

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

MARCH 29, 2023

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

- LORNA JOHN, Vice Chairperson
- CARL H. BLAKE, Commissioner
- CHRISHAUN SMITH, Commissioner
- ANTHONY HOOD, Zoning Commission Chairperson
- PETER MAY, Zoning Commissioner

BOARD OF ZONING ADJUSTMENT STAFF PRESENT:

- CLIFFORD MOY, Secretary
- PAUL YOUNG, Data Specialist

BOARD OF ZONING ADJUSTMENT LEGAL COUNSEL:

- RYAN NICHOLAS, Esquire

The transcript constitutes the minutes from the Regular Public Hearing held on March 29, 2023.

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

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

(9:30 a.m.)

1
2
3 VICE CHAIR JOHN: Good morning, ladies and gentlemen.
4 The Board of Zoning Adjustment's March 29th public hearing will
5 please come to order. My name is Lorna John. I'm the Vice
6 Chairperson of the District of Columbia Board of Zoning
7 Adjustment. Joining me today are Board Members Carl Blake and
8 Chrishaun Smith, and Zoning Commissioners Anthony Hood and Peter
9 May.

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

19 If you experience difficulty accessing Webex or with
20 your telephone call-in, then please call our OZ hotline number
21 at 202-727-5471 to receive Webex log-in or call-in instructions.

22 At the conclusion of a decision meeting, I shall, in
23 consultation with the Office of Zoning, determine whether a full
24 or summary order may issue. A full order is required when the
25 decision it contains is adverse to a party, including an affected

1 ANC. A full order may also be needed if the Board's decision
2 differs from the Office of Planning's recommendation. Although
3 the Board favors the use of summary orders whenever possible, an
4 applicant may not request the Board to issue such 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 or 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 presentations should be limited to a summary
11 of your most important points. When you have finished speaking,
12 please mute your audio so that your microphone is no longer
13 picking up sound or background voice noise.

14 Once again, if you experience difficulty accessing
15 Webex or with your telephone call-in, or if you have forgotten
16 to sign up 24 hours prior to this hearing, then please call our
17 OZ hotline number at 202-727-5471 to sign up to testify and to
18 receive Webex log-in or call-in instructions.

19 All persons planning to testify either in favor or in
20 opposition, should have signed up in advance. They will be called
21 by name to testify. If this is an appeal, only parties are
22 allowed to testify. By signing up to testify, all participants
23 completed the oath or affirmation as required by Subtitle Y,
24 Section 408.7. Requests to enter evidence at the time of an
25 online virtual hearing, such as written testimony or additional

1 supporting documents other than live video, which may not be
2 presented as part of the testimony, may be allowed pursuant to
3 Subsection Y 103.13, provided that the person making the request
4 to enter an exhibit explains how the proposed exhibit is relevant,
5 the good cause that justifies allowing the exhibit into the
6 record, including an explanation of why the requester did not
7 file the exhibit prior to the hearing pursuant to Subtitle Y,
8 Section 206, and how the proposed exhibit would not unreasonably
9 prejudice any party.

10 The order of procedure for special exceptions and
11 variances pursuant to Subtitle Y, Section 409 will be as follows:
12 preliminary and procedural matters; statement of the applicant
13 and the applicant's witnesses; report and recommendations from
14 the of the D.C. Office of Planning; reports and recommendations
15 from other public agencies; reports and recommendations from the
16 affected Advisory Neighborhood Commission and the ANC's
17 witnesses, if any, for the area within which the property is
18 located; parties in support of the application; individuals and
19 organizational representatives in support of the application;
20 parties in opposition to the application; individuals and
21 organization representatives in opposition to the application;
22 individuals and organization representatives who are undeclared
23 with respect to the application; rebuttal and closing statements
24 by the applicant.

25 Pursuant to Subtitle Y, Section 408.2 and 408.3 the

1 following time constraints shall be maintained: the applicant,
2 appellant, and all parties except an affected ANC in support,
3 including witnesses, exclusive of cross-examination, maximum of
4 60 minutes collectively; the appellee, persons in parties, except
5 an affected ANC in opposition, including witnesses collectively
6 having an amount of time equal to that of the applicant and the
7 parties in support, but in no case more than 60 minutes
8 collectively; individuals, maximum of three minutes;
9 organization representatives, maximum of five minutes. These
10 time constraints do not include cross-examination and/or
11 questions from the Board. Cross-examination of witnesses by the
12 applicant or parties, including the ANC, is permitted.

13 The ANC within which the property is located is
14 automatically a party in a special exception or a variance case.
15 Nothing prohibits the Board from placing reasonable restrictions
16 on cross-examination, including time limits and limitations on
17 the scope of cross-examination pursuant to Subtitle Y, Section
18 408.5.

19 At the conclusion of each case, an individual who was
20 unable to testify because of technical issues may file a request
21 to leave -- may file a request for leave to file a written version
22 of the planned testimony to the record within 24 hours following
23 the conclusion of public testimony in the hearing. If additional
24 written testimony is accepted, then parties will be allowed a
25 reasonable time to respond as determined by the Board. The Board

1 will then make its decision at its next meeting session, but not
2 earlier than 48 hours after the hearing. Moreover, the Board may
3 request additional specific information to complete the record.
4 The Board and the staff will specify at the end of the hearing
5 exactly what is expected and the date when persons must submit
6 the evidence to the Office of Zoning. No other information shall
7 be accepted by the Board. Once again, after the Board adjourns
8 the hearing, the Office of Zoning, in consultation with me, will
9 determine whether a full summary order may issue. A full order
10 is required when the decision it contains is adverse to a party,
11 including an affected ANC. A full order may also be needed if
12 the Board's decision differs from the Office of Planning's
13 recommendation. Although the Board favors the use of summary
14 orders whenever possible, an applicant may not request the Board
15 to issue such an order.

16 Finally, the District of Columbia Administrative
17 Procedure Act requires that the public hearing on each case be
18 held in the open before the public. However, pursuant to Sections
19 405(b) and 406 of that Act, the Board may, consistent with its
20 rules of procedures and the Act, enter into a closed meeting on
21 a case for purposes of seeking legal counsel on a case pursuant
22 to D.C. Official Code Section 2575(b)(4) and/or deliberating on
23 a case pursuant to D.C. Official Code Section 27 -- 2575(b)(13),
24 but only after providing the necessary public notice and in the
25 case of an emergency closed meeting after taking a roll call.

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

2 MR. MOY: Morning, Madam Vice Chair and members of the
3 Board. I do have a brief announcement for the Board, you and
4 the Board, in reference to today's docket. First, Case
5 Application No. 20824 of Rupsha 2011, LLC was granted a request
6 for postponement and was continued as scheduled to June 7th,
7 2023. Number two, as a reminder, in the Board's public hearing
8 session, Application No. 7468B of NTH (sic) Communities,
9 participating -- this is a continued application which was heard
10 previously, and I believe it was -- well, I'll get back to that.
11 But participating on this continued case is the Vice Chair, Mr.
12 Blake, Mr. Smith, and Zoning Commissioner Anthony Hood.

13 Other than that, Madam Vice Chair, we do have, going
14 back to preliminary matters, just as a reminder to you, Case
15 Application No. 20853 of 1212 Oates Street, LLC, there were three
16 preliminary matters in this case. Tuesday night, which is within
17 the 24-hour block for submissions, there was a motion for a
18 continuance from the Applicant, and as the Board is aware, there
19 was already a preliminary matter for request for a party status
20 and the Applicant proffering three expert witnesses. So that's
21 all I have for you, Madam Vice Chair.

22 VICE CHAIR JOHN: Thank you. Thank you, Mr. Moy. So
23 please call the first case, and I believe that's the case Mr.
24 Hood is on. And that's the only case you have before us today,
25 right, Mr. Hood? Yeah.

1 ZC CHAIRPERSON HOOD: Yes, that's correct, Madam Vice
2 Chair.

3 VICE CHAIR JOHN: Okay. Thank you.

4 So please give me a second, Mr. Moy, and then I'll ask
5 you to call that case.

6 MR. MOY: Yes, absolutely.

7 (pause)

8 VICE CHAIR JOHN: When you're ready, Mr. Moy.

9 MR. MOY: All right. So before the Board is Case
10 Application No. 7468B of NHT Communities and G and I -- G and IX
11 or is that nine, East River Park MZL, LLC. This is a self-
12 certified application pursuant to Subtitle Y, Section 704 for a
13 modification of significance of a BZA order, Appeal 7468 and
14 7469, that allowed the location of required parking on a separate
15 lot and pursuant to Subtitle X, Section 901 a special exception
16 under Subtitle C, Section 703 from Subtitle C, Section 701.10 to
17 permit the reduction in the number of required parking. Property
18 located in the MU-7B zone and the -- at address 307 40th Street,
19 N.E., Square 5083, Lot 179, Square 5051 through N, Lots 15, 16,
20 838, and 840. This is the East River Shopping Center. And
21 finally, this was last heard by the Board at its public hearing
22 session on March the 1st, 2023. And that's all I have for you
23 at the moment, I believe, Madam Vice Chair.

24 VICE CHAIR JOHN: Thank you, Mr. Moy.

25 Good morning, Mr. Tummonds. Would you introduce

1 yourself and tell us who you have with you today?

2 MR. TUMMONDS: Sure. Good morning. My name is Paul
3 Tummonds. I am zoning and land use counsel for the Applicants,
4 and I'm with Goulston & Storrs. With us here this morning we
5 will have two witnesses: Daniel Solomon, principal with Gorove
6 Slade Associates. I will note that Mr. Solomon has been admitted
7 previously as an expert in transportation engineering. And in
8 our March 10th submission, we had submitted his resume and we
9 request that he be admitted as an expert. And then our second
10 witness will be Jerome Nichols, president of Standard Real Estate
11 Investments, who is the owner of the East River Park Shopping
12 Center property. I don't see Mr. Nichols up yet.

13 VICE CHAIR JOHN: Okay. Thank you. So because Mr.
14 Solomon is already in the expert witness book, we'll go ahead and
15 admit him for today as well. So you will have 15 minutes, Mr.
16 Tummonds, to tell us where we are today and to discuss the
17 materials that the Board requested at the last meeting. And just
18 to refresh your recollection, this was further explanation of
19 compliance with Section 703.3 and 703.4, letter of authorization
20 for the new ownership, a TDM plan, and update on discussions with
21 ANC 7F, and outreach to the community.

22 MR. TUMMONDS: Yes. Well, thank you very much. So as
23 the Vice Chair has noted, on March 10th, 2023, we submitted the
24 information requested by the Board. In particular, we will spend
25 today talking about the satisfaction of the standards of Subtitle

1 C, Section 703.3 and 703.4 with Mr. Solomon's testimony. And
2 then Mr. Nichols will discuss the outreach that has occurred with
3 the community, with the ANC, and other stakeholders well in
4 advance of this application being filed on October 4th, 2022.
5 With that, I will now have Mr. Solomon present his testimony.

6 Mr. Young, if you could pull up the PowerPoint
7 presentation? Thank you.

8 Mr. Solomon?

9 MR. SOLOMON: Good morning, Board members. Oh, I'll
10 wait for it to be up. Okay. Good morning, Board Members, for
11 the record, I'm Daniel Solomon, a transportation planner and
12 principal with Gorove Slade. I'm here to talk today about the
13 parking inventory and occupancy study we conducted in support of
14 this BZA application.

15 On the figure above, you'll see two parking lots where
16 we collected data and made observation. Data was collected from
17 6 a.m. to 11 p.m. on Saturday, March 4th, and on Monday, March
18 6th; Tuesday, March 7th; and Wednesday, March 8th. We identified
19 a total of 344 off street parking spaces with 279 spaces in the
20 shopping center lot identified with the number one on the figure
21 above, and 65 spaces in the 40th Street lot which is identified
22 with the number two. Next slide please?

23 The findings of the parking study concluded that the
24 peak parking occupancy for the shopping center lot occurs on a
25 typical Wednesday at noon with approximately 99 percent

1 occupancy, which equates to 275 of the 279 spaces being occupied.
2 By comparison, peak parking occupancy on Saturday occurred at 11
3 a.m. with approximately 56 percent occupancy, which is 157 of 279
4 spaces being occupied. There is little to no parking demand
5 observed in the 40th Street lot on a typical Saturday, Monday,
6 Tuesday, or Wednesday, from 6 a.m. to 11 p.m. A maximum of a
7 single vehicle on any single day was observed parking in the 40th
8 Street lot. The existing parking activity occurs almost
9 exclusively in the shopping center lot. Based on observations
10 during data collection, a significant portion, approximately 30
11 percent, of weekday parking demand consisted of walk-off parking
12 activity. It was observed that a significant number of
13 construction workers use the parking spaces at the shopping
14 center lot beginning on all weekday mornings of the data
15 collection, and then walked offsite without patronizing onsite
16 retail. Minimal non-patron walk-off parking activity was
17 observed on Saturday, as there is little to no construction worker
18 and or commuter activity on the weekends. Weekday parking demand
19 patterns observed during the Satur- -- during the study display
20 a pattern that is consistent with commuting, with demand
21 beginning to peak during the morning commute hours between 7 and
22 9 a.m., remaining relatively steady throughout the day, and then
23 rapidly decreasing during the evening commute hours, which is
24 between 4:00 and 7:00. Given the proximity of the site to the
25 Minnesota Avenue Metrorail station, non-patrons may be parking

1 in the shopping center lot and continuing to the Minnesota Avenue
2 Metrorail station as part of their commute. It is expected that
3 the shopping center lot would be able to accommodate all the
4 parking demand generated by the East River Park Shopping Center,
5 assuming the implementation of appropriate signage to minimize
6 non-patrons using the parking lot or when nearby construction
7 activity were to cease. If improved signage for parking
8 restrictions and/or time restrictions were implemented, it is
9 likely that parking -- peak parking demand for the shopping center
10 lot would be reduced by approximately 30 percent from 99 to 69
11 percent during peak weekday times. The Applicant has agreed to
12 implement such signage as a condition of approval of this
13 application. Thank you and I'll be available to answer any
14 questions. And with that, I'll pass it back to Mr. Tummonds.

15 MR. TUMMONDS: Thank you, Mr. Solomon. Thank you, Mr.
16 Solomon.

17 Mr. Nichols?

18 (Pause.)

19 MR. SOLOMON: I don't think we can hear you, Jerome.

20 MR. NICHOLS: How's that?

21 MR. TUMMONDS: Perfect.

22 MR. NICHOLS: Okay. Thanks for making space. I'll be
23 quick. My name is Jerome Nichols, president and co-founder of
24 Standard Real Estate Investments. Standard is an investment
25 manager and real estate development firm. Standard is 100 percent

1 minority-owned development company. We're the owner of the East
2 River Park Shopping Center. We purchased the site in October of
3 2022 on the 14th of that month. We started outreach to folks in
4 the community to understand and learn what was happening there
5 about five months prior to our acquisition of the shopping center,
6 so in May of 2022. We started with the Marshall Heights Community
7 Development Organization, which is right next door, and we
8 started those talks and have continued to talk with ANC. Members
9 from Marshall Heights community members have been presenters at
10 board members -- board meetings for Marshall Heights community
11 organization, ANC meetings, in person, on the phone, and
12 telephonically. So we continue to do that and want to understand
13 what folks need and want in that neighborhood. And we're happy
14 to continue to do so. That's all we have.

15 MR. TUMMONDS: Thank you, Mr. Nichols.

16 So just in summation, I think that based on the parking
17 study that we've submitted, as well as the testimony that you
18 heard at the March 1st hearing with regards to general
19 observations about the parking activity in the 40th Street lot,
20 there is significant evidence in the record of this -- for the -
21 - significant evidence in the record of this BZA case for the
22 BZA to conclude that it is no longer necessary that the 40th
23 Street lot be required to provide any parking spaces for the East
24 River Park Shopping Center. The existing parking spaces on the
25 40th Street lot are just not utilized. Therefore, with regards

1 to the 40th Street lot, we believe Section 703.3(a) is satisfied.

2 With regard to what is the parking demand on the East
3 River Shopping Center site, as we noted in the March 1st hearing,
4 we are committed and willing to have the existing number of
5 parking spaces, 279 parking spaces, be the required number of
6 parking spaces for the East River Park Shopping Center. We
7 believe that is consistent with demand, and moreover, with the
8 signage that Mr. Solomon discussed and with the analysis that
9 roughly 30 percent of the parkers in that lot during the weekday
10 seem to be either construction worker parkers for the development
11 of the Department of General Services' office building across the
12 street from the East River Shopping Center, or in fact commuter
13 parkers going up to the Main Avenue Metrorail station. We believe
14 that that will allow for even less demand of those 279 parking
15 spaces.

16 Finally, we have submitted into the record the
17 transportation demand management plan that was requested, and
18 that is consistent with DDOT's standard TDMs for retail uses.
19 And it is also consistent with a TDM plan that was approved by
20 DDOT with regards to a large tract review application that
21 occurred previously for the development of the site. With it,
22 that concludes our presentation, and we're available to answer
23 any questions that the Board may have.

24 VICE CHAIR JOHN: Okay. Thank you.

25 Does the Board have any questions?

1 Mr. Young -- oh, go ahead, Mr. Blake.

2 COMMISSIONER BLAKE: I wanted to just follow up on the
3 community outreach. There's some slides provided in the
4 presentation about the efforts you have made for community
5 outreach just to clarify the issues. I think one of the big
6 concerns we had early on that came out of the last hearing was
7 it was clear that the community wasn't exactly 100 percent clear
8 on what was going on. And we have -- obviously, we don't have
9 any additional information from the ANC as reported in the record.
10 So I'd like to get a sense of your experience exactly what that
11 is and what's transpired since then?

12 MR. NICHOLS: Yeah, I think it's an understandable
13 concern and one that we appreciate. I think no information --
14 people tend to wonder what's happening. I think the disconnect
15 here was that right now it's a full-on operating shopping center
16 and will continue to be for some period of time. We spent most
17 of our time renewing some leases, terminating some trouble
18 tenants, trying to understand the parking situation, and wrap our
19 head around actually consuming an acquisition of a, you know,
20 shopping center that is very active. So we need to continue to
21 do more engagement. But what we have presented at at least one
22 ANC meeting, presented at at least one Marshall Heights board
23 meeting. We've been invited to another Marshall Heights board
24 meeting where we did not present. We've hosted community meeting,
25 all with very positive responses from different stakeholders. So

1 I think it's a dialog that's ongoing and, you know, I don't know
2 if this is relative to the Zoning Board or not, but I think --
3 what I think folks were feeling potentially is prior owners had
4 gone through paces and made promises, maybe engage and then didn't
5 engage, and I think we were just feeling the weight of that prior
6 process. And it's incumbent upon us to just make sure we do it
7 the right way this time.

8 MR. TUMMONDS: Mr. Nichols, could you talk briefly
9 about discussions you've had with ANC commissioners subsequent
10 to the BZA hearing we had in early March?

11 MR. NICHOLS: Yeah, we've had talks around partnering
12 on, you know, different community events. Folks are anxious to
13 work with us. We're anxious to work with them. You know, all
14 of these things are in the works. I don't know if it's
15 appropriate to name specific engagements or names, but certainly
16 prior to and post our initial here -- and which I was at, just
17 in the audience, I felt like I wanted to jump through the screen
18 when it was like where is the owner of East River Park, I just
19 wasn't set up to speak. But you know, we're talking about a
20 community clean-up on the site on the 1st of April, which we
21 donated materials to yesterday. There's other things that are
22 in the works. So it's a long process and one that we need to
23 make sure we're all under the tent on. But I do believe that
24 everybody feels good about what's happening thus far. I'll let
25 other folks speak for that, but lots of different opinions and

1 we have to just stay on the right side.

2 MR. TUMMONDS: Thank you.

3 MR. NICHOLS: Yeah.

4 COMMISSIONER BLAKE: I don't have any other questions.

5 VICE CHAIR JOHN: Go ahead.

6 COMMISSIONER BLAKE: I said I don't have any other
7 questions.

8 VICE CHAIR JOHN: Okay. Thank you.

9 Commissioner Hood?

10 ZC CHAIRPERSON HOOD: Yes. Thank you, Madam Vice Chair.

11 Mr. Nichols, I'm still -- I was listening to your comments in
12 response to Board Member Blake. I'm still kind of not clear on
13 the ANC's position. I mean, as Board Member Blake mentioned, we
14 don't have anything from them, and I know you said you all are
15 doing the community clean-up. All that's great. But what was
16 their issue -- what was their -- what was Commissioner Holcomb
17 or the ANC's response? And you can name names, especially because
18 we have to have that on the record, and especially if you talked
19 to a specific ANC, especially the Chairman. What was the outcome
20 of that?

21 MR. NICHOLS: So on -- there was a ANC meeting where
22 there was a vote taken prior to our initial Zoning Board hearing.
23 And at that meeting, this is my interpretation of what I
24 understand, there was a vote taken by the ANC not in support or
25 disapproval of this case, but it was relative to, you know,

1 forward-looking activities around the potential development of
2 East River Park and/or the 40th Street lot. They expressly took
3 no position on the actual parking covenant or its potential
4 removal. I'm not aware of any subsequent positions they've
5 officially taken on any of those things. You know, it's really
6 tough for me to say what they think. And I don't know if it's
7 appropriate for me to say what I -- where their position -- what
8 their position is, but we have to look to them for that. I'm
9 not trying to talk around the question, I just -- for me to say
10 what their position is is really, I don't know if it's my place.

11 ZC CHAIRPERSON HOOD: So I guess, Mr. Nichols, let me,
12 if I recall, there was some -- it wasn't clear to the community
13 and it wasn't clear at least in my perspective, I think other
14 Board members as well. So that's what I think -- I would hope
15 that -- that's what we thought we were going to get today. And
16 far as I'm concerned, it seems like we're in the same place, I
17 don't know if my other colleagues feel like, that we were the
18 last time. So I -- by not having a response, I'm not seeing a
19 response meaning they're okay with it or not having response,
20 meaning they may not have had time to get back to it. I was just
21 trying to find out, as Board Member Blake mentioned, what happened
22 since our last meeting with the ANC and I'm still unclear, so.

23 MR. NICHOLS: Since our last meeting, what has happened
24 is we did have a community meeting essentially jointly hosted by
25 Mark Hartford at the Marshall Heights Community Organization's

1 headquarters, Standard, myself, presented to an open set of the
2 community about our acquisition of East River Park. And Ed and
3 team at NHT presented to the community about their acquisition
4 of the 40th Street lot. Ed spoke about their go-forward plans
5 for development. We talked about our ongoing operations at the
6 center and, you know, potential development plans for the site,
7 which are still very, very, very early and almost in their
8 infancy. My reaction from those meetings was very positive. I
9 got -- I handed out business cards. I got a lot of follow-ups.
10 I had community folks calling me, asking us if we would
11 participate in additional development with them, ANC members, you
12 know, discussing other sites that we can buy and partnership with
13 the community. I was invited to speak at, I forget, Pinbreck
14 Civic -- Panburg Civic Association, to talk about the story of
15 how we purchased this site and to help, you know, potentially
16 inspire others to do the same at other neighborhood
17 opportunities.

18 So we've been approached by commissioners about
19 planning social activities on the site, working in partnership
20 to activate the center, whether it's the parking lot, ironically
21 or not, during off hours or community events, be it festivals,
22 farmer's markets. So we've had very frequent, as detailed in the
23 exhibit, and then, you know, since the date that we submitted the
24 exhibit, continued detailed almost daily communication with
25 individuals, ANC members, and Marshall Heights around ongoing

1 operations at the center and partnership.

2 So that it's confusing to folks, I think the confusing
3 kind of line is no longer the case. I don't think folks are
4 confused about what's happening. I think folks are anxious about
5 what's happening. I mean, the ANC is very put together. I've
6 been really impressed with how organized they are and not that
7 they wouldn't be, but the way they approach issues and items and
8 stay up on the community, I've been really, really impressed and
9 folks are lucky to have them. So I would take everything that
10 they do as very intentful and at their word. I don't think they
11 have had many missteps. So they have the capability to submit,
12 and you know, oppose and support things. And they're very good
13 at that. So I would just take them at their word.

14 ZC CHAIRPERSON HOOD: Okay. Thank you for answering
15 my question that way.

16 And thank you, Vice Chair. Thank you.

17 VICE CHAIR JOHN: Are there any other questions for the
18 Applicant?

19 I'll go to the Office of Planning, Mr. Mordfin.

20 We can't hear you.

21 MR. MORDFIN: Oh, okay, sorry.

22 VICE CHAIR JOHN: There you go.

23 MR. MORDFIN: Good morning, Chair -- or Vice Chair and
24 Members of the Board. I'm Steven Mordfin with the Office of
25 Planning. The Office of Planning continues to support this

1 application. The additional information that was submitted by
2 the Applicant shows that there is adequate parking on the site
3 without the use of the 40th Street lot, and that -- therefore we
4 think that the request is appropriate and we support it. And
5 I'm available for any questions. Thank you.

6 VICE CHAIR JOHN: Okay.

7 Does anyone have questions from the Board for Mr.
8 Mordfin?

9 Mr. Tummonds, do you have any questions?

10 MR. TUMMONDS: No questions.

11 VICE CHAIR JOHN: Thank you.

12 Mr. Young, is there anyone signed up to testify?

13 MR. YOUNG: No, we do not.

14 VICE CHAIR JOHN: Thank you.

15 Mr. Tummonds, do you have any closing comments?

16 MR. TUMMONDS: No, I think I summed up what I believe
17 are our satisfaction of the relevant standards for special
18 exception approval. I would note that through this case we have
19 agreed to two conditions of approval. One being that we would
20 agree to add appropriate signage to the East River Park Shopping
21 Center property to minimize non-patrons' use of the parking lot.
22 And the second was, previously we had agreed to include as a
23 condition of approval a construction management plan that had
24 previously been reviewed by ANC 7F. With that, we conclude our
25 presentation, and we thank you for your time and attention to

1 this application.

2 VICE CHAIR JOHN: Okay. Thank you very much.

3 I'm going to ask Mr. Young to excuse the witnesses and
4 thank you for your testimony. I'm also going to close the record
5 at this time, and the -- yes.

6 (Pause.)

7 VICE CHAIR JOHN: Okay.

8 So are we ready to deliberate? Does anyone want to
9 start?

10 Okay. So based on the recent submissions, I think the
11 application is fairly straightforward at this point and the
12 Applicant has demonstrated that there is virtually, I would say
13 virtually no demand for parking at the 40th Street parking lot.
14 And so I am comfortable with the application as it is presented
15 today. So does anyone else want to jump in?

16 COMMISSIONER SMITH: I'll jump in Vice Chair John. I
17 by and large agree your assessment of this particular case, given
18 the additional information that was put into the record. What
19 was concerning to me was, you know, initially was a reduction
20 down to 67, and the last time we heard -- 67 parking spaces. The
21 last time we, you know, we heard this case, the Applicant kind
22 of backed off of that, you know, sledgehammer to their requirement
23 to just reduce down to the ZR '16 requirements because we do have
24 this additional requirement that was put in to the regulations
25 at the time of passage of ZR '16 regarding C 703.3, any reduction

1 in the required number of parking spaces granted under Subtitle
2 C 703.2 shall be proportionate to reduction in parking demand
3 demonstrated by the applicant. Previously the Applicant hadn't
4 demonstrated that. With this presentation they have sufficiently
5 demonstrated that there is a parking demand for that lot behind
6 the shopping center. So I am fairly comfortable with reducing -
7 - with the request before us of reducing it down to essentially
8 the parking spaces that front that shopping center down to 278.
9 So I would be in support of the Applicant.

10 VICE CHAIR JOHN: Thank you.

11 Anyone else?

12 Thank you.

13 COMMISSIONER BLAKE: I'll go. I think having reviewed
14 the information in the record, including the TDM and parking
15 occupancy plans and studies, and also hearing the testimony from
16 Mr. Solomon and Mr. Nichols, and in both providing clarification
17 on the community outreach and further explanation of how the
18 requested relief is in compliance with provisions of C 703, I
19 believe the Applicant has actually met the burden of proof for
20 the relief to be granted.

21 The Applicant, as you pointed out, has demonstrated
22 that the parking studies and the proposed reduction in parking
23 is proportionate to the reduced demand and that the reduction in
24 spaces is limited to that which the Applicant is reasonably able
25 to provide, which is on the side of the shopping center, to 78.

1 The Applicant did provide a TDM plan in Exhibit 42 and
2 considering the parking analysis provided by the Applicant and
3 it is consistent with general parameters specified, typically
4 specified by DDOT, I do recommend that that plan be in the record
5 and that the Applicant does have the conditions that they have
6 stated that they will include, which is the signage which will
7 help mitigate the impact of the spaces that are being used for
8 public transportation and the like. The other (indiscernible),
9 obviously because this is only dealing with the regulations of
10 58, we do not have to apply the other parameters of ZR '16, so
11 none of the other issues apply. As I also pointed out, following
12 the outreach on March 1st hearing, I was concerned -- following
13 March 1st hearing, I was really concerned about the community
14 outreach and that the community's understanding of the project.
15 And I'm disappointed that the ANC did not ultimately file the
16 report, which they indicated they would file for the record. So
17 we don't have anything to grant -- apply great weight to.

18 But I do appreciate the Applicant's detailed tabulation
19 of community actions, and I was encouraged and heartened by the
20 statements made by the owner, Mr. Nichols, and their commitment
21 to remain engaged with the community on this project and potential
22 developments, you know, total potential developments of the East
23 River Shopping Center property. I hope that remains the case,
24 and I would encourage them to please communicate with the
25 community on that. That said, I give great weight to the Office

1 of Planning's recommendation for approval. I note that DDOT has
2 no objection to the granting of the request. And I will be voting
3 in favor of the application.

4 VICE CHAIR JOHN: Thank you.

5 Commissioner Hood?

6 ZC CHAIRPERSON HOOD: Okay. Thank you, Madam Vice
7 Chair. I, too, will be voting in favor of this application. I
8 appreciate Mr. Nichols summing up his belief. That gives me a
9 comfort level because it seems like there was some clarity issues
10 and clearing up issues that needed to happen. I believe that
11 happened, especially with his testimony and Mr. Solomon's
12 testimony. I think that this meets our approval. I would vote
13 in favor of this modification of significance under Subtitle C
14 701 pursuant to Subtitle C 703, and I'll be voting in favor.
15 Thank you, Madam Chair.

16 VICE CHAIR JOHN: Thank you, Mr. Hood.

17 So yes, I agree with everyone that there was some
18 confusion at first, but I believe that the recent submissions
19 have clarified that essentially this is a request for a reduction
20 of parking and that the required parking was already established,
21 and this is a request for reduction of parking for the 40th Street
22 lot. And that's what we're deciding today.

23 So as to the condition, I would suggest that, and I
24 agree with the Board, that we should include the condition that
25 the Applicant provide appropriate signage for the East River

1 Shopping Center lot, and I believe that's what we recommended.

2 Okay. So if there's nothing else, I'll make a motion
3 to approve Application 7468B as captioned and read for this --
4 by the secretary with the condition that the Applicant install
5 appropriate signage concerning the parking lot conditions. I
6 think the lawyers can write the appropriate conditions. And ask
7 for a second.

8 COMMISSIONER BLAKE: Second.

9 VICE CHAIR JOHN: Mr. Moy, would you please call the
10 roll call?

11 Mr. MOY: Yes. Thank you, Madam Vice Chair. When I
12 call your name, if you will please respond to the motion made by
13 Vice Chair John to approve the application for the relief
14 requested, along with the condition that the Applicant install
15 appropriate signage at the East River Shopping Center lot. The
16 motion to approve was second by Mr. Blake.

17 Zoning Commission Chair Anthony Hood?

18 ZC CHAIRPERSON HOOD: Yes.

19 MR. MOY: Mr. Smith?

20 COMMISSIONER SMITH: Yes.

21 MR. MOY: Mr. Blake?

22 COMMISSIONER BLAKE: Yes.

23 MR. MOY: Vice Chair John?

24 VICE CHAIR JOHN: Yes.

25 MR. MOY: And we have no other Board member

1 participating today, staff would record the vote as four to zero
2 to one, and this is on the motion made by Vice Chair John to
3 approve, along with the one condition, as I've just cited. The
4 motion to approve was second by Mr. Blake, who is also in favor
5 of the motion, along with Zoning Commission Chair Anthony Hood,
6 Mr. Smith, and again Mr. Blake, and Vice Chair John. Motion
7 carries, Madam Vice Chair, four to zero to one.

8 VICE CHAIR JOHN: Thank you.

9 ZC CHAIRPERSON HOOD: Thank you. Y'all have a great
10 day.

11 VICE CHAIR JOHN: Oh, have a good day Commissioner
12 Hood. Thank you.

13 (Pause.)

14 VICE CHAIR JOHN: Okay. Mr. Moy, please call our next
15 case.

16 (Pause.)

17 VICE CHAIR JOHN: Mr. Moy, you may call your next case
18 when you're ready.

19 MR. MOY: I'm sorry, I was muted. Okay. For
20 confirmation on my part, would that be Case Application No. 20853?

21 VICE CHAIR JOHN: That's correct.

22 MR. MOY: All right. Thank you. Okay.

23 So before the Board is Case Application No. 20853 of
24 1212 Oates Street, LLC. This is a self-certified application
25 pursuant to Subtitle X, Section 901.2 for special exception under

1 Subtitle E, Section 206.4 and Subtitle E, Section 5207 from the
2 rooftop limitations of Subtitle E, Section 206.1. Property's
3 located in the RF-1 zone at 1212 Oates Street, N.E., Square 4060,
4 Lot 79. Once again, Madam Vice Chair, last night within the 24-
5 hour block submissions, the Applicant filed a motion for a
6 continuance. So that's preliminary matter number one. Number
7 two, there's a request for party status in opposition from a
8 Martin Holmes under Exhibits 21 and 21A. And the Applicant has
9 proffered three expert witnesses, two of which are not in the
10 witness books. And I believe, Madam Chair, I believe -- and
11 there are letters in opposition from one, two, three, four
12 individuals that are not in the record because of the 24-hour
13 block. And that's it for me, Madam Vice Chair.

14 VICE CHAIR JOHN: Thank you.

15 Good morning, everyone. Ms. Batties, can you introduce
16 yourself for the record please?

17 COMMISSIONER BLAKE: You're on mute.

18 VICE CHAIR JOHN: I believe you're muted.

19 MS. BATTIES: Sorry about that. Good morning. Leila
20 Batties with the law firm of Holland & Knight on behalf of the
21 Applicant, 1212 Oates Street, N.E., LLC.

22 VICE CHAIR JOHN: Thank you.

23 So do we have the ANC here? No. Oh, yes. I'm sorry,
24 Mr. Guzman. Please introduce yourself for the record.

25 ANC COMMISSIONER SALVADOR: Yes. My name is Salvador

1 Saucedá-Guzmán. I'm a commissioner here for ANC 5D, the chair
2 of ANC 5D, and the chair of our zoning committee. I go by either
3 Commissioner Salvador for short or my last name. Commissioner
4 Saucedá-Guzmán. Thank you.

5 VICE CHAIR JOHN: Okay. Thank you. So we'll go with
6 Commissioner Salvador.

7 Okay. Is Mr. Holmes here?

8 (Pause.)

9 VICE CHAIR JOHN: Mr. Holmes?

10 MR. HORGAN: He is -- this is Kevin Horgan, I volunteer
11 with the ANC. He's texting me. For some reason, he can't unmute
12 or turn on his video. He's having some technical problems, but
13 he is present and he can hear you.

14 VICE CHAIR JOHN: Okay. Can you ask him to call in on
15 his phone?

16 MR. HORGAN: I can do that.

17 MR. HOLMES: Hello? Can you hear me? This is Martin
18 Holmes.

19 VICE CHAIR JOHN: Okay. I can.

20 MR. HOLMES: Okay.

21 VICE CHAIR JOHN: Please introduce yourself for the
22 record.

23 MR. HOLMES: Sure. My name is Martin Holmes and I am
24 the owner of the property at 1210 Oates Street.

25 VICE CHAIR JOHN: Okay. And you live in the property?

1 You have to give your name and home address. So please give your
2 home address.

3 MR. HOLMES: Excuse me?

4 VICE CHAIR JOHN: Please give your home address.

5 MR. HOLMES: Sure. Yes. I had lived in the property
6 at 1210 Oates Street until some damage was caused to that property
7 by the construction next door. And for that reason, I currently
8 live at 3835 9th Street North, Arlington, Virginia, Unit No. of
9 510E

10 VICE CHAIR JOHN: Okay. Thank you very much. So I'm
11 aware there's several matters that we need to decide, including
12 the party status, the request to postpone, the issue of expert
13 witnesses, and the letters in opposition. So Mr. Moy, would you
14 please -- Mr. Moy, would you please let all of the letters in
15 opposition in the record?

16 And so I think I'll go ahead and suggest that we hear
17 the party status application before we handle the request to
18 postpone. So Mr. Holmes, you have 15 minutes. Well, not exactly.
19 You shouldn't need 15 minutes to tell us why you should be granted
20 party status. And you should be aware that the Applicant is in
21 opposition to your being granted party status. And before you
22 begin, the regulations state that you should be more distinctly
23 affected by the Applicant's project more than any other person
24 in the community. That's a shorthand for the standard. And in
25 your request for party status, you appear to be addressing a

1 number of matters that are not before the Board.

2 So the only thing before the Board is to -- let me make
3 sure I get this right -- is the porch addition which was not
4 permitted. So there are a number --

5 MR. HOLMES: Yes, ma'am.

6 VICE CHAIR JOHN: There are a number of issues in your
7 statement that relate to code violations which are not before
8 this Board. Only the zoning issues are before the Board. So
9 please go ahead and tell us how you will be affected by the
10 addition of the porch, which was not permitted.

11 MR. HOLMES: Yes, ma'am. And let me first of all thank
12 you for your time and for the Board. Let me also note that when
13 I received the opposition from the lawyers of 1212 Oates Street,
14 I actually provided a supplemental party request form that more
15 distinctly addressed the elements and concerns with the porch
16 itself, and the porch roof, and the architectural elements that
17 are currently in play. So there is a second record, I don't know
18 the document number within the filing system, but there is a
19 second record that I submitted that addresses the architectural
20 elements specifically without any of those confusion points about
21 the code violations.

22 So more generally, let me just begin by saying that I
23 am a neighboring property owner. I own 1210 Oates Street. I
24 lived there for three years. I've been very negatively impacted
25 by this project and the development at 1212 Oates Street. I

1 believe this specific special exemption under consideration today
2 for the adjustment to the porch is far out of character with the
3 neighborhood. There are 37 homes on this block on Oates Street,
4 and all of them have characteristic styles and architectural
5 elements where maybe a porch or a roof goes up by three inches
6 but does not jump up by two feet or thirty inches, two and a half
7 feet. So it's very out of character with the neighborhood.

8 Furthermore, I believe that approval of the special
9 exemption would isolate my property, again exactly because of
10 these huge height differentials, thirty inches on the porch,
11 twenty-four inches on the roof above the porch. It would
12 interrupt my natural communication. I used to go out on the
13 balcony of my property on that porch and have conversations with
14 Wanda, the mail carrier at 1212 Oates, or Derek, who was
15 performing maintenance at the school, or at 1214 Oates I'd talked
16 to Bobby about his real estate endeavors. And these were clear
17 lines of sight where I could sit on my porch and turn and
18 communicate with the people on the porch who's next door. But
19 with this increase in elevation of the porch and the porch roof,
20 the line of sight is interrupted and I cannot do that as natural
21 anymore.

22 I believe beyond all that, it's just far out of
23 character with the appearance of the neighborhood. I believe it
24 isolates my property and can potentially hurt my property value,
25 decrease my property value, because of the isolation that's done

1 to my property.

2 I don't want to take too much of your time, but I will
3 state that I seek party status. I think the additional document
4 that I provided a couple of weeks ago very clearly and succinctly
5 addresses specific items related to the porch, the porch roof,
6 and the items under consideration here without getting into any
7 confusion about code or anything else. So I believe I have
8 submitted the proper paperwork and I thank you for your time and
9 look forward to any questions you may have. Thank you, ma'am.

10 VICE CHAIR JOHN: Thank you.

11 Ms. Batties?

12 MS. BATTIES: I have nothing further with regard to the
13 party status request.

14 VICE CHAIR JOHN: Thank you. Does the Board have any
15 questions?

16 Mr. May?

17 ZC COMMISSIONER MAY: Yeah. Mr. Holmes, just to be
18 clear, your property is the one next to the alley that's cut off
19 from everything else?

20 MR. HOLMES: That is correct, sir. Yes. Thank you.

21 ZC COMMISSIONER MAY: Private property is -- in your
22 view, it's being separated out because of that?

23 MR. HOLMES: That's correct.

24 ZC COMMISSIONER MAY: Okay. Thank you.

25 VICE CHAIR JOHN: Okay. So unless someone objects, I'm

1 going to go ahead and allow Mr. Holmes party status based on his
2 statement that he believes the property is out of character with
3 the neighborhood, because that is a zoning issue that the Board
4 can consider. In terms of interrupting natural communication and
5 line of sight with the property that -- next door, the line of
6 sight is not protected. Your views are not protected. And you're
7 aware that the property owner can install a privacy, you know,
8 fence, not a fence, but you know, a barrier, so you couldn't see
9 over there anyway. I don't believe there's any prohibition for
10 that. So based on your testimony, I believe you're entitled to
11 party status.

12 And I'd like to hear from the Board to see if anyone
13 objects.

14 ZC COMMISSIONER MAY: Madam Chair, I don't object. I
15 have a slightly different rationale.

16 VICE CHAIR JOHN: Thank you, Commissioner May. Please
17 go ahead.

18 ZC COMMISSIONER MAY: Yeah. Yeah. I think the concern
19 about it being out of character with the neighborhood is not
20 something that is uniquely affecting Mr. Holmes. I think that's
21 something that's a more broad effect. But the -- from my
22 perspective, this -- the particular approach, this design, it
23 does have an impact on his property specifically that it does not
24 have on the rest of the block having to do with the, you know,
25 the elevation and things like that. It's not about being able

1 to have a conversation with the mail carrier on the porch next
2 door, because as you've said, they could put up a privacy screen
3 or something like that and we never count that. But it is -- I
4 think it does create some sense of isolation. So I do feel that
5 he is more -- his property is effectively more isolated by the
6 construction, the way of the thing.

7 VICE CHAIR JOHN: In terms of the architecture, right?

8 ZC COMMISSIONER MAY: Yeah. Yeah.

9 VICE CHAIR JOHN: Okay.

10 ZC COMMISSIONER MAY: So but it's uniquely about his
11 property as opposed to general effects in the neighborhood that
12 come from it being out of character.

13 VICE CHAIR JOHN: Okay. Thank you.

14 Does anyone else have a comment?

15 Okay. So Mr. Holmes, you'll have party status, and
16 that means that you would be entitled to present your own case
17 and to cross-examine witnesses at the appropriate time. Okay?

18 MR. HOLMES: I appreciate it. Thank you very much,
19 ma'am and Board, for your time.

20 VICE CHAIR JOHN: Okay. So we're not finished yet. We
21 have to go to the issue of -- okay, so let's discuss the expert
22 witnesses right now. So you've proffered Mr. Busse, is that the
23 correct pronunciation Busse, as an expert in architecture?

24 MR. HOLMES: Yes, ma'am. I believe upon further review
25 and revision, the only expert witness that I will intend to call

1 will be Guillermo Rueda, who is signed up and is on this call
2 right now.

3 VICE CHAIR JOHN: Okay.

4 MR. HOLMES: So I will not need to refer to the other
5 two witnesses.

6 VICE CHAIR JOHN: Okay. That makes it easier. So Mr.
7 Guillermo Rueda is admitted as an expert in architecture. He's
8 already in the witness book. So we don't need to consider his
9 resume.

10 And so the next issue then is the request to postpone.
11 And I'll go to Ms. Batties. Do you have any object -- oh, Ms.
12 Batties, you made the request.

13 MS. BATTIES: Yes.

14 VICE CHAIR JOHN: So --

15 MS. BATTIES: So we made the request. We've been in
16 communication with the Department of Buildings, and we are
17 coordinating a meeting with the Department of Buildings to make
18 sure we have addressed all of the zoning issues. So after that
19 meeting takes place, we will have a better sense of when we're
20 prepared to come back to the BZA.

21 VICE CHAIR JOHN: Okay. Very well. Thank you. And
22 so if the Board has no objection, I'll go ahead and grant the
23 request to postpone and ask Mr. Moy when would be the next
24 appropriate time to hear this case?

25 MR. HOLMES: If I may, ma'am, and I'm sorry to

1 interrupt, but if there will be a discussion between the Applicant
2 and Department of Buildings, I'm just curious if it might be at
3 all possible for my architect to participate in that discussion
4 as well to make sure that our concerns as a party status
5 participant are also conveyed and addressed. Is that possible
6 at all? I don't know. Sorry.

7 VICE CHAIR JOHN: The Board won't -- can't -- should
8 not order that. But you may communicate with the Applicant.
9 This starts your communication with the Applicant as a party.

10 MR. HOLMES: Thank you. I understand. Thank you.

11 VICE CHAIR JOHN: Thank you.

12 So Mr. Moy, do we have a suggested date?

13 MR. MOY: Yes, I do, Madam Vice Chair. Given what I've
14 heard this conversation now, staff would suggest May 10th. We
15 have two -- we have eight cases that day. If the Applicant wants
16 to move quicker, we could do the week earlier, which would be
17 May 3rd, but previous dates would be very difficult for your
18 scheduled docket. So once again, I would suggest May 10th or
19 later.

20 MS. BATTIES: We're good with that, Mr. Moy.

21 VICE CHAIR JOHN: Mr. Holmes, May 10th?

22 MR. HOLMES: Yes. What day of the week is that? I'm
23 sorry. I just don't have a calendar in front of me.

24 VICE CHAIR JOHN: Mr. Moy?

25 MR. MOY: All the hearing dates are on Wednesdays, sir.

1 MR. HOLMES: Okay. That should be fine. I appreciate
2 it. Thank you.

3 VICE CHAIR JOHN: Okay.

4 Commissioner?

5 Commissioner Salvador?

6 ANC COMMISSIONER SALVADOR: Sorry, didn't know if you
7 were speaking to someone else. May 10th works for us. Thank
8 you so much.

9 VICE CHAIR JOHN: Okay. So we'll go ahead and continue
10 this case until May 10th and hopefully Mr. May will be here.
11 Okay. That's it. I'm going to excuse everyone for today and
12 close this portion of the hearing. We'll have a hearing on the
13 merits on May 10th. And thank you for your time.

14 MS. BATTIES: Thank you.

15 MR. HOLMES: Thank you.

16 MR. HORGAN: I have one quick question. Sorry, ma'am.
17 My name is Kevin, I'm a volunteer with the ANC. There was -- I
18 know there was four neighbors who had submitted letters after the
19 -- within the 24-hour deadline. Will those letters be submitted
20 into the case record?

21 VICE CHAIR JOHN: Yes.

22 MR. HORGAN: Okay. Thank you so much. Appreciate it.

23 VICE CHAIR JOHN: Okay. Mr. Moy, please call your next
24 case whenever you're ready.

25 MR. MOY: Yes. Thank you. So the next case is

1 Application No. 20845 of Ryan Verey and Amanda Conageski. I'm
2 murdering the last name, but C-O-N-A-G-E-S-K-I. This application
3 is a self-certified application pursuant to Subtitle X, Section
4 901.2 special exception under Subtitle U, Section 421 to allow a
5 new residential development for a six-unit apartment house.
6 Property located in the RA-1 zone at 1625 28th Street, S.E.,
7 Square 5585, Lots 25 and 26. The preliminary matter here, Madam
8 Vice Chair, is that there's a motion to waive the filing deadline.
9 Apparently, the Applicant filed new plans. And I think -- one
10 other check on my part. I believe -- also within that 24-hour
11 block is a cover letter and revised architectural plans, which
12 of course goes to the request to waive the filing deadline, as
13 well as an updated -- Applicant's updated PowerPoint. And that's
14 it.

15 VICE CHAIR JOHN: Okay. Thank you, Mr. Moy. So please
16 go ahead and add all of those documents to the record.

17 Good morning, Mr. Sullivan. Please introduce yourself
18 and tell us who is here with you today.

19 MR. SULLIVAN: Thank you. Good morning, Madam Chair
20 and members of the Board. Marty Sullivan on behalf of the
21 Applicant. With us today is Eric Gronning, project architect,
22 and Ryan Verey, the Applicant.

23 VICE CHAIR JOHN: Okay. Thank you. So please go ahead
24 and give your presentation, and you'll have 15 minutes.

25 MR. SULLIVAN: Thank you, Madam Chair.

1 If Mr. Young could please load the presentation?

2 Property address is 1625 28th Street, S.E. And this
3 is a RA-1 U 421 case. No additional relief is being requested
4 beyond the approval under U 421. Next slide please?

5 The property's located in the RA-1 zone. It's
6 currently a single-family dwelling, straddling two record lots
7 which will be consolidated into a single lot. So the Applicant's
8 proposing to construct a rear addition and a second floor
9 addition, an interior renovation, which would result in six
10 residential units. Next slide please?

11 The Office of Planning is recommending approval. And
12 DDOT has submitted a report with no objection. I'll note that
13 DDOT has noted its support for the removal of the curb cut and
14 providing no parking here. As it turned out, providing parking
15 through that curb cut would have been counterproductive because
16 it would have taken up a lot of pervious surface to accomplish
17 that. And it would have been possible probably to only get one
18 space, maybe two. And the curb cut actually provides at least
19 two spaces for the public. So if there is parking in the future,
20 it would be through the rear. But there's currently none
21 available and there's not a fair enough expectation that we would
22 be able to get that back there. The Applicant has worked with
23 the Single Member District Commissioner Travis Swanson. Despite
24 our numerous requests to the chair of ANC 7B, we were never placed
25 on any agenda for a monthly meeting. We've had several

1 conversations with Commissioner Swanson and his letter what was
2 -- was what prompted our latest filing. We amended to add a
3 brick facade on the second story of the front. There was just
4 brick for the existing portion of the building and now the second
5 story will also be brick as well in response to Mr. --
6 Commissioner Swanson's request in his letter that was filed
7 Monday night. Also talked to Mr. Swanson about closing the curb
8 cut. That was his preference, as well as having the trash
9 collected, stored and collected, in the rear of the property.
10 Next slide please? And I'll turn it over to Mr. Gronning, the
11 project architect, to take you through the plans. Thank you.
12 Eric?

13 MR. GRONNING: Good morning, Board and Madam Chair. My
14 name is Eric Gronning and I'm the architect for the Applicant.
15 And thank you for giving us this opportunity to present 1625 28th
16 Street, S.E. And the photo is the building on the left that you
17 can see here on your screen. Next slide please?

18 It's just another view and you can see the existing
19 curb cut that we're proposing to remove so that space in the
20 front will become a, you know, a planted yard area. Next slide
21 please?

22 Next slide?

23 These are more photos of the existing building. You
24 can see the there is a two-story addition already at the rear of
25 this building shown in the upper right-hand slide. It's currently

1 clad in white siding. Next slide please?

2 On the screen for existing the proposed site plans.
3 The existing plan is on the left. You can see the outline of
4 the existing building shown shaded and on the right. It's a
5 rectangular addition that we're proposing. You can see that in
6 the center of the right-hand drawing. Next slide please?

7 This is our GAR calculation. You can see the proposed
8 addition in yellow here but to the left-hand side, that's just a
9 walkway. Next slide please?

10 I would also like to point out that we do comply with
11 the GAR. We don't have to add anything, addition, or we're not
12 proposing to at this time. On the screen are just proposed --
13 or the existing demolition plans. You can see the two floors.
14 The first floor is on the right, the cellar is on the left. Next
15 slide please?

16 This is just the roof -- existing roof plan. Next
17 slide please?

18 Existing elevations, you can see the property slopes
19 from front to back approximately one story. Next slide please?

20 And again, existing front and rear elevations. The
21 front is at the top, or is below. Next slide please?

22 On the screen are the ex- -- or proposed floor plans.
23 I'm sorry. We're proposing two units per floor for six total.
24 The basement and cellar is on the left. The first floor is in
25 the center and the second floor is on the right. We will have a

1 deck off of the back, it's -- I can't see it on the screen, I
2 believe it's six by eight feet or maybe ten feet. But other than
3 that, we're contained within this rectangular form. We are
4 keeping the front and left and right brick facade that's existing
5 to the original building. Next slide please?

6 On a screen are the side elevations. We're proposing
7 a mixture of painted panels and painted siding. The brick facade
8 at the front will remain. And we're proposing to add brick to
9 the second story of the front, which can be seen on the next
10 slide please?

11 The front proposed elevations is at the top of the page
12 and below is the rear and brick front was changed recently per
13 the request of the ANC SMD. And we did this to be more in keeping
14 with the surrounding buildings on the street. Next slide please?

15 And I think with that, I will answer any questions you
16 might have, and turn it back over to Mr. Sullivan. Thank you.

17 MR. SULLIVAN: Thank you, Eric. So the project meets
18 the general requirements of 901.2. It will be in harmony with
19 the general purpose and intent of the zoning regulations and
20 zoning maps and will not tend to affect adversely the use of
21 neighboring property. The RA-1 zone provides for areas
22 predominantly developed with low to moderate density development,
23 including multi-family residential buildings, and the proposal
24 is to construct a new multi-family residential building adjacent
25 to two existing residential apartment buildings. The apartment

1 building on the right of this is a four-unit building, and on
2 the left it's an eight-unit building. I'll note also it's fairly
3 low scale. It's only two stories at the front facade because a
4 good portion of the lower level had to be counted in the FAR
5 calculation. So that limited the ability to do a third story.
6 So the building will conform with all development standards of
7 the R-1 zone. Next slide please?

8 Specific requirements that the BZA shall refer the
9 application to the relevant D.C. agencies. Regarding D.C. public
10 schools, we've listed the public schools for this area. Regarding
11 public streets recreation, the property's located close to
12 Pennsylvania Avenue. We were close enough to be within the
13 exception, 50 percent exception, for proximity to a major bus
14 line. That's just 0.2 miles from Pennsylvania Avenue. And Alger
15 Park is located within a half mile of the property and Ford Circle
16 Park approximately a thousand feet from the property. Next slide
17 please?

18 And I refer to the Office of Planning's report for
19 their comment and recommendation. Next slide please?

20 And I think that's it. So if the Board has any
21 questions. Particularly again, regarding the ANC, we tried
22 diligently to get on the ANC agenda. I've had several
23 conversations with Commissioner Swanson and emails, and he
24 directed us to ask the chairman to be put on the agenda. And we
25 did multiple times. As you know we often do, we try hard as we

1 can to get on the ANC agenda and we never had a response on that
2 point. But hopefully the letter from the SMD will help explain
3 that at least he was interested and there was some evaluation by
4 the SMD and his community on this. Thank you.

5 VICE CHAIR JOHN: Okay. Thank you, Mr. Sullivan. So
6 before I go to the Board, I had one question. I was confused
7 about the cellar basement distinction. So from the front of the
8 building, it looked to me like it could have been a cellar. So
9 I don't know, what was the calculation there just for further
10 clarification?

11 MR. GRONNING: Yes, thank you, Madam Chair. So we do
12 have one of those conditions where we have a basement and a cellar
13 and the areas were calculated appropriately. So the definition
14 of the cellar is, you know, the grade has any -- if the first
15 floor is five feet above grade, it's a basement. And if it's
16 below that, it's a cellar. So we have both in this project, and
17 where that line intersects at that five-foot relative to the
18 grade as it progresses towards the rear, it becomes -- it changes
19 from cellar to basement.

20 MR. SULLIVAN: So actually, Eric, if I could jump in
21 here. It's going to be measured around the perimeter. So what
22 they do is they'll measure from the dimension from the finished
23 first floor to the adjacent grade, all the way around the
24 perimeter.

25 VICE CHAIR JOHN: Okay.

1 MR. SULLIVAN: So if you looked at the side elevations,
2 that's where you get a good sense of the percentage of the lower
3 level that actually counts in the FAR. And I think it may be
4 more than half even.

5 VICE CHAIR JOHN: Okay. So it's the FAR calculation
6 that makes the distinction?

7 MR. SULLIVAN: Yes. I mean, it's as you look at it
8 from the front, like if we were counting stories --

9 VICE CHAIR JOHN: Uh-huh.

10 MR. SULLIVAN: -- it's a cellar.

11 VICE CHAIR JOHN: Right.

12 MR. SULLIVAN: And it's just two stories. But the FAR,
13 because of the change in grade, can be mixed. So there's a
14 percentage that applies. There's non-FAR space and FAR space in
15 the basement.

16 VICE CHAIR JOHN: Okay. Got it. Thank you.

17 Does the Board have any questions?

18 Okay. I'll go to the Office of Planning.

19 MR. KIRSCHENBAUM: Good morning, Vice Chair John and
20 members of the Board of Zoning Adjustment. I am Jonathan
21 Kirschenbaum with the Office of Planning. We've recommended
22 approval for this proposed apartment house and our condition --
23 sorry, our recommendation is based on the following conditions:
24 compliance with the proposed site plan and landscaping plans in
25 Exhibit 32A, and that trash and recycling be collected from the

1 rear of the property using the existing public alley. Please let
2 me know if you have any further questions. Thank you.

3 VICE CHAIR JOHN: Does the Board have any questions?

4 Does the Applicant have any questions for the Office
5 of Planning?

6 MR. SULLIVAN: No, thank you.

7 VICE CHAIR JOHN: So Mr. Kirschenbaum, those -- the
8 landscape is in the revised architectural plan, correct?

9 MR. KIRSCHENBAUM: That would be correct.

10 VICE CHAIR JOHN: Okay. So we would not need a
11 condition?

12 MR. KIRSCHENBAUM: I would recommend that you provide
13 a condition to ensure that those plans are actually built to when
14 it goes to permitting at the Department of Buildings. I
15 understand that they're in the plans, but having a condition will
16 remind the reviewers at the Department of Building that that is
17 something they need to ensure is complied with.

18 VICE CHAIR JOHN: Okay.

19 Does anyone have any comments for the Office of
20 Planning, again? No. Okay.

21 Mr. Young, is there anyone signed up to testify?

22 MR. YOUNG: We do not.

23 VICE CHAIR JOHN: Thank you.

24 So I'm going to -- oh, Mr. Sullivan, do you have any
25 closing comments?

1 MR. SULLIVAN: I don't, Madam Chair. Thank you to you
2 and the Board for your time. Thank you.

3 VICE CHAIR JOHN: Okay. Thank you. So I'm going to
4 excuse everyone and thank you for your testimony. And I'm going
5 to close the hearing and the record.

6 Mr. Young, could you excuse Mr. Verey?

7 Okay. Are we ready to deliberate?

8 Yes. All right. I'll go ahead and start. I'm going
9 to give great weight to the Office of Planning's analysis in this
10 case. And we don't have a full report from the ANC, but I notice
11 that there was some response from the ANC Commissioner Travis
12 Swanson, and that's in the record. I want to say that I thought
13 the Applicant did a good job with this application. And as noted,
14 there's no need for parking relief because the project is subject
15 to the 0.5-mile credit from being close to a major bus line. And
16 I agree that we should, and with the Office of Planning, that we
17 should add the condition requested, although I don't think it's
18 necessary, but the Applicant has agreed to it, so. And that's
19 the condition that the Applicant comply with the landscaping
20 plans and the plans for taking care of the trash.

21 And ask if my Board members have any other comments.

22 ZC COMMISSIONER MAY: I do not.

23 VICE CHAIR JOHN: Okay. Okay. So we'll go ahead then
24 and make a motion to approve Application 20845 as captioned and
25 read by the secretary with the condition recommended by the Office

1 of Planning that the Applicant will comply with the trash and
2 recycling plans and landscaping plans described in the record,
3 and ask for a second, Mr. Blake?

4 COMMISSIONER BLAKE: Second.

5 VICE CHAIR JOHN: Thank you.

6 Mr. Moy, would you take the roll call please?

7 Mr. Moy?

8 MR. MOY: I'm here. Thank you. My fingers are moving
9 a little bit slow this morning. Okay. So let's see, when I call
10 your name, if you'll please respond to the motion made by Vice
11 Chair John to approve the application for the relief requested,
12 along with the condition that's related to the -- in the OP
13 report, that the Applicant address the trash and recycling and
14 landscaping plans. The motion was second by Mr. Blake.

15 Zoning Commissioner Peter May?

16 ZC COMMISSIONER MAY: Yes.

17 MR. MOY: Mr. Smith?

18 COMMISSIONER SMITH: Yes.

19 MR. MOY: Mr. Blake?

20 COMMISSIONER BLAKE: Yes.

21 MR. MOY: Vice Chair John?

22 VICE CHAIR JOHN: Yes.

23 MR. MOY: Staff would record the vote as four to zero
24 to one. And this is on the motion made by Vice Chair John to
25 approve, along with the one condition, as I've just cited. The

1 motion to approve was second by Mr. Blake.

2 Also in favor of the motion to approve is Zoning
3 Commissioner Peter May, Mr. Smith, Mr. Blake, Vice Chair John
4 with no other Board member participating today. Motion carries,
5 ma'am, four to zero to one.

6 VICE CHAIR JOHN: Thank you. So here's my suggestion
7 that we take maybe a 15-minute break. We're trying to finish on
8 time today. One Board member has a hard stop at 5:00. So if we
9 take a 15-minute break now and then take the next two cases,
10 20847 and 20848, and then break for lunch.

11 Okay? All right. Thank you. I'll see you back here
12 at 11:15. Thanks.

13 (Whereupon, there was a brief recess.)

14 VICE CHAIR JOHN: Okay. Mr. Moy, we can get started
15 again.

16 MR. MOY: Thank you, Madam Vice Chair. The Board has
17 returned to its public hearing session, and the time -- after a
18 quick recess, and the time is now at or about 11:21 in the
19 morning.

20 Okay. So before the Board now is Case Application No.
21 20847 of Jonathan and Katherine Blair. This application, as
22 amended for self -- as an amended and self-certified application
23 pursuant the Subtitle X, Section 1002 for an area variance from
24 the lot occupancy requirement of Subtitle E, Section 304.1.
25 Property located in the RF-1 zone at 912 Maryland Avenue, N.E.

1 Square 936, Lot 820. And that's all I have for you, Madam Vice
2 Chair.

3 I think you're muted, Madam Vice Chair.

4 VICE CHAIR JOHN: Thank you.

5 Good morning, Mr. Blair. Can you hear me?

6 MR. BLAIR: I can, yes. Can you hear me?

7 VICE CHAIR JOHN: Yes. So please go ahead and introduce
8 yourself for the record.

9 MR. BLAIR: Sure. My name is Jonathan Blair. I'm the
10 property owner and architect representing the case before you
11 today for 20847.

12 VICE CHAIR JOHN: Okay. So you'll have 15 minutes to
13 present your testimony, so please go ahead. Did you give us your
14 home address?

15 MR. BLAIR: I did. It's 912 Maryland Avenue, N.E.--

16 VICE CHAIR JOHN: Okay.

17 MR. BLAIR: -- Washington, D.C. 2002.

18 VICE CHAIR JOHN: Thank you. You may begin.

19 MR. BLAIR: Okay. Is there a member of the Department
20 of Planning on here today that has the exhibits available for
21 sharing?

22 VICE CHAIR JOHN: Oh, yes, Mr. Young. What exhibit
23 would you like Mr. Young to pull up for you?

24 MR. BLAIR: Okay. I suppose we could look at either
25 the photographs and the architectural exhibit. There's also one

1 that's called 912 Maryland Ave, N.E. Lot occ comparison, which I
2 think paints a pretty clear picture. So those would be the
3 helpful exhibits to share.

4 VICE CHAIR JOHN: Okay. Mr. Young, let's see if we can
5 figure out what exhibit that is.

6 MR. BLAIR: Yeah. And if need be, I have them all on
7 my system too, and I'm happy to share screen, if that's possible.

8 VICE CHAIR JOHN: So you can start with the photographs
9 and you can tell us what we need to look at there. And then Mr.
10 Young, let's see, Exhibit 20, revised architectural plans and
11 elevations.

12 MR. BLAIR: Uh-huh. I think the photographs would be
13 good. Those will be fairly technical, but we'll look at those
14 too.

15 VICE CHAIR JOHN: Okay.

16 MR. BLAIR: Sorry, just to confirm, am I pulling those
17 up or is Mr. Young pulling those up?

18 VICE CHAIR JOHN: Mr. Young is pulling them up.

19 MR. BLAIR: Okay. Okay. Great.

20 MR. YOUNG: Is that the photographs, the courtyard
21 photographs or.

22 MR. BLAIR: Those are helpful too. I think we can
23 start with the overall photographs. The courtyard would
24 certainly convey where the project occurs, but there are --

25 VICE CHAIR JOHN: Okay. So ex- --

1 MR. BLAIR: -- color photographs, hyphen small, I
2 believe, is the exhibit name.

3 VICE CHAIR JOHN: Exhibit 5, Mr. Young.

4 Let's start with those.

5 So while Mr. Young is pulling up the exhibits, you can
6 tell us generally what your project aims to.

7 MR. BLAIR: So we -- yes. So we are seeking an area
8 variance on Subtitle E 304.1 pursuant to Subtitle X 1002. We
9 are looking for an area variance because the lot occupancy on our
10 property, even for the existing parcel, prior to any of the
11 additions done well before I was born, all of those are over the
12 required 60 percent and even the 70 percent for a -- blanking on
13 the word here -- it's not the variance, it's the other one, the
14 70 percent --

15 VICE CHAIR JOHN: Lot occupancy.

16 MR. BLAIR: Yes. So anyways, we are the house you see
17 here with the arrow pointed at it. We were built in 1911.
18 Existing occupancy is around 7- -- over 76 percent with the
19 additions, none of which are visible from the public way. We
20 have presented this case before the HPRB and they've put it to
21 the Department of Planning. I forget the terms, and maybe Matt
22 Jesick if he's here could speak to it, but it's a no vote.
23 Basically, they said that there is no visible scope of work along
24 the public way, and therefore would be defaulted to the Department
25 of Planning to make the determination. If you continue to go

1 through these photos, you'll see various angles of the property
2 from along Maryland and from where it is slightly visible along
3 ninth Street.

4 VICE CHAIR JOHN: Okay. Go to the next photograph, Mr.
5 Young. We can slide through quickly because the Board has seen
6 them before unless there's something in particular you would like
7 to draw attention to.

8 MR. BLAIR: Nope, nothing in particular. I'll speak
9 in general as you kind of toggle through some of these photos,
10 which I'll just kind of lay out again the existing property.
11 What we're looking to do with the area variances is actually
12 reduce the lot occupancy on the property and rebuild the
13 additions. They're in a state of disrepair, which when we look
14 at the courtyard photos, you'll also be able to see.

15 Our goal is to also correct challenges that this house
16 has under current code and current insulation requirements. To
17 illustrate that, a bedroom by current IRC code is required to
18 have the minimum dimension of seven feet. In order to have a
19 stair and a hallway even access that bedroom, that's three feet
20 required for those. And that exceeds the available width at the
21 rear of the property for where bedrooms historically were
22 located. And so we would not be able to even provide insulation,
23 let alone a separating wall to have a bedroom under current code.
24 So we are looking at, when we see the plans in a moment, infilling
25 a small moment of the side court or dogleg, as it's often

1 referred, in order to get the width of our full property from
2 party wall to party wall.

3 There is currently an addition in that location. So
4 we would just be slightly expanding that at the knuckle of the
5 property in the back and then we would be reducing the rear. And
6 please feel free to keep spinning through the photos. But we
7 would be reducing the rear addition on the property in order to
8 increase the courtyard and available daylight to the neighboring
9 adjacent properties. We've secured letters of support from both
10 the homes you see on this photo, the left and the right, which
11 are immediate adjacencies, as well as several down the line,
12 including the one also to the left of this photo, and one even
13 more to the right of the property next to us.

14 The only letters of support that we have not secured
15 on this immediate block are persons who do not currently reside
16 in those homes. They are either living in Florida at this moment
17 or live over by American University, and their home is a rental.
18 Everyone else on the street is in favor or in support of this
19 project.

20 VICE CHAIR JOHN: Okay. Mr. Young, please go to the
21 architectural plans.

22 MR. BLAIR: Yeah, you can spin them faster. So this
23 is the one moment that our house has a small bit of visibility.
24 And if you can go through the next one and you'll see it a little
25 bit closer. So this is taken from 9th Street, and there is our

1 small addition visible from the back. It's about an eight-foot
2 projection for three stories.

3 And that's it from the alleyway, that's all we can see.
4 All of these homes have been improved with additions similar to
5 ours at about the same timeframe is my guess. If you can go to
6 the side -- or the courtyard photos and then to the plans, I
7 think the lot occ plan would be the one that's more diagrammatic
8 and helpful for all of you to see.

9 VICE CHAIR JOHN: It's at Exhibit 20, the revised
10 architectural plans. Let's start there, Mr. Young.

11 MR. BLAIR: Yep. So this works. Okay. So you can
12 see this indicates the existing property here. The dark red is
13 the extents of where additions, additions and improvements, have
14 been made to the property. And then if you go to, I believe
15 it's, the next page, you will see the adjustment that we're
16 proposing. So the red is overlaid on it. In this plan, you
17 would be looking at what's actually dark and drawn with the
18 architectural intent. So the addition at the rear is pulling
19 back a little over 48 inches, and then the side courtyard we're
20 infilling and will create a pass-through using that as a
21 circulation moment into a larger kitchen. Planning of the home
22 relatively remains the same. We're just able to add that as
23 circulation and improve the courtyard space and availability of
24 daylight to our own and neighboring properties.

25 VICE CHAIR JOHN: Next side -- next slide, Mr. Young.

1 MR. BLAIR: Do you have the exhibit for lot occ
2 comparison? I think that was a really nice side by side that
3 actually -- yes this right here, this conveys the intent clearly.
4 So the red on the left is the existing lot occupancy and on the
5 right is what we're proposing to do. So we're compacting the
6 home a little more, getting rid of an awkward knuckle in the
7 property, and then increasing the courtyard. There is an existing
8 improvement, the blue, which is a second-story breezeway that
9 connects over to a second story of the carriage house, which has
10 been improved as a great room. And so we would like to maintain
11 that access. We can slim it up a little bit but maintain that
12 so we still have the use of that function for our home.

13 VICE CHAIR JOHN: So I have a question for you. When
14 you say make it slimmer, would that help you to reduce the lot
15 occupancy?

16 MR. BLAIR: This doesn't actually touch the ground, the
17 blue part, it's elevated as kind of a bridge that abuts a
18 neighbor's solid wall where they have fully enclosed their home.
19 So this really doesn't quite change the lot occupancy, but it is
20 factored in this calculation.

21 VICE CHAIR JOHN: Okay.

22 All right. Did you have anything else?

23 MR. BLAIR: There was an exhibit with 3-D visuals if
24 you wanted to see it, but that's kind of the intent is what you
25 see in the plans. Again, none of it's visible from the public

1 way except for that one small corner, and it would be in keeping
2 in kind. Final thing just to note is we're looking at trying to
3 maintain as much of the historic structure as possible. So this
4 -- intent of this will be surgical. We will be doing LVLs in a
5 small steel structure that will allow us to maintain as much of
6 the historic joist work as possible so we can maintain the
7 historic appearance of the home. The brick will be salvaged and
8 reused on the back for this addition. And so we can, you know,
9 make it feel as much as part of the fabric as it can. And you
10 know, that way it's honest and, you know, it maintains integrity.

11 VICE CHAIR JOHN: Okay.

12 Does the Board have any questions of the Applicant?

13 ZC COMMISSIONER MAY: Yes.

14 VICE CHAIR JOHN: Go ahead please, Mr. May.

15 ZC COMMISSIONER MAY: Yeah. So the -- I think the
16 thing that still sort of sticks out for me is this connection to
17 the garage in the back --

18 MR. BLAIR: Uh-huh.

19 ZC COMMISSIONER MAY: -- which, you know, I wonder --
20 I mean, it looks relatively recent construction, wonder -- I
21 wonder if that was ever properly permitted, because it's not the
22 sort of thing that would -- I mean, that already, you know, had
23 you above the lot occupancy and looks like it was post-zoning in
24 terms of when it was erected. And I understand the desire to
25 keep it. The question -- well, first question I have about it

1 is you said that immediately adjacent to that is the neighbor's
2 house, that right?

3 MR. BLAIR: Uh-huh.

4 ZC COMMISSIONER MAY: And at that point, the neighbor's
5 house is the same height as that connecting piece?

6 MR. BLAIR: Yes.

7 ZC COMMISSIONER MAY: Okay. So --

8 MR. BLAIR: They have the same type of improvement. I
9 believe theirs is fully enclosed all the way across the entirety
10 of the property, but it's a walkway as well that leads into the
11 same sort of living condition above their garage. Multiple
12 properties on this block have that improvement.

13 ZC COMMISSIONER MAY: Yeah, it's really interesting.
14 It's an unusual thing.

15 MR. BLAIR: It is, yeah. The -- just to clarify too,
16 the historic property, if we were to have removed all of the
17 improvements that were done, as my guess is '78 to 1980, all of
18 those, the existing footprint of this house is at 72 percent lot
19 occupancy, which would already be above what is permitted or
20 allowed without the area variance.

21 ZC COMMISSIONER MAY: Right. And my next question

22 MR. BLAIR: Yep.

23 ZC COMMISSIONER MAY: My next question was if you took
24 off -- well, you're saying if you took off the existing, right?

25 MR. BLAIR: Yes. Even removing additions we're at 72

1 percent. The front yard of this property is an easement,
2 including the bay window in which I'm actually sitting in at this
3 moment. It, you know, was not able to factor in these
4 calculations.

5 ZC COMMISSIONER MAY: Right. That's a typical
6 condition. The -- and if you were to remove that connecting
7 piece, you'd still be in variance territory; is that right?

8 MR. BLAIR: Yes, hundred percent. Yep. Removing all
9 of the existing pieces, we would still be in variance territory.

10 ZC COMMISSIONER MAY: Yeah.

11 Okay. All right. That's my questions. Thank You.

12 VICE CHAIR JOHN: Thank you.

13 Does anyone else have questions?

14 So I have a follow-up question. So you said that the
15 breezeway is not fully enclosed. Can you --

16 MR. BLAIR: It is. It is fully enclosed.

17 VICE CHAIR JOHN: It is fully enclosed?

18 MR. BLAIR: Uh-huh.

19 VICE CHAIR JOHN: Okay. Does anyone else have a
20 question before I go to the Office of Planning?

21 Okay. Mr. Jesick can you hear me?

22 MR. JESICK: Yes, Madam Vice Chair and members of the
23 Board. Thank you. My name is Matt Jesick. I'll be presenting
24 OP's testimony in this case. And the Office of Planning analyzed
25 the application against the criteria of the three-part variance

1 test and found that the application meets the test and therefore
2 we are recommending approval.

3 Just to touch on something that the Applicant mentioned
4 regarding historic preservation, HPO staff, Historic Preservation
5 Office staff, determined that the scale of these improvements are
6 something that can be signed off on at the staff level and do
7 not need to be presented to the full HPRB. But again, Office of
8 Planning is recommending approval and I'd be happy to take any
9 questions. Thank you.

10 VICE CHAIR JOHN: Thank you. So I have a question
11 about the breezeway that's fully enclosed, Mr. Jesick. Why isn't
12 it included in lot occupancy again?

13 MR. JESICK: It is included.

14 VICE CHAIR JOHN: Okay.

15 MR. JESICK: It is, yes.

16 VICE CHAIR JOHN: All right. Thank you. So if the
17 breezeway were removed and there where stairs with a landing,
18 would that reduce the lot occupancy significantly?

19 MR. BLAIR: Not significantly.

20 VICE CHAIR JOHN: Wait -- Mr. Jesick -- Mr. Blair,
21 realize you don't practice here. But Mr. Jesick?

22 MR. JESICK: It would reduce the lot occupancy
23 somewhat. We estimated that to get down to 70 percent lot
24 occupancy, I think the floor area would have to be reduced by
25 117 square feet. And I don't believe that connector or bridge

1 would equal that amount. So I think we would still be looking
2 at a variance.

3 VICE CHAIR JOHN: Okay.

4 Mr. Blair, you had something to add.

5 MR. JESICK: Yes. I just wanted to say if we looked
6 at the courtyard photos, which I know were a part of the exhibit,
7 we could all see that current condition of that breezeway. And
8 you know, that might help you kind of visualize and understand
9 those existing conditions.

10 VICE CHAIR JOHN: Yeah, I do. The only question is was
11 it fully enclosed or not?

12 Does any Board member need to go to the courtyard
13 photos?

14 MR. BLAIR: Okay.

15 VICE CHAIR JOHN: Okay.

16 And Mr. Blair, you said that the addition in the rear
17 was too small for you to accommodate the stairs and to have a
18 code compliant bedroom, and that's why you're widening the
19 addition, pushing it in and widening it; is that correct?

20 MR. BLAIR: So two things. It isn't too small. That's
21 actually our bedroom is up there today. It's too small to create
22 -- so this home, just so you're aware, is a two-bedroom home on
23 the upper floors. You know, my wife and I are looking to grow
24 our family. And in order to have an additional bedroom, it would
25 not be able to fit. Historically, this home had three bedrooms

1 upstairs and it was improved on the interior in such a way that
2 you could not get three today with current code without this
3 change.

4 VICE CHAIR JOHN: Okay.

5 MR. BLAIR: Mostly this is addressing the exterior at
6 this moment. The breezeway, as one other comment, is connecting
7 to 300 square feet of finished space on this home. That is our
8 great room today. And so losing that connector would serve, in
9 my opinion, as a hardship, as part of our home that we spend the
10 most of our time in would be inaccessible.

11 VICE CHAIR JOHN: I'm just trying to get back to the
12 comment where you said -- you talked about the size of a regular
13 bedroom. You say you need -- what do you need to get a regular
14 third bedroom, which is what you're trying to do?

15 MR. BLAIR: The math would come out to about ten feet
16 and some change, ten foot six, ten foot eight, because it would
17 require the exterior insulation meet an R-30 or R-13, sorry, R-
18 13 for exterior insulation. So you'll have a 3 and 5/8 inch
19 there for the wall. And then you need an interior partition to
20 separate for the hallway in order to get to that bedroom. That
21 cannot be done in the home today is about nine and a half to ten
22 feet wide, brick to brick.

23 VICE CHAIR JOHN: Okay.

24 MR. BLAIR: It cannot fit.

25 VICE CHAIR JOHN: Thank you.

1 Does any other Board member have any questions?

2 Mr. Blake.

3 MR. BLAKE: Mr. Blair, how many square feet is that
4 breezeway?

5 MR. BLAIR: The breezeway in the new design, it's 16
6 by 39 inches. So let me --

7 MR. BLAKE: In the current configuration.

8 MR. BLAIR: In the current configuration, it is 11 and
9 a half by 48 inches. So you know, what would that be, 40-ish
10 square feet.

11 MR. BLAKE: Okay. Thank You.

12 VICE CHAIR JOHN: Okay. All right. So Mr. Young, has
13 anyone signed up to testify?

14 MR. YOUNG: No, we do not.

15 VICE CHAIR JOHN: Okay.

16 Do you have any closing comments, Mr. Blair?

17 MR. BLAIR: No, believe I've presented everything.

18 VICE CHAIR JOHN: Thank you. All right. I'm going to
19 excuse you from the hearing and close the record and the hearing
20 at this time.

21 Are we ready to deliberate?

22 Who would like to volunteer?

23 Mr. May, is your phone on?

24 ZC COMMISSINOSER MAY: Yeah, sure. I'm happy to start.
25 This is a little tricky because there are some things that could

1 be done to reduce the extent of the -- or the percentage of lot
2 occupancy. And so that's why I was really curious about, the
3 breezeway and how much space that occupied and whether if that
4 went away, it would get it down to special exceptions territory.
5 I mean, there's no question that special exception would be
6 approvable in this circumstance. It's getting to a variance
7 that's more difficult.

8 And I think that given that we, you know, we've heard
9 testimony -- I didn't see calculations of it, but you know, per
10 testimony that even if they just tore everything back down to the
11 original historic structure, they would still be in variance
12 territory and still be above 70 percent. Then I think that that's
13 -- that means we'd have to grant a variance for them to do
14 anything, even within the existing footprint. And so I think
15 that's, from my perspective, that's enough to say that it's
16 appropriate to grant a variance and not to push to remove that
17 connector to the carriage house. And I also -- I understand why,
18 you know, the carriage house itself, given its size and everything
19 else, it's -- I think it's important to maintain its usability
20 in this circumstance, so I can support a variance in this
21 circumstance.

22 VICE CHAIR JOHN: Okay. Thank you.

23 Mr. Blake?

24 COMMISSIONER BLAKE: I also am in support of the
25 application. I looked at it as the prong test and the

1 extraordinary condition as a confluence of factors though. The
2 measurements were very helpful because I also had questions about
3 the breezeway, but it turns out it does, in fact, reduce it by a
4 few square feet. And if you went back, as Commissioner May said,
5 to the original structure, if it's already in variance territory,
6 that fits. Also, it's an historical district's (indiscernible)
7 conditions of property, and the result in a modest reduction of
8 lot occupancy with a confluence of factors, I saw the practical
9 difficulty, realistically, they can't get 117 square feet out of
10 what we have in and do anything, and you couldn't repair the
11 damaged areas and so forth. And the alterations make for a usable
12 footprint, frankly.

13 I do not see where -- there being a substantial
14 detriment to the public good. This is actually lowering lot
15 occupancy from where it currently is. There's no shadow or
16 airflow impacts. In fact, the new depth could actually improve
17 the available light and airflow to the properties to the west.
18 I think the issue was we don't have the report from -- I don't
19 believe we have a report from ANC 6A, but we do have letters in
20 support from the neighboring properties, which I think is fairly
21 substantial here and bears on this. And while there's no
22 substantial intent -- impairment to the intent and purpose of the
23 zoning regulations, as the Applicant pretty much has
24 demonstrated, there is an extraordinary condition contributing
25 to a practical difficulty. And the intent of lot occupancy really

1 is to ensure open space on a lot and to facilitate adequate light
2 and air to both the subject property and adjacent properties. So
3 anyway, all that said, I give great weight to the Office of
4 Planning's recommendation for approval. Note the DDOT has no
5 objection. And again, I would note the numerous letters of
6 support from neighboring properties. I'd be in favor of the
7 application.

8 VICE CHAIR JOHN: Thank you.

9 Board member Smith?

10 COMMISSIONER SMITH: I will state that, you know, I
11 will state that the measurements that were provided by the
12 Applicant and that additional explanation were helpful for me
13 because I did share some of the concerns of my other Board members
14 regarding if this particular variance met the three prongs. So
15 I'm fairly comfortable now, given that the Applicant did state
16 that they're in variance territory regardless, that this is an
17 appropriate -- that they meet the variance test all three of the
18 prongs. I agree with, you know, the analysis of the Office of
19 Planning and everything that was shared by my Board members and
20 will be in support of the application for the variance for lot
21 occupancy.

22 VICE CHAIR JOHN: Okay. Thank you very much. I also
23 am in support of the application. I note that we -- I don't
24 believe we have anything from the ANC, and so there's nothing to
25 give great weight to and DDOT has no objection.

1 So I agree that there is an exceptional condition as
2 the other Board members have started -- have stated. And because
3 this is an area variance, the Applicant just has to show that
4 there's a practical difficulty. And I believe that the Applicant
5 met that standard in the discussion of the difficulty of
6 accommodating that bedroom that meets the code area and in
7 essence, the Applicant is just restructuring the footprint and
8 reducing the lot occupancy.

9 So I'm in support and it appears everyone is in support.
10 So I will go ahead and make a motion to approve Application 20847
11 as read -- as captioned and read by the secretary and ask for a
12 second, Mr. Blake?

13 COMMISSIONER BLAKE: Second.

14 VICE CHAIR JOHN: Mr. Moy?

15 MR. MOY: Thank you, Madam Vice Chair. When I call
16 your name, if you'll please respond to the motion made by Vice
17 Chair John to approve the application for the relief being
18 requested. The motion was second by Mr. Blake.

19 Zoning Commissioner Peter May?

20 ZC COMMISSIONER MAY: Yes.

21 MR. MOY: Mr. Smith?

22 COMMISSIONER SMITH: Yes.

23 MR. MOY: Mr. Blake?

24 COMMISSIONER BLAKE: Yes.

25 MR MOY: Vice Chair John?

1 VICE CHAIR JOHN: Yes.

2 MR. MOY: Staff would record the vote as four to zero
3 to one. And this is on the motion made by Vice Chair John to
4 approve the application for the relief requested. The motion to
5 approve was second by Mr. Blake, who is also in support of the
6 motion, as well as Zoning Commissioner Peter May, Mr. Smith, and
7 of course Mr. Blake, Vice Chair John. We have one Board member
8 not participating today, but the motion carries on a vote of four
9 to zero to one.

10 VICE CHAIR JOHN: Thank you, Mr. Moy. And when you're
11 ready, please call your next case.

12 MR. MOY: The next case is Application No. 20848 of
13 2823 Gainesville Street North, LLC. This is a self-certified
14 application pursuant to Subtitle X, Section 901.2 for special
15 exceptions as follows: Subtitle U, Section 421 which would allow
16 a new residential development, 12-unit apartment house; and
17 Subtitle C, Section 703, this would be from the minimum vehicle
18 parking requirements of Subtitle C, Section 701. Property
19 located in the RA-1 zone at 2823 Gainesville Street, S.E., Square
20 5729, Lot 67. Thank you.

21 VICE CHAIR JOHN: Okay.

22 Thank you. Mr. Young, would you let the parties in
23 please?

24 Good morning, Ms. Wilson. Would you introduce yourself
25 for the record please?

1 MS. WILSON: Hi. Alex Wilson from Sullivan & Barros on
2 behalf of the Applicant in this case. And I'm here with Meddie
3 Tomrot (phonetic) from the owner's team, and Armstrong Kassa, who
4 is the project architect.

5 VICE CHAIR JOHN: Okay. So please go ahead and tell
6 us how your application meets the criteria for approval. And you
7 have 15 minutes.

8 MS. WILSON: Great. Thank you so much.

9 Mr. Young, could you please pull up the presentation?

10 The property address is 2823 Gainesville Street, S.E.,
11 and it is located in the RA-1 zone. Next slide please?

12 The site is currently vacant. There was a 12-unit
13 building here for many years, but it was destroyed in a fire in
14 2004. There were some redevelopment attempts in the past, but
15 none were successful. The current owner is effectively trying
16 to rebuild the same density that was previously on site, 12 units,
17 and this will be done in three stories and a cellar. The proposal
18 also includes two IZ units. Accordingly, we are seeking relief
19 from U 421 for a new apartment building in an RA-1 zone. We are
20 also seeking relief for one required parking space as the property
21 has no alley access, there is no curb cut, and DDOT has determined
22 that it will not support a curb cut. The project meets all other
23 development standards of the RA-1 zone. OP is recommending
24 approval, DDOT has no objection. There was an in-person meeting
25 for ANC 8B last week. I did not personally attend, but a

1 representative from the owner's team did and relayed to us that
2 it went well overall. They asked us to keep looking at parking
3 options or easements for the rear access, but primarily the
4 concern was that this site has been vacant for 20 years. It was
5 unclear to us why there is not an official vote or anything
6 submitted to the record, although we have reached out to
7 commissioners since that meeting to see if anything could be
8 submitted. But I do not see anything on the record at this time.
9 We also sent notice separate from the OZ notice directly to the
10 buildings next door with information on how to access the record,
11 hearing date information, and my contact information, but did not
12 hear anything back from the neighbors. Next slide please?

13 This shows the current state and the lack of alley
14 access. The photo to the right shows the current conditions
15 since the D.C. official maps still show a building footprint.
16 There isn't anything there, although there was a foundation wall
17 there left by the previous owner. The private alley to the right
18 runs through 12 properties, so an easement is not likely and
19 certainly not within a reasonable timeframe. And then that
20 driveway to the south is used by the property to the south. And
21 based on what I can find, it appears to be a medical office of
22 some kind, which would be a nonconforming use in this zone. So
23 even if they had a space to spare and we could get an easement
24 for access from the rear, if that property were to ever be
25 redeveloped, which is likely given the current use and zone, we

1 would be back here in the same position. And so I raise this
2 just to note that we did look at other options as this was raised
3 by the ANC. And it also goes to the parking special exception.
4 Next slide please?

5 In terms of the general special exception criteria, the
6 proposal meets the intent of the RA-1 zone, as it is a multifamily
7 building. This property was previously improved with a 12-unit
8 building that also did not have parking. And the proposal is to
9 rebuild what was previously on site, a 12-unit building. Next
10 slide please?

11 In terms of the specific requirements of U 421, all
12 D.C. public students eligible for grades K through 12 have a
13 guaranteed right to enroll in their respective in-boundary
14 schools. All of the in-boundary schools have capacity. There
15 are adequate public streets, recreation, and other services
16 available to accommodate the expected residents. The property
17 is located less than one quarter of a mile from the priority
18 Metrobus route. The Applicant has provided sufficient
19 information for the Office of Planning to recommend approval and
20 all relevant materials have been submitted to the record. Next
21 slide please?

22 With respect to the specific requirements for parking
23 relief, we are seeking relief for only one space. The property
24 again is within one quarter of a mile from a priority Metrobus
25 route. It lacks alley access and so the only way to access the

1 site would be a curb cut. DDOT does not permit curb cuts for
2 one single space. And the DDOT report states that it would not
3 support a curb cut on this site. So there's no way to get parking
4 on the site. Further, the difference in impact between 12
5 residential units with one parking space and 12 residential units
6 and no parking space was not significant given that any curb cut
7 would take away at least one on-street parking space. So
8 attempting to provide the required parking may result in less
9 over -- in less parking overall, which is why DDOT will not permit
10 a curb cut here. And of course, I already discussed why accessing
11 the property from the rear is not possible. It does not have
12 that alley access. Next slide please?

13 So this concludes my discussion on the special
14 exception requirements for approval. We do have plans included
15 after this slide. There are quite a lot of plans, so I thought
16 it might be more efficient to take specific questions rather than
17 walk through every single plan page. We do have the architect
18 here, and so we are happy to take any questions regarding the
19 relief or the plans.

20 VICE CHAIR JOHN: I think we would like to see the
21 plans, Ms. Wilson.

22 MS. WILSON: Okay.

23 VICE CHAIR JOHN: So just put up your most important
24 slides.

25 MS. WILSON: Great.

1 Okay. Mr. Young, could you please pull the
2 presentation back up?

3 Armstrong, could you walk through and highlight the
4 most important slides?

5 MR. KASSA: Thank you, Madam Chair and Board members.
6 My name is Armstrong Kassa. I'm with the -- with SGA COS, LLC,
7 which is the architect of record with this project. I'm the
8 senior project manager on this project. So moving forward, this
9 is the basically the vicinity map indicating proximity to main
10 bus routes within a quarter mile of the job site. If we go to
11 the next slide please?

12 We have the architectural site plan here indicating
13 footprint of the proposed structure. This is in conformance with
14 the current zoning regulations with proper or sufficient setback
15 distances. And as previously indicated by Ms. Wilson, no access
16 to alley at the back. The only access to the site is from street
17 frontage on Gainesville Street. Let's move on to the next slide.

18 So the project seeks to provide the required number of
19 long-term bike storage space at the cellar level indicated in
20 green on this plan. Next?

21 The proposed structure will house three dwelling units
22 per floor for a total of 12 units, including -- that is inclusive
23 of the cellar level. Let's go to the next slide, which is
24 identical, it's -- go to the elevations, so A300, I think, A300.

25 Next -- thank You.

1 This is proposed front elevation seen on the
2 Gainesville side, Gainesville Street side. The proposed
3 structure will provide ADA access street from sidewalk onto the
4 first level, which is an accessible type A type of (indiscernible)
5 units that we're going to provide at the first floor in compliance
6 with all other FHA guidelines. Let's continue to the next?

7 Which are just -- these are the site -- this is the
8 rear elevation. The structure is compliant with height
9 regulations not to exceed 40 feet above the building height
10 measuring point. We are at 38 and a half feet above grade to
11 top of the roof parapet. Next slide?

12 Here just to note the proposed redevelopment will
13 provide bar retentions and other measures of sustainable
14 projects. We're proposing to have bar retentions at the rear and
15 along the northwestern side of the property and landscape area
16 throughout the remainder of the property -- of the landscape to
17 allow drainage through soil seepage. Next slide please?

18 Site elevations. Slide?

19 I think that's all we have. Is there a next slide?

20 There are sections through the building, building's
21 section showing the relationship between street frontage and the
22 rear property. Next slide please?

23 The proposed project will provide the required green
24 area ratio as indicated in the yellow box at the top right-hand
25 corner of this sheet. Slide?

1 All right. So as summarized by Ms. Alison (sic), the
2 project seeks to redevelop the site with 12 building units as it
3 used to be prior to the fire in 2004. The proposed project is
4 in general conformance and compliance with zoning regulations
5 with the exception of the required number of vehicular parking
6 space. The number of parking space is one, and we are unable to
7 provide that due to constraints. Since we don't -- we do not
8 have access to a public alley at the back, then the only access
9 would be from the Gainesville Street side, which that in itself
10 would eliminate one on-street parking space at least. So for
11 that, we seek relief from the required number of on-street
12 parking. And with that, I may answer any questions you may have.
13 Thank you.

14 VICE CHAIR JOHN: (Indiscernible).

15 Does the Board have any questions?

16 Okay. I'll go to the Office of Planning.

17 Ms. Thomas?

18 MS. THOMAS: Yes. Good afternoon, Madam Chair, members
19 of the Board, Karen Thomas for the Office of Planning and we are
20 in support of this application. And we are recommending approval
21 of the 12-unit apartment building. We believe it meets the
22 criteria of the -- of Section 421, and there are no issues with
23 light and air.

24 And with respect to the parking relief, the Applicant
25 cannot provide parking on site due to the lack of an alley as

1 well as DDOT will not grant a curb cut to access the site from
2 Gainesville Street. So with that, I would rest on the record of
3 our report and I'll be happy to take any questions. Thank you.

4 VICE CHAIR JOHN: Okay. Thank you.

5 Does the Board have any questions?

6 COMMISSIONER SMITH: I think I have one, just a
7 technical zoning question. If they have 12 units, and maybe you
8 can just clarify this for me, maybe my math's off. If they have
9 12 units, why is it just one parking space again? I know it's
10 in excess of four. So can you break that down for me again why
11 it's just one parking space, not two?

12 MS. THOMAS: Yeah. Well, when you're within a quarter
13 mile of a priority network, you get a 50 percent reduction. Yeah.

14 COMMISSIONER SMITH: Okay. That's what it is. Okay.
15 Thank You.

16 MS. THOMAS: Yeah, uh-huh.

17 VICE CHAIR JOHN: Are there any other questions?

18 Mr. Young, is there anyone signed up to testify? Mr.
19 Young?

20 MR. YOUNG: No, we do not.

21 VICE CHAIR JOHN: Okay. Thank you.

22 Ms. Wilson, do you have any closing comments?

23 MS. WILSON: No, I do not. Just thank you all for your
24 time.

25 VICE CHAIR JOHN: Okay. Thank you. Okay. I'll go

1 ahead and close the hearing and the record. And thank you all
2 for your testimony.

3 Mr. Young, please excuse the witnesses.

4 So are we ready to deliberate?

5 Okay. I'll go ahead and start. So the application
6 meets all development standards and the only relief the Applicant
7 is seeking is request for the parking and for approval as a new
8 residential development under Subtitle U 421. I thought that the
9 app -- the Office of Planning's analysis of the criteria necessary
10 for 421 approval is clearly stated in their report as well as in
11 the chart shown by the Applicant in its presentation.

12 Notably, there is no impact in terms of light and air,
13 and the Office of Planning was satisfied that the placement --
14 arrangement of the buildings and structures was satisfactory and
15 was also, you know, also accepted the landscape plan. And the
16 landscaping also is in the record -- proposed landscaping is also
17 provided in the record. DDOT had a few comments in terms of,
18 I'm not quite sure how to read it, but apparently DDOT is urging
19 the Applicant -- well, should the Applicant like to provide off-
20 street parking, Applicant (sic) will not support a curb cut.
21 Well, the Applicant is not seeking to provide off-street parking
22 because there is no alley access. And so I will note that DDOT's
23 report, and there's no request to incorporate any condition in
24 the application, so it is noted. So I believe this is a fairly
25 straightforward application and so I will be in support of

1 granting the request.

2 Does anyone else have a comment?

3 Mr. Blake? Mr. Smith?

4 Okay. So having no objections, I'll go ahead and
5 approve (sic) Application 20848 as captioned and read by the
6 secretary and ask for a second, Mr. Blake?

7 COMMISSIONER BLAKE: Second.

8 VICE CHAIR JOHN: Mr. Moy, will you please take the
9 roll call?

10 Mr. Moy?

11 Can you hear me, Mr. Moy?

12 This is what's standing between us and lunch.

13 COMMISSIONER BLAKE: I guess we can deliberate some
14 more.

15 VICE CHAIR JOHN: All right. I'm hearing from Mr. Moy,
16 so he's probably having technical difficulties.

17 (Pause.)

18 COMMISSIONER BLAKE: You are on mute Ms. John.

19 VICE CHAIR JOHN: Thank you, Mr. Blake. I had quite a
20 bit to say. Anyway, my suggestion is we take a five-minute break
21 to see if we get Mr. Moy back and then break for lunch.

22 The other option is just to continue the deliberations
23 until after lunch. I think we take a five-minute break to see
24 if Mr. Moy can at least call in. Okay? Thank you.

25 (Whereupon, there was a brief recess.)

1 VICE CHAIR JOHN: Okay. We have Mr. Moy. Oh, Mr.
2 Moy's back.

3 Mr. Blake?

4 COMMISSIONER BLAKE: I'm in.

5 VICE CHAIR JOHN: Okay.

6 MR. MOY: I apologize for that.

7 VICE CHAIR JOHN: We're just happy to have you back,
8 Mr. Moy.

9 MR. MOY: Well, thank you. My computer obviously has
10 a mind of its own.

11 VICE CHAIR JOHN: Okay. We'll just wait for
12 Commissioner May.

13 ZC COMMISSIONER MAY: I'm here.

14 VICE CHAIR JOHN: Okay. Well, so Mr. May (sic), we had
15 taken -- a vote was -- the vote to approve was made and seconded
16 by Mr. Blake, and now we were about to take the roll call.

17 MR. MOY: Yes. VICE CHAIR JOHN: Unless you'd like me
18 to take -- to go through the process again.

19 MR. MOY: Well, I'm good if everybody else is good.

20 VICE CHAIR JOHN: Okay. All right. So Mr. Moy will
21 take the roll call.

22 MR. MOY: So when I call your name, if you'll please
23 respond to the motion made by Vice Chair John to approve the
24 application for the relief requested. The motion to approve was
25 second by Mr. Blake.

1 Zoning Commissioner Peter May?

2 ZC COMMISSIONER MAY: Yes.

3 MR. MOY: Mr. Smith?

4 COMMISSIONER SMITH: Yes.

5 MR. MOY: Mr. Blake?

6 COMMISSIONER BLAKE: Yes.

7 MR. MOY: Vice Chair John?

8 VICE CHAIR JOHN: Yes.

9 MR. MOY: We have a Board member not participating
10 today. Staff would record the vote as four to zero to one. And
11 this is on the motion made by Vice Chair John to approve. The
12 motion to approve was second by Mr. Blake, who is also supporting
13 the motion to approve, as well as Zoning Commissioner Peter May,
14 Mr. Smith, Mr. Blake, and Vice Chair John. Board member not
15 present. Motion carries on a vote of four to zero to one.

16 VICE CHAIR JOHN: Okay. Thank you. So as we discussed
17 earlier, the Board will break for lunch and return in the
18 afternoon, and we'll have three cases, 20849, 20850, 20855 in
19 that order. And the time is now 12:20, so my recommendation is
20 we reconvene at 12:45? Does that work, basically a thirty-five
21 -- or longer? 12:45 it is then. Okay.

22 ZC COMMISSIONER MAY: Okay.

23 VICE CHAIR JOHN: Thank you.

24 (Whereupon, there was a brief recess.)

25 VICE CHAIR JOHN: Okay. Mr. Moy, would you please call

1 us back into session?

2 MR. MOY: Yes. Thank you, Madam Vice Chair. After a
3 quick recess, the Board has returned to its public hearing
4 session, and the time is at or about 12:54 p.m.

5 VICE CHAIR JOHN: Thank you.

6 Could you call the next case please, Mr. Moy?

7 Could you call the next case?

8 MR. MOY: Yes. Thank you. With pleasure. The next
9 case before the Board is Application No. 20849 of Sebastian
10 Quiroga, Quiroga, Q-U-I-R-O-G-A. This is a self-certified
11 application pursuant to Subtitle X, Section 901.2 for special
12 exceptions under Subtitle U, Section 421 to allow a new
13 residential development. This is a new principal dwelling and
14 then in an accessory structure and under Subtitle F, Section 5201
15 from the lot occupancy requirements of Subtitle F, Section 304.1.
16 Property's located in the RA-1 zone at 213 Webster Street, N.W.,
17 Square 3319, Lot 54. And that's all I have for you, Madam Vice
18 Chair.

19 VICE CHAIR JOHN: Okay. Thank you.

20 Mr. Couch, would you introduce yourself for the record
21 please?

22 You're still on mute, Mr. Couch.

23 MR. COUCH: Sorry about that. Hi, I'm Will Couch. I'm
24 the architect on the project.

25 VICE CHAIR JOHN: Could you give your address for the

1 record please?

2 MR. COUCH: Yes. 253 Rock Creek Church Road, N.W.

3 VICE CHAIR JOHN: Okay. Thank you. So you'll have 15
4 minutes, and you can tell us what your application is about.

5 MR. COUCH: Yes. This application is to request relief
6 from Subtitle U 421.1 which states that in this RA-1 zone, we
7 would need to go before BZA for this application for an accessory
8 dwelling unit. And it is also a request for relief from Subtitle
9 F 404 pursuant to Subtitle F 4 --5201.2, excuse me, for relief,
10 minor relief from lot occupancy requirements. This project is
11 proposing an accessory dwelling unit on top of an existing garage
12 footprint. The garage footprint is -- remains as is and therefore
13 the lot occupancy requirement relief request is for the second
14 floor. The principal dwelling structure plus the existing garage
15 currently exceeds and is grandfathered in at 43 percent, and
16 therefore this footprint would just kind of continue the same
17 footprint from the garage below into the ADU. It would be --
18 the proposal is an efficiency type apartment above the garage.
19 And if you could perhaps bring up the architectural drawings,
20 that might be the most helpful.

21 VICE CHAIR JOHN: Okay. Now you have several revisions.
22 So there is -- maybe Exhibit 22, Mr. Young?

23 MR. COUCH: Yes, the revisions were -- one was to the
24 height. And we are now under the 22-foot height limit, so I made
25 a revision to the architectural elevations to demonstrate that,

1 as well as the self-certification form.

2 VICE CHAIR JOHN: Okay.

3 MR. COUCH: And I believe the other revision was also
4 to that self- certification form to reflect the 43 percent lot
5 occupancy.

6 VICE CHAIR JOHN: Okay.

7 So Mr. Young, if you could bring up Exhibit 22?

8 So while Mr. Young is putting up the exhibit, Mr. Couch
9 is there -- so the main building is one residential unit?

10 MR. COUCH: That's correct.

11 VICE CHAIR JOHN: And this is adding a second one over
12 the garage?

13 MR. COUCH: That's correct.

14 VICE CHAIR JOHN: While we're waiting for Mr. Young,
15 does any zoning Board member have any questions other than what's
16 in the record at Exhibit 22?

17 Okay. I'll go ahead and hear from the Office of
18 Planning, since no Board member has any questions.

19 I don't see the Office of Planning.

20 MR. YOUNG: Actually unsure who the Office of Planning
21 is. So I'm just going to bring up Mr. Mordfin and maybe he can
22 let me know who is on it.

23 VICE CHAIR JOHN: Okay. Thank you.

24 Mr. Mordfin?

25 MR. MOY: I believe it should be Steve Cochran, but I

1 don't see him. So maybe Mr. Mordfin can represent Steve Cochran,
2 Madam Vice Chair.

3 VICE CHAIR JOHN: Okay. Mr. Mordfin, can you hear me?

4 So Mr. Young, are you able to pull up the presentation
5 at Exhibit 22?

6 MR. YOUNG: Yes, I have it.

7 VICE CHAIR JOHN: Okay.

8 Okay. Mr. Mouch -- Mr. Couch, you can go ahead and
9 walk us through your exhibit, and please let Mr. Young know when
10 you would like him to move to a different slide.

11 MR. COUCH: Yeah, so this form just, I think, clouds
12 the changes. So I think if I could just bring up the plans, that
13 might be the best thing to take -- there you go. Okay. So just
14 a quick overview. Plan right is the principal existing dwelling
15 footprint. No change there. There was a shed in the middle of
16 the property that will be removed. And the garage is plan left
17 next to the public alley. Next slide? These are just some
18 architectural elevations on the west elevation and south
19 elevation. The south elevation actually faces the principal
20 dwelling unit. And you can see there that I revised the height
21 to under 22 feet. Next slide?

22 Just the other view from the side and then the view
23 from the alley. Next slide? That might actually be the last
24 slide.

25 VICE CHAIR JOHN: Okay.

1 MR. COUCH: Those were the revisions. I think there
2 are a few more drawings that show the actual plans of the unit
3 that might be relevant, so if you could bring that up.

4 VICE CHAIR JOHN: Okay. What exhibit would that be?
5 Okay. Exhibits -- Exhibit 2, Mr. Young.

6 MR. COUCH: Okay. We've seen this one. Next slide?
7 Next slide? Next slide? Here you can see the plans on the plan
8 right, first floor plan, existing garage with one parking space,
9 a new stair up to the ADU. And then on the second-floor plan,
10 you see the layout for the ADU itself. Next slide?

11 And again, these are the elevations that we just saw
12 that were revised to show the overall height.

13 VICE CHAIR JOHN: Okay.

14 MR. COUCH: I believe that's it.

15 VICE CHAIR JOHN: Okay. Thank you.

16 MR. COUCH: Thank You.

17 VICE CHAIR JOHN: Does the Board have any questions for
18 Mr. Couch?

19 Okay. Mr. Mordfin, can you hear me?

20 Mr. Mordfin?

21 MR. MOY: Madam Vice Chair?

22 VICE CHAIR JOHN: Yes, Mr. Moy?

23 MR. MOY: Mr. Mordfin is calling in because he's also
24 having difficulty with his computer as well. So he's calling in
25 as we speak.

1 VICE CHAIR JOHN: Okay. Did you have a question, Mr.
2 Blake?

3 COMMISSIONER BLAKE: I have a question for the
4 Applicant while we're waiting for Mr. Mordfin to call in, or --
5 I'd like to just ask him a little bit about the community outreach
6 element again. We -- seem to be a theme that we've had
7 recurrently today, but can you just tell me a little bit about
8 where that stands at this point and with the ANC, et cetera?

9 MR. COUCH: Yes, we reached out to the ANC. We did
10 get a letter recommending approval from the ANC for this
11 particular project. And we also got letters stating no objection
12 from both immediate neighbors, one of which actually was on the
13 ANC at the time. I think he recused himself from that particular
14 case, but we did communicate with them and present to them and
15 got a favorable --

16 COMMISSIONER BLAKE: Is that in the record?

17 MR. COUCH: It should be.

18 COMMISSIONER BLAKE: I see the letter in support. I
19 don't see that. Maybe it's my machine. Let me take a look.

20 VICE CHAIR JOHN: Yeah, there's one from 211 Webster
21 Street and 213 Webster Street.

22 MR. COUCH: We did present to the ANC and I was told
23 that they submitted their recommendation.

24 VICE CHAIR JOHN: Do you know when the ANC would have
25 submitted it? When was the meeting or hearing at the ANC?

1 MR. COUCH: I could look that up. I know that the
2 chair has since changed, so I don't know if that has anything to
3 do with it.

4 VICE CHAIR JOHN: Okay.

5 MR. COUCH: But I do know that the players that were
6 involved when we met are no longer part of the ANC is my
7 understanding.

8 VICE CHAIR JOHN: Okay.

9 Are there any other questions?

10 Mr. Mordfin?

11 Mr. Mordfin, can you hear me?

12 MR. MOY: Madam Vice Chair, Mr. Mordfin's on your
13 screen, but he's going to speak to you through my telephone.

14 VICE CHAIR JOHN: Okay.

15 MR. MOY: Go ahead, Mr. Mordfin.

16 MR. MORDFIN: Okay. Hi. Good afternoon. I'm Stephen
17 Mordfin with the Office of Planning. And so the Office of
18 Planning is in support of this case. Hold on just a minute.

19 (Pause.)

20 MR. MORDFIN: I was just trying to open up the file
21 since I did not write the report, but I can express what's in
22 there.

23 VICE CHAIR JOHN: So Mr. Mordfin, the Board can read
24 the report and I have read it.

25 Has everyone else read the report? Do we need

1 additional information from Mr. Mordfin? Board Member Smith?
2 Board Member Blake?

3 So Mr. Mordfin, do you adopt the information that's in
4 the report as your oral testimony?

5 MR. MORDFIN: Yes, I do.

6 VICE CHAIR JOHN: Okay. All right. And does the Board
7 have any questions?

8 Does the Applicant have any questions?

9 MR. COUCH: I do not.

10 VICE CHAIR JOHN: Thank you. Is there anyone who's
11 signed up to testify, Mr. Young?

12 MR. YOUNG: We do not.

13 VICE CHAIR JOHN: Okay.

14 Mr. Couch, do you have any closing comments?

15 MR. COUCH: Not at this time. Thank you.

16 VICE CHAIR JOHN: Okay. All right. Well, we'll excuse
17 you at this time. And thank you for your testimony. And we'll
18 close the record and the hearing.

19 MR. MORDFIN: All right. Thank you.

20 VICE CHAIR JOHN: Okay. Is the Board ready to
21 deliberate? I'll just start. So based on the existing
22 conditions, I believe that the 3 percent increase in the lot
23 occupancy is not a significant increase and it's really
24 necessitated by the size of the existing garage as the Applicant
25 is seeking to add another dwelling unit above the garage. And

1 in terms of how the application meets Subtitle U 421, I thought
2 the Office of Planning did a good job in describing how that
3 application met the criteria in terms of -- especially in terms
4 of light and air and adverse impact to the adjacent properties.
5 And so I would be in support of this application. I believe it
6 is fairly straightforward and I would ask if the Board has any
7 additional comments.

8 ZC COMMISSIONER MAY: No.

9 VICE CHAIR JOHN: No. Mr. Blake?

10 COMMISSIONER BLAKE: No, Madam Chair. The only concern
11 I had, which I expressed, was the issue with the ANC, but I can
12 understand with the changes that have taken place and the fact
13 that they actually probably presented this back in October of
14 last year, I can understand with the change in leadership where
15 that may have fallen through the cracks. And I do note the sun
16 study and shadow studies, as well as the support of the
17 neighboring properties and the fact that there are no comments
18 in opposition in the record, and the fact that I know that they
19 were duly notified and did speak. And I'll take those
20 representations and be in support of the application.

21 VICE CHAIR JOHN: Okay. Thank you, Mr. Blake. And I
22 would also add there is no objection from DDOT.

23 So I'll go ahead then and make a motion to support --
24 to approve Application 20849 as captioned and read by the
25 secretary and ask for a second, Mr. Blake?

1 COMMISSIONER BLAKE: Second.

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

4 MR. MOY: When I call your name, if you'll please
5 respond to the motion made by Vice Chair John to approve the
6 application for the relief requested. The motion was second by
7 Mr. Blake.

8 Zoning Commissioner Peter May?

9 ZC COMMISSINOER MAY: Yes.

10 MR. MOY: Mr. Smith?

11 COMMISSIONER SMITH: Yes.

12 MR. MOY: Mr. Blake?

13 COMMISSIONER BLAKE: Yes.

14 MR. MOY: Vice Chair John?

15 VICE CHAIR JOHN: Yes.

16 MR. MOY: We have a Board member not participating
17 today. Staff would record the vote as four to zero to one. And
18 this is on the motion made by Vice Chair to approve. The motion
19 to approve was second by Mr. Blake, who is also in support of
20 the motion, as well as Zoning Commissioner Peter May, Mr. Smith,
21 Mr. Blake, Vice Chair John. No other Board members, but the
22 motion carries on a vote of four to zero to one.

23 VICE CHAIR JOHN: Okay. Thank you. And please call
24 the next case when you're ready, Mr. Moy.

25 MR. MOY: The next case is Application No. 20850 of Lot

1 3 Labs, LLC and Howard University. This is a self-certified
2 application pursuant to Subtitle X, Section 901.2, special
3 exception under Subtitle U, Section 518.1H, which would allow an
4 experimental research or testing laboratory. The property is
5 located in the MU-10 zone at 12 -- rather 2112 Georgia Avenue,
6 N.W., Square 2877, Lots 62, Lot 81, Lot 934, Lot 945, 968 970,
7 972, 977, 979, 1023, and 1033. The preliminary matter, Madam
8 Vice Chair, is that the Applicant files revised PowerPoint slides
9 within the 24-hour submission block. The Applicant has proffered
10 expert witnesses that are not in the current witness book, Brent
11 Amos, Amos, A-M-O-S, and Brandice Elliot. Finally, just for your
12 information, we do have a DDOT representative who has signed up
13 to give testimony as well, and that's all I have for you, Madam
14 Vice Chair.

15 VICE CHAIR JOHN: Okay. Thank you. I'm trying to find
16 the witness.

17 MS. BATTIES: Madam Vice Chair?

18 VICE CHAIR JOHN: Yes.

19 MS. BATTIES: Brandice Elliot -- Brandice Elliot will
20 not be testifying today.

21 VICE CHAIR JOHN: Okay. Thank you, Ms. Batties. Please
22 introduce yourself for the record and -- okay. Go ahead.

23 MS. BATTIES: Okay. Good afternoon. Leila Batties
24 along with my colleague John Oliver, with the law firm of Holland
25 & Knight, 800 17th Street, N.W., we're representing Lot 3 Labs,

1 LLC, which is an affiliate entity of Quadrangle Development
2 Corporation, which is Howard University's development partner for
3 the subject property, which we commonly refer to as Howard Lot
4 3.

5 The subject property is approximately three and a half
6 acres. It's located on the west side of Georgia Avenue, bounded
7 on the north by Barry Place and on the south by the future W
8 Street extension. And it's bounded on the west by 8th Street.
9 The Applicant seeks special exception approval for the property
10 to permit the National Research Center for Health Disparities.
11 It would be a facility that's intended to attract pharmaceutical
12 companies and biomedical research organizations focused on
13 treating and researching chronic illnesses, particularly those
14 affecting communities of color. The proposed facility falls
15 within the definition of research testing or laboratory use under
16 the zoning regulations, and therefore requires a special
17 exception approval pursuant to Subtitle U, Section 518.1(h). So
18 in terms of our presentation today, I have Derrek Niec-Williams
19 here from Howard. He's going to speak a little bit about the
20 facility and their partnership with Quadrangle. I'll discuss
21 briefly the application. And then finally Brent Amos with Cooper
22 Carry will discuss the project design.

23 So Derrek?

24 VICE CHAIR JOHN: Okay. Just before we proceed --

25 MS. BATTIES: Oh, I'm sorry.

1 VICE CHAIR JOHN: Before we proceed, I wanted to go
2 ahead and accept Mr. Amos as an expert in architecture, unless
3 the Board objects.

4 Okay. Thank you.

5 MS. BATTIES: And I should ask -- I'm sorry, before you
6 get started, Derrek, Mr. Young, after Derrek's presentation, if
7 you can pull up the PowerPoint, that would be helpful.

8 VICE CHAIR JOHN: Okay. And I had a question which
9 perhaps you can address during the presentation. It appears to
10 me that the building is a matter-of-right project and you're just
11 seeking permission to use the building for this experimental
12 purpose?

13 MS. BATTIES: That's correct, a portion of the
14 building.

15 VICE CHAIR JOHN: A portion.

16 MS. BATTIES: Yeah. The office use is permitted as a
17 matter-of-right and inside of that office use we will include
18 programing for research and lab.

19 VICE CHAIR JOHN: Okay. So please explain all of that
20 in the testimony. Thank you.

21 MS. BATTIES: Okay.

22 I'm sorry, Derrek.

23 MR. NIEC-WILLIAMS: No worries at all. Are y'all
24 hearing me okay?

25 MS. BATTIES: Yes.

1 VICE CHAIR JOHN: Yes.

2 MR. NIEC-WILLIAMS: Excellent. Well, greetings,
3 everyone, and good afternoon. My name is Derrek Niec-Williams.
4 I currently serve as the executive director for campus planning,
5 architecture and development of the university's real estate
6 development and capital asset management office. Also happen to
7 be a proud Bison and I am not shy about sharing that. Address
8 is located at 2600 6th Street, N.W., and I'm here on behalf of
9 the university to provide, you know, some historic context that
10 will help support the case before you. So you know, at a high
11 level, I just want to make a couple of points and then turn the
12 floor back over for a more robust discussion about the actual ask
13 here. But you know, hinging on the Howard Forward Strategic
14 Plan, one of the main tenets there was to diversify revenue
15 streams to support and reinvest in Howard University's mission.
16 So this example of a commercial project that's going on Howard
17 University property builds on the comprehensive plan for the
18 District as well as a small area plan, dubbed the Duke Plan for
19 Greater Shaw, which the university is realizing on this parcel,
20 as well as a number of adjacent parcels here. So it's also
21 important to not belabor but note Howard's enduring role in
22 training diverse health science professionals and conducting
23 critical research and the lasting impact that this has on
24 addressing the many disparities that face our populations. So
25 specific to this particular process, the university did perform

1 a very wide solicitation process and got a very robust market
2 response with a number of qualified developers with various use
3 proposals. Now, overwhelmingly, the highest and best use was
4 identified in this zone in general with the MU-10 designation as
5 a mix of residential and retail. However, the selected
6 development team that you see here today presented to the
7 university a unique and compelling case for the proposed project
8 via the inclusion of this National Research Center for Health
9 Disparities and its associated office and lab uses.

10 So the two points that I'll make before closing, you
11 know, that sort of sup- -- the university supports this particular
12 process is that this particular use and the National Research
13 Center is synergistic with the Bryant Street and Georgia Avenue
14 corridors as envisioned both in the Duke plan, the comp plan, and
15 in the university's 2020 central campus master plan as a health
16 sciences corridor, particularly along the Bryant Street corridor,
17 there will be a new Howard University hospital, medical office
18 building, and academic facilities to support health science and
19 STEM programs, as well as the existing health sciences library.
20 So this being just a block to the west of that builds on a lot
21 of momentum and synergistic uses there.

22 And the second point is just that adding this use to
23 the mix of uses in this Duke district development area will
24 diversify the product mix and realize broader patterns of use and
25 animation by Daypark (phonetic) that will greatly vitalize this

1 area of Georgia Avenue and is also poised to attract tenants and
2 partners that have not only committed to addressing health
3 disparities, but also cross-pollinating with the university's
4 academy and contributing to the local metropolitan economy. So
5 with that, I'll close and say thank you for your time,
6 consideration, and your ongoing service to the District.

7 VICE CHAIR JOHN: Thank you.

8 MS. BATTIES: Thank you, Derrek.

9 And Mr. Young, if you can just go to Slide 5?

10 The next one. Yes, there you go.

11 So as Mr. Moy mentioned when he was introducing the
12 application, there are several lots that make up the subject
13 property. Those lots ultimately as part of the entitlement
14 process will be subdivided into a single record lot, which will
15 then be redeveloped in phases with multiple buildings. And so
16 on the slide here you'll see Phases 2A, 2B and potential Phase
17 3. This is the portion of the property that will be improved
18 with office buildings. And within those office buildings, a
19 portion of the buildings may be used or programed with laboratory
20 space, and that is the basis for today's BZA application. So
21 Mr. Young, if you can go back one slide please?

22 VICE CHAIR JOHN: Thank you. Ms. Batties, I need to
23 interrupt you for a second.

24 MS. BATTIES: Sure

25 VICE CHAIR JOHN: The -- I neglected to admit the

1 PowerPoint into the record, so please continue.

2 MS. BATTIES: Okay. So lab and research uses are
3 permitted in the MU-10 zone as a special exception pursuant to
4 11 -- Subtitle U, Section 518.1. The Board is authorized to
5 grant a special exception where it finds that the use will be at
6 harmony with the general purpose and intent of the zoning
7 regulations and will not tend to adversely affect the use of the
8 neighboring property in accordance with the zoning regulations
9 and the zoning law. In this case, the proposed research facility
10 meets the criteria. The MU-10 zone is intended for a range of
11 uses: office, institutional, retail, and residential are all
12 permitted as a matter-of-right. And again, the research center
13 will be contained within the office buildings. The laboratory
14 use that is contemplated for the office buildings would be a
15 biosafety level 2 facility, which are used to study and test
16 moderate risk agents, and it can support research -- let me go
17 back -- research ranging from cancer research using cells and
18 tissues, to medical devices such as ports for administering
19 cancer treatments, insulins, or other medications, and low risk
20 communicable diseases. So these are involved risk agents that
21 pose a danger if accidentally inhaled or swallowed or exposed to
22 the skin, but regular safety protocols include like the use of
23 gloves and eyewear, as well as handwashing sinks and waste
24 decontamination facilities. Essentially, the type of research
25 here would be no greater risk than what is permitted at the

1 hospital, Howard University Hospital, the medical school now.

2 The other thing I'll note in terms of satisfying the
3 special exception criteria is that the proposed facility will be
4 surrounded by Howard University uses and will specifically
5 complement the medical school and the mission of Howard
6 University as a very important stakeholder, as Mr. Niec-Williams
7 mentioned in his testimony.

8 So one important consideration as it relates to the
9 impact of the project, is of course, given the scale of the
10 project and its location is vehicular and pedestrian circulation.
11 And Mr. Young, if you can go to Slide 15, which is like the third
12 from the end?

13 So I just want -- there you go, thank you. I just want
14 to note that the transportation improvements that are
15 contemplated or required actually by DDOT in connection with the
16 redevelopment of the property have been part of a broader network
17 discussed between Howard and DDOT in connection with the approval
18 of the Howard -- of Howard's campus master plan and amendments
19 to the campus master plan. This slide here clarifies the
20 discussion in DDOT's report as it relates to the transportation
21 and pedestrian improvements, and how they correlate to the
22 various phases of development for the property. So it shows to
23 the left is all the way -- you see the W Street, within the light
24 blue area is the sidewalk that would be constructed as part of
25 Phase 1 of the subject property, says W street sidewalk. And

1 then you see the Bryant Street Commons that bisects the phases
2 of development on the site. And then you have sidewalks along
3 8th Street and Georgia Avenue that are also discussed in the DDOT
4 report.

5 We've been working with DDOT up until just before this
6 morning's hearing. And I'll let DDOT reiterate this condition
7 later in their report, but we are going to -- we ask that the
8 Board consider additional language and DDOT's recommendation for
9 the application, which would allow the Applicant and DDOT to
10 further finalize kind of the specifications for the various
11 improvements that are contemplated as part of the project. And
12 again, DDOT will read that specific language when they give their
13 report. So that concludes my testimony at this time. I'm going
14 to turn the presentation over to the architect Brent Amos with
15 Cooper Carry so he can go through the project design. Thank you

16 VICE CHAIR JOHN: Thank you.

17 MS. BATTIES: And Mr. Young, if you can go back please
18 to starting at Slide 6, I think?

19 VICE CHAIR JOHN: Okay. Thank you.

20 MR. AMOS: For the record, I am Brent Amos. I'm a
21 principal at a design firm called Cooper Carry. I specialize in
22 laboratory design. My address is 801 Southeast Street, Culpeper,
23 Virginia. And Mr. Niec-Williams did a fantastic job of describing
24 the synergies of this project to a lot of the ongoing expansions
25 happening at Howard University. So I'm going to focus mainly on

1 the architectural aspects of the project. What you see here is
2 the first floor of the first phase. Georgia Avenue is to the
3 right of the plan. There is a lobby located in the southeast
4 corner with access to Georgia Avenue, with retail along Georgia
5 and Bryant Avenue. The other major characteristic component of
6 this floor is on the west side along 8th. We have loading and
7 parking. Both of these are accessed off of 8th and the loading
8 dock has all of the turning requirements to meet current standards
9 to have all of the service done inside of the building footprint
10 and none of it on public right of ways. One other thing, the
11 bottom left corner, you'll notice that there's a notch out of it.
12 There's currently a Pepco substation there that we have to avoid
13 with our building footprint. It will be screened, but it needs
14 to have airflow and access. And so we're integrating
15 architectural panel systems in order to meet all of the Pepco
16 requirements for their equipment and its natural ventilation.
17 Moving on to the next page?

18 So what you see on the plan now is our typical tenant
19 floor plan with a proposed fit-out. The southern facade is all
20 office area and the northern facade is office. There's a demising
21 dashed line on the west side. While all of the Phase 2 site
22 perimeter is being built on the first floor, on the upper floors
23 for what's proposed right now, we're only building everything to
24 the right of that. And then there's a future expansion. The
25 latest conversations are that we are hoping to build all of this

1 at one time for a unified development. As Leila pointed out,
2 the office area for the facility is matter-of-right, and we are
3 just seeking the special exception for the use of laboratories.
4 As Leila also pointed out, the research that is being done in
5 the facility should not pose any threat to the health and safety
6 of any neighboring properties. We're looking to do research that
7 advances cancer researches, as well as some communicable
8 diseases. All the laboratory users who would use this space,
9 have SOPs that describe their processes that use whatever agents
10 they have, and those types of things have to be approved and
11 followed in order to meet CDC guidelines and other guidelines
12 that they will all follow. So moving on to the next one?

13 This is the roof penthouse plan. There are amenity
14 spaces along the southern edge that are to be used for
15 conferencing, fitness center, and then there's a green roof as
16 well. The entire setbacks meet the 20-foot setbacks and all the
17 45-degree angles required by zoning. And a majority of the
18 rooftop penthouse will be used for mechanical equipment that
19 serves all of the floors of the building. Next slide?

20 This diagram just shows you an overall cross-section
21 of the building use. We have two stories of below grade parking,
22 the retail along Bryant Street, and then you have the five floors
23 of office and lab use, and then the rooftop amenity space. Next
24 slide please?

25 And then this is a rendered view from Bryant and

1 Georgia. You have a very contextual architecture with glass for
2 natural light, sun shading where there is, you know, issues about
3 solar heat and glare. And then the majority of the actual facade
4 is a series of punched vertical expressions of curtain wall.
5 Next slide?

6 And then this is the view from 8th and Bryant looking
7 back at Phase 2B, again you have the punched vertical openings
8 and a contextual architecture that aligns with the adjacent site
9 as well as the remainder of the buildings. Next Slide.

10 And then as Leila pointed out...

11 COMMISSIONER SMITH: Can I. Mr. Amos --

12 VICE CHAIR JOHN: Just a minute please. You have a
13 question, Board Member Smith?

14 COMMISSIONER SMITH: Well, more of a, you know, a
15 clarification, you know. I will contend that this building is
16 beautiful. But the request before you is regarding a special
17 exception for use.

18 MS. BATTIES: Yes, I understand.

19 COMMISSIONER SMITH: And we're having, you know, a very
20 long discussion about the design of the building.

21 VICE CHAIR JOHN: I understand, Board Member Smith.
22 It's by way of an overview, so.

23 How much more do you have, Mr. Amos?

24 MR. AMOS: This is the last part.

25 VICE CHAIR JOHN: Okay.

1 COMMISSIONER SMITH: Okay.

2 MR. AMOS: This is simply showing the full build-out
3 of the potential lab office floor plate with a potential for
4 Phase 3. This is just showing you how the full block would be
5 fit out, again how the parking ties together below grade. You
6 have the street access on the first floor with, again, lobby and
7 retail spaces flanking the public ways. And then the next slide
8 is the last one which is showing what a full office lab buildout
9 would look like. And again, the request is just for that special
10 exception use of the laboratory.

11 VICE CHAIR JOHN: Right. So that's why it's very
12 confusing for the Board because we're only approving the use, not
13 the building. So let's go back to Slides 6 and 7, because I
14 believe that's where you show the lab support. So as I listen
15 to you, this is going to be one building or two?

16 MR. AMOS: This -- the first floor, this is all one
17 building.

18 VICE CHAIR JOHN: Okay.

19 MR. AMOS: There is a potential for a Phase 3 that is
20 along Georgia Avenue just north.

21 VICE CHAIR JOHN: Okay.

22 So you will construct one building and you will build
23 out the office and lab space in phases; is that correct?

24 MR. AMOS: Correct. The office and labs would be built
25 out as tenants rent space to use the space, correct.

1 VICE CHAIR JOHN: Okay. And so on Slide 6, I believe
2 that's -- yes, you're asking for lab support, is that -- will
3 that support the labs that you show on Slide 7 or is this
4 separate?

5 MR. AMOS: This will support the labs that are on the
6 floors above, correct.

7 VICE CHAIR JOHN: Okay. Let's go to Slide 7.

8 Okay. And so the space in blue is what will be lab
9 use?

10 MR. AMOS: Correct.

11 VICE CHAIR JOHN: And that's on which floors?

12 MR. AMOS: It is on floors two through five. If you
13 go two slides down, you can see that in the section diagram more
14 easily.

15 VICE CHAIR JOHN: Floors two through five. And the one
16 on Slide 6 was which floor?

17 MR. AMOS: Sorry, two through six.

18 VICE CHAIR JOHN: Two three six?

19 MR. AMOS: Yes, that slide that we were just reviewing
20 represented a potential for any floor plan for our two through
21 six.

22 VICE CHAIR JOHN: So the lab support would be on Slides
23 2 through 6 as well?

24 MR. AMOS: The lab support that was shown on, I believe,
25 Slide 5 is for storage of materials that come into the building

1 --

2 VICE CHAIR JOHN: Okay.

3 MR. AMOS: -- in support of the labs that are on levels
4 two through six.

5 MS. BATTIES: What floor is the lab support on, Brent?

6 MR. AMOS: The lab support is on level one.

7 VICE CHAIR JOHN: Okay. All right. So I think that
8 clarifies for me what's before the Board. Does any Board member
9 have any other questions at this point?

10 Mr. Young, can you delete the slides for a minute.

11 COMMISSIONER BLAKE: Could you just clarify the -- on
12 the first floor, the entrance and egress for the loading dock
13 relative to the support, this area?

14 MR. AMOS: Yeah. So the entrance, without having the
15 slide up, the entrance into the loading --

16 VICE CHAIR JOHN: Which slide do you want?

17 MR. AMOS: Slide 4 would work. And then 5. Four shows
18 the whole site plan -- or 5, sorry. So the entrance into the
19 loading is the purple arrow that you see going into the lab office
20 Phase 2B. There's a separate service and then the kind of teal
21 color is the entry point into the parking deck. You go down a
22 ramp below the loading area. So if you go to the next slide.

23 Right below where you see the word G-E-N, that is the
24 roll-up door for access of vehicular traffic into the loading
25 area. They would pull in and then they would hit the hammerhead

1 at the end and back up to the loading dock where you see three
2 trucks at the loading berth in the diagram. And then they would
3 pull out and then back onto 8th Street.

4 VICE CHAIR JOHN: Okay.

5 Does the Board have any other questions with respect
6 to the use?

7 Okay. So I have another question. The ANC had a
8 comment concerning transportation of materials used in the lab
9 and made a recommendation to use a commercial corridor. And so
10 I wanted to hear from the Applicant, what's the process now for
11 transporting hazardous waste or hazardous materials that's used
12 for the rest of the campus? So to address the ANC's comments or
13 anything else you'd like to add in response to that comment.

14 MS. BATTIES: Yeah. So first, I will just note that
15 vehicular access to the site, again, is part of our discussions
16 and approval with DDOT and the public space committee
17 specifically. And at this point, DDOT has not approved or has
18 expressed that it would not approve any curb cuts along Georgia
19 Avenue. That's why all of the access for the site is from 8th
20 Street, so. And that kind of -- and so that's the first thing.
21 In terms of how access or materials are currently transported off
22 the site, I don't know that anybody on the call is aware and can
23 speak to that directly, but I think Brent, didn't you have this
24 -- did I talk to you earlier about kind of the materials, the
25 type of materials and that'll be transported and how they're

1 transported on city streets regularly all of the time, right?

2 MR. AMOS: Yeah. So the types of materials that will
3 be delivered will be -- many of you've probably seen the flatbed
4 trucks with Airgas that has gas cylinders on them on a flatbed,
5 those would be a majority of the deliveries. Other deliveries
6 will be box trucks that will have disposable glasswares, beakers,
7 and then also, you know, platelets for putting cells in so that
8 they can put it in the microscope. Most materials delivered to
9 and from the site will be those types of materials. Any biohazard
10 waste, just like a hospital, will be disposed of in biohazard
11 waste containers and be picked up by biohazard type companies
12 that that focus on that disposal.

13 And again, all of those types of biohazards are
14 traveling on all of our public roads already and do not have any
15 special requirements. They're not considered hazardous like, you
16 know, somebody who's transporting flammables and those types of
17 things. Chemical delivery, that would be probably the one thing
18 that is considered a hazard, but it's not going to be high
19 quantities of it. And those are chemicals that are used in the
20 experimentations as well. Pharmaceutical manufacturing is very
21 much so a chemistry endeavor. And so they do have to have various
22 chemicals delivered into the site. And all of those follow the
23 DDOT regulations for access to any public street. And there are
24 no restrictions that we're aware of on 8th Street for the
25 transport of those types of hazardous materials.

1 VICE CHAIR JOHN: Okay. Thank you.

2 Does the Board have any questions at this point?

3 Okay. I'll go to the Office of Planning.

4 MS. THOMAS: Good afternoon, Madam Chair. Karen Thomas
5 with the Office of Planning sitting in for Maxine Brown-Roberts.
6 And the Office of Planning is recommending approval of the
7 requested special exception relief to have an experimental
8 research and testing lab in the MU-10 zone. We also do not oppose
9 the request for design flexibility for the Phase 2 and Phase 3
10 office buildings to allow for further refinement of the
11 building's design, which would be limited to exterior details and
12 exterior materials only and provided that the development
13 standards of the zone are maintained. As outlined in our report,
14 the proposal would meet the requirements of the general special
15 exception, and it would meet -- in that it would be the intent
16 of the MU-10 zone and would not adversely affect neighboring
17 properties. Thank you.

18 VICE CHAIR JOHN: Thank you.

19 Does the Applicant have any questions for the Office
20 of Planning?

21 MS. BATTIES: No questions for the Office of Planning.

22 VICE CHAIR JOHN: Okay. Is the ANC here?

23 Mr. Young, did anyone from the ANC sign up? Okay. Mr.
24 Young?

25 We're having technical difficulties all day today.

1 So while we're waiting, hopefully Mr. Young will be
2 back on. I had a question concerning the current ownership
3 structure. So does Howard own the property or is Howard leasing
4 back from the developer, what's the precise nature of the
5 relationship?

6 MS. BATTIES: I'm not going to speak to that. I --
7 Derrek, would you like to speak to that or would --

8 MR. NIEC-WILLIAMS: Certainly. Yeah, so this is a
9 ground lease structure where the university is retaining long-
10 term ownership of the dirt, right, the land and the developer
11 here is ground leasing the asset for a set term from the
12 university. So that's the general ownership arrangement whereby
13 the university's on the deed, but site control over the term of
14 the lease is ceded to the developer.

15 VICE CHAIR JOHN: Okay. So the university is properly
16 the Applicant?

17 MR. NIEC-WILLIAMS: Counselor?

18 MS. BATTIES: The -- No. The Applicant is Lot 3 Labs
19 on behalf of the University, the owner. The Lot 3 Labs is
20 authorized by Howard.

21 VICE CHAIR JOHN: Okay. Okay. All right. That helps
22 me. And does anyone know the precise square footage of the prop
23 -- of the offices or the lab area described on floors two through
24 five in the blue and Slide 6 on the first floor?

25 MS. BATTIES: Before Brent answers that, Brent if you

1 can look up the overall square footage of the office building
2 because I think it's important to clarify that what Brent showed
3 is like what could be a typical floor plan, but how the space is
4 actually built out will depend on the tenant, right? So it could
5 -- the intent is to attract this national research and various
6 research users, but the layout will depend on how big that those
7 -- that user is or how many users there. The actual floor plate
8 will not be like -- is not set yet and that will be based on who
9 they can attract as a tenant or multiple tenants in the building.
10 But if you want to just give the overall square footage.

11 VICE CHAIR JOHN: Well, of the proposed lab space,
12 because that -- the office space is a matter-of-right in the
13 zone. What you're seeking special exception for is the lab use,
14 which has to be identified in the order and approved because if,
15 for example, you were to put lab use in another part of the
16 building, I believe you would need to amend your special exception
17 order. So I don't know if legal wants to chime in here, but
18 that's my understanding of how it works or Mr. May or anybody
19 else on the Board. That's why we need to see where in the office
20 -- in the building, this special use will be housed.

21 MS. BATTIES: Yeah, I --

22 MR. AMOS: Leila, if I can chime in. So in a research
23 environment like this, typically the plan is 60 percent of the
24 floor plate as laboratory and 40 percent as office. That would
25 most likely be the maximum. Sometimes you end up with a 50/50.

1 Other times you end up with a 40/60. The Phase 2A- 2B, total
2 square footage between level two through six, which we will call
3 the lab office use, is 225,000 square feet. And with that, we
4 would -- we're proposing that up to 60 percent of that area would
5 be laboratory on those floors.

6 VICE CHAIR JOHN: Okay.

7 MR. AMOS: But -- yeah.

8 VICE CHAIR JOHN: I mean, I'm thinking that this
9 application is premature because we don't have -- that's just my
10 feeling. But I'm willing to hear from other Board members.

11 Mr. Young, are you back?

12 MS. BATTIES: If I may, Vice Chair John, the problem
13 is that we're not able to attract the user without the approval.
14 So we can't even go out to the market to seek a tenant if the
15 use is not approved.

16 VICE CHAIR JOHN: I understand.

17 MS. BATTIES: Yeah.

18 VICE CHAIR JOHN: I understand perfectly.

19 Mr. Young, are you present?

20 MR. YOUNG: Yes, I'm here.

21 VICE CHAIR JOHN: Okay. So the question was is there
22 anyone signed up to testify? And I don't believe the ANC is
23 here.

24 MR. YOUNG: That's correct. We do not.

25 VICE CHAIR JOHN: Okay. Thank you. And I forgot where

1 I am. So we're asking questions of the Applicant. So does anyone
2 else have a question concerning the use?

3 Mr. Knopf, would you like to speak?

4 MS. BATTIES: You're on mute, Bob.

5 COMMISSIONER BLAKE: You're on mute.

6 MR. KNOPF: Yes. Thank you for recognizing me. I
7 would like to speak on behalf of the Applicant. I'm --

8 MS. BATTIES: Give your name and address.

9 VICE CHAIR JOHN: Please provide your address as well.

10 MR. KNOPF: And my name is Bob Knopf. I'm with
11 Quadrangle Development, 1001 G Street, N.W., Washington, D.C.

12 VICE CHAIR JOHN: Thank you. Please go ahead.

13 MR. KNOPF: So the idea here is that we are seeking to
14 be able to put these special exception uses anywhere in this
15 office building that's appropriate. So they may take -- it could
16 be that all of the second floor is office use or all of the second
17 floor is lab use. We don't know until we start finding our
18 tenants. So we are seeking the flexibility to put it -- put the
19 lab use anywhere within the 220,000 square feet.

20 MS. BATTIES: Or in any configuration, yes.

21 VICE CHAIR JOHN: Okay.

22 MR. KNOPF: Does that help?

23 COMMISSIONER SMITH: Well, I have a -- yeah --

24 VICE CHAIR JOHN: Someone was trying to speak?

25 COMMISSIONER SMITH: Board Member Smith.

1 VICE CHAIR JOHN: Oh, Board Member Smith, please go
2 ahead.

3 COMMISSIONER SMITH: So that's -- and that is helpful.
4 My question is you did reference the square footage of the
5 building, 220 odd square feet. Is that the maximum size of the
6 building you're proposing to construct, and that's the
7 (indiscernible) average.

8 MR. AMOS: That's -- that is one of the phases. The
9 total area, I'll pull it up if you can give me one second.

10 MS. BATTIES: That's the -- is that first -- Brent, is
11 that the maximum for Phase 2A-2B?

12 MR. AMOS: That is the maximum for 2A. 2B adds another
13 134 -- or sorry, 2A-2B is 225 for the office floors. That doesn't
14 include the planned retail. The Phase 3 adds another 135,000
15 square feet of potential office lab.

16 MS. BATTIES: Okay. That's a -- so Board Member Smith,
17 that would be the total envelope for office lab use, the 225 plus
18 the 135.

19 COMMISSIONER SMITH: 225 plus the 135. And the number
20 that you -- you cited a number or percentage that you're aiming
21 for. You're aiming for about 60 percent of that total square
22 footage to be lab and office or --

23 MR: AMOS: That is -- that's a typical average, but as
24 Bob pointed out, the request is that any amount could be lab,
25 not necessarily using the standard 60/40 breakdown.

1 COMMISSIONER SMITH: So I, you know, share the same
2 concern as Ms. John. This seems to be, you know, either premature
3 or we need some additional information from you, because I -- I
4 mean, I'll be honest with you, the request before us is, you
5 know, a special exception for the use. So we're tasked with
6 deciphering, you know, the question about whether we're
7 mitigating the adverse impacts. So I think it would benefit your
8 team to come up with some additional information about the max
9 percentage that you may presumably see for these types of uses
10 in the field and beyond just retail. And that may be something
11 that you bring back to us in the form of maybe, you know, I'm
12 thinking about maybe a condition where 75, 60, whatever
13 percentage of a building would be max -- you can get up to that
14 number.

15 MS. BATTIES: No more than X percentage be limited to
16 lab use, is that what you're looking for?

17 COMMISSIONER SMITH: Yeah. And then you have the
18 flexibility within that building block itself. I'm assuming
19 between Bryant and Barry, that's where you're going to have that
20 lab and office space in that Phase 2 between Georgia Avenue,
21 Bryant, and -- or future Bryant Street and Barry Place, N.W.
22 That to me, you know, that's the best way that I could think to
23 alleviate some of my at least heartburn with what is proposed
24 today.

25 MS. BATTIES: But what if we were to do that now

1 because the truth of the matter is -- so we could potentially
2 say today, no more than --

3 COMMISSIONER SMITH: You're not going to get a blanket
4 special exception out of me for that entire building.

5 MS. BATTIES: So what I'm saying today is --

6 VICE CHAIR JOHN: Okay. Let's hear from Ms. Batties.
7 Ms. Batties, please go ahead.

8 MS. BATTEIS: If we said today we will have no more
9 than 60 percent lab use and then -- because the truth of the
10 matter is, we won't know until we get a tenant. So it can be 60
11 percent, and if it turns out we get a tenant that requires more
12 than 60, we would come back for minor modification to the
13 condition. But the reality is any number that we come up with
14 and until we have a tenant, is just a reasonable guesstimate.
15 Right? And so --

16 COMMISSIONER SMITH: Okay.

17 MS. BATTIES: So if we were able -- if we're willing
18 to limit it to no more than 60 percent now, with any configuration
19 within the building? You're on mute Bob. What is it?

20 VICE CHAIR JOHN: Okay. Wait. Wait.

21 MR. KNOPF: Can we just get some...

22 VICE CHAIR JOHN: Mr. Knopf, please ask to be
23 recognized.

24 MS. BATTIES: Okay.

25 VICE CHAIR JOHN: Were you finished, Ms. Batties?

1 MS. BATTIES: Yes. Or up to 75 percent, is that what
2 -- okay. So no more than 75 percent of the building footprint -
3 - of the office use could be utilized for laboratory use. We
4 would be willing to put that limitation on the approval today.

5 VICE CHAIR JOHN: Okay.

6 COMMISSIONER SMITH: Okay.

7 VICE CHAIR JOHN: All right. Did any other Board Member
8 have a question?

9 Okay. I understand that DDOT was signed up to testify.
10 Is DDOT here?

11 MS. BRIDGES: Yes.

12 VICE CHAIR JOHN: Okay.

13 Is that --

14 MS. BRIDGES: This is Kelsey Bridges.

15 VICE CHAIR JOHN: Oh, hi, Ms. Bridges.

16 MS. BRIDGES: Hi.

17 VICE CHAIR JOHN: I don't know -- well, please introduce
18 yourself for the record.

19 MS. BRIDGES: Yeah. My name's Kelsey Bridges. I'm
20 with the District Department of Transportation on the
21 neighborhoods planning team.

22 VICE CHAIR JOHN: Okay. Thank you. So I don't know
23 if you heard the discussion earlier where we said that the
24 building is a matter-of-right project. And so the BZA is only
25 approving the use of that building for laboratory research. It's

1 a special exception. So we would not be, for example, limiting
2 to the Applicant to what is described -- to those plans, which
3 is ordinarily what the Board does and would be, you know,
4 requiring landscaping, loading, you know, criteria that DDOT
5 would be concerned about. So I don't know if you still wish to
6 testify. You should also note that the Board, even if this were
7 a building that was being -- that the Applicant was seeking
8 approval of the building, the Board doesn't ordinarily include
9 the types of conditions that DDOT would like to see. So with
10 that in mind, do you still wish to testify?

11 MS. BRIDGES: Just to make sure I'm understanding,
12 you're stating that you would not be including the conditions in
13 -- from DDOT's report?

14 VICE CHAIR JOHN: Yes. If -- even if we were to approve
15 the building --

16 MS. BRIDGES: Gotcha.

17 VICE CHAIR JOHN: -- because the Board doesn't farm out
18 its work to DDOT. I mean, that's a very blunt way of saying it.
19 The Board has to decide. Okay? And so that the kinds of things
20 that you would perhaps ask the Zoning Commission for and could
21 have approved in a Zoning Commission case, the BZA doesn't have
22 that jurisdiction.

23 MS. BRIDGES: Understood. I would like to -- since
24 Leila did mention, I would like to at least just kind of clarify
25 from -- after the discussions that we have had with the Applicant

1 regarding the construction of Bryant and W Street just to add to
2 the record. There --

3 VICE CHAIR JOHN: To interrupt, so I'm not sure what
4 that does because the order is only going to be limited to the
5 use of up to -- or whatever the Board decides, up to a certain
6 percentage of the building. In other words, the Applicant could
7 choose to just do a mix of retail and office use, which is a
8 matter-of-right, but because they're doing this experimental and
9 research facility, they have to come to the Board for special
10 approval. So all we're saying is once you have your building,
11 you know, built, you can devote a portion of this to this
12 laboratory use.

13 MS. BRIDGES: Yes.

14 VICE CHAIR JOHN: That's all we are saying. So we
15 would not -- you know, it's not relevant to our discussion what
16 the construction plan is, because it's all a matter-of-right. So
17 once the Applicant is -- has obtained permits and has gone through
18 all of that process with DDOT, then those conditions can be
19 addressed at that time. The Board could not even enforce them,
20 even if they were in the order, so.

21 MS. BRDIGES: Okay. Understood.

22 VICE CHAIR JOHN: Okay? All right.

23 MS. BRDIGES: Uh-huh.

24 VICE CHAIR JOHN: Thank you. But thanks for coming
25 out. And there are times when we do have to have DDOT come in.

1 Thank you.

2 Are there any other questions from the Board for either
3 the Applicant or the Office of Planning?

4 COMMISSIONER SMITH: No.

5 VICE CHAIR JOHN: Okay. Does the Applicant have any
6 closing comments?

7 MS. BATTIES: I do. I would just ask that the Board
8 approve the request for a special exception with the conditions
9 for allowing -- I should say, allowing for design flexibility for
10 the exterior details and exterior materials as detailed in the
11 Office of Planning report and our pre-hearing statement, and that
12 I would also propose a condition where the use would be -- the
13 condition would be that no more than 75 percent of the office
14 use, which is equal to approximately 270,000 square feet, be
15 permitted to be used for research and laboratory use.

16 VICE CHAIR JOHN: Okay. So you are amending your
17 application, I believe, to request approval for a portion of the
18 building up to 75 percent.

19 MS. BATTIES: We're just placing a condition on it.

20 VICE CHAIR JOHN: Okay. Okay. You're placing, okay.
21 That's fine. And so as I stated earlier, the Board is not
22 approving the building, so there's no need for us to grant
23 flexibility to the Applicant for the, you know, the minor changes
24 that would not require any zoning relief because we're not
25 approving the plans or anything like that. We're just saying

1 once you've built your matter-of-right building and it's met all
2 of the development standards, then the Applicant can use up to
3 75 percent of the square footage for the lab uses. That's all
4 the Board is saying today. So the Applicant can change the plans,
5 whatever. If you end up with the same square footage and the
6 same percentage, then you would be able to put the lab in those
7 spaces.

8 MS. BATTIES: Vice Chair John, if I may just ask then,
9 that the order not be -- it's very common for BZA orders to be
10 subject to drawings and plans. That's why we're asking for that
11 flexibility. So if the approval is solely related to the use,
12 then we want to make sure that the order is not tied to plans.

13 VICE CHAIR JOHN: It would never be tied to the plans
14 because there's no request to approve a building.

15 MS. BATTIES: Okay.

16 VICE CHAIR JOHN: You're going to go ahead and build
17 your building however you want it. As long as it comes back with
18 the same percentage and square footage, that's what the Board is
19 approving and the lawyers will be able to draft the order in such
20 a way that it's clear that you're -- you can go ahead and build
21 your matter-of-right building that complies with all the
22 development standards. If you need to come back in for lot
23 occupancy, that's a different matter, or height or whatever. So
24 that's where we are.

25 MS. BATTIES: Thank you.

1 VICE CHAIR JOHN: Did you have other comments?

2 MS. BATTIES: No. Thank you.

3 VICE CHAIR JOHN: Okay.

4 Does the Board have any final comments before we close
5 the record and the hearing?

6 Mr. Blake?

7 COMMISSIONER BLAKE: Yeah. Madam Chair, I just want
8 to make clear what you're saying. I believe I'm comfortable with
9 the concept of -- they've given some pretty good numbers on square
10 footage and percentages, both of which could -- you know, you get
11 less than 75 percent is for this purpose, and you could have more
12 or less square footage. I think the massing is pretty much
13 determined at the 200 and something thousands, 20, 25-ish, square
14 footage level. So I think that we should bracket it within the
15 context of that in terms of size and then up to 75 percent, just
16 so we have a -- 'cause, you know, rather the design changes,
17 something like that, what we're really agreeing to is this size
18 building can have up to this much square footage devoted to this
19 use. And so I think as long as we bracket it that way, I'd be
20 very comfortable with that language.

21 VICE CHAIR JOHN: Okay. On further reflection, if the
22 Applicant is saying -- and maybe I misunderstood what you are
23 saying. Are you saying that you are proposing these plans as
24 the final design for the building?

25 MS. BATTIES: No, that's why we --

1 VICE CHAIR JOHN: That you would like the Board to
2 approve?

3 MS. BATTIES: No, that's why we requested flexibility
4 on the design as part of our application. So we've presented
5 the plan so that you have an idea of like kind of how the building
6 envelope and what the impact would be in terms of this is a use
7 that's already permitted in a matter-of-right building. But we
8 did request flexibility on the building design. So you know,
9 we're prepared. We're prepared to submit the plans as part of
10 our approval. That's -- I mean as part of our application. But
11 I don't know. This is -- I don't think we have a strong objection
12 as long as we have the flexibility that we requested as part of
13 our application.

14 VICE CHAIR JOHN: Okay. And this is just to change the
15 exterior to the extent that there is no need for further zoning
16 approval, minor changes in the exterior?

17 MS. BATTIES: Right. Because it'll be a matter-of-
18 right building. So it'll be changes --

19 VICE CHAIR JOHN: In the exterior.

20 MS. BATTIES: Right. Because it'll be a matter-of-
21 right building. So it'll be changes to the exterior and then
22 there will be a condition that no more than 75 percent of the
23 office square footage can be used for laboratory use.

24 VICE CHAIR JOHN: Okay. So before I close the hearing,
25 does anyone have another question based on the clarification we

1 just received? Okay. So I want to thank everyone for their
2 patience and their testimony. And I'm going to close the record
3 and the hearing at this time.

4 Thank you.

5 Mr. Young, could you please excuse the witnesses?

6 Okay. Does anyone wish to start? Don't everyone
7 volunteer at once.

8 Thank you. Commissioner May?

9 ZC COMMISSIONER MAY: Yeah. In the end, I think this
10 is a pretty straightforward case. The only relief that's being
11 requested is the ability to have this laboratory feature within
12 an office building that would otherwise be a matter-of-right.
13 And I think the Applicant and their materials has demonstrated,
14 and the Office of Planning has agreed, that there are no adverse
15 effects that require any kind of mitigation, and that the use is
16 consistent with the purpose of the zone, so. And it certainly
17 makes sense that this sort of use would be close to the Howard
18 University Hospital and medical school. So I think it's a pretty
19 straightforward.

20 I don't, you know, I don't have strong feelings about
21 any sort of concerns about the percentage of use that would be
22 devoted to the laboratory. You know, even with laboratories,
23 there's a lot of office space associated with them. So it's
24 going to be mixed between those two uses. If they need
25 flexibility up to 75 percent I, you know, I think that's fine.

1 And I don't think that we're -- we have enough knowledge or
2 expertise to say well, at 50 percent it's okay, but at 75 percent
3 it's not, that we don't really understand that there are any
4 adverse impacts associated with this particular type of
5 laboratory.

6 So I think it's a pretty straightforward case. There's
7 no concern from the neighborhood. There's no concern from the
8 ANCs that we need to address of any consequence. I mean, there
9 was one minor question about how material might come and go, but
10 I don't think that -- I think we heard testimony indicating that
11 that may not be a problem either. So I'm fully in support of
12 the application as it has now been presented to us.

13 VICE CHAIR JOHN: Okay. Thank you, Mr. May.

14 So in terms of the percentage, only because it's a
15 special exception use that we typically identify where the use
16 will be. It's an area -- not a variance. It's just to identify
17 where the use will be located.

18 So Mr. Blake, did you have any comments?

19 COMMISSIONER BLAKE: I agree with the comment made by
20 Commissioner May. I was actually anxious to hear what he had to
21 say. I think that -- I do feel comfortable for the purposes of
22 our Board understanding how over time that number of percentage
23 would matter, as we can't precisely do the location. Up to 75
24 percent is a term I'm very comfortable with. And again, this is
25 a massing. I'm less concerned with the end of the -- the actual

1 construction, which is a matter-of-right, but it's just a matter
2 of saying how much of this space could be devoted, could be 100
3 percent from my perspective. But if we're going to put some
4 bracket around it, the Applicant was very comfortable with 75
5 percent. They said it typically is anywhere from 60 to 40, could
6 be 50/50. So if we said something like 75, that would give them
7 ample flexibility and a modification of consequence would allow
8 them to come back and make an adjustment if they had something
9 on the upside where they wanted to do that. So I -- and I again,
10 I did not -- although I don't see any, you know, major issues or
11 concerns or adverse impacts associated with it, given the fact
12 that they're comfortable with 75 percent, it gives them the
13 adequate flexibility so they can market the property and it's
14 consistent with what we can provide in our structure, I think
15 it's the -- I'm comfortable with 75 percent.

16 VICE CHAIR JOHN: Okay. Thank you, Mr. Blake.

17 Board Member Smith?

18 COMMISSIONER SMITH: I agree with everything that is
19 stated. I'm, you know, comfortable and -- you know, going back
20 to what you said, this is a special exception. Typically, we do
21 tie to an area in the building or percentage of the building or
22 side of the building. So because -- to give the Applicant the
23 flexibility, we're not tying it to a particular wing or square
24 footage as shown on the floor plan because again floor plans --
25 the building itself is a matter-of-right. So I wouldn't

1 necessarily want to, you know, tie it to a floor plate because
2 the floor plate may change, the market may change. It may dictate
3 a different design for this building. So I'm comfortable with,
4 you know, just putting in a 75 percent maximum allowance for the
5 lab and office space for the experimental research or testing lab
6 for -- in association with this building. I'm still --because
7 we're -- because it's a matter-of-right -- the building's a
8 matter-of-right, I still don't see the necessity of putting in
9 design flexibility. Sounds like the rest of the Board is on
10 board with not including that particular condition. So without
11 that condition, I am in favor of this application.

12 VICE CHAIR JOHN: So even if this is a matter-of-right
13 project, the Board -- the Applicant submitted the plans for the
14 Board to approve the -- knowing that the build-out could change,
15 but the parameters of the building, so -- with the flexibility
16 to change, you know, do minor changes that don't require the
17 Board's approval. So it doesn't unbalance, it doesn't -- there's
18 no detriment in doing that, even though -- I mean, the Applicant
19 could have gone away and built the building and asked for use, I
20 mean, you know, a special exception for the use, but they've
21 submitted these plans for the Board to approve. And I guess in
22 the permitting process, it would be useful to have approved plans.
23 So I don't object to including the minor flexibility. I don't
24 think there's any detriment. But I'll go with what the Board
25 thinks.

1 Okay. Yes, from Mr. Blake?

2 COMMISSIONER BLAKE: I don't feel strongly one way or
3 the other.

4 VICE CHAIR JOHN: Okay. Do you feel strongly, Board
5 Member Smith?

6 COMMISSIONER SMITH: No, not --

7 VICE CHAIR JOHN: Okay.

8 COMMISSIONER SMITH: -- not strong enough. So if you're
9 comfortable with that. I will say this, so I don't think it's
10 material necessary to put in this design flexibility because it
11 could affect something that may have triggered a special
12 exception in some way, shape, or form based on the design, their
13 design modification. So I think that there may be unintended
14 consequences of that in providing that additional flexibility.
15 And as far as, you know, a building permit, if the Applicant,
16 when they submit those building plans to DOB and when it gets to
17 the zoning administrator, all they would need to do is provide
18 the total square footage of the building and outline to DOB and
19 the zoning administrator's office that the proposed lab and
20 office space does not exceed 75 percent. So I don't think it's
21 necessary. But you know, I recognize what the votes are and if
22 that's what y'all want and you proceed to be something that you're
23 comfortable with doing, I'm not going to, you know, fall on my
24 sword.

25 VICE CHAIR JOHN: Thank you so much for not falling on

1 your sword, Board Member Smith. But in this case, the Applicant
2 is asking the Board to approve these plans as submitted without
3 any requests for relief from any developmental standards. So in
4 this case, we -- I think I hear consensus that I can make a motion
5 to approve the application with the one condition that it -- that
6 office space does not exceed 65 per- -- 75 percent of the total
7 square footage shown in the plans. Okay.

8 So I'll make the motion now to approve Application
9 20850 as captioned and read by the secretary with the condition
10 that the square footage allotted to experimental research or
11 testing will not exceed 75 percent of the total square footage
12 in the building, with the flexibility to change exterior features
13 that do not need additional zoning relief, and ask for a second,
14 Mr. Blake?

15 COMMISSIONER BLAKE: Second.

16 VICE CHAIR JOHN: Mr. Moy, would you please take the
17 roll call?

18 Mr. Moy? MR. MOY: Thank you, Madam Vice Chair. When
19 I call your name, if you'll please respond to the motion made by
20 Vice Chair John to approve the application for the relief
21 requested with the condition that the square footage would not
22 exceed 75 percent -- with the condition that the square footage
23 devoted to research and lab use would not exceed 75 percent of
24 the total square footage of the building and as well as not
25 needing additional zoning relief. This motion was second by Mr.

1 Blake.

2 Zoning Commissioner Peter May?

3 ZC COMMISSIONER MAY: Yes.

4 MR. MOY: Mr. Smith?

5 COMMISSIONER SMITH: Yes.

6 MR. MOY: Mr. Blake?

7 COMMISSIONER BLAKE: Yes.

8 MR. MOY: Vice Chair John?

9 VICE CHAIR JOHN: Yes.

10 MR. MOY: We have a Board member not present today.

11 And the staff would record the vote as four to zero to one. This
12 is to the motion made by Vice Chair John with the one condition
13 as I have just cited, which was second by Mr. Blake, who is also
14 in support of the motion to approve as well as Zoning Commissioner
15 Peter May, Mr. Smith, and again Mr. Blake and Vice Chair John.
16 Motion carries, Madam Vice Chair, four to zero to one.

17 VICE CHAIR JOHN: Thank you, Mr. Moy. And since we are
18 doing well on timing, we can take a ten-minute break. And I
19 believe we have one case left, is that right, Mr. Moy?

20 MR. MOY: As far as I can add.

21 VICE CHAIR JOHN: Okay. All right. So Mr. --

22 ZC COMMISSIONER MAY: Madam Vice Chair, Madam Vice
23 Chair, I'm sorry, I've had an urgent matter come up, so I'm not
24 going to be able to return after the break.

25 VICE CHAIR JOHN: Okay.

1 Did you -- were you trying to say something, Mr. Blake?

2 COMMISSIONER BLAKE: Well, let's continue.

3 VICE CHAIR JOHN: Okay.

4 ZC COMMISSIONER MAY: No, no, no. I need to leave
5 right now.

6 VICE CHAIR JOHN: Oh, that's different. That's
7 different, Mr. May. Commissioner May, that's different.

8 ZC COMMISSIONER MAY: I'm sorry about this, but I -- I
9 don't have any choice.

10 VICE CHAIR JOHN: No, no, thank you so much. We'll see
11 you next time.

12 ZC COMMISSIONER MAY: Yeah. Okay.

13 VICE CHAIR JOHN: Thanks for your help. Bye.

14 ZC COMMISSIONER MAY: Bye.

15 VICE CHAIR JOHN: Thanks. Well, then, let's take a
16 ten-minute break. Thank you.

17 (Whereupon, there was a brief recess.)

18 VICE CHAIR JOHN: Mr. Moy, can you please call us back
19 into session?

20 MR. MOY: After a very brief recess, the Board has
21 returned to its public hearing session and the time is at or
22 about 2:42 p.m.

23 VICE CHAIR JOHN: Thank you. Can you call the last
24 case?

25 MR. MOY: With pleasure. Thank you. The next case and

1 the last case in today's docket is Application No. 20855 of 4402
2 Georgia Northwest or rather Georgia N.W., LLC. This is a self-
3 certified application pursuant to Subtitle X, Section 901.2 for
4 a special exception under Subtitle C, Section 703.2 from the
5 minimum vehicle parking requirements of Subtitle C, Section 701.
6 This is a new 12-unit apartment house in the MU-4 zone at 4402
7 Georgia Avenue, N.W., Square 2917, Lot 89. And that's all I have
8 for you, Madam Vice Chair.

9 VICE CHAIR JOHN: Thank you.

10 Ms. Wilson, can you introduce yourself for the record
11 please?

12 MS. WILSON: Hi. Yes. Alex Wilson from Sullivan &
13 Barros on behalf of the Applicant in this case. And I'm here
14 with Mr. Bojan Peovski, who is from the ownership team.

15 VICE CHAIR JOHN: Okay. So you'll have 15 minutes to
16 present your case and please go ahead when you're ready.

17 MS. WILSON: Great. Mr. Young, could you please pull
18 up the presentation? And before I get into the presentation, I
19 want to talk a little bit about the ANC outreach and communication
20 and all of that. We've been in touch with the ANC since January.
21 We attended an SMD meeting in February. Our SMD Commissioner
22 Swegman has been really helpful. She organized a community
23 meeting, and we got some great feedback that led to us doubling
24 the amount of bike parking. So we were originally supposed to
25 be on the March ANC agenda, but Commissioner Swegman was out of

1 the country during the March meeting, so the ANC chair wasn't
2 comfortable hearing our case without the SMD present. And given
3 that we couldn't present in March, we suggested to the ANC that
4 we would present today here at this scheduled BZA meeting, attend
5 their April 12th meeting, and if the Board is okay with that
6 request, to leave the record open or something to that effect for
7 the final ANC report. That seemed to be a good compromise rather
8 than postpone the hearing. They were completely fine with it.
9 They were happy with our flexibility. And I just wanted to bring
10 that up to you all before we move forward with the presentation.

11 So if there aren't any objections to that path and with
12 our ANC outreach, I'll go ahead and walk through the request for
13 relief.

14 VICE CHAIR JOHN: Okay. Go ahead.

15 MS. WILSON: Great. So the property is located at 4402
16 Georgia Avenue. It is zoned MU-4 and it's currently improved
17 with a commercial building. The proposal is to construct a new
18 residential building with 12 units. The project meets all other
19 zoning development standards for the MU-4 zone, except that it
20 cannot physically provide parking because the property does not
21 have alley access and DDOT will not allow for a cut from Georgia
22 Avenue. In this photo on the screen, Georgia Avenue is the street
23 to the right or to the east. And then to the west is actually
24 the rear yard of the next-door property. So the subject property
25 is blocked from the alley by the rear yard of the next-door

1 building. Accordingly, the Applicant is seeking special
2 exception relief for one parking space. The Office of Planning
3 is recommending approval. DDOT has no objection. Those adjacent
4 neighbors are commercial buildings, and the Applicant has that
5 notice separate from OZ via certified mail and done some in-
6 person outreach. There are also some attempts made to discuss
7 an easement with those neighbors, but they were not amenable to
8 an easement. And that was also a request by the SMD that we
9 reach out and try to discuss that. But that was -- we could not
10 move forward with that option. Next slide please?

11 This shows the current condition on the site and those
12 adjacent properties. This is the view from Georgia Avenue. Next
13 slide please? Thank you.

14 This demonstrates the proximity to various amenities,
15 such as stores, restaurants, and recreation in the immediate
16 area. The property is located very close to public
17 transportation. It's only a ten-minute walk from the Metro, and
18 it's right in front of the Route 70 bus line, which goes to the
19 north and south, up and down Georgia Avenue. Next slide please?

20 In terms of zoning criteria for approval, there is no
21 alley access and DDOT (audio break) curb cuts for only one space
22 because it effectively takes away one or more street parking
23 spaces and tend to avoid curb cuts on major roads such as George
24 Avenue due to the danger to pedestrians. Even if we could have
25 a curb cut, the property is quite narrow, so trying to carve out

1 a driveway to the rear of the property would be extremely limiting
2 in terms of development. Further, the property is well-served
3 by public transportation. The walk score is a 93 and the area
4 is considered a walker's paradise. So the anticipated residents
5 will be people looking for a walkable city living experience
6 without vehicles. And we are providing double the amount of bike
7 parking as requested by the ANC. The community was very emphatic
8 about this being a big biking community and so that was important
9 in our adding of those bike parking spaces as an amenity.

10 In terms of the general special exception requirements,
11 it is zoned MU-4 which allows for moderate density residential
12 uses such as the 12 units proposed. The property is not RPP
13 eligible, so residents will not be allowed to apply for or park
14 in residential reserved permit parking spaces. So even if someone
15 did have a car, which again is not anticipated, they would not
16 be able to take reserved parking from residents in the area. And
17 so with that, I'll go to the next slide.

18 And we do have plans on the next pages, if you could
19 go to the next slide just to highlight the elevations.

20 Could you go to the next slide, please, Mr. Young?
21 Thank you.

22 These are the elevations.

23 Next slide please?

24 And could you please go to the last slide, Slide 11,
25 and I'll turn it over to Mr. Peovski to talk through the site

1 plan a bit.

2 MR. PEOVSKI: Hi. This is Bojan Peovski. I am -- I
3 represent the owner and the developer as well.

4 MS. WILSON: I'm so sorry to interrupt. Could you
5 please go to Slide 11, Mr. Young? It's the last slide. Thank
6 you.

7 Sorry, Bojan, Go ahead.

8 MR. PEOVSKI: No worries. Thank you. As this is the
9 -- this shows the site plan we have. So the building is going
10 to be essentially right on the property line in the front. And
11 we have a couple of bay window projections, as you guys can see,
12 we have some green roof space up on the roof, and we have more
13 greenery in the back of the property. The roof will be commonly
14 accessible. So we have some of the AC units will be up on the
15 roof and some of them in the back just for better distribution.
16 What else should I point out here?

17 I think that's all as far as the site plan is concerned.
18 We will be -- during construction, we do plan to use the public
19 access and the neighboring property to the north as far as the
20 site plan is concerned. We have -- it's -- that property is
21 owned by a developer as well with which -- with whom we have --
22 essentially we know who that is, and they're okay with us using
23 that access through their property in the back, through the
24 parking, their parking, through the public alley during
25 construction as well. So we wouldn't be -- Not to obstruct or

1 park on Georgia Avenue.

2 MS. WILSON: Thank you, Bojan.

3 At this point, we're happy to take any questions about
4 the relief or the plans.

5 VICE CHAIR JOHN: Thank you, Ms. Wilson. Did you show
6 us where the trash and the bicycle parking will be located?

7 MS. WILSON: Sure. I don't think we highlighted that.
8 The bike parking is in the cellar and subcellar. And the trash,
9 Bojan, what was the trash plan? It's going to be collected
10 internally. And that was part of what we discussed with the ANC,
11 that there would be no bins on Georgia Avenue.

12 MR. PEOVSKI: Correct. Yeah, no bins in public space
13 on George Avenue for various reasons. There's a couple of options
14 that we're considering. This is going to be serviced by a private
15 pickup company. Right. It's more than four units and so forth.
16 So there's a couple of options that were considered down the road
17 that the bins will be -- can be stored in the back as well, in
18 the backyard somewhere along the north or south side fence facing
19 one or the other neighbor, probably covered or semi covered. Or
20 another option we're considering is there's companies that
21 actually go inside the building on the day of the pickup and
22 residents can simply place their trash in front of the door and
23 a company comes and picks it up as well. So that's kind of more
24 higher -- kind of a higher service and more convenient service,
25 but it'll be one or the other, so it'll be either in the back or

1 we'll just opt with the basically, you know, the door service.

2 VICE CHAIR JOHN: So Mr. Bojan, just to follow up with
3 the trash, is this a large industrial trash container that will
4 be in an enclosed area?

5 MR. PEOVSKI: It --

6 VICE CHAIR JOHN: Usually -- typically, that's what's
7 required to control the, you know, the issue with rats and so
8 on.

9 MR. PEOVSKI: So the companies that we use so far, such
10 as (indiscernible) Trash and now it's Republic Services today,
11 they provide 96-gallon bins. And for a building of this size,
12 I'm guessing we're going to need probably three trash cans, the
13 96 gallon, and then two recycling containers, maybe three. And
14 obviously, the residents can scale from there as well. They can
15 order more if they need down the road. But we plan on -- if
16 we're going to store them in the back and not opt with the sort
17 of the door service, then they'll be stored in the back. And
18 typically, we haven't on another project, we haven't had to
19 enclose those trash cans completely. I mean, they're self, you
20 know, they're containers themselves, right? They're self
21 enclosed. And so there hasn't been a need for that. But we're
22 open to that as well. I mean, we're open to providing enclosure.
23 We just have to make sure that that'll be okay DOB as well because
24 sometimes if you provide like a sort of a -- like a permanent
25 structure, like an enclosure with a roof, it may count against

1 FAR. So we're just going to have to work with DOB on that as
2 well.

3 VICE CHAIR JOHN: So Ms. Wilson, aren't those trash
4 cans normally enclosed, fenced?

5 MS. WILSON: Fenced in, yes. I think that's what he
6 was referring to. Not a full cover on top, but it would be fenced
7 in, yes.

8 MR. PEOVSKI: Yeah, we can certainly fence it in, but
9 maybe not like a roof on top of the fenced enclosure, I guess.
10 Yes.

11 VICE CHAIR JOHN: Right. And so will the trash company
12 roll those bins out to the street, how is that going to work?
13 There's no alley access. So how will that work?

14 MR. PEOVSKI: There's no access. They're going to go
15 -- basically we'll give them access to the building, so there's
16 going to be a common building code, and this is true also for
17 like deliveries from like for Amazon and UPS and so forth. So
18 we'll give them access to the building, and they'll go through
19 the common hallway. There's a connection between the front and
20 the backyard, right, through a common hallway. So they're just
21 going to have to do it that way. And I'm assuming they're
22 probably going to just basically pick up the trash, the actual
23 bags and get it through the hallway essentially and not have to
24 drag the bins through the hallway and so forth. But this is
25 again, this is part of essential special services some of these

1 private companies do in cases where there's no alley access, no
2 parking access.

3 And as Alexandra mentioned, we did speak with the
4 neighbor to the south, the coffee shop, I met the owner in person
5 as well actually a couple of weeks ago, and they were not open
6 to providing essentially like an easement, like a gate, right,
7 that leads to their parking so they -- you know, at least the
8 trash company can kind of have access that way, right, just
9 through the gate in the back. They were not open to that at this
10 time. So maybe if that changes, obviously they'll be a great
11 convenience. But at this time, they were not open to that. And
12 the other neighbor to the north, the commercial building, they're
13 going to develop the building, so they're not sure what the plans
14 are yet, so we may have the conversation with them at a later
15 date to provide easement directly through the back, which would
16 be even, you know, even better. But they're not sure exactly
17 what their plans are at this point so.

18 VICE CHAIR JOHN: Uh-huh. Okay. Does the Board have
19 any questions for the Applicant?

20 COMMISSIONER BLAKE: I have one quick question for the
21 Applicant just in terms of the unit mix, I'd be curious to know
22 what that is?

23 MR. PEOVSKI: Sure. We have a mix of two bedrooms and
24 one-bedroom units. Let me pull up the exact count. So we have,
25 it's actually -- it looks like it's a half and half split. So

1 we have seven -- we have six or seven two-bedrooms and five one-
2 bedrooms. And all the bedrooms are, in most cases, the bedrooms
3 are like legal bedrooms with windows and in some cases for some
4 of the smaller two bedrooms, it's a -- basically it's a one-
5 bedroom den as well.

6 COMMISSIONER BLAKE: Are there any IZ units in the
7 building?

8 MR. PEOVSKI: Yes, we do have an IZ unit.

9 COMMISSIONER BLAKE: Okay. Thank you.

10 VICE CHAIR JOHN: Are there any other questions?

11 So I'll go to the Office of Planning, Mr. Mordfin.

12 Can you hear me, Mr. Mordfin, or Mr. Jesick?

13 Mr. Jesick? Mr. Mordfin?

14 MR. MORDFIN: Yeah.

15 VICE CHAIR JOHN: Oh, there you are.

16 MR. MORDFIN: Yes.

17 VICE CHAIR JOHN: Thank you.

18 VICE CHAIR JOHN: Please go ahead and give us your
19 presentation.

20 MR. MORDFIN: Okay. Okay. I'm Stephen Mordfin with
21 the Office of Planning. And the Office Planning is in support
22 of this application as it conforms to the criteria, and therefore
23 we recommend approval of the application. I'm available for any
24 questions.

25 VICE CHAIR JOHN: Does the Board have any questions?

1 Does the Applicant have any questions?

2 MS. WILSON: No, thank you.

3 MR. PEOVSKI: No, thank you.

4 VICE CHAIR JOHN: Mr. Young, has anyone signed up to
5 testify?

6 MR. YOUNG: We do not.

7 VICE CHAIR JOHN: And Ms. Wilson, do you have any
8 closing comments?

9 MS. WILSON: We would just like to thank you all for
10 your time today.

11 VICE CHAIR JOHN: Okay. Are we ready to --wait. So
12 let me close the record and the hearing and thank you for your
13 testimony, Ms. Wilson and Mr. Jesick. And let's take a few --
14 thank you. Let's take a few minutes to allow Mr. Board Member
15 Smith to get back online, unless you're going to join us without
16 your video Board Member Smith. Oh, there you are. Okay. So
17 are we ready to deliberate? Does anyone want to start?

18 COMMISSIONER BLAKE: I will start right now.

19 VICE CHAIR JOHN: Okay. Thank you.

20 COMMISSIONER BLAKE: The Applicant proposes to raze
21 an existing three-story building with no off-street parking and
22 construct a new 12-unit apartment building, 4- story attached
23 building with cellar and penthouse in the MU-4 Zone with no
24 parking and one IZ unit. The Applicant is seeking a special
25 exception under C 703.2 from the minimum vehicle parking

1 requirements of C 701 to have no parking spaces where one space
2 is required. The project will otherwise be permitted entirely
3 by a matter-of-right. The subject property is right on Georgia
4 Avenue. It's very well served by mass transit. Is located one
5 half mile from Georgia Ave-Petworth Metro Station, on the green
6 and yellow lines, it's also served by Metro Bus, including Route
7 70 express route between downtown and Silver Spring. When I read
8 the information, the case is pretty clear that they've met the
9 burden of proof to be granted to relief from the minimum parking
10 requirement. The Applicant has demonstrated that providing the
11 minimum number of spaces would be impractical due to the
12 configuration of the lot. The reality is the land is landlocked,
13 there's no public access -- alley to access, you can't get the
14 easement, and any curb cuts constructed from the front of Georgia
15 Avenue would make it impractical to construct the building, even
16 if a curb cut were granted by the public space committee.

17 So based on that, I do not believe that the -- I believe
18 the Applicant has met the burden of proof to be granted relief.
19 I believe it is consistent with the intent of the zoning
20 regulations. I give great -- it's unfortunate the -- that we do
21 not have the input from the ANC, but I understand the
22 circumstances and it does appear that they have been notified and
23 participated in the process and they have received feedback and
24 the Applicant has responded to that. So I'm comfortable with
25 that.

1 I would also note that DDOT has indicated that they are
2 very comfortable with this approach to encouraging transit uses
3 allowing for ownership -- allowing for non-automobile ownership
4 and lifestyles, minimizing traffic congestion in the District.
5 These smaller apartments are probably suited for more smaller
6 family situations, which may not be as car savvy or usage. So I
7 give a great weight to the Office of Planning recommendation for
8 approval. Again, note DDOT's support and this quote from Exhibit
9 24 which I just talked about. Again, no -- disappointed that
10 the ANC has not -- that we don't have anything from them, but
11 again I'm comfortable that they were in support, and I will be -
12 - now, there was one question Ms. Wilson put in earlier, which
13 was the issue should we wait, do we want to wait for an ANC
14 report. I would not be in favor of making the decision and
15 keeping the record open for the ANC report. I would be willing
16 to make a vote today based on the information we have in the
17 record, and I would also be comfortable, given the
18 recommendations made by the Applicant, to schedule a decision
19 after we have the report from the ANC. So in other words, I
20 think I'm comfortable with right now making the decision and
21 recommending and voting in favor of the application. I would not
22 be comfortable keeping the record open and waiting for a report
23 from the ANC. That's all I have.

24 VICE CHAIR JOHN: Mr. Smith?

25 COMMISSIONER SMITH: I, by and large, agree with

1 everything that Mr. Blake stated about how this project meets the
2 standard for us to grant approval to waive the requirement for
3 them to have one parking space. I'll note just a couple of points
4 that he raised. The property is about a half mile from the
5 Petworth Metro station, about a three-minute bus ride down
6 Georgia to south on Georgia Avenue to the Metro station along a
7 street that is well-served by a multitude of different bus lines.
8 It is completely impractical for them to construct a parking lot
9 -- I mean, a parking space on this property and still be able to
10 construct the building. It's a fairly small lot. It's not
11 fairly, it is a small lot. And there are a number of other
12 developments within this -- the block here that are of this
13 particular nature, slender apartment buildings on narrow lots.
14 I do believe that the Applicant's met the standard proof for us
15 to grant the special exception, and I believe OP and the Applicant
16 has presented a strong argument for the reasons why.

17 Regarding the -- keeping the application open -- I mean
18 keeping this particular case open, typically we have heard from
19 the ANCs and, you know, I will welcome some additional feedback
20 from the ANC on this grant. (Indiscernible) Petworth -- in the
21 previous incarcerations (sic) of the ANC that touched Petworth,
22 there have been some concerns raised about parking, but this is
23 in a area that's not necessarily where they have raised those
24 concerns because it is along Georgia Avenue with a multitude of
25 different transportation options. So I share the same position

1 of Mr. Blake. I would -- I think based on the information that
2 I've heard I am comfortable with moving forward with a vote on
3 this particular case.

4 VICE CHAIR JOHN: Okay. I support all of your comments,
5 except that I am sort of leaning towards keeping the record open
6 to allow the ANC to submit a report if the ANC is interested.
7 And I'd like to see biking plans shown on the record and a more
8 definitive statement about the trash collection. So I don't know
9 -- and I should have said this before we began deliberating, but
10 since I've said that, what is the opinion of the Board? We can
11 still continue for the submission of those plans as well as the
12 ANC.

13 COMMISSIONER BLAKE: Well -- and Madam Chair, Carl
14 here, if you decided to -- if you want those additional
15 documentation with regard to the bicycle and the trash, it would
16 be appropriate and certainly within a timeframe that the ANC
17 would be able to see since they're meeting on April, I think,
18 12th and give us a report. So I would then schedule a decision
19 meeting at that point.

20 I mean, the only thing that would happens is if the ANC
21 came back with -- the indications of the ANC looks like they
22 would be supportive based on the Applicant's statement. But in
23 the event that they don't come back positive, certainly we could
24 reopen the hearing and do something then. But I would be
25 comfortable just having it open for those documents and having a

1 decision. But that's my thought.

2 VICE CHAIR JOHN: Okay. Thank you.

3 Board Member Smith?

4 COMMISSIONER SMITH: I can agree with that, that
5 particular approach.

6 VICE CHAIR JOHN: Okay. All right.

7 So then, Mr. Moy, what date do we have for a decision?

8 MR. MOY: My understanding is that from what I'm hearing
9 in the conversation, that it's that the ANC 4 meeting is scheduled
10 for April the 12th --

11 VICE CHAIR JOHN: Yeah

12 MR. MOY: -- where this case would be addressed. After
13 April 12 with regards to our decision and meeting schedule, our
14 next date after April 12th, unfortunately, it would be April 26.
15 So if you wanted to set a decision after receiving the two plans
16 you've identified, then your date would be April 26.

17 VICE CHAIR JOHN: Okay. And that would be with respect
18 to the biking's -- bike slots to be shown on the plans and the
19 statement on how the trash will be enclosed and collected. And
20 that would be -- and any report from the ANC if the ANC chooses
21 to provide a report.

22 MR. MOY: Yes.

23 VICE CHAIR JOHN: Okay. Okay. All right. Then if
24 there's nothing else on the schedule, Mr. Moy, we can go ahead
25 and close this hearing for today.

1 MR. MOY: I'm fine with that.

2 VICE CHAIR JOHN: Okay. And thank you very much for
3 your help, Board Members Smith and Blake. And I will see you
4 all next week. Okay. Thank You.

5 (Whereupon the above-entitled hearing was adjourned.)
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19 C E R T I F I C A T I O N
20

21 This is to certify that the foregoing transcript
22

23 In the matter of: Public Meeting
24

25 Before: BZA

Date: 03-29-2023

Place: Teleconference

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

Danielle Garnett

DANIELLE GARNETT