

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

JUNE 7, 2023

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

ZONING COMMISSION MEMBERS PRESENT:

FREDERICK D. HILL, Chairperson
LORNA JOHN, Vice Chairperson
CHRISHAUN SMITH, Member
PETER MAY, Zoning Commissioner

OFFICE OF ZONING ADJUSTMENT STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Data Specialist

OFFICE OF ZONING ADJUSTMENT LEGAL COUNSEL:

RYAN NICHOLAS, Esquire

The transcript constitutes the minutes from the Regular Public Hearing held on June 7, 2023.

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(9:30 a.m.)

CHAIRPERSON HILL: Good morning, ladies and gentlemen. The Board of Zoning Adjustment. Today's date is 6/7/2023. This public hearing will please come to order. My name is Fred Hill, Chairperson of District of Columbia Board of Zoning Adjustment. Joining me today is Lorna John, Vice Chair, Board Member Mr. Chrishaun Smith and Zoning Commissioner Peter May.

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 this webcast will be available on the Office of Zoning's website after today's hearing. Accordingly, everyone who's listening on the Webex or by telephone will be muted during the hearing. Also, please be advised we do not take any public testimony at our decision meeting sessions. if you're experiencing difficulty accessing Webex or with your call-in number then please call our OZ hotline number 202-727-5471, once again 202-727-5471. It's also listed on your screen.

At the conclusion of the decision meeting session, I shall in consultation with the Office of Zoning determine whether a full or summary order may issued. A full order is required when the decision it contains is adverse to a party, including an affected ANC. A full order may also be needed if the Board's

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1 decision differs from the Office of Planning's recommendation.
2 Although the Board favors the use of summary orders whenever
3 possible, an Applicant may not request the Board to issue such
4 an order.

5 In today's hearing session everyone who is listening
6 on Webex or by telephone will be muted during the hearing, and
7 only persons who have signed up to participate and testify will
8 be unmuted at the appropriate time. Please state your name and
9 home address before providing oral testimony or your
10 presentation. Oral presentation should be limited to summary of
11 your most important points. When you're finished speaking,
12 please mute your audio so that your microphone is no longer
13 picking up sound or background noise. Once again, if you're
14 experiencing difficulty accessing Webex or with the telephone
15 call-in, then call the hotline number listed on your screen. All
16 persons planning to testify either in favor or opposition should
17 have signed up in advance. They will be called by name to
18 testify. If this is an appeal, only parties are allowed to
19 testify. By signing up to testify all participants complete the
20 Oath of Affirmation as required by Subtitle Y, Section 408.7.
21 Requests to enter evidence at the time of an online virtual
22 hearing, such as written testimony or additional supporting
23 documents other than live video, which may not be presented as
24 part of the testimony, may be allowed pursuant to Subtitle Y
25 103.13, provided that the person making the request to enter an

1 exhibit and explain, a) how the proposed exhibit is relevant, b)
2 if the good cause justifies allowing the exhibit into the record,
3 including an explanation of why the requester did not file the
4 exhibit prior to the hearing pursuant to Subtitle Y 206, and see
5 how the proposed exhibit would not unreasonably prejudice any
6 parties. The order of procedure for special exceptions and
7 variances are pursuant to Y 409.

8 At the conclusion of each case, any individual who was
9 unable to testify because of technical issues may file a request
10 for leave to file a written version of the planned testimony to
11 the record within 24 hours following the conclusion of public
12 testimony in the hearing. If additional written testimony is
13 accepted, then parties will be allowed a reasonable time to
14 respond as determined by the Board. The Board will make its
15 decision at its next meeting session, but not earlier than 48
16 hours after the hearing. Moreover, the Board may request
17 additional specific information to complete the record. The
18 Board and the staff will specify at the end of the hearing exactly
19 what is expected and the date when persons must submit the
20 evidence to the Office of Zoning. No other information shall be
21 accepted by the Board.

22 Finally, the District of Columbia Administrative
23 Procedures Act requires that the public hearing on each case be
24 held in the open before the public. However, pursuant to Sections
25 405(b) and 406 of that Act, the Board may, consistent with its

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

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

8 MR. MOY: Good morning, Mr. Chairman, Members of the
9 Board. I do have a quick announcement regarding today's docket.
10 First, Application No. 20824 Rupsha 2011, LLC has been
11 rescheduled to September 20th, 2023. Other than that there are
12 some preliminary matters, Mr. Chairman, but I'll bring those to
13 your attention when I call those cases. Thank you.

14 CHAIRPERSON HILL: Okay. Great. Thank you. Well, I
15 have a little bit of a preliminary matter and then also it might
16 be a matter again later because I'm going to be able to say
17 goodbye twice. But it is Commissioner May's final day with us
18 here today and Commissioner May, it really has just been -- I
19 wish that I could be here in person because it's just been a
20 pleasure working with you.

21 I've had an opportunity to, again, do this job that I
22 didn't necessarily think was something I would have been doing
23 with you and I've learned a lot from you in terms of the
24 regulations, how to process cases, how to look at things from an
25 architectural lens end point. I've learned how to, I don't know,

1 kind of deal with controversy and public interactions when
2 they're kind of getting hot and heated and I've really enjoyed
3 them. Sometimes they get hot and heated because of you, but
4 that's, you know, also something that I've learned to negotiate
5 and that has been a learning experience and I really do appreciate
6 it, and I can't thank you enough for working with us here and
7 also I can't thank you enough for, you know, the kindness and
8 the friendship and the support you've shown me as I've kind of
9 gone through this.

10 I'm going to let other people say nice things but I
11 want to say thank you very much and we'll pass on the little
12 baton if anybody wants to say anything now or would rather say
13 later. Maybe I will start with Mr. Smith if you have anything
14 to add at this juncture?

15 MR. SMITH: Sure. And, you know, this is the second
16 time I'm saying goodbye to Mr. May because we wrapped up on our
17 forum with the National Capital Planning Commission. I will say
18 that, you know, I've been with him on the Board for, what, two
19 and a half years now, and FCPC for a little over three at this
20 point. That flew by because of the pandemic.

21 But I will say that I've learned a lot from you and
22 your, you know, technical expertise and the D.C. Zoning
23 Regulations. So just coming on this Board I've learned from you.
24 I've learned lessons -- learning lessons on the Zoning Board has
25 also helped to really, you know, asl pertinent questions related

1 to zoning on this Board and I will say that I to a certain degree
2 piggybacked off of you. I think we probably failed each other
3 with, you know, some of the questions that we've asked so I would
4 definitely miss that energy and God speed to you in your next
5 endeavor, wherever that may land you. You know, we'll see.

6 So it's been great working with you and hopefully it
7 won't be too long again when we meet again.

8 COMMISSIONER MAY: Thank you.

9 MR. SMITH: Uh-huh.

10 CHAIRPERSON HILL: Vice Chair John, is there anything
11 you'd like to say?

12 VICE CHAIR JOHN: You know, you and Board Member Smith
13 have said everything that I would have said because I really have
14 enjoyed working with Commissioner May and I learned a lot from
15 him, from you about architecture and actually I look forward to
16 the meetings when you are around because I know I will get this
17 perspective which helps me in my review because I tell you, when
18 I'm sitting around trying to find a room in a basement that has
19 a window I said now, if Mr. May were here he would just tell me
20 where that window is or should be.

21 So anyway, I will miss our spirited discussions for
22 sure and I just want to join everyone else by wishing you all
23 the best. God speed. As a one time retiree, I can only say that
24 I hope you will take some time to enjoy a little bit of rest or
25 as much as you think you need, but I'm here to tell you you will

1 need some rest and it wasn't until after I actually sat at home
2 for a bit that I realized how tired I was because I was just
3 sleeping and, you know, just recovering.

4 So I would just say take some time to enjoy yourself a
5 bit, your family, and I wish you God speed and good health.

6 CHAIRPERSON HILL: Thank you, Vice Chair John.
7 Commissioner May, you have anything you'd like to add?

8 ZONING COMMISSIONER MAY: Yes. Well, I want to thank
9 you all for your kind words and for the pleasure of working with
10 you for so many years, and, you know, I do think one of the things
11 that Board Member Smith really hit the nail on the head is that
12 we sort of feed off of each other.

13 So, you know, I have certain expertise that I bring to
14 the conversation and but you all do as well. Not just expertise
15 but perspective, right, because it's not just, you know, who is
16 the most technically capable to understand the, you know, the
17 Zoning Regulations in a particular case, it's how we look at
18 these questions. How we look at some of the gray areas where we
19 have to deal with, you know, end-caps on neighboring properties
20 and how we treat with the testimony -- treat the testimony of
21 people who testify and to order against a particular action. I
22 mean, sometimes the issues are pretty clear but a lot of times
23 they're very gray and I think hearing from everyone is critically
24 important and I just, you know, I appreciate that interplay every
25 time we needed it even if I do come in hard and fast sometimes

1 and stoke the controversy, as it were.

2 There are always -- there's either support or there are
3 voices that are mitigating for my own fervent reactions to some
4 of these things and I want to say especially for you, Chairman
5 Hill, it has really been a pleasure working with you and I've
6 served under too many BZA chairs to even remember at this point
7 and I will say that the last few years under your leadership I
8 think the BZA has done extraordinary work and I can't think of
9 anybody else who I worked under when I served on the BZA who did
10 a better job than you have done.

11 So I really appreciate your command of the process,
12 your command of the regulations, your sensitivity to the
13 interests of people whoa re testifying before us. Even if I
14 probably would be less sensitive about those things, I do
15 appreciate it because we need to have -- we need to hear all
16 voices and we need to have robust discussions. So I really
17 appreciate that.

18 I also want to thank Mr. Moy, who should turn his camera
19 on again because he went dark, just because, you know, he's been
20 with me on the BZA -- I don't know, how long have you been doing
21 this? I can't even remember at this point.

22 MR. MOY: On my side? Too long.

23 COMMISSIONER MAY: Yes. Well, so I've been on the
24 Zoning Commission for about 18 years and so I think the majority
25 of those years Cliff has been the secretary and, you know, his

1 stellar support of the Commission and our occasional forays into
2 discussions of soccer have been very enjoyable and I really
3 appreciate all that he has done, and I also want to thank everyone
4 in the Office of Zoning Legal Division. Mary Nagelhout who has
5 been one of our lawyers, I think the whole time I've been here
6 and, I mean, there's such understanding expertise that Mary and
7 the staff, the legal staff, bring to the Zoning Commission or to
8 the BZA circumstance I think is really exceptional. I will be
9 serving on the Zoning Commission a little bit longer but I'm not
10 scheduled for any more BZA days before my official retirement
11 happens.

12 So, anyway, thank you all. Thank you also to Sara
13 Bardin and Zee (phonetic) who, you know, support the whole
14 operation as well. I really appreciate everyone's work and I'm
15 going to have to repeat some of this at a future final Zoning
16 Commission meeting, I guess. But, anyway, thank you very much
17 for the opportunity and once again, I've talked too long. I
18 mean, I appreciate getting the chance. Thank you.

19 CHAIRPERSON HILL: Thank you, Commissioner May. It's
20 a pleasure.

21 Okay. Mr. Moy, you can go ahead and call our first
22 case, please, and I think, Vice Chair John, you are not on this
23 one.

24 VICE CHAIR JOHN: No, I'm not on this case. I will
25 join you at the end.

1 MR. MOY: All right. Thank you, Mr. Chairman, and
2 thank you, Commissioner May, for those very, very kind words.

3 So before the Board is Application No. 20888
4 Shahabeddin, let me spell that S-H-A-H-A-B-E-D-D-I-N Toobaie, and
5 this is a as amended self-certified application pursuant to
6 Subtitle X § 901.2 for special exceptions under Subtitle U §
7 320.2 to allow the conversion of an existing residential building
8 to an apartment house, Subtitle E § 205.5 to allow the rear wall
9 of a semi-detached building to extend farther than ten feet,
10 Subtitle E §206.4 and Subtitle E § 5207 for the rooftop and upper
11 floor requirements, Subtitle E § 206.1, Subtitle C § 703.2 for
12 the minimum vehicle parking requirements, Subtitle C § 701,
13 Subtitle C § 1501.1(c) for the penthouse height requirements,
14 Subtitle C § 1501.1(b)(2).

15 As the Board will note this is located RF-1 zone at 447
16 Park Road, NW, Square 3036, Lot 23. As the Board will recall
17 this was last heard on May 17th, 2023 and of course participating
18 is Chairman Hill, Mr. Smith and Zoning Commissioner Peter May.

19 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Moy.
20 Let's see. Mr. Shirazi, could you please introduce yourself for
21 the record.

22 MR. SHIRAZI: Yes. Good morning. This is Hamid
23 Shirazi. I'm with Datis Properties and representing the
24 Applicant with the development of the project.

25 CHAIRPERSON HILL: Great. Thank you. Mr. Shirazi, and

1 | you tell us what happened since the last time you were here,
2 | please?

3 | MR. SHIRAZI: Sure.

4 | CHAIRPERSON HILL: And if your architect wants to pull
5 | up the drawings or whatever you want to do to help us understand.

6 | MR. SHIRAZI: Yes. So very quick. We are seeking
7 | relief to convert this property into three units. We are also
8 | requesting to go past the rear of the adjoining neighbor by eight
9 | extra feet. We are requesting relief for the height of the
10 | mechanical penthouse and we are asking not to provide any parking,
11 | and also extend the existing porch roof and cornice to the width
12 | of the proposed building structure and to widen the dormer window.

13 | In the last meeting, our conclusion from, you know,
14 | listening to the recording again was that the Board had asked us
15 | to comment on or revise in four areas. One was some privacy
16 | concerns that was imposed by the juliet balconies on the side of
17 | the building facing our neighbor to the east. The other one was
18 | a request to study the visibility of the penthouse from the
19 | street, the opposing sidewalk and then there was an ask to come
20 | up with ways that we can better integrate the basement of units
21 | A and B with the rest of the space so those basement areas could
22 | not be used as separate units, and also to submit an affidavit
23 | that we have consulted and apprised our adjoining neighbor on the
24 | west about our project plans, and we've done revisions and are
25 | ready to provide, you know, more information on all those issues.

1 I'll turn it over to Mr. Anthony Pizzo to start
2 explaining the changes that were made to address those comments
3 and concerns. Anthony?

4 MR. PIZZO: Yes. Thank you, Hamid. Mr. Young, can you
5 pull up the past change exhibit that we had sent you this week?
6 Okay. Thank you.

7 So as Hamid mentioned, one of the concerns from the
8 last hearing was, I believe it was Mr. May had some concerns
9 about the current bulk of the penthouse and its possible
10 visibility from the street. As you can see in this exhibit that
11 we put together, the top left is the prior roof plan. So the
12 penthouse originally was more of this sort of T-shaped structure
13 that was set back about 14.3 feet from the front mansard roof.

14 So you can see the image at the top right. That's a
15 perspective standing on the opposite side of Park Road looking
16 across the street towards our project and you can see with that
17 little red arrow there, originally the penthouse was just barely
18 visible. It's kind of popping up just above that front dormer
19 window there.

20 So we went back and basically reconfigured the stairs
21 on the lower levels to address that concern which basically
22 reduced the penthouse look to more of an L-shape, as you can see
23 from the bottom left roof plan and now the penthouse is 22 feet
24 set back from the mansard roof. So it's an additional almost
25 eight feet set back from the front and the bottom right image,

1 again looking across the street towards our project, the
2 penthouse is basically invisible now from the street.

3 MR. SMITH: Mr. Pizzo?

4 MR. PIZZO: Yes.

5 MR. SMITH: Is this what's in the record?

6 MR. PIZZO: We -- it wasn't part of the original
7 submission but we emailed this to Mr. Young on Monday to include
8 this in the presentation. But the bottom two images are in the
9 record. That was part of the updated package. That new view at
10 the bottom right is included.

11 MR. SMITH: Okay. Can somebody help me with what
12 exhibit this one is?

13 CHAIRPERSON HILL: Yes, Mr. Young --

14 MR. SMITH: (Indiscernible).

15 CHAIRPERSON HILL: -- or Mr. Moy, and I don't -- unless
16 the Board has any issues if you could ask Staff to drop this
17 presentation into the record, No. 1. No. 2, I think, Mr. Smith,
18 it's in the Exhibit 80.

19 MR. SMITH: Okay. All right.

20 MR. PIZZO: It's in Exhibit 45, 45. Yes. And it's
21 sheet No. 10, page No. 10.

22 CHAIRPERSON HILL: It's not 10.

23 MR. SMITH: Yes, it's not 10.

24 MR. PIZZO: It's not 10?

25 CHAIRPERSON HILL: You don't have -- I don't think I

1 saw this one.

2 MR. SMITH: No, I don't recognize this one either
3 because I see the shadow study images. Sheet 10 is a vantage
4 point from it looks like midway across the street at an angle,
5 but it'll be good to add this into the record.

6 MR. MOY: Mr. Chairman? If the architect could send
7 me the PDF of this sheet to be a submission then I could --

8 CHAIRPERSON HILL: Okay.

9 MR. MOY: -- attach them to the case record. That
10 would help.

11 CHAIRPERSON HILL: Was there more to that presentation,
12 Mr. Pizzo?

13 MR. PIZZO: Yes, there was.

14 CHAIRPERSON HILL: Okay.

15 MR. PIZZO: Yes.

16 CHAIRPERSON HILL: Can you do it from Exhibit 45,
17 meaning explain your changes through Exhibit 45?

18 MR. PIZZO: Yes. Mr. Young, if you want to go ahead
19 and pull up the updated architectural plans --

20 CHAIRPERSON HILL: I feel like your 8 and 9 seem to
21 indicate at least the view.

22 MR. PIZZO: Yes, and that's -- and so if you're
23 referring to the roof plan itself, in Exhibit 45 if you go to
24 sheet No. 5 that's the roof plan and you can see the new shape
25 of the penthouse. It's the L-shape.

1 CHAIRPERSON HILL: I don't see it on 5. Maybe 4?

2 MR. PIZZO: Well, yes. It's a little confusing. So
3 I'm looking at PDF sheet No. 5 but the drawing number is 004.

4 CHAIRPERSON HILL: Oh, okay.

5 MR. PIZZO: It's a little confusing, I know. But yes,
6 drawing (indiscernible).

7 CHAIRPERSON HILL: Okay, Mr. Young, if you could pull
8 up No. 45 for us, please? Or Exhibit 45, and if you want to
9 scroll down to sheet No. 4 that's sort what I've got and then I
10 think, Mr. Pizzo, at least if I go by your numbers on the sheet,
11 Nos. 8 and 9 seem to have the view I think.

12 MR. PIZZO: Yes. One more sheet down. There we go.
13 So that's the revised roof plan, so again you see that now L-
14 shape penthouse that's 22 feet set back from the mansard roof.
15 And then if you go down to sheet No. 8, that's the aerial view.
16 You can see the newly shaped penthouse and then one more sheet
17 down to 9 is the view from the street level. One more sheet down,
18 009? There we go. So it's, it can't be seen from the street,
19 the penthouse.

20 CHAIRPERSON HILL: Okay, Mr. Pizzo. What else do you
21 want to show us?

22 MR. PIZZO: if you could go back to 008, Mr. Young,
23 really quick I wanted to address, as Hamid mentioned, there was
24 some concerns Mr. Smith had regarding the juliet balconies on the
25 east side façade there.

1 So you can see in this updated rendering, we've now
2 removed those juliet balconies. The railing stays there, but the
3 railing is basically just for fall protection for the slider
4 doors but they're basically flush mounted on the brick but the
5 projected balcony itself is no longer there.

6 And then if you go to, Mr. Young, sheet 003, please.
7 Just finally we've made some changes to the cellar of the first
8 floor plans to address the concerns of the basement levels feeling
9 too much like separate units. So to start we've eliminated,
10 actually 002. I'm sorry, Mr. Young. The cellar in the first
11 floor plan. There we go.

12 You can see in the cellar level plan we've removed the
13 exterior stair preventing any outside connection to unit A's
14 basement. We've kept unit B's exterior stair at the back because
15 that's really the only connection to the backyard which is
16 exclusively designated for unit B. But if you look at the first
17 floor plan we've added a privacy fence just above that
18 northernmost areaway window well which basically prohibits people
19 from using that rear stair without having to go enter unit B
20 through it's main entrance.

21 CHAIRPERSON HILL: Can you show that, Mr. Pizzo?
22 Where's that?

23 MR. PIZZO: It's -- so on the first floor plan you see
24 the uppermost window well.

25 CHAIRPERSON HILLS: Which sheet? Can you tell me?

1 MR. PIZZO: 002. The one we're looking at.

2 CHAIRPERSON HILLS: Okay.

3 MR. PIZZO: On the first floor plan there's the two
4 window wells on the right side on the side yard. The uppermost
5 window well, there's a privacy fence just above that. We called
6 it out with the annotation.

7 CHAIRPERSON HILL: Okay.

8 MR. PIZZO: So that basically prevents people from
9 walking and using that stair to get access into unit B.

10 CHAIRPERSON HILL: Okay.

11 MR. PIZZO: So we kept the stair because it's a
12 functional stair to get from unit B's first floor to the backyard
13 or I'm sorry, cellar to the back yard, cellar level to the
14 backyard.

15 CHAIRPERSON HILL: Okay. I see it. I see it in 008
16 it's a little bit more understandable.

17 MR. PIZZO: And then just a couple more changes we made
18 to the cellar of the first floor. We've removed the washer and
19 dryer closets in both of those units. We've reduced the
20 kitchenette down to a small wet bar and then we removed the stair
21 wall and the door that had separated the first floor from the
22 cellar level. Now the stairs are open to the basement from the
23 first floor so that now the first floor and the basement connect
24 more volumetrically. It's open to above basically.

25 So those are the updates that we've made since the last

1 hearing and I think unless there's some other questions, with
2 that I can turn back over to Hamid to discuss the covenant and
3 the affidavit.

4 CHAIRPERSON HILL: Before the EOD (phonetic) decide
5 that, right --

6 MR. PIZZO: Yes.

7 CHAIRPERSON HILL: -- does anybody have any questions
8 for the architect, and I saw Mr. --

9 MR. SMITH: I have one final question --

10 CHAIRPERSON HILL: Go ahead.

11 MR. SMITH: -- that I didn't ask at the previous
12 hearing. What is the height of the parapet wall between the --
13 that separates the building from the property to the east?

14 MR. PIZZO: The property to the east? If you could,
15 Mr. Young, can you pull up 008? So that --

16 MR. SMITH: (Indiscernible.)

17 MR. PIZZO: -- that parapet wall is three foot six. We
18 have a railing there. The railing as a request from the owner
19 of the property across the areaway, the breezeway. We set a
20 railing back just for privacy purposes but that parapet is still
21 three foot six even though you don't really it for fall protection
22 but it's just more of like a privacy screen.

23 MR. SMITH: Right. So how far is that fence set back
24 from the parapet wall?

25 MR. PIZZO: Four feet.

1 MR. SMITH: Okay. Okay. But that's a pretty sizeable
2 distance. Okay. Thank you. That was all I had --

3 MR. PIZZO: Sure.

4 MR. SMITH: -- specifically in relation to privacy, so
5 thank you.

6 MR. PIZZO: Uh-huh.

7 CHAIRPERSON HILL: Commissioner May, do you have any
8 questions for the architect?

9 ZONING COMMISSIONER MAY: I have sort of a question.
10 I appreciate all the changes that have been made. I mean, this
11 now looks like more normal version of a cellar space that's
12 occupiable. It's the den with a, you know, with an extra bedroom
13 that, you know, it should be used by another member of the family
14 that's living there. It's not automatically something that one
15 could, you know, could rent out so I appreciate the fact that
16 it's now become more integral to the rest of the unit and I
17 appreciate the extent to which you've tried to address all of the
18 concerns that were raised at the previous hearing including that
19 privacy fence although I don't, you know, privacy fences or a
20 gate there is, you know, that's easily removed at some point in
21 the future so I don't regard that as really any kind of insurance.
22 But I don't know that that's necessarily needed either. The idea
23 of counting an exit from the basement of a townhouse or something
24 like that is not as troubling to me as were the way that unit
25 was configured with the full kitchen, the complete separation

1 from the floor above and the washer and dryer.

2 And so what I'm getting at eventually here is that I'm
3 a little concerned that the areaway at the front which is very
4 large, it's not going to be very useful to the eventual homeowner
5 because it's just going to be like an outdoor storage space where
6 you've got to bring stuff in through the, you know, through the
7 rest of the house and it's not, I mean, spaces like that are
8 often used for storage of stuff that you have to like come out
9 to the outside; right? People put bikes down in places like that
10 and things like that.

11 So I would not object to the idea that there could be
12 a stairway from that areaway up to grade, now that you've made
13 the other changes to the unit that make it seem like it's one
14 particular unit. I don't know how my fellow Board Members feel
15 about that and this is a pretty minor concern. I'm just concerned
16 about the homeowner having a basically a place that does nothing
17 but, you know, gather leaves and debris and, you know, doesn't
18 really provide much value whereas with a stair it would provide
19 a lot of value.

20 So that's just a thought from my --

21 CHAIRPERSON HILL: I appreciate that, sorry to
22 interrupt you Commissioner May, I appreciate that and unless Mr.
23 Smith has an issue with it I think that that is reasonable. I
24 know that there was, again, really a concern from my fellow Board
25 Members about what that might be used for, meaning that third

1 floor.

2 Mr. Pizzo, is that something that you think you and/or
3 your client would be interested in?

4 MR. PIZZO: Yes, yes. I think so.

5 CHAIRPERSON HILL: Okay. So, Mr. Smith, do you have
6 any objection to that?

7 MR. SMITH: Putting the stair back?

8 CHAIRPERSON HILL: Just the stairs in the front there
9 so that, I mean, as Commissioner May had mentioned it makes the
10 homeowner have some use of that areaway.

11 MR. SMITH: I am, I mean, given the changes that the
12 Applicant has made to the basement, I'm comfortable with adding
13 the stairs because that cellar place does not need as if it can
14 become a rental unit. So I'm comfortable with having the stairs
15 back.

16 CHAIRPERSON HILL: How, Mr. Pizzo, would you do that?

17 MR. PIZZO: I think it just goes back to what we had
18 originally where it was basically it was just a hoarding place
19 concrete stair that connects from grade down to the areaway.

20 CHAIRPERSON HILL: But is that something that you'd be
21 able to put together relatively easily so we can take a look at
22 it?

23 MR. PIZZO: Yes, 100 percent we can do it.

24 CHAIRPERSON HILL: Okay. Okay, Mr. Pizzo, we'll go
25 ahead and we'll continue through this process and then let me get

1 back to you. I'm trying to make this work, but it's Commissioner
2 May's last day and so I'm trying to make this work --

3 MR. PIZZO: Okay.

4 CHAIRPERSON HILL: Right? So if you can maybe do that
5 and come back, we'll see what happens. But let me kind of
6 continue through tis process.

7 MR. PIZZO: Sure.

8 CHAIRPERSON HILL: Let's see. Are there any further
9 questions of the Applicant from my fellow Board Members? All
10 right. Is the Office of Planning here?

11 MS. BROWN-ROBERTS: Yes, Mr. Chairman.

12 CHAIRPERSON HILL: Ms. Brown-Roberts, there's nothing
13 to add, correct, from what you previously gave in terms of the
14 changes being made?

15 MS. BROWN-ROBERTS: Right. That's correct. The
16 Applicant sent me the drawings of the changes they had made and
17 we are in support of them. You didn't request anything else from
18 OP so, you know, it's just to tell you that yes, we're in support.
19 We continue to be in support with the changes that have been
20 made.

21 CHAIRPERSON HILL: Okay. Mr. Young, is there anyone
22 here wishing to speak?

23 MR. YOUNG: Yes, we have one witness signed up.

24 CHAIRPERSON HILL: Okay. Great. Could you bring that
25 witness in, please?

1 MS. PALMER: Good morning. My name is Cartheria Prince
2 Palmer, East 447 and I'm at 445 Park Road, NW.

3 CHAIRPERSON HILL: Okay, Ms. Palmer, and Ms. Palmer,
4 thank you for joining us today. You'll have three minutes to
5 give your presentation and you can begin whenever you like.

6 MR. PALMER: Sure, and I do appreciate you all hearing
7 me again. The sun study will affect our property. No matter
8 how much you're looking at this we look at the sun in our dining
9 room every evening and as the sun gets over to that side, we are
10 losing sun in this project. They can put everything they want
11 as far as the backyard, but it's affecting the side of our house
12 and the back rooms.

13 CHAIRPERSON HILL: Okay. Okay, Ms. Palmer, and I
14 appreciate you joining us again. I mean, I guess, you know,
15 you've been throughout this process you've seen how it's been
16 moving in one direction or another.

17 Does the Board have any questions of the Applicant, I
18 mean I'm sorry, the witness? Okay. Ms. Palmer, do you have
19 anything additionally you'd like to add?

20 MS. PALMER: At this juncture, I mean I have a lot more
21 to add but it's going to take up more than three minutes, so I'm
22 just going to go ahead and say my piece because this project is
23 going to affect our property no matter how you look at it. We've
24 had a discussion with the developers on countless occasions,
25 especially with my husband.

1 My husband has related those concerns to the developer
2 and it hasn't changed. It's going to affect our property and,
3 you know, I'm literally still concerned about the water run-off,
4 concerned about our privacy. You know, the juliet balconies.
5 Yes, you pushed them back but we're still concerned about all of
6 that.

7 So, thank you, and I appreciate it.

8 CHAIRPERSON HILL: No, I'm sorry, Ms. Palmer. I guess
9 like when I mean to say I'm sorry is that, you know, what the
10 regulations state is just kind of that the undue impact that is
11 put forward on some projects and whether or not that impact is
12 undue, there will be impacts and, you know, we are trying to do
13 our best to mitigate those in a way that makes it bearable,
14 livable -- not bearable, that's the wrong word -- again, undue
15 is the terminology that's used in the regulations and so just to
16 let you know kind of the lens that we look through.

17 MS. PALMER: Right. And so that's the lens you're
18 looking through but, you know, your undue definition is totally
19 different than our undue definition as residents that have to
20 live with this for the duration of us staying here. I mean,
21 it's, like I say, it will affect our side, the east side, for
22 sure. It will.

23 CHAIRPERSON HILL: I don't dispute --

24 MS. PALMER: And if we have issues, who do we go back
25 and give these grievances to?

1 CHAIRPERSON HILL: Well, as far as the construction I
2 know that that's something that gets -- happens at the Department
3 of Buildings and they, you know, are the ones that handle water
4 issues or anything like that, but if this does go through they'll
5 be working within the parameters of the Department of Buildings
6 and their regulations so that nothing happens to the properties
7 around. But I guess, I think it's the Department of Buildings
8 that one would make a complaint to.

9 MS. PALMER: I will definitely write that down and I
10 will definitely provide my input if we start having issues. I
11 mean, it's not just during the construction, it's afterwards as
12 well.

13 CHAIRPERSON HILL: Sure. Ms. Palmer, do you have Mr.
14 Shirazi's information, his contact information?

15 MS. PALMER: My husband does. We do.

16 CHAIRPERSON HILL: Okay. And, Mr. Shirazi, you have
17 that, Ms. Palmer's or Mr. Palmer's or, and I'm sorry if I'm not
18 getting the right name right, contact information, Mr. Shirazi?

19 MR. SHIRAZI: We do have it.

20 CHAIRPERSON HILL: And you will help address any
21 concerns if this project moves forward with construction?

22 MR. SHIRAZI: Certainly so.

23 CHAIRPERSON HILL: Okay. Thank you, Mr. Shirazi. Okay.
24 Okay, thank you, Ms. Palmer, for your testimony.

25 MS. PALMER: You're welcome.

1 CHAIRPERSON HILL: Okay. The -- thank you, Mr. Young.
2 There were some issues again, and I'm just trying to remember,
3 right, concerning the ANC's concerns, Mr. Shirazi. All those
4 have been relocate the proposed trash and recycling receptacles
5 away from neighboring properties. That's something you did;
6 correct?

7 MR. SHIRAZI: Yes, sir.

8 CHAIRPERSON HILL: Right. And the construction of the
9 privacy fence, you did that. Then you have provided shade studies
10 to the surrounding properties; correct?

11 MR. SHIRAZI: Yes, sir.

12 CHAIRPERSON HILL: Okay. Fine. Okay. Let's see. All
13 right. So, Mr. Pizzo, if you could -- how long would it take
14 you to do what, we can only approve what is in front of us and
15 so if the Board has any issues with what now would be the change
16 to that front areaway, we'd like to take a look at it before we
17 can move forward. When -- how long do you think it would take
18 you to do that?

19 MR. PIZZO: I can get it done this afternoon.

20 CHAIRPERSON HILL: Okay. This afternoon means when?
21 I just need to know, like we're going to have hearings and I
22 guess if you can --

23 MR. PIZZO: Okay.

24 CHAIRPERSON HILL: -- do it and get it back to us before
25 we can -- I'll put this back again at the end of the day.

1 MR. SHIRAZI: Yes, absolutely. Mr. Pizzo, if I may
2 jump in. Mr. Chairman, we already have that iteration. It's
3 just combined the changes that we've made to address those
4 concerns with the site plan that was presented --

5 CHAIRPERSON HILL: Yes. I don't know, I don't know.
6 Commissioner May is shaking his head. I just need something
7 clean. I need something like that one floor plan, okay, added
8 to the record as to how you're going to change that; right?
9 Commissioner May, is that what you're saying? Raising your hand.

10 ZONING COMMISSIONER MAY: Yes. I agree with you. We
11 should have one drawing. We shouldn't say well, part of this
12 and part of that. No, it should be one revised cellar floor plan
13 that shows units as you have (indiscernible) done with that little
14 bit of stairway laid in on top. I mean, it's like a ten minute
15 photoshop job is really all we need.

16 MR. PIZZO: Yes.

17 ZONING COMMISSIONER MAY: So if you could pull that
18 together and get it back to us before the end of the day that we
19 can approve it as (indiscernible) --

20 MR. PIZZO: Yes. Before noon, before noon I should get
21 it over to you guys.

22 ZONING COMMISSIONER MAY: Yes.

23 MR. PIZZO: Yes.

24 MR. SMITH: Can I make another request, Chairman Hill?

25 CHAIRPERSON HILL: Sure, Mr. Smith.

1 MR. SMITH: Granted it's the same conversation that
2 keeps coming up and we just heard it from the neighbor. Thank
3 you, Mr. Shirazi and Mr. Pizzo, for revising the plans to reduce
4 the width of those balconies but there's still concerns about
5 privacy that are raised by the adjacent property owner.

6 They have functional windows now and it looks like
7 these juliet balconies are a depth of what, five inches or so,
8 five or six inches, and these juliet balconies are roughly the
9 same size as the windows on the second and first floors. Can
10 you remove these juliet balconies because that unit, unit C on
11 that floor does have a rear deck so they would have some access
12 to, you know, open space to go out to the rear of the property.

13 Would you revise those to remove the juliet balconies
14 and stay with just the regular windows?

15 MR. PIZZO: We can certainly do that. If you're looking
16 at the site elevation on sheet 007 we can basically just take
17 the same --

18 MR. SMITH: Okay.

19 MR. PIZZO: -- window that sits below those sliders and
20 just copy that up. It's not, yes, that's something we can do
21 quickly.

22 MR. SMITH: Yes. All right. Yes. Can you do that?
23 Remove the juliet balconies?

24 MR. PIZZO: Yes.

25 CHAIRPERSON HILL: Okay, Mr. Pizzo. So those two

1 changes. Okay?

2 MR. PIZZO: Yes, we can do that.

3 CHAIRPERSON HILL: And then it's now 10:20. You think
4 -- I'll try to get, you think you'll get it back to somebody by,
5 before noon?

6 MR. PIZZO: Yes.

7 CHAIRPERSON HILL: Okay. All right. We'll come back
8 to you. You have to come back, I don't know if -- yes, you
9 probably will have to come back. So we'll try to do this before
10 lunch.

11 MR. PIZZO: Okay.

12 CHAIRPERSON HILL: As soon as you turn it around, then
13 my -- the staff will let us know.

14 MR. PIZZO: Okay. Do we just email the updates to Mr.
15 Young or?

16 CHAIRPERSON HILL: No. Mr. Moy, where does it go to?

17 MR. MOY: What I'd suggest doing is if the architect
18 would submit those two revised drawings to the BZA submissions,
19 that will go directly into the record by the Staff.

20 MR. PIZZO: Okay. So we do that and then you'll reach
21 back out to us to know what the next steps are?

22 MR. MOY: Yes, yes, and if you wouldn't mind calling
23 Rob Reed when you're ready to return so that he can key you up
24 and let me know.

25 MR. PIZZO: Okay.

1 MR. MOY: Thank you, sir.

2 MR. PIZZO: Thank you.

3 CHAIRPERSON HILL: Okay. All right. We'll see you in
4 a little bit later again. I'm going to close this portion of
5 the hearing. You guys, I'm just going to take a quick break if
6 we could just before rejoining with Vice Chair John. It's going
7 to be ten minutes. See you in a little bit. Thank you.

8 (Whereupon, there was a brief recess.)

9 CHAIRPERSON HILL: Okay, Mr. Moy. You can call our
10 next one when you have an opportunity.

11 MR. MOY: Thank you, Mr. Chairman. After a quick
12 recess, the Board is back in its hearing session and the time is
13 at or about 10:31 a.m.

14 The next case before the Board is Application No. 20890
15 of Javlon J-A-V-L-O-N Turdiev T-U-R-D-I-E-V and Jasmine Buttolph.
16 This is as advertised a self-certified application pursuant to
17 Subtitle X § 901.2 for a special exception under Subtitle U §
18 421 to allow a new residential development two unit flat. The
19 property is located in the RA-1 zone at 17 Rock Creek Church
20 Road, NW, Square 33221, Lot 52 and that's all I have for you,
21 Mr. Chairman.

22 CHAIRPERSON HILL: Thank you. Mr. Teran, if you can
23 hear me could you introduce yourself for the record, please?

24 MR. TERAN: Good morning, Commissioners. My name is
25 Eric Teran. Address 2800 North Rosser Street in Alexandria and

1 I'm the architect and representing the client.

2 CHAIRPERSON HILL: Great. Thanks. Mr. Teran, if you
3 want to go ahead and walk us through your client's application
4 and why you believe they're meeting the criteria for us to grant
5 the relief requested, I'm going to put 15 minutes on the clock
6 just so I know where we are and you can begin whenever you like.

7 MR. TERAN: Thank you, Commissioner. Mr. Young, if you
8 could bring up the plans, please.

9 This slide is just where the project is located. Next
10 sheet, please. There you can see where the project is located
11 in the gray area there along Rock Creek Church Road. We are not
12 adding any square footage. This is just converting an existing
13 cellar into a rental unit.

14 Next slide, please. Slide shows the site plan with the
15 pathway that would be leading to the rental unit. There'll be
16 some steps going down and a small pathway from the existing path
17 from the sidewalk.

18 Next slide, please. So this is basically all we're
19 doing is we're just converting it into a dwelling unit. We're
20 basically just adding a kitchen. The two bedrooms, bathroom,
21 that's all existing from a previous permit and so all we're asking
22 for is basically to add the kitchen.

23 Next slide. That's just upper floors where there are
24 no change for this permit.

25 Next slide, please. And exterior elevations, the only

1 | thing that changed is on the east elevation where you can see
2 | the door at the bottom left of the screen porch.

3 | Next slide, please. And that's just the site
4 | elevations.

5 | Next slide. Really nothing has changed.

6 | Next slide. Nothing has changed there.

7 | Next slide. And then just the section showing the ADU
8 | or the, once again nothing's changing. We're just converting the
9 | existing cellar into a unit.

10 | I think that's basically it. I'm happy to answer any
11 | questions.

12 | CHAIRPERSON HILL: Okay. Let's see. Does anyone,
13 | well, let me go to the Office of Planning first. Could the Office
14 | of Planning please introduce themselves?

15 | MS. THOMAS: Yes. Good morning, Mr. Chair, members of
16 | the Board. Karen Thomas with the Office of Planning and we will
17 | rest on the record and support this conversion of the basement
18 | unit. There is no foreseeable impact or we don't anticipate any.
19 | In fact, the lot occupancy for the building's footprint would be
20 | increased.

21 | So with that, I'll rest on the record. Thank you.

22 | CHAIRPERSON HILL: Okay. Thank you, Ms. Thomas. Does
23 | anybody have any questions of the Office of Planning, or the
24 | Applicant? Go ahead, Mr. May.

25 | ZONING COMMISSIONER MAY: Yes. This issue I think was

1 raised where this is a subject of some discussion already, in
2 discussions with our attorneys. I guess the question is the
3 necessity for this relief given that the RA-1 should carry through
4 any of the use permissions that are allowed under the RF zones.
5 Maybe I don't understand that issue correctly. I think Ms. John
6 raised it in our Office of Zoning Legal Division, weighed in on
7 that. So I'm wondering, I mean maybe Ms. John wants to elaborate
8 on this but I just thought that was a question worth figuring
9 out because I don't -- if there's not a need for us to actually
10 approve this relief, I'd like to not have to take action for it
11 because we don't want to set that precedent. Ms. John?

12 CHAIRPERSON HILL: Mr. Teran, do you have any word with
13 the Office of Zoning as to why you're here?

14 MR. TEREAN: They just told us that within the RA-1 if
15 you're adding a new unit it requires special relief, special
16 exception and I think that's just across the board, and I have
17 another project in October, same situation. Existing basement
18 that we're just converting to rental units and I'll be back here
19 in October for that.

20 VICE CHAIR JOHN: So thank you, Commissioner May, for
21 invoking my name but I would ask -- I would add to what you just
22 said. I don't believe that there is any need for relief for this
23 case because, as Commissioner May discussed, § U 401 says that
24 any use shall be permitted as a matter-of-right in a RA zone
25 subjective to any applicable conditions and any use allowed in U

1 301, and then U 301 lists the uses permitted as a matter-of-right
2 in the RF zones. So if there is a two unit flat allowed in an
3 RF zone, then under U 401 that same two unit would be applied,
4 to unit building would be allowed as a matter-of-right in the RA-
5 1 zone and I think there is some misunderstanding in terms of
6 the scope of U 421.

7 But I think that in order to give effect to U 301 and
8 U 401, we have to interpret that provision in the way the Board
9 has traditionally done which is that if the flat is allowed in
10 the RF zone, then that same flat would be allowed in the RA-1
11 zone and that's just a very concise way of describing what has
12 happened. So I think this case should be dismissed because to
13 interpret it any other way would call into question the way the
14 Board has been interpreting U 301 and U 401 traditionally.

15 So that would be my two thoughts.

16 ZONING COMMISSIONER MAY: Yes. I appreciate that
17 analysis. You're much more articulate explaining the regulations
18 than I was. Ms. Thomas, does the Office of Planning, I mean, do
19 you understand this issue and do you have a take on this or did
20 anybody talk to the Zoning Administrator about it?

21 MS. THOMAS: Yes. The accessory apartments only apply
22 to the RF zone. In any other zone, any other unit we call it
23 special exception relief. This has also been established under
24 appeal 22-26 and to make a long story short, in that case it was
25 established that special exception relief is always applicable

1 in the RA-1 zone when you're adding a unit. It was an appeal
2 that was (indiscernible).

3 ZONING COMMISSIONER MAY: Ms. Thomas, there's somebody
4 in your -- your microphone is picking up on.

5 MS. THOMAS: (Indiscernible). Yes. Sorry.

6 ZONING COMMISSIONER MAY: Can anything be done about
7 that?

8 MS. THOMAS: Yes. (Indiscernible), yes, uh-huh.

9 ZONING COMMISSIONER MAY: Okay.

10 MS. THOMAS: In the office. Yes, sorry.

11 ZONING COMMISSIONER MAY: Yes. I appreciate that. So
12 I'm not familiar with that case that you're referring to but that
13 was -- was it identical to this? Was it just a --

14 MS. THOMAS: It was an issue where --

15 CHAIRPERSON HILL: It was a larger building, it was a
16 larger project.

17 MS. THOMAS: It was a larger project, yes.

18 CHAIRPERSON HILL: It was like an apartment building.
19 I can't remember what it was.

20 MS. THOMAS: Uh-huh.

21 CHAIRPERSON HILL: You know, and then it was upheld in
22 appeal, you know, I think everybody who was on that Board and so
23 now I don't know, I guess it seems like it's in conflict in that
24 when this does trigger getting, you know, the size of the project,
25 I don't know. I mean, Ms. John, I think you were there for that

1 appeal also.

2 VICE CHAIR JOHN: So the main issue with Yates as I
3 recall, and I don't know if the lawyers are listening and want
4 to correct me, but as I recall the issue was interpretation of
5 the term new residential for U 421 which speaks to a new
6 residential development and the issue was whether this applied
7 to the conversion, a conversion situation or an entirely new
8 structure or building and so the more important thing I think we
9 need to consider here though is that the entire structure of the
10 regulations contain this carry-over provision from one zone to
11 the next. So if something is permitted in a more restricted
12 zone, it would carry over into the less restricted zone. I think
13 I have that right. So if something's permitted as a matter-of-
14 right in the R1 zone, then the RF zone would continue that same
15 permission so, and then from the RF zone to the RA zone.

16 So if we were to come up with a different interpretation
17 here, we would be disrupting the whole structure of the
18 regulation. There's a rule that in constructing regulations and
19 statutes that the Board should try to interpret a provision so
20 that it doesn't really imbalance to another provision or the
21 entire regulation makes sense, and I think in this case the more
22 reasonable interpretation, there's some lack of clarity here, but
23 the more reasonable interpretation is the one that says the
24 specific provision U 401 and 301 when read together would mean
25 that if a two unit flat is allowed in the RF zone, then that same

1 | two unit flat should be allowed in the RA zone unless there's
2 | some other specific provision that would prevent it.

3 | But U 421 is not a very specific provision. It requires
4 | a bit of interpretation and so the Board's role is to interpret
5 | the regulations, specifically, you know, appeals carry more
6 | weight but in this case, we need to be sure that we are not
7 | interpreting the regulations in such a way that it would do
8 | balance to the rest of the regulation.

9 | I've talked a lot and maybe gone around in circles but
10 | you get the idea.

11 | ZONING COMMISSIONER MAY: I would agree with that
12 | interpretation. I think there might be something, you know,
13 | there's a little bit of awkwardness in the language of U 421. We
14 | talk about converting a principal dwelling to a flat but the
15 | thing is that the way I read the regulations, flats are allowed
16 | as a matter-of-right in RA-1 zones because of the laws of
17 | construction that you talked about. So, I mean, I don't know
18 | that it's necessary for us at this moment to simply dismiss this.
19 | I'm really curious about what the Zoning Administrator -- how the
20 | Zoning Administrator interprets this.

21 | So, Mr. Teran, did you talk to the Zoning Administrator
22 | directly about this, about doing this conversion?

23 | MR. TERAN: Yes. We submitted for a building permit
24 | and, I mean, they basically said it was very generic. He said
25 | pursuant to U 421.1, the proposed type (phonetic) of work can

1 only be approved by the Board of Zoning Adjustment and I asked
2 the reviewer and he said we needed to get BZA approval.

3 ZONING COMMISSIONER MAY: Okay. So, Ms. Thomas, you're
4 sort of raising your hand? Oh, we have Mr. Kirschenbaum.

5 MR. KIRSCHENBAUM: Yes. Hi. Jonathan Kirschenbaum for
6 the record. I just want to add a little clarity to this. There
7 probably is nothing about the nesting in the Zoning Code about
8 this issue, but those accessory apartment regulations only apply
9 to R zones because only one dwelling unit, principal dwelling
10 unit, is allowed in an R zone. That's why there are separate
11 and quite stringent regulations for accessory apartments in those
12 zones.

13 When we get to RF zones, two principal dwelling units
14 are allowed as a matter-of-right. That's why the accessory
15 building regulations don't apply to them because you're only
16 allowed to have two units. You can never have an accessory
17 apartment in an RF zone, no matter how you slice it or dice it.
18 Whenever you see two units in an RF zone, those are two principal
19 dwelling units. They're never accessory units and those two
20 principal dwelling units get a CO. The only time that zone
21 doesn't get a CO is when the R zone has one principal dwelling
22 unit and accessory unit.

23 So part of this is a CO issue. In the RF zones people
24 try to essentially do three units. DOB will try to do a flat
25 and then they'll try to do an accessory apartment to get around

1 | doing an apartment house conversion for only 53 units in the RF
2 | zone if you're doing an apartment house conversion.

3 | So these accessory building regulations are only for
4 | the R zones. If this house was in an RA-2 zone, then this sort
5 | of logic would put very stringent regulations on putting an
6 | additional dwelling unit. This sort of issue has come up because
7 | the RA-1 zone does have this special exception. In the RA-1 zone
8 | the only thing that's allowed matter-of-right is single family
9 | detached and semi-detached. Single family row and above all
10 | requires special exception. But --

11 | ZONING COMMISSIONER MAY: Where does it say that? Where
12 | does it specifically say that flats or apartments require
13 | (indiscernible)?

14 | MR. KIRSCHENBAUM: U 421 is very explicit about that.
15 | It says -- I don't have the regulation in front of me, I'm opening
16 | it up -- but U 421 states that, and the Board has not seen many,
17 | the Board is very used to seeing only apartment houses under U
18 | 421 because for a very long time the Zoning Administrator's office
19 | was unclear that buildings that are flats or single family row
20 | also needed the special exception. So that's why your also
21 | starting to see these a little bit more because the ZA's office
22 | has more accurately interpreted this regulation.

23 | But U 421 says all new residential development except
24 | those comprising all one family detached and semi-detached
25 | dwellings shall be reviewed by the Board. So the special

1 exception only exempts single family detached and semi-detached
2 and, you know, as Commissioner May is aware we are looking at
3 the RA-1 for a tax amendment as well.

4 ZONINGCOMMISSIONER MAY: Right. And this is certainly
5 something where there's some clarity is needed. But I'm not sure
6 why this would be considered new residential development when
7 --

8 MR. KIRSCHENBAUM: Right.

9 ZONING COMMISSIONER MAY: -- RF-1, I mean, the uses
10 that are allowed under RF-1, you know, all (indiscernible) to RA-
11 1 and so there isn't really a new residential development here.

12 MR. KIRSCHENBAUM: Right.

13 ZONING COMMISSIONER MAY: There's a matter-of-right
14 ability to have flats.

15 MR. KIRSCHENBAUM: Right. Well, that unfortunately
16 goes back to the appeal and what the appeal said sort of qualified
17 as new residential development. You know, prior to the appeal
18 there had been an interpretation by the Zoning Administrator
19 about I think if you were adding -- if you were sort of enlarging
20 the building no more than 50 percent and the total number of
21 units was ten or less, that would not be considered new
22 residential development and that was sort of, that interpretation
23 was sort of repealed as a result of the appeal to the Board.

24 So, yes. I think all of this combined, it's gotten a
25 little -- it's sort of gotten difficult to understand and, like

1 I said, we are working on, I mean, I'm case manager for the RA-
2 1 tax amendment and we are going to be addressing some of these
3 sort of disjointed issues at the moment.

4 I just want to also caution the Board about going down
5 this route. If you remember for the appeal I was the case manager
6 for then the Board application for that. The opposition attorney
7 tried to say that the RF -- because of this sort of nesting
8 redistricting, the attorney at the time tried to say, well, this
9 is a single family house that's being converted to an apartment
10 house and because of the nesting, it shouldn't apply. It should
11 then have -- it should then be subject to the 900 square foot
12 rule for an RF-1 apartment house conversion and the Board threw
13 that out because that didn't make sense. That only applies to
14 RF-1 rowhouse conversion, so apartment houses.

15 So I'm just, again, I do understand where the Board is
16 coming from. I'm just sort of cautioned about, sort of making a
17 determination of this particular case because we have invocations
18 (phonetic) for other issues with the nesting and we are addressing
19 this issue in a future tax amendment case.

20 VICE CHAIR JOHN: If I could jump in here. I absolutely
21 believe the Board needs to go in this direction because I think
22 what we would be saying is that it's -- you can have a two-unit
23 flat because that's what the application is for, a two-unit flat.
24 So are we going to say to everyone who wants to create a two-
25 unit flat that they need to come back to the BZA just because

1 they're in a RA-1 zone? I don't think that's reasonable and I
2 don't think that that's what the intent of the regulation is and
3 to go that way whatever confusion Yates may have caused, Yates
4 is an entirely different situation than what we have here. This
5 is a garden variety basic two-unit flat that people do in the
6 City all over.

7 MR. KIRSCHENBAUM: Uh-huh. I don't disagree with you.

8 VICE CHAIR JOHN: So I understand where the Office of
9 Planning is going, but I believe if we don't focus on what the
10 specific issue is here which is a request for permission to build
11 a two-unit flat in an RA-1 zone. That's all we're discussing
12 and if that --

13 MR. KIRSCHENBAUM: Understood.

14 VICE CHAIR JOHN: -- is right or not, and the
15 regulations clearly state under U 301 that you can build a two-
16 unit flat in an RA-1 zone because of that carry-over provision
17 and that's specifically what we're discussing here.

18 I think from a policy perspective it's useful for the
19 Commission to clarify U 421 because it was an issue in Yates.
20 The Board tried to clarify it in Yates in a context of conversion.
21 The fundamental issue in Yates was it was a new residential
22 development only applicable to new construction or does it also
23 involve a conversion and I believe there might have been some
24 discussion at that time about the other types of matter-of-right
25 projects allowed on the U 301 because there is also the RF-4 and

1 the RF-5 situation. That was a wrinkle the Board did not address
2 there. But I think that in this particular case, I cannot read
3 U 421, exclude the application of U 301 and U 401 because those
4 are the specific provisions that address this particular
5 situation.

6 So from a policy level, the Commission and the Office
7 of Planning might want to clarify U 421 in a very expeditious
8 way. But I can't see us making a blanket decision that Applicants
9 need to spend the money and the time to come to the Board to
10 create a two-unit flat in a RA-1 zone. It's just not consistent
11 with the regulations as a whole.

12 ZONING COMMISSION MAY: Yes. I agree with your
13 interpretation of how the regulations should be working here. I
14 think we want to make sure that we're doing two things. One is
15 that we don't want to increase the burdens on Applicants for RF
16 or flat projects like this. We actually don't want to
17 particularly victimize now this --

18 MR. SMITH: Mr. Kirschenbaum, can you mute yourself
19 really quick?

20 ZONING COMMISSIONER MAY: Yes. Yes, there's a lot of
21 chatter back there. We don't want this Applicant to become a
22 victim of this lack of complete clarify and since we don't --
23 since we have something already saying that this relief is needed,
24 I'm a little bit wary of suddenly dismissing it and saying and,
25 you know, and disagreeing with the Zoning Administrator because,

1 | you know, it is the Zoning Administrator's job to interpret these
2 | regulations. If they said this is the way it should be, we may,
3 | as the Board, may think that's wrong but I don't -- I'm really
4 | wary of us simply dismissing it because we don't want to this
5 | application in some sort of limbo.

6 | I, you know, I would be more inclined at this moment
7 | to consider granting the relief but noting that we don't think
8 | that it's necessary and note that there's an upcoming case where
9 | we've (indiscernible) in our RA-1 zones that will clarify this
10 | issue. I would be comfortable doing that, again, because I don't
11 | want Mr. Teran's client to be caught in an uncertain place.

12 | MR. SMITH: Yes. I'll expand on, you know, get my two
13 | cents on this particular case, Chairman Hill. Mr. May, I didn't
14 | interrupt you, did I?

15 | ZONING COMMISSIONER MAY: No.

16 | MR. SMITH: All right. Ms. John, I didn't agree with
17 | you that there is a large amount of gray area overlap here and I
18 | do agree that, you know, if there is a lack of clarity between U
19 | 401 and U421, you're correct.

20 | In this particular zone RA-1 does say that uses within
21 | the RF-1 zones are permitted by right so that does include that.
22 | But there is, and just putting the Zoning Administrator's hat on,
23 | I do believe the Zoning Administrator probably made this
24 | interpretation as a precaution due to unintended consequences as
25 | a result of the appeal before I was on the Board in July of 2020

1 and I think Mr. Kirschenbaum did speak to some of those unintended
2 consequences that I believe that the Zoning Administrator, the
3 current Zoning Administrator is trying to forestall some of what
4 could be unintended consequences that this Board probably doesn't
5 see regularly. The Zoning Administrator regularly probably deals
6 with questions about the matter-of-right nature of flats within
7 these zones as, you know, previously and I think as a result of
8 Yates to forestall the concerns, the Zoning Administrator and I
9 think many Zoning Administrators when they're in conflict you go
10 into more restrictive regulations as opposed to the more
11 permissive regulations to forestall some of those unintended
12 consequences and it sounds like to me what Mr. Kirschenbaum is
13 saying is probably, I may be loosely interpreting and not
14 explaining it well, I do believe that they are well aware of this
15 issue and they are looking at making adjustments.

16 So at this point in time I'm not inclined to overrule
17 the Zoning Administrator because there's maybe some things that
18 we're not seeing right now as a Board that I think we want to
19 continue to allow the Zoning Administrator that leeway and
20 allowing the Zoning Commission and the Office of Planning to look
21 at this regulation a little more closely and presumably in the
22 future this special exception may go away in the future, but
23 right now this doesn't stop us from acting on this special
24 exception and I'm inclined to stay with the Zoning
25 Administrator's interpretation for now and act on this special

1 | exception.

2 | CHAIRPERSON HILL: Okay. All right. I appreciate all
3 | of the discussion. For my two cents I think that what everyone
4 | has said is accurate. I think that what Ms. John, Vice Chair
5 | John, is stating is accurate as well as what Commissioner May and
6 | Mr. Smith is saying in that I don't want to put anybody in limbo.

7 | The part that I also don't like about trying to figure
8 | this out right now is that I remember the appeal and this is what
9 | I just can't recall exactly. I remember the appeal and I agree
10 | with our decision in the appeal. When I came it was like this
11 | big, I can't remember why that came up before. It was a much
12 | larger project and this is not and so I guess I would, with all
13 | due respect to Ms. John's side on the case of the -- my other
14 | two colleagues, it just in terms of nothing else is throwing
15 | things into limbo.

16 | I don't know, Ms. John, if that has changed your outlook
17 | or are you willing to go along with us in this particular capacity
18 | or what your thoughts are.

19 | VICE CHAIR JOHN: I agree that I would not want to
20 | penalize this Applicant. However, I would not like to send a
21 | signal to anyone that this is a correct interpretation of U 301
22 | and U 401 because I believe that U 421 is over-broad and I can't
23 | believe that the Commission intended to create a situation where
24 | in a very specific provision it would have authorized the matter-
25 | of-right project and in a very amorphous regulation following,

1 | which is very general, it would say and then by the way what I
2 | said in U 301 and U 401 is not applicable but I, without some
3 | specific statement.

4 | So the provision needs to be clarified, in my view, and
5 | I will defer to the lawyers. I don't know what's the correct
6 | thing in this case. I don't know because I don't want to send a
7 | message to the ZA or anyone else that this is a correct
8 | interpretation of U 421.

9 | ZONING COMMISSIONER MAY: Can I ask another question
10 | of the Office of Planning?

11 | CHAIRPERSON HILL: Sure. I guess also we did include
12 | some special language in the summary order, in the order that
13 | indicated the discussions that the Board is having. Go ahead,
14 | Commissioner May.

15 | ZONING COMMISSIONER MAY: Mr. Kirschenbaum, how quickly
16 | do you think that the Zoning Commission will be taking up the
17 | RA-1 case? You're muted.

18 | MR. KIRSCHENBAUM: Hopefully some time this Fall.

19 | ZONING COMMISSIONER MAY: Okay. Well, and I appreciate
20 | your muting. All right. Yes, so that's not very quick and that's
21 | not going to help Mr. Teran in this case or in his other case
22 | that's coming up. So I think that the -- I think I agree with
23 | you, Chairman Hill, that the best way to solve this is to
24 | basically state that, you know, because of the ZA's
25 | interpretation we have to grab this and reread, however the ZA's

1 interpretation is most likely wrong and will also be corrected
2 by future zoning regulation modifications and I think that's all
3 we can do.

4 I appreciate Vice Chair John, your concern about
5 sending a signal. We don't want to send that kind of a signal
6 but we're, you know, our hands are kind of tied with the ZA, you
7 know, basically coming up with this interpretation which, as
8 Board member Smith pointed out, is probably just being done out
9 of an abundance of caution.

10 So, yes, I think it's going to be in how we write the
11 order assuming that we all agree that this should be approved,
12 which I think we agree it should since we don't even think it's
13 needed.

14 VICE CHAIR JOHN: I'm fine with that recommendation
15 Chairman May, Commissioner May, so.

16 ZONING COMMISSIONER MAY: Well, darn. I thought I was
17 promoted for my last week.

18 VICE CHAIR JOHN: I know.

19 CHAIRPERSON HILL: Oh, you've been promoted a long time
20 ago in this little environment, Commissioner May.

21 Let's see. Mr. Kirschenbaum, when do you think when
22 are you guys going to do this again?

23 MR. KIRSCHENBAUM: Hopefully --

24 CHAIRPERSON HILL: Or trying to figure this --

25 MR. KIRSCHENBAUM: -- hopefully bring something to the

1 Zoning Commission for their consideration in the Fall.

2 CHAIRPERSON HILL: In the Fall?

3 MR. KIRSCHENBAUM: Yes, and I just wanted to say that
4 just in defense of the Zoning Administrator, this provision is
5 from 1970 and it was -- times have changed. It was very clear
6 that this was to prevent all sort of development other than
7 detached and semi-detached single family houses in the District.
8 So, you know, both from the sort of history of this and the way
9 the Zoning Administrator's interpreting this, it does appear to
10 be correct. It's just very, you know, 40 or 50 years later from
11 this tax amendment that changed this essentially and policy-wise,
12 council-wise we're in a very different place in the District and
13 that's why it may also feel sort of so disjointed.

14 But the intent of this will certainly allow single
15 family detached and semi-detached houses. It was essentially
16 just to, and if you want to know the history it was basically
17 stop all residential development east of the river that was not
18 single family detached and semi-detached and so it's just very,
19 you know, it's just very destructive from where we are now as a
20 District.

21 CHAIRPERSON HILL: Okay. All right. Well, that's very

22 --

23 VICE CHAIR JOHN: That's interesting.

24 CHAIRPERSON HILL: -- interesting.

25 VICE CHAIR JOHN: But we had the 2016 changes that

1 clearly created a structure where matter-of-right projects, you
2 know, from the residential zone carry over to the RF zone. So,
3 anyway, I've said enough. Thank you.

4 CHAIRPERSON HILL: Okay. All right. All right, we got
5 an exact same case like this at the end of the day so I'm just
6 kind of mentioning that again. All right. Well, it's unfortunate
7 yes, that this will continue on until November.

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

9 MR. YOUNG: We do not.

10 CHAIRPERSON HILL: Okay. Mr. Teran, is there anything
11 you would like to add at the end?

12 MR. TERAN: No, sir.

13 CHAIRPERSON HILL: Okay. All right. I'm going to go
14 ahead and close the hearing and the record, if we can just please
15 excuse everyone.

16 Okay. I don't know what to say. We all seem to think
17 that this is a regulation that should apply. Go ahead, Mr. May,
18 you want to talk?

19 ZONING COMMISSIONER MAY: I think we've already covered
20 the deliberation. So I'm prepared to just go ahead and make a
21 motion that captures what I think we should be doing.

22 So I would move that the Board approve case 20900 for

23 --

24 CHAIRPERSON HILL: 20890, 20890.

25 ZONING COMMISSIONER MAY: -- 20890, yes. Isn't that

1 | what I said?

2 | CHAIRPERSON HILL: I don't think so, but maybe.

3 | ZONING COMMISSIONER MAY: All right. Okay. 20890
4 | noting that the relief is -- has been deemed required by an
5 | interpretation by the Zoning Administrator and that the Board
6 | does not agree with that interpretation, like does believe it's
7 | necessary to grant the relief so that the Applicant can move
8 | forward with their project and then also note that the Zoning
9 | Commission plans to take up some modifications to the RA-1 zones
10 | in the near future to clarify this apparent disjointedness in the
11 | regulations.

12 | That's a little bit long but those are the thoughts
13 | that I think should be captured in the order, so.

14 | CHAIRPERSON HILL: May I ask for a second, Ms. John?

15 | VICE CHAIR JOHN: Seriously? Second.

16 | CHAIRPERSON HILL: You were the one that
17 | (indiscernible)?

18 | VICE CHAIR JOHN: Second, second, second.

19 | CHAIRPERSON HILL: Vice Chair John is saying it, right.
20 | There you go. Well, I mean, you know, right. Well, I have to
21 | get congruency (phonetic), what's it called? All right. The
22 | motion was made and second. Mr. Moy, you want to take a roll
23 | call, please.

24 | MR. MOY: When I call your name if you'll please respond
25 | to the motion made by Zoning Commission Peter May to approve the

1 application for the relief requested along with the statement as
2 he has stated for the record. I'm not going to repeat because
3 that was a little bit long but I will if I have to. But, and
4 that motion was second by Vice Chair John.

5 Mr. Smith?

6 MR. SMITH: Yes.

7 MR. MOY: Vice Chair John?

8 VICE CHAIR JOHN: Yes.

9 MR. MOY: Chairman Hill?

10 CHAIRPERSON HILL: Yes.

11 MR. MOY: Zoning Commissioner Peter May?

12 ZONING COMMISSIONER MAY: Yes.

13 MR. MOY: The Staff would record the vote as four to
14 zero to one and this is on the motion made by Zoning Commissioner
15 Peter May. The motion was second by Vice Chair John, who was
16 also in support of the motion as well as supporting the motion
17 by Mr. Smith and of course Vice Chair John, Chairman Hill and
18 Zoning Commissioner Peter May. We have no other Board Member,
19 so the motion carries on a vote of four to zero to one.

20 ZONING COMMISSIONER MAY: Mr. Chair and Mr. Moy, I
21 would just note that the Office of Zoning Legal Division can help
22 to help take the words that I sort of rambled out there and make
23 them into more coherent order language when the order is issued,
24 but I think they get the point of it.

25 MR. MOY: Absolutely, sir, yes. Will do.

1 ZONING COMMISSIONER MAY: Thank you.

2 CHAIRPERSON HILL: Okay. You want to do the next one,
3 Mr. Moy? It's too bad, Commissioner May, like, you will be
4 missed; right? Not even so much for this, which is great, like
5 I mean you all had a nice lively discussion but like the previous
6 case with the stairwell that's, you know, that might have been a
7 different situation had you not been around or maybe.

8 MR. MOY: All right. So the next case before the Board
9 is Application No. 20899 of VRNM, LLC. This is as amended a
10 self-certified application pursuant to Subtitle X § 901.2 for
11 special exceptions as follows: Subtitle U § 421 to allow a new
12 residential development for a five-unit apartment house, Subtitle
13 F § 302.2 and Subtitle F § 5206 from the FAR floor area ratio
14 requirements of Subtitle F § 302.1, Subtitle F § 5201 lot
15 occupancy requirements of Subtitle F § 304.1 side yard
16 requirements, Subtitle F § 306.6 and the court width requirements
17 Subtitle F § 202.1. Property is in the RA-1 zone at 214 Varnum
18 Street, NW, Square 3317, Lot 102. Thank you.

19 CHAIRPERSON HILL: Thank you. Ms. Wilson, if you can
20 hear me can you introduce yourself for the record?

21 MS. WILSON: Hi. Alex Wilson from Sullivan & Barros
22 on behalf of the Applicant in this case.

23 CHAIRPERSON HILL: Okay. Thank you. Ms. Wilson, if
24 you want to go ahead and present your case as to why you believe
25 your Applicant is meeting the criteria for us to grant the relief

1 requested. I'm going to put 15 minutes on the clock so I know
2 where we are, and you can begin whenever you like.

3 MS. WILSON: Great. Thank you so much. Mr. Young,
4 could you please pull up the presentation and I'll be presenting
5 with Will Teass from Teass Warren. Will, do you want to introduce
6 yourself for the record?

7 MR. TEASS: Good morning, Chairman and Members of the
8 Board. My name is Will Teass, a principle with Teass Warren
9 Architects.

10 MS. WILSON: Thank you. Would you please go to the
11 next page? Thank you.

12 The property is located in the RA-1 zone and is
13 currently improved with a single family dwelling. The proposal
14 is to add a third story addition, penthouse and rear addition.
15 The net increase will be four units for a total of five units,
16 one of which is an IZ unit. The building is currently a row
17 building and the Applicant is maintaining the existing condition
18 rather than set back the rear addition from the side lot line
19 and so that requires special exception relief from the side yard
20 requirements.

21 The Applicant is also seeking closed court relief and
22 lot occupancy relief, a court lot occupancy and side yard relief
23 are all permitted via special exception under F 5201. The other
24 two areas of special exception relief are related to the use as
25 this is an increase in the number of units in the RA-1 zone

1 requiring U 421 relief, as well as relief to provide voluntary
2 IZ which is reviewed under the general special exception
3 criteria.

4 In terms of agency outreach, DDOT has no objection.
5 The Applicant worked with OP on some design revisions and we
6 apologize to both the Board and OP if there is miscommunication
7 regarding the updated justification for the court relief. That
8 was added in our prehearing filing and is now in the record, and
9 so OP is recommending approval of all other areas of relief that
10 needed additional time to review the court relief so we believe
11 they've had enough time to review the filing and we'll also walk
12 through the court relief today.

13 In terms of community outreach, the Applicant presented
14 I believe twice to the ANC and had an S&D meeting, and we have a
15 letter from the ANC in support. That's in the record. We've
16 read their other comments and while I assume some of the requested
17 conditions can't be included in the BZA order, the Applicant does
18 agree to all of those things, primarily maintaining communication
19 with the ANC and neighbors throughout the permitting and
20 construction process.

21 In terms of applicable BZA requests, there are specific
22 design changes requested by the ANC and the design has been
23 revised according to those requests which are found on the last
24 page of the ANC report under No. 5 and Mr. Teass can walk through
25 those as well.

1 And so with that I'm going to turn it over to Mr. Teass
2 to walk through the plans.

3 MR. TEASS: Thank you, Ms. Wilson. If we could go to
4 the next slide, please.

5 As we get started with this project I wanted to broad
6 a little bit of context. So this is an aerial view that
7 illustrates the site location on Varnum Street on the south side.
8 It's on a square that's bounded between Varnum and Upshur between
9 2nd and 3rd. It's one of several smaller apartment buildings
10 that are located within a square in an area that's zoned RA-1
11 which does have a mixture of single family row homes, flats and
12 small apartment buildings.

13 Next slide, please. These are some photos of the
14 existing site. I wanted to call the Board's attention in
15 particular to the upper right hand image which shows the site of
16 the tan brick in the center of the image and then to the left at
17 210 and 212 Varnum two very similar projects have been undertaken
18 in previous years. These both are done by other developers, not
19 our client, but they speak too I think the intended use here
20 which is taking a single family rowhouse and converting it to
21 four units.

22 On the slide on the lower right is a view of the rear
23 yard. Most of the existing structures is obscured by the ivy
24 covered tree but I also wanted to just note on the right hand
25 side there which is to the east that the language of -- that's

1 | been developed with regard to adjacent properties and the
2 | engagement with the rear. Because these are multiple units
3 | there's often a means to access the rear yard and the parking
4 | that's provided which is something that we're doing here.

5 | The slide on the lower left I think shows a little bit
6 | more of the context where, as Ms. Wilson stated, are intended to
7 | keep the masonry front to side, keep the porch, keep the mansard
8 | roof and the dormer that really contribute to the streetscape and
9 | that are additions proposed to be set back from that.

10 | Next slide, please. Our proposed site plan, what is
11 | in green is the portion of the building that counts towards the
12 | building area. The buildings along Varnum are a little bit unique
13 | in that they're setback from the front property line, so instead
14 | of that property line being aligned with the front of the building
15 | it's actually the porch and the stairs down are actually entirely
16 | on private property.

17 | But as I stated, we are proposing a five-unit multi-
18 | family dwelling. One of those units will be an IZ unit. We are
19 | proposing to set the third floor back to provide some design
20 | relief for the existing mansard roof. We are proposing a zoning
21 | penthouse that are permitted in RA zones that provide a set of
22 | stairs and some ancillary recreation space to the upper level
23 | unit of the front unit. We do have a set of stairs at the rear
24 | that take you down to access the parking. We are providing two
25 | parking spaces and one of those spaces is quite a bit longer than

1 the minimum requirement and this is part of the discussion that
2 we had with the ANC about really trying to maximize the amount
3 of parking that we could physically provide.

4 We are providing three bike lockers. One of the
5 requests of the ANC was to provide additional bike storage which
6 we've done as well as to enclose the trash with a fence. We will
7 be putting fences on either side of the property and then we'll
8 have a roll-up gate that screens the parking from the adjacent
9 alley to the left.

10 Next slide, please. These are the two views of the
11 left hand side of the street elevation, again, keeping the
12 vocabulary existing rowhouse, pitched porch and porch roof,
13 mansard and a dormer window and then in this particular view what
14 is seemingly given the same weight but is actually setback are
15 the third floor addition and the zoning penthouse. On the right
16 hand side is our garden façade that illustrates a set of spiral
17 stairs that allows the upper two units to get down and access
18 the rear yard and the parking and the trash, and those sorts of
19 things.

20 Next slide, please. One of the unique aspects of this
21 project, and this came up a little bit I think in some of the
22 discussions that we've had with the Office of Planning, was that
23 our clients are interested in providing a real variety of ceiling
24 heights and so we have developed this relatively complex building
25 section to provide several of the units with, you know, 14 or 15

1 | foot ceilings. I think one of the comments the Office of Planning
2 | had was a concern about the ceiling height in the IZ unit on the
3 | ground floor. The way the previous section was cut it was so
4 | there's one portion that had a code minimum of seven foot six,
5 | but the bulk of that unit, that IZ unit, actually has a ten foot
6 | ceiling so this idea that we're creating these vertical spaces
7 | for the unit interiors that carried not just in the market rate,
8 | but also the IZ unit.

9 | Next slide, please. And with that, I'll turn it back
10 | over to Ms. Wilson to keep going with the presentation. Thank
11 | you.

12 | MS. WILSON: Great. Thank you, Will.

13 | MR. SMITH: Before you turn it over, you went through
14 | the floor plans. Where is the IZ unit located?

15 | MR. TEASS: The IZ unit is on the ground floor. So if
16 | we could maybe go back one slide I can walk the Board through
17 | this.

18 | So I don't have a pointer, but the area in the middle
19 | of the ground floor is the IZ unit. There's a dedicated cellar
20 | unit and there's another unit that has a portion on the cellar
21 | and a portion on the ground floor and then we have a unit at the
22 | front that has access to the rooftop penthouse and then the unit
23 | at the back also has access to the roof but through a set of open
24 | stairs. Does that answer the question?

25 | MR. SMITH: So it's the orange and the teal?

1 MR. TEASS: The orange tone is the IZ unit. The teal
2 behind it is part of unit 3.

3 MR. SMITH: Okay. Got you. Okay. Thank you. Sorry,
4 Ms. Wilson.

5 MS. WILSON: No worries. That was probably easier to
6 do that than rather than go back, so thank you.

7 In terms of the general special exception requirements,
8 the proposal is for a five-unit building in a residential
9 apartment zone and the area is made up of a mix of residential
10 uses, including multi-family buildings. Even with the requested
11 relief, the Applicant is still providing double the required rear
12 yard as well as one IZ unit and two parking spaces and the relief
13 will allow the building to remain a row building within a block
14 of existing row homes.

15 Next slide, please. With respect to the specific
16 requirements of U 421, all in-boundary schools have capacity,
17 public streets, recreation and other services exist to
18 accommodate the residents that can be expected to reside in the
19 project which provides an overall net increase of only four units.
20 The Applicant has provided sufficient information for the Office
21 of Planning to recommend approval under this section and all
22 relevant plan materials have been submitted.

23 Next slide, please. With respect to the lot occupancy,
24 court and side yard reliefs, the increase in lot occupancy will
25 only resolve approximately 290 square feet of additional building

1 area beyond what is permitted by right and well below what is
2 permitted via special exception which would be up to that seven
3 percent and this is at the rear and the Applicant, again, is
4 still providing double the required rear yard. The request for
5 side yard relief is to maintain the existing rowhouse addition
6 and the request for the closed court, the closed court is not
7 required but it provides additional separation between the
8 subject property and adjacent property. Accordingly, the
9 increase in building area from granting of relief show not unduly
10 compromised light and the air available to neighboring buildings.

11 For similar reasons, and the fact that there are no
12 windows proposed facing either neighboring property, the relief
13 shown similarly not unduly compromise the privacy and use and
14 enjoyment of neighboring properties. With respect to character,
15 again the relief will allow the Applicant to maintain the existing
16 row condition. The court should not be visible from public ways.
17 The Applicant is providing double the required rear yard, so even
18 with the lot occupancy relief, together with the proposed
19 addition, the original building shall not substantially visually
20 intrude upon the character, scale and pattern of houses along the
21 alley and the street frontage.

22 Next slide, please. That concludes our presentation
23 and we are happy to answer any additional questions.

24 CHAIRPERSON HILL: Okay. Thank you. Does the Board
25 have any questions of the Applicant?

1 Commissioner May.

2 ZONING COMMISSIONER MAY: Sure. Just the plans are a
3 little hard to follow, right, because you don't have, you know,
4 the floor is the same level on each level, but all of these units
5 are accessible from a front door; right? There's a door on the
6 street that allows you to access it. So can you explain how that
7 works a little bit in like through one of the sections, maybe
8 the section with the stairs in it.

9 MR. TEASS: Yes, and I think we actually have the plans
10 in the package behind the question slide. Maybe that might be
11 easier to start with.

12 ZONING COMMISSIONER MAY: No.

13 MR. TEASS: Okay. Maybe we can go back to the --

14 ZONING COMMISSIONER MAY: (Indiscernible) figure it out
15 and, I mean, I probably could have if I had spent more time
16 probably but, you know, there's only so much time you can spend
17 on these things. If you just walk us through like on slide 15
18 maybe because I think I'm seeing there's a common stairway there.

19 MR. TEASS: Yes. So this is the section through the
20 common stair. So when you arrive at the property there's a set
21 of stairs that takes you down into the cellar which is unit 1
22 --

23 ZONING COMMISSIONER MAY: Right.

24 MR. TEASS: -- and that's probably a very conventional
25 approach. Unit two is the IZ unit which is accessed directly

1 off that porch.

2 ZONING COMMISSIONER MAY: Right.

3 MR. TEASS: Units three, four and five are accessed
4 through the main door. So you go into a vestibule. You walk up
5 a flight of stairs to a landing and there's three doors, and you
6 can see in this section here the first door you encounter leads
7 into the unit four which is the unit that faces the front that
8 has the rooftop deck.

9 ZONING COMMISSIONER MAY: Right.

10 MR. TEASS: The second door is unit five and there's a
11 set of stairs that lead you up to the rear at the second and
12 third floors and then unit three is the unit that's at the rear
13 and that enters into a landing and then takes you down to the
14 main living level, and then we have two -- a level at the cellar
15 so it's a tri-level unit and there's a level of the cellar that
16 has the two bedrooms in it. Does that help?

17 ZONING COMMISSIONER MAY: Yes. I think, okay, yes, I
18 think I understand that now. But that confirms that for unit
19 three you're walking up a half a flight to get to the porch, then
20 you walk up another half a flight to get to the common hallway
21 and then you enter at the very top of the unit of a three level
22 unit. Is there a space in that -- at that top level or is it
23 just sort of an entry level?

24 MR. TEASS: It's just an entry where you have the --
25 to create the double height space in the living area for unit

1 three.

2 ZONING COMMISSIONER MAY: Yes. Well, if the objective
3 was to create some really unusual units I think you've succeeded.
4 Hopefully, they'll all do well. All right. I just wanted to
5 understand that a little bit better because it's a big complex
6 building and I don't think I have any other questions about this.

7 Thank you, Mr. Chairman.

8 CHAIRPERSON HILL: Thank you. Okay. Can I turn to the
9 Office of Planning?

10 MR. KIRSCHENBAUM: Yes. Good morning again, Chair Hill
11 and the Members of the Board of Zoning Adjustment. I'm Jonathan
12 Kirschenbaum with the Office of Planning.

13 We recommend approval of special exception relief for
14 the residential development for the IZ opt-in from the occupancy
15 in the side yard. We have had time since Monday to also review
16 the court burden of proof and we also recommend approval of that.

17 Our recommendation is based on the following condition;
18 compliance with the proposed site plan, landscaping plan and the
19 architectural plans, that it be built or not and I rest on the
20 record. Please let me know if you have any questions. Thank
21 you.

22 CHAIRPERSON HILL: Okay. Thanks, Mr. Kirschenbaum.
23 Mr. Young, is there anyone here who wishes to speak?

24 MR. YOUNG: We do not.

25 CHAIRPERSON HILL: Okay. I have a question

1 (indiscernible). You guys have a fifth unit, so what drove the
2 fifth unit? Like, I mean, how did, because so many times people
3 just do the four and they don't worry about the IZ unit. What
4 was kind of like -- what was the decision-making? Whoever can
5 answer because I'm just curious? Like, what would you have done
6 differently if you didn't even go for the fifth unit or why did
7 you decide to go for the fifth unit, may I ask?

8 MR. TEASS: I can take a stab at answering the question.
9 The idea here is that, you know, the typical arrangement which
10 is the unit per floor which leads to sort, you know, standard
11 living spaces that are generally aligned to the rear which I
12 think is the layout next door, and I think as we started to get
13 into the design where we created these double height spaces there
14 was some space that was opening up as a possibility and so unit
15 three really comes out of that just to capture some of that mode
16 of double height spacer and an addition living at the cellar
17 level.

18 CHAIRPERSON HILL: Okay. Because, I mean, from a zoning
19 perspective it's always curious as to how you can get maybe an
20 IZ unit; right? So, anyway, okay. Does anybody have any further
21 questions of the Applicant? Okay. I'm going to go ahead and
22 assume, Ms. Wilson, do you have anything you'd like to add at
23 the end?

24 MS. WILSON: No, thank you.

25 CHAIRPERSON HILL: I'm going to close the hearing and

1 the record. Mr. Young, if you would please excuse everyone?

2 I thought it was an interesting design, one that again,
3 it took me along the kind of get my head around. But I would
4 agree with the report that we were getting a little late from
5 the Office of Planning but I wanted you to have an opportunity
6 to review it and I'm comfortable with their analysis as well as
7 what the Applicant has provided as to how they're meeting the
8 criteria within the regulations for us to grant the relief that's
9 being requested, and also of note is the ANC report that they
10 are also comfortable with the project. I will be voting in favor.

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

12 MR. SMITH: No. I completely agree with your analysis
13 of this particular case and support the application as well.

14 CHAIRPERSON HILL: Chairman May, I mean, Commissioner
15 May?

16 ZONING COMMISSIONER MAY: I agree. I don't think I
17 have anything to add. I was just -- I wanted to understand a
18 little bit better. It is quite a very large building but the
19 fact that we don't have people speaking out in opposition and the
20 fact that ANC supports it, the fact that there is an IZ unit,
21 these are all positives when it comes to our consideration of
22 this, so.

23 CHAIRPERSON HILL: Okay. Vice Chair John?

24 VICE CHAIR JOHN: Thank you, Mr. Chairman. I don't
25 have anything else to add. I thought it was a very interesting

1 design and it took me a little longer last night to try to
2 understand what was happening. So I appreciate all of the
3 questions that clarified the project and I will be voting in
4 support.

5 CHAIRPERSON HILL: Thank you. All right. I'm going
6 to make a motion to approve Application No. 20899 as captioned
7 and read by the secretary and ask for a second. Ms. John?

8 VICE CHAIR JOHN: Second.

9 CHAIRPERSON HIL: The motion was made and seconded, Mr.
10 Moy. If you could take a roll call?

11 MR. MOY: When I call your name if you'll please respond
12 to the motion made by Chairman Hill to approve the application
13 for the relief that's being requested. The motion was second by
14 Vice Chair John.

15 Zoning Commissioner Peter May?

16 ZONING COMMISSIONER MAY: Yes.

17 MR. MOY: Mr. Smith?

18 MR. SMITH: Yes.

19 MR. MOY: Vice Chair John?

20 VICE CHAIR JOHN: Yes.

21 MR. MOY: Chairman Hill?

22 CHAIRPERSON HILL: Yes.

23 MR. MOY: The Staff would record the vote as four to
24 zero to one and this is on a motion made by Chairman Hill to
25 approve. The motion to approve was second by Vice Chair John

1 | who is also in support of the motion as well as support from
2 | Zoning Commissioner Peter May, Mr. Smith and of course Vice Chair
3 | John and Chairman Hill. We have no other Board Member
4 | participating. Motion carries four to zero to one.

5 | CHAIRPERSON HILL: All right. Thank you, Mr. Moy. You
6 | may call our next case, please.

7 | MR. MOY: The next case is Application No. 20900 of PSG
8 | 5 Fisher SPV, LLC. This application as amended, self-certified
9 | application for special exceptions pursuant to Subtitle X §
10 | 901.2. Under Subtitle C § 703.2 for the minimum vehicle parking
11 | requirements of Subtitle C § 701.5 and under Subtitle G § 409.1
12 | and G 1200 from the lot occupancy requirement of Subtitle G §
13 | 404.1. The property is located in the MU-4 zone at 1108 Montello
14 | Avenue, NE, Square 4070, Lot 84 and the only thing I have, Mr.
15 | Chairman, is that this morning ANC 5D submitted their report and
16 | I believe it is in the case record.

17 | CHAIRPERSON HILL: Thank you. I'm not really sure. Is
18 | it Ms. Rogers or Mr. Crain? Ms. Rogers, if you can hear me if
19 | you could introduce yourself for the record, please?

20 | MS. ROGERS: Thank you, Chairman Hill, and Members of
21 | the Board. For the record my name is Elizabeth Rogers with the
22 | law firm of Lerch, Early & Brewer. I'm pleased to be here today
23 | representing the owner of the property. We also have with us
24 | Adam Crain with 2Plys Architects, the project architect and Jacob
25 | Ansbacher representing the property owner.

1 CHAIRPERSON HILL: Ms. Rogers, if you want to go ahead
2 and walk us through your presentation and why you believe that
3 your client is meeting the criteria for us to grant the relief
4 in question. I'm going to put 15 minutes on the clock so I know
5 where we are and you can begin whenever you like.

6 MS. ROGERS: Great. Thank you. We are requesting
7 special exception relief from the minimum vehicular parking
8 requirement to facilitate the construction of a mixed use
9 predominantly residential building with nine apartment units
10 above ground floor, retail and also relief from the lot occupancy
11 requirements to allow for a modest building infill along the
12 street.

13 I have two just quick preliminary matters. We did make
14 some modification, very slight modifications to the building
15 design to respond to comments that were received just recently
16 from the Office of Planning. For example, relocating the trash
17 enclosure which also responds to one of the concerns of the ANC
18 raised and we've also submitted an updated self-certification.
19 The lot occupancy calculation was just brought to our attention
20 of the existing lot occupancy was just slightly off. It's exactly
21 84 percent, not 86.6 percent and we wanted to make sure the record
22 was clear but we're not changing the relief that we're seeking
23 from lot occupancy. So we submitted those on Monday. They're
24 Exhibits 51 and 50. I know they're past the 21 day deadline but
25 we request that they be accepted into the record.

1 CHAIRPERSON HILL: Okay. I'd like to have the items
2 linked into the record if they are not. But let me just look
3 here because I wanted to -- I see the updated architectural plans,
4 that's 51. Okay. All right. Okay. Go ahead and continue, Ms.
5 Rogers.

6 MS. ROGERS: Great. Mr. Young, if you can pull up our
7 presentation. I think it's Exhibit 49 in the record. You can
8 go to the next slide.

9 Perfect. So this is just an aerial showing the property
10 location. The property is located in the northwest quadrant at
11 the intersection of Florida Avenue and Montello Avenue, NE
12 located just north of the H Street corridor in the MU-4 zoning
13 district.

14 Next slide, please. These are images of the existing
15 conditions on the property. The property is a very small lot,
16 only about 2,500 square feet that's currently improved with a two
17 story commercial structure which is vacant and candidly has
18 become an eyesore in the community. As such, this property
19 presents an important opportunity to redevelop this site and
20 revitalize it and in fact we've heard from the community that
21 they're very much looking forward to seeing this much change and
22 revitalization move forward, given the challenges that are
23 created by having a vacant building.

24 Next slide. This is a slide that just kind of
25 illustrates how well served the property is by various forms of

1 transportation. There are several bus routes within a quarter
2 mile of the property including three priority corridor network
3 metro bus routes. The property is also located approximately
4 three quarters of a mile from the NoMa Gallaudet metro station
5 and there are numerous Capital bike share stations surrounding
6 the property as well as the property is located within a quarter
7 mile of the H Street Streetcar line.

8 Next slide, please. Additionally, the property is
9 within walking distance of numerous commercial services including
10 two grocery stores, a pharmacy, several banks and other various
11 retail and restaurant uses. For all these reasons, the property
12 is rated by Walk Score as a walker's paradise as daily errands
13 do not require a car. It's obviously very bikeable and also has
14 excellent transit service which is consistent with the
15 Applicant's expectation that a significant number of its future
16 residents will utilize transit to access this site.

17 Next slide, please. In support of the Mayor's goal to
18 deliver a significant amount of additional housing by 2025 in
19 conformance with the property's mixed use zoning, the Applicant
20 is proposing to redevelop this vacant commercial with a mixed use
21 predominantly residential project containing nine dwelling units
22 above ground floor retail. The project largely maintains
23 existing building footprint on the property with the exception
24 of some modest infill along the street which we'll talk about in
25 a moment, and complies with all developments of the MU-4 zone

1 with the exception of parking and lot occupancy. The special
2 exception relief we're requesting will facilitate this much
3 anticipated redevelopment and will significantly improve the
4 existing conditions around on the property as well as the
5 surrounding pedestrian experience at this prominent corner.

6 I would also note just for the record that the parking
7 relief the Applicant is seeking is fully consistent with relief
8 that the Board previously granted under a special exception
9 variance for this property back in 2015 which was just never
10 implemented.

11 Next slide, please. So as I mentioned we're requesting
12 relief both from parking and lot occupancy and I'll take each one
13 of those in turn. First, in terms of parking the zoning ordinance
14 requires one parking space to be provided on site. However,
15 given the configuration of the property there is not adequate
16 vehicular access to provide any parking on site. As you can see
17 from the image on the left, there is no alley access to this
18 property and while there is an existing curb cut on Montello
19 avenue, DDOT does not support the continuation of this curb cut
20 and vehicular access from Montello Avenue for really three
21 reasons. One, being how close that curb cut is to the signalized
22 intersection of Florida Avenue and Montello. The second is that
23 it conflicts with an existing bus stop, as you can see in the
24 image, and the third is a safety reason. It's just it would
25 create conflicts between pedestrians along this primary

1 pedestrian route with vehicles having to cross that pedestrian
2 zone.

3 So as a result of these existing conditions, the
4 Applicant is unable to provide parking on site and any
5 redevelopment of this property would require special exception
6 relief from the parking requirements and of course the Subtitle
7 C § 703 the Board may grant relief from the parking requirements
8 where at least one of the enumerated criteria are satisfied.
9 This application meets three of the criteria. Providing the
10 required number of parking spaces on site would be impractical
11 due to the physical constraints given that there is no alley
12 access. It's unnecessary given the lack of demand for parking
13 given the property's proximity to both transit options and
14 neighborhood services and also contrary to DDOT's regulations
15 which makes vehicular access from either Florida or Montello
16 infeasible. Those are criteria B, C, and H, under § 703.2.

17 Additionally, as set forth in our Burden of Proof
18 statement the project complies with the specific findings the
19 Board must make in granting parking relief under § 703. The
20 relief we're seeking is proportionate to the reduction in parking
21 demand given the property's location in close proximity to
22 multiple forms of transportation and neighborhood services.
23 These land use characteristics of the surrounding neighborhood
24 make it feasible for the Applicant not to provide parking on site
25 of this residence will utilize these forms of transportation to

1 access the site.

2 The relief is also limited to the number of spaces
3 that cannot physically be provided on site. As I mentioned, we
4 don't have alley access and DDOT will not permit use of the curb
5 cut on Montello Avenue and therefore, there's no ability to
6 provide parking on site.

7 Next, we'll move to lot occupancy. If you can go to
8 the next slide, Mr. Young. Thank you. This slide illustrates
9 those kind of modest building infill along the street that I was
10 mentioning in blue. The Applicant is seeking to square the corner
11 of the building at the intersection and also infill an indent
12 within the building on Montello Avenue to really bring the
13 building up to the street and kind of better define this prominent
14 corner. This results in a change from the existing lot occupancy
15 of 84 percent to 90 percent which we are seeking special exception
16 relief from. These changes will allow for and improve
17 architectural design and create a continuous street wall that
18 will better define and activate the pedestrian environment and
19 also result in more efficient interior space. Notably, I would
20 just point out that because this additional area is along the
21 street it won't have any impact on the surrounding neighborhood.

22 The relief that the Applicant is requesting satisfied
23 all the special exception criteria the Board must approve in
24 granting this relief. The special exception is in harmony with
25 the general purpose and intent of the zoning regulation and also

1 the specific purposes and intents of the MU-4 zone. The
2 comprehensive plan recognized that development creates tensions
3 and there are many competing goals, but that housing is one of
4 the most pressing issue facing the District and the region. The
5 comprehensive plan encourages the provision of additional housing
6 and development that reduces reliance on car trips which this
7 application accomplishes both objectives.

8 Additionally, the special exception will allow the
9 Applicant to achieve the intent of the MU-4 zone which is intended
10 to permit moderate density mixed use development and provide
11 facilities for shopping and business needs and housing with
12 access to rapid transit stops. Importantly, the requested relief
13 will not adversely affect the neighboring properties, rather the
14 requested relief will allow the Applicant to move forward with
15 much anticipated redevelopment of this vacant commercial
16 structure.

17 I would note the Applicant presented numerous times to
18 the ANC including the Zoning Committee. They also presented
19 specifically to the Commissioners during their monthly planning
20 meeting and also to the full ANC during their monthly meeting on
21 May 8th. At the ANC meeting, the ANC did not make a formal vote
22 on this application. Commissioner Reid did set forth a vote to
23 support the application but that motion didn't pass and so it is
24 our understanding that the ANC did not take a formal position.

25 As you can see from the record, there are numerous

1 letters of support from nearby property owners. Those are in
2 Exhibits 26 through 43. As I mentioned, we understand from these
3 conversations that we've had the community is very excited to see
4 this much anticipated redevelopment finally occur.

5 For all those reasons we believe the Board can make the
6 necessary findings to approve a special exception and grant
7 relief from the minimum parking and lot occupancy requirements
8 to facilitate this redevelopment and we support and agree with
9 all agency reports and respectfully request the Board's approval,
10 and we're here to answer any questions you may have.

11 MR. SMITH: You're on mute, Chairman Hill.

12 CHAIRPERSON HILL: Thank you. I said Ms. Rogers, I
13 mean you did a lot of outreach to the public. You've obviously
14 gotten a lot of people to submit letters in support which is
15 helpful. Why did the ANC not vote one way or the other, do you
16 know what kind of -- because it seems like you've got more support
17 for us from letters in support, I would think the community would
18 have at least participated in the ANC meeting but maybe that's
19 not what happened?

20 MS. ROGERS: I'll take the first shot at answering this
21 and then, Jacob, you know, or Adam can chime in. The ANC had
22 concerns about not providing parking on this site and wanted us
23 to provide parking through the alley. We don't have physical
24 access to that alley. We'd have to cross over another property
25 in order to get access to that alley which we can't do, we don't

1 have the right to do that. I think they were very hung up on
2 wanting to see parking provided on site.

3 The other thing that they had concerns with was the
4 location of the dumpster which I mentioned that we did relocate
5 and that was also a comment received from the Office of Planning.
6 So we have had to pull that away from the lower story units
7 further. It's obviously in our interest as well to make sure
8 that the trash has no impact on our future residents for
9 marketability purposes, and third I think their architecture is
10 suggestive and I don't -- there was some ANC Commissioners who
11 didn't appreciate the building architecture. But those were the
12 primary concerns they raised, not really, I mean, the only one
13 being the access to the alley. The rest were not related to the
14 relief we were seeking from the Board.

15 CHAIRPERSON HILL: Okay. That's fine. That's enough
16 for me. Go ahead, Mr. Smith.

17 MR. SMITH: Okay. My question to that last point
18 regarding the design and you're requesting a lot occupancy and
19 special exception. So what you're doing is increasing the bulk,
20 and I'm seeing that on this building there was, you know, some
21 kind of conceptual design that was more to the ANC's question
22 that was more in character with what you see in Trinidad over
23 there. It's there protecting that existing façade of that former
24 liquor store and pushed the building back from the front, right
25 on that curb and it's very difficult for me and the design, that

1 elevation that you submitted for me to see that visual impact on
2 that corner.

3 So I share the same concerns with the ANC has presented
4 to you. What made the Applicant back away from the design that
5 was a little bit more -- it did overwhelm that corner, because
6 can you speak to how you arrived at that particular design and
7 are you protecting that existing façade?

8 MS. ROGERS: Yes, Adam, I'll chime in and then I'll
9 turn it over to you. I mean, I think, thank you, Commissioner,
10 for your question. I mean, I think just to clarify that the
11 previous design was proposed by a previous Applicant for this
12 property and so this Applicant has a different design intent. I
13 think that this design that we're seeking really helps to kind
14 of make this corner much more prominent corner and to kind of
15 activate that corner through that building placement and kind of
16 defining the pedestrian experience better and creating less kinds
17 of nooks and crannies.

18 But, Adam, I'll let you chime in with kind of more
19 specifics.

20 MR. CRAIN: Yes, right. I would actually agree that
21 the whole goal here is activating that corner, making the building
22 engage with the streetscape a little more. I actually haven't
23 seen any of the previous designs that were submitted you're
24 referencing so I can't speak much on that as we weren't involved
25 in that.

1 But, you know, there's a small portion, maybe about
2 half of the front façade that we'll be retaining but, I mean, we
3 are drastically changing the front with the bay window, you know,
4 in accordance with DDOT's allowable projections and the whole
5 goal here is to bring the building out a little bit to make it
6 interact with the cars, the pedestrians, rather cutting half
7 (phonetic) of that is like a recessed (phonetic) corner that we
8 currently have with the liquor store. I think it's a little bit
9 more of a handshake for the street than the building currently
10 is.

11 MR. SMITH: So --

12 MR. CRAIN: Disregarding the design, you know, it's a
13 little bit more modern, lot more windows. Again, I can't speak
14 to what you're talking to as references previously submitted but,
15 you know, we're just trying to get a building with a lot of light
16 and a lot of interaction with the streetscape and that's where a
17 lot of the windows and the modernness comes from.

18 MR. SMITH: My concern is not the modernity of the
19 building. My concern, and it's very difficult to see here, given
20 what you have submitted I think it would be better to have had
21 an elevation from across Florida Avenue from that K Street pocket
22 part to see how this building interacts with. To me the building,
23 it sits right on that corner and it's three stories of just a
24 wall right on that corner.

25 So I disagree with the notion of activating. To me

1 | having some level of more setback at the second and third floors
2 | is more interesting at the street front to me to make this
3 | (indiscernible) trying to get additional density on this lot.
4 | But it would be helpful for me to have seen a better elevation
5 | to be able to -- for me to ensure that your compliance with some
6 | of the special exception criteria such as 901.2(b) where you're
7 | not adversely affecting the character of the neighboring
8 | properties there.

9 | So if you have something, that would be great. If you
10 | could submit that to the record for my education.

11 | MS. ROGERS: And, Commissioner Smith, I guess I'd add
12 | on to that a little bit. I mean, I think that that activation
13 | that Adam was speaking to really is kind of that interaction
14 | between the public and private realm, and so having had that
15 | ample transparency both at the ground floor and the floors above
16 | it kind of right at the intersection helps to create that
17 | interaction, that passive interaction that helps activate the
18 | street.

19 | Part of what we've heard is that this vacant use
20 | obviously was created for criminal activities, other activities
21 | the neighborhood is not looking to see here and so putting more
22 | e yes on the street and making that more of an activated corner
23 | is going to certainly discourage any of those activities that are
24 | occurring here and I think in terms of the other comment in terms
25 | of building (indiscernible), if you look at our -- it's page 13

1 of the updated plan, I think I also had it in the last page of
2 my presentation if Mr. Young wants to pull that back up -- our
3 building elevation that I think show that the Applicant, although
4 we are pushing more of the building mass towards the street that
5 was purposeful and the building really steps down toward the
6 adjacent apartment building in the rear to really promote
7 compatibility with that use. So we could have put more bulk over
8 there but it was felt that this was an intentional design decision
9 to kind of step the building down in the rear to promote that
10 compatible transition and, like I said, our intention was that
11 this would really actually be of benefit to the corner.

12 There still is substantial setback from the street.
13 It's about 22 feet from the curb on Montello Avenue and about 13
14 feet on Florida Avenue, So the building still is substantially
15 set back from the street.

16 MR. SMITH: Okay. I kind of disagree with some of
17 that. You know, when you say eyes on the street. You having
18 the stair step at the front does not make it any kind of eyes on
19 the street. You can have windows and, you know, some form of a
20 rooftop element there where you still have eyes on the street.
21 So I refute (phonetic) that portion but I do understand the
22 concern about stairs descending down to the rear parking to match
23 the heights of the existing townhomes in the lower density
24 residential portions of Trinidad off of Florida.

25 But to me, again, it would be helpful to see some of

1 | what you said about the setback or the width of the street along
2 | or the sidewalk along Florida Avenue, it would be great to have
3 | that elevation showing that so I can see that language that you're
4 | kind of, you know, communicating verbally.

5 | CHAIRPERSON HILL: All right. Ms. Rogers, if you can
6 | find anything and/or Mr. Crain.

7 | Commissioner May.

8 | ZONING COMMISSIONER MAY: Well, first of all thank you
9 | for focusing on these issues and gave me more to think about. I
10 | think the idea of building projecting bays at that corner as a
11 | way of engaging with the street, it's just nonsense. I don't
12 | buy that for a second and in fact I think it is an obstruction,
13 | it's more of an obstruction than the building that's there right
14 | now.

15 | One of the things that's sort of unique about Florida
16 | Avenue across the City is the sidewalk spaces are actually pretty
17 | narrow and so when you talk about a 13 foot setback it may seem
18 | like it's a lot of space but, you know, where the, you know, if
19 | you put in a setback from the corner where there would be a cross
20 | walk and then, you know, a couple more feet where there's a stop
21 | line it means that anybody who's stopping at the stop line, you
22 | know, you're also going to be in a car that's, I don't know, five
23 | or six feet, you know, the driver's view is from five or six feet
24 | further back from that and so I could easily see how it might be
25 | creating an obstruction for people looking up Florida Avenue as

1 | they pull out from that intersection and I think one of the, you
2 | know, one of the advantages of having that chamfered end of the
3 | existing building is that it actually improves that visibility a
4 | little bit. So I can understand what the ANC's concern is with
5 | regard to that.

6 | I also don't really understand needing a step down. I
7 | mean, immediately is there a taller, I mean, a short building
8 | immediately to the north of Montello? I didn't see a view of
9 | that in your presentation.

10 | MR. SMITH: The building is fairly tall behind the
11 | apartment in question, so to Mr. May's point you probably don't
12 | need step down. You can match that height and step down in the
13 | front.

14 | COMMISSIONER MAY: Yes. But I don't even know if you
15 | necessarily need a step down at the front, you know, getting
16 | extra density off of the bay projection at that corner may not
17 | be the best strategy and when you can, you know, there's other
18 | density, I mean, maybe I don't know. I don't want to try and
19 | redesign your building for you, all I'm saying is that that corner
20 | I think is a concern and these ideas that, oh, no, we need to
21 | put all the mass, you know, towards Florida Avenue because we've
22 | got to step down to buildings that are taller, that falls apart
23 | and the idea of a projected bay being something that's going to
24 | further engage the street, I don't know. That, like I said, that
25 | doesn't work. I'm not sure what I think of the project overall

1 at this point but I'm not buying a lot of that argument and I do
2 have some sympathy for the ANC's concerns.

3 Now, let me ask this. On the -- I'm flipping through
4 so many of these images == on one of your images there's a site
5 plan, right, and the site plan, yes, okay. So I'm looking at
6 Exhibit 49, that right? 49, oh, so that's your presentation.
7 You're showing a redeveloped sidewalk status with tree boxes and
8 new trees and all that sort of stuff. So it's your plan to
9 rebuild the sidewalk right up to the curb and including
10 eliminating the curb cut. Is that right?

11 MR. CRAIN: We've had a DDOT permit running
12 concurrently with this BZA application. So much of what you're
13 referring to there is actually at DDOT's direction and including
14 closing the existing curb cut -

15 ZONING COMMISSIONER MAY: They've asked us to make that
16 a condition which I would argue actually is something that we
17 could do but I just wanted to understand that that's what your
18 intention is anyway because there is an issue with the potential
19 for people to use that curb cut to like park on the public space
20 of the street. Happens all the time.

21 MR. CRAIN: Yes, I understand.

22 ZONING COMMISSIONER MAY: Okay. All right.

23 MR. CRAIN: And that requirement from DDOT is I think
24 one of the things that made us come to you guys in the first
25 place.

1 ZONING COMMISSIONER MAY: Okay. All right. I think
2 that's it for my questions. Thank you.

3 CHAIRPERSON HILL: Okay. Mr. Smith, what is it that
4 maybe they can show you that you'd be more interested in seeing
5 and is there something there that Mr. Crain or Ms. Rogers has
6 -- well, first, Mr. Smith, do you have, I mean, can you explain
7 to Mr. Crain what you'd like to see and maybe he can get us
8 something?

9 MR. SMITH: If he can send the elevation probably from
10 about the corner of 12th and Florida that would help, I think
11 help explain some of what Ms. Rogers was saying. But, you know,
12 you can show it to me but what I'm seeing visually is that I
13 don't necessarily believe that the notion of providing that much
14 mass along the corner of Florida and Montello is, I don't buy
15 the argument and I share the concerns of the ANC just as Mr. May
16 stated. So you can share them but I don't know if that makes me
17 comfortable with the design in the sense that it would meet the
18 special exception criteria as far as I can see. So you can submit
19 that but I think I probably wish the Applicants would probably
20 think a little bit more about the design.

21 CHAIRPERSON HILL: Okay. Well, let's see what happens
22 and I'll turn to the Office of Planning. I mean, my, and I'm
23 not trying to --

24 VICE CHAIR JOHN: Mr. Chairman?

25 CHAIRPERSON HILL: Sure, Vice Chair John. Go ahead.

1 VICE CHAIR JOHN: So I kind of agree, not kind of, I
2 agree with Commissioner May and Board Member Smith with respect
3 to the design at the intersection of Montello Avenue and Florida
4 Avenue and I'm looking at the color photographs, the three
5 photographs in Exhibit 5 that show what the issue is. So I'm
6 also sympathetic to the ANC because bringing the building out to
7 match the bay window does cut, you know, detract from the
8 visibility at that corner and so I would not be inclined to,
9 well, I would like to see that addressed if possible and I'm not
10 as concerned about, you know, the density elsewhere.

11 But for me that seems to be an issue, and then with
12 respect to, I believe it's the exhibit that shows the sidewalk
13 and the changes DDOT recommended. It's in the updated
14 architectural plans and I believe the third slide which would be
15 003 and I assume that this is what's being submitted for approval,
16 and so with respect to the condition I would note that the Board
17 does not take a favorable view to conditions that require closing
18 of sidewalks approved by DDOT but the client has already agreed
19 to it and it is submitted to the Board, not for approval because
20 the Board would not approve changes in public space and that's a
21 separate agreement with DDOT.

22 So I guess those are comments but I don't need any
23 other information because I believe this is clarification that
24 the proposed site plan already includes the changes recommended
25 by DDOT. So I don't think I'm asking for an answer, Mr. Chairman.

1 CHAIRPERSON HILL: Okay. Well, Ms. Rogers, again you
2 guys are already at 86.6 percent lot occupancy and can you clarify
3 again how much you're asking for?

4 MS. ROGERS: We're asking for, and that's part of the
5 correction submitted just for the record, they were actually at
6 84 percent lot occupancy. That's what the revised L (phonetic)
7 certification was submitted for because that was an error in our
8 initial application. But we are asking for 90 percent lot
9 occupancy to allow for I think it's about 150 square feet of
10 building infill that's behind those showroom encroachment that's
11 kind of in the main discussion. It's to square off the corner
12 within the property boundaries.

13 CHAIRPERSON HILL: Okay. All right. Okay. Let me
14 turn to the Office of Planning. I'll come back to you,
15 Commissioner May. Can I turn to the Office of Planning?

16 MS. THOMAS: Good afternoon, Mr. Chairman and Members
17 of the Board. This is Karen Thomas for the Office of Planning
18 and we re in support of the parking relief being requested as
19 well as the lot occupancy relief.

20 We did submit these plans to our urban design staff.
21 We had initial concerns about eyes on the street. We didn't
22 consider Montello Avenue to just be a wall, a street wall, so we
23 did ask for balconies. We support balconies along the Montello
24 Avenue street frontage for eyes on the street and we are in
25 support of this application.

1 CHAIRPERSON HILL: Okay. All right. Commissioner May,
2 you had your hand up? You're on mute, Commissioner May.

3 ZONING COMMISSIONER MAY: Yes, sorry. I wanted to
4 clarify something. Now I've already forgotten what it is. Oh,
5 I --

6 CHAIRPERSON HILL: I asked about the lot occupancy and
7 that she said was in the back of the building.

8 ZONING COMMISSIONER MAY: Right, right, right. So
9 you're basically --

10 CHAIRPERSON HILL: (Indiscernible).

11 ZONING COMMISSIONER MAY: -- in the existing building's
12 footprint but filling in the gaps between the existing bay fronts;
13 right? Is that what I understood you said?

14 MS. ROGERS: Yes. Right, exactly. The gaps that would
15 be behind the property line --

16 ZONING COMMISSIONER MAY: Right.

17 MS. ROGERS: -- it's 180 square feet basically at the
18 corner and on Montello.

19 ZONING COMMISSIONER MAY: Right. But you're not
20 actually preserving any of that façade?

21 MS. ROGERS: Right there at the corner -- Adam, you can
22 correct me if I'm wrong -- but at that corner that façade is not
23 being preserved.

24 ZONING COMMISSIONER MAY: All along Montello, you're
25 not preserving any of that façade, are you?

1 MR. CRAIN: No. Not too much of it, no.

2 ZONING COMMISSIOENR MAY: No, no, (indiscernible).

3 MR. CRAIN: Actually none of it, yes, none of it.

4 ZONING COMMISSIOENR MAY: Yes, none of it.

5 MR. CRAIN: Yes.

6 ZONING COMMISSIONER MAY: So explain to me again why
7 you need to have 90 percent lot occupancy if you're basically
8 blowing away the entire building except for half of the Florida
9 Avenue façade?

10 MR. CRAIN: Well, the goal there is really to I guess
11 build the property up to the property line where it isn't on the
12 corner which we can then, if we didn't do that we couldn't do
13 anything with DDOT and bay window projection, so that's why we're
14 bringing it up to the property line so that we can work with
15 DDOT on that.

16 ZONING COMMISSIONER MAY: Well, but you could make a
17 bigger rear yard and get yourself down to, you know, 80 percent
18 of whatever the limit is.

19 MR. CRAIN: We could but I know that would also then
20 present another problem that you guys have brought up with the
21 tallness and the building massing. Actually with the, I guess
22 the grandfathering and existing lot occupancy that keeps the
23 building mass low and more of it's on the first floor. If we're
24 were working within the allowable zoning regulations, then a lot
25 of that would be pushed up before bringing it back in.

1 ZONING COMMISSIONER MAY: But what you could, okay, so
2 you could stick with the existing grandfather lot occupancy which
3 I don't necessarily agree with the Zoning Administrator's
4 interpretation of those specific questions, but I don't really
5 have a concern about the building being taller toward the back
6 because you're not really stepping down to existing, you know,
7 two story buildings. The buildings to the north are bigger,
8 aren't they?

9 MR. CRAIN: I think on both sides. If we look at the
10 exhibit with the photos, yes, I mean we've got a tall building
11 to the left that had an upper addition done and the one behind
12 us looks like it has a third floor and a penthouse. So the step
13 down is more of a result of the existing lot occupancy and large
14 first floor which I guess, in turn, takes some of the FAR from
15 upper levels and distributes it to the first floor. So it's kind
16 of a terracing result.

17 ZONING COMMISSIONER MAY: But you're making it, I mean,
18 you're trying to like blame that on the site conditions but that's
19 just how you've designed the building?

20 MR. CRAIN: I wouldn't say I'm blaming it, I'm just
21 letting you know about the source of it. Yes, yes, it's good.

22 ZONING COMMISSIONER MAY: All right. But I mean this
23 is a very, it's a design decision on your part. It's not really
24 driven by the sensitivity to the context or anything like that,
25 it's just oh, yes, we have this existing condition so why don't

1 we take advantage of it in this way.

2 All right. That's it for my further conversation.
3 Thank you, Mr. Chairman.

4 CHAIRPERSON HILL: Okay. Well, you guys are giving me
5 more and more to think about, but anyway. Let's see. Where were
6 we? Mr. Young, do we have anyone wishing to speak?

7 MR. YOUNG: We do not.

8 ZONING COMMISSIONER MAY: Okay. All right. I don't
9 know where we are.

10 ZONING COMMISSIONER MAY: We do not have an ANC
11 representative?

12 CHAIRPERSON HILL: I don't think so. Is there someone
13 from the ANC, Mr. Young?

14 MR. YOUNG: We did not have one signed up.

15 CHAIRPERSON HILL: Okay. I mean, my thought on this
16 and, again, I mean we can go back and, you, Commissioner May,
17 you're like you don't want to get into redesigning the building,
18 right, and yet we're into redesigning the building and so, or at
19 least we're talking about it, right, and so, you know, the
20 additional, you know, my questions and I guess I don't know how
21 this -- and I, you know, would in fact again, you know, our
22 looking at the regulations that we're to be looking at in terms
23 of, I mean, I guess again the light and air issues I suppose or,
24 you know, the how it relates to the neighborhood, you know, with
25 that corner. I've learned a new word, whatever that little thing

1 is, what's it called, the little angle, Commissioner May?

2 ZONING COMMISSIONER MAY: The chamfer.

3 CHAIRPERSON HILL: The chamfer.

4 ZONING COMMISSIONER MAY: Chamfer, yes.

5 CHAIRPERSON HILL: Say it one more time?

6 ZONING COMMISSIONER MAY: Chamfer.

7 CHAIRPERSON HILL: Chamfer. Okay. Great. So I've
8 learned something new your last day. So the chamfer, you know,
9 whether or not, you know, how they design this differently then
10 they're able to do in a way that makes it so that they don't need
11 the additional lot occupancy, you know, if they were already at
12 the 94, you know, trying to keep it at the 94, I'm sorry, 84,
13 thank you, 84 and trying to keep the 84 as opposed to the 60
14 percent that's permitted matter-of-right, I guess that comes into
15 -- I'd have to I guess try to take a different look at this or
16 more of a look at it and I don't know whether, again, there's
17 anybody here that thinks that any way that we can kind of move
18 forward with this today or if you want to see more things which
19 therefore whether, Commissioner May, you're back with us for
20 another decision at some point in time which, you know, is also,
21 I guess I'm just trying to figure out where I am with this.

22 Do you need, Mr. Smith, I can't tell. Do you need more
23 information or not? You're currently a no.

24 MR. SMITH: I'm currently a no the way it's designed.
25 If the Applicant wants some additional time to reconsider their

1 design I'm fine with granting that time but, you know, we can
2 move forward with -- we can move forward with the vote but I will
3 not be in support.

4 CHAIRPERSON HILL: Okay. Commissioner May, is there
5 something that you want to see or how are you aware, I mean,
6 we're deliberating and I'm just kind of trying to figure out what
7 I'm going to do with this. I mean, if this thing had the chamfer,
8 I guess probably we'd be moving along here; right? So that is a
9 concern that and, again, the part that I find interesting I guess
10 is that this thing has a chamfer now so that's why we know what
11 the chamfer is and we're looking at the chamfer. If it was a
12 corner we wouldn't be asking for a chamfer and so I'm also just
13 kind of figuring out where I am with all this and, I'm sorry,
14 the Applicant's trying to figure out what's going on too.

15 So, just give me a second. We'll come back to the
16 Applicant but, Commissioner May, kind of where are you because
17 we've approved stuff like this before. So I just don't know,
18 you know --

19 ZONING COMMISSIOENR MAY: Yes. We --

20 CHAIRPERSON HILL: -- where we are with it. I'm not
21 saying that I might need more time just to scrub through it a
22 little bit more, but.

23 ZONING COMMISSIONER MAY: Right. So I think it's worth
24 it for the Applicant to take another look at this given the
25 concerns that were raised by the ANC to try to address the, you

1 know, the visibility of that intersection and, you know, it is
2 -- they can go back and look at this and try to demonstrate
3 through, you know, photographs or drawings or whatever that
4 visibility at that corner is not significantly affected by
5 removing the existing chamfer and also building out a bay, you
6 know, three feet deep into the public space. You know, they
7 could look at redesigning and look at proving the case that this
8 is currently fine, but I think that they need to do something to
9 address that.

10 You know, part of their case is about infilling on the
11 existing footprint which leads to lot occupancy relief. So this
12 is all connected; right? This is where they go from the existing
13 back of the building, they're filling in a whole bunch of space
14 and that's where they get to the, you know, the 90 percent lot
15 occupancy. I mean, bear in mind the existing chamfer is not off
16 of a projected bay. It looks like it's a projected bay but it's
17 actually, you know, the existing footprint is all within the
18 property line and they've chamfered away part of the space in
19 the, you know, on the existing property at that corner and so
20 what the Applicant is proposing to do is to build out from there,
21 I don't know, five feet or so, you know, of chamfer space to the
22 edge of the property line and at three feet in both directions
23 with a bay front.

24 So it is pretty significantly different what they're
25 proposing to do. So I think if they could take another look at

1 the design or they could try to prove to us that the ANC's
2 concerns are not really of concern, and if I need to come back
3 at a meeting toward the end of the month then I'd certainly be
4 willing to do that. But I don't want to have, like speeches at
5 the beginning again.

6 CHAIRPERSON HILL: Okay. Well, whatever. We'll talk
7 about when we talk about that. So, Mr. Crain, you, and Ms.
8 Rogers, I'll let you speak, but Mr. Crain, you understand what's
9 going on here; right?

10 MR. CRAIN: Yes.

11 CHAIRPERSON HILL: Okay. Ms. Rogers, go ahead.

12 MS. ROGERS: I was just going to ask a clarifying
13 question to make sure I'm understanding fully kind of what the
14 Board Members' concerns are. Whether the concerns are with kind
15 of squaring the building within the property boundaries which is
16 what's generating the relief for lot occupancy or if it's the
17 storefront projection beyond the property line, or both? It's
18 just helpful for me to understand because I'm trying, and the
19 second question, I'll sort of both ask them together because
20 they're related is to understand the concerns about visibility
21 just given that how much depth we have on Montello. Someone
22 who's turning right at that intersection certainly is looking
23 left, the building doesn't interfere with that, and someone
24 that's at the intersection of Florida making a left on to Montello
25 will have, there's 22 feet between the building and the curb on

1 Montello so adequate visibility to see that street.

2 So I'm just trying to make sure I understand what the
3 concerns are so that we're able to fully take that into
4 consideration.

5 CHAIRPERSON MAY: Who wants to try it first?
6 Commissioner May or Mr. Smith?

7 ZONING COMMISSIONER MAY: I'll go first. So I think
8 the answer, you know, is both; right? You're both filling in
9 the footprint which is what requires the relief and then you're
10 compounding that by putting a projected bay there and, you know,
11 I do think that there is a potential issue with visibility when
12 you, you know, for somebody who his coming down Montello and
13 navigating that intersection from that point because you can't
14 -- it's not clear that you can see far enough up Florida Avenue
15 and if you've been around there, you know, people tend to go
16 pretty fast on Florida Avenue, faster than they should and it's
17 not the safest feeling street because of the narrowness of the
18 sidewalks. I think some of that is getting better with some
19 improvements and bike lanes and things like that, but still it's
20 kind of rough there at night.

21 This is why I'm sympathetic to the ANC's concerns. So
22 it's now does that mean that you should maintain the line of
23 chamfer the way the existing building is now? I don't know. I
24 think you'd have to look at that and you have to look at the
25 sight lines. So I think what, you know, and by the way we're

1 really talking about ground level; right? So we're not talking
2 about the projecting bays above the first floor. I think that
3 if, you know, it's quite reasonable to do a chamfer that's just
4 a ground floor at the corner. That's a very common circumstance
5 and it actually can be a better way of engaging that commercial
6 space with the street, to have that kind of little, you know,
7 portico if you will that comes from having a chamfer at the
8 corner.

9 Again, it's something to look at and looking at the
10 site lines, whether or not you agree with that sort of design
11 approach or whether you, you know, want to prove the case that
12 the visibility is fine, I think you need to do some diagrams that
13 show, you know, when a vehicle is stopped at the stop line on
14 Montello, how much of Florida Avenue are they going to be able
15 to see once your building is there, and you can do that with
16 photographs or you can do it with diagrams.

17 CHAIRPERSON HILL: Mr. Smith?

18 MR. SMITH: Okay. Commissioner May took the words out
19 of my mouth. I think some additional, well, rethinking that
20 intersection at the ground floor, I think protecting the chamfer
21 is, you know, paramount I believe. Given the exact same reasons
22 that Mr. May stated, yes, there's been some substantial
23 infrastructure changes along Florida Avenue but the sidewalks are
24 fairly narrow through there. So I think building out into the
25 chamfer would cause some sight line issues for people turning off

1 of Montello to turn west on to Florida Avenue and I do believe
2 that pulling it back would help the retail engage with Florida
3 Avenue, given the narrowness of the sidewalks and right-of-way
4 through there.

5 So I do want to look into rethinking that design and
6 revise some additional elevations, renderings I would say,
7 elevations from the other side of Florida Avenue and we can see
8 -- better be able to see how this building would look if designed
9 along that point.

10 CHAIRPERSON HILL: Sure. Give me one second, Mr. -- I
11 don't know your last name but I'm assuming you're the property
12 owner. Vice Chair John, did you have anything additional on
13 that?

14 VICE CHAIR JOHN: So my only concern is the visibility
15 from Montello Avenue making a right onto Georgia Avenue, and I'm
16 looking at this photograph in Exhibit 5 that clearly shows what
17 the potential issue is. I'm not so concerned about, you know,
18 the height of the building and the rear.

19 So that's my main concern, so however that could be
20 achieved that would be fine. I just agree with the concerns of
21 the ANC in that respect and when I looked at the drawings in
22 preparation for today, it was not immediately clear to me that
23 there would have been a problem in pulling the building out to
24 the property line, but having looked at the ANC's report and
25 looking at, you know, how the sidewalks interact with that

1 intersection and the view from Montello turning on to Florida
2 Avenue, I would really like to see if the current footprint could
3 be maintained at that intersection and I'm going to try to use
4 the word chamfer because it's the first time I've heard it today.

5 So I think that it serves a good purpose in opening up
6 the view to motorists at both sides on the Florida Avenue and
7 Montello Avenue sides. So that's all I would really like to see.
8 I didn't have any other issues with the application beyond that
9 one thing.

10 CHAIRPERSON HILL: Okay. I don't know, I mean, I can
11 hear what my fellow Board Members are saying. I think the
12 Applicant does. Mr. Crain if you, you know, if you come back
13 with that chamfer, you know, on the first floor it sounds like
14 some of these concerns are going to go away and so, you know, I
15 think, I mean, we've all seen that all over the City and so,
16 okay, Mr., and I'm going to butcher the name, I'll let you
17 introduce yourself.

18 MR. ANSBACHER: It's Jacob. I'm working with the
19 developer, on behalf of the developer.

20 CHAIRPERSON HILL: What's your name, sir?

21 MR. ANSBACHER: Sure. It's Jacob Ansbacher.

22 CHAIRPERSON HILL: Okay. Great. Okay, Mr. Ansbacher,
23 go ahead.

24 MR. ANSBACHER: And I just wanted to say that concerning
25 the visibility there is a stoplight there. So if we're concerned

1 about the cars having visibility, that's something that should
2 help with that concern. As well as being on-site, there's a lot
3 of room on that sidewalk there. I would be happy to walk the
4 site with an ANC member so that we can either get this -- the
5 way this is going it looks like it's going to have a negative
6 vote here so I'd like the opportunity to show that and really
7 understand where the concerns are with the lot occupancy on that
8 --

9 CHAIRPERSON HILL: Okay, Mr. Ansbacher, I got you. We
10 passed the ANC point now and so, you know, you're now with us
11 and so, you know, I think that what has been requested by the
12 Board that Mr. Crain understands is what I think we're going to
13 want to see next and so I appreciate that. Go ahead, Ms. Rogers.

14 MS. ROGERS: I just want to clarify, Chairman, what you
15 were asking for in terms of us to revisit the drawing board.
16 What I hear the Board asking for is for exactly what you said is
17 maintain the chamfer only at the ground floor and that some of
18 the projections above could still be permissible, but that's what
19 the Board is asking to explore or to come back to Commissioner
20 May's point with additional documentation that shows the sight
21 lines visibility that would remain with our proposal. To sell
22 that to you are the two options that I've heard being asked of
23 us.

24 CHAIRPERSON HILL: It seems like, you know, explore a
25 little bit of what the Board has said and determine whether or

1 not you want to stick with the same design and show why our
2 concerns are not founded or I think, again, put the chamfer on
3 the first floor and see if that satisfies the Board's concerns.
4 Is that fair my fellow Board Members and if not, please raise
5 your hand?

6 ZONING COMMISSIOENR MAY: I would just add, I mean I
7 think with the fact of a traffic light at the intersection is
8 helpful but, you know, I think the Board is aware of that and
9 certainly the ANC is aware of that and so they still have that
10 concern and, you know, again you can try to prove the case but
11 I think looking at some design alternatives would be
12 worthwhile, and I don't think, again, I don't really want to
13 redesign your building for you but there is that. It's just
14 about trying to maintain a good sight line around that corner,
15 however you can do it.

16 CHAIRPERSON HILL: Okay. Anybody got anything else?
17 Okay, go ahead, Vice Chair John.

18 VICE CHAIR JOHN: I didn't see any renderings that
19 would help me understand that whole sight line issue.
20 Sometimes it's very hard for a non-architect to figure out
21 what's happening with these buildings without good renderings,
22 so that would help.

23 CHAIRPERSON HILL: Anybody else? Okay. Mr. Moy,
24 when can we get back here again and when can these submissions
25 come from the Applicant?

1 MR. MOY: I have two questions, sir. First, would
2 this be for a continued hearing or a decision-making or would
3 you want response from the parties --

4 CHAIRPERSON HILL: I think a continued hearing,
5 please.

6 MR. MOY: Okay. So you would want responses from the
7 parties, in this case it would be the response from the ANC?

8 CHAIRPERSON HILL: Sure.

9 MR. MOY: Okay. All right. All right. Then I think
10 the earliest you could bring this back to the Board would be
11 for the June 28th hearing.

12 CHAIRPERSON HILL: Okay.

13 MR. MOY: Next week may be too soon unless you want
14 to push it?

15 CHAIRPERSON HILL: No. I don't think --

16 MR. MOY: And there's no hearing on the 21st so
17 that's the problem.

18 CHAIRPERSON HILL: Right. What about, and there's no
19 hearing on the 5th, right, or no?

20 MR. MOY: The 5th?

21 CHAIRPERSON HILL: The 5th of July.

22 MR. MOY: Well, no, not after July 4th unless you
23 want a special hearing on July 5th.

24 CHAIRPERSON HILL: No, no, I understand, Mr. Moy, and
25 there's a chance I won't be here on the 28th so I'm just --

1 MR. MOY: (Indiscernible).

2 CHAIRPERSON HILL: I'm just not sure what, but then I
3 don't have to say goodbye to Chairman May, I mean, Commissioner
4 May again. Chairman, I'll call you the chairman for now.
5 You're chairman today. Chairman May, good to work with you.

6 So, let's see. Well, yes, go ahead, Ms. Rogers.

7 MS. ROGERS: I was just asking, this would be for the
8 architect on the spot. In terms of if we were able to adjust
9 the ground floor today and come back later to accommodate the
10 concerns, is that an option hearing that you're not here on the
11 28th and I unfortunately have to do childcare duties on the
12 28th because of (indiscernible). So unfortunately that's not a
13 good day.

14 CHAIRPERSON HILL: I don't -- I really don't mind
15 taking a look at this if they want to come back later in the
16 day. I am kind of trying to do a short day but if the Board is
17 comfortable with, I mean, you know, if we, the Board are able
18 to take a look at this and determine whether, you know, it's
19 our -- we're tasked with looking at the regulations. So I'm
20 comfortable seeing at the end of the day. What do you all
21 think?

22 MR. SMITH: I'm not comfortable with rushing this. I
23 would rather for the Applicant to, you know, mull over and
24 digest some of the items that we've heard and also digest a
25 little bit of what the ANC has written and, you know, think

1 about this a little bit more comprehensively and come back at a
2 later date.

3 CHAIRPERSON HILL: Okay. I'll agree with it, I'll
4 (indiscernible) with it. I just want to point out one thing
5 with the ANC. The ANC punted, like they didn't actually take a
6 stand; right? They --

7 MR. SMITH: I agree.

8 CHAIRPERSON HILL: -- I don't know (indiscernible),
9 but they didn't, they just said, you do it.

10 MR. SMITH: They didn't take a stand.

11 CHAIRPERSON HILL: Right.

12 MR. SMITH: But they did communicate some concerns.

13 VICE CHAIR JOHN: Right.

14 ZONING COMMISSIONER MAY: Yes, right.

15 CHAIRPERSON HILL: They didn't take a stand and so
16 we've got no additional great weight, whatever, to give.

17 VICE CHAIR JOHN: Right.

18 CHAIRPERSON HILL: This is not great weight. This is
19 it, you look at it.

20 ZONING COMMISSIONER MAY: No. We're required to give
21 great weight to the concerns raised by the ANC. If they didn't
22 actually do a vote --

23 CHAIRPERSON HILL: (Indiscernible) and I'm not
24 disagreeing but like there's a, legal tells me when there's a
25 certain way whether it's great weight or not great weight and I

1 don't think this counts as great weight within the regulations
2 but maybe I'm wrong. But either way, it seems like we're
3 giving it great weight so it doesn't matter. It's getting
4 great weight right now. Okay.

5 MR. MOY: Mr. Chairman?

6 CHAIRPERSON HILL: Yes.

7 MR. MOY: In terms of the schedule based on what I'm
8 hearing now, if the Board wants to push the timeline we could
9 possibly bring this back next week June 14th, if the Applicant
10 can make their filing by this Friday or sooner and any
11 responses by next Tuesday and then hear this as a continued
12 hearing on June 14th.

13 CHAIRPERSON HILL: Okay. Let's do that because I
14 don't necessarily think I'm going to be here on the 28th and
15 the 12th and the 19th are just jam awful days for us. So if
16 that's okay with everybody, let's go ahead and do that and it
17 still gives an opportunity for the ANC to weigh in and they can
18 let me, you know, the record will be left open for the ANC all
19 the way up until next Wednesday.

20 So make sure, Ms. Rogers, you communicate with the
21 ANC and see if you can get anything from them, that would be
22 helpful, at least today, at least you know that you've given it
23 to them; okay?

24 MS. ROGERS: Absolutely.

25 CHAIRPERSON HILL: All right. So we'll come back for

1 a continued hearing on the 14th?

2 MR. MOY: Yes.

3 CHAIRPERSON HILL: All right. Okay. Great. All
4 right, 6/14, continued hearing and the hearing will just be
5 continued on the issues and concerns that we've raised.

6 MR. MOY: Would you like to make that the first case
7 of the day, sir?

8 CHAIRPERSON HILL: Sure.

9 MR. MOY: Okay.

10 CHAIRPERSON HILL: Okay.

11 MS. ROGERS: Thank you very much.

12 CHAIRPERSON HILL: All right. Thank you. You guys,
13 I am trying to be efficient so let's try to do -- wasn't there,
14 Mr. Moy, was there a postponement or something or is that not,
15 there's nothing, I thought there was a postponement or
16 something with the next Board case?

17 MR. MOY: That's next week. That's the case for next
18 week.

19 CHAIRPERSON HILL: Okay. So that's four of four
20 cases?

21 MR. MOY: Yes, sir.

22 CHAIRPERSON HILL: Okay. So let's bring back that
23 one at least and try to get that resolved. The one that people
24 were going to come back, they were going to take a look at
25 something and did it get dropped into the record? It's 20888

1 and I think there was some new items that hopefully are in
2 there.

3 ZONING COMMISSIONER MAY: Mr. Chairman, is there
4 flexibility of when this is heard on the 14th, the last case,
5 when it's heard on the 14th?

6 CHAIRPERSON HILL: Sure. I don't (indiscernible).

7 ZONING COMMISSIOENR MAY: I have something in the
8 morning at 10 to 12. It would be better for me if it were the
9 first case in the afternoon.

10 CHAIRPERSON HILL: Sure. Mr. Moy, if you could share
11 that with the Applicant if they've already stopped --

12 MR. MOY: Yes, we'll contact them. I was going to
13 say, I noticed I was muted, the parties 20888 are in the
14 hearing room.

15 CHAIRPERSON HILL: Okay. Do you want to go ahead and
16 bring them in?

17 MR. MOY: The Staff is working on that now.

18 CHAIRPERSON HILL: Sure. I do see the revised plans.

19 VICE CHAIR JOHN: Mr. Chairman, I'm going to leave
20 you at this point. I assume we'll take lunch after this case?

21 CHAIRPERSON HILL: Yes.

22 VICE CHAIR JOHN: 12:36.

23 CHAIRPERSON HILL: Okay. Yes, Ms. John, we'll take
24 lunch and I'm trying to be efficient so maybe if we could come
25 back, let's try to take a half an hour Is that okay?

1 VICE CHAIR JOHN: Okay.

2 CHAIRPERSON HILL: (Indiscernible).

3 VICE CHAIR JOHN: Will someone just let me know when
4 we resume?

5 CHAIRPERSON HILL: We'll shoot for 1:15.

6 VICE CHAIR JOHN: Okay. Great. Thank you.

7 CHAIRPERSON HILL: Thank you. Bye bye. Oh, sorry,
8 go ahead, Ms. John.

9 VICE CHAIR JOHN: No.

10 CHAIRPERSON HILL: Okay. All right. Mr. Shirazi,
11 could you please introduce yourself for the record?

12 MR. SHIRAZI: Hi. Hamid Shirazi with Datis
13 Properties. I'm here on behalf of the Applicant for 20888.

14 CHAIRPERSON HILL: Okay. Great. Mr. Shirazi, I see
15 the changes that Mr. Pizzo put into the record. Do my fellow
16 colleagues see those changes and do you have any questions
17 about them?

18 ZONING COMMISSIONER MAY: I'm just looking at them
19 now.

20 CHAIRPERSON HILL: Yes, take your time.

21 ZONING COMMISSIONER MAY: Yes. I see everything. It
22 seems to be consistent with what we discussed.

23 CHAIRPERSON HILL: Okay. Mr. Pizzo, just to be clear
24 for me. The plans, in Exhibit 49 are the new plans and does
25 that include all the plans for all the floors you just added,

1 | you just changed that one cellar level plan; correct?

2 | MR. PIZZO: That's correct, yes.

3 | CHAIRPERSON HILL: So the building will be built as
4 | per the plans in Exhibit 49; correct?

5 | MR. PIZZO: Correct.

6 | CHAIRPERSON HILL: Okay. I just want to know what I
7 | do when I make my -- go ahead, Mr. Smith.

8 | MR. SMITH: Chairman Hill, just for the record he
9 | also changed the windows on the third floor off of
10 | (indiscernible) 8 or sheet 007 to remove the juliet balconies.

11 | CHAIRPERSON HILL: Okay. Great. Oh, thank you.
12 | Thanks for mentioning that and thank you for changing the
13 | whatever the colored pretty picture is that I actually
14 | understand that no longer has --

15 | MR. PIZZO: We changed the two renderings to
16 | supplement that too, so.

17 | CHAIRPERSON HILL: Right. You'd think I'd remember
18 | that's what they're called.

19 | MR. PIZZO: Okay.

20 | CHAIRPERSON HILL: Renderings are very helpful for
21 | this Board if you all didn't figure that out by now. Okay.
22 | All right. Anybody else? Okay. This was kind of a continued
23 | hearing, or it was a continued hearing. Mr. Young, is there
24 | anyone here wishing to speak?

25 | MR. YOUNG: We have the one witness earlier that

1 | already testified, but other than that no.

2 | CHAIRPERSON HILL: Okay, okay.

3 | MR. YOUNG: I'm not sure if you wanted me to bring
4 | her back though.

5 | CHAIRPERSON HILL: If she's there. Is she there?

6 | MR. YOUNG: Yes.

7 | CHAIRPERSON HILL: Yes, go ahead. We're going to
8 | have a continued hearing, we'll have to be here.

9 | Hello, Ms. Palmer. Can you hear me?

10 | MS. PRINCE: Yes, this is Ms. Prince.

11 | CHAIRPERSON HILL: Oh, Ms. Prince. I'm sorry, I
12 | thought it said Palmer.

13 | Ms. Prince, could you introduce yourself for the
14 | record again, please?

15 | MS. PRINCE: Cartheria Prince Palmer, 445 Park Road,
16 | Northwest.

17 | CHAIRPERSON HILL: Okay. Ms. Prince, I think you're
18 | probably, and I appreciate you sticking around. The one
19 | concern about privacy issues have removed those sliding doors
20 | on the juliet balconies just for that to be windows and I think
21 | you've also seen the discussion about the access to the areaway
22 | in the front.

23 | Is there any testimony or further testimony you'd
24 | like to give?

25 | MS. PRINCE: At this moment no, because I think that

1 | this is probably going to pass regardless of what I have to say
2 | so I appreciate your time.

3 | CHAIRPERSON HILL: Okay. Thanks, Ms. Prince. All
4 | right. I'm going to go ahead and make -- does anybody have any
5 | questions of the witness? I going to excuse the witness then,
6 | and for the record for the witness, I mean the juliet balconies
7 | got taken away because of I think impartial testimony from the
8 | concerns of the neighbor but I don't think a full, they might
9 | have been taken away anyway but definitely the testimony from
10 | the neighbor had something to do, definitely had something to
11 | do with that third story. So, okay.

12 | Mr. Shirazi, do you have anything you'd like to add
13 | at the end?

14 | MR. SHIRAZI: I'm sorry. What was that question
15 | again?

16 | CHAIRPERSON HILL: Is there you'd like to add in
17 | conclusion?

18 | MR. SHIRAZI: No, nothing. Nothing more, Mr.
19 | Chairman.

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

23 | Okay. Since I've been talking a lot would somebody
24 | else like to start deliberation?

25 | ZONING COMMISSIONER MAY: Is there a lot more to say

1 about this one?

2 CHAIRPERSON HILL: No. Whatever you all want to say,
3 go ahead.

4 ZONING COMMISSIONER MAY: I would love to have Board
5 Member Smith kick things off rather than me talking all the
6 time.

7 CHAIRPERSON HILL: Sure. Board Member Smith.

8 MR. SMITH: Unlike Chairman Hill, not Chairman Hill,
9 Mr. May saying that no, there isn't too much we can talk about.
10 The Applicant has returned to us in light of some of the
11 concerns that were raised by the Board and also by the neighbor
12 on Park regarding privacy, the Applicant has revised the
13 application to include the stairs to make the basement areaway
14 more of a useful space as well as removing the juliet balconies
15 from the third floor to protect the privacy of the adjacent
16 property owners to the east.

17 Given these particular changes to what's submitted in
18 the record, also based on the consideration of the Office of
19 Planning's planning staff and the Board, I do believe that the
20 Applicant has met the burden of proof as to granting the
21 various special exceptions that they are requesting.

22 I thank the Applicant for taking the time to address
23 the concerns of the neighbor, and also for its revising and not
24 only revising the application but also providing some
25 additional renderings. I believe me and Mr. May had concerns

1 about the penthouse and the Applicant has revised the penthouse
2 to remove an extension of the penthouse that was closer to the
3 front of the building, strengthen the sides of the penthouse so
4 it is still a useful penthouse for all three units to be able
5 to access the rooftop building but also it does not create an
6 undue adverse impact on the streetscape from Park Road in that
7 you would be able to see that penthouse from the front of the
8 building. So the building more so reads at the same height as
9 the attached building to the west there.

10 So I believe that the Applicant has met the burden of
11 proof under criteria of U 320, Subtitle E 5207, Subtitle E 205,
12 Subtitle E 206 as well as the general special exception
13 standards under Subtitle X 901, Subtitle C 1501 for the
14 penthouse usage given the redesign of the penthouse here as
15 well as Subtitle C 703 for minimum parking standards and
16 Subtitle C 702 for the minimum parking requirements, as
17 specified in the zoning regulations.

18 With that, I will support the application. I will
19 note that DDOT has no objections and the ANC is also in support
20 of the application.

21 CHAIRPERSON HILL: Great. Thank you very much, Mr.
22 Smith, for that analysis.

23 Commissioner May?

24 ZONING COMMISSIONER MAY: Yes. Thanks, that was a
25 great recap of the totality of issues. I think for the sake of

1 the abutting neighbor who had concerns about the property, I
2 would just want to reiterate that the relief that's being
3 requested, really only one component of that I think is, really
4 bears on the concerns that have been presented which has to do
5 with the fact this building is going to get bigger and get a
6 little bit closer to their property. The little bit bigger
7 part where we are granting relief or we will be granting relief
8 to go, you know, beyond the ten feet that's allowed to 18 feet
9 has some impact on the neighboring property overall, but I
10 don't think it's undue.

11 But I think that the bigger impact that they're
12 concerned about has to do with the fact that the building is
13 growing wider and is getting closer to their property next door
14 and that does not require any relief, and they have done what
15 they, you know, with other -- they've taken actions with regard
16 to the property to try to mitigate privacy concerns by
17 eliminating balconies and eliminating the juliet balconies and
18 I think the rest of relief is not something that the neighbor
19 who is in opposition has really spoken to, like the rooftop
20 elements. So, and there were the parking concerns for that
21 matter.

22 So I do think that it's appropriate that this Board
23 support this project as proposed.

24 MR. SMITH: Can I add one additional --

25 CHAIRPERSON HILL: Go ahead.

1 MR. SMITH: -- in light of what Commissioner May was
2 speaking on. Some of the (indiscernible) that we heard from
3 the parties, from the neighbor in opposition.

4 Another concern that was raised by the neighbor in
5 opposition beyond privacy was light and to Mr. May's point, if
6 you look at the matter-of-right additions that can be done, the
7 building can be standing closer to the property line but also
8 can project back ten feet. Looking at ten feet beyond the rear
9 of the adjacent property or you know, Ms. Prince's property,
10 the matter-of-right addition would still have an impact on
11 light and air and what was shown in the information submitted
12 by the Application that with the 18 foot addition, that
13 additional impact relating to light would be further in the
14 rear of the neighboring property, so within the yard further in
15 the rear yard. So the matter-of-right addition would still
16 have an impact on light.

17 So I do believe what was presented within the record
18 is light impacts do not rise to the level of an undue adverse
19 impact given where it would be located, given that any matter-
20 of-right addition on any of the surrounding properties would
21 have a similar impact on light. So with that, I agree with Mr.
22 May that we -- I do believe they've met their burden of proof,
23 I would grant the special exception.

24 CHAIRPERSON HILL: Okay. Thank you. I'm going to
25 make a motion to approve application No. 20888 as captioned and

1 read by the secretary and ask for a second. Commissioner May?

2 ZONING COMMISSIONER MAY: I'll second that.

3 CHAIRPERSON HILL: Motion made and seconded, Mr. Moy.
4 If you could take a roll call, please?

5 MR. MOY: Yes, thank you. When I call your name if
6 you'll please respond to the motion made by Chairman Hill to
7 approve the application for the relief requested. The motion
8 to approve was second by Zoning Commissioner Peter May.

9 Mr. Smith?

10 MR. SMITH: Yes.

11 MR. MOY: Zoning Commissioner Peter May?

12 ZONING COMMISSIONER MAY: Yes.

13 MR. MOY: Chairman Hill?

14 CHAIRPERSON HILL: Yes.

15 MR. MOY: And we have two Board members not
16 participating. Staff would record the vote as three to zero to
17 two and this is on the motion made by Chairman Hill to approve.
18 The motion to approve was second by Zoning Commissioner Peter
19 May who was also in support of the motion to approve as well as
20 Mr. Smith and of course Chairman Hill. The motion carries on a
21 vote of three to zero to two.

22 CHAIRPERSON HILL: Okay. Thank you. All right, you
23 guys. Let's try to be 1:15. We'll see what happens. Thank
24 you.

25 (Whereupon, there was a recess.)

1 CHAIRPERSON HILL: I can't hear you, Mr. Moy, you're
2 on mute.

3 MR. MOY: Okay. Oh, my God. You guys are early.

4 CHAIRPERSON HILL: No, I just -- I got some things
5 I'm trying to accomplish.

6 MR. MOY: Okay, I'm sorry.

7 CHAIRPERSON HILL: That's all right.

8 MR. MOY: I'm sorry if I kept you waiting.

9 CHAIRPERSON HILL: No.

10 MR. MOY: Is the Vice Chair here already?

11 CHAIRPERSON HILL: Yes, we're all good. We're all
12 here.

13 MR. MOY: Oh, geez, I'm sorry.

14 CHAIRPERSON HILL: It's all right.

15 MR. MOY: All right. Let me know when you want me
16 to get started.

17 CHAIRPERSON HILL: Okay. Go ahead, please and call
18 our next case. I think it's 20901.

19 MR. MOY: The Board has returned to its public
20 hearing session after a lunch recess and the time is now at or
21 about 1:22 p.m.

22 The next case before the Board is Application No.
23 20901 of Kay Properties, LLC. This is a self-certified
24 Application for special exception pursuant to Subtitle X §
25 901.2 under Subtitle C § 703.2 from the minimum vehicle parking

1 requirements Subtitle C § 701.5. Property is in the RA-2 zone
2 at 1448 Fairmont Street, NW, Square 2665, Lot 48 and that's all
3 that I have other than the fact that we do have other than the
4 fact that we do have someone signed up to give opposition
5 testimony and the two affidavits in the record 29 and 30
6 respectively, hosting and maintenance are late filings, and
7 that's all I have, sir.

8 CHAIRPERSON HILL: Okay. Great. Unless the Board
9 has any issues I do want to allow those items into the record
10 because I want to be able to look at them, so please if you
11 would, I do see them in the record. Please allow them into the
12 record.

13 Ms. Wilson, if you can hear me if you can introduce
14 yourself for the record?

15 MS. WILSON: Alex Wilson from Sullivan & Barros on
16 behalf of the Applicant in this case.

17 CHAIRPERSON HILL: Okay. If you could go ahead and
18 walk your client's application and why you believe they're
19 meeting the requested relief for the criteria for us to grant
20 relief. I'll put 15 minutes on the clock so I know where we
21 are and you can begin whenever you like.

22 MS. WILSON: Great. Thank you so much. Mr. Young,
23 could you please pull up the presentation? Thank you.

24 And could you go to the next slide, please. Thank
25 you. The property is located in the RA-2 zone and currently

1 improved with a three story building. The most recent of those
2 were a rooming house with four rooms. One adjacent building
3 has already been converted to condos and the other is in the
4 process of being converted and the area is made up of a mix of
5 residential uses with multi-family buildings, flats and single
6 family homes given that this is a residential apartment zone.

7 The proposal for the subject building is to demolish
8 portions of the rear wall and construct a new four story
9 addition at the rear and four story addition on top of the
10 existing building footprint which would provide a total of nine
11 residential units. The project would otherwise be permitted
12 entirely by right. The footprint is by right except the
13 Applicant has a parking requirement of half of the parking
14 space which is rounded up to one space and the property has no
15 alley access from the rear. OP is recommending approval. DDOT
16 has no objection and ANC 1A voted unanimously to support.

17 Next slide, please. These are photos of the subject
18 property. The front façade is being maintained and the
19 Applicant is proposing to remove some of that rear portion and
20 then rebuild the rear with an addition.

21 Next slide. This is an overview of the area showing
22 the nearest amenities and the Walk Score is 93 out of 100. The
23 Columbia Heights metro station is a seven minute walk, about
24 four tenths of a mile on foot.

25 Next slide, please. So I don't have the architect or

1 the owner here with us today so I'll walk through the plans.
2 Again, the visible building itself is permitted by right.
3 We're seeking the parking relief so it's a high level overview.
4 This sheet shows grading (phonetic) views of the proposal.

5 Next slide, please. This is the lower level or --

6 CHAIRPERSON HILL: Ms. Wilson?

7 MS. WILSON: Yes.

8 CHAIRPERSON HILL: Let me skip you to the
9 regulations.

10 MS. WILSON: Okay.

11 CHAIRPERSON HILL: I see your plans. I mean, you're
12 talking about the parking relief.

13 MS. WILSON: Right. Exactly. I, you know, sometimes
14 I know you want more detail (indiscernible).

15 CHAIRPERSON HILL: No, I appreciate it. I appreciate
16 it.

17 MS. WILSON: Right. So in terms of the general
18 special exception criteria the use itself and the proposed
19 building bulk and density are permitted as a matter-of-right in
20 the RA-2 zone. The adjacent buildings have similar density.
21 In terms of use of neighboring properties we did read the
22 comments in the record from one of the condo owners next door
23 and then there was a resident I think a block over who made
24 some comments and so the comments didn't appear to be specific
25 to this project, they were primarily related to concerns over

1 increase, that's the general construction and how that impacts
2 parking generally, the fact that this building has been
3 designed to attract residents without cars given the size of
4 the units should address the concerns over additional traffic
5 because providing parking on site, even if it were feasible
6 with this development which it's not in this case due to the
7 width, would take away at least one on-street parking space.
8 So this request should have no impact on parking and traffic
9 compared to a by-right project that would provide one off-
10 street parking space, but take away at least one on-street
11 parking space. So the proposal should not have an adverse
12 effect on the use of neighboring properties.

13 Next slide, please. And then in terms of the
14 specific criteria for approval, there is no alley access. DDOT
15 prohibits the curb cuts for only one off-street parking space
16 for the reasons that I've just explained. So at best it would
17 be a net of zero spaces even if we could provide one space and,
18 again, the property is quite near a (indiscernible) driveway to
19 the rear of the property would render development infeasible
20 given the weight.

21 In addition, the inability to provide a curb cut, the
22 lack of alley access and the fact the property is also served
23 by mass transit, the land use characteristics of the
24 neighborhood also minimize the need for required parking
25 spaces, the walk score is 93, and the area is considered a

1 walker's paradise so the anticipated future residents will be
2 people looking for a walkable or bikeable city living
3 experience without vehicles and the building has been designed
4 to attract those types of residents as there will only be one
5 or two people realistically occupying each unit.

6 That concludes my presentation and I'm happy to
7 answer any questions.

8 CHAIRPERSON HILL: All right. Let me first turn to
9 the Office of Planning.

10 MS. MYERS: For the record, Crystal Myers with the
11 Office of Planning.

12 The Office of Planning is in support of the requested
13 parking relief and we can stand on the record of the staff
14 report. Thank you.

15 CHAIRPERSON HILL: Okay. Does the Board have any
16 questions of the Office of Planning or the Applicant?

17 Go ahead, Mr. May or Commissioner May.

18 ZONING COMMISSIONER MAY: I just want to do a reality
19 check here and this doesn't relate specifically to the relief,
20 but this project is going to include one level two units below
21 the cellar; right? There's a cellar level with two units and
22 then there are two more below that.

23 MS. WILSON: Correct.

24 ZONING COMMISSIONER MAY: Okay. I mean, it doesn't
25 this really affect the relief needed but it does mean that

1 | there are two more units than any ordinary project would
2 | include. It's common to have a cellar level have occupied
3 | units and I've even seen some PUDs where they are a bit deeper
4 | than that but wow, this is really going way down there.

5 | MS. WILSON: Correct. We've discussed this with the
6 | Applicant and of course if for some reason those two units
7 | cannot be constructed, we would still require the same relief.

8 | ZONING COMMISSIONER MAY: Right. Yes. I, yes, I
9 | don't -- it seems like not a great idea for a number of reasons
10 | but that's not what's before us. I just couldn't let it pass,
11 | what can I say. Thank you.

12 | CHAIRPERSON HILL: Okay. Vice Chair John?

13 | VICE CHAIR JOHN: So I wasn't going to comment either
14 | on another matter because it's not central to the relief and I
15 | was going to ask the architect a question, but I didn't see any
16 | windows in that sub-cellar level and I was just wondering for
17 | my, for information purposes only, if the rooms in the sub-
18 | cellar level were part of a unit on the cellar level? Just a
19 | question.

20 | MS. WILSON: Let me look at the plans really fast
21 | here. So the rooms in the sub-cellar level or the units in the
22 | sub-cellar level are dense. They're not legal bedrooms.
23 | They're technically I guess would be studio units, but there
24 | are windows at the rear of the unit and then the front of the
25 | unit.

1 VICE CHAIR JOHN: Oh, so there are windows? I didn't
2 see any in the bedroom.

3 ZONING COMMISSIOENR MAY: No, not the bedroom.

4 VICE CHAIR JOHN: Oh.

5 MS. WILSON: Correct. And those are --

6 VICE CHAIR JOHN: It's a studio so the window could
7 be fine in the front; that's what you're saying?

8 MS. WILSON: Correct. Not opining on building code,
9 but from what I understand.

10 VICE CHAIR JOHN: Okay.

11 MS. WILSON: Yes, that egress is there.

12 VICE CHAIR JOHN: Just a question because I spent
13 some time trying to find the window, that's all.

14 CHAIRPERSON HILL: Okay. Thank you. All right. Mr.
15 Young, is there anyone here wishing to speak?

16 MR. YOUNG: Yes. We have one witness.

17 CHAIRPERSON HILL: Right. Please introduce the, or
18 give them access, please. Is it Mr. Ayalew? Mr. Ayalew?
19 Hello, can you hear me? I think you're on mute sir, or ma'am.

20 MR. AYALEW: Hello.

21 CHAIRPERSON HILL: Yes. Yes, I can hear you. Can
22 you hear me?

23 MR. AYALEW: Yes. Good afternoon, Commissioner. Can
24 you hear me?

25 CHAIRPERSON HILL: Yes. Could you introduce yourself

1 for the record?

2 MR. AYALEW: Yes. This is Dawit Ayalew. I live on
3 2621 University Place, Northwest, Washington, D.C., 20009.

4 CHAIRPERSON HILL: Okay. Mr. Ayalew. I'm going to
5 listen. It's a little hard to hear you.

6 MR. AYALEW: Okay.

7 CHAIRPERSON HILL: Go ahead and please, you have
8 three minutes to give your testimony and we do see your
9 testimony in the record.

10 MR. AYALEW: Right. Yes. So the problem I have is
11 as (indiscernible) I'm on University Place and the building
12 that they're building is going to literally be looking into my
13 bedroom and bathroom. So I would not have any privacy if they
14 build and (indiscernible) I would never have morning light.
15 There's going to be a lot of traffic in my neighborhood.

16 As you see from my testimony, the last three years --
17 I've lived in here for 41 (phonetic) years and been discovered
18 by developers and (indiscernible) 2615 five units, 4715 five
19 units from one unit, 4619 five units from one unit, 4608 from
20 one unit to ten units, 4612 from one unit to ten units, 4618
21 from one to ten, 4642 from one to 19 units and then around the
22 corner from me on Fairfax, I'm sorry, Euclid and University
23 they're building 38 units. Then on the corner of 14th and
24 Fairmont they've built 560 units. That was limited parking
25 there. None of the builders have any parking space. I'm

1 parking three, I'm sometimes taking two and a half, three
2 hours, if I come home from work up to 8 o'clock to find a
3 parking space. So there's no way we can (indiscernible) a
4 system to build any more that (indiscernible).

5 CHAIRPERSON HILL: Okay. Does anybody have any --
6 thank you very much for your testimony -- does anybody have any
7 questions for the witness?

8 ZONING COMMISSIONER MAY: Yes.

9 CHAIRPERSON HILL: Go ahead, Mr. May, Commissioner
10 May.

11 ZONING COMMISSIONER MAY: So you're in one of the,
12 there are a handful of buildings that are on University and one
13 of which backs up directly to this property and one of which
14 backs up to the property next door. Which one are you in?

15 MR. AYALEW: I'm the one directly the next, the one -
16 - so if I'm looking at the west side, they're building the
17 building literally in front of me, in front of my bedroom and
18 my bathroom. That's what I face (phonetic) because my building
19 is on 2621 and then the building they are on Fairmont, so if
20 I'm looking the west side that's where my house is and they
21 literally, like the building is going to be built literally
22 like inches from the fence. There are no rooms. So the way
23 they have it, I'm not even sure to be honest with you how all
24 these properties they've been approved without the neighbors'
25 approval (indiscernible).

1 ZONING COMMISSIONER MAY: You're straying from my
2 question. I'm trying to understand the relationship between
3 your property and this proposed redevelopment and the way I'm
4 looking at this, and I'm not totally sure where your property
5 is, but it seems that your property abuts this lot in the back?

6 MR. AYALEW: Yes.

7 ZONING COMMISSIONER MAY: You share a property line?
8 So at that point, this redevelopment, that segment of the
9 redevelopment is all open space. It is not a building.

10 MR. AYALEW: So the way my building or property I
11 think I would say the furthest building you see on University
12 is my property; right?

13 ZONING COMMISSIONER MAY: Yes.

14 MR. AYALEW: And there is one lot right between me
15 and the building that they tried to install (phonetic), is
16 between me and them is 4050 and then next to that is 4048 and
17 ---

18 ZONING COMMISSIONER MAY: Oh, okay. All right. So
19 your building, I'm sorry, and your building, is that just a
20 house or is it also an apartment building?

21 MR. AYALEW: It's a townhouse.

22 ZONING COMMISSIONER MAY: It's a town --

23 MR. AYALEW: I live in a three level townhouse.

24 ZONING COMMISSIONER MAYU: So you live on all three
25 levels, you don't have also units there?

1 MR. AYALEW: No. Only one unit --

2 ZONING COMMISSIONER MAY: Right. Okay.

3 MR. AYALEW: -- and it's facing them directly now.

4 ZONING COMMISSIONER MAY: Okay. So you have
5 virtually no rear yard on your property?

6 MR. AYALEW: No.

7 ZONING COMMISSIONER MAY: Okay. Yes. So, and I
8 appreciate the concern but the fact that you have no rear yard
9 and, you know, this is actually it's not directly abutting you,
10 it's across another neighbor's rear yard from your property;
11 right?

12 MR. AYALEW: So --

13 ZONING COMMISSIONER MAY: They're abiding by the rear
14 yard requirements in this development and your property is
15 nonconforming with regard to rear yard, so it's, you know,
16 you're already sort of right for impact with any sort of
17 development nearby because you don't have a rear yard, or you
18 don't have much of one. You understand that relationship?

19 MR. AYALEW: Yes, sir.

20 ZONING COMMISSIONER MAY: Yes. Okay. That's all I
21 really wanted to make clear. Thank you.

22 CHAIRPERSON HILL: Okay. Anyone else for the
23 witness? All right.

24 Mr. Ayalew, thank you so much for your testimony.

25 MR. AYALEW: Thank you. If I could just say one more

1 thing.

2 CHAIRPERSON HILL: Sure.

3 MR. AYALEW: That particular property we've had a lot
4 of issues (phonetic) in the past and the problem with that is
5 the drainage, the water drainage comes because (indiscernible)
6 the water comes in my property. So 4048's property water and
7 then 4050 property water end up on my property. So in the past
8 we have actually many complaints against 4048 and 4050
9 property. The landscape is so weird, it's so hard for us to
10 exist the way we are right now.

11 CHAIRPERSON HILL: Okay. Ms. Wilson, does your
12 client have Mr. Ayalew's contact information?

13 MS. WILSON: No, I don't know about a phone number
14 but obviously we have his address and (indiscernible).

15 CHAIRPERSON HILL: I see a phone number at the bottom
16 of his testimony.

17 MS. WILSON: Oh, perfect

18 CHAIRPERSON HILL: If you could please make sure that
19 your client reaches out to Mr. Ayalew so he knows about
20 construction that's going on and can have an opportunity to
21 make any concerns. Okay?

22 MS. WILSON: Absolutely, and I'll note we don't have
23 windows on the side. I have no concerns about privacy so I
24 just wanted to mention that for the record, no windows will be
25 facing his property.

1 CHAIRPERSON HILL: Okay. All right. Thank you. All
2 right, thank you, Mr. Ayalew.

3 MR. AYALEW: Thank you.

4 CHAIRPERSON HILL: Bye. Okay. Does anyone have
5 anything else for anybody? Ms. Wilson, are you done?

6 MS. WILSON: I am done. I would like to say goodbye
7 to Commissioner May. This is my last case for the day and so
8 thank you so much for all of your help on all of my other
9 cases. It's been really wonderful so thank you for everything.

10 ZONING COMMISSIONER MAY: Thank you. It's been a
11 pleasure seeing you come before us.

12 CHAIRPERSON HILL: Okay. Wonderful. Thank you, Ms.
13 Wilson.

14 All right. I'm going to go ahead and close the
15 hearing and the record. Unfortunately for Mr. Alayew, and I'm
16 not pronouncing his name correctly, this is here for a parking
17 requirement of one parking space and although I might not -- I
18 do not think that the one parking space is something that I
19 will have an issue with given the other items that the
20 proximity to metro and the walkability of this area, and so
21 given even beyond what I think of the basement units that were
22 mentioned before, I think that they're meeting the criteria for
23 us to grant the relief requested.

24 I would agree with the analysis that the Office of
25 Planning has provided as well as that of the ANC and I will be

1 voting in favor.

2 Mr. Smith, do you have anything to add?

3 MR. SMITH: I don't have anything to add. You know,
4 the parking opposition I do, you know, understand and I do want
5 to, you know, state again I understand their concerns, but
6 again the request for a parking reduction, not a question about
7 some of the items that he just stated and I do believe they've
8 met the burden of proof for us to grant them the special
9 exception given that it would be very difficult for them to be
10 able to put in parking given the layout and there isn't an
11 alley here.

12 So I do believe, again, that they've met the criteria
13 as specified within OP so I support the application.

14 CHAIRPERSON HILL: Okay. Great. Thank you.

15 Commissioner May?

16 ZONING COMMISSIONER MAY: Yes. I agree with Board
17 Member Smith's analysis on this. It is pretty straightforward.
18 There's just no opportunity to provide parking at this property
19 but, you know, that might argue against having as many units
20 but that's not really a consideration for us and the concerns
21 that were raised by the neighbors are not really relevant to
22 the relief that's requested.

23 I do think the idea of having the sub-cellar units is
24 just a very bad idea, but that's not really -- that's not part
25 of our consideration at this point because, as Ms. Wilson told

1 us, even if there were two fewer units there they would still
2 need this parking relief. So, I don't know. There are all
3 sorts of reasons why I have problems with those sub-cellar
4 units but they're not something that we're considering at this
5 point so it's just about the parking relief and I think they
6 meet the burden.

7 CHAIRPERSON HILL: Thank you, Commissioner May.

8 Vice Chair John?

9 VICE CHAIR JOHN: Thank you, Mr. Chairman. I agree
10 with all of the comments so far and I don't have anything to
11 add.

12 CHAIRPERSON HILL: Right. Thank you. I'm going to
13 make amotion to approve Application No. 20901 as captioned and
14 read by the secretary and ask for a second. Ms. John?

15 VICE CHAIR JOHN: Second.

16 CHAIRPERSON HIL: Motion made and seconded. Mr. Moy,
17 take a roll call.

18 MR. MOY: If you will please respond to the motion
19 made by Chairman Hill to approve the application for the relief
20 requested. The motion to approve was second by Vice Chair
21 John.

22 Zoning Commissioner Peter May?

23 ZONING COMMISSIONER MAY: Yes.

24 MR. MOY: Thank you. Mr. Smith?

25 MR. SMITH: Yes.

1 MR. MOY: Vice Chair John?

2 VICE CHAIR JOHN: Yes.

3 MR. MOY: Chairman Hal?

4 CHAIRPERSON HILL: Yes.

5 MR. MOY: The Staff would record the vote as four to
6 zero to one and this was on the motion made by Chairman Hill to
7 approve. The motion to approve was second by Vice Chair John
8 who is also voting to approve the application as well as
9 approval from Zoning Commissioner Peter May, Mr. Smith, Vice
10 Chair John and Chairman Hill with no other Board Member.
11 Again, the motion carries on a vote of four to zero to one.

12 CHAIRPERSON HILL: Great. Thank you, Mr. Moy. You
13 can call the next case, please.

14 MR. MOY: The next case is Application No. 20902 of
15 Niloofar N-I-L-O-O-F-A-R Howe H-O-W-E. This is a self-
16 certified Application Pursuant to Subtitle X § 901.2 for
17 special exception under Subtitle U § 601.1(f) to allow
18 residential use on an alley lot in the R-20 zone, not meeting
19 the requirements of Subtitle U § 900.1(f) property is located
20 in the R-20 zone at 1722 through 1726 34th Street, NW, Square
21 1297, Lots 93-97.

22 The other matter for you, Mr. Chairman and the Board,
23 we have our two sign-ups for testimony in opposition. Also
24 there are three documents that were filed within the 24 hour
25 block, two from the Applicant, one that included the PowerPoint

1 | slide deck as well as a letter in opposition.

2 | CHAIRPERSON HILL: Okay. If you can go ahead, unless
3 | the Board has any issues I'd like to see everything that we can
4 | see on this so if you could please drop that into the record
5 | please, Mr. Moy, and then Mr. Sullivan, if you can hear me can
6 | you introduce yourself for the record?

7 | MR. SULLIVAN: Thank you, Mr. Chair. Marty Sullivan
8 | with Sullivan & Barros on behalf of the Applicant.

9 | CHAIRPERSON HILL: Okay. Mr. Sullivan, if you could
10 | just walk us through your Application as to why you believe
11 | your client is meeting the criteria for us to grant the relief
12 | requested. I'm putting 15 minutes on the clock so I know where
13 | we are and you can begin whenever you like. One second.

14 | Vice Chair John?

15 | VICE CHAIR JOHN: Just a question for Mr. Sullivan.
16 | If he could please focus on which option is being submitted to
17 | the Board for review. I notice there were two options and I
18 | wasn't sure what was being presented.

19 | MR. SULLIVAN: Yes. Thank you for mentioning that.
20 | I just noticed that yesterday when I was going through the
21 | PowerPoint. That was one of the reasons we filed that late, so
22 | we -- the option A and the architect is here with us today,
23 | I'll confirm that too. Option B is gone and one of our late
24 | submissions was a cover letter saying that we were withdrawing
25 | option B completely.

1 So there was a minor difference in the design not
2 really affecting anything, but we cleared that up I think on
3 that (indiscernible).

4 VICE CHAIR JOHN: Okay. Thank you.

5 CHAIRPERSON HILL: So which plans, Mr. Sullivan, are
6 the plans that we are approving?

7 MR. SULLIVAN: Option A. So --

8 CHAIRPERSON HILL: Which exhibit is that in?

9 MR. SULLIVAN: I will tell you in a second. I mean,
10 I think they weren't submitted separately and so the plans were
11 submitted with an A and a B and so we basically just removed to
12 -- I'm going to, I'll know the exhibit in a second, but Exhibit
13 21A1 and 21A2.

14 CHAIRPERSON HILL: Right. So I guess Ms. John is
15 better than I am; right? So option A is gone?

16 MR. SULLIVAN; Option B is gone.

17 CHAIRPERSON HILL: Option B is gone. Okay. All
18 right. And you have given a slide deck to Mr. Young?

19 MR. SULLIVAN: Yes, with the correct option.

20 CHAIRPERSON HILL: And that has option B?

21 MR. SULLIVAN: Should have option A.

22 CHAIRPERSON HILL: A.

23 MR. SULLIVAN: Is that right, Theo (phonetic)?

24 CHAIRPERSON HILL: Okay. Mr. Sullivan, I know we've
25 done this in the past a little but maybe if we could try not to

1 give a couple of different options --

2 MR. SULLIVAN: It was --

3 CHAIRPERSON HILL: -- when you're submitting things?

4 MR. SULLIVAN: Understood. Yes, it wasn't the
5 intention. I missed it. It was just my mistake. I wouldn't
6 have filed two but --

7 CHAIRPERSON HILL: The slide deck, Mr. Young has the
8 PowerPoint; correct, Mr. Sullivan?

9 MR. SULLIVAN: Yes, he does.

10 CHAIRPERSON HILL: Okay. Go ahead, Mr. Young, and
11 pull that up while we wait for it to be dropped into the record
12 and then Mr. Sullivan --

13 VICE CHAIR JOHN: It's in the record. It's in the
14 record, Mr. Chairman. Exhibit 16 I believe, no 28A.

15 CHAIRPERSON HILL: Okay. I just got it. Okay. OR
16 maybe I didn't see it. Thank you. Okay. Go ahead, Mr.
17 Sullivan.

18 MR. SULLIVAN: Thank you, and with us here today is
19 the architect, Dale Overmeyer, as well and I'll turn it over to
20 him in a second after I get started with the PowerPoint.

21 So this is square 1297, lots 93 to 97.

22 Next slide, please. So the property is in the R-20
23 zone, consists of five vacant alley record lots. They're being
24 combined into one record lot which is doable as a matter-of-
25 right. You can combine existing record blocks into larger

1 record lots as a matter-of-right. Applicant intends to build a
2 structure on this property and relief is required in order to
3 use the structure as a single family dwelling. In the R zones
4 on alley lots you can do single family dwellings on most R
5 zones, in most R zones. It's a variance in R-1 and R-2 and
6 then it's a special exception in a handful of other zones
7 including the R-20. So the Office of Planning has recommended
8 approval and ANC 2E has voted unanimously in support of the
9 project.

10 Next slide, please, and I'll turn it over to Mr.
11 Overmeyer to go through the plans. Dale?

12 MR. OVERMEYER: Good afternoon. I'm Dale Overmeyer
13 on behalf of the Applicant, Niloofar Howe. We've been
14 providing architecture consulting. This is just an aerial view
15 of the site. It's an alley lot so it doesn't have any street
16 frontage and surrounded, you know, it's sort of placed in the
17 middle of the block.

18 Next slide, please. Right. A couple of pictures.
19 Currently it's an unimproved lot. It's been used as a parking
20 surface. The Applicant actually owns the structure for the
21 residence and the property next door so it's of particular
22 interest to them programmatically but it will continue to be a
23 completely separate property and separate structure.

24 Next image, please. Right in the middle of the
25 picture with a red line drawn around it are the five lots that

1 are going to be combined into one lot, alley lots. Important
2 to know that the alley that serves these is 20 feet wide
3 immediately to the east, that's the vertical one and it's
4 connected in two places, both the top and the bottom to 34th
5 Street to the east to the right of your page and those are 15
6 foot wide alleys. So there are two 15 foot wide alleys. The
7 15 foot wide alley serves the north side or abuts the north
8 side of this project and property and then the 20 foot wide,
9 and 20 feet is the widest alley that we find in Georgetown in
10 any circumstance so this is one of those conditions where the
11 access to this lot is generous.

12 Next slide, please. All right. Just seeing it a
13 little bit closer. On the left you can see the property next
14 door and the good thing about that is for construction it does
15 provide us with more options for construction access to this
16 project and you can see that 15 foot alley on the north and the
17 20 foot alley on the right east side of the property. Other
18 than that there's a sprinkling of other garage structures along
19 that alley.

20 Next image, please. So we've worked with the Old
21 Georgetown Board and had several meetings in front of them to
22 arrive at a concept approval (indiscernible) other public
23 process. We've met with the ANC and we've received their
24 support as well. So working with the Old Georgetown Board,
25 they really wanted to see the project form into sort of smaller

1 pieces so that it maintained the scale of the old structures in
2 the alley, so we sort of see from this we began to break it
3 down into pieces.

4 Next image, please. Just the floor plan. We're
5 providing one garage parking spot and then on the ground floor
6 here a kitchen, dining, living room on the first floor and next
7 image, please.

8 Here's the second floor and I should say that the
9 distinction between option A and option B is just nuanced.
10 It's minimal. There's no change to the footprint. It's just
11 sort of the shape of the roof that the Old Georgetown Board
12 asked us to explore. Just a couple of options there so it
13 doesn't materially impact any of the dimensional qualities of
14 the building. On the second floor there are two bedrooms and
15 two baths.

16 Next image, please. So here's where you can see the
17 form of the building. We even shaped the materials so if you
18 look at the upper right it sort of looks like three little
19 garage buildings in a row, each one with their own different
20 material. One is wood and metal, one is brick and one is back
21 to wood and a more sort of contextual forms of the pitches of
22 the roofs and just as a way where the Old Georgetown Board has
23 dubbed as being boxes breaking it down so that it's basically a
24 smaller looking building. It conforms to zoning in all the
25 other dimensional aspects, height, setback, all those. The

1 only thing we're asking for here again is the use, so this is
2 approvable as an artist's studio as a garage structure. The
3 only request here is for the use as a residence.

4 Next image, please. This just shows sections through
5 the building. Again, sort of a modest building and building in
6 the center upper is the existing residence next door so it sort
7 of takes its cues. It's sort of a sister to that building in
8 style but a smaller scale.

9 Next image, please. We did some three dimensional
10 studies of it. The one in the upper left shows sort of how the
11 massing breaks down into small pieces and I think there may be
12 perhaps one more image, you know, sort of from walking around
13 from eye level view. Again, just zooming in a little bit
14 closer on the structure, that upper left picture shows how we
15 tried to respond to the scale of the existing garages in the
16 context and that's basically an overview of the (indiscernible)
17 happy to turn it back to Marty at this point.

18 MR. SULLIVAN: The next slide, please. Thank you.
19 So the project meets the general requirements. Granting relief
20 is in harmony with the purpose and intent of the zoning
21 regulations' maps of the properties. An alley record lot in
22 the R-20 and the zoning regulations permit subdivision as a
23 matter-of-right and the use as a single family dwelling by
24 special exception, and regarding the use granting relief will
25 not tend to affect adversely the use of neighboring property.

1 The single family dwelling will be replacing five parking
2 spaces, so auto traffic would be reduced and this is a fairly
3 unique alley setting because we've got two alleys bordering the
4 property and then in the back of the property it borders the
5 Applicant's home property and then borders a garage on the
6 south side, and it's 20 feet in front. So the front alley is
7 20 feet.

8 Next slide, please. The specific requirements for
9 this relief, the alley lot is not in R-1 or R-2, we're in R-20.
10 The lot has sufficient square footage, 450 was required so we
11 could have done more lots here and could have asked for relief
12 to do, actually all the existing record lots could have
13 technically had a home on each one. The use is limited to one
14 dwelling unit. We're asking for one unit and then the alley
15 lot connects to an improved public street for an approved alley
16 system of alleys that provides adequate public safety and
17 infrastructure availability. As mentioned, this is, as Mr.
18 Overmeyer said, 20 feet is the widest alley there is in
19 Georgetown but it also has the 15 foot wide alley and it's not
20 that far from 34th Street as well. So we believe we meet that
21 requirement, and I think that's it.

22 Next slide, please. That's it for our presentation.
23 If the Board has any questions. Thank you.

24 CHAIRPERSON HILL: All right. Let me first turn to
25 the Office of Planning.

1 MR. JESICK: Thank you, Mr. Chairman and Members of
2 the Board. My name is Matt Jesick and I'm presenting OP's
3 testimony in this case, and OP is happy to rest on the record
4 in support of the Application.

5 We reviewed the relevant criteria of U 601 and X 901
6 and found that the Application met those criteria. So, again,
7 we are recommending approval of the case. Thank you.

8 CHAIRPERSON HILL: Okay. Let me do this. Let me
9 hear from the, and I'll review questions.

10 Mr. Young, you said there's testimony; is that
11 correct, public testimony?

12 MR. YOUNG: Yes, we have two witnesses signed up.

13 CHAIRPERSON HILL: Can we hear, can you introduce or
14 give them my, give them my names.

15 MR. YOUNG: The first one is Lucy Thrasher and the
16 second is Karen Eastridge.

17 CHAIRPERSON HILL: Ms. Thrasher, can you hear me?
18 Oh, great. Ms. Thrasher, can you hear me? You can hear me, I
19 can't hear you. That's all right. It'll take -- maybe you're
20 on mute or we haven't muted you. Maybe you're on mute. Here
21 we go, perfect.

22 MS. THRASHER: Okay, good. Okay.

23 CHAIRPERSON HILL: Would you introduce yourself for
24 the record, first?

25 MS. THRASHER: Yes. My name is Lucy Thrasher and I

1 live at 1716 34th Street, Northwest and that is one of the
2 rowhouses that faces 34th Street and is east of the, you know,
3 east of the alley building, the alley structures.

4 CHAIRPERSON HILL: Okay.

5 MS. THRASHER: And --

6 CHAIRPERSON HILL: Ms. Thrasher, I'm going to look
7 you up. You can go ahead. You have three minutes to give your
8 testimony --

9 MS. THRASHER: Okay.

10 CHAIRPERSON HILL: -- and you can begin whenever you
11 like.

12 MS. THRASHER: Well, I'm not really giving testimony
13 so much as asking for clarification. This represents a major
14 change in the alley which I've been told now has been either
15 parking spaces or just one story garages and so it is setting a
16 precedent and I'm just asking for clarification on a couple of
17 points, one of which I believe Mr. Sullivan may have touched
18 on.

19 It's unclear to me what is the difference, the
20 distinction between an artist's studio that can be built by
21 right and a dwelling? Is it -- you can build exactly the same
22 structure but it would just be the use; is that it? There are
23 no architectural or legal differences between the two?

24 CHAIRPERSON HILL: Right, Ms. Thrasher. Let me -- is
25 the Office of Planning here? Mr. Jesick, do you want to try to

1 answer Ms. Thrasher's question?

2 MR. JESICK: Right. The building can be built as a
3 matter-of-right. The Applicant is not requesting any
4 dimensional relief from any yards or lot occupancy or height.
5 It's only the use that requires the relief so there are other
6 matter-of-right uses, you know, the studio being one example
7 which can be done as a matter-of-right. The Applicant is here
8 for the residential use which does require a special exception
9 in the R-20 zone.

10 MS. THRASHER: Okay. Well, I'm just clarifying for
11 my own benefit. If it's an artist's studio, can you sleep in
12 it?

13 MR. JESICK: No, it's not intended for habitation.

14 MS. THRASHER: Oh, okay. Okay. And my other
15 question is, because I'm assuming that at one point the rest of
16 the alley may be developed. Will every other claimant who
17 comes in have to grant an exception, I mean, have to come
18 before BZA to get an exception if they want to build a
19 residence?

20 MR. JESICK: Yes, that's correct.

21 MS. THRASHER: Right.

22 MR. JESICK: In the R-20 zone and the alley dwelling
23 would need a special exception like this one, so there would be
24 the public process before the BZA.

25 MS. THRASHER: Okay. Okay. I am neither supporting

1 nor objecting at this point. I do like the -- I listen in to
2 the Old Georgetown Board meetings and I do like the design
3 that, you know, I think the design has been much improved and
4 has addressed some of my issues, you know, in terms of the
5 scale and the appearance of the buildings, so I am not opposing
6 this.

7 CHAIRPERSON HILL: Okay, Ms. Thrasher. Okay. Well,
8 thanks for your testimony and I hope that it provides some
9 clarification to you.

10 MS. THRASHER: Okay. Thank you.

11 CHAIRPERSON HILL: Ms. Eastridge, can you hear me?

12 MS. EASTRIDGE: Yes.

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

15 MS. EASTRIDGE: My name is Karen Eastridge and I live
16 at 1722 34th Street, Northwest. I am directly impacted by this
17 project dwelling.

18 I wanted to say that --

19 CHAIRPERSON HILL: Ms. Eastridge, can I just
20 interrupt for one second? I just want to let you know you'll
21 have three minutes to give our testimony and you can begin
22 whenever you like.

23 MS. EASTRIDGE: All right. I will address my
24 concerns.

25 First, the setback lines for this project are in

1 three differing levels towards the alley. My garage is
2 directly affected by the extension into the alley and then the
3 two flanking dwellings are recessed back from the alley. I am
4 asking if those -- if it can all be flush and as one façade
5 because I lose my ability to turn into my garage as well as my
6 neighbor who has a fenced parking pad that they turn into. So
7 it diminishes and actually narrows our alley between our
8 properties and at the end of the alley from the north end, and
9 I am very concerned about that because as it is, it's a 25 foot
10 wide with the setback of the original garages and then this
11 project will lessen it to 20 feet and maybe even less than that
12 ,given the way they're doing this project.

13 Also, I'm concerned about the plumbing, sewer, water
14 and electric hookups and the utilities that should be placed on
15 their property and not in the alley as well as the drainage and
16 water run-off in, and not into the alley.

17 The exterior lighting, I have no idea of what they
18 have or are doing. There is a maintained public alley light
19 pole at the north end for lighting at the north end as well as
20 their trash receptacles and all other collection of maintaining
21 that property should be on the R Street which is their main
22 entrance into their property. The alley that abuts their
23 property right now, they use as their own private parking space
24 even though it is public alley space. It is gravel but it is
25 public alley space and that needs to be maintained and also

1 continue to be open for all parties that are involved in this
2 alley.

3 Also, I have an issue with this resident. The fact
4 that they have private parties and on at least twice, they have
5 shut down our alley and have had their own private car parking
6 and actually were parked 15 to 20 cars, as many as they can fit
7 and block our alley and you can't get in, you can't get out and
8 in an emergency there is no way you can get in or out from that
9 site and police have been called but it didn't seem to do much.

10 Also, I have concern about the construction, the
11 staging of this property and how it is going to be built and it
12 should be utilized and all activity put into their property,
13 not into the alley space so that it is still maintaining and
14 open to the alley.

15 Also --

16 CHAIRPERSON HILL: Ms. Eastridge, I just want to let
17 you know you've run out of time. If you want to go ahead and
18 wrap up.

19 MS. EASTRIDGE: Oh, okay. Also, I wanted to find out
20 who do we contact for property damage, shaking, wall cracks and
21 structural issues or land issues because they are building a
22 basement. Also resurfacing the alley after all of this
23 construction is done and lastly, I am requesting that the
24 windows on the alley level be removed as well as the south and
25 southeast windows on the second floor be frosted so that there

1 is privacy because otherwise I'm going to be looking out and
2 they're going to be staring right back at me.

3 CHAIRPERSON HILL: Okay. Okay, Ms. Eastridge.

4 MS. EASTRIDGE: So those are the issues that I have.

5 CHAIRPERSON HILL: Okay. Ms. Eastridge, did you talk
6 -- did you present at your ANC meeting?

7 MS. EASTRIDGE: I tried to but my ANC representative
8 was only concerned with -- I also had an objection to the use
9 of my address, 1722, for this property. I never gave any
10 permission or any of my rights up to, and I want to maintain my
11 property at 1722 34th Street and not be associated with that
12 property.

13 CHAIRPERSON HILL: Okay. Okay. All right. Does
14 anybody have any questions of Ms. Eastridge?

15 MS. EASTRIDGE: Yes.

16 CHAIRPERSON HILL: No, I'm asking if -- Commissioner
17 May has a question of you, Ms. Eastridge.

18 MS. EASTRIDGE: Yes.

19 CHAIRPERSON HILL: Commissioner May, you're on mute.

20 ZONING COMMISSIONER MAY: All right. I also have
21 question so the Applicant so we'll get to that too.

22 Ms. Eastridge, are you aware that all of the
23 construction that they're proposing here is on private
24 property, it's not actually on public property of the alley?

25 MS. EASTRIDGE: There is. I have never been, except

1 for the drop from Overmeyer's, somebody dropped it in my mail
2 slot back in February, that was the first and the last time
3 that I had heard anything about this project. From that I
4 tried to talk to my ANC representative and tell him of my
5 concerns but he was very much in the affirmative of liking this
6 project and --

7 ZONING COMMISSIONER MAY: So, Ms. Eastridge, I'm
8 asking you a direct question.

9 MS. EASTRIDGE: Yes.

10 ZONING COMMISSIONER MAY: Are you aware that they're
11 only proposing to build on their own property?

12 MS. EASTRIDGE: You mean at --

13 ZONING COMMISSIONER MAY: (Indiscernible), no.

14 MS. EASTRIDGE: No. I understand that they have the,
15 you mean where the parking spaces is or their actual property
16 that they have right now on 34th Street?

17 ZONING COMMISSIONER MAY: The parking spaces that
18 are, they're going to be consolidated into this property for
19 development of this house. That's entirely private property.

20 MS. EASTRIDGE: So there is no way -- so they're
21 going to be able to, when you turn the corner you're going to
22 be faced with this jut out of this building when you are
23 turning --

24 ZONING COMMISSIONER MAY: I don't know what you mean
25 by jut out. It is private property right there at that corner.

1 MS. EASTRIDGE: So they can bump out toward the alley
2 and --

3 ZONING COMMISSIONER MAY: I don't know what you mean
4 by bump out because, again, it's private property. Bumping
5 out, they're not projecting into the public space. They're
6 only developing on private property.

7 MS. EASTRIDGE: All right. So they're, okay.

8 ZONING COMMISSIONER MAY: So, and you have a 20 foot
9 alley which is typically enough to be able to navigate into a
10 parking space. That's the standard for the District for a two-
11 way, you know, alley with adequate room to drive a car into a
12 garage.

13 MS. EASTRIDGE: All right. Well, what about all of
14 the -- they have pottery and all kinds of things from the art
15 or --

16 ZONING COMMISSIONER MAY: I don't -- yes, I don't
17 know what you're talking about there. I'm just trying to
18 clarify your, you know, make sure you understand what they are
19 proposing to do. It's not taking public space. It's not
20 taking anything that you or GPW or anyone else has a right to.
21 They are talking about developing something on their own
22 private property.

23 MS EASTRIDGE: All right.

24 ZONING COMMISSIONER MAY: Okay. Mr. Chairman?

25 CHAIRPERSON HILL: Yes.

1 ZONING COMMISSINER MAY: I just wanted to clarify one
2 thing with the Applicant.

3 CHAIRPERSON HILL: Yes, give me one second,
4 Commissioner, sorry. Okay. All right. If no one has any
5 questions for -- further questions for the witnesses I will
6 excuse them. Thank you Ms. Eastridge and Ms. Thrasher for your
7 attendance. Mr. Young, if you could please excuse the
8 witnesses.

9 Commissioner May, you had some questions.

10 ZONING COMMISSIONER MAY: I just want to clarify one
11 thing. These parking spaces that are being consolidated for
12 this property. That's all owned by the property owner 34
13 whatever it is, 3419 R; right?

14 MR. SULLIVAN: Yes.

15 ZONING COMMISSIONER MAY: Okay. Because there is
16 something very strange going on there with the back yards;
17 right? I mean, this is something that's being built as an
18 independent house but their rear yard which is toward the
19 southern end of the property is contiguous with the 3419
20 property and there's even a, looks like a path from one of the
21 sliding doors in the new house to the path of 3419. So it's
22 all continuous; right? So this is going to be like it'll be a
23 separate house but it'll be part of their overall complex?

24 MR. SULLIVAN: I'm not -- yes, that may be the
25 intention originally because the Applicant has some adult

1 children --

2 ZONING COMMISSIONER MAY: Right.

3 MR. SULLIVAN: -- so that was part of the intention
4 was to most likely use it for a separate family, part of her
5 family, yes, right.

6 ZONING COMMISSIONER MAY: Yes, and there's a long
7 tradition of doing stuff like that; right? You have large
8 piece of property, build a house for your son or daughter at
9 some point. Some of us don't have enough land to be able to do
10 that or money, but okay. The question before us is just
11 whether there's going to be a separate house on that property
12 and it seems like, well, I won't go ahead of myself here.

13 CHAIRPERSON HILL: Okay. Right. Anyone have any
14 further questions? All right. Mr. Sullivan, do you have
15 anything else you'd like to add at the end?

16 MR. SULLIVAN: No. Thank you, Mr. Chairman.

17 CHAIRPERSON HILL: Okay. All right. I'm going to go
18 ahead and then close the hearing and the record. Will you
19 please excuse everyone?

20 MR. MOY: Mr. Chairman?

21 CHAIRPERSON HILL: Yes.

22 MR. MOY: If I could interject just for a moment
23 while Mr. Sullivan is still on. I just want to clarify for the
24 record that plans under option A are identified under Exhibit
25 21A1 as sheet A005 and Exhibit 21A2 as sheet No. A006, A007 and

1 P, as in Paul, 004. I just want a confirmation for the record,
2 sir.

3 MR. SULLIVAN: Yes, that's correct. Sorry for the
4 confusion.

5 CHAIRPERSON HILL: Right. And it's option A that's
6 being put forward; correct, Mr. Sullivan?

7 MR. SULLIVAN: Yes.

8 CHAIRPERSON HILL: Okay. All right. All right.
9 Once again, closing the hearing and the record. Okay. I mean,
10 the thing about this project that's kind of interesting is that
11 I mean I think they did work with Old Georgetown Board to
12 create three kind of different looking garage entities, so it's
13 not like one big solid thing. I actually like the design. I
14 think that they meet the regulations insofar as it is a matter-
15 of-right option. If it were an artist's studio, now we're
16 trying to see whether they feel (phonetic) within the
17 regulations to allow somebody to actually be in there. I think
18 that it is not, since it is a pretty wide alley back there I
19 don't really see any issues with them not meeting the criteria
20 for us to grant them this particular relief.

21 I would also agree with the analysis of the Office of
22 Planning has provided as well as that of the ANC and I will be
23 voting in favor.

24 Do you have anything additional to add, Mr. Smith?

25 MR. SMITH: No, I don't have anything additional to

1 add. I agree with your analysis of this particular case and
2 will support the application as well.

3 CHAIRPERSON HILL: Thank you. Commissioner May?

4 ZONING COMMISSIONER MAY: I don't think I have
5 anything to add either. This seems to be a pretty
6 straightforward and I'll save my comments for the design
7 because it's not our purview.

8 CHAIRPERSON HILL: Vice Chair John.

9 VICE CHAIR JOHN: Thank you, Mr. Chairman, and I have
10 nothing to add. I'm in support of the application and
11 Commissioner May, I do like the design. I like the idea. I
12 thought it was novel breaking up the, you know, the building
13 into these separate entities to make it mimic the typical
14 garage setting because typically we see, you know, blocks, you
15 know. Anyway, Mr. Chairman, I'm in support of the application.

16 CHAIRPERSON HILL: Great. Thank you, Vice Chair
17 John. I'm going to make a motion to approval Application No.
18 20902 as captioned and read by the secretary and ask for a
19 second. Ms. John?

20 VICE CHAIR JOHN: Second.

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

23 MR. MOY: Yes, sir. When I call your name, will you
24 please respond to the motion made by Chairman Hill to approve
25 the application for the relief requested. The motion to

1 approve was second by Vice Chair John.

2 Zoning Commissioner Peter May?

3 ZONING COMMISSIONER MAY: Yes.

4 MR. MOY: Mr. Smith?

5 MR. SMITH: Yes.

6 MR. MOY: Vice Chair John?

7 VICE CHAIR JOHN: Yes.

8 MR. MOY: Chairman Hill?

9 CHAIRPERSON HILL: Yes.

10 MR. MOY: And we have no other Board Members. The
11 Staff would record the vote as four to zero to one, and this is
12 on the motion made by Chairman Hill to approve. The motion to
13 approve was second by Vice Chair John who has also voted to
14 approve as well as approval from Zoning Commissioner Peter May,
15 Mr. Smith, Vice Chair John, Chairman Hill. Motion carries,
16 sir, four to zero to one.

17 CHAIRPERSON HILL: Great. Thank you. I actually was
18 going to have, or I was going to try and have us stop at 2:30.
19 Vice Chair John has agreed to take over for me for the last two
20 cases of the day. Commissioner May, I guess I'll get to see
21 you one last time in which I'll get to again formally say
22 goodbye. I wish I could come give you a big hug but I can't,
23 so you have a good day.

24 ZONING COMMISSIONER MAY: We can hug another time.

25 Thank you.

1 CHAIRPERSON HILL: Okay. One day, one day. All
2 right. Vice Chair John, thank you so much for your help.

3 VICE CHAIR JOHN: Oh, you're welcome, Mr. Chairman.
4 Thank you. Have a good evening.

5 CHAIRPERSON HILL: Thank you all as well. Bye bye.

6 VICE CHAIR JOHN: Thanks. Bye.

7 So, Mr. Moy, could you call the next case, please.

8 MR. MOY: Yes. Thank you. So the next case is
9 Application No. 20905 Jared Bromberg and Marita Starr. This is
10 a self-certified application pursuant to Subtitle X § 901.2 for
11 special exceptions under Subtitle E § 5201. This is from the
12 lot occupancy requirements Subtitle E § 304.1 rear yard
13 requirements Subtitle E § 306.1. Property is located in the
14 RF-1 zone at 706 15th Street, SE, Square 1077, Lot 95.

15 VICE CHAIR JOHN: Thank you. Ms. Fowler, could you
16 introduce yourself for the record, please?

17 MS. FOWLER: I'm Jennifer Fowler with Fowler
18 Architects. I'm here representing the homeowner.

19 VICE CHAIR JOHN: Thank you. Can you tell us about
20 your project and how it qualifies for relief?

21 MS. FOWLER: Sure thank you. This is a pretty
22 straightforward very modest proposal. So there's an existing
23 landing at the rear of this property. It's a two story
24 dwelling with a basement. We're removing the landing and
25 replacing it with a larger deck and the main goal of the

1 project is to create a storage space underneath the deck for
2 bikes. They have children and a number of bicycles.

3 So basically enlarging the existence coverage from a
4 landing to a deck which is going to take us from 61.6 percent
5 occupancy to 68.9. The deck is about five feet six inches
6 above the grade so it does count towards the occupancy and then
7 the other relief we're looking for is the rear yard.

8 Currently the rear yard is 20 feet four inches to the
9 current landing and it is measured from the center line of the
10 alley and so we're going to be reducing that to 16 feet four
11 inches, but we're also able to keep the parking space that's
12 existing now. Because the rear lot line is angled, we can
13 still fit a compact parking spot but at the deepest point we
14 have 19 feet six inches from the back of the deck to the alley.

15 So overall, very little impact. The two adjacent
16 neighbors have seen the plans and have supported the project.
17 The neighbor that's to the north, sorry, the south has a
18 landscape wall that's about 14 feet tall so there would be
19 absolutely no impact to that neighbor and the neighbor to the
20 north has, again, will have very minimal impact, a little bit
21 from the loss of privacy, but they're comfortable with the
22 proposal. We also have support from the ANC and the
23 Restoration Society in the record.

24 So with that, I'll leave it open to questions. Thank
25 you.

1 VICE CHAIR JOHN: Okay. thank you. So I'm going to
2 go to the Office of Planning next. Good afternoon, Ms. Brown-
3 Roberts.

4 MS. BROWN-ROBERTS: Good afternoon, Madam Chairperson
5 and Members of the BZA. For the record, I'm Maxine Brown-
6 Roberts from the Office of Planning on BZA 20905.

7 I will stand on the record as outlined in our report
8 as the deck would not unduly affect light and air and the
9 privacy of the adjacent residents due to the size of
10 availability of fencing around the property and they would meet
11 all the requirements of Subtitle E 5201.

12 Regarding Subtitle X § 901, the proposed deck and
13 shed addition would be in harmony with the general purpose and
14 intent of the regulations to provide additional area for
15 outdoor space for recreation and storage for the home. The
16 proposal would not result in a building that would be
17 inconsistent with the bulk or use intent of the zone and would
18 not adversely affect the light and air to adjacent properties.

19 The Office of Planning therefore recommends approval
20 of the requested special exception. Thank you, Madam Chairman
21 and I'm available for questions.

22 VICE CHAIR JOHN: Thank you, Ms. Brown-Roberts. Does
23 the Board have any questions of either the Applicant or the
24 Office of Planning? Mr. Moy, is there anyone signed up to
25 testify?

1 MR. MOY: Mr. Young? I don't believe so.

2 VICE CHAIR JOHN: Mr. Young? Mr. Young? It's late
3 in the day.

4 MR. YOUNG: We do not.

5 VICE CHAIR JOHN: We do not. Thank you. Ms. Fowler,
6 do you have any closing comments?

7 MS. FOWLER: No. Thank you so much for your time.

8 VICE CHAIR JOHN: Thank you. So go ahead and close
9 the record and the hearing and excuse Ms. Fowler.

10 So, okay everybody, to deliberate. So I'll go ahead
11 and start. I thought this was a very straightforward
12 application and I don't believe there would be any adverse
13 impact to any of the adjacent properties and I will give great
14 weight to the Office of Planning's recommendation. The ANC 6B
15 report recommends approval with no issues or concerns and I'm
16 in support of the application.

17 Does anyone, any Board Member have anything to add?

18 MR. SMITH: I don't.

19 VICE CHAIR JOHN: Okay. So I'll go ahead and make a
20 motion to approve Application No. 20905 as captioned and read
21 by the secretary and ask for a second. Mr. Smith?

22 MR. SMITH: Second.

23 VICE CHAIR JOHN: Mr. Moy, could you take a roll
24 call, please?

25 MR. MOY: When I call your name, if you'll please

1 respond to the motion made by Vice Chair John to approve the
2 application for the special exception relief requested. The
3 motion was second by Mr. Smith.

4 Zoning Commissioner Peter May?

5 ZONING COMMISSIONER MAY: Yes.

6 MR. MOY: Mr. Smith?

7 MR. SMITH: Yes.

8 MR. MOY: Vice Chair John?

9 VICE CHAIR JOHN: Yes.

10 MR. MOY: And we have no other Board Members
11 participating. The Staff would record the vote as three to
12 zero to two and this is on the motion made by Vice Chair John
13 to approve. The motion to approve was second by Mr. Smith who
14 has also voted to approve the application, as well as Zoning
15 Commissioner Peter May, of course, again, Mr. Smith, Vice Chair
16 John. Motion carries on a vote of three to zero to two.

17 VICE CHAIR JOHN: Thank you, Mr. Moy. So when you're
18 ready could you call what I believe is our last case of the
19 day.

20 MR. MOY: The case before the Board is Application
21 No. 20904 Wongel W-O-N-G-E-L "Lily" Hanfere H-A-N-F-E-R-E.
22 This is a self-certified application pursuant to Subtitle X §
23 901.2 for special exception under Subtitle E § 421 to allow a
24 new residential development, a two-unit flat. The property is
25 located in the RA-1 zone at 2909 N Street, SE, Square 5548, Lot

1 31 and that's all I have for you, Madam Vice Chair.

2 VICE CHAIR JOHN: Thank you, Mr. Moy. Mr. Sullivan,
3 hello again. Can you introduce yourself for the record,
4 please?

5 MR. SULLIVAN: Marty Sullivan of Sullivan & Barros on
6 behalf of the Applicant.

7 VICE CHAIR JOHN: Okay. Thanks. Can you tell us
8 about your application and how the application meets what you
9 think is the applicable criteria for relief and while you're at
10 it, I don't know if you were listening in on this morning when
11 the Board discussed a similar case, so please feel free to
12 comment on the Board's position with respect to whether or not
13 relief is required.

14 MR. SULLIVAN: Thank you. Yes, I was listening. I'd
15 love to comment. It was very interesting. So I will -- why
16 don't I start with that and then we'll go ahead into the
17 PowerPoint.

18 VICE CHAIR JOHN: That's fine.

19 MR. SULLIVAN: So the RA-1 for 50 years the
20 definition of what was new was the same as the definition for
21 any other zone or at least I should say, at least in my
22 experience with Mr. LeGrant over the last ten years before
23 2016-2017 and that was if you're raising the building as far as
24 zoning sees it, then it's a new building and it's new
25 residential development. If you're not raising the building

1 and it's an addition, then it's matter-of-right assuming all
2 your other criteria were matter-of-right.

3 In 2016, this was difficult to do because the parking
4 requirement was one-to-one for RA-1. After the parking
5 requirement was reduced, for an eight unit building the parking
6 requirement went from eight to one which spurred a lot of
7 interest in RA-1.

8 In response to that, in my opinion, Mr. LeGrant came
9 up with guidance that was never adopted by the Zoning
10 Commission and that guidance came up with a new definition of
11 what is new and it was, well, if you're adding ten units and
12 doubling your FAR it was that guidance which then went to the
13 Yates appeal and in the Yates appeal the BZA said we don't like
14 this guidance and we don't like Matt LeGrant's definition of
15 what new is.

16 But it wasn't really clear what the new definition
17 was and so for a year or two after that Mr. LeGrant had a
18 couple of different opinions on that and then it ended with an
19 email a year or so after the appeal where he said, well, from
20 one to two units this is special exception, and then I asked
21 the interim Zoning Administrator, Mr. Ndaw, to confirm that or
22 change that opinion before we filed this application and
23 because I think that Board Member John and Commissioner May are
24 correct. I don't think a flat should need relief and here's
25 why I think that's true.

1 There's a key paragraph in the appeal that says, "The
2 Board agrees with the appellant that an apartment house use is
3 not permitted as a matter-of-right, that the subject property"
4 -- this is on page 6 of the appeal order -- and then it goes on
5 to say that "Subtitle 401 plainly states that a multi-family
6 building is not permitted in the RA-1," and it says, "this
7 prohibition applies to all new apartment house uses created in
8 the RA-1 zone," or it's the flat, it's not an apartment house
9 An apartment house is three plus units.

10 So it's really, it's kind of two issues. One is
11 what's the permitted use in the RA-1 and if you go by that,
12 then 401 says that you can have a flat by virtue of
13 incorporating in the RF zone regulations; right?

14 The second part of that question, is it new or not
15 which is kind of a different question, and in the Yates appeal
16 it went from one to seven and the Board said, and this makes
17 sense, one to seven was just too much. That's a stretch of
18 what's new. They don't care if you're, you know, using the
19 same building or just doing an addition and you go from one to
20 seven, that's abusing the definition of new essentially I think
21 is how they saw it. That's how I saw it. I would say
22 conversely going from one to two is sort of stretching the
23 definition in the other direction and but, I mean, it's not
24 clear. I just don't -- I think it's clear that the Yates
25 appeal didn't say specifically that you can't go from one to

1 two with that relief in which case I think it's totally up to
2 the Board to define what new is and isn't, whether it's in an
3 appeal or an application, however that happens and I think it's
4 going to take a long time before because we've been promised
5 the RA-1 rewrite for a couple of years now so I don't know how
6 fast that's going to come.

7 VICE CHAIR JOHN: So then, Mr. Sullivan, you
8 mentioned an email. Was it sent as an interpretation or a
9 private email?

10 MR. SULLIVAN: I mean, I look at all correspondence
11 with them as an interpretation.

12 VICE CHAIR JOHN: Well --

13 MR. SULLIVAN: So --

14 VICE CHAIR JOHN: -- certainly there's been some
15 streamlining and we've had published interpretations where
16 there's some sort of need for interpretation.

17 MR. SULLIVAN: Yes. It wasn't a guidance document --

18 VICE CHAIR JOHN: Okay.

19 MR. SULLIVAN: -- the Zoning Administrator does and
20 it wasn't a determination letter.

21 VICE CHAIR JOHN: Okay. All right.

22 MR. SULLIVAN: But it was an email. Basically Mr.
23 LeGrant said I went back and looked at the appeal and here's my
24 final word on this --

25 VICE CHAIR JOHN: Okay.

1 MR. SULLIVAN: -- and then he sent that out and
2 that's it and one of the things on the list is if you're going
3 from one to two, that's going to require. I mean, I think he
4 was just saying and in the absence of being really able to
5 understand the order, the appeal order completely, he went for
6 the lowest common denominator and said anything you do and
7 that's why, I mean, I would say putting two units in the
8 basement of a four unit building which we've come to the Board
9 before several times isn't new either.

10 But it was -- I think he struggled with the Yates
11 appeal and how to go from there, basically. So that's why
12 we're here a lot --

13 VICE CHAIR JOHN: Okay.

14 MR. SULLIVAN: -- for RA-1 cases.

15 VICE CHAIR JOHN: So before we hear the case I wanted
16 to find out if the Board has any questions at this point?
17 Okay. So, Mr. Sullivan, the Board has read the case. If you
18 will just give us a very concise description of what you're
19 trying to do.

20 MR. SULLIVAN: Okay. Thank you. If we could have
21 the PowerPoint loaded, and with us here -- the property owner
22 and the architect are here as well if the Board has any
23 questions for them. I wasn't going to have them testify unless
24 you had questions.

25 Next slide, please. This is 2909 N Street,

1 Southeast. It's RA-1. It's currently a single family
2 dwelling. The property owner resides in the building and has
3 for several years and the Applicant's proposing to construct an
4 addition and add a second principal dwelling unit to turn this
5 into a flat.

6 It meets all development standards and the Office of
7 Planning recommends approval. I don't know if the ANC
8 Commissioner has joined or not. If he hasn't I can explain
9 what our interactions with the ANC. Oh, okay. I understand
10 maybe he is there. So we attended an ANC meeting and there
11 were no issues. They chose not to vote on this. There was
12 some confusion on whether they needed to vote or not, but we
13 opted not to vote just so they would show up at the hearing.

14 VICE CHAIR JOHN: Thank you.

15 MR. SULLIVAN: Next slide, please. There's a photo,
16 2909, you see the subject property there. These are rows of
17 semi-detached.

18 Next slide, please. Next slide, please. Next slide,
19 please and next slide, please. I'm a little out of order so I
20 want to get to the plans first. Next slide. Yes, thanks.
21 There's some photos of the house, the front and the back.

22 These are floor plans. Next slide, please. Next
23 slide, please. So there's four levels and the roof plan.

24 Next slide, please. The roof has a roof hatch by the
25 way, and here's an elevation. This is the existing elevation.

1 Next slide, please. Next slide. These are more of
2 the other existing elevations. Here is the proposed elevation
3 front and back.

4 Next slide, please. Another elevation. Next slide.
5 Next slide, please. And there's a rendering showing the
6 proposed addition and this is -- it's RA-1 so there's, it's
7 limited to the 0.9 FAR.

8 Next slide, please. So that's it. If you could go
9 back to slide 3, I believe it was. Thank you.

10 Next. Perfect. So granting relief will be in
11 harmony with the purpose and intent of the regulations and will
12 not tend to affect adversely the use of neighboring property.

13 Next slide, please. And specific criteria which are
14 most, it's easiest just to reference the Office of Planning
15 report for this because 421.3 refers to the Office of Planning
16 for comment and recommendation on various aspects of this, and
17 that's it for our presentation.

18 Thank you.

19 VICE CHAIR JOHN: Thank you. Does the Board have any
20 questions of the Applicant? So I'll go to the Office of
21 Planning. Mr. Mordfin?

22 MR. MORDFIN: Hi. Good afternoon. I'm Stephen
23 Mordfin with the Office of Planning, and the Office of Planning
24 is in support of this application in that it does conform to
25 the relevant criteria and therefore as I said is in support,

1 and I'm available for any questions. Thank you.

2 VICE CHAIR JOHN: Thank you. Does the Board have any
3 questions for the Office of Planning? Does the Applicant have
4 any questions for the Office of Planning?

5 MR. SULLIVAN: No, thank you.

6 VICE CHAIR JOHN: Thank you. Mr. Young, is the ANC
7 here?

8 MR. YOUNG: Yes, the ANC is on.

9 VICE CHAIR JOHN: Okay. Could you -- I don't see the
10 ANC.

11 MR. BROWN: I'm here.

12 VICE CHAIR JOHN: Oh, Mr. Brown. Good afternoon.
13 Please introduce yourself for the record.

14 MR. BROWN: Good afternoon, Madam Chair, good
15 afternoon, Board Members. My name is Kelvin Brown. I am the
16 Chairperson for ANC 7B. The Single Member District
17 Commissioner could not attend so I'm standing in his stead,
18 Commissioner D. L. Humphrey, the SMD and so the Applicant did
19 come to the ANC and provide their drawings and their plans as
20 to what the proposed project would consist of.

21 There were a number of questions that were asked by
22 the community members as well as the Commissioners about the
23 use of the property, whether or not this property would have
24 any adverse impacts from a traffic, from a staging standpoint
25 of the construction equipment and I would say that the

1 architect and the developer answered all of the questions for
2 the Commission as well as the questions that community members
3 have and I personally had a conversation with Ms. Lily in
4 regards to this project, and so I can say that ANC 7B is in
5 support of this project.

6 I want to make sure that all of our neighbors have
7 the opportunity to continue to live, thrive and enjoy the
8 engagement of their communities and stay in their homes, and
9 Ms. Lily's place, she has been a long time resident of the
10 community and she has voiced interest in building a bigger home
11 where she can continue to support her family members as they
12 retire back to the area.

13 So we have no concerns about this project. I will
14 continue to work with the Applicant as they go through the
15 construction process and we hope that the Board would consider
16 approving this project for the Applicant and I'm available if
17 there are any questions.

18 VICE CHAIR JOHN: So, thank you, Mr. Brown. Now the
19 ANC did not submit a formal report; right?

20 MR. BROWN: The ANC did not vote to give great weight
21 to this application, however, the SMD Commissioner was to
22 submit a letter stating that he had spoken to the residents and
23 he was also in support --

24 VICE CHAIR JOHN: Okay.

25 MR. BROWN: -- or the consensus was his support.

1 VICE CHAIR JOHN: Okay. So you do understand that
2 without a formal vote in support, the Board is not able to
3 provide great weight to the ANC's issues and concerns, however,
4 the record will note that you appeared and testified in
5 support.

6 Does the Board have any questions of the
7 Commissioner? Does the Applicant have any questions of the
8 Commission? Is there --

9 MR. SULLIVAN: We do not. Thank you. Sorry.

10 VICE CHAIR JOHN: -- okay. Is there anyone else
11 wishing to testify, Mr. Young?

12 MR. YOUNG: No, we do not.

13 VICE CHAIR JOHN: Okay. Thank you. Mr. Sullivan, do
14 you have any closing comments?

15 MR. SULLIVAN: Just to congratulate Commissioner May
16 and wish him best in his future endeavors. I will miss his
17 fair and reasonable voice on the Board. Even when we didn't
18 agree with him, he was always very respectful and fair, so I
19 appreciate that.

20 ZONING COMMISSIONER MAY: Yes. Thank you very much.
21 I appreciate all of your work. You are -- I think you've done
22 more cases before the BZA in my time than anybody else, you and
23 your firm certainly, and you have some tough ones sometimes and
24 I think you always give your clients good service. Even if I
25 wind up disagreeing with you, I think you make the best case

1 | you can every time and it's always been a pleasure to see you
2 | at work. Thank you.

3 | MR. SULLIVAN: Thank you.

4 | VICE CHAIR JOHN: Thank you. All right. So I'm
5 | going to excuse everyone at this time and close the record and
6 | the hearing.

7 | Okay. I think we're ready to deliberate. Does
8 | anyone else want to start? I think I'm where I was this
9 | morning and having been convinced by my colleagues that we
10 | ought to take a position and to not dismiss cases like this so
11 | as not to penalize the Applicant and seek further clarification
12 | on the meaning of U 421 in its context. Then I guess I will
13 | just say I'm in support of approving this application under
14 | these limited circumstances and ask if anyone else would like
15 | to comment?

16 | MR. SMITH: I don't have any additional comments. My
17 | position is where it was earlier this morning regarding this
18 | case and the possibility of approving the special exception.
19 | Given that in the future the Zoning Commission and Office of
20 | Planning will be revisiting the issue or the position of for
21 | the regulations and clarify the regulations regarding, you
22 | know, we know if the special exception if we had gone forward
23 | (indiscernible) application. So in granting the special
24 | exception I do believe they met the burden of proof. Also
25 | grant the special exception under Subtitle U 421 to allow the

1 extension of the building to become a two-unit flat.

2 VICE CHAIR JOHN: Thank you. Commissioner May?

3 ZONING COMMISSIONER MAY: Yes. I agree with
4 everything that's been stated so far and it is, you know, very
5 much like the case earlier today. A little bit more
6 complicated because they're actually building a new,
7 essentially building a new building. But still the issue is,
8 you know, I think flats should be allowed as a matter-of-right
9 in RA-1 and I think the regulations do say that and it's
10 unfortunate it's taken already a couple of years to get the RA-
11 1 regulation touch-up happening with the Office of Planning,
12 but we heard earlier that that hopefully will come to the
13 Zoning Commission in the Fall and get clarified for good, so.

14 VICE CHAIR JOHN: Okay.

15 ZONING COMMISSIONER MAY: Anyway, so I'm in support
16 and hopefully this thing gets clarified.

17 VICE CHAIR JOHN: Okay. So I'll go ahead then and
18 make a motion to approve the application 20904 as captioned and
19 read by the secretary and ask for a second.

20 Mr. Smith? Mr. Smith?

21 MR. SMITH: Yes, second.

22 VICE CHAIR JOHN: Thank you. Mr. Moy, would you
23 please take a roll call?

24 MR. MOY: Yes, thank you. When I call your name, if
25 you'll please respond to the motion made by Vice Chair John to

1 approve the application for the relief requested. The motion
2 to approve was second by Mr. Smith.

3 Zoning Commissioner Peter May?

4 ZONING COMMISSIONER MAY: Yes.

5 MR. MOY: Mr. Smith?

6 MR. SMITH: Yes.

7 MR. MOY: Vice Chair John?

8 VICE CHAIR JOHN: Yes.

9 MR. MOY: We have two members not participating.

10 Staff would record the vote as three to zero to two and this is
11 on the motion made by Vice Chair John to approve. The motion
12 to approve was second by Mr. Smith who has also voted to
13 approve as well as approval from Zoning Commissioner Peter May
14 and of course Mr. Smith, Vice Chair John. The motion carries,
15 ma'am, on the vote of three to zero to two.

16 VICE CHAIR JOHN: Thank you, Mr. Moy. Is that all
17 for today?

18 MR. MOY: Yes, it is.

19 VICE CHAIR JOHN: Okay. All right. Thank you,
20 everyone. Commissioner May, we'll say goodbye again when you
21 come back, hopefully I'll be here and thanks to everyone for
22 today.

23 ZONING COMMISSIONER MAY: See you next week. Thank
24 you.

25 VICE CHAIR JOHN: Thank you. Bye.

1 (Whereupon, the above-entitled hearing was
2 adjourned.)

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This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: BZA

Date: 06-07-2023

Place: Teleconference

was duly recorded and accurately transcribed under my
direction; further, that said transcript is a true and accurate
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JULIE SOUZA