Sure.  This particular case our only  
6 condition was that the -- (indiscernible) exactly.  The proposed  
7 building shall not receive a certificate of occupancy until a 24-  
8 foot wide private road parallel to the western boundary of the  
9 site has been constructed.  It's clear that the Applicant wouldn't  
10 be able to open the building until the road is constructed because  
11 they couldn't get access to their parking.  But we always believe  
12 in using both belts and suspenders.  So we are ensuring that this  
13 condition, which you know, which they'd have to do anyway, becomes  
14 a condition of this -- of our recommendation of approval.

15           CHAIRMAN HILL:   Okay.  All right.  I'll talk that  
16 through with the Board as well, Mr. Cochran.  But does anybody  
17 have any questions for Mr. Cochran?

18                           (No audible response.)

19           CHAIRMAN HILL:   Okay.  Does the Applicant have any  
20 questions from Mr. Cochran?

21           MS. BATTIES:    No, we don't.

22           CHAIRMAN HILL:   Okay.  All right.  Let's see.  Mr.  
23 Young, is anyone here wishing to testify?

24                           (No audible response.)

25           CHAIRMAN HILL:   Okay.  All right.  Does anybody have

1 any questions of anybody before I excuse everyone?

2 MS. BATTIES: Mr. Chairperson, just (indiscernible)  
3 the Board and specifically because Vice Chair John raised the  
4 question, the -- there's is a pretty significant discussion on  
5 the parking, how we complied with the special exception criteria  
6 for parking. On page 11 of our pre-hearing statement, which is  
7 at Exhibit 31 of the record.

8 CHAIRMAN HILL: Okay. And Ms. -- sorry.

9 MS. BATTIES: Go ahead. No.

10 CHAIRMAN HILL: No, (indiscernible) since I did --  
11 since you did (indiscernible) a comment, that the -- the comment  
12 that the Office of Planning made concerning the road being built  
13 prior to your certificate of occupancy, you all are in agreement  
14 of that, correct?

15 MS. BATTIES: Correct.

16 CHAIRMAN HILL: Okay. All right. Does anybody have  
17 anything else?

18 (No audible response.)

19 CHAIRMAN HILL: All right. I go ahead and close the  
20 hearing on the record until we see you all again in a couple of  
21 minutes. And -- oh, sorry, Ms. John, you had a question.

22 VICE CHAIR JOHN: So as I was reviewing the ANC's  
23 submitted testimony for this case, I wanted to be clear that  
24 everyone understands that (indiscernible) occurred was about  
25 (indiscernible) 20751, not 20749. So it might be helpful to just



1 look briefly at what they submitted which was set for a  
2 (indiscernible) -- which is just straightforward support.

3 CHAIRMAN HILL: Okay. All right. Thank you, Ms. John.  
4 All right. Anyone else? Okay. I'm going to close the hearing  
5 and the record. Thank you all so much. Bye-bye. Okay.

6 (Hearing closed.)

7 CHAIRMAN HILL: I'm smiling because I have Commissioner  
8 May with me today. Commissioner May, would you like to start?

9 COMMISSIONER MAY: (No audible response.)

10 CHAIRMAN HILL: You're on mute, Commissioner May.

11 COMMISSIONER MAY: Okay. Now I'll say very little.  
12 Yeah, the relief requested in this case is really quite minimal.  
13 It's been a school. There will be a school. That's pretty  
14 straightforward. The relief and parking, it really just has to  
15 do with configuration of parking and if they're willing to live  
16 with stacked spaces, then that's fine. I think the only  
17 complication is the the desire on the part of the Office of  
18 Planning of the condition of the road.

19 You know, I don't feel strongly one way or the other  
20 on that. It's Mr. Cochran described as belt and suspenders. I  
21 think one or the other is probably sufficient. I'm not sure  
22 which is the belt and which is the suspenders, but there's enough  
23 here to be sure that -- that the issue is covered, right?

24 I mean, they're going to need this access road anyway.  
25 So I don't see that that's really an issue and it's necessary to

1 put it into the to the order. And I don't even need to go into  
2 the question of whether it's something that's appropriate for us  
3 to condition into an order, because I could argue that one either  
4 way as well. But I don't I don't really -- I don't see a need  
5 to.

6 I mean, I'm -- I don't think it's really essential that  
7 the condition be in the order. And it's, I mean, I think it's  
8 just -- it's great that we don't have opposition to this and we  
9 don't have -- we have the ANC support. So that's it.

10 CHAIRMAN HILL: Okay. Let's see, Mr. Blake.

11 COMMISSIONER BLAKE: My switching to my computer  
12 screen. I -- based on the evidence in the record and including  
13 the Applicant's traffic study, the DDOT report, Office of  
14 Planning's analysis, and the testimony received from 5-A, I don't  
15 believe that the -- I believe the Applicant has met the burden  
16 of proof required to be granted the request to relief. I believe  
17 the new building is not likely to become objectionable to adjoining  
18 and nearby property because noise, traffic, number of students,  
19 otherwise objectionable conditions on account of several factors.

20 First, the distance to the nearest residence, 150 feet  
21 from the north side of Buchanan Street, the (indiscernible)  
22 location which we discussed today, the fact that the numbers do  
23 basically remain the same, it's the same school, same  
24 composition, same number of staff, same number of students at  
25 both the CDC level and at the school level.

1           The project complies with all development standards of  
2 the zone except the parking requirement, and the proposed density  
3 of .42 FAR complies with the .9 FAR for the (indiscernible) zone.  
4 So the Applicant, if we look at the parking side, the Applicant  
5 also meets at least one of the criteria for C-702.1 relief.

6           We can talk about the typography, the heritage, trees,  
7 the distance, but they meet at least one, which is the criteria,  
8 and the Applicant is providing actually 38 actual spaces and a  
9 bit, as Commissioner May pointed out, they're comfortable  
10 managing the ten of spaces in eight and it will be for faculty  
11 only. I think that that would work fine. And it's like it is  
12 consistent with the intent of the regulation.

13           So again, I believe it's intent with that -- it's  
14 consistent with the intended regulation, they want the best  
15 diversity impact on the neighborhood and community. I give great  
16 weight to the Office of Planning's recommendation for approval.  
17 I support the recommendation that the order contain a provision  
18 requiring the (indiscernible)completed before the school that  
19 opens.

20           The reality is the road as opposed -- which is necessary  
21 for parking spaces and to pick up and drop off and loading area.  
22 So depending on completion of the private street, so as he's  
23 pointed out, it can't happen without it. So I think it's one of  
24 those things where I'm comfortable including it because it will  
25 happen and have to happen.

1 I note that DDOT does not have an objective to project.  
2 Although I think there may have been a point where we talked  
3 about them requiring to provide a public access easement, but I'm  
4 not completely sure that is relevant here. But I'll be supporting  
5 the application. Thank you.

6 CHAIRMAN HILL: Okay. Mr. Smith, are you with us?

7 COMMISSIONER SMITH: Yeah, I'm here. My computer just  
8 did an extremely inconvenient reboot --

9 CHAIRMAN HILL: Okay.

10 COMMISSIONER SMITH: -- so I'm on my phone for now, so.  
11 Limited capacity, abundance. But I do agree with all of the  
12 analysis that I've heard thus far, Commissioner May and Mr. Blake.  
13 I do believe the Applicant has met the burden of proof as to  
14 (indiscernible) intentions. One second. To grant the special  
15 exceptions for the park requirements.

16 If the Applicant is comfortable with -- well, let me  
17 back up to say, just as Commissioner May and Mr. Blake noted,  
18 there's a school here now. There will be a school here in the  
19 future, just a more modern one, same number of students, same  
20 number of staff. And they are, as far as the parking  
21 requirements, if the Applicant is comfortable with managing those  
22 (indiscernible), I'm comfortable that they will be able to manage  
23 it.

24 In regards to the the access easement, honestly, I  
25 could argue either way on that one, but I would just state that

1 the Applicant is voluntarily comfortable, it sounds like, with  
2 the inclusion of their condition. And I do believe that from a  
3 development standpoint, whenever Providence Hospital is  
4 redeveloped, being that this drive access is contemplated,  
5 contemplates that (indiscernible) element.

6 I'm comfortable with keeping that condition in if the  
7 Applicant voluntarily accepted that. So I'm comfortable with  
8 putting it in the order because I think, in the future, it may  
9 (indiscernible), so I support the application as presented by the  
10 Office of Planning.

11 CHAIRMAN HILL: Okay. Ms. John.

12 VICE CHAIR JOHN: Thank you, Mr. Chairman. Also in  
13 support of the application and I believe it meets the special  
14 exception criteria for relief for (indiscernible) and  
15 (indiscernible) the order (indiscernible), the application and  
16 also based on the Office of Planning's (indiscernible) analysis.

17 So the parking is basically the only significant issue  
18 (indiscernible) in the application (indiscernible). And I  
19 appreciate that the Applicant was able to point to the section  
20 of its (indiscernible) statement that describes how it meets the  
21 criteria for (indiscernible) there is no parking available within  
22 600 feet, and the site is not about parking. And so I  
23 think that the explanation of (indiscernible), which is  
24 essentially that off-street parking could not be provided because  
25 it's not -- would not be allowed (indiscernible).

1 (Indiscernible) on that basis and I agree with the comments so  
2 far that the application -- that that there is sufficient parking  
3 if you count the kind of spaces. And the reason that that's also  
4 reasonable is that the population serves. That there would not  
5 be that great demand for parking, and so I am also in support.

6 With respect to the ANC report, I believe there are no  
7 conditions in the ANC report on trial with respect to 20749. And  
8 if that is the case, I give great weight to the ANC support of  
9 the application.

10 As I listen to the testimony of the ANC commissioner,  
11 I believe most of that testimony would lead to 20751. Also note  
12 that the DDOT is in support of the application, and so I will  
13 support the project.

14 CHAIRMAN HILL: Okay. Thanks. And I got confused,  
15 sorry, with the next one when they're talking about access with  
16 the private road. I mean, the Office of Planning was. And so  
17 but I appreciate you guys helping me with that condition.

18 I still, I guess, could go either way because, like,  
19 they can't do it without the road. And so but okay. So I'll go  
20 ahead and make a motion to approve Application No. 20749 with the  
21 condition as recommended by the Office of Planning that the  
22 private road be completed before their certificate of occupancy  
23 is approved and ask for a second, Ms. John.

24 VICE CHAIR JOHN: Second.

25 CHAIRMAN HILL: The motion made and second. Mr. Moy,

1 take a roll call, please.

2 MR. MOY: Thank you, Mr. Chairman. When I call your  
3 name, if you will please respond with your vote on the condition  
4 that was made by Chairman Hill to approve with the one condition  
5 Zoning Commissioner --

6 Do you have a name

7 UNIDENTIFIED COMMISSIONER: Yes.

8 MR. MOY: Mr. Smith.

9 COMMISSIONER SMITH: Yes.

10 MR. MOY: Mr. Blake.

11 MR. BLAKE: (No audible response.)

12 MR. MOY: Vice Chair John.

13 VICE CHAIR JOHN: Yes.

14 MR. MOY: Chairman Hill.

15 CHAIRMAN HILL: (No audible response.)

16 MR. MOY: Staff will record the vote as 5 to 0 to 0,  
17 and this is on motion made by Chairman Hill to approve the  
18 application for the relief requested, including the one condition  
19 as cited by the Chairman. The motion to approve is second by  
20 Vice Chair John. Also in support of motion to approve, Zoning  
21 Commissioner Peter May. Mr. Smith, Mr. Blake, of course Vice  
22 Chair John and Chairman Hill. Motion carries 5 to 0 to 0.

23 CHAIRMAN HILL: Thanks, Mr. Moy.

24 What do you guys think of this? I wouldn't mind another  
25 break after this one. Before our last one, because we have kind

1 of a short day. Does that sound reasonable? Okay. Then, Mr.  
2 Moore, if you can go ahead and call our next one, please, which  
3 is, I mean, the one that's the same as this one or whatever.  
4 Similar, I should say, connecting.

5 MR. MOY: Yes, sir. This would be Case Application No.  
6 20751 -- or 801 -- or 801 Buchanan Investment Partners, LLC.  
7 Again, this is a supplemented self-certified application pursuant  
8 to Subtitle X, Section 901.2 for special exceptions under  
9 Subtitle C, Section 305, which would allow theoretical  
10 subdivision under Subtitle U, Section 421 to allow a new  
11 residential development, 80 row houses, and pursuant to Subtitle  
12 X, Section 1002 an area variance from the theoretical lot  
13 subdivision requirement, Subtitle C, Section 305.3(B), B as in  
14 Bravo.

15 The site of the property is located in a RA-1 zone 801  
16 Cannon (sic) Street, NE, Parcel 135, Lot 71. Again, there is a  
17 -- Applicant, in his proper request for expert status or brand  
18 ruhl, R-U-H-L, in landscape architecture.

19 And also, Mr. Chairman, because of the 24-hour block,  
20 the Applicant filed a proposed condition on No. 1, No. 1, their  
21 PowerPoint presentation. And finally, the Applicant respond to  
22 the Office of Planning. So there's three documents the Board  
23 should address whether you want into the record.

24 CHAIRMAN HILL: Okay. Unless the Board has any issues,  
25 I like everything added to the record because I'd like to be able



1 to take a look at everything, and then I don't hear anyone  
2 speaking up in opposition to that. Ms. Batties, can you hear  
3 me, and if so, could you introduce yourself for the record,  
4 please?

5 MS. BATTIES: Yes. Good morning again. Leila Batties  
6 along with my colleague John Oliver with the law firm of  
7 (indiscernible), on behalf of 801 Buchanan Investment Partners,  
8 LLC, which is an affiliate of the Concordia Group.

9 CHAIRMAN HILL: Okay. Thanks, Ms. Batties. As you  
10 know, we've already gone through 2079, which is tied to this.  
11 But if you want to go ahead and walk us through your presentation  
12 and let us know why you believe your client is meeting the  
13 requirements for us to grant the relief requested. And you can  
14 begin whenever you like.

15 MS. RAMIREZ: Sure. If, Mr. Young, you can pull up the  
16 PowerPoint. And go to slide (indiscernible), please.

17 And so the third and fourth bullet here summarize the  
18 Applicant's request to special acceptance approvals related to  
19 the townhome community under the theoretical subdivision  
20 provisions and Subtitle U, Section 421, which requires special  
21 exception approval for new residential development in the RA-1  
22 zone. And then we're seeking a variance from the theoretical  
23 subdivision requirement to have alleys that serve the rear end  
24 of the townhome unit to be less than 24 feet in width, but will  
25 function as a 24-foot wide alley because of the easements that

1 are being proposed on each -- on the rear of each townhomes lot.

2 But I want to just stay here for one minute because  
3 there are a couple of things I want to note. First, we, we the  
4 Applicant, started coordinating with the Department of  
5 Transportation, DDOT, and the Office of Planning on this  
6 particular site and the configuration and layout of the plan on  
7 August 9th of 2021.

8 So when Commissioner Lucio talked about the plan going  
9 through several iterations, not only for what, you know, the  
10 townhome community, but how it relates to the school site where  
11 the south connection road that will go through, all of those were  
12 done with significant amount of coordination and communication  
13 with DDOT and OP over a year ago. So I think that's important  
14 to note.

15 I think it's also important to note in working with  
16 these agencies, we had started at 82 townhomes and various  
17 configurations reduced that number from as low as 73 townhomes.  
18 And we worked back up. We work very closely with DDOT to get to  
19 a number that worked for the Applicant and specifically Catholic  
20 Charities.

21 And again, Commissioner May said it, Ms. Morrow of  
22 Catholic Charities reiterated it, we reiterated it, that we're  
23 looking to -- Catholic Charities is selling this property to fund  
24 the construction of the new school. So while we're not maximizing  
25 subsidy, the amount of units that can be achieved on the property

1 is very, very important for the sale of the property, and  
2 specifically for funding the construction of the new school.

3           And so it is economics was very much an important --  
4 very much a factor in how the site plan is laid out, but that is  
5 something we discussed with OP and DDOT from the very beginning.  
6 And I think it's -- we're unapologetic, I guess, in that regard.  
7 This is a school with special needs. It's one of the few schools  
8 in the City that serve the population that it does and the  
9 townhouse development directly supports that mission for Catholic  
10 Charities.

11           Next slide, please. And again, this slide just shows  
12 the extent of community outreach that was done in connection with  
13 this project. We did not start with the plan that is presented  
14 before the Board. The plan was revised, at least two significant  
15 revisions that Commissioner Lucio mentioned, to accommodate the  
16 greenspace that was requested by the community to accommodate the  
17 north/south connections that were requested by DDOT.

18           And I do want to note with the greenspace, so we start  
19 -- the land area is approximately 4.8 acres, but with the  
20 greenspace that was requested by the community and the land for  
21 the private streets requested by DDOT, the actual amount of  
22 developable land was reduced by almost one and a half acres. So  
23 yes, that they're looking to -- I want to say max -- use the most  
24 -- has the most efficient layout for big townhouse community  
25 that's being proposed.

1           Next slide, please. Sharon Hill, I want to make sure  
2 you can hear me.

3           MS. HILL: (No audible response.)

4           MS. BATTIES: Okay. So in response -- (indiscernible)  
5 wrong -- two, three, four, five, six, seven. community meetings  
6 as recently as last week resulted in several conditions to the  
7 approval of the application. All of these conditions were  
8 generated or -- by the community stakeholders and all of them the  
9 Applicant has agreed to. I'm going to just quickly summarize  
10 them

11           The first of these, not unexpected, a concern about  
12 parking in the area. So the Applicant agreed that the persons  
13 that reside in the townhouse community, their HOA documents would  
14 not provide for (indiscernible). The Applicant has agreed to  
15 contribute \$25,000 to housing counseling services to those who  
16 may be affected by an increase in their property taxes.

17           The Applicant has agreed to install and monitor --  
18 install monitoring equipment, seismic monitoring equipment during  
19 the construction of the project, starting with, excuse me,  
20 starting with the school. The development will include 40,500  
21 square feet of publicly accessible greenspace.

22           Some of that -- half of that, as you'll see in the  
23 plans, will be on the southern border of the property to  
24 coordinate again with the future redevelopment of the Providence  
25 Hospital site. The Applicant has agreed to contribute \$25,000

1 to the Housing Production Trust Fund to assist the District  
2 affordable housing goals. And the Applicant has agreed to donate  
3 \$10,000 to the North Michigan Park Civic Association scholarship  
4 fund.

5           Next slide, please. All right. So I'm going to stop  
6 here and turn the presentation over to Will Collins, who will  
7 talk through the plan and how we arrived at this plan after  
8 talking to all of the stakeholders, district agencies, and  
9 community stakeholders, and again in relation to the  
10 (indiscernible). Thanks. Will.

11           MR. COLLINS: Yes. Good morning. Thank you all so  
12 much for your time today. This clearly is a plan that has --

13           CHAIRMAN HILL: Mr. Collins, I'm sorry. Could you  
14 introduce yourself for the record?

15           MR. COLLINS: Yes. My name is William Collins. I am  
16 the manager of 801 Buchanan Limited Liability Corporation, and I  
17 am the managing partner of the Consortium Group. We're a  
18 developer that's worked in the City on many different projects  
19 and been before Board of Zoning Adjustment on a number of  
20 occasions. So once again, thank you so much for your time today.

21           CHAIRMAN HILL: Thank you, Mr. Collins.

22           MS. BATTIES: Mr. Young, can you advance it to the next  
23 slide? I'm sorry. Thank you.

24           MR. COLLINS: So just a little bit of overview on this  
25 site plan. This is a 80-seat fee simple townhomes. They are

1 all three-story rear-loaded townhomes. Some of the homes are 16-  
2 foot wide. Many of the homes are 20-foot wide. They will have  
3 one- and two-car garage with tandem parking on the exterior.  
4 These are three-bedroom homes.

5           And just a few things, that this plan evolved over  
6 time, as we said, with a lot of input from Office of Planning.  
7 Department of Transportation, a great deal of engagement by the  
8 community. I would say this is a very, very engaged community.  
9 Not only the single-member district, but the entire ANC, as well  
10 as the civic associations that we met with. North (indiscernible)  
11 Park Civic Association and Michigan Park. So there was input  
12 throughout.

13           Couple highlights of this plan. It does provide for  
14 two significant green areas, one in the center of the site. These  
15 are publicly accessible green areas, one on the rear southern  
16 portion of the site, which is Commissioner Lucio has spoke, will  
17 be combined in the future at such times that Ascension Health  
18 Care develops to combine the larger park setting that would have  
19 both -- that we would find both the tot lot and a dog park, which  
20 was a big, big desire of the the local community.

21           Couple things about the plan is that we've tried to  
22 create a facade, a brick facade, and it'll be -- the brick, it'll  
23 be brick front. Brick and Hardiebrick on the sides of the  
24 elevations and Hardiplank on the rear. But on Buchanan Street,  
25 we believe we've created, both on the setbacks as well as the

1 elevations, homes that will be esthetically pleasing to the folks  
2 across the street on Buchanan Street. That was a big issue that  
3 came up in our -- in our conversations with neighbors.

4           But I think I wanted to give just a little bit of  
5 background real quick on timing, because Commissioner Lucio  
6 mentioned it in her remarks today about continual engagement and  
7 in our commitment to continual engagement. And the reason I  
8 think the continuing engagement is important here is just the  
9 timing and scheduling of this. The Kennedy School that's operated  
10 by Catholic Charities will remain open throughout the time until  
11 such time as the new school is built. So subject to, obviously,  
12 approval from both of these projects, it is the hope that the  
13 Catholic Charities would start construction sometime next, late  
14 next spring/early next summer on the school at -- with an 18-  
15 month time frame from there to build the school. It's hope --  
16 hopeful time frame is that in the first quarter of 2025, the  
17 students and staff would move into the new school and the townhome  
18 community would not start -- its site development wouldn't start  
19 until that transfer of students and staff occurs to the new  
20 facility.

21           At that point in time, there'd be a demolition of the  
22 existing school and then site work would commence on the  
23 townhomes. I think it's critical because such a long duration  
24 of site is our commitment of communication, ongoing communication  
25 with the residents around there for such a long duration is going

1 to be critical. We have also committed that prior to any  
2 construction starting, we were going to go to the residence of  
3 Buchanan and take a full survey of their homes. We're very  
4 concerned about vibrations and effects of their homes.

5 We're going to put monitoring up prior to any  
6 construction for vibrations and also with the surveys we'll be  
7 able to monitor throughout the construction of the school and the  
8 townhomes that they don't encounter any damage to their homes.  
9 So that was a big issue that we have dealt with in the past, I'd  
10 say over a year.

11 We are honored to be working with Catholic Charities  
12 on this project. It's a great school and we feel very fortunate  
13 that they selected us to work with them. We think it's a quality  
14 residential development. We believe the project addresses the  
15 issues that were brought up by both OP as well as DDOT. The  
16 project will have bike stations. It will have both pedestrian  
17 and vehicular connections for future development if and when the  
18 Ascension Healthcare moves forward with Providence. And we  
19 believe it is a quality development that will be well received  
20 by the community.

21 And I think we take great pride in our engagement, in  
22 our outreach, and the fact that we have support of the civic  
23 associations as well as the single-member district, and the ANC,  
24 and it speaks to the efforts of Commissioner Lucio as well as  
25 ours. And I -- that's kind of my overview and I'm very happy to



1 answer any questions any of the commissioners have, but I greatly  
2 appreciate your time today.

3 MS. BATTIES: Thank you.

4 CHAIRMAN HILL: Thank you, Mr. Collins.

5 MS. BATTIES: So I'm going to get into the criteria  
6 now, Mr. Chair. Mr. Young, if you can go to the next slide,  
7 please. So this is, again, a special -- special exception  
8 criteria again. And we just -- I won't -- we just saw it in the  
9 last case. And I will note, though, that, again, the property  
10 is entitled, right, it's RA-1 zone. So really, when you look at  
11 the regulations and the density that's permitted under the  
12 regulations for RA-1 zone, the development that's being proposed  
13 is moderate, and compatible, and in keeping -- the scale is very  
14 much in keeping with the residential neighborhood. The specific  
15 zoning in RA-1 zoning supports the multi-family development which  
16 the Catholic Charities and the developer is not pursuing.

17 Next slide, please. So this is the criteria for the  
18 area variance, and this is the variance that we would need for -  
19 - to support the design of the private alley serving the rear of  
20 the townhomes. So and just if you go through each one, first,  
21 the property is unusual because of its size, shape, topography  
22 or other extraordinary, exceptional situations of conditions.

23 In this case, we believe that the application or the  
24 property needs this requirement because of -- really because of  
25 the location is in between, it's been established residential

1 neighborhood and a major -- a site that's going to be -- undergo  
2 major redevelopment. And that requires by data, really two means  
3 of north/south connection in order to -- to promote connectivity  
4 between the south, the project to the south, which is the  
5 Providence Hospital site, and then the neighborhood to the north,  
6 the established neighborhoods to the north. This property is the  
7 only means of north/south connection to -- to these two  
8 communities.

9           The other thing that's unusual about this site, of  
10 course, is its proximity and relationship to the for the Kennedy  
11 School. And then being able to accommodate -- there's two acres  
12 being set aside to accommodate the construction of the new school.  
13 So it's just the confluence of the location, the need to  
14 accommodate the new school really does make it unique in this  
15 sense, and also because of that and the requirement to set aside  
16 two acres for the school, the requirement to provide over 20,000  
17 square feet for private streets that serve communities other than  
18 the townhouse community, and then the land, the green space that's  
19 required as part of a larger community amenity.

20           All of those features really reduce the size of the  
21 developable area, which affects the Applicant's ability to design  
22 alleys that are only 24 feet in width from lot line to lot line.  
23 And so that being said, the -- effectively, and this is noted in  
24 -- in our application statement or pre-hearing statement, but  
25 also in the Office of Planning report, the Applicant is committed

1 to creating a 7-foot wide easement on the rear of all of the  
2 townhomes there so that each of those units would be given land  
3 to effectively widen the alley from 10 to 24 feet consistent with  
4 the requirements under the regulations. So while we don't  
5 technically make it 24 feet in width, the alley will function,  
6 effectively function as a 20 foot (indiscernible) -- 24 foot wide  
7 alley, and most importantly, to accommodate fire and emergency  
8 vehicles that need to access the town hall.

9           Next slide, please. And so here it's just and I don't  
10 know, Mr. Young, if you can blow it up, but this is just showing  
11 you really kind of the dimensions of the -- how the alleys will  
12 be widened 24 feet from curb to curb and then where the lot --  
13 and how they extend beyond the lot line.

14           CHAIRMAN HILL: Okay. Yeah, Mr. Young, you don't have  
15 to blow it up. We got it on our slide.

16           MS. BATTIES: Okay. All right. Next -- well, all  
17 right. Because that's all that we have in terms of our  
18 presentation on direct, Mr. Chair. We'll end there and, of  
19 course, be happy to answer any questions that you might have.  
20 Thank you.

21           CHAIRMAN HILL: Okay. All right. Does the Board have  
22 any questions of the Applicant? Sure. Let's go with Mr. Smith  
23 first today.

24           COMMISSIONER SMITH: My question in regards to the  
25 variance, one of the things that you had stated was -- well, one

1 of the reasons was to accommodate the, you know, substantial  
2 amount of open space that you're providing here. And I understand  
3 that that was a request of the ANC, the neighborhood, but this  
4 isn't, you know, I'll be frank, I'm happy that you're providing  
5 that at the request of the ANC, but it's not going to be, you  
6 know, recorded or deeded as as open space.

7           So essentially, it's, you know, upon the -- is it  
8 essentially upon your good graces, your development's good graces  
9 for that to be accessed by the neighborhood in perpetuity? And  
10 if that's the case, could you have shrunk slightly the width of  
11 those open spaces so that you could have a legally complying  
12 private out (phonetic)?

13           MS. BATTIES: So we will be recording instruments on  
14 the land that dedicate all of the private areas of publicly  
15 accessible space, or that both the roads and the green areas.  
16 And I think, I mean, could we have -- so I would say,  
17 (indiscernible), in big picture, the land area, the developable  
18 land area has been reduced significantly.

19           Could we take away and make those open spaces smaller?  
20 And yes, in theory we can, but we can achieve the same alley  
21 width without doing -- without reducing the green space. And so  
22 we thought that would be the better approach, given that since  
23 we're able to provide the actual work with the easement, we felt  
24 that there was no harm or adverse effect of that to the  
25 neighborhood or the -- no -- no contradiction to the zoning

1 regulations' intent or the regulations.

2 COMMISSIONER SMITH: Well, the reason I bring that up  
3 is that I'm struggling with the practical difficulty piece. If  
4 you have the ability to shrink the size of the open space to  
5 accommodate both. So have there been any studies that show that  
6 shrinking that open space, the two pieces of open space to the  
7 north, the central open space closer to the Buchanan and the  
8 portion closer to Providence Hospital renders them virtually  
9 unusable as practical open space?

10 MS. BATTIES: I don't -- I would -- I would just say  
11 we looked at the various iterations of this plan. So yeah, we  
12 studied a lot of different versions of the plan. I mean, I think  
13 we were trying to be respectful of the community's desire to have  
14 a publicly accessible green space. So I'll leave it at that. I  
15 don't know -- well, if you want to add anything to that.

16 COMMISSIONER SMITH: I don't think that I have anything  
17 to add that. I know you've been before the Board of Zoning  
18 Adjustment on this issue before, and you've always been granted  
19 the relief, and it was always the desire of -- to create more  
20 green space has always been weighed against the practical  
21 difficulty.

22 And I think that in this case we obviously are trying  
23 to create the best community. And as I said, this -- this relief  
24 has been created before, so we really didn't, you know, look at  
25 -- look at this in that regard. I know as well, you know, we

1 get a great deal of push, you know, a great deal of influence as  
2 well with the Fire Marshal and warning the 24- foot wide pavement  
3 section. And I think that was important in this issue as well.  
4 So but I don't think I have anything else to add. I hope that's  
5 a reasonable answer.

6 CHAIRMAN HILL: Thank you --

7 MS. BATTIES: And I -- (indiscernible) the practical  
8 difficulty is like all of the demands, right, the demands of  
9 DDOT, the demands of the neighborhoods that need to support the  
10 school, it's that confluence of all of those factors that  
11 significantly reduces the land area that we're working with.

12 COMMISSIONER SMITH: The portion closer to the  
13 Ascension property, getting back to what was stated at the  
14 previous case, is this the portion that would tie into any future  
15 open space that would occur on the Ascension property? That is  
16 --

17 MS. BATTIES: (Indiscernible) --

18 COMMISSIONER SMITH: Yes. And is this where -- what  
19 were the amenities that you stated that you proffered?

20 MR. COLLINS: Yes, the amenities for -- we will be --  
21 at the time that Ascension develops will be funding and obviously  
22 coordinating with them on the grading to create both a tot lot  
23 and a dog park. And the dog park obviously was highly desired  
24 by the community at large.

25 COMMISSIONER SMITH: And those two amenities will be

1 positioned in some way, shape, or form on this green space closer  
2 to (indiscernible)?

3 MR. COLLINS: That is correct.

4 COMMISSIONER: Okay. All right. Thank you. No further  
5 questions.

6 MR. COLLINS: Thank you.

7 CHAIRMAN HILL: Vice-Chair John and then Commissioner

8 --

9 VICE CHAIR JOHN: (Indiscernible.) What is the width  
10 of that green space to the south?

11 MS. BATTIES: Brian, you have the dimensions in front  
12 of you? Vice Chair John asked the width of the green space to  
13 the south.

14 COMMISSIONER SMITH: The property line. The poverty  
15 line. Correct, correct.

16 MR. RUHL: Forty-eight feet.

17 VICE CHAIR JOHN: (Indiscernible) facing that area to  
18 meet the zoning -- the (indiscernible).

19 MS. BATTIES: Yes, again, yes, we did, Vice Chair John.  
20 Again, we were struggling to meet the demands. Commissioner  
21 Lucio, to her credit, was a big, big part of the green space,  
22 how it was configured. We had, you know, at one point, all of  
23 the green space central to the project, and they did not want  
24 that. They wanted it moved to the southern boundary to connect  
25 with the center.

1           So all I'm saying is that there were various iterations  
2 and we could, in theory, or we could eliminate a portion of the  
3 green space. I just don't think that if we can achieve the same  
4 amount of alley, if we can choose the same width and provide the  
5 green space, I -- we would think that that would be an acceptable  
6 approach. We're giving up some of the, you know, we're creating  
7 easements across the private townhomes in order to widen the  
8 alley while still preserving the publicly accessible green space.

9           VICE CHAIR JOHN: I'm still struggling to find the  
10 exceptional position, which is zoning (indiscernible).  
11 (Indiscernible) desires are separate from the ability to meet the  
12 (indiscernible). And I'm struggling with that. I understand the  
13 need for the access road north to south. And so it were -- so  
14 you're saying you could still meet the zoning requirements if you  
15 --

16           MS. BATTIES: (Indiscernible.)

17           VICE CHAIR JOHN: -- (indiscernible) that section, that  
18 section green space (indiscernible)?

19           MS. BATTIES: I would say the exceptional condition  
20 here is that this is a site that's located between an established  
21 neighborhood and a site that's going to undergo significant  
22 redevelopment and it's trying to meet the demand of being in that  
23 situation. Again, we're losing land that would  
24 -- property to the south, not necessarily our community.

25           We're in the middle of a neighborhood that desires



1 green space, but, you know, this is (indiscernible) has been  
2 under utilized for decades, so we're trying to, you know, provide  
3 some green space for the neighborhood. But the school site cannot  
4 provide green space because of the population that it serves.  
5 And it's a school that operates all year round. So that's not  
6 really an option in terms of providing outdoor green area or  
7 amenities for the neighborhood, really.

8           And so I'm just saying all of those circumstances  
9 together require that the property take in demands from various  
10 stakeholders. And really not serving the private -- it's not  
11 serving just this private community. These relate to bigger  
12 planning principles and objectives.

13           VICE CHAIR JOHN: Okay. Thank you.

14           CHAIRMAN HILL: Okay. Commissioner May, you had a  
15 question.

16           COMMISSIONER MAY: Yeah, I'm glad I'm not the only one  
17 who has issues with the practical difficulty test here because  
18 that's, I mean, there are solutions that could address, I mean,  
19 that could avoid the need for the variance. I mean, the need  
20 for the variance is essentially driven by wanting to have that  
21 many units and wanting to have that much green space, that common  
22 green space. And those are more or less self-imposed when you  
23 think about it strictly in the zoning frame of mind.

24           Now, I do have another question there. I mean, I was  
25 looking at the -- the the section -- it's in the drawing set, I

1 think at page 12. But it shows there's a 15-foot building  
2 restriction line. So that pretty much requires every -- every  
3 house within there to have that 15 feet (indiscernible).

4 So the next question I have is what what if the easement  
5 on the -- that's currently in the alley were actually on the  
6 front of the properties, maybe not on the Buchanan Street  
7 properties, but the other three blocks so that where you have the  
8 easement is actually within that (indiscernible) -- MS.

9 BATTIES: (Indiscernible.)

10 COMMISSIONER MAY: No, no, no, behind the the building  
11 restriction lines. It wouldn't change the physical condition at  
12 all. It would just change where you put the easement so it  
13 wouldn't be an easement over pavement. It would be an easement  
14 over that permanent lawn area, because that would that would  
15 eliminate the need for the 7-foot easement on the alley in three  
16 out of four of the sets of these (indiscernible). Did you look  
17 at that? Is that feasible?

18 MS. BATTIES: I'm going to have to rely on our civil -  
19 -

20 MR. RUHL: I worked on that. My name is Brian Ruhl.  
21 I'm a landscape architect with (indiscernible). I worked on the  
22 plan, and I'm trying to understand the relocation of the -- we  
23 do have that 15 foot (indiscernible) along Buchanan, and that 15  
24 foot --

25 COMMISSIONER MAY: You cannot move that one.

1 MR. RUHL: Correct.

2 COMMISSIONER MAY: But the other three sets of  
3 easements, they both -- I have, you know, those are townhouse  
4 properties that have.

5 MR. RUHL: I think I know what you're saying now.  
6 Right?

7 MR. RUHL: You're saying move the property lines kind  
8 of down so that there's an access easement over their front yard  
9 on Building 4, 5, and 6, and Building 7, 8, and 9, which is a  
10 central green space.

11 COMMISSIONER MAY: And even 10, 11 and 12.

12 MR. RUHL: Yes. Yes, I see that. You know, honestly,  
13 I don't think we -- we wanted to maximize the green space and we  
14 hadn't considered that, But we we had done this in previous BZA  
15 submissions and --

16 COMMISSIONER MAY: I cannot speak to those, nor can we  
17 count on any of those as a guaranteed precedent. I'm just trying  
18 --

19 MR. RUHL: (Indiscernible.)

20 COMMISSIONER MAY: -- to put you in that position of  
21 needing a variance --

22 MR. RUHL: (Indiscernible.)

23 COMMISSIONER MAY: -- and the members. Let me just  
24 --

25 MR. RUHL: (Indiscernible.)

1           COMMISSIONER MAY: -- finish my statement, which is  
2 from my perspective, an easement is an easement whether it's in  
3 the grass or whether it's over asphalt. And if it -- if you  
4 shift it to the grass, that solves the problem for one alley  
5 completely and one alley partially.

6           And when it comes to the one that's partially there, I  
7 mean, you could conceivably, you know, shift everything south by  
8 7 feet so instead of using 28 feet out of that green space to  
9 the south, you're trimming some of it out of the middle. I'm  
10 not sure what. I'm not sure what flexibility you have there,  
11 but you only have to find 7 feet in that north/south dimension  
12 and then you could you can avoid needing that variance.

13           And then we don't have to worry about the practical  
14 difficulty because, again, you can eliminate the practical  
15 difficulty if you have -- if you reduce the number of houses or  
16 reduce the amount of green space. So I think both of those are  
17 self-imposed conditions.

18           MS. BATTIES: Commissioner May, you do raise a good  
19 point. I think that addresses -- well, if we get away from the  
20 variants altogether. But I do think the fact that there is a  
21 building restriction line on the property actually and addresses  
22 Vice Chair John's question as to, I think that would definitely  
23 be a more straightforward special condition or exceptional  
24 condition on the site. And that is the 15- foot building  
25 restriction line that (indiscernible).

1           COMMISSIONER MAY: Well, and again, the mere fact of a  
2 building restriction line does not create an exceptional  
3 circumstance and a practical difficulty, it's -- because, again,  
4 there are ways to solve this. And I mean, I cannot say with  
5 certainty that the solution that I was just suggesting would  
6 work, but if it did, you would be talking about losing 7 feet of  
7 common green space and avoiding the variance. And that doesn't  
8 seem to be that difficult to do.

9           And if you can do that, then there isn't really a  
10 practical difficulty, right? So and again, I mean, you could  
11 also do something more drastic, like eliminate, you know, three  
12 of the buildings.

13           MS. BATTIES: I think --

14           COMMISSIONER MAY: (Indiscernible) would have much more  
15 drastic consequences. But again, that -- even that might be the,  
16 oh, that's a way of avoiding having to need this -- this variance  
17 in this circumstance.

18           MS. BATTIES: Brian, can you look -- I mean, I think  
19 it's simple enough, but follow Commissioner May's guidance. I  
20 mean, what if you were -- just reduce the size, reduce the amount  
21 of the green space by 7 or whatever.

22           MR. RUHL: It would reduce the green space in large  
23 scale, be one to three lots, and then kind of pull everything  
24 down, as Commissioner May mentioned. And then the the kind of,  
25 quote/unquote, property line boxes would shift into the green

1 spaces and, therefore -- oh, I think that we're -- I think it  
2 would affect our rear yards.

3 MS. BATTIES: I would think -- and, Commissioner May,  
4 one challenge to that is having private space that's publicly  
5 accessible. The way it is right now, the people that would be  
6 using the alley, driving over the alley, would be people that  
7 live in the townhomes or visiting the townhomes. If you have  
8 the easement in the green area, those green areas are intended  
9 to be public, a publicly accessible, publicly utilized green  
10 area. It is fundamentally different.

11 COMMISSIONER NAY: Well, yes and -- yes and no. Right.  
12 You're talking about people walking over that space on a -- but  
13 mostly sidewalk, right? There's at least a 4-foot sidewalk and  
14 out of that 7 to -- and then it looks like it's just turf. You  
15 know, I'm not sure exactly, but how, you know, who should own  
16 what rights if you start divvying up the easement, and certainly  
17 it's, you know, it's clean and easy if it's just asphalt, but  
18 it's, you know, it can be, I mean, I would like it to be understood  
19 and explored.

20 And, you know, maybe if you could prove that there is  
21 some technical reason why this could not work, I might be more  
22 open to the idea, the practical difficulty, but I just don't see  
23 the practical difficulty. And I don't really want to go to the  
24 point of saying, well, you know, you got to cut 28 feet of grass  
25 out of the south and shift everything south so that you can, you

1 know, meet the zoning regulations.

2 I don't think that's a great outcome, but nor do I  
3 think reducing the number of buildings would be a great outcome  
4 because of the impact on the property owners selling this  
5 development and their need for that money. I'm just trying to  
6 find a way to avoid the need for a variance because it's, you  
7 know, as much as we want to try to have these good outcomes for  
8 the for -- for to satisfy the ANC and to help the owner of the  
9 property, zoning regulations don't really accommodate, you know,  
10 the need for more money or need to satisfy the ANC so explicitly  
11 anyway, so.

12 MR. RUHL: Commissioner May, this is Brad Ruhl again.  
13 I've just been looking at this and going through it. We do have  
14 a 20-foot rear yard requirement and that --

15 COMMISSIONER MAY: So would --

16 MR. RUHL: -- it's not as easy as just as mentioned.  
17 So we do have that requirement and that would -- requires moving  
18 and significantly reducing these green space areas.

19 MS. BATTIES: I think Brian and I, and Commissioner May  
20 thinks (indiscernible) -- I may be wrong -- I think Commissioner  
21 May is saying one solution is to reduce the size of the green  
22 areas to achieve the necessary alley width.

23 COMMISSIONER MAY: What I was thinking, I was not  
24 thinking about the rear yard requirement. So I think he's right.  
25 There's an issue with the rear yard because you slide the property

1 lines -- alley, then that shrinks the rear yard from 20 feet to  
2 15 feet because of the little decks.

3 CHAIRMAN HILL: Sorry to interrupt you. Vice-Chair  
4 John had her hand.

5 VICE CHAIR JOHN: (Indiscernible) rear yard. Isn't the  
6 rear yard measured from the (indiscernible) to the rear property  
7 line? I believe the total area would be 25 feet from the building  
8 to the property line. But the (indiscernible) would ease into  
9 the rear of the property; am I correct?

10 MS. BATTIES: But -- Brian, go ahead.

11 MR. RUHL: Sure. Commissioner John, currently, the  
12 rear yard is measured to the deck. It's 20 feet deep so,  
13 therefore, we are meeting it and with -- with the decks.

14 VICE CHAIR JOHN: But without the decks, rear yard  
15 would be 25 feet, 20 feet? I'm sorry (indiscernible) if you remove  
16 (indiscernible) 25 feet on each row?

17 MR. RUHL: If we did remove the balconies.

18 VICE CHAIR JOHN: So I guess what this discussion is  
19 leading to is is that the -- there is an issue with exceptional  
20 (indiscernible) and -- well let me just stop there.

21 CHAIRMAN HILL: If I might suggest that as we kind of  
22 talk through this, I mean, I don't know where other board members  
23 are in terms of their questions. I have a general idea on some  
24 of them; however, perhaps if we could hear from the Office of  
25 Planning.



1           MR. COHEN: Thanks, Mr. Chair. The Office of Planning  
2 has recommended approval of both special exceptions and the  
3 variance. Of course, if the Board desires the Applicant to  
4 reexamine some of the dimensions that lead to the request for a  
5 variance, we'd be happy to work with the Applicant on that.

6           The Applicant has provided the information that we  
7 requested with respect to the number of and location of  
8 (indiscernible), there would be nine, and they provided those to  
9 all the site elevations and for that matter all of the other  
10 elevations, I believe, every question.

11           With respect to the condition for the special  
12 exception, we had recommended that -- there again being public  
13 access through the eastern of the two north/south roadways, and  
14 that public access be required when there is development to the  
15 south that provided thru access from Buchanan Street down to  
16 bottom, we would actually defer to the later recommendation of  
17 the Department of Transportation that does not have that  
18 requirement that -- that the development to the south provide the  
19 access to Barnum Street, rather just have that condition applied  
20 right from the get-go. As soon as those roads are constructed,  
21 they would be required to have public access.

22           And with respect to all of the other conditions that  
23 DDOT is recommending, we have no problem whatsoever with those,  
24 nor do we have any problem with the conditions that the Applicant  
25 has accepted or that were recommended by the ANC. So I think

1 I'd be happy to go back into the justifications for the special  
2 exceptions, if you'd like. Otherwise, I would stand on the record  
3 meaning that it does provide for a current plan that is gridded,  
4 which is traditional for Washington. It provides for --  
5 accommodates substantial open space. and even provides for our  
6 access to parking in a way that still allows for reasonable front  
7 yards and reasonable thru easements for people wanting to go  
8 north and south when there is such development. But when  
9 it comes to the practical difficulty for the requested variance,  
10 OP had looked at it as the combination of the restrictions that  
11 are imposed by the need to have that north/south access through  
12 the site, plus what the ANC had asked for for the open space.

13           Would it be possible to reconfigure the open space so  
14 that you would avoid the need of the variance? That's -- that's  
15 quite likely. Would you get ANC approval? That is considerably  
16 less likely. To Office of Planning, if there is going to be open  
17 space, the more important location for the open space is at the  
18 south side of the property where you have the possibility of  
19 combining that with open space that apparently Ascension and  
20 Providence are considering on the northern edge of their  
21 properties.

22           The open space in the middle of the Applicant site has  
23 always struck Office of Planning as not as important as the space  
24 to the south and not as useful as the open space to the south.

25           So I think given all the questions that you asked today,

1 we would probably prefer to be able to work with the Applicant  
2 as they work through some of the questions that you've ask and  
3 then be able to return with a recommendation on the variance in  
4 the future if, in fact, the Applicant is still requesting a  
5 variance in the future.

6           CHAIRMAN HILL: Okay. Thanks, Mr. Cochran (sic). I  
7 guess I'll just let my fellow Board members kind of think about  
8 this. I mean, I know that -- I'm more or less understanding and  
9 amenable to considering the confluence of factors that is coming  
10 up for the variance. I, however, do understand that the variance,  
11 again, although it is an area variance, is a higher bar to  
12 (indiscernible), and that we don't, you know, one case does not  
13 necessarily lead to another one.

14           However, as some of my colleagues have said in the  
15 past, we do need to do something that is in -- somebody's on  
16 mute. I don't know if they want to mute themselves or not --  
17 that we do want to create a situation where people have a better  
18 understanding of what the Board may or may not do as they kind  
19 of move forward.

20           However, some of the terms that are getting used here  
21 that I think are bringing up some concerns to my colleagues, it's  
22 kind of like the wants of the ANC perhaps, and how those  
23 necessarily tie in to the argument. However, that saying, I  
24 again, I'm still understanding and comfortable with the argument  
25 that's being put forward. Now, however, I don't know where my

1 other colleagues are with that.

2 I say all that just to be clear as to what I'm thinking  
3 through at this point. And now I'm going to let anyone ask any  
4 questions they might have of the Office of Planning.

5 Does anybody have any questions of the Office of  
6 Planning? Commissioner May.

7 COMMISSIONER MAY: Yeah, so what level of relief would  
8 be necessary to reduce the size of the rear yards from 20 feet  
9 to 15?

10 BY MR. COHEN: Well, the special exception.

11 COMMISSIONER MAY: Right. Okay. So that also is  
12 another reason to consider shifting the property lines.

13 MR. COHEN: Certainly. Applicant wouldn't necessarily  
14 have to remove the balconies. They could ask for a special  
15 exception on the depth of the rear yards.

16 COMMISSIONER MAY: Well, right, I mean, the balconies  
17 are, you know, it's a total of 25 feet. And the balconies are  
18 five of that.

19 MR. COHEN: Right.

20 COMMISSIONER MAY: So they could -- if they reduced it  
21 from 20 to 15, they would still have the balconies and the 15-  
22 foot rear yard, again through a special exception, right?

23 MR. COHEN: Yeah.

24 COMMISSIONER MAY: Follow me?. Yeah.

25 MR. COHEN: Yes. So I don't --

1 COMMISSIONER MAY: (Indiscernible) --

2 MR. COHEN: -- (indiscernible) -- I don't feel  
3 comfortable committing just -- and answering on specific numbers  
4 right now without actually seeing --

5 COMMISSIONER MAY: Yeah, that's fine.

6 MR. COHEN: Okay.

7 COMMISSIONER MAY: Yeah, that's fine. And I'm very  
8 glad you're willing to work with the Applicant on that. I mean,  
9 I think I -- I do not want to sacrifice the balconies, right.  
10 Not that I love those balconies, but in this particular type of  
11 unit, which everybody who knows me and my past history will tell  
12 you that I am not a big fan of this type of unit, but I know that  
13 they are desirable. They sell well, they are a way to get  
14 increased density in a sort of a townhouse.

15 That little bit of open -- or a little balcony provides  
16 useful open space for the residents of those things, even though  
17 they're just, you know, like over the alley and everybody's cars  
18 and all that kind of stuff, whatever.

19 MR. COHEN: That would be also providing for roof decks  
20 for each --

21 COMMISSIONER MAY: Yeah.

22 MR. COHEN: -- each --

23 COMMISSIONER MAY: Yeah. And the roof, that's, you  
24 know, that's fine too. That's not where I want to recreate. But  
25 you know, it's having having that space like right off the kitchen

1 living room that is very useful. And again, it's very desirable  
2 and I know it is particularly with (indiscernible). I'm sorry  
3 about that.

4 CHAIRMAN HILL: Commissioner May, sorry, you're  
5 breaking up a little bit.

6 COMMISSIONER MAY: (Indiscernible.) probably good.

7 CHAIRMAN HILL: Yeah.

8 COMMISSIONER MAY: I think I've said enough. I just  
9 wanted to know about the relief. That was the key question.

10 CHAIRMAN HILL: Okay. All right. I don't know -- I  
11 kind of know what's maybe going to happen next, but does anybody  
12 have any other questions of the Office or Planning?

13 (No audible response.)

14 CHAIRMAN HILL: Okay. Is the -- Mr. (indiscernible)  
15 should speak. Okay. All right. So I guess I don't know exactly  
16 where we are. So Ms. Batties, did you follow all that?

17 MS. BATTIES: (Indiscernible.)

18 CHAIRMAN HILL: So if I kind of understood, the rough  
19 idea is that there's a possible way to do everything that you  
20 all want to do but get it through a special exception. That  
21 seems to be a possibility that at least Commissioner May was  
22 interested in seeing. And I suspect Mr. Smith, by the way, he  
23 was nodding earlier and he's continuing to that and then Vice-  
24 Chair John, so, therefore I don't have the numbers that I want  
25 anyway. So next time I'm not going to let Commissioner May go

1 first -- actually he did go first this time, right? This time  
2 it was Mr. Smith that went first. And if I were an architect,  
3 maybe I would have had a better argument if I were at first. I  
4 don't know. But Ms. Batties, I guess if maybe you could take  
5 -- and I'm going to give everybody a minute to process this, okay  
6 -- but if you all can think about how you can get out of this  
7 variance and still make this work, because I don't think you're  
8 hearing anything, Mr. Collins, from any of us that indicate that  
9 we don't think -- well, I mean I mean.

10 CHAIRMAN HILL: I love how this all ties together in  
11 all kinds of different ways. It's a beautiful school. It's a  
12 wonderful idea. The Catholic Charities went first, which is  
13 always good. And now, you know, anyway, I don't need to be  
14 talking either.

15 So Ms. Batties, you understand we'd like to go back and  
16 talk to the Office of Planning, see maybe what you guys can come  
17 up with and then come back to us.

18 MS. BATTIES: Yeah. Can I ask, maybe Mr. Morrow, a  
19 procedural question. It looks like we would have to amend our  
20 application to withdraw the variance request and then add the  
21 special exception.

22 CHAIRMAN HILL: As I understand it --

23 MS. BATTIES: And my question is --

24 CHAIRMAN HILL: -- Ms. Batties, as I understand, I'm  
25 going to interrupt you, as long as you're going down and

1 (indiscernible), you're okay.

2 MS. BATTIES: Oh, okay. I just want to make sure that  
3 -- I guess the concern I would have is (indiscernible).

4 CHAIRMAN HILL: Right. Mr. Malloy --

5 MS. BATTIES: But can I -- and I want to make sure,  
6 because I just got a note here that the rear yard relief is a  
7 variance under Subtitle F -- hold on a second.

8 CHAIRMAN HILL: And I should have --

9 MS. BATTIES: (Indiscernible) -- 5.1 and because of  
10 relief from the rear yard requirements of (indiscernible) 5.1  
11 (indiscernible) granted as an area variance because the  
12 regulations do not permit relief to be granted as a special  
13 exception. I actually remember asking the question. So I don't  
14 want to -- go ahead.

15 COMMISSIONER MAY: Sorry. Hopefully you can hear me.  
16 Raise a hand -- break up. I would still like it to be examined.  
17 Whether, I mean, whether it's the rear yard solution or if -- I  
18 mean, and it certainly doesn't make -- I mean, a variance is a  
19 variance, right? It wouldn't make any sense to go for that  
20 variance over the variance needed for the alleyway. But if it's  
21 if any possibility it can be done as a special exception, the  
22 whole project as only special exceptions I think you're on a much  
23 clearer course.

24 If it cannot, then I think we just need a more clear  
25 demonstration as to why it wouldn't work. So prove that --



1 MS. BATTIES: Right.

2 COMMISSIONER MAY: -- what I was suggesting doesn't  
3 work, show us some of these other configurations that you looked  
4 at that demonstrate that it would not work. And I mean, it's  
5 it's still going to be tough to convince me that the, you know,  
6 the driving need is having 80 units. But, you know, do whatever  
7 you can with that, because I'm just, you know, at this point, if  
8 I had to vote on this, I would I would vote against the variance.

9 MS. BATTIES: But you would vote in favor of the special  
10 exception to permit the residential.

11 COMMISSIONER MAY: Yeah, yeah, I mean, that's a --  
12 that's a pretty low bar usually.

13 MS. BATTIES: Uh-huh.

14 COMMISSIONER MAY: (Indiscernible.) You know --  
15 (indiscernible) --

16 MS. BATTIES: (Indiscernible.)

17 COMMISSIONER MAY: Yeah.

18 MS. BATTIES: So, yeah, I mean, I -- I'm going -- it's  
19 kind of weird doing this because we have nowhere to, like, talk  
20 to Applicant and I'll -- so I'll just ask, well, do you want time  
21 to come back with a different plan that demonstrates technically  
22 why the (indiscernible) can or cannot be achieved, or do you want  
23 to withdraw the variance and commit to meeting the  
24 (indiscernible)? Oh, sorry.

25 MR. COLLINS: I don't know -- I don't know if you can

1 -- I don't know if you can go forward with just -- I don't know  
2 if you can go forward without asking for the variance.

3 COMMISSIONER MAY: Mr. Chairman, if I could suggest,  
4 apparently, Ms. Batties needs to speak with her client and  
5 probably want to do it as part of that --

6 CHAIRMAN HILL: Yeah, yeah, that's fine. That's fine.  
7 I'm just trying to get it -- I already know what Mr. Collins  
8 answer is going to be. So but, okay, all right. Well, let's  
9 take five minutes. So where I think we are, okay, is that, Ms.  
10 Batties, I'm going to figure out how to get you back here as  
11 quickly as I can. You're going to go ahead and take a look at  
12 the questions that Mr. May had, as well as Mr. Smith, as well as  
13 Vice Chair John, right. They all seem to have -- I shouldn't  
14 say all.

15 They would like further clarification about the  
16 variance, okay, right, and further reasoning that might be able  
17 to convince Commissioner May and perhaps Vice Chair John and Mr.  
18 Smith -- and I'll let them speak up before we all say goodbye.  
19 And then because you don't have the votes, right? Right. So  
20 and then we come back here as quickly as we can. You don't have  
21 to repost, you don't have to redo everything because you're going  
22 -- lowering relief unless you can't. Which that means you'll be  
23 back here again saying you can't and restating the points as to  
24 why you can't. So let me let you call your client and we'll come  
25 back in -- before I go, actually, just so Ms. John, and Mr. Smith,

1 and actually, Mr. Blake, (indiscernible), do you all want to  
2 clarify anything before we break?

3 COMMISSIONER SMITH: Well, you know, I would just  
4 reiterate what Mr. May stated. As of right now, I'm not completely  
5 convinced that you meet the practical difficulty or criteria from  
6 my standpoint, and I think that you may have room to play with  
7 the size and the placement of where the open space is. I get  
8 that the ANC wants to maximize as much open space as possible,  
9 but they didn't specifically say where you have to place them,  
10 and I think you may have some additional leeway you want to look  
11 at as far as the the central open space as they get from an  
12 economic standpoint why you want put that there, but you could  
13 potentially move fair amount of that open space to the portion  
14 that's close to the Providence so you still have functionally a  
15 large open space. It just not -- may not be central to the --  
16 central to development.

17 But at the end of the day, I'm where Mr. May is. I  
18 want to see some different iterations. If that means you keep  
19 this open space where it is and you request different types of  
20 exceptions or something of that particular nature, I'm open to  
21 that, but I just am not comfortable without seeing different  
22 iterations of this development that shows how you may have arrived  
23 at this variance to make this development happen with everything  
24 that's in play with this right now. So right now, I would be  
25 more comfortable with that approach.

1 CHAIRMAN HILL: Vice Chair John.

2 VICE CHAIR JOHN: Joan (phonetic). So my issues with  
3 the exceptional condition, and I see two things that could either  
4 be -- go towards meeting that criteria, which would be the  
5 building restriction line and (indiscernible) the alley, the  
6 north to south exit. So the question as I see it is not from  
7 having to north to south access. It's -- it's the space for the  
8 alley going north to south.

9 In other words, the fact that there has (indiscernible)  
10 access road on the right is not causing the pressure on alley  
11 from north to south. And the exceptional condition have to be  
12 driven -- I'm sorry, the practical difficulty has to be driven  
13 by the exceptional (indiscernible). (Indiscernible) the  
14 practical difficulty it's caused because of the need to  
15 accommodate the open space. Yeah. So I think that there could  
16 be further exploration as to how this project would come with  
17 (indiscernible) criteria.

18 It's a great project. I like it. The community comes  
19 in, but we still have to be mindful of the regulations. I think  
20 that to (indiscernible) since (indiscernible) that, we have to  
21 view this case as having a private (indiscernible). Right now,  
22 that's what's presented. It's not a public access because this  
23 board cannot order an Applicant to provide public access even if  
24 DDOT recommends that (indiscernible) with the (indiscernible).  
25 So we cannot consider that aspect. So those are my thoughts.

1           CHAIRMAN HILL:     Okay.     Thanks Vice Chair John.  
2 Commissioner Blake, I gave -- you're not nodding or shaking your  
3 head. I have no idea. Mr. Blake, do you like to --

4           COMMISSIONER BLAKE:   I'm observing this. I have an  
5 opinion, and it certainly is being shaped by this discussion. I  
6 am probably in the camp that I think you are in that a confluence  
7 of factors could justify this. However, the fact that there's a  
8 potential for lesser relief to accomplish the goal or some modest  
9 modification as it sits there in the background, I say, well, I  
10 really would like to know if there is an easy way to get to this  
11 and the request of relief.

12           So from that perspective, I understand where the other  
13 board members are, and I am curious about that. However, as I  
14 said, I am leaning more in the more positive camp. However, that  
15 glimpse of possibility for less relief is an issue I do think we  
16 should address.

17           CHAIRMAN HILL:     Okay.     Thanks, Commissioner Blake.  
18 Okay. Ms. Batties, all the tea leaves are there, so you can go  
19 ahead and speak with your client. We'll come back in five  
20 minutes.

21           MS. BATTIES:   Thank you.

22           (Off record.)

23           (On record.)

24           MR. COLLINS:   Mr. Chair?

25           CHAIRMAN HILL:   Yes, Mr. Collins?

1           MR. COLLINS: So I just spoke with Ms. Batties and, you  
2 know, we've been working on this for well over a year, and I  
3 respect the insight that we're getting from the commissioners.  
4 In the same light, you know, we always try to bring a case forward  
5 that does have full support of the ANC.

6           I think, you know we, as applicants, you want to make  
7 sure that you're listening to the ANC and that you have responded  
8 to their needs. I clearly believe that we can make some changes  
9 here to the middle green space. I just -- I'd like to speak to  
10 them before we take, you know, a couple feet away from them on  
11 the southern portion in terms of green space to make this work.

12           So I'm going to just request if it possible to try to  
13 get -- to come back before you in a week or two so that we could  
14 closely look at this. We hear you very loud and clear. A number  
15 of the commissioners have made their points very well stated, but  
16 the last thing I want to do is get in a situation that, you know,  
17 we make modifications to the plan, didn't feel like we were  
18 totally transparent with the community.

19           I think that causes problems not only on this project  
20 but perhaps future projects if we ever wanted to do one. I think  
21 that's not probably a good way to go about your business here in  
22 D.C.

23           CHAIRMAN HILL: That's fine, Mr. Collins. I don't  
24 disagree with any of the things you said. And my intention was  
25 always to try to get you back here as quickly as possible, giving

1 you the amount of time necessary for you to process some of the  
2 information that the Board has been speaking of.

3           So, Ms. Batties, I guess that throws me back to you and  
4 Mr. Moore (sic).

5           And Mr. Moy, I know that -- you're texting me, Mr. Moy?  
6 Mr. Moy, go ahead and tell me what you think we can do.

7           MR. MOY: Yes, sir. So -- so the conversation just  
8 now, I would suggest then, Mr. Chairman, that the Board continue  
9 the hearing on November the 2nd. That would be the earliest,  
10 because then it would allow the Applicant to make their filing  
11 maybe by October 24th, but unless the Applicant corrects me, or  
12 Ms. Batties, I agree ANC-5A meets the fourth Wednesday of the  
13 month. I don't know that's going to be (indiscernible) because  
14 if that's true, then the fourth Wednesday of the month would be  
15 October the 26. So in that case, then, I would think the  
16 Applicant would want to make any filing based on their meeting  
17 with the ANC from what I'm hearing now, but say I pushed the  
18 timeline, maybe the Applicant to make their filing by that Friday  
19 final if I (indiscernible) or first fine with the Board, Friday,  
20 October the 28th, and then the continued hearing on the 2nd. I  
21 know I didn't provide time for responses from the ANC, but my  
22 guess is perhaps the Applicant can make their filing at or about  
23 the same time as Friday, October 28th. As a little bit different  
24 way am I doing this, as one, if you want to press the issue to  
25 make that to come back as soon as you can and it would be a

1 continued hearing anyways. So everyone will be able to speak at  
2 the hearing on Wednesday, November 2nd. Otherwise --

3 MR. COLLINS: That works well.

4 CHAIRMAN HILL: I got everybody nodding yes. Okay. So  
5 okay, so Ms. Batties, we'll come back for a continued hearing on  
6 November the 2nd. You have the filing dates that Mr. Moy made.  
7 And again, I would again, again appreciate,  
8 regardless of how you come back, if you'd come back more or less  
9 in this similar way, giving an argument that would allow the  
10 remaining members of my board that are unclear something to chew  
11 on. Okay. Okay. All right. And I'm going to -- oh, great. I  
12 got to hand. Vice Chair John.

13 VICE CHAIR JOHN: Just a question for Ms. Batties and  
14 I have been struggling to recall all of the situations with an  
15 easement, a recorded easement would be allowed to meet the  
16 requirements for access. And perhaps you can take another look  
17 at that. And when you get that, plus, that's the access -- does  
18 the access have to be public access or (indiscernible) or is  
19 private access allowed.

20 And I'm wondering if -- I don't know, I'm just spit  
21 balling (indiscernible). I'm wondering if -- if variance would  
22 be required, if there's some -- some -- some situation when the  
23 easement, the recorded easement would be (indiscernible) to meet  
24 the criteria. I'm not (indiscernible) that it is so. It's just  
25 something I'm just taking a look at before you get back.



1 MS. BATTIES: I'm happy to provide that discussion for  
2 you.

3 VICE CHAIR JOHN: Thank you.

4 CHAIRMAN HILL: Okay. Great. All right. Wonderful.  
5 All right, everyone, thank you so much. We'll see you on November  
6 2nd. Thank you. Have a nice Halloween. Bye-bye.

7 (Pause.)

8 CHAIRMAN HILL: I moved into a townhouse for the first  
9 time, actually going to have to retreat it. And Mr. May, I  
10 don't have -- I didn't have outdoor space until -- like this,  
11 yes, like last month. And, yeah, those balconies. yeah, you need  
12 out. And I agree with you. You don't like that, Commissioner,  
13 we're talking about?

14 VICE CHAIR JOHN: No, I don't. My group gets -- I  
15 didn't say hello. Okay. Did you not think that the subject up  
16 there?.

17 COMMISSIONER MAY: I don't necessarily dislike them,  
18 but I prefer to have my recreation a little bit more ground-  
19 based.

20 VICE CHAIR JOHN: But let's just say that it's great  
21 to have the sounds of life around it. You know, that's all I'm  
22 saying. You know, you're not alone.

23 COMMISSIONER MAY: In the world.

24 VICE CHAIR JOHN: We have people having fun. I'm just  
25 saying.

1 COMMISSIONER MAY: And that's all right.

2 CHAIRMAN HILL: We got one more. Okay. And let's go  
3 ahead and try it again.

4 COMMISSIONER MAY: Right. That's not what I meant.

5 VICE CHAIR JOHN: Please don't.

6 CHAIRMAN HILL: I'm sorry, Vice Chair John. Say that  
7 again.

8 VICE CHAIR JOHN: It's so simple.

9 COMMISSIONER MAY: Yeah.

10 CHAIRMAN HILL: Oh, you want a break?

11 COMMISSIONER MAY: No, I'm saying that's it for me  
12 because I'm not on the next case.

13 CHAIRMAN HILL: Okay. Mr. Smith is gone away, so he  
14 doesn't care what we do. All right. Fine, Mr. Smith.

15 VICE CHAIR JOHN: We think.

16 CHAIRMAN HILL: Okay. And I'm with you. You know, I  
17 could do with, like, 20 minutes. That'd be great.

18 CHAIRMAN HILL: All right. Let's say -- I mean, my  
19 lunch isn't here yet. That's why I'm being whatever I'd be. And  
20 so I'll see you out then, if I do. You could -- you could have  
21 your lunch.

22 COMMISSIONER MAY: You can eat your lunch, whenever it  
23 gets in.

24 CHAIRMAN HILL: And let's let's have lunch. You all  
25 have lunch then, right.

1 VICE CHAIR JOHN: Thank you.

2 CHAIRMAN HILL: Say 1:30.

3 VICE CHAIR JOHN: Thank you.

4 CHAIRMAN HILL: Okay. I was right about that.

5 (Recess.)

6 MR. MOY: The Board has returned to its public hearing  
7 session after a lunch recess, and the time is now at or about  
8 1:37 p.m. The next and last case before the Board on today's  
9 docket is Application No. 20715 of Mark Rivetti. This is a  
10 (indiscernible) application for special exception pursuant to  
11 Subtitle E, Section 206.4 and 5207, and Subtitle X Section 901.2.  
12 From the rooftop and upper floor requirements is Subtitle E,  
13 Section 206.1. The property's located in the RF-1 zone at 1121  
14 Abby Place, NE, Square 773, Lot 184. The Board last heard this  
15 application at its public hearing on July 6, 2022. It was  
16 continued to today's hearing, October 19. Thank you.

17 CHAIRMAN HILL: Thank you. Mr. Rivetti, are you there?

18 MR. RIVETTI: Yes, I'm here.

19 CHAIRMAN HILL: Great. Could you introduce yourself  
20 for the record? And if you could turn your camera, that'd be  
21 great.

22 MR. RIVETTI: Sure. Let's see. I have --

23 CHAIRMAN HILL: Okay. Great. Perfect.

24 MR. RIVETTI: My name is Mark Rivetti. I remember the  
25 homeowner at 1121 Abbey Place, NE.

1           CHAIRMAN HILL: Okay. Great, Mr. Rivetti. So I know  
2 that we had gone through a pretty extensive hearing the last  
3 time. And really, also, if you wanted to summarize your argument  
4 as to why you believe you're meeting -- you're meeting the  
5 regulations, the criteria for us to grant the relief requested,  
6 that might be helpful as a starting point. And then also you  
7 could go through -- I know there is a bit of history about some  
8 of the things that we spoke about last time, and maybe you can  
9 tell us all about that and then the Board might have some  
10 questions.

11           MR. RIVETTI: Sure. Yes, I have it written out here  
12 so I will get started, I guess. Again, my name is Mark Rivetti.  
13 I'm the homeowner at 1121 Abbey Place, NE. I've lived here for  
14 over ten years with my family and I care deeply about the street,  
15 neighbors, and surrounding neighborhood. For those of you who  
16 don't remember, I'm retroactively seeking a special exception for  
17 an existing front porch second floor railing.

18           This railing was added in 2020 when I was in the process  
19 of refurbishing my crumbling front porch. First off, I'd like  
20 to sincerely apologize for building this railing without prior  
21 approval. And now I'm doing everything in my power to ensure  
22 that this is done correctly. So I'm seeking a special exception  
23 from the requirements of Subtitle E, 206.1, pursuant to Subtitles  
24 E, 206.4 and 5207 as well as X, 901.2. Subtitle E 5207 states  
25 that the BZA may grant relief from the requirements of Subtitle

1 E, 206.1, as a special exception pursuant to Subtitle X, Chapter  
2 9 and subject to the following conditions:

3 The proposed construction shall not have a  
4 substantially adverse effect on the use or enjoyment of any  
5 abutting or adjacent dwelling or property first. The light and  
6 air available to neighboring properties shall not be unduly  
7 affected. I actually had a PowerPoint just to kind of help  
8 clarify things this time, so I'm --

9 CHAIRMAN HILL: It's in the record. Mr. Young, if you  
10 could pull up that PowerPoint.

11 MR. RIVETTI: Okay. So that just points to the railing  
12 that I'm seeking special exception for there. So as can be seen  
13 in the photos of the front porch, the railing is very open and  
14 causes minimal changes to the amount of light passing through to  
15 the neighbors' property. Also, the porch is on the southern edge  
16 of the front of the house, so most new shadows would fall on the  
17 front wall of my own property. Similarly, the open nature of  
18 the railings should minimize any impacts to air flow to the  
19 adjacent property.

20 Second, the privacy and use and enjoyment of  
21 neighboring properties shall not be unduly compromised. The  
22 addition of the railing would allow use of this front porch --  
23 our front porch. Because of the location of the porch, views  
24 looking from it towards second floor windows on the house to the  
25 north should be limited. Both neighbors on either side of the

1 house have mentioned that the new porch and railing are a huge  
2 improvement to the street and they have no issues with the new  
3 porch railing. Both immediate neighbors have submitted letters  
4 in support of the application as well as other neighbors along  
5 the block.

6 Third, the proposed construction as viewed from the  
7 street, alley, and other public way, shall not substantially  
8 visually intrude upon the character, scale, and pattern of houses  
9 along the street or alley. Abbey Place has a wide variety of  
10 different front porches. It's not a super consistent block.  
11 Could you go to the next slide, please?

12 So this slide, this shows an example of a few of the  
13 different porches that are along Abbey Place. Some homes have  
14 no porch at all. Some have roofs with 45 degree slopes. Some  
15 flat ones have been raised 2 feet higher. Some have metal awnings  
16 rather than a roof. There's one with a small 3 X 3 cantilevered  
17 gable roof. So the new front porch and railing will fit with  
18 the character of the street much better than a lot of these other  
19 porch options.

20 But then dimensions of the members that comprise the  
21 second floor railing minimize their visibility as well, and the  
22 dark color helps the railing recede when viewed against the dark  
23 trim of the house. Lastly, Abbey Place has a number of trees  
24 which screen the railing and limit the duration of any view as  
25 an observer walks past the property.

1           Some of those words were from the Office of Planning  
2 as well, just to let you know. So I do believe my front porch  
3 meets all of these criteria for a special exception. And I'd  
4 like to add that the Office of Planning verbally agreed that the  
5 ruling fulfilled all of these conditions during my previous July  
6 2022 hearing. So -- next slide, please.

7           Okay. So the July 6th hearing was held to review the  
8 special exception for my front porch upper railing, which I just  
9 described to you. However, during that meeting, there was a  
10 dispute about whether my third-floor railing, as you can see in  
11 this picture should be constructed out of cable or glass. It  
12 was insinuated that I had intentionally disregarded the prior  
13 BZA/ANC directives from 2018 and that this would now impact the  
14 Board's current decision.

15           At that time, I expressed that I recalled no such  
16 decision of the third -- or discussion of the third-floor terrace  
17 during the 2017 ANC meeting. Only that the Committee had concerns  
18 about the uppermost roof deck railing atop the new third floor  
19 given its visibility on the street in those plans, and requested  
20 that that one be made of cable or glass.

21           I'd like to add that during the formal hearing, one  
22 party's recollections were being given much more credence than  
23 than others, despite there being no evidence to substantiate the  
24 allegations. My greatest concern was and still is that these  
25 unsubstantiated claims would bias the Board's decision making

1 about the current special exception.

2           Immediately after that hearing, I went through my email  
3 records, BZA hearing notes from 2018, and I found no discussion  
4 whatsoever of that third-floor railing, only the railing atop the  
5 new third floor or uppermost roof deck. I then further confirmed  
6 it by rewatching that hearing.

7           After the hearing, I found, in fact, that I had  
8 remembered correctly and there were no conditions for this third-  
9 floor railing. You can see this on Exhibit 57. It's the ANC  
10 report case for 19622 in 2017. It says "We do have concerns  
11 about the visibility of the roof deck railings atop the new third  
12 story. Accordingly, our abilities to support,"  
13 -- "to support this condition on these railings being constructed  
14 of less visible materials such as glass or metal cable.

15           Exhibit 58, the summary order states in its written  
16 report the ANC has concerns about the visibility of the proposed  
17 roof deck railings. So I'd like to stress that when the third-  
18 floor railing was constructed, I had absolutely no intention to  
19 undermine the decisions made by the ANC.

20           And please note that while the plans presented during  
21 the 2017 ANC hearing initially showed the roof deck, the upper  
22 roof deck railing coming to the front edges of the roof during  
23 the time of construction, it was also ultimately set back over  
24 15 feet to address the street visibility concerns.

25           And lastly, I'd like to get ahead of the accusations



1 that are going to be made about that tiny sliver of railing that  
2 you can see at the top there, which is barely visible from the  
3 street, which now the ANC has raised as a new point of contention  
4 after pivoting away from its initial focus of a third-floor  
5 railing, and despite stated during the most recent July 6th  
6 hearing that the upper most railing was never an issue.

7 Here's a conversation that took place during the last  
8 hearing.

9 "CHAIRPERSON HILL: In that right hand corner, there's  
10 a little tiny railing there that's up on the rooftop. I'm going  
11 to ask Mr. (indiscernible) and I'm going to ask Mr. Rivetti.

12 Commissioner (indiscernible), you're saying that the  
13 BZA in the previous case in that very top little corner thing,  
14 that was supposed to be in cable or glass?

15 "COMMISSIONER (INDISCERNIBLE): No, sir. The railing  
16 in question, so you can see there's that sort of angle of roof  
17 about the windows. That's a railing directly in front of that.  
18 And that's what we expressed concern about back in 2018. That's  
19 what the Board agreed was a concern, and that's what the Applicant  
20 agreed to use a certain metal material.

21 "CHAIRPERSON HILL: So that rooftop thing, we're not  
22 talking about that roof now?

23 "COMMISSION (INDISCERNIBLE): Correct. Yeah. Okay.  
24 Correct."

25 So --

1 CHAIRMAN HILL: Well, that's okay, Mr. Rivetti --

2 MR. RIVETTI: Yeah. Okay. So --

3 CHAIRMAN HILL: (Indiscernible.)

4 MR. RIVETTI: -- I'd like to reiterate that also the  
5 upper roof deck railing, when the upper deck railing was  
6 constructed, again, I had absolutely no intention to undermine  
7 any decisions made by the ANC and made every effort to minimize  
8 the visibility by setting it back over 15 feet from the facade  
9 compared to what was shown in the ANC meeting. And I think my  
10 efforts there really did minimize that upper roof deck railing.

11 And I have quotes from previous hearing about how it  
12 is minimal, minimized, and hardly visible. So but I will. --I  
13 will stop there. I'm just -- just want to say and would like to  
14 reassure you that the ANC, that I deeply respect all the work  
15 they do, and I remain wholeheartedly committed to upholding the  
16 character of the street and neighborhood that I call home. I  
17 hope you're able to look past the former unsubstantiated  
18 allegations and grant the current special exception in accordance  
19 with the Office of Planning.

20 CHAIRMAN HILL: Okay. Thanks, Mr. Rivetti.

21 MR. RIVETTI: Thank you for your time.

22 CHAIRMAN HILL: We might call that back up in a second.  
23 We'll see what happens. Before I go to the Board, can I just -  
24 - is the Office of Planning here?

25 MR. JESICK: Yes, Mr. Chairman.

1           CHAIRMAN HILL: Hi, Mr. Jesick. Could you introduce  
2 yourself for the record? I lost you, Mr. Jesick. In fact, you  
3 literally disappeared.

4           (Pause.)

5           CHAIRMAN HILL: You need to speak. I have to see that,  
6 I guess.

7           MR. JESICK: Okay. Yes. (Indiscernible) in the record.  
8 None of these exhibits would impact our analysis and therefore  
9 we are continuing to recommend approval of the application. I  
10 can take any questions.

11          CHAIRMAN HILL: The only question I had, Mr. Jesick,  
12 and was the one that I had before, and it's not really even -- I  
13 guess it's kind of before us, but that third floor or -- so  
14 there's the rooftop deck and there's a railing, there's the third  
15 floor railing -- oh, there you go, Mr. Jesick -- and then there  
16 is a railing above the little porch that's above the door. Right.  
17 The little railing that's above the porch that's above the door  
18 is what is in front of us; however, my question to the Office of  
19 Planning is that railing that is one floor up, is that supposed  
20 to be set back any farther? It's right up against the parapet,  
21 I guess, or I don't know if I'm throwing out a word now, is that  
22 -- but that's okay where that is, correct?

23          MR. JESICK: I believe so. To be sure, I'd  
24 have to check the regulations.

25          CHAIRMAN HILL: Okay. Okay. Well, maybe Mr. Rivetti

1 knows. I mean, Mr. Rivetti, like, that -- did that railing didn't  
2 need to be set back, correct?

3 MR. RIVETTI: That one, there was, no, never any talk.  
4 That's exactly where it was shown in the 2017 meeting, according  
5 to what I can read.

6 CHAIRMAN HILL: But I mean, you got to approved --  
7 those plans got approved.

8 MR. RIVETTI: They got approved, yes, yes, It wasn't  
9 in that as they are shown now, yes.

10 CHAIRMAN HILL: Right. It got approved the way they  
11 are now. Okay.

12 MR. RIVETTI: Yes.

13 CHAIRMAN HILL: Does the Board have any questions for  
14 the Applicant or the Office of Planning? Mr. Blake.

15 COMMISSIONER BLAKE: In initial stages, what was the -  
16 - what were the railings made of initially? I mean, on the  
17 porches? Not -- this is a little bit diverging from --

18 MR. RIVETTI: The front part?

19 COMMISSIONER BLAKE: Or talking about -- overall, yeah.

20 MR. RIVETTI: They were metal, and metal, black metal.

21 COMMISSIONER BLAKE: And on the terrace level, it was  
22 --

23 MR. RIVETTI: It's -- third floor terrace has been metal  
24 since the addition was added, yes.

25 COMMISSIONER BLAKE: And that, it was in plans as well?

1 MR. RIVETTI: Yes. Uh-huh.

2 COMMISSIONER BLAKE: Okay. And on the rooftop deck was  
3 --.

4 MR. RIVETTI: That is currently wood.

5 COMMISSIONER BLAKE: That is currently wood, but that  
6 was --

7 MR. RIVETTI: That's --

8 COMMISSIONER BLAKE: -- (indiscernible), do you know?

9 MR. RIVETTI: So from from my remembrance, looking back  
10 at notes emails with the Office of Planning, that roof deck  
11 railing -- initially in 2017, the roof deck pretty much came out  
12 to the front of the house. So it was highly visible during that  
13 -- during that hearing. It was later set back over 15 feet from  
14 the front in order to reduce visibility. And now if that -- if  
15 that railing is an issue and that needs to be switched to cable,  
16 that's -- I can I can do that.

17 COMMISSIONER BLAKE: And what was the, I'm just  
18 curious now, what was the railing proposed at that point when it  
19 was switched back to -- it was in the plans. What was it? Was  
20 it --

21 MR. RIVETTI: Initially, in the plans, I believe it was  
22 wood.

23 COMMISSIONER BLAKE: Okay. Okay.

24 MR. RIVETTI: But that --

25 COMMISSIONER BLAKE: But was this (indiscernible) or

1 what you do?

2 MR. RIVETTI: As ultimately. I set it back ultimately  
3 very far so it wasn't visible. And at the time, I believe and I  
4 was told that it was being -- that roof deck was being built by  
5 right, so there's parapet wall, as you can see, around the  
6 outside. And so I -- I think according to how I look back at  
7 this that a -- I believe that since it was my right, I could  
8 build it as a word. And as I'm saying now, I can -- I will switch  
9 that railing to cable. You know, if this is still an issue, I  
10 will make that move and change it to be --

11 COMMISSIONER BLAKE: (Indiscernible.)

12 COMMISSIONER MAY: One of the (indiscernible), Mr.  
13 Rivetti, quickly, did you work extensively with the ANC  
14 throughout this process or the previous process, or how did that  
15 work?

16 MR. RIVETTI: The previous process, yes. As I watched  
17 the video, I sat down with Mr. Atkin Wilder (phonetic) during the  
18 BZA hearing and we had discussed several different things that  
19 were contingent to this getting approved, including a almost a  
20 ten-foot setback of he third floor. I believe that was the main  
21 one. And kind of reducing the visibility of the roof deck  
22 railing, which I think it's pretty reduced. But I believe those  
23 were the only two things that we worked on extensively.

24 COMMISSIONER MAY: Okay. Thank you.

25 MR. RIVETTI: Sure, sure.

1           COMMISSIONER MAY: Yeah. I mean, I feel like I have  
2 to ask a few questions about the roof or third floor stuff. It's  
3 not as much of a piece that is actually before us, but trying to  
4 get to understand how this all came to pass. So when you  
5 presented this to the -- back in 2017 or whatever, and you  
6 presented to the ANC and they had the concern about the rail at  
7 that point, what they were looking at was a version of the roof  
8 deck where the roof deck was much closer to the front of the  
9 house; is that right?

10           MR. RIVETTI: Exactly, yes. It was --

11           COMMISSIONER MAY: Was it -- was it -- and was it even  
12 with the front edge of that third floor addition or --

13           MR. RIVETTI: I believe it was set back 3 feet in  
14 accordance with the Office of Planning by only 3 feet. So it's  
15 highly visible.

16           COMMISSIONER MAY: Right.

17           MR. RIVETTI: The front and the sides. Yes.

18           COMMISSIONER MAY: Yeah. Okay. And at that point, you  
19 agreed to make it metal, but -- to the rail or whatever --

20           MR. RIVETTI: Yeah. Uh-huh.

21           COMMISSIONER MAY: But rather than do that, you changed  
22 the plans to revert to something that was matter of right for a  
23 roof deck, set it back 15 feet, and then you thought you could  
24 build whatever you want.

25           MR. RIVETTI: Correct. Yes.

1           COMMISSIONER MAY:   Okay.   And so does that mean that  
2 you -- you didn't go back to the ANC to explain that?

3           MR. RIVETTI:   I talked with -- I've had emails from the  
4 Office of Planning discussing that -- that move, because I believe  
5 I worked with the Office of Planning after that hearing to make  
6 sure the roof deck was built, you know, built correctly in  
7 accordance, yes.

8           COMMISSIONER MAY:   So the answer is no, you didn't go  
9 back to the ANC.   You just worked with the Office of Planning.

10          MR. RIVETTI:   For a formal hearing, you mean or --

11          COMMISSIONER MAY:   Even --

12          MR. RIVETTI:   I did send an email, yes.   I did send an  
13 email with my intentions.

14          COMMISSIONER MAY:   Let them -- setting it back and  
15 then, therefore, not (indiscernible) it with cable there?

16          MR. RIVETTI:   Correct.

17          COMMISSIONER MAY:   Okay.   And you sent revised drawings  
18 and then got it all printed and all that sort of stuff?

19          MR. RIVETTI:   Yes.

20          COMMISSIONER MAY:   Uh-huh.   Okay.   When it comes to the  
21 reconstruction of the porch, though, as I recall, the changes  
22 that you made there to introduce the railing and the doorway to  
23 go out there, that was not originally permitted work; is that  
24 right?

25          MR. RIVETTI:   Oh, that was done a year, year and a half



1 after the construction was completed.

2 COMMISSIONER MAY: Right. And then you worked with  
3 your contractor to make that change, but you didn't bother  
4 permitting it? They didn't bother (indiscernible)?

5 MR. RIVETTI: I did not. Yes. And I'm sorry about  
6 that. Yeah. And the reason in the first hearing I didn't was  
7 just money reasons. Then, you know, the front porch wasn't a  
8 huge issue at that time. And you know, after I saved up some  
9 money, I was, you know, I made those repairs on the porch.

10 COMMISSIONER MAY: Uh-huh. Okay. All right. I'm just  
11 trying to understand how this all sort of unfolded since we heard  
12 ANC's view of this. And last question I think is with regard to  
13 the front porch, and you were describing the whole of every place  
14 as being a bit scattered or quite varied with that --

15 MR. RIVETTI: Here and there. Yes.

16 COMMISSIONER MAY: Are there any others where there are  
17 -- where there's any kind of a rail on the second floor or  
18 anything that approximates the rail on the second floor?

19 MR. RIVETTI: No. No.

20 COMMISSIONER MAY: All right. I think that answers my  
21 questions. Thank you.

22 CHAIRMAN HILL: Anyone else? Yes, Vice Chair John.

23 VICE CHAIR JOHN: Thank you, Mr. Chairman. So let's  
24 look at the -- and Mr. Young, if you pull up the exhibit, the  
25 last -- the last slide. (Indiscernible) you were just

1 (indiscernible) which shows the front porch with the railing and  
2 (indiscernible). Upper. The upper railing. If you go to the  
3 last slide, please. Scroll that. Thank you. So I just wanted  
4 to be certain of this, so the railing at the top, the only way  
5 (indiscernible), was that permitted?

6 MR. RIVETTI: The third floor, yes.

7 VICE CHAIR JOHN: That's the first floor.

8 MR. RIVETTI: Yes, that was.

9 VICE CHAIR JOHN: The one with the (indiscernible),  
10 which is the roof of the porch was not permitted. And the --how  
11 could you -- how do you compare the size of the railing on the  
12 over porch and on the third floor?

13 MR. RIVETTI: So the difference is the vertical members  
14 on the second floor porch are slightly -- slightly wider because  
15 it was done because the lower -- the columns for the porch were  
16 made by (indiscernible) members, I believe, and it kind of worked  
17 better visually with the thicker first floor columns to have 4 X  
18 4 posts. And I believe the posts on the third floor, two-and-a-  
19 half inch metal vertical members. But besides that, it's the  
20 same railing.

21 VICE CHAIR JOHN: And how about the horizontal?

22 MR. RIVETTI: Yeah, those are the same thing.

23 VICE CHAIR JOHN: The same.

24 MR. RIVETTI: Uh-huh.

25 VICE CHAIR JOHN: Commissioner May just ask you if

1 there any houses with porches that had railings above it. Are  
2 there any houses that (indiscernible), the railings similar to  
3 the third floor?

4 MR. RIVETTI: On their porch or on their roof?

5 VICE CHAIR JOHN: Third floor. Are there any --

6 MR. RIVETTI: There -- there are actually a couple  
7 (indiscernible) the house directly across the street has a wood  
8 railing roof deck. It was built ten years ago and it's not in  
9 great condition. There are a couple other pop-ups which, yes,  
10 they do have metal railings on their roof and third floor. And  
11 I believe you can see that in the picture in the previous slide.  
12 Those -- they're metal railing, third floor as well as roof deck  
13 railings.

14 VICE CHAIR JOHN: Okay. And this is the one directly  
15 under your house. The second (indiscernible) is that on the same  
16 street?

17 MR. RIVETTI: Yes. All those pictures are from the  
18 same street. Yes. Yeah. Abbey Place is only a one block long  
19 street, so I know there are a lot of other similar second floor  
20 roof porches even a block away. You know, a couple have even  
21 been built in the time I've been waiting for this hearing. So  
22 there are a lot in the neighborhood on this immediate street.  
23 This is the only one.

24 VICE CHAIR JOHN: Okay. Thank you.

25 MR. RIVETTI: Sure.

1           CHAIRMAN HILL:  It's funny.  I got a question.  Even  
2  if our Commissioner May, our architect, like, do those things  
3  match?  Like, this is -- this is a question, I guess, yeah, I  
4  don't know how to make those.  I can ask the Office of Planning,  
5  that's fine to, like, because I'm just curious more than anything  
6  else, but the railings on the roof of the.  -- the railings on  
7  top of the porch, do those match the other railings?  I'm going  
8  to ask the Applicant first and then I'm going to -- and then I  
9  know, because I got an architect on the Board right now, you  
10 know, like, because I don't -- you understand, Mr. Rivetti?  I  
11 mean, I can't tell whether or not they all kind of are -- makes  
12 consistent (indiscernible) kind a --

13           MR. RIVETTI:  Yeah.

14           CHAIRMAN HILL:  -- but, like, they don't seem like, you  
15 know, it looks like one was built one time, one was built another  
16 time, and they're kind of close.

17           MR. RIVETTI:  Uh-huh.

18           CHAIRMAN HILL:  You know.

19           MR. RIVETTI:  So yes, the first -- first floor and  
20 first floor porch, and porch of the roof do match third floor.  
21 As I mentioned before, the only difference is the -- the verticals  
22 on that railing.

23           CHAIRMAN HILL:  First floor porch and the roof?

24           MR. RIVETTI:  And the roof of that porch, yeah.

25           CHAIRMAN HILL:  (Indiscernible.)

1 MR. RIVETTI: Those were done at the same time, yes,  
2 and the rest -- and so the only difference is that vertical.

3 CHAIRMAN HILL: I understand. Right. So -- so you're  
4 saying the horizontals match?

5 MR. RIVETTI: Uh-huh. Yeah, same material, yes.

6 CHAIRMAN HILL: Okay. And I don't know how to make it  
7 consistent. I don't know if Commissioner May has a  
8 (indiscernible).

9 COMMISSIONER MAY: What he described in terms of the -  
10 - the relationship between the supporting columns for the porch  
11 roof and then the rails associated with, you know, that are right  
12 above that, I mean, I think that makes sense, stepping it down  
13 in scale, but having it be a bit beefier than what we saw in some  
14 drawings at one point. That makes sense. I mean, I  
15 think you could argue that having the rail sections, you know,  
16 instead of having the rail sections but the horizontals go sort  
17 of straight across. And -- and -- and but having that, you know,  
18 those end verticals, that's maybe a little bit inconsistent. I'm  
19 frankly surprised, but -- that there weren't other sort of code  
20 issues with that rail the way it was constructed, but we're not  
21 here to enforce code.

22 But I understand why that might have been done. I  
23 mean, I think that has to do with the the ease of fabrication  
24 more than anything else. So yeah, I mean, it's good to have the  
25 -- the smallest members being consistent in dimension, but I

1 think some of these other modifications, they're not of great  
2 consequence in terms of overall composition.

3           It's not really what I would do, but then again, I  
4 wouldn't put a deck on top of my porch roof. Just -- that it's  
5 not not a feature that I really care for. And it's -- it does  
6 change the fabric of the building itself. And that's not a --  
7 it's not a zoning issue.

8           CHAIRMAN HILL: Okay. Okay. All right. Mr. Young,  
9 is there anyone here who wishes speak?

10          MR. YOUNG: (Inaudible.)

11          CHAIRMAN HILL: Okay. All right. All right. I don't  
12 know what's going to happen. Does anybody have any questions for  
13 Mr. Binetti -- I'm sorry, Mr. Rivetti. (Indiscernible.)  
14 Everybody signed the contract. That sounded rhyme. Okay. All  
15 right. Okay. I'm going to go ahead and close the record on your  
16 --

17          (Pause.)

18          CHAIRMAN HILL: Oh, I got to hand up.

19          COMMISSIONER MAY: You want me to go first?

20          MR. RIVETTI: Sure, yeah. Why not.

21          COMMISSIONER MAY: I know you didn't want me to go  
22 first on, you know, the earlier case tonight, so.

23          CHAIRMAN HILL: Commissioner May, who knows what good  
24 -- what the roll of the dice is going to add in time, you know?  
25 All I know is I'm not live with you anymore. So you can't turn

1 at me and give me, like, an evil stare or anything like that.

2 COMMISSIONER MAY: Well, and I winked at you. Well, I  
3 guess --

4 CHAIRMAN HILL: That's true. That's true. I do --I  
5 missed a lot, I got to tell you.

6 COMMISSIONER MAY: I know you do. So I -- this is a -  
7 - a -- this is something that has become complicated. It is not  
8 necessarily inherently complicated. I think the essential issue  
9 here is whether the construction is viewed from the street, alley,  
10 or other public way substantially, visually, visually intrudes  
11 upon the character, scale and pattern of houses along the street  
12 or alley frontage. This -- what was built I think is not weakly  
13 consistent with what's there, but then again, very little seems  
14 to be consistent on that street. And even though I would  
15 not personally do something like this to a porch, I don't think  
16 it substantially visually intrudes on the character. So you  
17 know, even though it's -- it came about in an unfortunate way  
18 and Mr. Rivetti made some mistakes in how this came to pass both  
19 in terms of, you know, his permitting process, but also in terms  
20 of the clarity of communication with the ANC. I mean, I think  
21 maybe there's some fault on both sides there in terms of the  
22 clarity of communication with the ANC.

23 But certainly, Mr. Rivetti, could have done more to  
24 bring the ANC along, and it certainly was a mistake to try to  
25 build this without getting the approval first. All that said, I

1 mean, at this point, it comes down to the question for me, does  
2 it substantially visually intrude upon the character? And I  
3 think, no, it does not. So, therefore, I would support granting  
4 relief.

5 CHAIRMAN HILL: Okay. Thanks, Commissioner May for  
6 leading us off (indiscernible). Mr. Blake.

7 COMMISSIONER BLAKE: Yeah, thank you very much, Mr.  
8 Chair. That was a very good assessment, a very thorough  
9 assessment of the situation, Commissioner May I -- I really --  
10 this was a very interesting case to me because it had so much of  
11 past cases involved with it, innuendoes, et cetera, people moving  
12 ahead when they weren't supposed to without permits, et cetera,  
13 et cetera. And it was very confusing. I spent a lot of time in  
14 reviewing the -- this case and the elements of it.

15 First of all, I'd say just looking at the issue at hand,  
16 which is the second floor porch and not thinking about what else  
17 happened, where else, and what other portions of the building, I  
18 do not think that it's as adverse impact on light and air,  
19 privacy, and I do think because the block is a fairly eclectic  
20 one, it -- and in terms of all the different, you know, buildings  
21 and facades, it really does become, you know, non-visually  
22 intrusive because it is -- the neighborhood is so inconsistent,  
23 and to the elements that are more consistent with rooftop decks  
24 and porches, it does still maintain that.

25 So just to say to a large extent, it is not inconsistent



1 with the character of the neighborhood in that regard. So in  
2 that sense, just focusing on this element, I would be in support  
3 of the application. That's it.

4 CHAIRMAN HILL: Thanks, Mr. Blake. Vice Chair John.

5 VICE CHAIR JOHN: So I'm likewise in support of the  
6 application and the over looking at is the second floor porch  
7 railing, which I think apart from the vertical elements  
8 (indiscernible) with the roof top -- I'm sorry, with the third  
9 floor rails. So, you know, in seeking to (indiscernible) the  
10 third floor railing, I think that there is some (indiscernible)  
11 there. And I think there are different kinds of porches and  
12 there also railings, as was noted in that (indiscernible)  
13 apartment buildings.

14 So I think really on the strength of the building is  
15 not unusual on that block and I would just add that for  
16 consistency, the (indiscernible) was retained. So there --there  
17 is some (indiscernible) to not deviate too far from what's --  
18 what's, you know, prevalent on that street and on that side of  
19 the street. But I don't (indiscernible) was not before us, but  
20 I wanted to point to that is so showing that the renovation itself  
21 does maintain some consistency with the block.

22 And so I don't think that the addition of this railing  
23 to match what's on the third floor would -- what's the term --  
24 would substantially (indiscernible) on the (indiscernible) street  
25 and (indiscernible) and so I would support the application and

1 for (indiscernible) architect for his (indiscernible).

2 CHAIRMAN HILL: Okay. Thanks. I appreciate again all  
3 of your comments. I thank you all for going first. I -- the  
4 reason why I kind of struggle with this stuff is that, like, you  
5 know, I don't know what I would have done with that railing at  
6 like, you know -- things are before us as if they aren't already  
7 there, right. We're supposed to look at it as if it already  
8 isn't there. But sometimes it's hard to be, like, well, it is  
9 there, you know? And so, you know, you three, I appreciate  
10 everything you said in terms of the criteria of the regulations.  
11 I believe that meeting the criteria of the regulations. I think  
12 that, again, the way that this has started to come about is, as  
13 Mr. Commissioner May mention it, it got more complicated than it  
14 needed to be, and, yeah, so I'm just looking at this picture here  
15 again. All right. So anyway, so, okay. I'm going to make a  
16 motion. There's three votes there. I'm going to make a motion  
17 to approve Application No. 20715 as captioned, read by the  
18 Secretary, and ask for a second, Mr. Moy.

19 Seconded Vice Chair John. Sorry.

20 VICE CHAIR JOHN: Second.

21 CHAIRMAN HILL: Mr. Moy, the application (sic) has been  
22 made and second. If you could please take a roll call.

23 MR. MOY: When I call your name, if you would please  
24 respond to your vote to the motion made by Chairman Hill to --  
25 yeah, for the motion made by Chairman Hill.

1 Commissioner May?

2 COMMISSIONER MAY: Yes.

3 MR. MOY: Mr. Blake?

4 COMMISSIONER BLAKE: Yes.

5 MR. MOY: Vice Chair John.

6 VICE CHAIR JOHN: (No audible response.)

7 MR. MOY: Chairman Hill.

8 CHAIRMAN HILL: Yeah, before I make my vote, which I  
9 just want to say it does -- it does disturb me that the ANC has  
10 been as adamantly opposed against this as it has been and what  
11 it has -- this has been a problem in terms of, I do think,  
12 communication on both sides. I wish that this had been cleared  
13 up beforehand, obviously, and I think maybe there was some missed  
14 opportunities, again, perhaps on both sides. But that all being  
15 said, I'm voting yes. Thank you, Mr. Moy.

16 MR. MOY: And staff record the vote as 4 to 0 to 1.  
17 And this is on the motion made by Chairman Hill to approve the  
18 application for the relief. (Indiscernible)the motion to approve  
19 was second by Vice-Chair John. Also in support of the motion to  
20 approve, Zoning Commissioner Peter May, Mr. Blake, and of course,  
21 Vice John John and Chairman Hill, when a Board member not  
22 participating, not present. So again, the motion carries on a  
23 vote of 4 to 0 to 1.

24 CHAIRMAN HILL: Thank you, Mr. Moy. All right. Mr.  
25 Moy, do we have anything else before the Board?

1 MR. MOY: There's nothing else from the staff, sir.

2 CHAIRMAN HILL: Okay. I hope you all have a nice day.

3 I'll see you all next week.

4 VICE CHAIR JOHN: Thank you.

5 COMMISSIONER MAY: Not me.

6 CHAIRMAN HILL: Not you, Commissioner May. That's  
7 right. Not you. Bye. Bye.

8 COMMISSIONER MAY: See you all.

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