

GOVERNMENT OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

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WEDNESDAY

JANUARY 25, 2023

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK HILL, Chairperson  
LORNA JOHN, Vice Chairperson  
CARL H. BLAKE, Commissioner  
ANTHONY HOOD, Zoning Commission Chairperson

BOARD OF ZONING ADJUSTMENT STAFF PRESENT:

CLIFFORD MOY, Secretary  
PAUL YOUNG, Data Specialist

BOARD OF ZONING ADJUSTMENT LEGAL COUNSEL:

MARY NAGELHOUT, Esquire

The transcript constitutes the minutes from the Regular Public Hearing held on January 25, 2023.

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

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

(9:30 a.m.)

CHAIRPERSON HILL: Good morning, ladies and gentlemen and the Board of Zoning Adjustment. Today's date is 01/25/2023, and the time is now approximately 9:35. The public meeting will please come to order. My name is Fred Hill, I'm chairperson of the District of Columbia's Board of Zoning Adjustment. Joining me today is Vice Chair Lorna John, Board Members Carl Black and Chrishaun Smith, and Zoning Commission Chairman Anthony Hood.

Today's meeting and hearing agenda are available on the office of Zoning's website. Please be advised this proceeding is being recorded by a court reporter and is also webcast live via Webex and YouTube Live. The video of the webcast will be available on the Office of Zoning website after today's hearing. Accordingly, everyone who is listening on Webex or by telephone will be muted during the hearing. Also please be advised that we do not take any public testimony in our decision meeting session.

If you're experiencing difficulty accessing Webex or with your call-in, please take this number down, which is 202-727-5471 to receive Webex call-in and log-in instructions. It's also listed on the screen.

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

1 when the decision it contains is adverse to a party, including  
2 the affected AMC (sic). The full order may be also issued if  
3 the Board's decision differs from the Office of Planning's  
4 recommendation. Although the Board favors the issuance of  
5 summary orders whenever possible, an applicant may not request  
6 the Board to issue such an order.

7           In today's hearing session, everyone who is listening  
8 on Webex or by telephone will be muted during the hearing, and  
9 only persons who have signed up to participate or testify will  
10 be unmuted at the appropriate time. Please state your name and  
11 home address before providing oral testimony or your  
12 presentation. Oral presentations should be limited to a summary  
13 of your most important points. When you're finished speaking,  
14 please mute your audio so that your microphone is no longer  
15 picking up sound and background noise. All persons planning to  
16 testify in either favor or in opposition should have signed up  
17 in advance. They'll be called by name to testify. If this is  
18 an appeal, only parties are allowed to testify by signing up to  
19 testify. All participants completed the oath or affirmation that  
20 is required by Subtitle Y 408.7. Requests to enter evidence at  
21 the time of an online hearing, such as written testimony or  
22 additional supporting documents, other than live video, which may  
23 not be presented as prior testimony, may be allowed pursuant to  
24 Subtitle Y 102.13, provided that the person making the request  
25 to enter an exhibit explains, A, how the proposed exhibit is

1 relevant, B, the good cause that justifies allowing the exhibit  
2 into the record, including the explanation of why the requester  
3 did not file the exhibit prior to the hearing, pursuant to Y 206,  
4 and how the proposed exhibit would not unreasonably prejudice any  
5 parties.

6           The order of procedures for special exceptions and  
7 variances are in Y 409.

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

17           Moreover, the Board may request additional information,  
18 specific information, to complete the record. The Board and  
19 staff will specify at the end of the hearing exactly what is  
20 expected and the dates when a person must submit the evidence to  
21 the Office of Zoning. No other information shall be accepted by  
22 the Board.

23           Finally, the District of Columbia Administrative  
24 Procedures Act requires that a public hearing on each case be  
25 held in the open before the public. However, pursuant to 405(b)

1 and 406 of that Act, the Board may, consistent with its rules  
2 and procedures and the Act, enter into a closed meeting on the  
3 case for purposes of seeking legal counsel on a case pursuant to  
4 D.C. Official Code Section 2-575(b)(4), and/or deliberate on a  
5 case pursuant to D.C. Official Code Section 2-575(b)(13), but  
6 only after providing necessary public notice, in the case of  
7 emergency closed meeting after taking a roll call vote.

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

9 MR. MOY: Good morning, Mr. Chairman and Members of the  
10 Board. I have a quick announcement. First, with regards to  
11 today's docket, two applications were administratively  
12 rescheduled to April 5th, 2023, because of the redistricting of  
13 the ANCs that caused boundary changes. These two cases are  
14 Application No. 17429A of St. Patrick's Episcopal Church and Day  
15 School and Application No. 18465A, also of St. Patrick's  
16 Episcopal Church and Day School. So once again, those two cases  
17 -- case applications rescheduled to April 5th, 2023.

18 Other than that, Mr. Chairman, we do have some other  
19 preliminary matters, but for efficiency I would bring that to  
20 your attention when I call that specific case.

21 CHAIRPERSON HILL: Okay. All right.

22 Good morning, everybody. I would like to again  
23 officially thank Vice Chair John for running the hearing for me  
24 last week. I appreciate the opportunity to have been away and I  
25 welcome and happy to see everybody.

1           Mr. Moy, if you could please go ahead and call our  
2 first case?

3           MR. MOY: Thank you, Mr. Chairman. So the two cases  
4 in today's public meeting session, the first is Case Application  
5 No. 20729A of the American Institute of Architects. This is the  
6 applicant's request for a modification of consequence pursuant  
7 to Subtitle Y Section 703 of approved plans in the original order  
8 that was issued or published on June 14, 2022. The property's  
9 located in the D-2 zone at 1735 New York Avenue, N.W., Square  
10 170, Lot 39. And the only other thing I'd like to bring to your  
11 attention, Mr. Chairman, is that very early this morning ANC 2A  
12 submitted their ANC resolution, and it is in your case record  
13 under Exhibit 8. That's all I have for you, Mr. Chairman.

14           CHAIRPERSON HILL: Thank you.

15           (Pause.)

16           CHAIRPERSON HILL: All right, I'm just looking at this  
17 real quick.

18           (Pause.)

19           CHAIRPERSON HILL: Okay. All right. As we've all had  
20 a chance to review this, the updated plans are going to increase  
21 the setback for penthouse screening for a new heat pump from what  
22 was approved in the initial order. There's no change in the  
23 proposed height of the screening from what was previously  
24 approved and the Applicant requests to reduce the number of  
25 parking spaces to add Code-mandated cistern tanks in the garage

1 and structural columns continuing from the levels above. Outside  
2 of those requests, there's no additional relief that was  
3 mentioned. There -- yeah, I didn't really have a lot of concerns  
4 about this. There was -- I looked over and reviewed the reports  
5 from the Office of Planning and DDOT, which are both in favor,  
6 and I thought this was a relatively straightforward modification.  
7 We do have now something from an ANC 2A that has also had a chance  
8 to look at this request and had no issues. I didn't have any  
9 concerns about it. I'm going to be voting in favor. I'm going  
10 to go around the table and hear if anyone has anything additional  
11 to add.

12 Mr. Smith?

13 COMMISSIONER SMITH: I don't have anything in addition  
14 to add. I agree with your entire assessment of this particular  
15 case. I do believe that it's a fairly straightforward case.  
16 They're moving the penthouse screening to accommodate some new  
17 heat pumps and they're actually reducing the parking to put in  
18 some cisterns that probably make the building a little bit more  
19 environmentally friendly. So given that, and I, you know, read  
20 DDOT's report and Office of Planning's report, both of them are  
21 in support of it with no objections to the modification of  
22 consequence. And I have read the letter from the ANC, who is  
23 also in support of the application, and I will also be in support  
24 of the application as well.

25 CHAIRPERSON HILL: Thank you.



1 Mr. Blake?

2 COMMISSIONER BLAKE: Mr. Chair, I have nothing to add.  
3 I would be voting in support of the application. I agree with  
4 the comments that have been made by you and Board Member Smith.

5 CHAIRPERSON HILL: Thank you.

6 Chairman Hood?

7 ZC CHAIRPERSON HOOD: I too have nothing to add, and I  
8 will be voting in favor. Thank you.

9 CHAIRPERSON HILL: Thank you.

10 Vice Chair John?

11 VICE CHAIR JOHN: Thank you, Mr. Chairman. I agree  
12 with all of the comments so far, and I will be voting in favor  
13 of the application because I believe the Applicant meets the  
14 criteria for relief.

15 CHAIRPERSON HILL: Thank you.

16 All right. I'm going to go ahead and make a motion  
17 then to approve Application No. 20729 A as in apple, and ask for  
18 a second, Vice Chair John?

19 VICE CHAIR JOHN: Second.

20 CHAIRPERSON HILL: The motion has been made and second,  
21 Mr. Moy, if you'd take a roll call please?

22 MR. MOY: When I call your name, if you'll please  
23 respond to the motion made by Chairman Hill to grant the request  
24 for a modification of consequence. And the motion to grant was  
25 second by Vice Chair John.

1 Mr. Smith?

2 COMMISSIONER SMITH: Yes.

3 MR. MOY: Mr. Blake?

4 COMMISSIONER BLAKE: Yes.

5 MR. MOY: Zoning Commission Chair Anthony Hood?

6 ZC CHAIRPERSON HOOD: Yes.

7 MR. MOY: Vice Chair John?

8 VICE CHAIR JOHN: Yes.

9 MR. MOY: Chairman Hill?

10 CHAIRPERSON HILL: Yes.

11 MR. MOY: Staff would record the vote as five to zero  
12 to zero, and this is on the motion made by Chairman Hill to  
13 approve. The motion to approve was second by Vice John, also in  
14 support of the motion, as well as support from Zoning Commission  
15 Chair Anthony Hood, Mr. Smith, Mr. Blake, and of course Vice  
16 Chair John and Chairman Hill. Mr. Chairman, the motion carries  
17 on a vote of five to zero to zero.

18 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy. You may  
19 call our next one when you have an opportunity.

20 MR. MOY: The next and last case for Board action in  
21 its public meeting session is Application No. 20866 of Shihyan  
22 Lee and Julie Gutin. This is a This is a request for advance  
23 party status. The scheduled hearing on this case is February  
24 15th, 2023. The property, for the record, is located in the RF-  
25 1 zone at 637 A Street, S.E., Square 879, Lot 117. And this is

1 a self-certified application for special exceptions. The  
2 preliminary matter here, of course, Mr. Chairman, is that there  
3 are multiple requests for party status, and according to the  
4 record, I believe they're with -- come to -- or I have a listing  
5 of seven requests for party status. The other day, Tuesday,  
6 yesterday, there was a withdrawal of a party status, which was  
7 from a Lisa Montrose under Exhibit 26. And I think I will leave  
8 it at that. I do know from staff that about five of these  
9 requesters are signed up to speak, and I'm assuming the Applicant  
10 will be in the hearing room as well, Mr. Chairman. That's all I  
11 have.

12 CHAIRPERSON HILL: Okay. I guess for my Board members,  
13 you know, if we were here in a live capacity, those that are  
14 asking for party status would have had to attend in person. And  
15 this, however, is a meeting session, so we wouldn't necessarily  
16 have to hear from people. However, since this seems to be a  
17 light day for us and since -- what am I trying to say. If this  
18 were live, and if everybody had made their way down here, we  
19 would hear from everybody. However, since this is a meeting  
20 session and now things are done virtually, it's not as  
21 inconvenient for people to be here and/or testify, which means  
22 also that if we had a full day, I don't know if we needed to  
23 necessarily hear from everyone. However, since we have a light  
24 day, I propose we go ahead and hear from everyone and then  
25 determine what their thoughts are -- I'm sorry -- and then we

1 can determine what our thoughts are. Unless I hear any objections  
2 from my Board members, that's what I had planned on doing.

3 MR. MOY: Mr. Chairman? Mr. Chairman?

4 CHAIRPERSON HILL: Sure.

5 MR. MOY: Let me make an amendment to what I just spoke.  
6 For your knowledge, we hold all filings that are submitted 24  
7 hours before the hearing. I do have a filing from the Applicant  
8 for a sun study to be entered into the record, but I can't tell  
9 whether or not -- and of course the hearing's not until February,  
10 but the record's still open, but I can't tell whether or not the  
11 requesters for party status are going to be making any references  
12 to that study. So I have no knowledge of that.

13 CHAIRPERSON HILL: Okay. Well, let's see what we have  
14 to hear from in terms of the requesters. But why don't you go  
15 ahead and ask staff to put that sun study in the record, even  
16 though again the record's not closed, so this hearing wouldn't  
17 actually take place for a while, so we would have seen that  
18 anyway. However, if we want to reference it for some reason,  
19 the Board, we can do that. So go ahead and do that.

20 And then, Mr. Young, if you could bring in the Applicant  
21 -- and let's maybe do this -- I don't know what's the easiest  
22 thing for you, Mr. Young, is it just to bring everybody in at  
23 the same time or one at a time or it doesn't matter to you?

24 MR. YOUNG: I can bring them all in, so I believe that  
25 there's three people that are together. So I'll just be bringing

1 in three people.

2 CHAIRPERSON HILL: Okay.

3 MR. YOUNG: Because three of them are under one name.

4 CHAIRPERSON HILL: Three of them are under one name.

5 Okay. I guess go ahead and bring them in as well as the Applicant.

6 Ms. Fowler, are you there and can you -- okay, great.

7 If you could introduce yourself for the record and happy New  
8 Year?

9 MS. FOWLER: Hi, happy New Year. I'm Jennifer Fowler  
10 with Fowler Architects. I'm the architect representing the  
11 homeowners on this project.

12 CHAIRPERSON HILL: Okay. Great.

13 Is it Mr. Pastore or I don't know if I'm saying that  
14 right. Can you introduce yourself please for the record?

15 MR. PASTORE: Hello, I'm Mr. Pastore, and I am here  
16 with two of the other applicants, including Ms. Han and Ms. Leu  
17 who are both here, both individually requesting party status on  
18 this case.

19 CHAIRPERSON HILL: Okay. Mr. Pastore, let's go with  
20 you -- what we're going to do just so everyone knows there, is  
21 --

22 MR. PASTORE: George Dee is also here and there's a  
23 couple other folks here that are John is here as well, that are  
24 all requesting party status individually.

25 CHAIRPERSON HILL: Okay. I see George Dee and I see

1 -- is it John Jones?

2 MR. PASTORE: Correct.

3 CHAIRPERSON HILL: Okay. All right. Let's go ahead  
4 and start with you, Mr. Pastore. What the Board would like to  
5 hear from -- and I don't know if you really had had a chance to  
6 look at the regulations as to how we determine party status, but  
7 basically it's how you are going to be more uniquely affected  
8 than the rest of the community, and hear your thoughts. And you  
9 can go ahead -- I'm just -- I mean, I don't think you're going  
10 to take a long time, but basically I'm going to say like  
11 everybody's going to get about two minutes to give their case.  
12 So go ahead and begin whenever you like.

13 MR. PASTORE: So the -- and I have put a lot of thought  
14 into this. We've had a couple initial hearings and thank you  
15 for the time. So personally --

16 CHAIRPERSON HILL: Mr. Pastore, I'm sorry, when you say  
17 you've had a couple of initial hearings, what does that mean?

18 MR. PASTORE: With the ANC. We've spoken about this  
19 with the ANC.

20 CHAIRPERSON HILL: Okay. Okay. Sure. Go ahead.

21 MR. PASTORE: And personally, the way I am uniquely  
22 affected is that I am a longtime neighbor and live one block  
23 away. And I have known Enise for my entire life, and she is an  
24 integral part of my life. Being a kid that grew up in the  
25 neighborhood -- I don't know if you know this, Enise is a vendor

1 at the Eastern Market. And so when I was young, you know, I had  
2 a one-parent family, lived in the house, Enise took care of me  
3 over the weekend. I would go and work for her and help her. And  
4 she taught me how to be a business person and taught me a lot  
5 about just being a good person and an active part of the  
6 community. And so my direct involvement is this -- is that I  
7 care deeply for Enise and to see her be taken advantage of and  
8 not be heard, not that anyone's trying to do something  
9 specifically to her, but to not be heard is a travesty and  
10 something that I think that the District of Columbia should be  
11 actively trying to make sure that she gets heard. So that's why  
12 I'm here in active support of her and our other neighbors in the  
13 neighborhood.

14 CHAIRPERSON HILL: Okay. Thanks, Mr. Pastore. Yeah,  
15 I mean, that's the whole point of this hearing, right, is to be  
16 heard. And so you know, it's nice that you have such a good  
17 relationship with Ms. Han.

18 MR. PASTORE: And I've never done this before, so we're  
19 -- you know, some of the wonkiness of our paperwork or anything  
20 like that just comes from being first time, you know, doing this.

21 CHAIRPERSON HILL: No problem, Mr. Pastore, you guys  
22 did exactly as you're supposed to do it.

23 All right. So that's that one. Would, you know --  
24 fellow Board Members, I'm going to go through everybody and then  
25 we can ask questions if we have any.

1           So Mr. Pastore, who would like to go next?

2           MR. PASTORE: Ms. Han is the direct next-door neighbor  
3 from this project and I think she would like to go next.

4           CHAIRPERSON HILL: Okay.

5           MS. HAN: Good morning and my name is Enise, my last  
6 name is Han. I am next door to 637 A Street, S.E., and I will  
7 be the most affected person in this -- and I -- in this project.

8           CHAIRPERSON HILL: Okay. Ms. Han, I think your  
9 application criteria is relatively straightforward into how you  
10 will be affected. So I don't really have any questions of you  
11 right now. Are you -- what's your address again please?

12          MS. HAN: 635 A Street, S.E., next door.

13          CHAIRPERSON HILL: Yep. Great. Thank you.

14          Okay. Who would like to go next?

15          MS. LEU: Hi, I'm Shirley Leu. I'm a long-time resident  
16 of Capitol Hill. I've lived in my current house over 30 years,  
17 I'm a homeowner. I'm at 625 A Street, so I'd like to be a party  
18 to this action. I'm within 100 feet -- about 100 feet or so from  
19 the property line.

20          CHAIRPERSON HILL: Okay. Okay. Gotcha, Ms. Leu.

21          All right. Who else -- who would like to go next?

22          MR. JONES: I'm sure I can go next. Hi, good morning,  
23 everyone. I'm at 2 Browns Court, so I'm on the alley behind the  
24 property and I own the property, I moved there at the end of  
25 2021. And I stand to be affected by the project largely because



1 of the flow of traffic, the construction traffic it potentially  
2 would create. And I, along with a couple of other neighbors,  
3 have concerns about the traffic flow that potentially would be  
4 increased in the alley, which is already -- there are a bunch of  
5 other project in the neighborhood, in neighboring properties has  
6 caused issues.

7 CHAIRPERSON HILL: Okay. Could you introduce yourself  
8 for the record, sir?

9 MR. JONES: Sorry. My name is John Hewitt Jones of 2  
10 Browns Court, S.E.

11 CHAIRPERSON HILL: Okay. Great. Okay. Thanks, Mr.  
12 Jones.

13 MR. JONES: Thank you.

14 CHAIRPERSON HILL: Does that leave Mr. Dee? Mr. Dee,  
15 can you hear me?

16 MR. DEE: Yes. I just unmuted. Hi, good morning, my  
17 name is George Dee. I reside at 616 Independence Avenue, S.E.  
18 I've lived on this property and on this property for the past 25  
19 years. So my concern is -- so my backyard goes into Browns Court,  
20 like the other gentleman, I'll be affected by the flow of traffic  
21 that's already a congested area, as well as I'm afraid of the  
22 precedent that this is setting, this project's setting. So my  
23 concern is other properties would be looking to expand in the  
24 same way, so that's also my concern.

25 CHAIRPERSON HILL: Okay. Okay. Thanks, everybody.

1 All right. Well, first of all, thanks for taking the time to  
2 come here this morning.

3 And does the Board have any questions of any of the  
4 party status requesters?

5 Okay. So what's going to happen now, Mr. Pastore, and  
6 I'm going to ask the Applicant if they have any questions in a  
7 minute, but what's going to happen now is we're going to excuse  
8 you guys and we're going to deliberate as to how we feel -- or  
9 actually (indiscernible) if the Board has any questions. They  
10 don't seem to have any questions. I guess you could stay on the  
11 line -- well, let's see what happens. And so we're going to  
12 determine whether or not party status -- I see people raising  
13 their hands, okay, let me finish my spiel then -- see who we  
14 believe might be per the regulations granted party status. I  
15 know that my vote for sure is going to be that Ms. Han has party  
16 status. Now, whether or not I would agree with y'all's argument  
17 as to how you all other people might have party status -- one  
18 second. Oh, I guess someone just sent me a text. Was there a  
19 Patricia Mink also somewhere here?

20 Mr. PASTORE: She is sick and cannot be in attendance.

21 CHAIRPERSON HILL: Okay.

22 MR. PASTORE: She lives two doors down from Ms. Han.

23 CHAIRPERSON HILL: She's at 601 Browns Court.

24 MR. PASTORE: Correct. Browns Court and Independence  
25 all back up to the same alley, just so you know. So George, his

1 backyard goes in -- directly looks into the same alley that we're  
2 talking about here.

3 CHAIRPERSON HILL: Okay.

4 MR. PASTORE: Yeah, And so does Ms. Mink.

5 CHAIRPERSON HILL: Okay. So I'm sure that Ms. Han, can  
6 you hear me? Thanks.

7 MS. HAN: Thank you.

8 CHAIRPERSON HILL: I love the camera turning. So Ms.  
9 Han, the way this usually works -- or the way this does work is  
10 that if the -- if you are granted party status, or whomever is  
11 granted party status, but I'm fairly certain that you will be  
12 granted party status, you'll have an opportunity to give your  
13 testimony and act as a party to the case when it's actually heard.  
14 So what that means is that the Applicant will give their testimony  
15 as to why they believe they're meeting the regulations -- this  
16 is all based upon the zoning regulations, right -- as to why they  
17 believe they're meeting the criteria for the zoning regulations.  
18 Then after that, you would have an opportunity to ask questions  
19 of them as to why you believe or -- you know, into the project  
20 or how you believe they're -- your concerns are about the zoning  
21 regulations. Then you'll get an opportunity to present your case  
22 as to why you believe that they're not meeting the zoning  
23 regulations. Right? And you're not an attorney or not an  
24 architect, or maybe you are, I don't know, but we basically will  
25 hear whatever it is that you would like to tell us, right, about

1 your concerns for the project. Right? And then the Applicant  
2 would get to ask questions of you based upon your testimony.  
3 Then we hear from the Office of Planning. They have their report  
4 in the record. And so they're going to give their testimony as  
5 to -- and if you stick around for a couple of cases, I don't  
6 think it's a very long day, you'll see how a case goes, right,  
7 and how the Office of Planning would then give us their testimony,  
8 we'll ask questions, and then you would have an opportunity to  
9 ask questions of the Office of Planning. You would be able to  
10 present your witnesses, which could be -- and that's who you'd  
11 present during your testimony portion. Your witnesses could be  
12 any of the people that might not get party status. Right? You  
13 just have to list them as witnesses, and the Office of Zoning  
14 can tell you how to do that. Okay? And then they'll be able to  
15 testify as witnesses. Now, even if there are people in this  
16 group that do not get party status, we still do take public  
17 testimony at each hearing. So then each person would be able to  
18 give their public testimony and give their three minutes -- I  
19 mean, sorry -- is it three minutes -- three minutes of public  
20 testimony. My gosh, it's been so long, I'm blanking. So three  
21 minutes of public testimony. Then you'll hear from many other  
22 agencies that we might have. And then that's basically how the  
23 case would move forward. And so again, if you watch a little  
24 bit later today, as I said, we don't have a very long day, you'll  
25 see how a hearing actually goes on. Do you have any questions,

1 Ms. Han?

2 MR. PASTORE: I don't think we have any questions.

3 CHAIRPERSON HILL: Okay. Okay. It sounds like you're  
4 going to have a team, Ms. Han, regardless of what happens. Right?

5 MS. HAN: Thank you, sir.

6 CHAIRPERSON HILL: So you all can get together as a  
7 team also, you know. But okay, now I'm -- I saw Mr. Smith had  
8 his hand up.

9 But before I do that, before I do that, Ms. Fowler, did  
10 you have any questions or comments about what's going on so far.

11 MS. FOWLER: I definitely don't have any concern with  
12 Ms. Han getting party status. I do feel like none of the other  
13 people are impacted. And if you look at a map to see where their  
14 houses are some of them are very far away, you know, multiple  
15 houses down from the subject property. And I think there's just  
16 a little confusion about what party status is and the fact that,  
17 you know, that they can still testify, that they don't necessarily  
18 need to be able to, you know, cross-examine and all that during  
19 the case. So I think there's just a little bit of confusion  
20 about what exactly it is that they're asking for. But I do -- I  
21 don't have any concerns with Ms. Han's request for party status.

22 CHAIRPERSON HILL: Okay. Yeah. And I mean, I hope  
23 this part of the process clears up any questions for any of the  
24 people that are listening in that don't do this normally, which  
25 is that there is a public hearing portion of the hearing, which

1 anybody who has signed up to speak can speak. It can be anyone,  
2 like they can be in any part of the city, and they can go ahead  
3 and testify.

4 Mr. Smith, I saw -- and Mr. Pastore, I'll come back to  
5 you because you seem to be the spokesperson there, and you seem  
6 like you're about to say something.

7 Mr. Smith, did -- you had your hand up?

8 COMMISSIONER SMITH: Yeah, I did, but it was regarding  
9 Ms. Mink, and I think Mr. Blake cleared that up. But I do have  
10 one question to Mr. Dee because he's saying that he backs up onto  
11 the alley. Do you access the alley in any way, shape, or form  
12 for parking, is there a car in your rear yard and you use the  
13 alley to bring your car into your property?

14 MR. DEE: Yes, yes, my backyard goes right into the  
15 alley. I have a gate that opens into the alley.

16 COMMISSIONER SMITH: Okay. Thank you.

17 MR. DEE: Yeah, thank you, sir.

18 CHAIRPERSON HILL: Mr. Blake, you had your hand up?

19 COMMISSIONER BLAKE: My questions were addressed, tahnk  
20 you.

21 CHAIRPERSON HILL: Okay. Thank you.

22 Okay. Mr. Pastore, do you have any final questions  
23 before we excuse your group?

24 MR. PASTORE: Just a really quick clarifying question.  
25 Is the criteria that our specific property is affected or can you

1 just clarify what that criteria is?

2 CHAIRPERSON HILL: Sure. It's all listed under  
3 Subtitle Y 404.1. And there's a lot of criteria in there. But  
4 in general, it's like, you know, how are you any more affected  
5 than someone else in been in the area. Right? And so -- and  
6 it's not that you're necessarily within 200 feet, like there's a  
7 lot of people that are within 200 feet that won't see anything  
8 that's going on, right, or that might not have any effect to the  
9 project. And so it's kind of the Board that determines -- because  
10 party status is actually a little bit of a process. Like you're  
11 now actually a person who will provide the Board with in-depth  
12 testimony because of the proximity or relationship to the project  
13 in a way that's outside of like other members in the public or  
14 like the ANC. Right? Like you guys went to your ANC meeting,  
15 is that correct, Mr. Pastore?

16 MR. PASTORE: Correct.

17 CHAIRPERSON HILL: And I don't see whether -- let me  
18 see -- did your ANC submit anything to us yet, did they take a  
19 vote?

20 MR. PASTORE: They did. So my understanding of how the  
21 vote went is that our direct ANC voted against the project getting  
22 -- having the variance, but the greater ANC committee voted in  
23 favor.

24 CHAIRPERSON HILL: Got it. Just for the record, it's  
25 a special exception that they're applying for, not a variance.

1 MR. PASTORE: Okay. The special exception. Jerry, our  
2 direct ANC, voted against it, but the majority of other ANCs  
3 voted for it is my understanding of how it went.

4 CHAIRPERSON HILL: Got it.

5 MS. FOWLER: We got -- we had unanimous support in the  
6 full ANC.

7 CHAIRPERSON HILL: Okay. Well, regardless, that's --  
8 I appreciate, Ms. Fowler, your clarifying testimony. We don't  
9 have the ANC record yet, but I'm sure we will get it before the  
10 hearing. And so we'll be able to have a chance to take a look  
11 at that. But thank you.

12 All right. Let's see. So I just want to be clear,  
13 really, Mr. Pastore, I guess Ms. Han I know is going to get party  
14 status for sure. And so -- at least I think so. I don't know  
15 for sure. I mean, I'm going to vote, I don't know what my other  
16 members are going to vote. So I just want to make sure that Ms.  
17 Han understands what's happening. And it sounds like, Mr.  
18 Pastore, you being a good friend, you will also be helpful. And  
19 so, you know, as I said, you will be able to do everything that  
20 the Applicant is allowed to do in terms of testimony. However,  
21 that testimony should be focused upon what the zoning  
22 implications are for the project. Right? And again,  
23 unfortunately, you're not a zoning attorney, you're not an  
24 architect, but we the Board from your testimony will be able to  
25 glean what is the zoning issues, so you don't have to worry too



1 much about it. We want to hear from you, Ms. Han.

2 Ms. Han, are you there?

3 MS. HAN: Yes.

4 CHAIRPERSON HILL: Okay. Great.

5 MS. HAN: Yes, I am here.

6 CHAIRPERSON HILL: Okay. Great. All right. So that's  
7 the essence of that.

8 All right. Anything else from my Board before I excuse  
9 the witnesses?

10 Okay. All right, Mr. Pastore, we're going to go ahead  
11 and excuse your group and you can go ahead and proceed to listen  
12 in as this process progresses.

13 MR. PASTORE: Thank you, guys.

14 CHAIRPERSON HILL: Thank you.

15 All right. Mr. Young, if you could excuse the group  
16 please? And I guess you can excuse the Applicant also.

17 Ms. Fowler, you don't have anything else to add?

18 MS. FOWLER: No, I don't, thank you.

19 CHAIRPERSON HILL: Okay.

20 All right. For me, I mean, it's very straightforward  
21 that Ms. Han is the immediate adjacent neighbor and will be the  
22 most affected by this project and also I believe just meets the  
23 criteria for the regulations to grant party status. And so I  
24 would be in favor of granting her party status. The other people,  
25 as I noted, the only one that I kind of maybe and I not even --

1 I probably wouldn't have been in favor of granting this party  
2 status, would be Ms. Montrose, who is a few doors down. But I  
3 would even be voting in favor for her. I mean, I think that all  
4 of the people that are in that alley are also kind of, you know,  
5 potentially affected. I mean, I don't know yet because we haven't  
6 heard the case. I mean, it's a -- it doesn't seem as big a  
7 project as some that we've seen in the past. But I don't think  
8 that I would be in favor of granting party status to any of the  
9 other individuals. And so I would be voting against those. And  
10 I don't know, I can ask you if -- I can ask the attorneys whether  
11 or not we need to address each issue separately, which maybe we  
12 need to. And would one of the attorneys like to speak up and  
13 let me know?

14 MS. NAGELHOUT: You were asking whether you need to  
15 address each of the party status requests separately?

16 CHAIRPERSON HILL: Yeah. Can I do it as a group or  
17 no?

18 MS. NAGELHOUT: I think you can do it as a group, yes.  
19 If you have the same reason for each of them.

20 CHAIRPERSON HILL: Okay. Well, let's do first thing  
21 first then. I think Ms. Han qualifies to get party status, so  
22 I'm going to be voting in favor of party status for Ms. Han.

23 Mr. Smith, what are your thoughts?

24 COMMISSIONER SMITH: I agree that Ms. Han should  
25 receive party status because she is a directly adjacent neighbor

1 that would be uniquely affected by this particular construction,  
2 given that she's next door, and some of the light and shadowing  
3 and privacy impacts that that would entail by building a taller  
4 structure directly adjacent to her property. When it comes down  
5 to the other party status individuals, I didn't hear from them a  
6 situation that they were above, you know, above and beyond  
7 everybody else that's along that alley, along Browns Court, that  
8 they are themselves more uniquely affected by any particular  
9 construction that would occur within this alley.

10           Looking at the -- what they're proposing to construct,  
11 you have this tall -- yes, they're adding an accessory dwelling  
12 unit, but our concerns about traffic, they're not proposing to  
13 put in a two-car garage, so it would be the same amount of parking  
14 that would occur in the alley as what currently exists now. So  
15 some of those concerns about parking I don't believe that is  
16 highly elevated based on the scale and size of this particular  
17 project. And a couple of these individuals are, you know, a  
18 block away and do not directly use the alley or share the alley.  
19 Mr. Pastore, I understand your concerns and it sounds like Ms.  
20 Han has been a great neighbor and a great friend, but in this  
21 particular case, your location is 722 North Carolina Avenue, and  
22 again it has to be based on your property -- the impacts to your  
23 property, you wouldn't directly be impacted by this particular  
24 project based on your property. So with that, I agree with the  
25 Chairman Hill, I will be in support of granting party status to

1 Ms. Han and denying party status to every -- to the other  
2 individuals that have testified and with the notation that that  
3 doesn't preclude you from speaking your case at the hearing. So  
4 we will definitely hear and weigh your concerns at the public  
5 hearing when we hear this particular case. But I will support  
6 Ms. Han's request for party status.

7 CHAIRPERSON HILL: Thank you.

8 Mr. Blake?

9 COMMISSIONER BLAKE: I would concur with Board Member  
10 Smith's review of the party status applications. I would be in  
11 favor of granting Ms. Han party status. And due primarily to  
12 proximity, I would be opposed to granting party status for the  
13 Ms. Leu, Mink -- Leu, Mr. Jones, Mr. Dee, and Mr. Pastore. I  
14 think that this is a situation where we would definitely welcome  
15 their commentary and I see that clearly the support for Ms. Han's  
16 position. We will definitely hear what she has to say and I'm  
17 -- again would welcome what everyone else would have to say as  
18 well, but I would vote in status -- in favor of Ms. Han only for  
19 party status.

20 CHAIRPERSON HILL: Thank you.

21 Chairman Hood?

22 ZC CHAIRPERSON HOOD: I too will support the direction  
23 what my three colleagues who went before me have laid out. I  
24 believe in the testimony of Mr. Pastore, I appreciate his passion  
25 and his response to us, but I think in his comments, even if I

1 wasn't a part of this commission I think he took himself out of  
2 it as far as being uniquely affected, because I think it's more  
3 than just him. It's everyone other than Ms. Han who I think is  
4 -- I thought Mr. Jones at one time, but then after looking  
5 additionally, I would be in favor of granting Ms. Han and being  
6 able to listen to the others as public witnesses. So that's  
7 where I am. Thank you, Mr. Chairman.

8 CHAIRPERSON HILL: Thank you.

9 Vice Chair John?

10 VICE CHAIR JOHN: Thank you, Mr. Chairman. I agree  
11 with all of the comments so far. I believe Ms. Han as the  
12 adjacent neighbor is more uniquely affected than any other  
13 members of the public. And I at first considered whether to  
14 grant party status to the other requesters who share the alley  
15 on Brown Street. But you know, I agree with the analysis,  
16 especially the detailed analysis of Board Member Smith. And so  
17 for those reasons, I would grant party status to Ms. Han only  
18 and deny party status to all of the others, and just echo what  
19 everyone else has said that these persons who have been denied  
20 party status may nevertheless testify at the hearing and their  
21 concerns would be heard.

22 CHAIRPERSON HILL: Okay. Thank you, Vice Chair John.

23 Thank you, everyone, for your thoughts. I will agree  
24 with them. And again, to clarify for Ms. Han, who's listening,  
25 that the people who are being denied party status could either

1 testify as witnesses during the public hearing portion or as  
2 witnesses to the -- her testimony, her presentation. And I don't  
3 know what way they would think might be most beneficial for the  
4 Board to hear their concerns as, again, they relate to the zoning  
5 questions. And as I mentioned before, the Board wants to just  
6 hear from people like and what their concerns are, like so we  
7 don't shut people down, we just try to figure out what it is that  
8 are some of the issues and see if we can apply the zoning code  
9 to some of those concerns. I would mention that that the  
10 Applicant now, if they haven't already reached out to Ms. Han,  
11 who is the next-door neighbor, which I would assume they had, go  
12 ahead and do that again so that if there is something that can  
13 be discussed and any concerns alleviated prior to the hearing,  
14 that would be more beneficial for the Board.

15           So that being the case, I will make a motion to approve  
16 -- I'm going to do the approval and the denial separately. I'm  
17 going to make a motion to approve party status to Ms. Enise Han  
18 in Case No. 20866, and ask for a second, Ms. John?

19           VICE CHAIR JOHN: Second.

20           CHAIRPERSON HILL: The motion having been made and  
21 second, Mr. Moy, if you'd take a roll call?

22           MR. MOY: Yes, sir. When I call your name, if you'll  
23 please respond to the motion made by Chairman Hill to grant the  
24 request for party status to Ms. Enise Han. The motion to grant  
25 is second by Vice Chair John.

1 Mr. Smith?

2 COMMISSIONER SMITH: Yes to grant Ms. Han.

3 MR. MOY: Mr. Blake?

4 COMMISSIONER BLAKE: Yes.

5 MR. MOY: Zoning Commission Chair Anthony Hood?

6 ZC CHAIRPERSON HOOD: Yes.

7 MR. MOY: Vice Chair John?

8 VICE CHAIR JOHN: Yes.

9 MR. MOY: Chairman Hill?

10 CHAIRPERSON HILL: Yes.

11 MR. MOY: Staff would record the vote as five to zero  
12 to zero. And this is to the motion made by Chairman Hill to  
13 grant party status to Ms. Han. The motion to grant was second  
14 by Vice Chair John, who is also in support of the motion, as well  
15 as Zoning Commission Chair Anthony Hood, Mr. Smith, Mr. Blake,  
16 and of course Vice Chair John and Chairman Hill. The motion  
17 carries on the motion -- the motion carries on a vote of five to  
18 zero to zero, sir.

19 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy.

20 All right. So then it looks as though Ms. Patricia  
21 Mink did not show. So her request -- since she didn't show as  
22 part of the regulation, she automatically will not get it. Ms.  
23 Lisa Montrose, it looks like, has withdrawn her request for party  
24 status. So concerning Ms. Shirley Leu, Mr. Hewitt-Jones, Mr.  
25 George Dee, and Mr. Samuel Pastore, I'm going to make a motion

1 to deny their request for party status based on the discussion  
2 that the Board has had, that they're not meeting the criteria for  
3 us to grant them party status and ask for a second, Ms. John?

4 VICE CHAIR JOHN: Second.

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

7 MR. MOY: Thank you, sir. When I call your name, if  
8 you'll please respond to the motion made by Chairman Hill to deny  
9 the request for party status that was filed by Samuel Pastore,  
10 Shirley Leu, George Dee, and John Jones, individuals who had  
11 shown up for the hearing today. The motion to deny was second  
12 by Vice Chair John.

13 Mr. Smith?

14 COMMISSIONER SMITH: The motion was to? I'm sorry.

15 CHAIRPERSON HILL: The motion was to deny party status  
16 to those individuals that I identified.

17 COMMISSIONER SMITH: Yes, to deny.

18 MR. MOY: Mr. Blake?

19 COMMISSIONER BLAKE: Yes, to deny.

20 MR. MOY: Zoning Commission Chair Anthony Hood?

21 ZC CHAIRPERSON HOOD: Yes, to deny.

22 MR. MOY: Vice Chair John?

23 VICE CHAIR JOHN: Just a point of clarification. The  
24 motion was to deny for Mr. Pastore, Ms. Leu, Mr. Dee, and Mr.  
25 Mink, did I get that right?



1 CHAIRPERSON HILL: No, Mr. Jones. Ms. Mink did not  
2 show.

3 VICE CHAIR JOHN: Mr. Jones. Okay. Mr. Mink was not  
4 present.

5 CHAIRPERSON HILL: Exactly. Ms. Mink.

6 VICE CHAIR JOHN: Okay. Yes.

7 MR. MOY: Okay, very good.

8 VICE CHAIR JOHN: I vote yes, to deny.

9 MR. MOY: Very good. Always good to clarify.

10 Mr. Chairman, with that, staff would --

11 CHAIRPERSON HILL: You didn't get my vote. You didn't  
12 get my vote.

13 MR. MOY: Sorry.

14 CHAIRPERSON HILL: Mine was yes to deny.

15 MR. MOY: How could I forget?

16 CHAIRPERSON HILL: That's all right. Mine's yes to  
17 deny.

18 MR. MOY: Okay. I was thrown off the tracks  
19 momentarily. All right. Thank you, Mr. Chairman.

20 So staff would record the vote as five to zero to zero.  
21 And this on the motion made by Chairman Hill to deny party status  
22 to the individuals that are referenced in his motion. This motion  
23 was second by Vice Chair John, also in support to deny, as well  
24 as from Zoning Commission Chair Anthony Hood, Mr. Smith, Mr.  
25 Blake, Vice Chair John, and Chairman Hill. Again, the motion

1 carries on a vote of five to zero to zero, sir.

2 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Moy.

3 And again, those people who are watching, you know, we  
4 look forward to hearing from you all. And if you want to stick  
5 around for a hearing, you'll see how it goes.

6 Mr. Moy, if you want to call our next -- or our first  
7 hearing case, I should say, for the day?

8 COMMISSIONER BLAKE: You're muted.

9 MR. MOY: Thank you, Mr. Blake.

10 Okay. So the Board is in its public hearing session.  
11 And the first case is Application No. 20410 of Mamma Lucia's of  
12 Chevy Chase. The application as amended and self-certified  
13 pursuant to Subtitle X, Section 901.2 for special exception under  
14 Subtitle U ,Section 511.1(e) which would allow a fast food  
15 establishment. The property's located in the MU-3A zone at 5504  
16 Connecticut Avenue, N.W., Square 1859, Lot 86. And just want to  
17 check one other thing, Mr. Chairman. And I believe the -- there  
18 was a -- the Applicant's list of witnesses was submitted within  
19 the 24-hour period as well as the Applicant's submission of  
20 interior -- photographs of the interior of the restaurant, I  
21 believe. So those two documents are before the Board for action.  
22 Other than that, that's all I have, Mr. Chairman.

23 CHAIRPERSON HILL: Okay. Unless the Board has any  
24 issues, I'd like to go ahead and allow everything into the record  
25 so we can take a look at it today. So if the -- unless the Board

1 has an issue, and if so please speak up. All right. If the  
2 staff could please put those into the record?

3 And let's see, Mr. [Schwolz], I'm sorry if I'm  
4 mispronouncing that name, could you introduce yourself for the  
5 record please?

6 MR. SCHULWOLF: Yes, good morning Chairman Hill and  
7 fellow Board members, Andrew Schulwolf on behalf of Mamma Lucia.  
8 Sitting next to me is Peter Gouskos, he had some trouble with  
9 the logging in. He's right here next to me, if that's okay, we  
10 can share a screen.

11 CHAIRPERSON HILL: Sure, of course. And who is he?

12 MR. SCHULWOLF: He's the principal owner and in charge  
13 of day-to-day operations of the restaurant, Mamma Lucia.

14 CHAIRPERSON HILL: Okay. Great. All right. Okay.  
15 And how do you pronounce your last name, sir, I'm sorry?

16 MR. SCHULWOLF: [Shul-wolf].

17 CHAIRPERSON HILL: [Shul-wolf], okay. Mr. Schulwolf,  
18 I guess, if you could go ahead and walk us through your  
19 presentation and why you believe that you're meeting the criteria  
20 for us to grant the relief requested from your client. I'm going  
21 to put 15 minutes on the clock just so I know where we are, and  
22 you can begin whenever you like.

23 MR. SCHULWOLF: Sure. One quick preliminary. I know  
24 Mr. Moy had mentioned the uploading -- or the acceptance of the  
25 entire photographs, but I also uploaded, because I received it

1 late yesterday, the ANC approval of the application. I don't  
2 know if that made it into the record as well, but.

3 CHAIRPERSON HILL: I see the ANC report, so I guess  
4 Donna made it.

5 MR. SCHULWOLF: Okay.

6 CHAIRPERSON HILL: And I don't see, however, your  
7 submission yet. So let me just wait for that to come up as you  
8 -- but you can go ahead and begin.

9 MR. SCHULWOLF: All right. Thank you.

10 Before the Board as stated is the application of Mamma  
11 Lucia's for a special exception to operate its restaurant, it's  
12 a fast food establishment use under Subtitle U, Section 511.1(e).  
13 It's not -- fast food establishment is not permitted in the zone  
14 MU-3A, where Mamma Lucia's restaurant premises is located at 5504  
15 Connecticut Avenue, N.W., D.C. Just a brief background of what  
16 Mamma Lucia is. Mamma Lucia is an Italian restaurant with table  
17 seating for approximately eight to ten persons. It predominantly  
18 serves walk in. It is a quintessential neighborhood restaurant  
19 where it relies on pedestrian traffic in the surrounding  
20 neighborhood off of Connecticut Avenue. It makes made-to-order  
21 pasta dishes, other Italian dishes and pizza. This is the sixth  
22 location of Mamma Lucia's. This is the one and only location in  
23 Washington, D.C., its first venture into Washington, D.C. It has  
24 five other locations, four of which are located in Montgomery  
25 County, Maryland, one of which is located in Prince George's

1 County at the College Park near the University of Maryland. The  
2 building where Mamma Lucia's operates is a two-story singular  
3 building that stretches along Connecticut Avenue that contains a  
4 mixture of retail on the lower level and then some office premises  
5 on the upper level. It is a one -- it's not detached, it's one  
6 singular building that -- as I stated. There are other retail  
7 tenants along with Mamma Lucia. There's a Starbucks that's  
8 operating in the strip center. There is also a restaurant called  
9 Parthenon, which has been there in excess of 30 years that is  
10 owned and also operated by Mr. Gouskos, who is the also owner  
11 and operator of Mamma Lucia's, they're next door to each other,  
12 Mr. Goskous is the -- goes back and forth between the two  
13 restaurants, and he is a well-known figure in that particular  
14 neighborhood, given that he's been operating a very popular  
15 restaurant, Parthenon, for over 30 years. There's also a dry,  
16 cleaner, a hair salon, and a dental office on the lower level.

17           As some of you may know, depending on how old you are,  
18 this restaurant, Mamma Lucia's, was formerly occupied by a  
19 restaurant called Pumpernickel's, which was a bakery and a deli.  
20 And once that lease expired, Mamma Lucia's came in, built out the  
21 premises, in fact they've spent \$650,000 out of their pocket to  
22 improve the building and the premises by the installation of new  
23 equipment, ventilation system, and all the other equipment  
24 necessary to build out and create a first class restaurant which  
25 they have done consistent with their other locations.

1           The criteria that needs to be met in order to carry the  
2 burden of proof as to why the special exception should be granted  
3 is under Subtitle X, Section 901.2. There are three parts to  
4 it. The first being in the uses in harmony with the general  
5 purpose and intent of the zoning regulation and zoning maps. As  
6 I go through the presentation and is set forth in the burden of  
7 proof, I think it will become clear that Mamma Lucia's does  
8 satisfy the general purpose and intent of the zoning regulations  
9 and the zoning maps. I would note that both the Office of  
10 Planning and the ANC are both supported (sic) and recommended  
11 approval of Mamma Lucia's application for a special exception.  
12 Mamma Lucia's has, as I stated, done -- put a significant amount  
13 of money to improve this property. I'll get to maybe more details  
14 later, but there was some issues that Mamma Lucia's was able to  
15 address with the neighborhood, that being the issue regarding the  
16 trash that is behind the shopping center. That has been a cause  
17 of concern for the community and the ANC has worked with Mamma  
18 Lucia's and its landlord to resolve that issue and to allay the  
19 concerns of the neighborhood by the construction of an enclosure  
20 which is one of the requirements for a fast food exception.  
21 There's a gate alley diagram that I have submitted as part of  
22 the -- I think it's Exhibit 58 that shows the construction of  
23 the gate and the enclosure of the trash receptacles. And Mamma  
24 Lucia's even though this construction is going to be for the  
25 benefit of all the tenants in the shopping center, shopping strip,

1 not just Mamma Lucia because it's a common use, they have agreed  
2 with the landlord to split that cost 50-50 even though it's going  
3 to benefit all the other tenants, not just Mamma Lucia. So that  
4 was the one issue that there was any concerns from the  
5 neighborhood. That was it, but that has been addressed, as stated  
6 in the ANC report that was submitted or uploaded last night with  
7 a couple of conditions they requested, which the landlord has  
8 agreed to implement regarding the construction of the gate.

9           The other criteria needs to be satisfied to carry the  
10 burden of proof is the special exception will have no adverse  
11 impact in use of neighboring property in accordance with the  
12 zoning regulations and zoning maps. Mamma Lucia's is a benefit  
13 to the community. It services the community surrounding the --  
14 and the homes and businesses surrounding the center. It relies  
15 predominantly on pedestrian foot traffic for takeout. It does  
16 have limited seating and it also does delivery.

17           It's had no complaints regarding any noise, regarding  
18 any odors. In fact, they've installed a very high end ventilation  
19 system that's cleaned every day and serviced every six --  
20 professionally serviced every six months. It has had no  
21 complaints at all from any of the neighborhoods or its fellow  
22 tenants regarding its operation. In fact, the landlord reports  
23 that Mamma Lucia's has been a benefit to the community and that  
24 the other tenants and neighbors have enjoyed having that  
25 restaurant as a amenity to the community.

1           There are seven to eight other requirements that Mamma  
2 Lucia's must satisfy in order to obtain a special exception for  
3 a fast food establishment use. And I'll just go through the  
4 criteria and show how they have satisfied each one of those  
5 factors, several of which are just inapplicable to Mamma Lucia's  
6 given its size of only 900 square foot in a 7,650 square foot  
7 strip center.

8           The first criteria under 511.1(e) is the establishment  
9 shall be located within a multi-tenant building or shopping  
10 center, it should not be located in a single tenant detached  
11 building. As I previously stated, this is one continuous strip  
12 center along Connecticut Avenue. There's no detached building.  
13 The other criteria is that no more than 30 percent of the total  
14 gross floor area of the multi-tenant building or shopping center  
15 shall be occupied by fast food establishments. This is the only  
16 -- this would be the only fast food establishment. As I stated,  
17 the total rentable square feet of the shopping center is about  
18 7,452, of which Mamma Lucia's comprises 900 square feet, which  
19 accounts for approximately 12 percent. So it's well within the  
20 30 percent ceiling that's established for the fast food  
21 establishment.

22           Again as I touched on before, regarding the refuse  
23 dumpster, one of the requirements is that any refuse dumpster  
24 must -- used by the fast food use shall be housed in a three-  
25 sided brick enclosure, equal in height to the dumpster or six



1 feet high, whichever is greater. The entrance to the enclosure  
2 shall include an opaque gate. The entrance shall not face nor  
3 be within ten feet of an R, RF, or RA zone. As I've uploaded on  
4 Exhibit 58, and this has been approved by the Office of Planning  
5 and the ANC, who we worked with to resolve their concerns  
6 regarding trash, Mamma Lucia's and the landlord will be  
7 installing, within approximately 45 days it should be completed,  
8 a gate that will be surrounding the trash enclosure, servicing  
9 the entire center, so it's not visible that the trash is  
10 contained, and that requirement will be satisfied. The entrance  
11 to the gate will not face or be within ten feet of any of those  
12 zones either. I believe it's approximately 50 feet away.

13           The other criteria is that the use shall not include a  
14 drive-thru; there isn't a drive-thru in the strip center. So  
15 that that would not be applicable. The other criteria that needs  
16 to be satisfied is the use shall be designed and operated so as  
17 not to become objectionable to neighboring properties because of  
18 noise, sounds, odors, lights, hours of operation, or other  
19 conditions. As I stated, Mamma Lucia's has not received any  
20 complaints from the neighbors regarding its operation or any  
21 odors or noise, nothing of that sort. The only employees at a  
22 time are five employees because of its size, it's only 900 square  
23 feet. And because there's no wait or waitress service, it just  
24 relies on takeout. It's got two small tables inside that  
25 accommodates approximately eight patrons. Noise level is

1 virtually nil. And the operating hours, as I've stated in my  
2 submission, are from 7 a.m. to 9 p.m. Monday through Thursday, 7  
3 a.m. to 10 p.m. Friday-Saturday, 7 a.m. to 9 p.m. on Sunday. If  
4 you're wondering why an Italian restaurant's open at 7 a.m., it's  
5 because Mamma Lucia's started a bagel -- making bagles, so they  
6 have for takeout for bagels as part of their menu. There is  
7 again, I've touched on this, no noise due to the limited seating  
8 and only having five employees at a time. There are no exterior  
9 lights. The only lights would be above the sign that's over the  
10 premises, lighting up the Mamma Lucia's sign. The ventilation  
11 and odors, again they have installed a very high-end ventilation  
12 system that I've detailed in the third amended burden of proof.  
13 Again, it's cleaned daily, it's professional serviced every 6  
14 months. And I believe I also stated that there's been no  
15 complaints from the neighbors or from any tenants regarding any  
16 owners that have -- odors that have been emanating from the  
17 establishment.

18           With regard to the deliveries, deliveries are done  
19 twice a week, typically on Monday and Friday between 10 and 3  
20 p.m. It takes approximately only 15 to 20 minutes to complete  
21 the delivery. The trucks are parked on Connecticut Avenue. They  
22 come in, they deliver the supplies to restock and then they're  
23 out. There's no blocking. In fact, the delivery trucks are not  
24 permitted in the back of the shopping center by the landlord  
25 because they don't want to block the removal of any trash from

1 the trash receptacles. They don't -- the alley they don't want  
2 to have blocked.

3 With regard to the other criteria on off-street  
4 parking, because Mamma Lucia's is only 900 square feet, they're  
5 not required to have any parking. The only parking is off-street  
6 parking. But again, Mamma Lucia's relies on pedestrian traffic,  
7 walk-ins, and also deliveries via Uber Eats, Door Dash, and --  
8 you have --

9 MR. GOUSKOS: Yes.

10 MR. SCHULFWOLF: -- and a delivery person. So that's  
11 predominantly what they rely upon. There's no parking -- on-  
12 site parking for the strip center, it's just along Connecticut  
13 Avenue.

14 The other criteria is that the use shall be located and  
15 designed so as to create no dangerous or otherwise objectionable  
16 traffic conditions. The District Department of Transportation  
17 has stated that the proposed use will have no impact on the  
18 District's transportation network. And again, there's no issues  
19 on traffic because there's no parking and there's no construction  
20 work that's going to alter any entrance ways or they're not doing  
21 any of that type of work. There's no parking that's going to be  
22 impacted whatsoever.

23 Any other conditions that may be imposed by the Board,  
24 the Office of Planning has already stated that it's not -- they  
25 don't believe it's necessary to impose any conditions. Mamma

1 Lucia's has been a great addition to this strip center. They  
2 have, in fact, they were selected, I believe I stated in my burden  
3 of proof, they've supplied approximately to lunch and dinner for  
4 2,000 members of the National Guard during the insurrection of  
5 Capitol Hill. They served meals to all of those National Guard  
6 persons. And they have been a welcome addition to the community.  
7 And they have had, again, no complaints whatsoever about any of  
8 their operations. And they've just been a popular addition and  
9 a welcome addition to the neighborhood. So with that said, we  
10 would respectfully request that the Board determine that we've  
11 met our burden of proof and that the Board grant a special  
12 exception to allow Mamma Lucia's to operate as a fast food  
13 establishment.

14 CHAIRPERSON HILL: All right. Thanks, Mr. Schulwolf.  
15 I'm going to go ahead ask my Board members. I see Mr.  
16 Blake's hand up.

17 COMMISSIONER BLAKE: This is a question more for  
18 clarification for me. How -- you're currently in operation, how  
19 long you've been operating, and under what -- how did that happen  
20 at this point, what are you operating as, defined as, at this  
21 point?

22 MR. SCHULWOLF: I've got Mr. Gouskos here.

23 I think just a regular restaurant use, but not as a  
24 obviously as a fast food establishment because that hasn't been  
25 granted, but we were advised -- I think what happened and how we

1 got to here is that part of the plans that were submitted during  
2 the construction of the build-out was the architect or the  
3 engineer put down this was a fast food establishment. And from  
4 there the zoning required that we now either -- we first requested  
5 a variance when they changed the rules and allowed for a special  
6 exception. That's how this process started. Frankly, this kind  
7 of threw them for a loop because they did not anticipate having  
8 to go through this process. It didn't feel that they were a --  
9 qualified as a fast food establishment under the criteria, but  
10 that said, we're here -- we're here. I think that ship sailed  
11 as far as trying to make that argument that we're not a fast food  
12 establishment, but the thought was otherwise that they were. So  
13 they were operating under a general occupancy permit as a  
14 restaurant use. But now we've been told we're required to have  
15 this fast food establishment exception. So that's where we are.  
16 I hope that answered your question.

17 COMMISSIONER BLAKE: Yes, it does. And just for  
18 clarification, at this -- I mean, obviously, with the addition  
19 of bagels, you are very similar to Pumpernickel, which I did  
20 enjoy over their years. Can you tell me what -- how -- was the  
21 use about the same for Pumpernickel as a restaurant or do you  
22 recall or maybe the Office of Planning could better answer that  
23 question. Do you recall, was there continuation of that or did  
24 -- what was Pumpernickel?

25 MR. SCHULWOLF: I don't believe Pumpernickel had a fast

1 food --

2 MR. GOUSKOS: No, no.

3 MR. SCHULWOLF: -- fast food use. But I would defer  
4 to the Office of Planning on that. I don't believe that they  
5 did operate in that manner. The only similarity would be the  
6 service of bagels which is a relatively new addition, right?

7 MR. GOUSKOS: Right.

8 MR. SCHULWOLF: Yeah. I mean, otherwise Mamma Lucia's  
9 is just an Italian restaurant serving your typical -- I believe  
10 I uploaded the menu just for -- just to show you what they serve,  
11 but the addition of bagels is sort of a new introduction of item.  
12 They felt there was a demand for the neighborhood, and they came  
13 up with a process using their ovens to make hand-rolled bagels.

14 COMMISSIONER BLAKE: Okay. Thank you. I think that's  
15 how Pumpernickel started selling pizza, but thank you.

16 MR. SCHULWOLF: But there's no relation in ownership.  
17 It's a completely different business in ownerships.

18 COMMISSIONER BLAKE: Thank you.

19 CHAIRPERSON HILL: Anyone else from the Board.

20 All right. I'm going to turn to the Office of Planning.

21 MS. MYERS: Good morning, Crystal Myers for the Office  
22 of Planning. The Office of Planning is recommending approval of  
23 this case. We appreciate the Applicant filing this as a special  
24 exception, which was something that the Office of Planning had  
25 recommended. And we also appreciate the Applicant providing the

1 additional materials that we needed in order to complete our  
2 review, which is why we are now able to recommend approval under  
3 the special exception. And I can state on the record, the staff  
4 report.

5 As for your question about the Pumpernickel bagel, I  
6 don't know the history of it. I'd have to research that a little  
7 further. But as we are today, the special exception for a fast  
8 food establishment is a relatively new one for this zone. I  
9 mean, 3, with MU-3 zones, that was just approved like about a  
10 year or two ago. So if it works as a fast food establishment,  
11 it would have had to have had like a variance use. But like was  
12 said, we did have the zoning changes, and so now special exception  
13 is allowed for fast food establishments that are in multi-tenant  
14 buildings. So this is why this applicant, we feel it's a special  
15 exception that we can recommend approval of. And again, I can  
16 state on the record the staff report and of course here for  
17 questions.

18 CHAIRPERSON HILL: Okay.

19 Does the Board have any questions of the Office of  
20 Planning.

21 All right. Mr. Young, is there any witnesses here  
22 wishing to testify?

23 MR. YOUNG: We do not.

24 CHAIRPERSON HILL: Okay. I'm going to -- if -- okay.  
25 Let's see.

1 Does the Board have any final questions of the  
2 applicant?

3 Mr. Schulwolf, is your Applicant, he's the owner of  
4 Parthenon?

5 MR. GOUSKOS: Yes.

6 MR. SCHULWOLF: Yes.

7 CHAIRPERSON HILL: Has he been the owner for a long  
8 time?

9 MR. SCHULWOLF: 33 years.

10 CHAIRPERSON HILL: Is he right there?

11 MR. GOUSKOS: Yes.

12 MR. SCHULWOLF: He is.

13 CHAIRPERSON HILL: Mr. Gouskos, since I get to be the  
14 Chair, I get to say things. I'm sorry about the accident that  
15 happened there. And you have a lovely --

16 MR. GOUSKOS: Thank you.

17 CHAIRPERSON HILL: -- restaurant and, you know --

18 MR. GOUSKOS: Thank you.

19 CHAIRPERSON HILL: -- and thanks for being a nice member  
20 of the committee for as long as you have.

21 MR. GOUSKOS: Appreciate it.

22 CHAIRPERSON HILL: Okay. All right. Let's see, anybody  
23 else?

24 Okay. All right. I'm going to go ahead and close the  
25 hearing and the record. Please excuse the Applicant.



1           Okay. Let's see. For me, I mean, this has been going  
2 back and forth with us for a long time because of the different  
3 issues that have been brought up as to what exactly they should  
4 be applying under. I mean, given all of the items in the record,  
5 I'm comfortable with voting in favor that they meet the criteria  
6 with which we can grant this request for a special exception. I  
7 think that all of the -- any kind of concerns about trash or  
8 venting or any of those issues that I might have been concerned  
9 about concerning a fast food establishment, I'm satisfied. So  
10 I'm going to be voting in favor of the application.

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

12           COMMISSIONER SMITH: No, I don't have anything to add.  
13 I would just state, because I don't know if I have to say it, I  
14 was not present at the March 2nd hearing, but I know that we not  
15 hear the merits of this particular case, but I have read into  
16 the -- I've read their case and know there's been a lot of updates  
17 since then, so I'm thoroughly briefed on the record on this  
18 particular case. But I do agree with your assessment of this,  
19 because of the zoning changes, the Applicant, by and large,  
20 they're given a use variance, it went away, which was a much  
21 heavier lift. And I do believe that they meet the new special  
22 exception criteria as a result of the zoning changes that occurred  
23 for the zone, that would allow fast food establishments by special  
24 exception. I do believe that they are mitigating much of their  
25 impacts based on what was presented in the record and by the

1 Office of Planning staff report. And I do believe that they,  
2 you know, all of the negative impacts have been addressed given  
3 this property's relative location, adjacent to some residential  
4 properties. So with that, I give OP's staff report great weight  
5 and will support the application.

6 CHAIRPERSON HILL: Thank you.

7 Mr. Blake?

8 COMMISSIONER BLAKE: Yeah, I agree with the assessment  
9 made by Board Member Smith as well. This has been a long  
10 procedural battle to get this done. It does appear that the  
11 Applicant has met the burden of proof based on the testimony he's  
12 provided, which is also supported by the analysis provided by the  
13 Office of Planning, which I agree with. I think that the Office  
14 -- the ANC brought up several areas of concern, primarily with  
15 regard to the disposal of trash and so forth, and all those issues  
16 were apparently addressed by the Applicant. So I would argue  
17 that the Applicant's actions have adequately mitigated the  
18 concerns expressed by the ANC and they have agreed to meet those  
19 conditions. So based on that, I would be voting in favor of the  
20 application. I'm excited about it and I appreciate the effort  
21 that the owner's made to do this.

22 CHAIRPERSON HILL: Thank you.

23 Chairman Hood?

24 ZC CHAIRPERSON HOOD: Thank you, Mr. Chairman. I don't  
25 have anything to add. I would agree. I've also read into --

1 I've probably been hitting and missing on this one, but I can  
2 tell you that I read through the submission that we -- of this  
3 case today and it looks like a lot of work has been done to get  
4 us to this point. And I think that it definitely meets the relief  
5 requested and I will be voting in favor of it, so thank you.

6 CHAIRPERSON HILL: Thank you.

7 Vice Chair John?

8 VICE CHAIR JOHN: Thank you, Mr. Chairman. I support  
9 the application and I appreciate the Applicant's effort in  
10 working through the process. I have to say that I have -- I used  
11 to frequent the Mamma Lucia restaurant in Silver Spring and I can  
12 say the food is excellent, especially the wine service. Anyway,  
13 back to the matter at hand, so I thought the Applicant's, as I  
14 said, presentation was really quite clear and stepped through how  
15 the Applicant meets the criteria for special exception relief.  
16 And I thought that it was especially helpful that the Applicant  
17 was able to resolve the issues and concerns of the ANC and OP  
18 with respect to the location of the trash and resolving the issue  
19 with the gate as well. And so I support all of the comments so  
20 far, and I will be, as I've said, in support of the application.

21 CHAIRPERSON HILL: Okay. Great.

22 I'm going to go ahead and make a motion then to approve  
23 Application No. 20410 as captioned and read by the secretary and  
24 ask for a second, Ms. John.

25 VICE CHAIR JOHN: Second.

1 CHAIRPERSON HILL: Motion been made and seconded, Mr.  
2 Moy, if you'd take a roll call please?

3 MR. MOY: Yes. Thank you, sir. When I call your name,  
4 if you'll please respond to the motion made by Chairman Hill to  
5 approve the application for the relief requested. The motion to  
6 approve was second by Vice Chair John.

7 Mr. Smith?

8 COMMISSIONER SMITH: Yes.

9 MR. MOY: Mr. Blake?

10 COMMISSIONER BLAKE: Yes.

11 MR. MOY: Zoning Commission Chair Anthony Hood?

12 ZC CHAIRPERSON HOOD: Yes.

13 MR. MOY: Vice Chair John?

14 VICE CHAIR JOHN: Yes.

15 MR. MOY: Chairman Hill?

16 CHAIRPERSON HILL: Yes.

17 MR. MOY: Staff would record the vote as five to zero  
18 to zero, and this is on the motion made by Chairman Hill to  
19 approve. The motion to approve was second by Vice Chair John,  
20 also in support of the motion, as well as Zoning Commission Chair  
21 Anthony Hood, Mr. Smith, Mr. Blake, of course Vice Chair John and  
22 Chairman Hill. The motion carries, sir, on a vote of five to  
23 zero to zero.

24 CHAIRPERSON HILL: Okay. Great.

25 Okay, guys, since we only have one case left, let's

1 take a quick break if that's all right. We'll take like a 15-  
2 minute break and come back. Thank you.

3 (Whereupon, there was a brief recess.)

4 CHAIRPERSON HILL: You can go ahead and call our last  
5 case for the day.

6 MR. MOY: Yes. Thank you, sir. The Board has returned  
7 to its public hearing session after a quick recess, and the time  
8 is at or about 11:21 a.m. in the morning. The next case before  
9 the Board is Application No. 20859 of Toll, T-O-L-L, Bros., Inc.  
10 This is a self-certified application pursuant to Subtitle X,  
11 Section 901.2 for special exception under Subtitle X, Section  
12 902.6(c) from the build-to requirements of Subtitle X, Section  
13 902.6. Property located in the WR-2 zone at Parcel L, which is  
14 I would describe as per Walter Reed Master Plan Square 2950, Lot  
15 845. And the only preliminary matter here, Mr. Chairman, is I  
16 believe the Applicant is proffering expert status to a of Mr. Bob  
17 Kean, K-E-A-N, for I believe expert in architecture, and his name  
18 is not in the BZA book at the moment.

19 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Moy.

20 All right, if the Applicant could hear me, if they  
21 could please introduce themselves for the record?

22 MS. BLOOMFIELD: Good morning, members of the Board,  
23 this is Jessica Bloomfield with the law firm of Holland & Knight.

24 CHAIRPERSON HILL: Good morning, Ms. Bloomfield.

25 MS. BLOOMFIELD: Would you like our team to introduce

1 themselves now or once we get going?

2 CHAIRPERSON HILL: Give me one second. I'm just looking  
3 for the expert witness exhibit.

4 MS. BLOOMFIELD: His resume is at Exhibit 24A.

5 CHAIRPERSON HILL: Okay. Great. I see Mr. Kean and I  
6 don't have any questions for him in regard to being an expert in  
7 architecture.

8 Does the Board have any questions of Mr. Kean? If not,  
9 all right, we're going to go ahead and admit him as an expert in  
10 architecture.

11 Ms. Bloomfield, we can just go ahead and I guess if you  
12 call on someone, they can introduce themselves as they provide  
13 their testimony. Other than that, if you just want to go ahead  
14 and walk us through your presentation and why you believe your  
15 client is meeting the criteria for us to grant the relief  
16 requested? I'm going to put 15 minutes on the clock just so I  
17 know where we are, and you can begin whenever you like.

18 MS. BLOOMFIELD: Thank you. If we could have our  
19 PowerPoint pulled up please, Mr. Young, that would be helpful?  
20 Thank you.

21 Again, for the record, my name is Jessica Bloomfield  
22 with the law firm of Holland & Knight. I'm actually going to  
23 turn it over to -- at the get-go to Matt Anderson from Toll  
24 Brothers as the Applicant, and he will do a brief overview of  
25 the project and the project site and then flip it back over to

1 me to go through how we meet the standard of review.

2 MR. ANDERSON: All right. Hello, everyone, I'm Matt  
3 Anderson with Toll Brothers Apartment Living. So I guess first  
4 thank you for your time and consideration today, very much  
5 appreciated. So Toll Brothers is developing several sites on the  
6 historic Walter Reed campus. Today we are discussing the Parcel  
7 L site, and we are working with the master development team of  
8 Hines, Urban Atlantic, and Triden on the project at Walter Reed  
9 master plan development. So leading up to today's hearing, we've  
10 had several presentations with the community in the immediate  
11 adjacent neighborhoods of Brightwood and Shepherd Park, as well  
12 as with ANC 4A. And then we recently received a resolution in  
13 support of our application from ANC 4A. So if you could please  
14 go to the next slide?

15 So to help orient you to our site, outline in red here  
16 is Parcel L. You can see directly to the south of our site is  
17 the historic Walter Reed Hospital. Directly to the east of our  
18 site is the new Hartley Building where the new Whole Foods has  
19 just gone in. On the north, we're bounded by Elder Street. On  
20 the south, we're bounded by Italia Street. And then on the west  
21 we're bounded on what will be a new 13th Street extension. We're  
22 in the R-2 zone and we're proposing a 287-unit residential  
23 building comprised of four levels with a penthouse over one level  
24 of partially below grade parking. We're building into a hillside.  
25 And then lastly, we received our Historic Preservation Review

1 Board approval November 3rd of this last year. Next slide please?

2           So today we're requesting a special exception from the  
3 building facade build-to requirement, the approval of which would  
4 allow us to place our electrical vaults within our property line  
5 and not in public space. You can see in the snapshot here below  
6 the area of relief in question. It's a relatively small area  
7 relative to our total facade length, about 3.9 percent of our  
8 total facade, which we would not be able to build within ten feet  
9 of the property line. Next slide please?

10           And then this just provides the full context of our  
11 electrical vault area relative to our full building façade. So  
12 with that, I'm going to hand it back to Jessica to walk us through  
13 our zoning details. So thank you.

14           MS. BLOOMFIELD: Thank you, Matt.

15           So I'm going to stay on this slide for a minute and  
16 just reiterate/restate for the Board that the application is for  
17 a special exception from the build-to requirements that are  
18 required in the WR-2 zone, which requires that 100 percent of the  
19 building façade be constructed to within ten feet of the property  
20 line at this site. And as you can see in the slide up on the  
21 screen right now, we are not in compliance in that very small  
22 location in the corner, and that amounts to approximately 4  
23 percent of the building facade being noncompliant. As you can  
24 see, it's noncompliant in this location where the property line  
25 juts already, and as Matt said, it allows us to place the vaults



1 there, which usually that's a conflict, because frequently  
2 developers need to put those vaults in public space, which is  
3 very much disfavored by the District. So we've been able to find  
4 a good spot for them right on -- within the property, but it  
5 results in this very small noncompliance. And if you could go  
6 to the next slide please?

7           This plat on the right-hand side is another image that  
8 shows where the project is noncompliant with the build-to  
9 requirements, it's that small rectangle, so you can see it's a  
10 very small portion of the site. And I'll just quickly now go  
11 over the compliance with the special exception standards of  
12 review and then I'll turn it over to our architect so you can  
13 take a look at what the building is going to look like. The  
14 application meets the standards for granting special exception  
15 relief. The project will be in harmony with the general purpose-  
16 intent of the zoning regulations and zoning map. It is fully  
17 consistent with the purposes of the Walter Reed zones, which is  
18 to create a vibrant pedestrian-oriented residential development.  
19 And it meets all of the height and bulk and other development  
20 standards of this specific WR-2 zone in which it is located. The  
21 project will also provide significant new housing and affordable  
22 housing for District residents at a site that is currently vacant.  
23 The project will not adversely affect the use of neighboring  
24 property. This is a 100 percent residential building that will  
25 complement the surrounding residential and commercial uses within

1 both the Walter Reed campus and in the surrounding area. The  
2 project will not negatively impact the surrounding area because  
3 this relief really is negligible and will not in any way impact  
4 the pedestrian experience or access or connectivity or  
5 walkability surrounding the site. The project will actually  
6 improve that experience by putting the vaults out of public space  
7 and onto our private property. And as you will see there, the  
8 vaults will be extensively landscaped surrounding them, so you  
9 won't even be able to know that they're there. And that was an  
10 important point for the ANC when we were meeting with them. And  
11 as we'll go through, we did receive full support from the ANC  
12 last week or the week before.

13           And then finally the project meets the two specific  
14 conditions specific to the Walter Reed zones. The first is that  
15 the design continues to meet the intent of creating a street wall  
16 along the property line. We need that because, as I mentioned,  
17 the entirety of the building, other than about 4 percent of the  
18 overall facade, will be constructed to the lot line. And the  
19 portion of the facade that is not is in this location where the  
20 property line juts out anyway. And you can see that on the plat  
21 on the screen. So due to the relationship between the geometry  
22 of the property line and the mapping of the building this inside  
23 corners created, that becomes a really ideal location to place  
24 the vault so they don't interfere with the pedestrian experience.  
25 But as a result, there's a slight deviation from the build-to

1 requirement, but it will not detract from the overall  
2 relationship of the building to the public space or create any  
3 sort of void in the streetscape, which is what the regulations  
4 are trying to avoid. And the second condition for the -- for  
5 this specific special exception is that the area setback from the  
6 property line will not restrict access by a gate, fence, or wall.  
7 And we are not proposing a gate, fence, or wall, so that's not  
8 an issue. If you could go to the next slide please?

9           Really quickly, we have received support for this  
10 application. Office of Planning filed a report at Exhibit 21  
11 with no conditions or issues raised. DDOT submitted a report  
12 stating no objection so long as we agree to three conditions.  
13 Those are -- the three conditions are all related to the long-  
14 term bicycle parking. They're listed on the screen. And I am  
15 happy to state for the record that we're more than happy to agree  
16 to those, and we can include them as conditions in any final  
17 order if the Board would like us to do that. And then finally,  
18 we did receive the ANC's resolution at Exhibit 25, and that is  
19 in full support of the project. We received that after a handful  
20 of meetings with the community and the single member district as  
21 well. If you could go to the next slide?

22           I'm going to turn it over now to Bob Kean from WDG  
23 Architecture. He'll quickly run through the floor plans and  
24 elevations and specifically the renderings showing where this  
25 noncompliance will be located. Thank you.

1           MR. KEAN: Thanks, Jessica. Again, my name is Robert  
2 Kean, I'm a managing principal at WDG Architecture here in D.C.  
3 Appreciate you all taking time out to review our building. So  
4 just to walk you through it, this -- it's always good to sort of  
5 pull back a little bit when you talk about a building that's 344  
6 feet long along 13th Street. There are the townhouses to the  
7 north along Elder Street. And then there's the iconic  
8 institutional main hospital building which terminates the 13th  
9 Street axis. So there lies sort of the dichotomy of this  
10 building. So the building acts as a bridge between the scale  
11 and the character of these townhomes to the north and the more  
12 institutional character of the main hospital building to the  
13 south. So if we go to the next slide?

14           You see our floor plan rotated. 13th Street is on the  
15 bottom. The historic hospital building is to the right. You  
16 can see the building has two courtyards and you can see, as  
17 Jessica has been talking about, we have found this small area to  
18 place these vaults. And so not only are they somewhat veiled by  
19 the landscaping, which you'll see in a moment, but the landscaping  
20 actually terraces down. So these mechanical elements are  
21 actually sunken into the ground about seven feet. So again, the  
22 sightlines just sort of disappear and you'll see that in a minute  
23 in some of the sketches. So if you go to the next slide?

24           Just the organization of the building very quickly, two  
25 simple courtyards. You can see the light blue represents lobby

1 and public amenity spaces. And you can see the servicing on the  
2 east side with that sort of pale green. That's at the alley  
3 between our building and the Whole Foods. You can go to the next  
4 slide?

5           And so just our typical floor. This is actually the  
6 first floor above the lobby. So where you see the white spaces  
7 within the pink, those are actually double height spaces. So the  
8 lobby, you have a double height lobby off of 13th and then you  
9 have some other amenity spaces that look into the courtyards and  
10 connect the courtyards. You can go to the next slide?

11           This actually shows the penthouse level. So you can  
12 see the penthouse meets all the zoning requirements. It's set  
13 back approximately 12 feet from the face of the building. And  
14 interestingly, the iconic hospital building also has an attic  
15 story that is set back in a similar manner. If you'd go to the  
16 next slide?

17           So you start to see the architecture on this dichotomy  
18 that I talked about. So on the top you see you see the Dahlia  
19 facade, which with its tripartite organization, base metal top,  
20 some rustication, giving interesting textures to the base of the  
21 building, very much like the building one, iconic building one,  
22 right across the street from it. And juxtaposed to that, you  
23 see on the bottom, that's the elevation along Elder Street. And  
24 so at the top of the site I mentioned there's a townhouse  
25 development that's being designed and built. It's coming soon.

1 So we wanted the north half of this building, if you will, to  
2 have a more townhouse scale and a more townhouse texture. So  
3 we've broken it up with these vertical reveals, that portion of  
4 the building has a more of a burgundy color, whereas the  
5 institutional half of the building or two-thirds of the building  
6 has more of a terracotta color, much more in keeping to the  
7 institutional buildings of Walter Reed. So you can go to the  
8 next slide?

9           So the top the top image is the 13th Street elevation.  
10 So there's actually a 20-foot grade change across the site. So  
11 where you see what looks like almost like five townhouse elements  
12 and some very light green, that's sort of where the -- that's  
13 where those vaults are. And you'll see some perspectives in a  
14 moment. But again, you see the building is really broken into  
15 these two different distinct languages, one responding to the  
16 institutional aspects of the campus, the other responding to the  
17 smaller residential scale of the Elder Street townhomes. If you  
18 can go to the next slide please?

19           So here you start to see some of the three-dimensional  
20 sort of at-grade views. So here you're walking north on 13th  
21 Street. This nice Pershing Park will be sort of on your left.  
22 Our building will be on your right. And so you can see that the  
23 vaults are in this inside corner veiled by vegetation. And again,  
24 they actually -- the site actually steps down with some retaining  
25 walls. So these things are really truly out of sight. You can

1 go the next slide?

2           We're walking in the opposite direction. The historic  
3 building one is at the bottom of the street. And again,  
4 immediately to your left is this landscaped area where the these  
5 sunken vaults are located. And you can go to the next slide?

6           And then this is just looking directly at the building  
7 facing east. And again, these vaults, which are in private space,  
8 are out of sight. You can go to the next slide?

9           And now this is just sort of a three-dimensional view  
10 of the building at the southwest corner. And again, you see the  
11 building's two languages, the more institutional language being  
12 closer to us, and then the more residential scaled element being  
13 to the north up the hill.

14           MS. BLOOMFIELD: And that concludes our direct  
15 presentation. We have a larger team here if you have any  
16 questions, we're happy to answer them. Thank you.

17           CHAIRPERSON HILL: Okay. Thank you, Ms. Bloomfield.

18           All right. Does the Board have any questions for the  
19 Applicant?

20           Okay. If we could hear from the Office of Planning?

21           MR. JESICK: Good morning, Mr. Chairman and members of  
22 the Board, my name is Matt Jesick. I'm presenting OP's testimony  
23 in this case. And the Office of Planning can rest on the record  
24 in support of the application, but I'd be happy to take any  
25 questions. Thank you.

1 CHAIRPERSON HILL: All right. Thank you.

2 Does the Board have any questions for the Office of  
3 Planning?

4 Mr. Young, is there anyone here wishing to speak?

5 MR. YOUNG: We do not.

6 CHAIRPERSON HILL: Ms. Bloomfield, do you have anything  
7 you'd like to add at the end?

8 MS. BLOOMFIELD: I do not, thank you.

9 CHAIRPERSON HILL: Okay.

10 I'm going to go ahead and close the hearing and the  
11 record.

12 Okay. I thought the application was pretty  
13 straightforward. I mean, you can't even see the vaults really.  
14 And so I didn't have any issue with the criteria that they have  
15 made an argument for. I believe they are meeting that standard.  
16 Also I would be in agreement and give great weight to the Office  
17 of Planning as well as that of the ANC that has voted in favor.  
18 It's a very large project, part of something that's even a larger  
19 project, so. But in terms of the issues before us, I do not have  
20 any concerns. I'm going to be voting in favor.

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

22 COMMISSIONER SMITH: I by and large agree with your  
23 assessment, Chairman Hill. I do believe it's to the testament  
24 of the Office of Planning and to the Applicant's -- this is a  
25 fairly straightforward application for special exception. If you



1 look at the -- you know, in looking at the special exception  
2 review standards, I do believe that the proposal is in harmony  
3 with the general purpose and intent of the WR-2 zone. As you  
4 stated, this is a smaller part of a planned project to the old  
5 Walter Reed facility and I do believe what they're proposing is  
6 generally in harmony with the larger goals of the WR zone. Being  
7 that this is carried into the ground, I do not believe that it  
8 would adversely affect the use and neighboring property or the  
9 design standards as specified in the WR-2 zone for those historic  
10 buildings at the old Walter Reed property. So I am -- and I do  
11 believe it meets the standards of X 901.2(c). So with that, I  
12 give OP's staff report great weight and looking at the record  
13 -- everything within the record, and will support the  
14 application. I will also note that HPRB approved this concept.  
15 So we will be in alignment with them as well. And also DDOT had  
16 no objection, so I will support the application.

17 CHAIRPERSON HILL: Okay. Thank you.

18 Mr. Blake?

19 COMMISSIONER BLAKE: Yeah, I would agree with the  
20 assessment and analysis by Board Member Smith. This is an  
21 irregularly shaped building on an irregularly shaped lot, and  
22 it's a very creative use of the space to use that area the way  
23 they have. Clearly, with the significant amount of landscaping  
24 along the portion of the streetscape, it should result in a fairly  
25 consistent appearance to the front of the building. And it

1 doesn't appear the proposed minor deviation from the build-to  
2 requirement would detract from the overall relationship of  
3 building to the public space, nor create a void in the  
4 streetscape. I would give great weight to the Office of  
5 Planning's recommendation for approval. Again, we also note  
6 DDOT's -- has no objection, also the ANC 4A's support, HPRB  
7 support, as well as the Brightwood Community Association's  
8 support. And note that as well. I'll be voting in favor of the  
9 application.

10 CHAIRPERSON HILL: Thank you.

11 I'm looking back again, I had neglected to speak about  
12 DDOT's conditions and how they all are relating it looks like  
13 again to long-term bike parking as well as, I guess, some  
14 electrical outlets and cargo for tandem bikes. I mean, I guess  
15 -- I mean, I don't really have any problems, I guess, with DDOT's  
16 conditions. I'm turning back to their report quickly. It seems  
17 as though it doesn't necessarily tie to what is before us, but  
18 the Applicant has agreed to it. I'll let you all think about  
19 that a little bit more as I go around the table.

20 Chairman Hood?

21 ZC CHAIRPERSON HOOD: Thank you, Mr. Chairman. ON that  
22 note, just speaking about, some of that has a lot to do, as you  
23 know, with new construction. But I really am happy. This is  
24 actually my first case I think on the BZA when it comes to WR  
25 zones, Walter Reed, and I'm glad to see that this is a bigger

1 plan, you know, this plan is starting to come together as far as  
2 the bigger plan. I think the Subtitle K, I think the Applicant  
3 has showed -- demonstrated requirement to relief from that  
4 subtitle, as well as the support -- and as I think one of my  
5 colleagues has already mentioned this is a good use of a very  
6 difficult lot. And I think they -- the support is -- I didn't  
7 see any opposition in the record. So I would not have any  
8 problems with this and I would be voting in favor of it. And  
9 I'm glad to see the WR zone, which is the Zoning Commission had  
10 a lot to do with now coming into fruition, so. And I know a lot  
11 of things are going on up there and a lot of things are happening,  
12 so I'm looking forward to it. Thank you. Mr. Chairman.

13 CHAIRPERSON HILL: Thank you.

14 Vice Chair John?

15 VICE CHAIR JOHN: Thank you, Mr. Chairman. I agree  
16 with the comments so far. I believe the application is fairly  
17 clear and straightforward and shows how the application meets the  
18 criteria for relief. And I would just draw attention to something  
19 in the OP report with which I will give great weight to, but the  
20 statement that the intent of 902.6(c)(2) was to prevent any area  
21 setback from the property line from becoming private courtyards  
22 when the overall regulation intends to create a pleasing and open  
23 public realm. So I think the design meets that criteria and the  
24 landscaping makes it -- you can't even notice that there is, you  
25 know, there are any vaults there. So with that said, I also

1 would not include DDOT's conditions in the order, should it be  
2 granted -- should the application be granted, but note that the  
3 Applicant has agreed to those conditions. And that's basically  
4 because the conditions are not related to the relief that the  
5 Applicant is seeking. So that would be my suggestion.

6 CHAIRPERSON HILL: No, and I appreciate that. I was  
7 just about to -- thank you, Vice Chair John -- I was just about  
8 to go back around the table and see what -- I mean, I could have  
9 gone either way, but I would prefer to do what the Board tends  
10 to have done in this situation, which is note that the Applicant  
11 has agreed to the conditions that DDOT -- and they are summarized  
12 in the Applicant's presentation in Slide 6, that I will refer to  
13 it in that way should the Board agree with what you, Vice Chair  
14 John, are saying and I am, which is that we'll point to it because  
15 it doesn't necessarily tie directly to the relief that's being  
16 requested.

17 Mr. Smith, are you comfortable with that?

18 COMMISSIONER SMITH: I agree.

19 CHAIRPERSON HILL: Mr. Blake?

20 COMMISSIONER BLAKE: Yes, I agree as well.

21 CHAIRPERSON HILL: Chairman Hood?

22 ZC CHAIRPERSON HOOD: Yes, Mr. Chairman, as long as we  
23 point to it, I'm fine with that. Thank you.

24 CHAIRPERSON HILL: Okay.

25 Then I'm going to make a motion to approve Application

1 No. 20859 as captioned and read by the secretary and ask the --  
2 in the record or in the report be mentioned that the Applicant  
3 has agreed to DDOT's conditions that are summarized on the  
4 Applicant's presentation on page 6, but just point to them and  
5 note them, but not make them conditions, and ask for a second,  
6 Ms. John?

7 VICE CHAIR JOHN: Second.

8 CHAIRPERSON HILL: The motion's been made and second,  
9 Mr. Moy, if you could take a roll call please?

10 MR. MOY: When I call your name if you'll please respond  
11 to the motion made by Chairman Hill to approve the application  
12 for the relief requested as well as a notation, specific notation,  
13 in the order -- in the body of the order. The motion to approve  
14 was second by Vice Chair John.

15 Mr. Smith?

16 COMMISSIONER SMITH: Yes.

17 MR. MOY: Mr. Blake?

18 COMMISSIONER BLAKE: Yes.

19 MR. MOY: Zoning Commission Chair Anthony Hood?

20 ZC CHAIRPERSON HOOD: Yes.

21 MR. MOY: Vice Chair John?

22 VICE CHAIR JOHN: Yes.

23 MR. MOY: Chairman Hill?

24 CHAIRPERSON HILL: Yes.

25 MR. MOY: Staff would record the vote as five to zero

1 to zero, and this is on the motion made by Chairman Hill to  
2 approve. The motion to approve was second by Vice Chair John,  
3 who is also in support of the motion, as well as support of the  
4 motion by -- from Zoning Commission Chair Anthony Hood, Mr. Smith,  
5 Mr. Blake, of course Vice Chair John and Chairman Hill. The  
6 motion carries, sir, on a vote of five to zero to zero.

7 CHAIRPERSON HILL: Okay. Thank you.

8 Everyone, there's a couple of things we just have to  
9 attend to concerning our closed meetings, if you could bear with  
10 me for a few more minutes. I'd like to make a motion as Chairman  
11 of the Board of Zoning Adjustment of the District of Columbia and  
12 in accordance with 405(c) of the Open Meetings Act, I move that  
13 the Board of Zoning Adjustment hold closed meetings by  
14 videoconference at 2 p.m. on the following dates: Monday,  
15 February 6th; Monday, February 13th; Monday, February 27th;  
16 Monday, March 6th; Monday, March 13th; Monday, March 20th;  
17 Monday, March 27th; Monday, April 3rd; Monday, April 10th;  
18 Monday, April 24th; Monday, May 1st; Monday, May 8th; Monday, May  
19 22nd; Monday, June 5th; Monday, June 12; Monday, June 26th;  
20 Monday, July 10th; Monday, July 17th; and Monday, July 24th, all  
21 in 2023 and at 2 p.m. The purpose of the closed meeting will be  
22 to receive legal advice from the Board's counsel and to deliberate  
23 but not vote on the contested cases per section 405(b)(4) and  
24 (13) of the Act, D.C. Official Code Section 2-575(b)(4) and (13).  
25 Scheduled for the public -- for the Board's public meetings and/or

1 hearings the following Wednesday per D.C. Official Code Section  
2 1-207.42(a), no resolution rule, Act, or regulation other than  
3 official action shall take place except at an open public meeting.  
4 The closed meeting will be electronically recorded pursuant to  
5 D.C. Official Code Section 2-575(a) as in Apple.

6 Ms. John, is there a second?

7 VICE CHAIR JOHN: Second.

8 CHAIRPERSON HILL: Mr. Secretary, if you can take a  
9 roll call?

10 MR. MOY: When I call your name if you'll please respond  
11 to the motion made by Chairman Hill. The motion was second by  
12 Vice Chair John.

13 Mr. Smith?

14 COMMISSIONER SMITH: Yes.

15 MR. MOY: Mr. Blake?

16 COMMISSIONER BLAKE: Yes.

17 MR. MOY: Zoning Commission Chair Anthony Hood?

18 ZC CHAIRPERSON HOOD: Yes.

19 MR. MOY: Vice Chair John?

20 VICE CHAIR JOHN: Yes.

21 MR. MOY: Chairman Hill?

22 CHAIRPERSON HILL: Yes.

23 MR. MOY: Staff would record the vote as five to zero  
24 to zero. And this is on the motion made by Chairman Hill to  
25 approve the scheduled closed meetings. The motion was second by

1 Vice Chair John, who is also in support of the motion, as well  
2 as Mr. Smith, Mr. Blake, Zoning Commissioner -- Zoning Commission  
3 Chair Anthony Hood, Vice Chair Joh, and Chairman Hill. Motion  
4 carries, sir.

5 CHAIRPERSON HILL: Thank you. As it appears that the  
6 motion has passed, I request the Office of Zoning provide notice  
7 of these closed meetings in accordance with the Act. That's one.  
8 I think that was it, let me see.

9 Mr. Moy, that's all we have for the Board today,  
10 correct?

11 MR. MOY: Yes, sir.

12 CHAIRPERSON HILL: Okay. All right, everybody, I'll  
13 see you all next week. Have a nice week. Thank you. Bye-bye

14 (Whereupon, the above-entitled hearing was adjourned.)  
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## C E R T I F I C A T I O N

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: BZA

Date: 01-25-2023

Place: Teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

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DONNA JENKINS