

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

MAY 10, 2023

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK D. HILL, Chairperson
CHRISHAUN SMITH, Board Member
PETER MAY, Zoning Commissioner
JOSEPH IMAMURA, Zoning Commissioner

BOARD OF ZONING ADJUSTMENT STAFF COUNSEL:

CLIFFORD MOY, Secretary
PAUL YOUNG, Data Specialist

BOARD OF ZONING ADJUSTMENT LEGAL COUNSEL:

MARY NAGELHOUT, Esquire

The transcript constitutes the minutes from the Regular Public Hearing held on May 10, 2023.

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

Case No. 20853
Application of 1212 Oates Street, LLC 5

Case No. 20887
Application of Government of the Kingdom of the
Netherlands 6

Case No. 20882
Application of Holly and Gregory Porter 31, 141, 239

Case No. 20772
Application of District Properties.com, LLC 65

Case No. 17702B
Application of District Properties.com, LLC 68

Case No. 20856
Application of Hoa and Christopher Bergerson 78

Case No. 20885
Application of Christian Creech 168, 248

Case No. 20785
Application of Andy and Debbie Wilson, LLC 181

Case No. 20884
Application of Euclid 1722, LLC 189

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

(9:30 a.m.)

CHAIRMAN HILL: Welcome ladies and gentlemen, today's date is 05/10/2023. This public hearing of the Board of Zoning Adjustment of the District of Columbia is convening to act on a chancery application pursuant to the Foreign Missions Act, 22 U.S.C. 4301-4316 and Chapter 10 of the zoning regulations. My name is Fred Hill, Chairman. Joining me today are federal rep, our federal representatives, Marcel Acosta, the executive director representing the National Capital Planning Commission, and Peter May, representing the National Park Service, U.S. Department of the Interior.

Today's meeting and hearing agenda are available on the Office of Zoning's website. Please be advised that this proceeding is being recorded by a court reporter and is also webcast live by Webex and YouTube Live. The video of the webcast will be available on the office of Zoning's website after today's hearing. Accordingly, everyone who is listening on Webex or telephone will be muted during the hearing so as not to pick up sound or background noise. If you're experiencing difficulty accessing Webex or with your call-in telephone information, then please call our OZ hotline number at 202-727-5471, once again, 202-727-5471, and it is listed on your screen for any instructions or help getting online.

Person's planning to testify, either in support or

1 opposition to everyone, please remember to state your name and
2 home address before providing oral testimony or your
3 presentations.

4 The order of procedures for a Foreign Missions Act is
5 as follows: Statement of witnesses of the applicant; Government
6 reports, including the United States Secretary of State and
7 District of Columbia Office of Planning on behalf of the mayor;
8 reports recommendations by other agencies; report of the ANC;
9 persons in support; persons in opposition.

10 Because this is a rulemaking proceeding, there are no
11 parties and therefore there is no cross-examination. The record
12 will be closed at the conclusion of each case, except it will
13 remain open -- except it will remain open for any material
14 specifically requested by the Board. The Board and the staff
15 will specify at the end of the hearing exactly what is expected,
16 and the date when the materials must be submitted to the office
17 of Zoning. After the record is closed, no other information
18 shall be accepted by the Board.

19 The District of Columbia Administrative Procedures Act
20 require that the public hearing on each case be held in the open
21 before the public pursuant to Section 405b and 406 of that Act.
22 The Board may, consistent with its rules of procedures and the
23 Act, enter into a closed meeting on a case for purposes of seeking
24 legal counsel on a case pursuant to D.C. Official Code Section
25 2-575(b)(4) and/or deliberating on a case pursuant to D.C.

1 Official Code Section 2-575(b)(13), but only after providing the
2 necessary public notice and in the case of an emergency closed
3 meeting after taking a roll call vote.

4 The decision of the Board in this legislative procedure
5 must be based exclusively on the public record to avoid any
6 appearance to the contrary. The Board requests the person not
7 present or engage members of the Board in conversation, which is
8 hard to do over Zoom. Preliminary matters of those that relate
9 to whether a case will or should be heard today, such as transfer,
10 postponement, continuance or withdrawal, or whether proper and
11 adequate notes in the area has been given. If you're not prepared
12 to be a part of the case today, please let us know when you have
13 an opportunity.

14 Mr. Moy, do we have any preliminary matters?

15 MR. MOY: Morning, Mr. Chairman, and members of the
16 Board participating on the Foreign Missions Case. I do have a
17 quick announcement with regards to today's hearing docket of
18 first Case Application No. 20853 of 1212 Oates Street, LLC has
19 been postponed and rescheduled to July 26, 2023. Other than
20 that, Mr. Chairman, there are a number of preliminary matters in
21 various applications today. Two major ones, of course, are that
22 there are two applications where there is a request for
23 postponement. And that's all I have.

24 CHAIRMAN HILL: Okay. Great. All right, Mr. Moy, why
25 don't you go ahead and call our foreign meetings case, please.

1 MR. MOY: This would be Application No. 20887 of
2 government -- of the government of the Kingdom of the Netherlands.
3 This is a request for approval pursuant to Subtitle U, Section
4 203.1b and Subtitle X, Section 202.1 to allow a new parking
5 structure and an existing chancery, including temporary use of
6 adjacent public space for staging and storage during
7 construction. Property is located in the R-8 Zone at 4200 Linnean
8 Avenue, N.W., Square 2049, lots 807,808.

9 Preliminary matters, Mr. Chairman, the Applicant filed
10 their PowerPoint presentation within the 24-hour block. And
11 finally, the Applicant's proffering expert witness, two of them.
12 Ones already in the witness book. The other is not, and I believe
13 his name is Joseph McCoy. And that's all I have for you, Mr.
14 Chairman.

15 CHAIRMAN HILL: Okay. Mr. Utz, if you can hear me,
16 could you introduce yourself for the record, please?

17 MR. UTZ: Sure. Good morning, Chairman Hill and members
18 of the Board. I'm Jeff Utz with Goulston & Storrs. I am land
19 use counsel for the Applicant.

20 CHAIRMAN HILL: Great. Mr. Utz, you have an expert
21 witness that you are proffering? Is that Mr. McCoy?

22 MR. UTZ: It is indeed. It's Joseph McCoy from Sanchez
23 Palmer Architects. And his resume is in the record as Exhibit
24 12.

25 CHAIRMAN HILL: I am looking at his resume, and I don't

1 have any issues with him being listed as an expert in
2 architecture. Does the Board have any questions for anybody on
3 this issue?

4 All right, Mr. Moy, if you could please go ahead and
5 list Mr. McCoy in our book, please.

6 Mr. Utz, I guess -- and then also, if the Board --
7 unless the Board has an issue with it, I'd like to go ahead and
8 allow the PowerPoint into the record so we can look at it at the
9 same time. If the staff would please go ahead and put that into
10 that record, that be great. And maybe I think Mr. May, your
11 microphone might not be muted. I don't know if that's you or
12 not or Commissioner May, I should say, and let's see, Mr. Utz,
13 if you want to go ahead and proceed with your client's application
14 and why you believe you are meeting the criteria for us to grant
15 the request. I am going to put 15 minutes on the clock so I know
16 where we are, and you can begin whenever you like.

17 MR. UTZ: Thank you so much. Could we pull up the
18 presentation, please? And we can just leap through it. We tried
19 to put everything in one place. We think the record is probably
20 full, but we wanted to put everything in one place to answer any
21 questions that folks might have. Thank you, Mr. Young.

22 So I can go ahead and get us started. Good morning,
23 members of the Board. Again, my name is Jeff Utz, and I'm with
24 Goulston & Storrs. With me today is Maarten Boef, the deputy
25 ambassador for the Kingdom of the Netherlands as the Applicant.

1 Also, as mentioned, Joseph McCoy of Sanchez Palmer Architects,
2 the project architects, and Shane Dettman, an urban planner with
3 Goulston as well. We also have Rob Schizel of Gorove Slade on
4 the line in case questions arise.

5 We really appreciate the opportunity to be before you
6 today. We also greatly appreciate scheduling the Kingdom of the
7 Netherlands first on today's agenda. As mentioned, the
8 application relates to the Applicant's embassy and the consulate
9 at 4200 Linnean Avenue, which is Square 2049, Lots 807 and 808.
10 It requests approval pursuant to Subtitle U, Section 203.1B,
11 which includes some flexibility elements and some elements in the
12 public space as well, which we will detail, and we have detailed
13 on the record.

14 Specifically, the Applicant proposes to replace the
15 existing three level parking structure with the new three level
16 parking structure or its chancery in the same location at the
17 rear of that building. The proposed structure will contain
18 slightly fewer parking spaces than the existing structure, while
19 substantially improving pedestrian safety, environmental
20 sustainability, and the esthetic quality of the property.
21 Existing parking structure is simply outdated, and it needs
22 significant maintenance. Otherwise, the embassy and the
23 residents will remain unaltered by the project. Can we please
24 flip to the next slide? Thank you.

25 The property is within the northwest neighborhood of

1 Forest Hills in Ward 3. It is zoned R-8. It measures
2 approximately 4.3 acres. And as you can see here, its surrounding
3 context is largely institutional and residential. With Howard
4 University Law School to the west, Soapstone Valley Park to the
5 north, residences in Hillwood, the Hillwood Estate Museum to the
6 east, and Levine School of Music to the south. It's approximately
7 .4 miles to the Connecticut Avenue corridor and approximately .5
8 miles to the International Chancery Center.

9 The embassy and the residents have been located at the
10 property since approximately 1961. The residence itself was
11 constructed in the 1920s and the applicant acquired the property
12 in 1960 and then constructed the chancery and parking structure
13 in 1961. Next slide, please.

14 I think there's a bit of overlap there. So about
15 halfway down this page, is a little bit more information about
16 the parking structure. It currently contains 81 parking spaces
17 and has no internal pedestrian connections. It includes a steep
18 drive aisle that limits accessibility and creates significant
19 issues. It also is constructed of 100 percent impervious surface
20 with no stormwater management facilities within it. I should
21 also say just for more place setting, on the next slide, you can
22 see that the two primary driveways that we can talk about a little
23 bit more. If you can just advance to the next slide, we can show
24 the two. Thank you.

25 At the north, is a driveway that really doesn't impact

1 this particular project, but it accesses the north side of the
2 chancery. As you can see, there's a drive-in and some parking
3 and related elements to that. The parking structure that we're
4 describing is at the south of the site, really to the southwest,
5 which is accessed by the curb cut and driveway at the south of
6 the site, and loops around the deputy ambassador's residence
7 itself. So with that, I'd like to turn it over to Martin to talk
8 a bit more about the Applicant, the property, the project and
9 some of the community dialog.

10 MR. BOEF: Thank you, Jeff. My name is Maarten Boef.
11 I'm the deputy chief of mission here at the Embassy of the Kingdom
12 of the Netherlands in Washington, D.C. As Jeff pointed out, the
13 garage -- maybe we can move to the next slide, please.

14 The garage has been constructed in 61, 1961, as well
15 as the chancery. And although the chancery has been renovated a
16 number of times since then, the garage has not, which results in
17 the current situations. As you can see in the picture, the garage
18 has reached the end of its usable life, well-illustrated by the
19 pictures. And we have been in this situation for the past couple
20 of years already. So we're very happy that we can proceed with
21 this project to ren -- to have a new construction.
22 Rehabilitation or renovation would far exceed the cost of
23 replacement and pose additional challenges when it comes to
24 sustainability. Can we move to the next slide, please?

25 So the proposed parking structure replacement looks

1 like this. This is an artist's rendering, and it is similar in
2 size. And as Mr. Utz mentioned, the number of parking spaces is
3 comparable, slightly less than the existing parking garage. It
4 has improved vehicular circulation and pedestrian safety and
5 experience, as far as my personal opinion, but it looks much
6 prettier like this than our current situation. And very important
7 for us as an embassy, also from a policy standpoint, is the
8 sustainable development, green roof, bio retention, and solar
9 panels. So we have reached out to the community, which is
10 important for us as an embassy. So for me professionally,
11 important to have a good a good relationship with the community,
12 but also from a personal perspective because I live next to the
13 garage. So we did this on two occasions in late 2021. And two
14 months ago was the second time that I updated the community via
15 email on our plans and how we are proceeding and the timeline,
16 and we have received positive reactions. People are, as far as
17 I can tell actually, that we are transparent and that we reach
18 out proactively. And there was one question from a neighbor on
19 the number of vehicles. That would be, you know, the capacity
20 of the garage, because this neighbor assumed that we would have
21 this new structure because we're increasing the size. And I
22 could, you know, like we said before, and explain that it's not
23 about the capacity, but it's about the structure itself. That
24 we are replacing it for technical reasons. So we did not receive
25 any additional questions. Also, after we placed the official

1 announcement board announcing this meeting, which makes the
2 project even more visible for the community, we did not receive
3 any additional questions. That's it as far as I'm concerned, and
4 I'm happy to answer any questions you may have.

5 MR. MCCOY: Thank you, Mr. Burke. My name is Joseph
6 McCoy, Sanchez Palmer Architects. We are the architects of record
7 on this project working together with Dutch firm Rudy Uytenhaak
8 Compartment. And on the slides, I think in the interest of time,
9 since some of my slides cover material that's already been
10 presented, I'll ask the person managing the slide to advance to
11 slide number 13 in this set.

12 So some of the things that you've already heard about
13 have been very important in the design here. But on this
14 particular slide that I want to point out has largely to do with
15 the effort to minimize the physical impact of the project, both
16 in keeping the overall height low, tucking it into the hillside,
17 and making sure that it is -- the visible impact of the project,
18 both from within the site and of course, two adjacent sites, the
19 neighbors, is kept to a minimum. Next slide shows a similar
20 view, but from the east side of the building, this is the side
21 facing Upton Street, for example. If you've driven on that area,
22 you would see that this property, that even the existing garage
23 is not visible from Upton Street and the proposed parking
24 structure will not be either, just with the terrain and the
25 integration of the building into the hillside. So next slide,

1 please.

2 Again, looking at an aerial view of the top of the
3 parking structure. A couple of interesting things to point out.
4 You've already heard an emphasis on increasing the sustainable
5 design performance of the building. That's largely through
6 stormwater management, which we're -- we need to do anyway, but
7 also turning into design elements that is manifested in large
8 green roofs, which are also combined with photovoltaics in a
9 portion of the building, and then an integrated bio retention
10 area which in lieu of traditional landscaping is not only a
11 primary stormwater management component on the site, but also is
12 a major landscape feature in between the new parking structure
13 and the existing building. It's also important to note here that
14 the embassy has decided to certify this project under Park Smart
15 grading system. If you're familiar with LEED, Park Smart is
16 essentially LEED for parking garages, and recognizes successful
17 performance in sustainable design, building durability, and
18 lessening environmental impacts of projects, especially parking
19 structures. Next slide, please.

20 You heard a little bit about the separation of
21 pedestrian circulation through the building. So that's a really
22 big deal in the layout and the design of this building to get a
23 central pedestrian core that is separated from the vehicular
24 traffic. It allows people to move from their cars quickly and
25 efficiently on a protected path into the chancery. A couple of

1 images of that. Next slide.

2 And then finally, just a couple of images to give you
3 a little bit of an idea of the architectural character and the
4 overall structure of the building. There are two main structural
5 systems in the building; cast in place concrete for anything
6 carrying vehicles, and upper-level roof structures of glue
7 laminated timber, cross laminated timber, which carry the green
8 roof system and photovoltaics. And the final slide.

9 On the next, a view from the chancery building, where
10 you see an expanded staff terrace, followed by the integrated bio
11 retention, and the parking deck. The cast in place structure is
12 softened a little bit by the addition of wood balustrade at the
13 intermediate level, and you're just catching a glimpse at the
14 upper level of the edge of the exposed wood roof deck beyond. So
15 there's a real intent to keep this project visually quiet and
16 tucked into the hillside as much as possible. I'll now turn it
17 over to Shane Dettman to continue.

18 MR. DETTMAN: Thanks, Joe. Mr. Young, can we advance
19 to the next slide, please?

20 Thank you and good morning, members of the Board. I'll
21 take a few Minutes just to walk through the standard of review
22 that's applicable to a chancery case. But before I get into the
23 standard of review, I'll just note that in addition to the
24 proposed parking structure replacement that Mr. McCoy just
25 described as part of our application, the embassy is also

1 requesting temporary use of an area along Upton Street for
2 construction, storage, and staging. Again, that's just temporary
3 during the period of construction.

4 The access route to the construction site, as you can
5 see on this image on the left is the -- is the southern driveway.
6 And given its circuitous route and it's relatively narrow in a
7 tight worksite, it's difficult for the contractor to have all
8 staging and storage on site. So this approximately 150-foot-
9 long area along Upton Street will be used for temporary storage
10 and staging throughout construction.

11 As Mr. Utz mentioned, we have a Gorove Slade online.
12 They've been coordinating with DDOT on the temporary use of the
13 public space during construction. And they can answer any
14 questions that you may have. As you know, under the zoning
15 regulations, the Board has jurisdiction to approve improvements,
16 temporary or permanent, within public space. And so that's part
17 of our application. Next slide.

18 This just shows again the zoom in of the temporary
19 storage and staging area along Upton, and specifically to show
20 that despite the location of the staging area two-way traffic
21 along Upton and Linnean Avenue will be maintained at all times.
22 Next slide.

23 We've identified in the slide three areas of tactical
24 zoning relief that would otherwise be required if this was not a
25 foreign missions case, and so under the criteria applicable to a

1 foreign missions case, we identify these areas of relief, but
2 they are judged by the six criteria that are set forth in the
3 zoning regulations. If the site was improved with the chancery
4 and the parking garage and the ambassador's residence on the site
5 today, those would be multiple primary buildings on a single lot.
6 And so they'd be subject to a theoretical subdivision. We've
7 identified that in our statement. And then for the parking garage
8 theoretical site in and of itself measuring or applying the R-8
9 development standards, we would need side yard relief for
10 flexibility as well as rear yard. So we've identified those and
11 make those part of our request. Next slide.

12 So the standard of review applicable to foreign
13 missions cases is set forth in Subtitle X, Section 201. The
14 regulations say that the location replacement or expansion of any
15 chancery that's not otherwise permitted as a matter of right in
16 the R-8 zone is pursuant to FMBZA review. Again the application
17 is based solely on six criteria that derive from the Federal
18 Foreign Missions Act and are codified in section or Subtitle X,
19 Section 201 of the regulations that are listed there before you
20 on the slide. Next slide.

21 For chanceries that are located in low to medium
22 density residential zones, as the Board knows, before getting
23 into the six criteria, there needs to be a mixed-use area
24 evaluation that's done on the site. That is a requirement that's
25 in some Subtitle X, Section 201.3. The term area is typically

1 looked at as being the square within which the site is located,
2 but the Board does have the authority to go beyond the square as
3 well and look differently. We've done the calculation, even
4 though the chancery has been there since the 1960s, because we're
5 required to do so. We've gone about the calculation in two
6 different ways. On this site you can -- on this slide you can
7 see that the red boundary is the square within which the chancery
8 is located. It's located at the far eastern end of the square.
9 And then we've also done a second calculation using the black
10 dotted line that's on this slide. And we've done that simply
11 because if you look at the square, it reaches out to the
12 Connecticut Avenue corridor that has MU-7, which has chanceries
13 that are located -- that are allowed as a matter of right. It's
14 got a small area of high density residential which allows chancery
15 as a matter of right. And so we have identified the black dotted
16 line area because we believe that that's sort of more reflective
17 of the chancery's surrounding context. As Mr. Utz mentioned,
18 it's largely institutional and residential.

19 And so if we go to the next slide in terms of the mixed
20 use area evaluation and determining whether the site is within a
21 mixed use area being as defined by the regulations at minimum 50
22 percent nonresidential uses, whether you do the calculation on
23 the square or the other, the black dotted line, other mixed use
24 area, the land uses within those two areas are well above the 50
25 percent nonresidential, with the square being 66 percent and the

1 other mixed use area being 68 percent. So next slide.

2 So having kind of exceeded the 50 percent threshold
3 that's required under the zoning regulations, we can move on to
4 quickly that the six criteria that the application has to be
5 judged on, the first being whether it's the international --
6 whether it meets the international obligation of the U.S. Exhibit
7 25 has a letter from the Office of Foreign Missions. I believe
8 they're here to testify where they find that approval of the
9 application would be, which satisfy the international obligations
10 of the U.S., with respect to historic preservation as determined
11 by the Board. The location is not within a historic district,
12 nor are any buildings on the chancery property, the embassy's
13 property, individually listed landmarks.

14 The adequacy of off-street parking: the existing amount
15 of parking has served the embassy well since the 1960s, and again,
16 the amount of parking that's proposed in the new structure is
17 largely the same, few less so that way -- so that the embassy
18 has the ability to add additional bike parking on the site. The
19 property is also within .4 miles of the metro and the embassy is
20 securing offsite employee parking both at the international
21 center, and they're also in conversation with adjacent
22 institutional uses to secure offsite parking during construction.
23 Next slide.

24 The fourth criteria: the extent to which the areas is
25 capable of being adequately protected. Again, the letter at

1 Exhibit 25 of the record from OFM identify -- states that there
2 are no special security requirements needed or respect to the
3 municipal interest as defined by the mayor. We have a favorable
4 report by the Office of Planning, DDOT, as well as DPW and
5 Exhibits 27, 24, and 30 in the record. We received unanimous
6 support from ANC 2F. Their report as at Exhibit 22. And as
7 Maarten testified, we have received no other objections from
8 district agencies or the surrounding public.

9 And finally, with respect to the federal interest as
10 defined by the Secretary of State, again, we have the letter from
11 OFN, which they'll speak to at exhibit 25. Next slide.

12 Mr. Chairman and members of the Board, that concludes
13 my presentation and I'll hand it off to Jeff for our conclusion.

14 MR. UTZ: Great. Thank you so much, Shane. So in
15 summary, I just wanted to provide some conclusory remarks. In
16 this case, we believe that the six factors set forth in Subtitle
17 X, Section 201.8 of the zoning regulations have been satisfied
18 as described by Maarten, Joe, and Shane. That each of these
19 factors has been assessed in great detail and determined to be
20 satisfactory such that this application can be approved or in
21 this case not disapproved. The site has long successfully
22 operated as an embassy and chancery for the Kingdom of the
23 Netherlands, and it is well suited to accommodate the proposed,
24 upgraded, and modernized parking garage before you today.

25 The relief is consistent with Section 206 of the

1 Foreign Missions Act as well. As mentioned, the Office of Foreign
2 Missions, the ANC, DDOT, OP, DPW have all submitted reports or
3 resolutions or in other ways indicated support or no opposition
4 to the application, which is a testimony to the outreach that the
5 Applicant has been engaged in for quite some time now and frankly
6 just received support and positive feedback throughout that
7 journey. With that, that brings the presentation to a close.
8 We're more than happy to answer any questions that you might
9 have, and we greatly appreciate the opportunity to present you
10 this morning. Thank you so much.

11 CHAIRMAN HILL: Okay. Great. Thank you, Mr. Utz.
12 Thank you everyone. Do my fellow Board members have any
13 questions? Mr. Acosta?

14 MR. ACOSTA: Yes. Thank you for the presentation. I'd
15 like to get a little more information about your interim parking
16 solution. I know that obviously this is a replacement garage and
17 construction is going on at that location. But how are you going
18 to accommodate all the parking at what location during the
19 construction process? Or is it going to be scattered in different
20 locations? I'm just trying to get a sense of how you're going
21 to manage this and if it's going to pose another set of impacts
22 on the community. Hopefully it's not on street parking, so.

23 MR. UTZ: Right. Thank you for the question. That is
24 something that we have been studying very closely. You know, we
25 want to make sure that this application does not adversely impact

1 the immediate surroundings of the community. So we are in
2 discussions with some of the neighbors to see if there might be
3 some opportunity to park on immediately adjacent or nearby sites.
4 And then we're also in discussions with the Office of Foreign
5 Missions about potentially locating some of the interim parking
6 in the nearby locations, the International Chancery Center and
7 other locations that appear to have some availability for this
8 very purpose. And it could be a blend of those two concepts as
9 well.

10 MR. ACOSTA: And just as a procedural question, so once
11 that is -- once you have a proposal together is that coming back
12 to us or is that going back to DDOT in terms of looking to make
13 making sure that it's not whatever solution you're proposing is
14 not going to have an impact on the community? I'm just trying
15 to understand kind of that step of it.

16 MR. UTZ: Right. That is something that we would
17 envision talking to DDOT about and obviously talking to the Office
18 of Foreign Missions about as well. So we are happy to work with
19 staff to communicate that plan to them, so finalize and make sure
20 that they have that opportunity to comment and then sign off on
21 the concept.

22 MR. ACOSTA: And when do you plan to start construction?

23 MR. UTZ: Joe or Martin. Do you want to speak to that
24 timing question?

25 MR. BOEF: Yes, I'll be happy to. Well, the indication

1 right now is that we will start construction in October of this
2 year at the earliest, but more likely in November as our current
3 planning.

4 MR. ACOSTA: Okay. And just one final question. I
5 understand again this is a replacement garage and you are kind
6 of reducing the number of parking spaces by, you know, a handful.
7 But I just want to get a better sense of how people get to work.
8 So what percentage of your workforce drives versus takes transit
9 versus bicycle or walk to your facility? So do you have a general
10 sense of what that is today?

11 MR. BOEF: And yes, I'll be happy to answer that
12 question as well. We -- it depends on obviously where our
13 colleagues live. I would say roughly two thirds of the embassy
14 staff comes to work by car. There's carpooling in some cases.
15 But we've seen over the past couple of years an increasing number
16 of colleagues using their bikes. As you may know, the Netherlands
17 is very well known for its love of biking to work. So people
18 try to do that here in D.C. as well. And as you see as the city
19 is improving bike lanes and is promoting usage of bikes, we see
20 the number of colleagues increasing. Also, thanks to the fact
21 that electric bikes have made it easier as well, given the
22 sometimes difficult terrain to bike in D.C., especially during
23 summer. And for that reason, we make sure that there's enough
24 outlets to charge bikes as well. And then, of course, like
25 myself, we have a small number of colleagues who live within

1 walking distance of the chancery.

2 MR. ACOSTA: Mm hmm. Okay. And any sense of transit
3 usage? You're not that far away from a station. Just out of
4 curiosity.

5 MR. BOEF: Yeah. So I'm hesitant to give you a
6 percentage, but I will. I'll try anyway. I would say roughly
7 10 to 15 percent of colleagues use public transportation.

8 MR. ACOSTA: Okay. Thank you.

9 CHAIRMAN HILL: Thank you, Mr. Acosta. Anyone else?
10 Okay. May I hear from the Office of Planning please?

11 MS. THOMAS: Yes. Good morning, Mr. Chair, and members
12 of the FMBZA. Karen Thomas for the Office of Planning. And this
13 morning, OP is recommending approval of the requested areas of
14 relief by the Embassy of the Kingdom of the Netherlands to replace
15 its existing 81 space garage with a more contemporary three level
16 78 space parking structure as presented here this morning.

17 Before applying the criteria of Subtitle X 201.8, we
18 are required to -- we're not required in this case because this
19 has been here for some time, but we support the area determination
20 that the proposed location is in a mixed-use area based on
21 existing uses. And we see that the mixed-use land area well
22 exceeds the minimum 50 percent for an area considered as mixed-
23 use. So beyond the requirement, we were able to consider the
24 municipal requirements.

25 First, supporting a request for a theoretical

1 subdivision to bring the development of the lot into conformance
2 with existing regulations, as there are three structures on one
3 record lot which were developed prior to the existing
4 regulations. As discussed in our report, the Applicant has
5 satisfied the criteria and we are in support of that relief. As
6 a result, due to the irregular shapes of the lots outlined. The
7 resulting rear and side yards shown have irregular shapes and the
8 side and rear requirements at various points along the yards do
9 not comply with the regulations, but we are in support of the
10 relief since adverse impacts to the light and the air or the
11 privacy to neighboring properties are not anticipated due to the
12 site's topography. The mature trees on the site and location of
13 the garage towards the rear of the lot.

14 Finally, with respect to the use of public space, this
15 is not an unusual situation and DDOT has determined that they
16 have no issue with the application overall. And we see that
17 there is the State Department's support documented in your
18 record. And so the application meets the six criteria and the
19 Foreign Missions Act as outlined in our report, and that would
20 conclude my testimony in support of the requested relief for the
21 Netherlands to replace the H garage structure with a more
22 contemporary structure. Thank you.

23 CHAIRMAN HILL: Thank you, Ms. Thomas. Does my
24 colleagues have any questions for the Office of Planning? All
25 right. Is the State Department here?

1 Mr. Utz in the State Department here. You don't see
2 them?

3 MR. UTZ: I don't. I don't see them. And I believe
4 they -- Mr. Moy spoke to them this morning, and it sounded like
5 they might not be able to --

6 CHAIRMAN HILL: Okay.

7 MR. UTZ: -- attend today. But --

8 CHAIRMAN HILL: Okay. I'm just asking. Is the agency
9 with us? I can't tell.

10 MR. UTZ: I don't believe they are either.

11 CHAIRMAN HILL: Okay. Mr. Young, is everyone here
12 wishing to testify?

13 MR. YOUNG: We do not.

14 CHAIRMAN HILL: Okay. All right. Does anybody have
15 any questions or comments before we leave? Mr. Utz, do you have
16 anything before we leave?

17 MR. UTZ: We do not. Thank you very much for granting
18 us this opportunity this morning.

19 CHAIRMAN HILL: Thanks. My only comment is I was
20 looking for a place to go this summer, so maybe it's going to be
21 the Netherlands. All right. I hope it gets a thumbs up from
22 the ambassador. All right. You guys have a nice day. All right.
23 I am going to close the hearing and the record. Thank you.

24 MR. UTZ: Thank you.

25 MR. BOEF: Thank you.

1 CHAIRMAN HILL: Okay. All right. I didn't really have
2 a lot of concern about this project. I mean, I thought that,
3 you know, it meets the criteria as put forth in the regulations
4 and as stated by the Applicant. I mean, they're basically
5 replacing that structure and really the only thing I was most
6 curious about was the public space issues and where that parking
7 was going to go. And I appreciated Mr. Acosta asking the
8 questions than he did, and that helped clarify some of my
9 thoughts. I am going to be voting in favor of this project.
10 Let's see. Mr. Acosta, do you have anything you'd like to add?

11 MR. UTZ: No. I will -- I will also vote in favor of
12 this project.

13 CHAIRMAN HILL: Thank you. Commissioner May?

14 ZC COMMISSIONER MAY: Yeah. It seems very
15 straightforward, sensible design, well thought out and planned
16 for. Kind of wish they had more concrete plans for managing the
17 parking, but I'm sure it'll get worked out.

18 CHAIRMAN HILL: Okay. Thank you, Commissioner. All
19 right. I'm going to make a motion not to disapprove. Application
20 No. 20887 as captioned by the secretary and ask for a second.
21 Commissioner May?

22 ZC COMMISSIONER MAY: Second.

23 CHAIRMAN HILL: The motion made and seconded. Mr. Moy,
24 if you will take a roll call, please?

25 MR. MOY: Thank you, Mr. Chairman. When I call your

1 name, if you will please respond to the motion made by Chairman
2 Hill to not disapprove. The motion was second by Zoning, rather.
3 Second by Mr. May. Mr. Acosta?

4 MR. ACOSTA: Yes.

5 MR. MOY: Yes, to not disapprove?

6 MR. ACOSTA: Yes.

7 MR. MOY: Thank you, sir. I just want clarity on my
8 part. Mr. May?

9 ZC COMMISSIONER MAY: Yes, to not disapprove.

10 MR. MOY: Chairman Hill.

11 CHAIRMAN HILL: Yes, to not to disapprove.

12 MR. MOY: And there are no others participating. Staff
13 would record the vote as three to zero to two. And this, again,
14 is on the motion made by Chairman Hill to not disapprove. It
15 was second. The motion was second by Mr. May, who is also voting
16 not to disapprove, as well as not to disapprove from Mr. Acosta
17 and Chairman Hill. The motion carries, sir, on a vote of three
18 to zero to two.

19 CHAIRMAN HILL: Great. Thank you. Commissioner May,
20 Mr. Acosta, thank you so much for joining us today.

21 MR. ACOSTA: If I may, just one thing. I would like
22 to thank Mr. May for his service to the FMBZA. I suspect this
23 is his last meeting as a member of the FMBZA. He is going to
24 retire soon, so I thank you for your service. It has been a
25 pleasure to work with you over the last decade plus on this Board.

1 So good. Best wishes to you.

2 ZC COMMISSIONER MAY: Thank you very much.

3 CHAIRMAN HILL: Thank you, Mr. Acosta. I will save my
4 thanks for the last time I get to see Commissioner May, but thank
5 you, Mr. Acosta, for that. I will second your thoughts and you
6 all have a good day.

7 ZC COMMISSIONER MAY: Bye-bye. Thank you.

8 CHAIRMAN HILL: Okay. We got Dr. Imamura here with us,
9 and then I get Mr. Smith for -- and I'm going to read.

10 Okay. All right. My name is Fred Hill, Chairperson
11 of District of Columbia Board of Zoning Adjustment. Today is
12 5/10/2023 is meeting of the Board of Zoning adjustment will now
13 come to order for meeting and hearing sessions. Today's meeting
14 and hearing agenda are available on the Office of Zoning's
15 website. Please be advised this proceeding is being recorded by
16 a court reporter, is also webcast live via Webex and YouTube
17 Live. The video, the webcast will be available on the Office of
18 Zoning's website after today's hearing. Accordingly, everyone
19 who's listening on Webex or telephone will be muted during the
20 hearing. Also, please be advised that we do not take any public
21 testimony at our decision meeting sessions. If you're
22 experiencing any difficulty getting online or with the call,
23 please call 202-727-5471, once again 202-727-5471.

24 At the conclusion of a decision meeting session I
25 shall, in consultation with the Office of Zoning, determine

1 whether a full or summary order may be issued. A full order is
2 required when the decision it contains is adverse to a party,
3 including an affected ANC, and a full order may also be needed
4 if the Board's decision differs from the Office of Planning's
5 recommendation. Although the Board favors the use of summary
6 orders whenever possible, an applicant may not request the Board
7 to issue such an order.

8 In today's hearing session, everyone who is listening
9 on Webex or the telephone will be muted during the hearing and
10 only persons who have signed up to participate or testify will
11 be unmuted at the appropriate time. Please state your name and
12 home address before providing oral testimony or your
13 presentation. Oral presentation should be limited to a summary
14 of your important points. When you have finished speaking, please
15 mute your audio so that your microphone is no longer picking up
16 sound or background noise. Once again, if you experience any
17 difficulty, please call our OZ hotline number, which is listed
18 on the screen.

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 parties must
23 complete the oath affirmation as required by Subtitle Y 408.7.
24 Requests to enter evidence at the time of an online virtual
25 hearing, such as written testimony or additional supporting

1 documents, other than live video which may not be presented as
2 part of the testimony, may be allowed pursuant to Subtitle Y
3 103.13, provided that the person made the request to enter an
4 exhibit explain: A, How the proposed exhibit is relevant, B, its
5 good cause to justify allowing the exhibit into the record,
6 including, an explanation of why the requester did not file the
7 exhibit prior to the hearing pursuant to Y 206, and, C, how the
8 proposed exhibit would not unreasonably prejudice any parties.
9 The order of procedure for special exceptions and variances are
10 pursuant to Y 409.

11 At the conclusion of each case, an individual who was
12 unable to testify because of technical issues may file a request
13 for leave to file a written version of the planned testimony to
14 the record within 24 hours following the conclusion of public
15 testimony and the hearing. If additional written testimony is
16 accepted, the parties will be allowed a reasonable time to respond
17 as determined by the Board. The Board will then make its decision
18 at its next meeting session, but no earlier than 48 hours after
19 the hearing. Moreover, the Board may request additional specific
20 information to complete the record. The Board or the staff will
21 specify the end of the hearing exactly what is expected and the
22 date when a person must submit the evidence to the Office of
23 Zoning. No other information shall be accepted by the Board.
24 Finally, the District of Columbia Administrative Procedures Act
25 requires that a public hearing on each case be held in the open

1 for the public. However, pursuant to Section 405(b) and 406 of
2 the Act, the Board may, consistent with its rules of procedure
3 and the Act, enter into a closed meetings on a case for purposes
4 seeking legal counsel on a case pursuant to D.C. Official Code
5 Section 2-575(b)(4) and/or deliberate on a case pursuant to D.C.
6 Official Code Section 2-575(b)(13), but only after providing the
7 necessary public notice and in the case of an emergency closed
8 meeting after taking a roll call vote.

9 Mr. Secretary, I think we spoke about preliminary
10 matters, but do you have anything you may like to repeat?

11 MR. MOY: No, sir.

12 CHAIRMAN HILL: Okay. Then you may go ahead and call
13 our first case, please.

14 MR. MOY: Okay. This case as I said at the opening of
15 this hearing at about 9:30, I'm calling this application because
16 there is a request for party status in opposition and subsequent
17 to that request is a request for a postponement. So this is
18 Application No. 20882 of Holly and Greg Porter. This is as
19 amended a self-certified application pursuant to Subtitle x,
20 Section 901, Subtitle D, Section 5201 from the accessory
21 structure building area requirements of Subtitle D, Section
22 5003.1 on properties in the R-1B zone at 5113 Sherier Place,
23 N.W., Square 1418, Lot 835.

24 And again, Mr. Chairman, there is -- in addition to the
25 request for party status and the subsequent request for

1 postponement, the Applicant -- there's an Applicant's motion to
2 accept an untimely filing, which I believe is the Applicant's
3 self-certification form. And I believe the attorney representing
4 the property -- representing the party status requester is in the
5 hearing.

6 CHAIRMAN HILL: Okay. Let's see, so. Who is
7 representing the Applicant? Please, if they could speak up.

8 MR. PORTER: Good morning, Mr. Chairman. My name is
9 Greg Porter. I'm one of the residents of 5113, and I'll be
10 speaking on behalf of the application, as well as our architect,
11 Omar Hakeem is present, and he will present any specifications,
12 plans, sightlines, et cetera. And my wife Holly Porter, is also
13 with us today.

14 CHAIRMAN HILL: Okay, Mr. Porter. And who's your
15 architect again? Did you tell me? I'm sorry.

16 MR. PORTER: Omar Hakeem.

17 CHAIRMAN HILL: Okay. Mr. Hakeem, could you introduce
18 yourself for the record, please?

19 MR. HAKEEM: Morning, Mr. Chair and Commissioners.
20 Pleasure to be on here. My name is Omar Hakeem. I'm a licensed
21 architect in the District of Columbia, and I've been working with
22 the Porters on their project here.

23 CHAIRMAN HILL: Okay. Before we get any further, if
24 -- well, is the party status requester here?

25 MS. MAROVIC: Yes, Here. Good morning, everyone. Good

1 morning --

2 CHAIRMAN HILL: Okay. Great. Could you introduce
3 yourself for the record, please?

4 MS. MAROVIC: Yes. My name is Marija Marovic, and I'm
5 a homeowner at the adjacent property that is affected by proposed
6 construction and that is requesting the party status.

7 CHAIRMAN HILL: Okay. Great. And okay, so Ms. -- I
8 just want to pronounce -- Marovic?

9 MS. MAROVIC: Yes.

10 CHAIRMAN HILL: Marovic. Okay. Ms. Marovic. Now, I
11 know you read the regulations, or at least I -- well, before I
12 do that, the -- unless my Board has any issues I want to go ahead
13 and allow into the record the posting -- affidavit of posting
14 because I can be able to take a look at that so. If they could
15 go ahead and put that into the record, please. And then let's
16 see, Mr. -- Ms. Marovic, if you could explain to us why you
17 believe you should be granted party status, meaning, how are you
18 uniquely affected from the proposed application?

19 MS. MAROVIC: Ah, yes. I'm representing my family here
20 and we are within 200 feet of the proposed construction.
21 Actually, we are within one foot and therefore we are directly
22 affected by the proposed construction, and we filed for the party
23 status in a timely manner.

24 CHAIRMAN HILL: Okay. Thanks. I'm just kind of looking
25 up here Your application, your request. Whether or not you're

1 in the 200 feet isn't necessarily what makes you uniquely
2 affected, but I'm going to look at your application here real
3 quick.

4 (Pause.)

5 Okay. Ms. Marovic, is it a -- it's a condo building
6 you're in?

7 MS. MAROVIC: Yes, it's a condo building, and our
8 privacy will be affected with the construction.

9 CHAIRMAN HILL: No, I understand. I'm just saying.
10 I'm just trying to figure out where you are. So you're -- you're
11 in a condo building and you're unit five, is that correct?

12 MS. MAROVIC: That's correct, directly facing the
13 Porter's property.

14 CHAIRMAN HILL: Okay. And you're across the alley.

15 MS. MAROVIC: I mean --

16 CHAIRMAN HILL: I see 5113 and I see your condo
17 building. I'm just trying to understand where exactly you are
18 in relation.

19 MS. MAROVIC: Yeah, yeah, exactly there. Yeah, like
20 we see the fence of the property. We are directly behind the
21 fence.

22 CHAIRMAN HILL: So you're -- you're a unit in this
23 condominium building directly behind the fence?

24 MS. MAROVIC: Yes exactly. Yeah.

25 CHAIRMAN HILL: Okay. Okay. All right. Does the

1 Board have any questions for the party asking for party status?

2 MR. SMITH: No questions.

3 CHAIRMAN HILL: Dr. Imamura are you good?

4 DR. IMAMURA: I'm good.

5 CHAIRMAN HILL: Okay. All right. I guess we have a
6 preliminary matter, and then, Ms. Marovic, you're asking us, if
7 you were to be granted party status, you're asking for a
8 postponement, is that correct?

9 MS. MAROVIC: Yes.

10 CHAIRMAN HILL: And how long of a postponement are you
11 asking for? And why are you asking for a postponement?

12 MS. MAROVIC: I think the reason we're asking for a
13 postponement is because we believe that due to different
14 circumstances, we were not fully heard and understood, and that
15 we believe that this would give parties more time to find the
16 solution. So we do not really waste your time. And we also
17 believe that we could be legally granted a postponement because
18 of the wrong self-certification made by Porters and their recent
19 change of zoning relief, which is pretty significant zoning
20 relief. And the change didn't allow us for 30 days to address
21 those concerns, to just address the revised plans.

22 I would say that the initial plans submitted by
23 Porters, we found to insufficiently depict the impact on the
24 property, which is abutting property, our property. That it was
25 not sufficiently precise and accurate, the initial submission.

1 They made a revised submission recently. We received those plans
2 on April 30th, which did have some pointers to address our
3 concerns. We believe that we could still work with Porters to
4 fully understand how basically our ability to see their swimming
5 pool will affect our privacy. And we hope and trust that they
6 would address it in a neighborly matter concerning, you know, the
7 concerns their neighbors had. And also because since their filing
8 of the revised plans, we actually didn't have enough time even
9 to prepare for this hearing, namely because I had to urgently
10 travel. My father died on April 25th, and I had to travel to
11 Serbia, which really kind of affected my entire family's
12 abilities to prepare for the hearing, which is why we're asking
13 for a postponement. And this for the same reasons we couldn't
14 get an architect to join us for today's hearing, you know,
15 provided that we are granted party status and not granted the
16 postponement.

17 CHAIRMAN HILL: Okay. Thanks. No, that's okay.
18 Thanks, Ms. Marovic. And I'm sorry about your father. Let's
19 see. Mr. Porter, when did you guys change your plans?

20 MR. PORTER: I think, Commissioner, that that's a sort
21 of a misstatement. We didn't change our plans. The plans have
22 been the same throughout in terms of height, location, and
23 dimensions of the proposed ADU. The only thing that changed was
24 the section of the Code under which we're seeking relief. We
25 originally sought relief from the setback, residential setback

1 requirement 25 feet, but then we were advised by D.C. government
2 that because we were putting in place an ADU, we didn't need an
3 exception from the setback because we can build an ADU as of
4 right right on the property line and it can go up as high as 20
5 feet as well. So once we've learned that we could do this as of
6 right, it was pointed out to us, what we needed to do is request
7 an exception to allow us to build the structure, a larger sized
8 structure than permitted under the Code, given the size of our
9 lot in our neighborhood. We are permitted a 450 square foot ADU.
10 We are proposing a 660 square foot ADU. We have proposed that
11 since day one.

12 CHAIRMAN HILL: Okay. No, Mr. Porter, that's okay. So
13 you changed the relief requested slightly.

14 MR. PORTER: That's right. Yeah. No -- and as to plans,
15 updated plans, we did provide additional schematics to the
16 Marovics and to ANC and others showing how the height of the ADU
17 would be a little over three feet under the height of the bottom
18 of the Marovic's window. But those aren't new plans. Those are
19 just support for our position that it does not interfere with
20 privacy of the Marovics.

21 CHAIRMAN HILL: Okay. Did the staff -- I'm just trying
22 to see if the staff submitted the exhibit. Okay. Ms. Marovic,
23 do you know, or did you go to your ANC meeting?

24 MS MAROVIC: My husband did. He's not present today.

25 CHAIRMAN HILL: Okay. So you went to the ANC meeting.

1 And you guys obviously had an opportunity to testify at that?

2 MS. MAROVIC: I wouldn't say we had an opportunity to
3 testify necessarily, which is why we are asking to be heard.

4 CHAIRMAN HILL: But I mean, you got -- ANC meetings -
5 - there's an opportunity that people can talk. And so. Did your
6 husband get to talk?

7 MS. MAROVIC: Yes, he did.

8 CHAIRMAN HILL: Okay. That's the same, that's you have
9 to give your opinion. That's all that the ANC is are kind of
10 trying to figure out.

11 MR. PORTER: Mr. Chairman. If I may, Ms. Marovic also
12 spoke at the February ANC meeting. So her husband and she spoke
13 at two different meetings and --

14 CHAIRMAN HILL: So they had two meetings about this.

15 MR. PORTER: Yeah, because when we changed the
16 requested release, we went back to the ANC and said, we are
17 changing the requested relief. Will you endorse our plans,
18 nonetheless? And they unanimously endorsed our plans. And that's
19 part of the record. If I may, Mr. Chairman, I think there's an
20 exhibit we want to seek leave to add at this juncture or I don't
21 know if that's premature.

22 CHAIRMAN HILL: You're trying to add what exhibit or
23 what do you want to add into the record?

24 MR. PORTER: A letter from our immediate neighbor, one
25 of the abutters to the side of our house in showing her support

1 for the proposed project. Omar, do you have anything else we
2 need to add? I think that's it, right?

3 MR. HAKEEM: Everything else has been submitted to the
4 record into the Office of Zoning Staff.

5 CHAIRMAN HILL: Okay. All right. Ms. Marovic?

6 MS. MAROVIC: Mm hmm.

7 CHAIRMAN HILL: Do you know what your -- how you're
8 -- unit six, your neighbor, thought of this, or do you know if
9 there was any feedback from your neighbor?

10 MS. MAROVIC: Yes. She is also very concerned. As a
11 matter of fact I also just want to add something to just kind of
12 give you additional context. During the February ANC meeting,
13 we did raised our concerns and for that matter, that was actually
14 on the day of the meeting is when we first saw Porter's plans.
15 And there are different reasons for that. And I just wanted that
16 to make here known. Why that happened, we are not really sure,
17 but that is actually the date that we first saw the Porter's
18 plans, and that is where our concerns really started raising.
19 And from the day one that we expressed our concerns in the ANC
20 meeting, Porters actually didn't contact us as affected
21 neighbors. Now, in terms of the next-door neighbor --

22 CHAIRMAN HILL: Ms. Marovic, that's okay. Ms. Marovic,
23 that's okay. I just want to ask you whether or not -- we will
24 get into testimony.

25 MS. MAROVIC: Okay. Sure.

1 CHAIRMAN HILL: But your -- what floor -- what floor
2 are you on?

3 MS. MAROVIC: We're in the basement, which is by the
4 building coding, coded as a ground floor because the building is
5 on the slope.

6 CHAIRMAN HILL: Okay. Okay.

7 MS. MAROVIC: But we are in the basement, actually.

8 CHAIRMAN HILL: Okay. So there's a unit above your
9 unit.

10 MS. MAROVIC: Yes.

11 CHAIRMAN HILL: Okay. All right. Okay. I'm going to
12 -- Let's see what I'm going-- does my fellow -- so anyway, before
13 the Board right now, again, is whether or not we're going to give
14 party status number one. And then if we do give party status if
15 there's going to be a postponement. So before I get too far with
16 this. Mr. Porter, what would a postponement do to your timeline?

17 MR. PORTER: Well, first of all, we have a contractor
18 lined up and contractors have set aside a window for a project.
19 And if the project is delayed, they may, you know, take their
20 work elsewhere so. Our biggest concern is that we lose our
21 contractor. B, the present stormwater situation is having an
22 impact on our existing structure and it all flows downhill from
23 the condo to the rear. It pools in our backyard, our basement
24 floods constantly. We know what summer storms in D.C. are like
25 and that has an impact on our possessions in the basement, it

1 has an impact on our health because of mold. So we want to
2 mitigate that as quickly as possible. So those I would say those
3 are the two main reasons for urgency.

4 CHAIRMAN HILL: Okay. Okay. All right. So this is
5 what I'm going to do. I'm going to let my -- I'm going to --
6 I'm a little -- I'm a little torn as to what to do. So I'm going
7 to let my Board members ask any question they want to ask. I'm
8 going to excuse everybody so we can deliberate on the two issues.
9 Okay. And then. We'll come back and let -- or we're not, I
10 don't know. If we have to come back everybody will get to
11 opportunity to watch the deliberation. So Mr. Smith or Dr.
12 Imamura, do you guys have any questions of anybody before we
13 start to talk about this?

14 DR. IMAMURA: Thank you, Mr. Chairman. I'll take the
15 airtime. I do not. I think I appreciate the additional
16 submission by Ms. Marovic. I think that that was helpful to
17 provide a little more context to all this. But in short, I don't
18 have any questions for Ms. Marovic or Mr. Porter or Mr. --

19 CHAIRMAN HILL: Okay. All right.

20 MS. PORTER: All right. Would it be possible to add a
21 little bit of color on this?

22 CHAIRMAN HILL: Could you introduce yourself for the
23 record, Ms. Porter?

24 MS. PORTER: I'm Holly Porter, and I'm AT 5113 Sherier
25 Place. I'm also the Applicant asking for the ADU.

1 CHAIRMAN HILL: Before you ask -- add the color. What
2 are you adding color to?

3 MS. PORTER: Just the knowledge and the time we've been
4 trying to work with the neighbors on this variance request.

5 CHAIRMAN HILL: Okay. You know, honestly Ms. Porter,
6 I appreciate it. Like it won't have anything to do with whether
7 or not we grant party status or not.

8 MS. PORTER: Okay.

9 CHAIRMAN HILL: And even in terms of like --

10 MS. PORTER: It's more of a question on delay than
11 anything.

12 CHAIRMAN HILL: Okay. No, I appreciate it and I'm
13 sorry, Ms. Porter. I appreciate it. No, might as well try it.
14 Might as well try. Okay. All right. Nobody has any problems.
15 I mean, sorry any questions, my fellow Board members. I'm going
16 to excuse everybody from the room. Mr. Young, if you could please
17 excuse everyone. If everybody could just, please wait.

18 Okay. I'm actually unclear what to do. And since I
19 got two other people with me, I don't have to decide all by
20 myself. So I'm looking to both of you, and Mr. Smith, I see
21 every week. So I actually know he'll tell me something, as will
22 Dr. Imamura. But like, I guess, and I'll share what I think
23 right now. I mean, as far as, you know, being uniquely situated
24 for being a person in party, as a party status person, I mean,
25 it's the fact that it's a building with like multiple units that

1 kind of is throwing me like there's the units above, there's the
2 units to the side. And the only person requesting party status
3 granted is the unit more or less directly behind. Right. Like,
4 there's two units. There's the unit five and there's the unit
5 six. Right. And so I'm a little confused. I think that they
6 could be uniquely affected. And so -- but I don't know for sure
7 what my thoughts are because there are multiple units, including
8 units above the person who is requesting party status. So that
9 confuses me on what I think.

10 Then if we were to get beyond that, then the
11 postponement -- I think that what I have, what we have done as a
12 Board in the past is we've done part -- we have kind of a light
13 dayish. And so what we've done in the past is we've either
14 approved or denied party status, if the party status were
15 approved, we tended to put the case at the end of the day and
16 then it would give an opportunity for people to possibly discuss
17 different alternatives and so that's one thing, one possibility.
18 But I still can't get past whether I think the person is uniquely
19 qualified or not. And I'm going to look up the regulations while
20 again I ask you guys what you think.

21 And then -- but the -- then in terms of the delay, you
22 know, there's multiple little things going through here. I mean,
23 again, once you get somebody in party status, then it can even
24 take our process a much longer time. And so you know, that is
25 not to say that that should dictate anything that we do, but that

1 does then create a much longer situation for like how long our
2 process, the BZA process takes. So I said all that. I'm going
3 to look up -- I'm going to look for -- I'm going to put myself
4 on mute while I try to find something. And then Mr. Smith or
5 Dr. Imamura, whoever wants to go, speak up.

6 MR. SMITH: I guess I'll speak up first. I agree with
7 you, Chairman Hill. I'm torn on this one because this is a multi-
8 unit, but the party status requesters are located within a
9 building with multiple units within it. So that does give me
10 pause, but it still doesn't change to me the fact that they are
11 abutting, and based on the information within the record and what
12 was stated by the Applicant is that this -- this structure would
13 be located directly in front of their -- two of their windows,
14 their living room windows, I believe. So while they may be the
15 only residents within that building that is currently speaking
16 up or advocating in this particular matter for party status, you
17 know just looking at the merits of when we grant party status.
18 It doesn't change that just because they are in a multi-family
19 building, multi-dwelling building. That doesn't negate the fact
20 that they are abutting, and maybe as one of those units uniquely
21 affected. So I am inclined to give them the party status request.

22 As far as the request for postponement, one of the
23 items that you raised was the grant. We do grant to, or we don't
24 grant that. We have historically just passed it by until later
25 on in the day for additional dialog. One issue with that is the

1 architect was advising the party status requestors isn't
2 available today. So probably to have a full dialog from the
3 party status requestors, we will have to continue this to a future
4 date. So that one is giving me pause. If we do go that route,
5 I would recommend just a week. So this would return on 5/17 or
6 -- yeah 5/17. So that's my thoughts right now. I'm happy to
7 hear what the fellow Board members have on their mind with this.
8 But at least with number one I am inclined to grant part status.

9 CHAIRMAN HILL: Okay. Dr. Imamura?

10 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
11 Hopefully, I can persuade Board member Smith. I am not inclined
12 to vote in favor of party status, nor -- which would obviously
13 negate the extension too so. And there's a reason for that. I
14 do appreciate the Marovic's -- some of the comments that they
15 made about just the lack of information. The drawings are not
16 detailed enough. That I agree with the Marovics about. What
17 would have been helpful is if there was a section here because I
18 had to surmise that there was a topography difference between the
19 condo building and the ADU that the Porter's are proposing to
20 construct. So the additional information that the Marovics
21 provided into the record was very helpful to understand the
22 context a bit more. Additionally, Commissioner Horn also
23 submitted a letter into the record that kind of confirms it for
24 me that -- not, I think there's some misinformation about the
25 window location for the Marovics. I gathered on my own and then

1 later read Commissioner Horn's letter that confirmed my
2 suspicions is that their windows are above the height of where
3 the Porters are proposing to build this additional unit so.

4 Now to the fact that uniquely affected, so I don't
5 think that their privacy is necessarily affected any more than
6 anyone else because of the height of those windows and their
7 location. As well as their -- if you go through their, Marovic's
8 submission about how they're uniquely affected, looking at the
9 environmental, economic, and social privacy, I don't think any
10 of those really measure it. So I'm not inclined. I feel that
11 the record is complete enough to move forward this morning, Mr.
12 Chairman, to deliberate further about this without any delay.

13 CHAIRMAN HILL: Okay. So like I want to now talk to
14 Legal for a second because I'm actually kind of still split,
15 meaning I'm kind of leaning toward Mr. Smith, and also that --
16 and then I kind of and since I don't have another Board member
17 here, we all have to agree or I have to wait for -- I'm going to
18 get another Board member next week. I have to wait for the other
19 Board member to then determine party status. So and the reason
20 why I'm kind of leaning towards Mr. Smith, again Dr. Imamura, is
21 again, you know more or less like the adjacent issue has always
22 been our, you know, like it's almost always happened. Right.
23 This is -- the reason why this is kind of, like, confusing me is
24 like they're not, you know, they're adjacent with a bunch of
25 other people. Right. And so. However, however, they're the

1 ones that might you know, I'm going to read the little rag, you
2 know, the little rag 404.13. You know, the Board shall grant
3 party status only if the person requesting party status in the
4 word is only has clearly demonstrated that the person's interest
5 would likely be more significantly, distinctly, or uniquely
6 affected in character or kind by the proposed zoning action than
7 those of other persons in the general public.

8 So the general public also, you know, I think they're
9 kind of more uniquely affected than even those people
10 necessarily. I mean, even if number six were here arguing and I
11 might say yes, and even the one above them, if they were arguing,
12 I might have said yes. So I'm kind of torn to why I'm saying
13 yes. Right. And since, you know since Mr. Smith was so kind
14 enough to articulate his favor of that. And regardless if you
15 all since I got you since you've signed up your whole day with
16 me anyway. Right. And since I think I'm on the only volunteer
17 on this call, I'm going to go ahead and do the legal thing and
18 talk to counsel real quick, because I'm more interested also in
19 the also some of the delay issues. So I'm going to read Mr. Moy
20 or make a motion. I can find my paperwork. I think I got it,
21 Mr. Moy. Thought I did. Okay.

22 As Chairperson of the Board of Zoning for the District
23 of Columbia and in accordance with 407 of the District of Columbia
24 Administrative Procedures Act, I move that the Board of Zoning
25 Adjustment hold a closed meeting on 5/10/2023 for the purposes

1 of seeking legal counsel on a case, on 20882, deliberate but not
2 vote on 20882. Is there a second?

3 MR. SMITH: Second.

4 CHAIRMAN HILL: Mr. Smith seconded. Mr. Moy, could you
5 take a roll call?

6 MR. MOY: When I call your name, if you will please
7 respond to the motion made by Chairman Hill to move for an
8 emergency closed meeting. The motion was second by Mr. Smith.

9 Zoning Commissioner Dr. Imamura?

10 ZC COMMISSIONER IMAMURA: Yes.

11 MR. MOY: Mr. Smith?

12 MR. SMITH: Yes.

13 MR. MOY: Chairman Hill?

14 CHAIRMAN HILL: Yes.

15 MR. MOY: We have two -- with no others participating.
16 The motion to move carries on a vote of three to zero to two.
17 This is on the motion of the Chair and seconded by Mr. Smith.
18 Also in support of the motion for an emergency closed meeting is
19 Zoning Commissioner Dr. Imamura. Motion carries, sir.

20 CHAIRMAN HILL: Thanks, Mr. Moy. I hereby give notice
21 that the Board of Zoning Adjustment will recess this proceeding
22 on 5/10/2023 at 10:54 a.m. and hold this closed meeting pursuant
23 to District of Columbia Administrative Procedures Act. A written
24 copy of this notice will be posted in the (indiscernible) hearing
25 room at this time.

1 So again, those that are listening, we're just going
2 to quickly jump on to another call with legal counsel and we'll
3 come right back and determine the party status and then talk to
4 again, the party status issues as well as the postponement. All
5 right. I'll see you guys on the next call. Thank you.

6 (Whereupon, there was a brief recess.)

7 CHAIRMAN HILL: Just trying to put up our record
8 please. Okay. All right. Before we get into this deliberation,
9 Mr. Moy, are you there?

10 MR. MOY: I'm here, sir.

11 CHAIRMAN HILL: Can you officially just call us back
12 in and tell us what case we're working on?

13 MR. MOY: Oh, yes. With pleasure. After a brief
14 emergency -- closed emergency meeting, the Board has returned to
15 its public hearing session, and the time is at about 11:20 a.m.

16 CHAIRMAN HILL: Okay. All right. I'm still torn on
17 the delay, at least for me. So in terms of the deliberation, I
18 mean, looking through the regulations, I would like to ask my
19 fellow Board members their thoughts. It does not have to be
20 unanimous. It would be helpful, but unnecessary, because
21 apparently the regulations are unclear as to whether or not even
22 I, as the chair, can determine this preliminary matter. However,
23 out of an abundance of caution and that the, and I read through
24 the filing again about the request for party status, the
25 requestor being immediately adjacent and directly behind the

1 project, my vote is going to be to give party status. Again,
2 had this been even the property above, to the right, to the left,
3 I don't know where I would have necessarily voted. It's that
4 this is directly behind, immediately adjacent, as to why I think
5 they meet the regulations. Mr. Smith?

6 MR. SMITH: So. Well Chairman Hill, I do, you know,
7 appreciate your statements on this. You know taking a look at
8 this again a little bit more closely that the criteria why 404.1.
9 That goes into detail on the reasons or that the Board has to
10 take to grant party status. And what gives me cause is 404.13,
11 the Board shall grant party status only if the person requesting
12 party status has clearly demonstrated that the person's interests
13 would likely be more significantly, distinctively, or uniquely
14 affected in character or kind by the proposed zoning action.

15 What's giving me pause on this is vis-à-vis the general
16 public because they are one tenant within this building. And
17 there are other tenants that are probably in the same line of
18 sight of where this would be located, and we haven't -- there
19 has been silence from them. I don't think that I believe that
20 they have met the standards for us to grant party status because
21 there are other people that are in that same line of site that
22 would be considered the general public that I think they wouldn't
23 be any more uniquely affected given that we haven't heard from
24 them. So I'm not inclined to grant the party status, but that
25 doesn't mean that the Applicant doesn't have the opportunity to

1 voice their, you know, voice their opinion as in opposition to
2 this case as it stands itself. I'm not inclined to grant the
3 party status request.

4 CHAIRMAN HILL: Oh God. All right. However, I mean,
5 not that I don't want to -- what is it? This is taking a lot
6 longer than I had thought, but I'm going to -- I'm going to stick
7 with Mr. Smith here for a second. All right. And we're taking
8 a lot of time to determine this. And I think it's fair and I'm
9 going to read the whole section. Okay. Section 404.1(i): A
10 written statement setting forth why the person should be granted
11 process and pleading reference to the following: (1) The property
12 owner or occupant, I'm sorry. The property owned or occupied by
13 the person, or in which the person has an interest, that will be
14 affected by the action requested by the Board, one; (2) The legal
15 interest the person has in the property, such as owner, tenant
16 trustee, or mortgagee; (3) The distance between the person's
17 property and the property that is subject of the application
18 before the Board; (4) The environmental impact, social or other
19 impacts likely to affect the person and/or person's property if
20 the action requested by the Board is approved or denied; and then
21 (5) An explanation of how the person's interests or -- I'm sorry
22 -- interests as identified in response to paragraph (4) would
23 likely be more significantly, distinctly, or uniquely affected
24 in character or kind by the proposed zoning action other than
25 those other persons in the general public. And we're just getting

1 back -- we're getting into the weeds on this one a little bit in
2 that, and because there's only three of us, I don't know what to
3 do exactly. That number 4, it seems as though, they the requestor
4 would speak to how they are affected by the action that the Board
5 has requested to approve or deny. I think that they have
6 indicated that. However, when I say it gets into the weeds, it's
7 kind of like having them have an opportunity to articulate that
8 or flesh that out is kind of where I don't think that number four
9 should be necessarily decided on the record. Right? Wherein you
10 can kind of hear a little bit more about what it is that they're
11 saying is the impact, right? Because I think that -- right. I
12 don't necessarily agree based upon what they've submitted in the
13 record, whether or not I think that they are impacted to the
14 point where -- they are impacted to the point where they are or
15 aren't meeting the regulations for us to grant the relief. If
16 and I know that people can testify, but they're given three
17 minutes to testify. Right? And so the -- how they are more
18 distinctly or uniquely affected, and this is pushed back on here
19 by Mr. Smith is that, again, we've had situations where, like
20 it's the adjacent property owner on one side that's asking for
21 party status, but the other person says they don't, you know,
22 they're in favor of it. Right? So there's still one side says
23 they have a problem, the other side says they don't have a
24 problem. Right? Or the person right behind them might say they
25 have a problem, but the other two people don't say they have a

1 problem. So that's where I'm also and it's difficult because,
2 again, it is this condo building. And for the Applicant who's
3 listening, trying to figure out what's going to happen to their
4 thing, I'm just pointing out the Board actually cares and tries
5 to determine within the regulation. That's why we're struggling
6 through this as to whether or not party status should be granted.
7 And we haven't even gotten to the postponement yet. This has
8 already taken up enough time. It should have been postponed and
9 we can just like -- anyway. So Mr. Smith again, right. You
10 know, the fact that right -- that a next-door neighbor, you know,
11 adjacent properties, we asked, you know, there might be somebody
12 directly behind, across the alley, or directly behind them that
13 they have been given party status, but the two other people
14 haven't asked for party status, so we haven't given them party
15 status. I mean, how does that argument reflect your argument,
16 which I made also at the beginning, which is that the people that
17 are next door to the unit in the condo building or above the
18 condo building. I mean, are you still kind of where you were?

19 MR. SMITH: I think what you stated, and you referenced
20 Y 404.14 has probably persuaded me to side with your position on
21 this party, granting party status. You're correct. So I will
22 change my recommendation to granting the party status.

23 CHAIRMAN HILL: Okay. And I'm, again, I don't think
24 this is an easy one in this particular case because it is a
25 condominium building and you know, given if we had a different

1 Board or different people, it might go the other way. And Mr.
2 -- Dr. Imamura, are you still where you were with granting party
3 status?

4 ZC COMMISSIONER IMAMURA: Thank you for the
5 opportunity, Mr. Chairman. As you said, we deliberated on this
6 extensively here. And so both for the Applicant and for the
7 merit, which is -- this is an important issue. And I'm glad that
8 the Marovics have expressed an interest in the project in this
9 issue. And it's a good demonstration to everybody that, you
10 know, you should participate in the process here. I'm empathetic
11 to their concerns. I'm not fully convinced that they've
12 sufficiently described or articulated how they're uniquely or
13 distinctly affected environmentally, economically, socially, or
14 other impacts as they've written in their application for party
15 status. I think that they'd have a -- there'd be a stronger
16 justification if additional residents from that particular condo
17 joined together for party status. That, I think, would certainly
18 be more compelling. That said, and I certainly understand they
19 are adjacent and immediately behind, and I'm not certain that
20 that is just the measure there. But I can be convinced, Mr.
21 Chairman, to grant them party status for today.

22 CHAIRMAN HILL: Okay. I honestly, I'm so torn on this
23 one that I just don't know. I mean, I kind of want to just make
24 a decision just so we can move forward a little bit. And I'm
25 going on the record saying, I really don't know. Right. Like,

1 I mean, I think you can argue this one either way is what I'm
2 putting on the record. I think you can argue this one either
3 way. And so out of an abundance of caution, I'm going to give
4 them party status. So go ahead. I'm going to make a motion to
5 grant party status to I think it's Ms. Malosovic. Not Malosovic.

6 MR. SMITH: Marovic.

7 CHAIRMAN HILL: How do you say it?

8 ZC COMMISSIONER IMAMURA: Marovic.

9 MR. SMITH: Ms. Marovic.

10 CHAIRMAN HILL: Right. Ms. Marovic and asked for a
11 second. Mr. Smith?

12 MR. SMITH: Second.

13 CHAIRMAN HILL: Go ahead, Mr. Moy, and take a roll
14 call.

15 MR. MOY: Thank you, Mr. Chairman. When I call your
16 name, if you will, please respond to the motion made by Chairman
17 Hill to grant party status to Ms. Marovic. The motion to grant
18 was second by Mr. Smith. Zoning Commissioner Dr. Imamura?

19 ZC COMMISSIONER IMAMURA: Yes.

20 MR. MOY: Mr. Smith?

21 MR. SMITH: Yes

22 MR. MOY: Chairman Hill?

23 CHAIRMAN HILL: Yes.

24 MR. MOY: Staff would record the vote as three to zero
25 to two. And this is on the motion made by Chairman Hill to grant

1 party status. The motion to grant was seconded by Mr. Smith,
2 who also supports the motion to grant, as well as granting party
3 status vote from Zoning Commissioner Dr. Imamura. The motion
4 carries, sir, on a vote of three to zero to two.

5 CHAIRMAN HILL: As for the postponement issue, after
6 having more time to think about this because of this application,
7 I would like to hear it now and hear it maybe at the end of the
8 day we can go ahead and see if there can be some discussions. I
9 don't know what the Applicant has with the people they've lined
10 up in terms of their day. But I'd like to go ahead and hear it.
11 And then because I do think the record is complete, full, accurate
12 to the point where we can ask clarifying questions about what is
13 actually before us. What in the regulations are we looking at
14 as to whether or not this is meeting the criteria for the special
15 exemption? And so, yeah so, I would like to go ahead and hear
16 it. We'll hear it at the end of the day, and then if we need to
17 post, you know, if we think and then the party status person if
18 they think that there is more time that they need, or if we think
19 we need more information, we can always bring it back. Right?
20 But considering also that Dr. Imamura has now been with us for
21 this process of it, I would rather he stay on the case and go
22 ahead and do this as opposed to giving it to another commissioner.
23 And what happens when other commissioners, when commissioners
24 come just for one case, they tend to take a very long time on
25 that one case because they get to leave. And then, you know, if

1 you were to come back, Dr. Imamura, not saying that's what would
2 happen for you so. All right. Mr. Smith, do you have any
3 thoughts on that?

4 MR. SMITH: But no, I agree with your assessment, too.
5 The record is full. If we could give some additional time to
6 the Applicants and the party in opposition to discuss or, you
7 know, argue their case, discuss amongst themselves by pushing
8 this to the end of the day. So I agree with your approach.

9 CHAIRMAN HILL: Okay. All right. Then I'm going to
10 make a motion to deny the request for a postponement and ask for
11 a second. Mr. Smith?

12 I think you seconded but you're on mute.

13 MR. SMITH: Second.

14 CHAIRMAN HILL: Mr. Moy, could you take a roll call?
15 And we're going to bring back the parties in, by the way, before
16 we take a break, or I don't know if you'll took a break. So go
17 ahead, Mr. Moy.

18 MR. MOY: When I call your name, if you please respond
19 to the motion made by Chairman Hill to deny the motion to
20 postpone. The motion to deny was second by Mr. Smith.

21 Zoning Commissioner Dr. Imamura?

22 ZC COMMISSIONER IMAMURA: Yes, to deny.

23 MR. MOY: Mr. Smith?

24 MR. SMITH: Yes.

25 MR. MOY: Yes, to deny? Chairman Hill?

1 CHAIRMAN HILL: Yes, to deny.

2 MR. MOY: Staff would record the vote as three to zero
3 to two. And this is the motion made by Chairman Hill to deny.
4 The motion to deny was second by Mr. Smith, who is in support of
5 the motion to deny, as well as from Zoning Commissioner Dr.
6 Imamura. Motion carries on the vote of three to zero to two.

7 CHAIRMAN HILL: Okay. Could you bring everybody back
8 in, Mr. Young, please, to the hearing room?

9 Mr. Porter, can you hear me?

10 MR. PORTER: I can. Yes.

11 CHAIRMAN HILL: Thanks. Is it Mr. Hakeem as your
12 architect?

13 MR. PORTER: Yes.

14 CHAIRMAN HILL: Okay. Great. Ms. Marovic, can you
15 hear me? Okay. You're on mute, but you said yes. All right.
16 So Mr. Porter, what we're going to do, do you have Ms. Marovic's
17 contact information?

18 MR. UTZ: I believe I do. I have some emails from her
19 husband. Let me just check on that to make sure that -- that
20 she was copied.

21 MS. PORTER: We have email. She can reach out to us
22 now.

23 MR. PORTER: Yeah.

24 MS. MAROVIC: Mr. Porter, I initiated the conversation.
25 You received the first email from me, and at the bottom of the

1 email is my phone number. That is the first email you ever
2 received from our family. And then you continued conversing with
3 my husband when I had to travel.

4 MR. PORTER: Sure.

5 MS. MAROVIC: So if you look back at kind of maybe
6 April 22nd.

7 CHAIRMAN HILL: Okay. Just a second, just a second.
8 That's all right. So Ms. Marovic, it doesn't matter who contacts
9 who. Somebody just shoot an email with somebody. And if you
10 guys want to talk, fine. If you don't want to talk, that's also
11 fine. Right? I'm just saying that if Mr. Porter, you and Ms.
12 Marovic can somehow have a discussion, we're going to put you at
13 the end of the day and have this hearing. Okay. And Mr. Hakeem,
14 are you around for the day? More or less.

15 MR. HAKEEM: Chairman, around -- I have to pick up my
16 daughter. What time?

17 CHAIRMAN HILL: What time do you have to pick up your
18 daughter?

19 MR. HAKEEM: Around 4:45.

20 CHAIRMAN HILL: Oh, yeah, yeah, yeah. We'll try to get
21 to you before that. Okay. I'll make sure that that happens.
22 Okay.

23 MR. HAKEEM: Okay. So I just to --

24 CHAIRMAN HILL: We will try to do 3:00 or you got to
25 leave at 4:45?

1 MR. HAKEEM: No, I have to pick her up at 4:45, so I
2 probably need to leave my office at 4:15 if that's possible.

3 ZC COMMISSIONER IMAMURA: Hard stop. 4:15.

4 CHAIRMAN HILL: That's fine. That's fine. So then
5 we'll try to do 3:00. I'll try to get back to you before 3:00.
6 Okay. (Indiscernible) and so --

7 MR. PORTER: Mr. Chairman? How will we become aware
8 of the hearing because -- you want us to stay connected until
9 three? Or what?

10 CHAIRMAN HILL: Yeah, Mr. Porter, I don't. I mean, you
11 can stay connected. You can, I guess. Mr. Young. I mean, Mr.
12 Moy. Just so you guys -- anyway never mind.

13 MS. PORTER: We can stay connected.

14 CHAIRMAN HILL: Mr. Moy, can you hear me?

15 MR. MOY: Yeah, I can hear you.

16 CHAIRMAN HILL: You guys have Mr. Porter's contact
17 information?

18 MR. MOY: Yeah, I believe we do. The staff has that.

19 CHAIRMAN HILL: Okay. We'll give you a call a little
20 bit ahead of time, Mr. Porter, but I'll be around. Right.

21 MR. PORTER: Yeah. Okay.

22 CHAIRMAN HILL: Just so you know, when this was, like,
23 real life before or whatever it is we're in now, everybody was
24 in a hearing room, and then you would do this thing. Everybody
25 be like, okay, we'll talk to you another day. You all wouldn't

1 be able to do anything, and then you would sit there in the
2 hearing room for six hours, you know? And so I'm just kind of
3 pointing out how it was before, which is --

4 MR. PORTER: Right. Well, I prefer the new world order
5 for these purposes.

6 MS. PORTER: Yeah, oddly enough I don't.

7 CHAIRMAN HILL: I'm the only one who liked the old way.

8 MR. MOY: Mr. Chairman?

9 CHAIRMAN HILL: Yeah, go ahead, Mr. Moy.

10 MR. MOY: Just to let you know, as what's in our regular
11 procedures, our staff will contact you probably a case before we
12 get to your case that you'd be ready to sign in.

13 MR. HAKEEM: Mr. Moy. Robert -- Mr. Robert Reed has
14 my contact information as well, if he would like to -- if he
15 needs to contact us, I'll be standing by and checking my email
16 and phone to make sure that we can jump back in.

17 MR. MOY: Okay. Very good. Because he's -- he listens
18 to these proceedings, so he's aware of what's being discussed.

19 MR. HAKEEM: Thank you. We appreciate that.

20 CHAIRMAN HILL: So just to let you guys know, I mean,
21 Mr. Porter and Ms. Marovic, I mean Ms. Marovic and I know you
22 did hire counsel at one point to at least go over some of this.
23 I mean, there are regulations and criteria that we look at to
24 determine whether or not this special exception should be
25 granted. Right?

1 MS. MAROVIC: Mm-hmm.

2 CHAIRMAN HILL: And it's not a variance, meaning it's
3 not any change to the regulations. So it's -- it is something
4 that's inside the regulations that we are, if they meet the
5 criteria, supposed to grant. Right?

6 MS. MAROVIC: Mm-hmm.

7 CHAIRMAN HILL: So you now have the Office of Planning's
8 recommendation that's in the record that you can go back and
9 read. Do you know how to access the record without -- have you
10 seen the Office of Planning's recommendation?

11 MS. MAROVIC: I learned how to access the records
12 recently. Yes, I saw it.

13 CHAIRMAN HILL: Okay. So the Office of Planning goes
14 through the criteria that the Board is supposed to look at. Okay.
15 Now, so that's to give you some guidance as to what we're supposed
16 to be looking at. Right? Mr. Porter, also, it is in his best
17 interest to try to come to some -- if there's a way to make the
18 parties comfortable with the project. It's always better for
19 everyone involved to try to do that. And then it's even better
20 if there weren't any party status to begin with at all, because
21 then there's different hoops that we as a Board have to jump
22 through. But it's not necessarily anything that would preclude
23 the Board from behaving to work efficiently to get things
24 processed. But it is better if everyone can get on the same page
25 and there is a clean record without any party status. But that's

1 again, not necessary. So I'm saying all that just to give
2 everyone any kind of information as we send everyone on their
3 way. Does anybody have any questions before I let you all go?
4 Mr. Porter, I'll start with you since it's your application.

5 MR. PORTER: No questions. I don't know. Well, just
6 one question. The proposed exhibit that we, which is the letter
7 from the abutting neighbor. I don't know if that's been allowed
8 in or not, but we could certainly wait on that until we reconvene.

9 CHAIRMAN HILL: Now, I would like to have that into the
10 record. I know I thought we did discuss that, but maybe not.
11 Thank you for bringing it up. If the staff could please allow
12 that into the record unless my fellow Board members have any
13 issue with it? Okay. Let's go ahead and put that in the record
14 because I want to see. And then -- okay. Anything else, Mr.
15 Porter?

16 MR. PORTER: No, nothing else.

17 CHAIRMAN HILL: Any questions, Ms. Marovic?

18 MS. MAROVIC: Yes. I just want you to confirm at what
19 time are we expected to be back? I don't think I heard correctly
20 or at all.

21 CHAIRMAN HILL: Sure, I understand. I don't know the
22 exact time.

23 MS. MAROVIC: Okay.

24 CHAIRMAN HILL: I was going to try to like, you know,
25 I know that, you know, your someone who's affected. It's your

1 home. And so. And Mr. Porter, it's his home. It is the architect
2 I was trying to figure out what was going on. But I mean, I have
3 -- I have one, two, three, four, five, six cases still. A couple
4 of them may go away. It's 11:45. I mean, I can't imagine we're
5 here any earlier than 3:00, you know. And I'm going to try to
6 get to you guys by 3:00 so that the architect can leave.

7 MS. MAROVIC: Yeah, that's a very good orientation.
8 Thank you for that. Yeah.

9 CHAIRMAN HILL: Okay. All right. Thank you. Anybody
10 else have any final questions? I am going to let you go. Okay.
11 Thank you. I'll see you guys later.

12 MR. PORTER: Thank you for the accommodation.

13 MS. MAROVIC: Thank you. Bye.

14 CHAIRMAN HILL: Okay. We haven't had an official break,
15 but I think maybe we've snuck one in there every now and again.
16 I'm going to now; we'll take an official break for like ten
17 minutes if it's okay after this. There's a postponement request.
18 so let's do that next and then I guess we'll take a quick little
19 break, if that's okay, and see where we are, maybe. Go ahead,
20 Mr. Moy if you can call, I think you're going to call 20772 but
21 I'm not sure.

22 MR. MOY: Yes, that's the one.

23 CHAIRMAN HILL: Okay.

24 MR. MOY: Okay. So just before you is Case Application
25 No. 20772 of District Properties.com, Inc. The application is

1 amended and self-certified pursuant to Subtitle X, Section 901.2.
2 Special exception under Subtitle D, Section 5201 from the side
3 yard requirements, Subtitle D, Section 206.2, Subtotal X, Section
4 1002 for area variance from the lot dimension requirements
5 Subtitle D, Section 302.1. Property in the R-2 zone at 5243 Karl,
6 K-A-R-L, Place, N.E., Square 5205, Lot 802. And as you just
7 noted, Mr. Chairman, yesterday the Applicant filed a request for
8 postponement and continuance.

9 CHAIRMAN HILL: Okay. Great. Mr. Seck, can you hear
10 me? And if so, can you introduce yourself for the record?

11 MR. SECK: Yes, the terminal. My name is Oumar Seck,
12 representing District Properties for this application 20772 that
13 we have requested a postponement.

14 CHAIRMAN HILL: Mr. Seck, you're still there, huh?

15 MR. SECK: Yeah, I'm still here, sir. How have you
16 been?

17 CHAIRMAN HILL: I am doing okay. You're still there.

18 MR. SECK: Yes, I'm still here.

19 CHAIRMAN HILL: I am still here too. Okay.

20 MR. SECK: Hope you stay long there.

21 CHAIRMAN HILL: Yeah. Let's see how that one goes.
22 Mr. Seck, how long you need a postponement for? I mean, I read
23 I mean, you need a postponement, but how long do you need a
24 postponement?

25 MR. SECK: Right it is a case that is going on with

1 trying to satisfy the recommendations from OP, I would say,
2 because they wanted to combine the two lots and design one house
3 instead of splitting it. So maybe two months. Before we can
4 have a plan put together.

5 CHAIRMAN HILL: Okay. Mr. Moy, when do you think we
6 can come back here again?

7 MR. MOY: Mr. Chairman, my suggestion was to -- well
8 the caseload through July is already filled. And of course, we
9 have the August recess. I've already been, and know I'm speaking
10 more than I need to, but I have other cases that's in the works
11 for September. So my suggestion, Mr. Chairman, is to -- we have
12 availability on October the fourth.

13 CHAIRMAN HILL: Okay. Mr. Seck we are going to put you
14 on October 4th.

15 MR. SECK: Okay. That's fine.

16 CHAIRMAN HILL: Okay. All right. Thank you, Mr. Moy.
17 All right. Thank you, Mr. Seck. We're going to close the hearing
18 and the record.

19 MR. SECK: All right. Thank you.

20 CHAIRMAN HILL: Thank you. Okay. I think that the
21 what -- Mr. Moy, can you read through the schedule with me for
22 the next, for the rest of the day, please?

23 MR. MOY: Yes. So the next case would be 17702B of
24 District Properties.

25 CHAIRMAN HILL: Yeah.

1 MR. MOY: After that it's 20856 of Hoa and Christopher
2 Bergerson.

3 CHAIRMAN HILL: Yeah.

4 MR. MOY: After that 20885 of Christian Creech.

5 CHAIRMAN HILL: Okay.

6 MR. MOY: And after that, it's 20785 of Andy and Debbie
7 Wilson.

8 CHAIRMAN HILL: Okay.

9 MR. MOY: And then 20884 of Euclid 1722, LLC. And then
10 we return to Holly and Gregory Porter 20882.

11 CHAIRMAN HILL: Okay. Give me a second. Good. Okay.
12 All right. Okay. This is what I propose. Do you all want --
13 do you all need a break? Okay. All right. So let's take a
14 quick break. We'll come back and do 17702B and then we'll decide
15 or let's talk -- I think 20856 might take a little while. It
16 depends on how hungry you guys are. Like, we can try to do it
17 before lunch and there's a lot of witnesses, or we can do it
18 right after lunch and the witnesses will know that it'll be after
19 lunch. So you all can contemplate that while we take our little
20 break and let's come back in, like, ten minutes. Thank you. Bye
21 bye.

22 (Whereupon, there was a brief recess.)

23 CHAIRMAN HILL: Okay. Just so you all know, I'm going
24 to have to pop off at 2:00 for three minutes. Okay. All right.
25 Mr. Moy, if you can call our next case.

1 MR. MOY: Thank you, sir. After a ten-minute recess,
2 the Board is back in its public hearing session, and the time is
3 now at or about 12:01 p.m. The next case before the Board is
4 Case No. 17702B District Properties, LLC. Application has
5 amended as a modification of significance to BZA Order No. 17702A
6 pursuant to Subtitle Y, Section 703 to eliminate two conditions
7 of approval. Let's see. Property is located in the RA-1 zone
8 at 2836 Robinson Place, S.E., Square 5875, Lot 43, and I believe,
9 let me check one more thing and then I believe -- the Applicant
10 attempted to submit an outreach email to the new ANC, and that
11 was blocked before because of the 24-hour block. That's all I
12 have.

13 CHAIRMAN HILL: Okay. Unless the Board has any issues,
14 if we could go ahead and please allow that into the record. Mr.
15 Moy, if you could ask the staff to please put that into the record
16 for us to look at. Mr. Seck, if you can hear me, if you can
17 introduce yourself for the record.

18 MR. SECK: Yes. Good afternoon, Chairman Hill. Good
19 afternoon, Board members. My name is Oumar Seck, representing
20 District Properties for Case No. 17702B 2836 Robinson Place, S.E.

21 CHAIRMAN HILL: Okay. Great. Mr. Seck, if you could
22 go ahead and walk us through your application and why you believe
23 you should be granted the relief being requested. I am going to
24 put 15 minutes on the clock so I know where we are, and you can
25 begin whenever you want.

1 MR. SECK: Thank you, Chairman Hill. Good afternoon
2 again. This case is basically a continuation from a BZA order
3 dated July 28, 2021. We constructed a 16 apartment, 16-unit
4 apartment building, at 2836 Robinson Place, S.E. We were granted
5 the exception for parking space relief and there was conditions
6 attached to it. From DDOT, the case went back to the Board. The
7 Board basically was going to make a decision at the time when
8 the ANC had merged with another ANC member of the area, becoming
9 now ANC 8C. The Board recommended that we go back to present to
10 ANC. That's why we sent the email and apologize that we sent it
11 late yesterday and we appreciate for accepting it into the record.
12 This was a communication trying to go before the ANC to present
13 this case. Though we were approved by the previous ANC and a
14 single member district of that area for granting this relief.
15 Unfortunately, we didn't get any response. But we do have here
16 Commissioner Sandra Seegars, long time members of the ANC who
17 also I believe testified in the previous hearing of this case
18 here present today. So that's the first introduction.

19 We were basically back and forth here. The last time,
20 there were two conditions to satisfy from DDOT. Otherwise DDOT
21 doesn't have any objection. Office of Planning also defers to
22 DDOT's recommendation which were to for us as the applicant to
23 implement a loading plan management plan for the trash truck
24 collection and also to amend the existing public space permit
25 that was granted for the curb cut initially thought to be 20 feet

1 and we constructed 12 feet. So the existing is 12 and DDOT wants
2 us to amend that application. I have that on the works right
3 now. I should be getting probably before the case is over, maybe
4 a tracking number. If not, it will be something we will submit.
5 We just found out from this recommendation of DDOT that was
6 uploaded in the ISIS. We -- basically the management plan. I
7 had the property manager, Justin Santini, present all morning,
8 but because of the different recess, et cetera, he had to jump
9 on a scheduled meeting he had at 12. But I'll go ahead and walk
10 through quickly not to take up much of your time.

11 This is a 12-foot-wide driveway. If I may ask Mr. Paul
12 Young to pull Exhibit, I believe it's Exhibit B, A part sorry.
13 We have uploaded all pictures and documents, supporting
14 documents, for the conditions that were imposed on us showing the
15 trash truck, which is a front loader, driving into the driveway
16 and basically backing off. We recommended to have a flagger and
17 these, the trash is collected during non-rush hours, and the
18 flagger will be there to make sure as the truck is backing up
19 the pedestrian are warned and there's no traffic, incoming
20 traffic, on Robertson Place. The video has been uploaded also
21 for the record. It was at the time of submission, and we showed
22 also the driveway pictures showing the transformer pad, which was
23 the problem that caused us to not be able to create a hammerhead
24 turn around on the property. And that was also overcome. And
25 the management trash collection plan also showed on Exhibit B.

1 Mr. Paul Young, is it possible to show or is not?

2 MR. YOUNG: So Exhibit 20A, I tried to open it and it
3 wouldn't allow me to view the video.

4 MR. SECK: Oh. I see. What about the pictures on
5 Exhibit A? That shows basically the sights, conditions, and
6 driveways.

7 MR. YOUNG: Exhibit 20?

8 MR. SECK: No, not 20. It should be Exhibit A. It
9 basically shows the loading.

10 CHAIRMAN HILL: Mr. Seck, I can see the video. And
11 that's the -- that's the 12-foot curb cut now?

12 MR. SECK: Yes.

13 CHAIRMAN HILL: And that's going to go to eight feet.

14 MR. SECK: No. DDOT has agreed that the truck needs
15 more than eight feet, this type of truck. So they agreed to have
16 -- to keep the 12 feet curb cut on their decision dated May 5th.
17 And they wanted us to now revise the permit that was granted for
18 a 20 foot that was initially granted to be constructed, but we
19 constructed a 12 foot. So they want that permit to now reflect
20 the 12 feet.

21 CHAIRMAN HILL: The 12 feet. So you're keeping it at
22 12 feet?

23 MR. SECK: Correct.

24 CHAIRMAN HILL: Okay. And then the hammerhead, right
25 turn around, you guys are just back pulling in and backing out.

1 MR. SECK: Yes, with a flagger. So they are okay with
2 the fact that no hammerhead is possible to be constructed on
3 site.

4 CHAIRMAN HILL: Yep.

5 MR. SECK: Yep. And that's what that video shows.
6 Basically the loading management plan, and also, we detailed it
7 on Exhibit A, showing the pictures of the driveway where the
8 trashcan dumpster is located. Because for the size of the
9 building, we need a six-yard dumpster for both regular trash and
10 recycle.

11 CHAIRMAN HILL: Yeah. How do you, just curious, how
12 do tenants get trash into that dumpster?

13 MR. SECK: Well, there's stairs. The building entrance
14 is actually off of the driveway, and there's a lead wall, so they
15 will come down. I wish we could show one of the pictures. Mr.

16 CHAIRMAN HILL: That's all right. So they're
17 responsible for taking the trash to the dumpster?

18 MR. SECK: Yes, yes, yes.

19 CHAIRMAN HILL: Right. Okay. Does anybody have any
20 questions of the Applicant? Okay. I'm going to turn to the
21 Office of Planning.

22 MS. MYERS: For the record, Crystal Myers with the
23 Office of Planning. We're in support of the request and we stand
24 on the record of our report. Thanks,

25 CHAIRMAN HILL: Okay. Does anyone have any questions

1 for the Office of Planning? Is anyone here wishing to speak,
2 Mr. Young?

3 MR. YOUNG: We have one witness signed up, Sandra
4 Seegars.

5 CHAIRMAN HILL: Seegars?

6 MR. YOUNG: Yep.

7 CHAIRMAN HILL: Okay. Ms. Seegars, can you hear me?

8 MS. SEEGARS: Yes.

9 CHAIRMAN HILL: Okay. Ms. Seegars, were you a
10 commissioner at one point or are you a commissioner?

11 MS. SEEGARS: I was commissioner for ten years, and I'm
12 still involved with the commissions. I was in 8E. When they
13 redistrict, now I am in 8C.

14 CHAIRMAN HILL: Okay. Let me see. I'm sorry. I'm
15 just saying thank you. Thank you for your support, contribution
16 to the city. And ten years is a long time. Congratulations for
17 surviving that.

18 MS. SEEGARS: Thank you.

19 CHAIRMAN HILL: All right. Ms. Seegars, you want to
20 go ahead and give us your testimony?

21 CHAIRMAN HILL: Yeah, I submitted one before and seemed
22 like the things I testified on before were honored. But I want
23 to tell you about the ANCs now over here in Ward 8, especially
24 8C, Saleem Adolfo, who is the chairperson. He's not a very good
25 chairperson. He blocks people on social media and the ANC cell

1 phone. He doesn't respond to people. He just does what he wants
2 to do. They voted him in as chair because the new commissioners
3 had no idea what it was. Now they're trying to remove him as
4 the chairperson and so. Because he did respond, this how he
5 operates. It's almost like if it's not his idea he really doesn't
6 care about it. And I'm really disappointed that now I am in 8C
7 where he's the chairperson. I'm very disappointed in that. So
8 please, please just go ahead without the ANC comments because
9 they are not ready for primetime, and I don't know what will get
10 them ready.

11 CHAIRMAN HILL: All right. Commissioner. Well,
12 unfortunately, as you know, this is in our area, meaning, you
13 know, the what goes on with your ANC. You know how your hand
14 over there.

15 MS. SEEGARS: Help us, Fred. Help us. Help --

16 CHAIRMAN HILL: Oh, dear Lord, I am not -- I am
17 definitely -- It's not my jurisdiction. So Commissioner. Okay.
18 Thank you so much for your testimony. Does the Board have any
19 questions for the witness? Okay. All right, Ms. Seegars. You
20 have a good day. Thanks for hanging with us today. Okay.

21 MS. SEEGARS: All right. Thanks Fred. Bye bye.

22 CHAIRMAN HILL: Take care. Bye bye. Okay. Let's see.
23 All right. That was the testimony there. Okay. And all of the
24 other conditions, Mr. Seck, you all are still abiding by, I
25 assume?

1 MR. SECK: Yes. Yes. There was previous conditions
2 in the past basically notifying the residents about nearby Metro
3 public transportation and putting fliers in the lobby. All those
4 were done and submitted. Yes.

5 CHAIRMAN HILL: Okay. Give me one moment.

6 (Pause.)

7 CHAIRMAN HILL: Okay. So Mr. Seck, the Applicant will
8 implement the loading management plan described in exhibit 20.
9 Is that correct?

10 MR. SECK: Yes.

11 CHAIRMAN HILL: Okay. All right. All right. Does the
12 Board have any final questions of Mr. Seck? I'm going to go
13 ahead and allow to close the hearing and the record. You have a
14 nice day, Mr. Seck.

15 MR. SECK: Thank you very much. Good seeing you again,
16 Chairman Hill. Thank you, everybody.

17 CHAIRMAN HILL: Thank you. Okay. I don't have any
18 issues with the change in the conditions. The conditions, I
19 guess they're getting rid of the hammerhead turn around and I -
20 - the video, I thought -- the video I thought was pretty helpful.
21 (Indiscernible.) And so I was able to watch the video and so I
22 don't have any issues with that in terms of the -- and then DDOT
23 is saying that, you know, the Applicant will implement the loading
24 management plan described in exhibit 20 concerning, I guess, the
25 trash and the flagger. And so I'm comfortable with that as well.

1 In terms of the curb cut, I'm comfortable with approving the curb
2 cut to 12 feet, but I don't think it's our area to ask the
3 Applicant to apply for anything one way or the other within public
4 space. And so I see that they are doing it, and so I'm happy
5 that they're doing it. But I don't think it's something that
6 should be listed as a condition. And so those are my thoughts.
7 Anything else from you, Mr. Smith?

8 MR. SMITH: No, I completely agree with your assessment
9 on this case and your opinions about the conditions from DDOT.
10 So I'll support the application with those two conditions and not
11 the inclusion of recommendation, including also the loading
12 management plan, but not anything related to a public space
13 modification.

14 CHAIRMAN HILL: Okay. Thank you. Dr. Imamura?

15 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I'm
16 in agreement with your summary. This is pretty straightforward
17 Even though the record shows a little bit of back and forth about
18 DDOT's decision there but, enough to make my head spin. But I'm
19 prepared to vote in favor.

20 CHAIRMAN HILL: Okay. Thank you. I'm going to go
21 ahead and make a motion to approve Application No. 17702B as in
22 boy as captioned and read for the secretary making the changes
23 to the condition as requested. However, keeping the other
24 conditions that were previously presented to the Board and
25 changing the one where the Applicant -- striking the condition

1 concerning the hammerhead turn around and changing the condition
2 that well, now the curb cut will be 12 feet and the Applicant
3 will also implement the TDM plan that is in exhibit 20 and ask
4 for a second. Mr. Smith?

5 MR. SMITH: Second.

6 CHAIRMAN HILL: Motion made and second. Mr. Moy, if
7 you could to take a roll call?

8 MR. MOY: Thank you, Mr. Chairman. When I call your
9 name, if you please respond to the motion made by Chairman Hill
10 to approve the application of the request for a modification of
11 significance along with the conditions, as the Chairman has
12 cited, just now in his motion. The motion was second by Mr.
13 Smith.

14 Zoning Commissioner Dr. Imamura?

15 COMMISSIONER IMAMURA: Yes.

16 MR. MOY: Mr. Smith?

17 MR. SMITH: Yes.

18 MR. MOY: Chairman Hill?

19 CHAIRMAN HILL: Yes.

20 MR. MOY: Staff would record the vote as three to zero
21 to two, and this is on your motion to approve, along with
22 conditions as you just cited, unless you want me to restate that,
23 but I'll leave it at that. The motion to approve was second by
24 Mr. Smith. And the motion carries on a vote of three to zero to
25 two.

1 CHAIRMAN HILL: Thank you. All right. I suggest we
2 go ahead and do our next hearing and then take a lunch break. So
3 Mr. Moy, if you could go ahead and call our next case, that would
4 be wonderful. Thank you.

5 MR. MOY: Before the Board is Case Application No.
6 20856 of Hoa and Christopher Bergerson. This application is
7 amended. It's a self-certified application pursuant to Subtitle
8 X, Section 901.2 for special exceptions; Subtitle E, Section 5201
9 from the accessory building area requirements of Subtitle E,
10 Section 5003.1; rear yard requirement of Subtitle E, Section
11 5004.1 which would allow the location of an accessory structure
12 in a required rear yard, and under Subtitle U, Section 301.1e,
13 which would allow use of accessory building as a dwelling unit
14 within five years of construction. Property located in the RF-
15 1 zone at 451 Park Road, N.W., Square 3036, Lot 25. A number of
16 other information like to relay. There -- just a second. Okay,
17 the Applicant filed within the 24-hour block, Mr. Chairman, a
18 revised self cert, revised burden of proof. And other than these
19 two filings from the Applicant, there are letters in opposition
20 from one, two, three individuals in that 24-hour block and we
21 have at least six individuals sign up to testify.

22 CHAIRMAN HILL: Okay. Let's see. Mr. Freeman, if you
23 can hear me, can you introduce yourself for the record?

24 MR. FREEMAN: Yes. Thank you, Chairman Hill. Thank
25 you, Members of the Board. My name is Mark Freeman. I am a

1 principal architect with Aggregate Architecture and Design, and
2 I am representing Mr. and Mrs. Chris Bergerson in the request for
3 relief at this special exemption hearing.

4 CHAIRMAN HILL: Okay. And you have a revised self
5 cert, Mr. Freeman.

6 MR. FREEMAN: That is correct. During the ANC review
7 and presentations, there was questions about our burden of proof
8 that was. And so we revise the burden of proof back in March.
9 And what has changed is Subtitle U 301.1e it -- we were advised
10 by Mr. Dahl to change it to Subtitle U 301.1c2 which is no
11 expansion or additions may be made to the accessory building to
12 accommodate an apartment except as a special exception.

13 I do not believe that that clerical and administrative
14 rule changes has carried across the entire process. However,
15 when we were talking and presenting to the ANC that was clarified.
16 I also realized that there was an additional clerical issue
17 because we had originally wrote 301.1c1, but we had the proper
18 text for U 301.1c2. So this last-minute clerical updates as well
19 as the ANC support made those changes. We had also, if I may
20 note, had also been speaking with Ms. Brown-Roberts of the Office
21 of Planning in order to coordinate that with her letter or with
22 the Office of Planning's letter of support. I do not know if
23 that was ultimately done based on the last discussion, I had with
24 her. She was going to make an addendum or an adjustment or edit
25 to that letter.

1 CHAIRMAN HILL: Okay. I am just looking everything up
2 here.

3 (Pause.)

4 CHAIRMAN HILL: Okay. All right. Mr. Moy, we can
5 please submit everything of that into the record for us. And
6 then does the Board have any questions of the Applicant before I
7 move forward? Okay. All right. Mr. Freeman, why don't you go
8 ahead and give us your reasoning as to why you believe your client
9 is meeting the criteria for us to grant the relief requested.
10 I'm going to go ahead and put 15 minutes on the clock there so
11 you can present your case, and so I know where we are. And you
12 can begin whenever you like.

13 MR. FREEMAN: Okay. Thank you, Chairman Hill. If I
14 may request Exhibit 16 to be placed and presented. So, Mr. and
15 Mrs. Bergerson, the owners of the property at 451 Park Road,
16 N.W., are seeking a special exemption to build an accessory
17 building at the rear of their property for use as a principal
18 dwelling unit.

19 CHAIRMAN HILL: Mr. Freeman, let me interrupt you and
20 say and you said Exhibit 16?

21 MR. FREEMAN: Sorry. That would be exhibit -- it
22 changes when I open it. Hold on one second. I think I'm looking
23 for Exhibit 11 (a1), (a2), and (a3), but 11 (a1), which is the
24 architectural plans.

25 CHAIRMAN HILL: Yeah. Okay. That's great.

1 MR. FREEMAN: Yeah. Thank you. Thank you for
2 clarifying. Thank you.

3 CHAIRMAN HILL: Yeah. 11 (a1). Okay. Great. At
4 least we are starting there.

5 MR. FREEMAN: So again, Mr. and Mrs. Bergerson are
6 seeking a special exemption to build an accessory building at the
7 rear of their property for use as a principal dwelling unit or a
8 second flat within the RF-1 zone. The existing structure is a
9 three story with solar, single family semi-detached house,
10 sharing a party wall with the property to the west, which is 453
11 Park Road, N.W., and sharing a driveway with the property to the
12 east, which is for 49 Park Road, N.W. There are three properties
13 to the north, 3523 Water Street, N.W., 44 or 444 Manor Place,
14 N.W., and for 442 Manor Place, N.W. that all abut the rear of
15 451 Park because there is no alley at the rear. If the can go
16 to the next slide on this, please.

17 The special requests we are requesting for special
18 relief is that no expansion may be made to an accessory building
19 per Unit 301.1c2. That we may exceed the maximum size of an
20 accessory building under Subtitle E 5003.1. We are specifically
21 asking for a square foot footprint of 665, which is greater than
22 450 square feet or 30 percent of the rear yard area, and that an
23 accessory building can be within the rear yard setback per E
24 5004.1a. We are saying that we have proven or that we meet the
25 burden within the zoning regulations for these due to -- sorry

1 let me start again -- by seeking relief from item in Subtitle E
2 503.1 and E 504.1a above, we are allowed to request relief via a
3 special exception for Subtitle E 5201.2 for a newer and larger
4 accessory structure to a residential building or on a non item
5 lot the Board of Zoning Adjustment may grant relief from the
6 following development standards as a special exception, which is
7 5021.2b yards, including alley centerline setbacks.

8 We are confirming we meet the requirements of Section
9 E 5021.4 A through C as follows: And if I may ask that you go
10 to slide number six, please, on this. This is our shadow diagram,
11 which notes both the summer and winter solstice, and it notes
12 where the -- what the current is on the left versus what the
13 proposed is on the right. And we note the increased shading in
14 the red. So this is based on June 21st. If we go down to the
15 next diagram or the next page, this is later in the day as we
16 get into six, then if we go to the next page. We are looking at
17 the winter solstice and we note that there is increased shadow
18 on December 21st at 12 p.m. And then if we may go again to the
19 next diagram. Next page.

20 You note on 3:00 there's an increased there on the
21 left. What we notice there is increased shading. However, with
22 the vegetation that surrounds the lot at the rear yard, that we
23 are not increasing or unduly increasing the shadow. In 5021.4b
24 the privacy of use and enjoyment of neighboring properties will
25 not be unduly compromised by the construction of the proposed

1 accessory structures. We note this again with the vegetation.
2 There are multiple trees existing at the rear of the properties
3 which already provide privacy. Also, the proposed accessory
4 structure has been designed to not have windows overlooking the
5 west and eastern neighbors, except clerestories which are high
6 windows on the main levels for each levels on the western and
7 eastern side.

8 We also note on 5021.4c, the proposed addition,
9 together with the original building, does not substantially
10 visually intrude upon the character, scale and pattern of houses
11 along the street frontage. And if I may ask that, we go up to
12 page four on this exhibit. There you go. Up one more. Sorry.
13 Up one. Maybe it was page three. So what we have done here is
14 we have shown axon of metrics of the building as it is and as it
15 is proposed to illustrate what the view would look like of the
16 new or proposed accessory structure from the road. This is
17 specifically at the driveway. The plan down at the bottom shows
18 the views and notes which they are.

19 If we go to the next page, which is -- so again, this
20 is illustrating from in the driveway. The left two images show
21 what is currently there and then show the scale of the proposed
22 adjacent to the neighboring rear accessory structure that is on
23 449 and would stay. And then you note to the next pair of views
24 too which are looking from 449 towards 451. And then if I may
25 go to the next page, please. And then these are the views looking

1 from 453 towards the property and again further back, further to
2 the north from 449.

3 Now, if I may ask that you pull up 11(b). The 11(b)
4 initially starts with and shows the pictures of the existing
5 conditions of the rear yard of the property. I think what it
6 fully illustrates are the existing vegetation and the amount of
7 trees that are on the neighboring properties that surround the
8 rear yard. Here we go. So specifically the top live picture is
9 the street view from the front from Park Road. Then you have
10 the view adjacent looking towards the south of the rear of the
11 properties. The rear of -- the rear facade of the existing home
12 and a partial view of 453. And then you note the image to the
13 right is of the existing accessory structure that we are proposing
14 to remove, and then of the courtyard in between the rear yard
15 and the existing rear facade. And then if we go to the next
16 page.

17 This is a view from the top of the platform of the top
18 floor. Looking down. Looking at the adjacent properties.
19 Looking to the north is the middle picture. Looking to the
20 northeast is the right picture and looking to the northwest is
21 the left picture. So again, and then if I may ask you to now,
22 go to the next page.

23 So this is our site plan. So currently the -- we have
24 had previously met with neighbors in December of 2021 and
25 presented a proposal or an accessory structure that was ran from

1 eastern property line to western property line and up to the
2 northern property line. It was also a taller structure. And
3 based on that meeting and that design feedback, they requested
4 that we reduce the size, that we changed materiality, and that
5 we pull off from neighboring properties so as to not affect or
6 request access to their properties. So what we have done is
7 revised that proposal to what you are seeing today, which pulls
8 the building off of the east and west property lines approximately
9 three foot six and change and then off of the northern property
10 line, five feet I believe.

11 And so the other issue or the other discussion that was
12 asked of us was about the shared driveway with Mr. Allison of
13 449. What we have currently discussed, but not finalized, is
14 that the Bergersons have offered to rework and rehab the existing
15 driveway. There is desire to widen the driveway and widen the
16 curb cut. We have not moved forward with that process until we
17 are confident that this proposal will be approved by the BZA.
18 But the intent is to widen the curb cut and widen the driveway
19 for easier access. From this site diagram you can note that we
20 have the parking is in between the two properties in there in
21 the courtyard. We have noted that there is a compact space that
22 can parallel park to adjacent to the existing structure. During
23 the ANC there were discussions about the access to parking and
24 having more than one car. I do not know if this picture was ever
25 uploaded to the case file, but as it's a shared driveway, majority

1 of the drive, the parking is linear or is parking one behind the
2 other or parking directly adjacent. And there definitely is some
3 coordination required between neighbors to navigate entering and
4 leaving. But we do believe we meet the burden of having one
5 required parking space in between. And if I may, I ask that you
6 open up Exhibit 11(c), please.

7 CHAIRMAN HILL: 11(c)? I see 11.

8 MR. FREEMAN: There should be 11, A, B and C. It's
9 the last set of the drawings.

10 CHAIRMAN HILL: Okay. 11 (a3) then I think.

11 MR. FREEMAN: Sorry.

12 MS. DAVIS: I think they are a1, a2, a3.

13 CHAIRMAN HILL: Yeah, a1,a2,a3.

14 MR. FREEMAN: All right. If I may, go to page two. So
15 these are our elevations again, based on previous presentation
16 and feedback from the neighbors. We reduced the overall height.
17 In order to do that and still meet the program that the owners
18 have requested, which was four bedrooms, we have proposed to
19 excavate a very large amount, to dig it down and create a cellar.
20 But because of the topography of the site which slopes high from
21 the north to the south, we essentially can get it dug in roughly
22 a story and a half. And we are nowhere near the 20-foot height
23 after that. If I may ask you to go to the next page, which is a
24 side elevation.

25 This is the elevation of the proposed adjacent to the

1 existing looking from 449 towards 453. We believe we are still
2 within the intent of the regulations as a subsidiary structure,
3 both in height and in massing. And then if we go to the next,
4 which is the building section. This illustrates how the existing
5 works towards and works against the topography as well as the
6 sections and floor plates of the existing. I think if I may ask
7 for Exhibit 21, I think, which is the privacy views. If I can
8 ask for that to be placed up or/and while talking.

9 So the direction of our proposal is we had met with Mr.
10 LeGrant early on in the process back in 2021, where we had
11 discussed the ability to develop the property as a two unit. The
12 owners had previously done renovations and so did not desire to
13 alter the facade, both because of some of the quality level of
14 the adjacent construction and development, but in general they
15 didn't want to have to redo work. And so after talking with Mr.
16 LeGrant, we chose the process of adding an enlarged accessory
17 dwelling at the rear versus a proposed addition at the rear,
18 which we believe we would have had to request the relief from a
19 ten-foot regulation, and we would have also unduly affected the
20 neighbor at 453 with light and air and shading.

21 But ultimately, this is the path that we chose and also
22 with the understanding that we had historic landmark applications
23 on the property that we were attempting to work through and
24 navigate. We felt esthetically and programmatically that this
25 was the best direction for us to take because it did not rework

1 the existing facade or change the vernacular of the structure.
2 And ultimately, we met the intent of the regulations or felt we
3 could meet the intent of the regulations through air, light,
4 privacy and the substantially visual effect on the neighborhood.
5 So ultimately, this is the one of the discussions that we had
6 during the ANC, specifically with the neighbor at 453, there was
7 concerns about privacy because having a building, looking with
8 windows to the north, looking back at their rear facade, that it
9 could unduly affect their privacy. What we are showing here is
10 views that we have on adjacent pages with views looking towards
11 the southeast, to southwest, and into the north. So if we go to
12 the next page, what you see in the upper left is a view out of
13 the southwest dormer looking towards the southwest. And you can
14 see the two pictures there sort of illustrate how the view that
15 would be looking through that bedroom on the top floor, looking
16 towards the second floor of 453, on the other one on the right,
17 you see the view looking back towards the southeast towards 449.
18 And then if we go to the next page. You can see through the
19 higher windows that the view is primarily toward the sky. And
20 then if you look at the other pictures here, these are towards
21 the north. The bottom is the northeast corner looking towards
22 the north and the one behind the washer and dryer. That's looking
23 from the northwest view towards the north. And I believe that
24 is the end of my presentation. Thank you for hearing me and for
25 your time today and consideration of this application.

1 CHAIRMAN HILL: Okay. Thanks, Mr. Freeman. All right.
2 Before I turn to questions to the Board, can I hear from the
3 Office of Planning?

4 MS. BROWN-ROBERTS: Good morning, Mr. Chairman.
5 Unfortunately, my camera is not working this morning. But can
6 you hear me?

7 CHAIRMAN HILL: Yes, we can. Thank you, Ms. Brown-
8 Roberts.

9 MS. BROWN-ROBERTS: Okay. So good afternoon, Mr.
10 Chairman, and members of the BZA. I am Maxine Brown-Roberts on
11 Zoning Commission Case 20856. The Applicant notified the Office
12 of Planning of the change in relief subsequent to the filing of
13 the OP report, and therefore the requested relief from Subtitle
14 U 301.1c2 is not in our report. I will address it in my oral
15 presentation and if the Board would like I could do a supplement
16 to address that so it's on the record in writing also. So the
17 Applicant requested relief from Subtitle E 5003.1 to increase the
18 accessory building area to 655 square feet, and from Subtitle E,
19 Section 5004.2 to have this extra building within the rear yard.
20 And both of these are pursuant to Subtitle E 502.1. As seen from
21 the shadows studies provided, there would be some increase in the
22 shadows on the rear yard of properties to the west in the mornings
23 of the summer months. And for the remainder of the day the
24 shadows would be limited to the subject property. During the
25 afternoon and evening hours of the winter months, some shadows

1 would be increased on the rear of the properties to the north.
2 These properties have very long rear yards and shadows are not
3 -- should not impact in the living areas.

4 Regarding privacy, the proposed accessory building
5 would include windows on the second floor of the east and west
6 elevations. However, these windows should be small and located
7 high, so they only provide light into the space but no views into
8 adjacent properties. The larger windows on the north side of the
9 building would give some views into the rear yard of the property
10 to the north. However, visibility would be mitigated due to the
11 large trees and the long rear yards. The windows on the southern
12 elevation would allow views into the adjacent yards, but this
13 could be limited by fencing also.

14 As viewed from Park Road, the building, the accessory
15 building, would be largely hidden from the principal building,
16 and there is no rear alley, whose height and massing would be
17 compatible with the main building on the site. Therefore, the
18 proposal sets the building visually in the current stated pattern
19 of houses along street frontage. The proposed accessory building
20 and principal building would continue to be residential use and
21 would meet the overall lot occupancy, height, and number of
22 stories as permitted by the zoning regulations.

23 Then regarding Subtitle X 301.2 the RF-1 zone is a
24 residential zone that provides for areas which are predominantly
25 developed with row houses and anticipated accessory building,

1 including one two-bedroom unit to the rear building. As a result,
2 the proposed accessory building would be in harmony with whatever
3 (indiscernible.) The proposed accessory building would be
4 consistent with the general development standards of the RF-1
5 zone. However, the Applicant has requested relief from some of
6 the standards specifically related to the accessory building.
7 And as I said before, we think that the proposed special exception
8 needs more visibility from Park Road and from adjacent properties
9 would be limited due to its location and the fullness of the
10 existing proposed transportation.

11 CHAIRMAN HILL: Ms. Brown-Roberts, can you hang on a
12 second? If everybody can mute their line except for the Office
13 of Planning. Somebody's -- Thank you.

14 MS. BROWN-ROBERTS: I think someone in my office is
15 talking.

16 CHAIRMAN HILL: Oh.

17 MS. BROWN-ROBERTS: Sorry about that.

18 CHAIRMAN HILL: Tell them to mute themselves, Ms.
19 Brown-Roberts. Okay.

20 MS. BROWN-ROBERTS: Oh, okay.

21 CHAIRMAN HILL: I am trying to listen to you. I'm
22 sorry. Go ahead, Ms. Brown-Roberts. Good Luck.

23 MS. BROWN-ROBERTS: Regarding the special exception
24 relief from Subtitle U 301.1c2 which is pursuant also to Subtitle
25 X 901.2. The RF zone again, there are no specific -- there's no

1 specific standards from this from U 301. It's just your special
2 -- just a special Subtitle X 901.2 that that is reviewed under.

3 As stated, the RF-1 zones is a residential zone that
4 provides for areas predominantly developed between dwellings and
5 anticipates accessory buildings with dwelling units in the rear
6 of the principal building. As a result, the proposed accessory
7 building would be in harmony with the general purpose and intent
8 of the zoning regulations. Proposed accessory structure would
9 not adversely affect, again the use of the neighboring properties
10 for -- because they can again, as I said before, they meet the
11 standards of the special exception for light and air and would
12 not unduly affect the privacy of the adjacent properties. That
13 -- and therefore the Office of Planning recommends approval of
14 the requested special exemption. Thank you, Mr. Chairman, and
15 I'm available for questions.

16 CHAIRMAN HILL: Thanks, Ms. Brown-Roberts. I mean, I
17 see 5004.1. It's not -- they're not asking for relief from
18 500.42. Correct? That's the shed.

19 MS. BROWN-ROBERTS: Right. No, they're not.

20 CHAIRMAN HILL: Right. Okay. All right. Does the
21 Board have any questions for the Office of Planning? Okay. Mr.
22 Young, there are people in here who wish to speak?

23 MR. YOUNG: That's correct.

24 CHAIRMAN HILL: Would you please give me their name?
25 How many? How many do you have, Mr. Young?

1 MR. YOUNG: I have four people.

2 CHAIRMAN HILL: Oh, okay. Let's bring them all in
3 then, please. And if you give me their names as you bring them
4 in.

5 MR. YOUNG: First one is Cartheria Prince. Next is
6 Daniel Nasaw. Next is Patrick Nelson. And last is Danielle
7 Polen.

8 CHAIRMAN HILL: Okay. Ms. Prince, can you hear me?

9 MS. PRINCE: I can. Good afternoon.

10 CHAIRMAN HILL: Okay. Great. Could you introduce
11 yourself for the record, please? Let us know where you reside.

12 MS. PRINCE: Good afternoon. My name is Cartheria
13 Prince. I reside at 445 Park Road, which is one, two, three
14 houses on the east of 451 Park Road.

15 CHAIRMAN HILL: Okay. Great. Thank you, Ms. Prince.
16 Ms. Prince, you have three minutes to give your testimony and you
17 can begin whenever you like.

18 MS. PRINCE: Yes. So. If I recall correctly, he
19 stated, Mr. Freeman stated that he would not request a curb cut
20 to extend the curb cut. And here he's saying that he's requesting
21 to extend the curb cut. So either I misheard him during the ANC
22 meeting or something has changed since then. As far as the
23 airflow goes, the airflow will affect everybody on this -- on the
24 back side, on the east side of this property. Not to mention
25 even close to Danielle's property, who is literally next door to

1 her -- to this property. She will be impacted the most with no
2 type of privacy. And as far as water flow goes, we are on the
3 downslope on the -- on the side of -- on the east side so we get
4 a slew of water, storm drainage water, on our property when it
5 --when we have a downpour of rain. So I am requesting that you
6 all consider not approving this at all. Thank you for your time
7 and I yield my minute and 45 seconds back to you.

8 CHAIRMAN HILL: Thank you, Ms. Prince. All right. Ms.
9 Nasaw, can you hear me?

10 MR. NASAW: Yeah.

11 CHAIRMAN HILL: Mr. Nasaw. Sorry. If you can, give
12 me your address, Mr. Nasaw, and introduce yourself, please.

13 MR. NASAW: I'm 434 Manor Place, N.W. I live on the
14 other side of the block about 100 feet from the back of the
15 subject property. Can I first ask that you take -- you accept
16 my written testimony for the record, I wasn't able to get it in
17 within the 24 hours, but I sent it to the Office of Planning.
18 You know, I -- it was my lapse. I've got a lot --

19 CHAIRMAN HILL: Yeah. That's fine. That's fine. Let
20 me just do it. Does it -- Does the Office of Planning have it,
21 Mr. Nasaw?

22 MR. NASAW: It should, because they wrote back and said
23 they couldn't take it. It was --

24 CHAIRMAN HILL: Mr. Nasaw, give me a second. Mr. Moy,
25 do you have Mr. Nassar's written testimony?

1 MR. MOY: I believe so. I think Mr. Nasaw was
2 referencing the Office of Zoning.

3 MR. NASAW: Yeah, I'm sorry. Yes, it was Miller. Kiara
4 Miller wrote to me.

5 CHAIRMAN HILL: Okay. Can you -- if you can, Mr. Moy,
6 if you have that, if you could drop it into the record so the
7 Board can take a look at it.

8 MR. MOY: Yes, absolutely. Thank you, sir.

9 CHAIRMAN HILL: Okay. All right. Mr. Nasaw, go ahead.
10 And again, you'll have three minutes to give your testimony and
11 you can begin whatever you like.

12 MR. NASAW: The main issue for me is the privacy issue.
13 This is going to put these windows as shown in Exhibit 21,
14 overlooking Danielle Polen and her husband, Carlos, whose
15 bathroom and the private areas in 449. You know, these people
16 have had -- they've been living in this house for 20 years. And
17 so I don't know what unduly affect the neighboring private --
18 privacy means, if not all of a sudden you have windows staring
19 into your bathroom and you can see this in exhibit 21. You know,
20 these houses were designed so that they would overlook a backyard
21 and now you're going to have windows staring right into their
22 bathroom and their houses.

23 Also, Ms. Polen and Carlos, they're going to, you know,
24 to affecting the use and enjoyment of their backyard. You know,
25 they have a breeze and air and sunshine, and then now they're

1 going to have a big house looming over their backyard. You know,
2 these sun studies are a red herring. You know, human beings are
3 not houseplants that are okay with a minimum number of hours of
4 direct sunlight. Again, it's -- you're going to have a house
5 looming over your backyard where there was none. You know, the
6 Applicant refers to trees and vegetation. Those are barren five
7 months of the year, like I live back there. I know this. Those
8 trees are not a guarantor of anybody's privacy or enjoyment. You
9 know, it's a beautiful green space we all love and enjoy back
10 there. These guys want to put a big house right in the middle
11 of this backyard. We all share it. You know, I, I think that
12 this is the -- disregard that the Applicants are showing to the,
13 you know, well-being of their neighbors is just astounding. And
14 it's really unneighborly. And I go through this a lot in a lot
15 better detail and precision in my written testimony. But it
16 comes down to, you know, who decides whether their privacy is
17 unduly affected. Is it Mr. Freeman or the Office of Planning or
18 is it the people who are going to have to live there and now have
19 people staring into their bathroom or their private living space
20 when for 20 years there was nothing.

21 Also, I am -- I've never I don't think that the
22 residents at 449 ever got a notice of this. You can see Kent
23 Boese's letter, which is also in the record. They've certainly
24 not participated in any of this. This is really going to affect
25 them, and I don't think that they have had a chance to comment.

1 And my time is up and thank you. I urge you to reject this and
2 please do read my letter. Thanks a lot, guys.

3 CHAIRMAN HILL: Thanks, Mr. Nasaw. Is it, Ms. Nelson?
4 Oh, Mr. Nelson, maybe? Can you hear me?

5 MR. NELSON: Yes, sir. I was --

6 CHAIRMAN HILL: Can you tell me what address you're in?
7 And also, could you introduce yourself for the record, please?

8 MR. NELSON: Certainly. Good afternoon, chair and
9 Board members. My name is Patrick Nelson, and I reside at 730
10 Fairmont Street, N.W. I also, just before I read my statement,
11 I would like to say the same thing that Daniel did. I sent my
12 stuff in yester -- a day before yesterday or yesterday. And it
13 was not put on the record. It's not a big thing because I'm
14 going to read it to you tonight, but --

15 CHAIRMAN HILL: Mr. Moy. If you -- do you have --

16 MR. NELSON: -- it would be helpful.

17 CHAIRMAN HILL: That's all right, Mr. Nelson. One
18 second. Mr. Moy, do you have Mr. Nelson's written testimony?

19 MR. MOY: Yeah, I believe so, sir.

20 CHAIRMAN HILL: Okay. If you could also, please that
21 -- add that into the record as well. And Mr. Nelson, you're at
22 730 Fairmont Street.

23 MR. NELSON: That's correct.

24 CHAIRMAN HILL: Okay. Okay. Go ahead, Mr. Nelson.

25 MR. NELSON: Okay. So members of the Board, I am

1 testifying today to voice my opposition to this proposed
2 application and project addressed in this case. As a 30-year
3 D.C. resident, I have spent more than 15 years as a member, nine
4 member, nine years as a chair of ANC 1D Zoning Preservation and
5 Development Committee and have testified in front of this
6 commission a number of times. I am currently a member of the
7 new ANC Zoning Economic Development Committee which reviews these
8 applications for projects, this one being one before the Board
9 in guidance for the ANC Commission to make its recommendation.

10 This case is one that is very troubling to me. As I
11 believe it does not conform to the RF-1 code. It is stretching
12 the limits of the accessory building code, in my opinion. A
13 structure is proposed or as proposed is strongly opposed by
14 multiple neighbors. A proposed new accessory dwelling unit that
15 the project proposes is anything but an accessory building.
16 Rather, it is a structure larger than the existing house.
17 Approval would result in Square 3036, Lot 25 having two primary
18 residential structures on the parcel. This is a gross violation
19 of the RF-1 zone.

20 Accessory dwelling unit is a legal regulatory term for
21 a secondary house or apartment. It shares the building lot of a
22 larger primary home. The proposed building is designed with four
23 bedrooms, which is larger than the main house, which only has
24 three. If they are wanting to add a unit, why are they not doing
25 what has been done to other homes on this block? Changing the

1 main structure with a rear addition leaving the rear yard open?

2 As was heard at multiple committee meetings where we
3 discussed this by community members. This is one of the main
4 concerns of the neighbors as there is no alley behind the homes
5 and the yards touch. This seems a more applicable solution. I
6 will also add to reaffirm as the ANC commissioner in the previous
7 case stated, I am in a new ANC that was formed with the
8 redistricting, and there's a whole new committee of people who
9 do not have, in my opinion, enough experience to be weighing in
10 on cases that are technical. As Mr. Freeman has pointed out,
11 there were a number of things that were brought up in this
12 committee that deferred this to be heard more than one time in
13 front of the committee before the committee voted a
14 recommendation to the ANC. And I will also note for the record
15 that I voted in opposition to this. Thank you for your time and
16 I am open for any questions.

17 CHAIRMAN HILL: Okay. Mr. Nelson, are you a
18 commissioner now?

19 MR. NELSON: No, I am not. I am just a member of the
20 new committee that deals with this in ANC 1E.

21 CHAIRMAN HILL: ANC 1E?

22 MR. NELSON: Yes. I chaired into December as a 1B
23 zoning preservation committee that dealt with the same issues.
24 And I did this as I said for nine years.

25 CHAIRMAN HILL: So 1E. You're in 1E, correct?

1 MR. NELSON: Yes, I was in 1B and have been redistricted
2 to a new ANC, which is 1E.

3 CHAIRMAN HILL: So when you say you voted, you expressed
4 your opposition to this project at the ANC committee meeting?

5 MR. NELSON: That's correct.

6 CHAIRMAN HILL: Okay. At 1E?

7 MR. NELSON: That's correct. But I remember there's I
8 believe right off the top of my head, there's ten committee
9 members. Four of them are commissioners or on the commission,
10 which is only six. All of the other ones -- I won't to get into
11 details because I don't think it applies per se.

12 CHAIRMAN HILL: I think there's seven commissioners in
13 your ANC.

14 MR. NELSON: That's correct. And there's four of them
15 that sit on this committee.

16 CHAIRMAN HILL: Got it. Got it. Okay. Okay. Thank
17 you, Mr. Nelson. I mean, I'm familiar with Commissioner Ray,
18 like we see him every now and again. I'm not saying -- I'm just
19 making comment. No. So. Okay. Let's see. All right. I got
20 one more here. Is it Ms. Polen? Polen. Ms. Polen, can you hear
21 me?

22 MS. POLEN: I can. Can you hear me?

23 CHAIRMAN HILL: Yes. Can you tell me where you're
24 located, Ms. Polen?

25 MS. POLEN: Yes. I'm the adjacent neighbor at 453 Park

1 Road, N.W.

2 CHAIRMAN HILL: Okay. Great. And could you tell me
3 your name again for the record?

4 MS. POLEN: Yes. It's Danielle Polen, P-O-L-E-N.

5 CHAIRMAN HILL: Okay. Great. Okay. Ms. Polen, go
6 ahead, please. You got three minutes on the clock , but Ms.
7 Polen, you're adjacent. Just go ahead and give us your testimony,
8 please.

9 MS. POLEN: Yeah. Thank you. And I like -- like
10 everyone else submitted my testimony yesterday afternoon. It was
11 not accepted, but I would ask that it be received into the record
12 if possible. So I will read it verbatim. Thank you.

13 CHAIRMAN HILL: Mr. Moy, if you could drop everything
14 into the record for us, please.

15 MS. POLEN: All right. Great. So I won't read that.
16 And much of what I wrote in my statement of objection has been
17 mentioned by others, by Mr. Nasaw, by Mr. Nelson and Ms. Prince
18 as well. So I won't run through all that again. And I would
19 just reiterate that, you know, it is my strong opinion that this
20 project really runs contrary to the intent of the zoning regs,
21 and it would significantly impair the privacy and enjoyment of
22 myself and my husband, as well as our neighbors in all directions.

23 And you've heard already the testimony of others that,
24 you know, our block is very unique in that it doesn't have an
25 alley that intersects the property lines. And it really is a

1 lovely greenspace back there where many of us grow our own food,
2 we gather, we share with our neighbors, et cetera. And you know,
3 we saw the shade studies that I know Mr. Freeman did a lot of
4 work on those. But you know, there is going to be an impact in
5 our yard. And I believe that the representative from the
6 Department of Planning noted that while there will be increased
7 shadows in our yard, it's not going to impact our enjoyment of
8 the space. Well, it will impact the garden, which is right up
9 against the eastern property line and will now be just three feet
10 away from what amounts to essentially a three-story building, one
11 story of which is underground, so that, you know, it is going to
12 impact the privacy of the backyard.

13 And we also saw the computer-generated images of what
14 the south facing windows would be looking toward. We saw the
15 clerestory windows that face our garden and the garden at 449.
16 But the south facing windows look right into the second floor of
17 my home, the back of which contains our bedroom and a bathroom.
18 And I believe Department of Planning, you know, mentioned that
19 view could be addressed by fencing, but I'm not sure how that
20 would work unless we built fencing around our second-floor
21 balcony there. So you know, our privacy is going to be
22 significantly impacted by this project. And in terms of the
23 spirit of the regs, you know, this this is a four story, four
24 and a half, five bath building in the backyard of a building that
25 is smaller than what this accessory dwelling unit is purporting

1 to be. Department of Tax and Planning, I looked at that last
2 night and that lists the current structure at 451 Park Road as
3 being -- comprising 1504 square feet of living, whereas this new
4 building is going to be 2225 feet, square feet, of living space.
5 So I'm not sure how it fits into that definition of ADU that Mr.
6 Nelson read to us. So I would urge you to carefully consider
7 this request for relief. I do think it runs contrary to both
8 the intent and the spirit of the regs, and I do think it's going
9 to impact neighbors in all directions. And I thank you for your
10 time.

11 CHAIRMAN HILL: Okay. Thank you very much, Ms. Polen.
12 Polen?

13 MS. POLEN: You've got to.

14 CHAIRMAN HILL: Can you say it again for me? I'm sorry.

15 MS. POLEN: It's Polen.

16 CHAIRMAN HILL: Polen. Polen. Okay. Okay. Mr.
17 Freeman, I'm going to ask about these windows that are supposedly
18 looking into the bathroom. And so I want you to show me those
19 when you get a chance. And then I want to know a little bit more
20 about some of the issues that have been brought up. I guess I'm
21 going to -- yeah. If all of the witnesses wouldn't mind just
22 doing me a favor and muting their lines and not speaking up unless
23 they're called upon. I'm going to leave everybody in the room.
24 Mr. Freeman, can you -- where can you pull up that can show --
25 and Ms. Polen, I'll speak back to you so you can rebut whatever

1 asked or we can ask questions of you. Mr. Freeman, what can I
2 pull up that shows me these windows?

3 MR. FREEMAN: That would be Exhibit 21.

4 CHAIRMAN HILL: Exhibit 21. Ms. Polen, can you hear
5 me?

6 MS. POLEN: I can hear you. Yes.

7 CHAIRMAN HILL: Are you able to? You're at 453 Park
8 Road.

9 MS. POLEN: That's correct.

10 CHAIRMAN HILL: Okay. All right. Have you looked at
11 these diagrams before?

12 MS. POLEN: We saw them at the final of the three or
13 one of the three ANC meetings on the project, yes.

14 CHAIRMAN HILL: Okay. So you all went I mean, you
15 obviously you went to all your ANC meetings, and you expressed
16 your opposition to the project, correct?

17 MS. POLEN: That's correct.

18 CHAIRMAN HILL: And your SMD voted against you?

19 MS. POLEN: I'm not sure what an SMD is. The commission
20 did vote to approve the product or the project.

21 CHAIRMAN HILL: And actually I shouldn't say voted
22 against you. They did it -- they thought that they were meeting
23 the regulations as they understood it.

24 MS. POLEN: Yes.

25 CHAIRMAN HILL: Okay. All right. So. Oh, Mr. Young,

1 can you pull up that exhibit for me? And I'm going to ask Ms.
2 Polen -- is that the one?

3 MR. FREEMAN: Yes, sir. That's it.

4 CHAIRMAN HILL: So where are you saying is who's -- who
5 are you saying is what, Mr. Freeman?

6 MR. FREEMAN: So the two images on the left. Those are
7 images -- that's the right south west window on the second floor
8 of the proposed structure, looking to the south and looking to
9 the west that you see part of the spiral staircase that goes and
10 accesses the rear of the property on 451 and that deck structure
11 is at the back of her property, which I believe she has noted is
12 her, one of her bathrooms, it's either her master or a guest
13 bathroom. I'm not sure she can clarify which one that is, but
14 then the image to the lower -- the lower one shows a more intense
15 view, looking closer up so that you can also look up. And the
16 other one is basically at six foot looking out. So those are
17 the two views that are in question or are -- we discussed at the
18 ANC.

19 We noted that it's around 20 feet of distance during
20 the ANC. We also discussed what the distance would be if we were
21 to build an accessory structure by right and still use this same
22 or similar designed at a reduced size that we would still have
23 windows in a similar pattern looking to the north and south. We
24 also talked about what our distance is from the property at 449.
25 So we definitely talked about this in multiple ANC meetings.

1 CHAIRMAN HILL: That's what you're talking about, is
2 that B view, it's the B view that you have in your -- in another
3 diagram, I think I pulled up Exhibit 28, I don't know. Is it
4 view B that you're speaking on?

5 MR. FREEMAN: Correct. So again, as soon as you open
6 it up for me, it changes the meaning of it. But yeah --

7 CHAIRMAN HILL: Yeah. No, I got you. I see. I see.
8 That's okay. I can see it.

9 MR. FREEMAN: But that is correct. It's view -- view
10 A and B.

11 CHAIRMAN HILL: Right. So. Ms. Nelson, can you hear
12 me?

13 MS. POLEN: Are you asking to speak to me, Ms. Polen
14 or to Mr. Nelson?

15 CHAIRMAN HILL: Sorry. Sorry. Ms. Polen.

16 MS. POLEN: No worries. I'm here.

17 CHAIRMAN HILL: I got so many names in front of me.
18 Ms. Polen, right? You have seen this exhibit before, correct?

19 MS. POLEN: That's correct.

20 CHAIRMAN HILL: And this is more or less accurate.
21 Correct?

22 MS. POLEN: Yes.

23 CHAIRMAN HILL: Okay. And so Mr. Freeman, those -- are
24 those windows in a room or is it a door? I can't figure it --
25 in the --

1 MR. FREEMAN: They are large dormer windows in a
2 bedroom.

3 CHAIRMAN HILL: They are large dormer windows in a
4 bedroom.

5 MR. FREEMAN: So if we were to go back to Exhibit 11
6 3, A3. And we were go to -- we were to go to the second page,
7 which is A0003. It would be the elevation, the south elevation
8 on the top left corner of the exhibit. So I think it's you're
9 Exhibit 18 because the same thing happens to you. I

10 CHAIRMAN HILL: I got you. I got you. I think that's
11 okay. I think I understand. Okay. All right. I understand.
12 Okay. Do my fellow Board members have any questions of any of
13 the witnesses? Dr. Imamura, I can't tell if you got a question
14 or not.

15 ZC COMMISSIONER IMAMURA: Not of the witnesses, but I
16 do have a few for Mr. Freeman.

17 CHAIRMAN HILL: Okay. All right. Well, thank you very
18 much for all of your testimony. And I'm going to excuse the
19 witnesses from the hearing room at this point. And Ms. Polen,
20 in particular, thank you for your testimony.

21 Okay. Mr. Imamura -- Dr. Imamura, since you're going
22 -- since I'm going to use you as our architect today. Do you
23 have any questions of Mr. Freeman?

24 MR. FREEMAN: I do. Thank you, Mr. Chairman. Hello
25 Mr. Freeman. You have been asked to design and develop, I think,

1 what is a pretty simple program in a very small, confined space.
2 So what you've developed here, I think, is probably the best
3 solution possible for what your client has asked you to do.
4 However, I am empathetic to the surrounding neighbors. And I
5 think many might agree the mass of this is rather large,
6 comparatively speaking, in the backyard here. But I guess I'm
7 going to get to my question. In Ms. Polen's letter and in the
8 drawings that you've provided it shows what appears to be a pretty
9 dense, at least there's a dense canopy and some trees already in
10 the other property, the property behind. And at least in the
11 site plan, it shows that there'd be some sort of coverage. Is
12 that right? At least in the rear.

13 MR. FREEMAN: That is correct. .

14 ZC COMMISSIONER IMAMURA: So, I think it's pulled off.
15 You mentioned it's pulled away from the property line by five
16 feet. I couldn't tell because it's a big file and my computer
17 is moving really slow. So I guess it's on the north property
18 line. Is that it?

19 MR. FREEMAN: That is correct. On the north side, it's
20 five feet.

21 ZC COMMISSIONER IMAMURA: Okay.

22 MR. FREEMAN: On the east and west, it's three and a
23 half feet approximately.

24 ZC COMMISSIONER IMAMURA: Okay. And we're -- and you
25 said how many feet down are we going for the cellar?

1 MR. FREEMAN: I mean, I'm digging it essentially a
2 story and a half.

3 ZC COMMISSIONER IMAMURA: Okay.

4 MR. FREEMAN: So because of the way that the slight
5 -- site slopes at the rear, we have an additional three or four
6 or sorry, four or five feet at the back, which allows it to feel
7 like it's a story and a half. Where at the southern end, in
8 between the two structures, it's the full two stories.

9 ZC COMMISSIONER IMAMURA: So I get that. So what I'm
10 getting at here, though, my question is how are we protecting the
11 critical root zone of the neighboring trees there if we're going
12 down that deep, and we're only five feet off the property line.
13 So we know there are some critical roots that are underneath that
14 property line. So I don't know. What have we thought about
15 that? And how are you protecting those trees? Because there's
16 a pretty good chance that this is going to impact the health.

17 MR. FREEMAN: Well right. And that is something that
18 we have considered and something that we are planning to get an
19 arborist in, a licensed arborist. What has been the case with
20 this project is the complexity with this historic landmark
21 application, with the complexity with the neighbors. We've also
22 had COVID in the middle. We've had neighbors in China. It's
23 -- the long and short of it is there's been a lot of things to
24 try to get to this particular point. And I think the questions
25 and the question you bring up is a valid question that we would

1 be handling during the construction, just as we would be with the
2 driveway and some of the other aspects.

3 Now, if we are to come back and realize that we, when
4 the arborist says you're in the zone of influence, technically
5 we would have to either figure out if we can adjust this design,
6 which then again, we would be back in front of you, or we would
7 be moving forward because we can have the tree removed or some
8 of that, some nature there.

9 ZC COMMISSIONER IMAMURA: So I'm not sure we can make
10 that decision to have the tree removed. That would be up to the
11 decision of the neighbor at 444 Manor Place, N.W. so.

12 MR. FREEMAN: And that is correct. And that neighbor
13 has been involved in these negotiations or discussions. They are
14 not here today, but they essentially, in our neighbor discussions
15 and presentations, they were not looking to partake, to
16 participate in a manner other than for financial aspects. To say
17 it politely.

18 ZC COMMISSIONER IMAMURA: Certainly get that. Okay.
19 I feel like that's an unresolved issue here. So I'm going to
20 move on to my next question. Some of the images or photographs
21 that you took of the existing site conditions, it seems to be
22 sort of this elevated turf sort of yard where this -- where you
23 want to propose the structure. So my question then is, now we
24 have you proposing this unit. What are we doing about, and I
25 think Ms. Prince had asked us about stormwater management. So

1 now we had a yard where that would allow percolation for
2 stormwater. What are we doing for stormwater now that we don't
3 have --

4 MR. FREEMAN: Currently?

5 ZC COMMISSIONER IMAMURA: Mm-hmm.

6 MR. FREEMAN: So what we are proposing is to have a
7 permeable driveway. And so we have worked with a company named
8 Rain Plan who works within the city and works with the stormwater
9 credits that are given to residents. This property is able to
10 do that. What we are planning to do is to make the entire
11 driveway and area way in between permeable in which we would be
12 able to handle our stormwater there -- if there -- because you
13 have to have a drainage pipe and cistern in there. We also are
14 in discussions with a civil engineer in order to take all of our
15 stormwater off of the roof of this structure and take it to the
16 front of the property, which is code because you have to lie it
17 at the front and separate it from the sewer in this --

18 ZC COMMISSIONER IMAMURA: Right.

19 MR. FREEMAN: -- and DC takes care of that. So those
20 are the two ways that we are handling the stormwater in this
21 proposed development.

22 ZC COMMISSIONER IMAMURA: Okay. I understand the
23 strategy. I'm not fully convinced yet that -- I'm curious what
24 the net gain or net loss is. I understand the permeable paving
25 for the driveway. So can you tell me, what is the square footage

1 of that versus what's the existing square footage of the site?
2 The turf that exists now.

3 MR. FREEMAN: I don't --

4 ZC COMMISSIONER IMAMURA: Is it one for one? I mean,
5 are we losing -- I feel as if I mean, just, you know, when you
6 eyeball it, it's just -- it doesn't look like it's the same square
7 footage so.

8 MR. FREEMAN: No, we're adding. We're increasing our
9 permeable because it isn't currently. So right now our proposed
10 -- our existing permeable surfaces is noted at 39.8. Our proposed
11 with what we are -- with the permeable driveway would be 50.9,
12 and we're required a minimum of 20 percent.

13 ZC COMMISSIONER IMAMURA: Okay. And what is the --
14 what is the footprint of the unit, the building itself, the
15 proposed building?

16 MR. FREEMAN: 665.

17 ZC COMMISSIONER IMAMURA: Yeah. So I don't know how
18 665 aligns with -- you said 50?

19 MR. FREEMAN: Well, it's because we're using all of the
20 driveway. Because we have the shared driveway on the side, we
21 can --

22 ZC COMMISSIONER IMAMURA: Right.

23 MR. FREEMAN: We can take that whole thing up and make
24 that permeable and meet the intent of the code there.

25 ZC COMMISSIONER IMAMURA: So yeah, I get that, I guess.

1 What is the size of the driveway?

2 MR. FREEMAN: Well, currently, I think it's -- if I can
3 look at the exhibit real quick. So there, I think it's 14 feet
4 wide.

5 ZC COMMISSIONER IMAMURA: And I notice the plans do
6 show at least the proposed widening of the curb cut there.

7 MR. FREEMAN: So no, it's -- I think it's -- Yeah.
8 We're proposing to make it 12 feet wide, and it is just under 8
9 feet wide.

10 ZC COMMISSIONER IMAMURA: 12 feet by -- how long is it?
11 I think you can see what I'm getting at here, Mr. Freeman.

12 MR. FREEMAN: Well right. And we thought about this,
13 and this is partly the reason why we went this direction because
14 our personal and professional value is a lot of people like the
15 solar. We like to handle the storm and the stormwater runoff.
16 So a lot of our projects, we propose green roofs. All of these
17 types of things. In this case we weren't proposing a green roof.
18 We were going at it with the permeable surface process. But to
19 answer your question, we're roughly like 80 feet long, something
20 to that effect, is the driveway.

21 ZC COMMISSIONER IMAMURA: Okay. All right. That's -
22 - I appreciate that. That's what I was getting at. Okay. All
23 right. I think, Mr. Chairman, at least for now, I think that'll
24 conclude my questions for Mr. Freeman. Yeah, I think that'll
25 conclude it for now.

1 CHAIRMAN HILL: Okay. I had a couple of questions then
2 I will go to Mr. Smith if that's okay. Mr. Freeman, if you could
3 tell me how things went with your ANC meeting and questions and
4 such, number one. Number two, in your windows diagrams like, I
5 see a lot of the windows that kind of they're those small upper
6 windows that you kind of like put in a higher line so that it's
7 not going to visually intrude on other people's privacy. And if
8 you can, tell me where you put those windows and why.

9 So two things. I wonder how it went with the ANC,
10 right? And then what type of things you've already done to
11 mitigate the impact on the neighbors, which I assume are the
12 windows. And you're saying that, again, you dug down -- your
13 digging down, which is costly, or you know, and that's again, to
14 mitigate what? So I'm trying to figure out what things you've
15 done already to mitigate impact and how it went with the ANC.

16 MR. FREEMAN: So first, before we even got to the ANC,
17 we met with the neighbors in 2021 so.

18 CHAIRMAN HILL: Which neighbors, which neighbors?

19 MR. FREEMAN: The adjacent, so we reached out to 449,
20 453, 3523 Water Street, 444 Manor Place, and 442 Manor Place, all
21 of the adjacent properties that touch our property. In fact,
22 additional neighbors then sent that email out to others, and I
23 actually included that into the record so that you all could see
24 that there was a chain of emails from me to Mr. Allison because
25 that was brought up as a point that I had not reached out to Mr.

1 Allison.

2 CHAIRMAN HILL: Is that 449?

3 MR. FREEMAN: Yes, sir.

4 CHAIRMAN HILL: Okay. Go ahead.

5 MR. FREEMAN: So we met with them in December of 21,
6 and that was a different proposal. It was a much bigger, much
7 wider, much taller structure. And so the same -- some of these
8 same discussions came out about privacy, about massing, about
9 size, about all of those things. So what we did was, because
10 before it was a slab on grade and it only -- it only excavated
11 into the back about three or four feet. So it was essentially a
12 two and a half story structure. It was much, much bigger. So
13 we've already went back to the proverbial drawing board, and we
14 dug it down a story and a half. So we lowered the height one,
15 we reduced the width and the depth of or the length of the
16 building because it used to have some balconies and some other
17 things that were some nicer accouterments or nicer amenities to
18 the actual design and really stripped it down to where it is the
19 bedrooms, the laundry, stairs, the living, kitchen, dining, and
20 then the bedroom in the basement with mechanical. Again, there
21 were -- there was some balconies. So we've already stripped down
22 there.

23 The high windows, we had multiple windows on the second
24 and the third floor. What we did was we took those out of the
25 second and only kept them on the top floor. But then again, as

1 we dropped the elevation of the building, it's now on the second
2 floor because the -- it all changed. So that all got dropped
3 and all of that got shrunk. And then, so those are the things
4 that we did initially. We have maintained this mansard style
5 design with the dormers in order to sort of look, or it's a --
6 it's a modern take on the style of the home, but also with the
7 mansard, it helps mitigate the height of the structure because
8 it pulls back the roof and it angles it versus it keeping it boxy
9 with a flat roof. So those are all the things that we did in
10 that -- from that December meeting prior to even submitting to
11 the BZA. And then we resubmitted it to the neighbors and we did
12 this in order to not have a deadline of the ANC or the BZA. And
13 we also did this because Mr. Allison was dealing with COVID in
14 China and requested, you know, elongated time.

15 During that time, it also pulled in the resubmission
16 of the historic landmark application by the D.C. Preservation
17 League, which was just recently withdrawn, but that all was put
18 into play. And then as you get to our submission to the BZA, we
19 have the ANC changes over and Mr. Boss or Mr. Bass, who is now
20 the executive director of the office of ANCs, who used to be a
21 part of ANC 1A, he was no longer the SMD or the representative
22 of this particular member district. He now has been elevated.
23 And so then we had the new commission, the new ANC come in. Fast
24 forward to February. We had our first ANC meeting where there
25 were other multiple ANC or special exception applications. One

1 of them is for 447 Park Road, which you may be aware of, but it's
2 coming your way. That is done in the more traditional special
3 exception application where they're going to tear off the whole
4 side of the facade, extend it over to the side and they're going
5 to elongate it back and they're asking for special relief from
6 the ten-foot rule. And it completely changes the dynamic and the
7 vernacular of the building in order to maximize the footprint and
8 build in that manner. Because we were dealing with both what we
9 felt was a massing aspect, but also a historic landmark
10 application, we kept it more in a let's do this in the rear yard
11 and do this as an accessory structure versus an addition, or in
12 a more traditional, and traditional is probably not the right way
13 to describe this because each special exception is based on each
14 property and each -- so it's there is no precedent. But I think
15 the point is, as you see a lot of these special exceptions and
16 where they expanded and deepen it, that is the alternative here.
17 But then we also have to take into account that the owners have
18 spent money renovating the existing building. And I have heard
19 comments that the existing building is only three bedroom and
20 this new one is going to be bigger. That actually is not correct.
21 There's at least six bedrooms in the existing.

22 Now, the previous or the owners have not done all of
23 their construction up to snuff with permits. I have worked with
24 them to correct those issues. It wasn't really a point of
25 contention here today, but those were discussions that we had

1 during the ANC was were they illegally renting it with proper,
2 with more than one unit, those things. So you will also see that
3 I've added to the record that they are now in compliance, that
4 the existing structure in the front is a single family. And so
5 this would be the second unit in an RF-2. To reference that 447
6 project, that one's three units, this is still maintaining two.

7 So I think the point I'm trying to make is we've worked
8 with the neighbors long before the ANC meetings. Then we had
9 the ANC meetings, we had three meetings, we had one where we
10 initially presented. Then it came back. I had a second meeting
11 where I was the only or we were the only application, and we were
12 in a meeting for roughly two, two plus hours. Then we had a
13 third meeting in which we also were dealing with the historic
14 landmark application plus us.

15 CHAIRMAN HILL: So okay, so what was -- what was 449'S
16 feedback again?

17 MR. FREEMAN: 449'S feedback has been his concern
18 about access for the driveway during construction. And if you
19 read through my email responses to him, is we suggested going and
20 going in on a construction agreement with him. So where we can
21 -- we could, you know, limit contractor use whatever he needed
22 or whatever he desired. And then the owners have also offered
23 to resurface and repave and redo all the driveway at their cost
24 without any shared cost to him.

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

1 any questions? Oh, I'm sorry. Last one. So then, when you went
2 to the full ANC. How did that go with the full ANC?

3 MR. FREEMAN: The full ANC, I believe it was five to
4 one was on the full ANC. When the Zoning Economic Committee,
5 the ZEC, I think it was seven to four to one. Something to that
6 effect. But when it -- when it went from the zoning economic
7 committee to the full ANC, I think it was four to one or five at
8 that time.

9 CHAIRMAN HILL: No, that's fine. Did you go to the
10 hearing?

11 MR. FREEMAN: To the main ANC?

12 CHAIRMAN HILL: Yeah.

13 MR. FREEMAN: I was not. After the zoning economic
14 committee, I did not -- was not able to attend the other one.

15 CHAIRMAN HILL: Who presented it to the full ANC?

16 MR. FREEMAN: My understanding is that once the Zoning
17 Economic Committee approves it, then it goes to there through a
18 motion, not another presentation.

19 CHAIRMAN HILL: Interesting. That's how that ANC does
20 it, not least how they are doing it. Okay.

21 MR. FREEMAN: I know. I know Commissioner Gallagher
22 is here. He is -- if he is the ANC 1E. If --

23 CHAIRMAN HILL: Commissioner Gallagher, can you hear
24 me? I didn't think there was anybody -- I didn't think there
25 was any ANC commissioner here. Was I wrong, Mr. Young?

1 MR. FREEMAN: He says he's there, but he's not a
2 witness.

3 CHAIRMAN HILL: Mr. Young, can you find Commissioner
4 Gallagher?

5 MR. YOUNG: Yeah, he's on. I just didn't have him
6 signed up on my witness list.

7 CHAIRMAN HILL: Commissioner Gallagher, can you hear
8 me?

9 MR. GALLAGHER: Hi. Good afternoon. This is Brad
10 Gallagher here. Yeah. Thanks for meeting me.

11 CHAIRMAN HILL: Yeah, Commissioner. Mr. Young, if he's
12 in here, does that mean he completed the oath? I mean, Mr. Moy?

13 MR. YOUNG: No, I believe he still needs to take it
14 because he wasn't on my witness list.

15 CHAIRMAN HILL: Mr. Moy, could you give Commissioner
16 Gallagher the oath? Commissioner Gallagher, can you use your
17 camera? If not, it's fine. But can you?

18 COMMISSIONER GALLAGHER: Unfortunately, I'm currently
19 serving on a federal grand jury, and I just stepped out.

20 CHAIRMAN HILL: Okay. That's (indiscernible) Yep.
21 Yep. Mr. Moy, can you please swear in the Commissioner?

22 MR. MOY: Mr. Commissioner, do you solemnly swear or
23 affirm that the testimony of about to present at this proceeding
24 is the truth, the whole truth, and nothing but the truth?

25 MR. GALLAGHER: I do.

1 CHAIRMAN HILL: Commissioner Gallagher, can you tell
2 me what happened at your ANC meeting, please, with the --
3 concerning this case?

4 MR. GALLAGHER: Sure. I think the way Mr. Freeman
5 characterized the relationship between the ANC and our Zoning and
6 Economic Development Committee is accurate because there are so
7 many development cases. And this is a new ANC, and we have a
8 lot of other administrative things to set up. We've essentially
9 outsourced most of the debate and presentations on zoning cases.

10 CHAIRMAN HILL: I got you. Is commissioner Ray still
11 on your ANC?

12 MR. GALLAGHER: He is, yes. And he's -- he also serves
13 on the zoning committee of 1E.

14 CHAIRMAN HILL: Okay.

15 MR. GALLAGHER: And he's also listening. Today was
16 kind of in the same situation as I just was. He's muted, though.

17 CHAIRMAN HILL: He's serving on a grand jury somewhere?

18 MR. GALLAGHER: Mine is the grand jury. I can't speak
19 to his actual location. Yeah.

20 CHAIRMAN HILL: Okay. All right. Okay. All right.
21 Let's see. Okay. Does anybody have any questions for the
22 Commissioner? No? No? Okay. Great. All right. Commissioner,
23 thank you so much for joining us.

24 MR. GALLAGHER: Thank you all. I appreciate it.
25 Thanks.

1 CHAIRMAN HILL: Okay. All right. I don't know if my
2 -- Mr. Young, if you can excuse any of the witnesses, if we have
3 any still remaining from the hearing room unless my fellow Board
4 Members need to talk to somebody? I don't see them raising their
5 hand. I mean, I don't really know. I mean, I can probably
6 discuss this a little bit more or I don't know what. Oh, no,
7 wait. I didn't mean to -- Mr. Young I didn't mean to close the
8 hearing. If you can let back in the Applicant.

9 I lost Mr. Freeman. Oh, there's Mr. Freeman. Okay.
10 Great. I mean, I don't know about you guys. The only thing I
11 was kind of interested in, I guess, is that that one view. But
12 I don't know if you all need anything. I don't know if I
13 necessarily need anything. Mr. Smith?

14 MR. SMITH: I would state I am also concerned about the
15 question about privacy. Yeah. So the windows are to the left
16 and right from looking at the front of the house. Yeah. You do
17 sink them a little further up, there a little smaller private
18 windows that are raised. But I am concerned about the, the
19 larger, you know, larger picture windows that you have facing the
20 rear, the rear yard and towards the front that face into people's
21 rear yards. Could you, given the concerns about privacy, you see
22 that you've read the regulation and you've tried to meticulously
23 design this building to attempt to be in compliance with special
24 exceptions standards, except for that so. Except for those
25 windows. Could you speak to the reason for the choice in those

1 large picture windows that may create privacy concerns. What was
2 the reasoning for that choice?

3 MR. FREEMAN: I think proportion wise; they work
4 towards the same size as the front of the house and the main
5 house. I think if this were a make-or-break moment, I would
6 consider or I think we would all consider adjusting the windows
7 in from their current location and explore reducing their size.

8 I don't know if that would be fully eliminate being
9 able to stand and look towards the southwest. Again, during the
10 ANC meetings there was discussion more about blinds and just
11 general decorum of neighbors than it was, you know, looking into
12 a bathroom and being concerned. I don't disregard or dismiss Ms.
13 Polen's concern in any shape or form. But again, if we are
14 understanding that the BZA can make requests or requirements to
15 -- for approval or for anything. We would consider having to
16 adjust our size of our windows and orientation. But we were, we
17 still need to mediate grass and meet some building code compliance
18 aspects.

19 MR. SMITH: You know, I'm on the record that it's about
20 the issue of privacy, and also, I'm kind of the same mindset of
21 Mr. Imamura. That is the, granted I understand, and I heard your
22 -- I heard that you redesigned this to be -- to address the
23 concerns of the neighbor or the neighborhood. But this is still
24 a fairly sizable building with four bedrooms, I might add. As far
25 as accessory buildings, it's obvious this is a very large one

1 when it comes down to the number of bedrooms and the space that
2 would be provided. Could you speak a little bit to how this
3 building, as designed with the size, how it would be in keeping
4 with the character within the neighborhood? Did you look at the
5 character of the neighborhood, and granted, I understand that
6 this an accessory building. It's not the only one on this block.
7 I am not contending that. But did you talk to the character when
8 designing this building?

9 MR. FREEMAN: Well yes.

10 MR. SMITH: With the context of accessory buildings
11 within the greater neighborhood.

12 MR. FREEMAN: Well, I think there are many. So again,
13 stylistically, we believe that we are keeping within the style
14 because there are many homes on Park that have this mansard style.
15 So both stylistically we're tying into it. With reference to an
16 accessory structure, we believe that the intent is to have a
17 space for another. So again, this all ties back to the historic
18 preservation in the application. We could have completely
19 revamped the existing house and blew out the site and changed the
20 vernacular of that, which we believe would have been more
21 detrimental to the character of the neighborhood. By doing this
22 path, we are not changing that main facade, not changing the
23 massing of the main building, not changing the overall context
24 of the neighborhood in that shape or form.

25 Then when you get into the intent or looking at an

1 accessory structure, it is larger. But by reducing the height
2 and those things, we are working through the intent of the Code
3 of to having a secondary subsidiary building to the main
4 structure. So I think the main massing that you may respond to
5 is the adjacent one car garage that's from the twenties. I think
6 that may exaggerate some of the massing to this building and
7 change, but it also shows an updated modern construction and
8 modern building that has four bedrooms.

9 MR. SMITH: Okay. My next question, what is the massing
10 of the accessory dwelling unit relative to the apartment house?
11 What's the --

12 MR. FREEMAN: So if we were to go back to exhibit 11,
13 A1.

14 MR. SMITH: Title page and words?

15 MR. FREEMAN: It's the second page, I think, that shows
16 a good 3D of the massing.

17 MR. SMITH: So what is the square footage of this
18 accessory dwelling again?

19 MR. FREEMAN: So the footprint is 665.

20 MR. SMITH: Footprint of the primary home?

21 MR. FREEMAN: The footprint of a permanent home is a
22 1000 square feet. And that's with the front porch. It's right
23 around 780 is the actual building itself.

24 MR. SMITH: 60 percent of the mass.

25 MR. FREEMAN: Well, that's -- that again, that is the

1 footprint. The main house is longer.

2 MR. SMITH: 60 percent of the footprint. Yeah.

3 MR. FREEMAN: Yeah. But it's also taller, It's more
4 floors, all those things.

5 MR. SMITH: Okay. That was all of the questions that
6 I had.

7 CHAIRMAN HILL: Okay. Mr. Freeman, have you been --
8 I'm going to get to you one second, Dr. Imamura. Have you been
9 with us before? Again, I think you have, right?

10 MR. FREEMAN: I have, sir. Yes.

11 CHAIRMAN HILL: It's so funny. I -- the Zoom thing
12 completely screws me. I can't see who I am. I don't know where
13 it's like. But anyway, I -- this is taken -- this has been a
14 longer hearing than normal. Right? And there's reasons for it.
15 So just to let you now. But go ahead, Dr. Imamura.

16 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman. Mr.
17 Freeman, I do have one more question here, and as the Chairman
18 stated, when zoning commissioners are afforded an opportunity to
19 jump on, even for one case, we have a tendency to drag it out.

20 Now, my one question, Mr. Freeman is talking about the
21 mansard roofs and style. I took a closer look and I just want
22 you to help me walk through your design iterations because I'm
23 certain you probably walk through this already, but if your
24 windows, the large windows are on the north and south facades or
25 elevations rather, bedroom two and bedroom one. And then, of

1 course, in the laundry room and stairwell. I'm curious. In what
2 iteration did you all, knowing the privacy in the views are an
3 issue, when did you consider or contemplate? And why didn't you
4 run down further placing the windows on the east and west?

5 MR. FREEMAN: So, based on that December 2021 meeting
6 with the neighbors. They did not want to have balconies or views
7 overlooking their fences or anything. So we as a -- we responded
8 at that time saying we will eliminate those, and we will have
9 the high clerestory windows. So that essentially took care of
10 that concern then.

11 ZC COMMISSIONER IMAMURA: Gotcha.

12 MR. FREEMAN: But we still have to meet code and egress
13 and those things. So we worked towards this mansard style and
14 then it had the north-south windows so that we could still
15 maintain light. Now, during the ANC meetings, this discussion
16 had great weight and we went down this process multiple times.
17 But based on the feedback with the ANC, even though Ms. Polen
18 expressed this concern, it did not seem that the ANC had or put
19 as much weight as you as the Board are on her concern. They
20 their response was a bit more that in the city urban environment
21 you are upon each other, you have close proximity. It did not
22 feel as if it needed to be, or a request needed to be made. And
23 that's why I just offered to MR. SMITH that if this is a make or
24 break and we have to sit here and deal with some of this and this
25 is still an issue with respect to Ms. Polen and 449 and the regs,

1 we can look at proportion, look at location, see if we need to
2 adjust that design in order to finalize that part of this process
3 or this part of this discussion.

4 ZC COMMISSIONER IMAMURA: Sure. Okay. Thank you, Mr.
5 Freeman. That makes a lot of sense to me. I certainly understand
6 the east to west and why the decision was to put the windows on
7 the north south. Regardless, it doesn't matter which side you
8 take in disagreements or dissatisfaction. So I don't think that
9 there's any winnable solution here really to where those windows
10 are going to be located, although perhaps the proportion of them
11 may help to some degree. So I have a better understanding now.
12 Thank you, Mr. Freeman. I appreciate it, Mr. Chairman. I yield
13 back.

14 CHAIRMAN HILL: Thank you. Mr. Young, is the Office
15 of Planning still here?

16 MR. YOUNG: Yes. I just brought them back up.

17 CHAIRMAN HILL: Ms. Brown-Roberts, can you hear me?

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

19 CHAIRMAN HILL: So I -- I'm trying to get my head around
20 the massing of this. And this has been a very long hearing
21 already. And so I'm kind of asking because we often have this
22 type of thing where something's in the backyard and the Office
23 of Planning, when you were thinking about the massing of this,
24 you weren't concerned about the massing of this in the rear yard
25 versus also if they had tried to, you know, go back beyond the

1 ten feet, you know, whether that was something that the Office
2 of Planning looked at. I guess I'm just trying to understand
3 what the Office of Planning looks at concerning the massing of
4 this project. Can you talk me through that a little bit?

5 MS. BROWN-ROBERTS: Yes, Mr. Chairman. I think we
6 looked at it how the massing affects the light and air and privacy
7 of the adjacent residences. And I think from the shadow studies
8 that were provided and also, well especially the shadow studies
9 and some of the views that were provided. We felt comfortable
10 that the impact would be -- there would be, of course, there's
11 always impact, but would not be unduly is what we usually say.
12 So yes, there was some concern about the -- about the volume of
13 the structure. But I think that that concern was addressed in
14 in seeing the shadow studies and some of the angles of views with
15 the you know, with the area with a -- the vegetation that
16 surrounds -- that would surround the building.

17 CHAIRMAN HILL: Got it. Yeah. I mean, and I'm not
18 -- I'm not saying I would or am not going to agree with your
19 analysis. I mean, I knew it seems pretty -- I know it just seems
20 kind of denser to me than other things that I'm necessarily seeing
21 in that backyard, and then that all of the other neighbors, if
22 they ended up all doing the same thing, you know, you get a pretty
23 thick back row there. But those are all things that the Office
24 of Planning has taken into consideration, correct?

25 MS. BROWN-ROBERTS: Yes. You know, we look at what is

1 present right now. You know, if we were to -- we don't sort of
2 take into consideration, say, you know, everybody is going to do
3 that, you know, we review them individually as they come along.
4 And so that's why I think we felt comfortable. You know, I must
5 say, we were concerned at first when we saw that, you know,
6 because the what's permitted is 450 and there were going to 665.
7 And so you know, on the face of that, we were concerned. But
8 then when we looked at, you know, especially in the shadow
9 studies, that is we felt comfortable going ahead and say it's
10 okay.

11 CHAIRMAN HILL: Okay. No I just wanted to kind of talk
12 through it. And you guys, I think I'm going to need lunch before,
13 like, we deliberated on this, like or talk about this or I don't
14 what we're going to do next. Like, I mean, if this ends up
15 passing, I'd be frickin' filing my stuff left and right for those
16 next-door neighbors. You know, I'd be, like, hiring this dude
17 right away, so. But. Okay. Does anybody got anything else?
18 I'm going to have to take lunch. I'm not going to be able to
19 deliberate and figure out what we're going to do next. I need
20 -- I need to take lunch and we might need to-- Mr. Freedman,
21 what's yours like -- I guess. Does anybody need anything? I
22 don't even know if I need anything. I don't want to keep Mr.
23 Freeman around. I'm going to need to take a break before I can
24 think any more. And so it's whether or not we think we're going
25 to need anything. Whether you think you can deliberate and/or

1 -- what I'm trying to figure out whether I excuse Mr. Freeman.
2 If we got to find something else that we need later, we can always
3 bring him back. Right? Do you all think you need anything?
4 Because, well, let me finish one thing. As far as the windows
5 go, I do think that they've done a lot. Like I think they've
6 gone through this process. I think they've you know; they've
7 done the windows on either side. They've done the little cut
8 out windows. They've dug down. You know, they've gotten rid of
9 the balconies. I mean, if Mr. Freeman, for future reference,
10 it'd be even interesting or would have been interesting to see
11 where you started and all the things you've changed to get to
12 this point. That's just for another application that you might
13 come forward. And for anybody that's listening, it's like, you
14 know, we were over here, and we've already made our way back to
15 here, right? And so that's actually quite helpful. So I don't
16 even know if I need anything else. That's why I'm trying to say
17 that before I ask my fellow Board members, do you all need
18 anything, or can we go have lunch?

19 ZC COMMISSIONER IMAMURA: No, I don't need anything,
20 Mr. Chairman. I would echo your sentiments, Mr. Freeman. This
21 is a great case study for students that even a small little ADU
22 takes two years.

23 CHAIRMAN HILL: Mr. Smith?

24 MR. SMITH: No, I know some of the information that you
25 shared just now, the (indiscernible) did not share his same

1 sentiments. That it would have been -- would be great for the
2 future if you would have shown those different iterations of the
3 design. But right now, I don't think I'm requesting anything
4 from this point.

5 CHAIRMAN HILL: Okay. All right. Then, Mr. Freeman,
6 I'm going to let you all go. I can't deliberate. I got to have
7 lunch. If you want to come back and see what happens, that's
8 fine, Mr. Freeman. But do you have anything you'd like to add
9 at the end?

10 MR. FREEMAN: No. Thank you for your time and for the
11 great weight and time that you're putting on our case. And I
12 take your feedback and critique strongly at face value. So thank
13 you, sir.

14 CHAIRMAN HILL: Okay. Thank you. All right. You guys
15 are going to close the hearing and the record. I say we take
16 lunch and then come back and deliberate or see where we are. I
17 got to. So let's say go ahead, like, let's try for 2:30. I got
18 to go somewhere and get it and eat it. Let's try for 2:30. Okay.
19 Thank you. Bye.

20 (Pause.)

21 CHAIRMAN HILL: Oh, hey, Mr. Moy. And if my fellow
22 commissioners are still there. Can you hear me?

23 MR. MOY: I am here.

24 CHAIRMAN HILL: Mr. Moy, we're probably going to, we
25 might come back with that case again the one that we -- next

1 because we are -- what did we -- there's one we were going to
2 bring back, right?

3 MR. MOY: Okay. So you're going to come back with the
4 Bergerson case after the lunch break?

5 CHAIRMAN HILL: Which one? No, no, no. We're coming
6 back with -- coming back -- we're coming back with 20856 to
7 deliberate or see where we are and then we're going to go to what
8 is it, 20882. That was the one, right? Yeah. So they had to
9 like, they were trying to get we're trying to get them out by
10 4:00 or something. Okay. So we'll come back. So you might if
11 you want to find them or contact them, we'll probably be with
12 them at around like 2 I mean close to 3:00.

13 MR. MOY: Okay. Well, we'll get in touch with them.

14 CHAIRMAN HILL: Okay. Thank you. Thank you all. Bye.

15 (Whereupon, there was a brief recess.)

16 CHAIRMAN HILL: All right everybody. Mr. Moy, are you
17 there?

18 MR. MOY: Yes.

19 CHAIRMAN HILL: You can call us back.

20 MR. MOY: Okay. I can call you back. All right. The
21 Board has returned to its public hearing session after a quick
22 lunch recess, and the time now is at about 2:37 p.m.

23 CHAIRMAN HILL: Okay. Welcome back, everybody. Just
24 looking up -- all right. So we're here to deliberate 20856 after
25 a relatively lengthy public hearing. So again, these are special

1 exceptions to allow an accessory building in the rear of this
2 property, accessory building structure, and I have looked at the
3 shadow studies. I've looked at the windows in terms of, again,
4 privacy use and enjoyment of neighboring properties shall not be
5 unduly compromised. And have come to the point where I guess I
6 am going to agree with the Office of Planning's analysis and that
7 of the Applicants argument as to how they're meeting these
8 particular criteria for any kind of undue impact or if it's in a
9 proposed harmony and if it would tend to affect adversely the use
10 of neighboring properties.

11 I am a little bit, not concerned, apprehensive. I
12 mean, it seems like a larger property than it seems it seems like
13 a particularly large massing in comparison to some property or
14 some projects that we have approved, but I don't think that is
15 -- it is to the nature of it being necessarily undue. I do take
16 into account that the ANC has gone through this, and they have
17 had an opportunity to work with the neighborhood and also agree
18 with that this would not necessarily be undue. Now whether or
19 not the, you know, the ANC are zoning experts, I don't think
20 they're zoning experts, but I think they see a lot of zoning
21 cases. Whether or not these particular new commissioners I mean,
22 I know some of the commissioners are older or have been around
23 for a little while, so they've seen a lot of zoning cases.

24 Some of my concern comes to the fact that there's not
25 an alley back there, actually. Right, that it is -- they are

1 just going to end up backing up on to other properties back there
2 without the alley. I guess since this has been a two-year process
3 for the Applicant herself and that they have revised their initial
4 design to accommodate the concerns of the immediate neighbors,
5 such as the balconies were removed on previous plans. They are
6 actually putting in small windows, you know, up higher windows
7 in some of the rooms to prevent this from looking into the
8 backyards of the adjacent properties. I'm not as concerned with
9 the front window because I think that that can be mitigated with
10 draperies or even from the other perspective, you know, if we're
11 about their, I'm sorry, the other neighbors bathroom window, you
12 know, putting some draperies there on the window, if that were
13 something that it was a concern of the neighboring property.

14 But again, coming down to whether or not I think it is
15 undue. I guess I would be curious as hearing my other Board
16 members. I mean, I'm a -- I'm a little -- I'm convinced, but
17 I'm wary of the property. I don't know what to say. I'm on the
18 fence on this one, you know what I mean, and I know that the
19 Office of Planning has given their recommendations. I would
20 agree with the Office of Planning's recommendations. I would
21 agree that the Applicant has tried, as I've said I'm repeating
22 myself, do things to mitigate privacy to the adjacent properties.
23 And I rely on the ANC. That the ANC also has given their thoughts
24 on this property. And I do appreciate the testimony that has
25 come forward from other members of the public, including the

1 previous commissioner to this SMD, who I know and respect and
2 think that we have now had a very lengthy hearing that this isn't
3 necessarily something just there's just that the Board whipped
4 through and you know, did not take into consideration everything
5 that was put forward. So I don't think -- I think that this has
6 been given the due diligence necessary for me to get to the point
7 where I'm voting in favor, and I will turn to my other Board
8 members on their thoughts. If I might start with you, Mr. Smith?

9 MR. SMITH: So given that (indiscernible.)

10 CHAIRMAN HILL: You're -- you're garbled, Mr. Smith.
11 I don't know.

12 MR. SMITH: Can you hear me now?

13 CHAIRMAN HILL: No. You're still kind of garbled.
14 Maybe jump off and jump back on.

15 MR. SMITH: Okay. Let's try that.

16 CHAIRMAN HILL: You're pretty garbled, too.

17 MR. SMITH: Okay.

18 CHAIRMAN HILL: You were garbled before, but you
19 weren't talking that much.

20 MR. SMITH: Come back to me.

21 CHAIRMAN HILL: Okay. Dr. Imamura?

22 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I
23 hope I haven't been talking that much either. But I think to
24 your point, we have deliberated this in earnest and given it
25 earnest consideration, everybody's input. These aren't easy.

1 Zoning isn't perfect. The public knows this. It's important
2 that the public participate in the process to derive a better
3 outcome. Based on my experience, it seems as if the Applicant
4 and the architect have reached, essentially the last iteration
5 that they possibly can to meet the program that the client wants
6 to implement to. So it's a lot for an accessory unit. I'm not
7 sure that there's any other design solution that's there.

8 I will say that to the ANCs point is that we do live
9 in an urban environment. The property is 20 feet from another
10 the adjoining or abutting neighbor. I think there are things
11 that can mitigate those privacy views. Light and air are not
12 really impacted by this. Right? And views are not something
13 that we can -- that are protected. I am concerned about the
14 trees and the critical root zone. I don't think that the
15 architect has flushed that out. The -- also the storm water is
16 an issue. I don't think they've resolved that either.

17 However, we are here to evaluate special exception that
18 they put forth, and I think with great reluctance I will vote in
19 favor of this as well, placing great weight on OP's analysis,
20 great weight with the ANC, and DDOT's report as well. I think
21 what's been, the record and what's been put before us, it's
22 difficult. It would be difficult to deny this application. So
23 I'll turn it over to Board Member Smith.

24 MR. SMITH: Okay. Can you hear me now?

25 CHAIRMAN HILL: Yes.

1 MR. SMITH: Okay. So you know, listening to the
2 testimony that I've heard from my Board members, and I share all
3 the same concerns and reservations that all of you share and not
4 decorate some of them as part of the dialog with the Applicant.
5 This is, you know, a fairly sizable accessory dwelling given the
6 size of the lot and size of the homes, relative to the size of
7 the lot and homes. But the question here is, is it undue? And
8 I do agree with Chairman Hill in that I do not believe that the
9 size of itself is undue. It would have been great to see those
10 previous iterations or different designs, but it seems that the
11 Applicant has attempted to meet the intent and the spirit of the
12 special session criteria for a building of this particular
13 nature. They sunk in the building to reduce the height as seen
14 from above grade, and a fair amount of the building is below
15 grade. They removed a porch like feature and then they
16 incorporated a mansard roof in order to again reduce that massing
17 from the -- as seen from the public right away. And I would
18 remind you that it is not as easy to see it from the public right
19 away. So I believe this met the intent of the -- of some of the
20 provisions under E 5201.4, such as A) related to light and air.
21 This building isn't built up to the property lines, and they have
22 reduced the massing, and put in their mansard roof in order to
23 allow for as much light and air as possible. And I just stated,
24 I do believe that it meets the criteria of E 5201.49(c) as it
25 relates to it not being undue upon the character, scale, and

1 pattern of houses along the street if there was an alley.

2 I do sympathize with some of the concerns that are
3 raised by the adjacent property owners regarding privacy. I do
4 believe that the Applicant has attempted to meet or address some
5 of the issues there are raised by the neighboring property owners
6 by putting in smaller inset windows on the east and west facades
7 of the building. There are some building code concerns where
8 they do need to have larger windows in areas that aren't directly
9 fronting on a property line or in that particular nature, that
10 particular way, could they reduce some of those privacy concerns?
11 Yes. And I think that that will be addressed by appropriate
12 window treatments and draperies to address those concerns related
13 to privacy of whoever may be within this structure if it is
14 constructed and vis-à-vis the adjacent property owners.

15 So I do believe that it has, by and large, met the
16 intent of that section as well as Subtitle X 901, the general
17 special exception standards. I do believe that it's mostly in
18 harmony with it is in harmony with the purpose of the zoning
19 regulations. The zoning regulations do contemplate the creation
20 of accessory dwelling units within this particular zone. And as
21 stated by my fellow Board members and stated by the ANC, this is
22 an urban environment that does allow for accessory dwelling
23 units, and I do believe that the Applicant has sufficiently
24 demonstrated that they've met it. So I will give great weight
25 to OP staff report, acknowledging that ANC is also in support,

1 and will support the application.

2 CHAIRMAN HILL: Thank you. All right. I'm going to
3 make a motion to approve Application No. 20856 as amended self-
4 certified application to Subtitle X 901.2 for special exceptions
5 under Subtitle E 5201 from the accessory building area
6 requirements of Subtitle E 5003.1 400 square foot maximum
7 permitted, 655 square foot proposed. The rear yard requirements
8 of Subtitle E 5004.1 to allow the location of accessory structure
9 in a private rear yard and under Subtitle U 301.1c2 to allow use
10 for an accessory building as a dwelling unit, oh no, sorry and
11 under Subtitle U 301.1c2. And asked for a second, Mr. Smith?

12 MR. SMITH: Second.

13 CHAIRMAN HILL: The motion made and seconded. Mr. Moy,
14 would you take a roll call, please?

15 MR. MOY: Thank you, Mr. Chairman. When I call your
16 name, please respond to the motion made by Chairman Hill to
17 approve the application for this amended relief. The motion to
18 approve was second by Mr. Smith.

19 Zoning Commissioner Dr. Imamura?

20 ZC COMMISSIONER IMAMURA: Yes.

21 MR. MOY: Mr. Smith?

22 MR. SMITH: Yes.

23 MR. MOY: Chairman Hill?

24 CHAIRMAN HILL: Yes.

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

1 to two. And this is on the motion made by Chairman Hill to
2 approve. The motion to approve was second by Mr. Smith. Also
3 in support the motion to approve is Zoning Commissioner Dr.
4 Imamura, and of course Mr. Smith, Chairman Hill. No other members
5 participating. Motion carries, sir, three to zero to two.

6 CHAIRMAN HILL: Thank you, Mr. Moy. And you may call
7 our next one when you get a chance.

8 MR. MOY: Okay. So the next case before the Board is
9 returning to Application No. 20882 of Holly and Greg Porter.
10 I'll reread the caption for ease. This is an application as
11 amended self-certified application pursuant to Subtitle X,
12 Section 901 and Subtitle D, Section 5201 from the accessory
13 structure building area requirements Subtitle D, Section 5003.1.
14 Property located in the R-1B zone at 5113 Sherier Place, N.W.,
15 Square 1418, Lot 835. And again, this was heard earlier in the
16 day. The Porters are returning.

17 CHAIRMAN HILL: Thank you. All right. Mr. Porter, can
18 you hear me?

19 MR. PORTER: Yes, I can.

20 CHAIRMAN HILL: Okay. Welcome back. If you want to
21 see how this, and I forgot to mention how this works. You'll
22 have a chance to give your presentation. Then everyone will have
23 an opportunity to ask questions of you. Then the party status
24 person will have an opportunity to give their presentation.
25 Everyone will have an opportunity to ask questions of them. Then

1 the Office of Planning and all D.C. agencies will go forward.
2 Everyone will have an opportunity to ask questions of them. We'll
3 see if we have any further comments from or testimony from the
4 public. Then, Mr. Porter, you will have an opportunity to give
5 rebuttal. And then there is a conclusion as well. There will
6 be an opportunity for the party status to give comments upon
7 rebuttal, and then there will be again, the conclusion. And so
8 that all being said, Mr. Porter, I'll put 15 minutes on the clock
9 just so I know where we are, and you can begin whenever you like.

10 MR. PORTER: Okay. I guess I'll start with that as we
11 outlined in our letter to you, Mr. Chairman, dated May 8, 2023,
12 that we complied with all the notice requirements for a hearing
13 of this type. And we sought and obtained the consent of the ANC
14 see who submitted two letters that are part of the record before
15 the BZA. And we have had numerous conversations with our
16 neighbors over the past several months to address their concerns
17 or answer questions in the like. So we feel that there has been
18 all the notice required under law.

19 And as for the project itself, I think it's important
20 to emphasize that we have the right to build an ADU as of right.
21 The District of Columbia encourages ADUs because it wants to
22 encourage density. And the only question is whether or not we
23 can get a special exception from the square footage, which is
24 given the size of our lot, we are capped at 450 square feet and
25 we're seeking an increase to 660 square feet.

1 As to the location of the proposed ADU, we are
2 constrained in large measure by two natural forces, if you will.
3 We have heritage trees, and we can't impinge on the critical root
4 zones of those heritage trees. So we can't put an addition on
5 the back of our house, for example, to expand backwards from the
6 existing structure so we can go up and build a rather large house,
7 which is something that's happening throughout our neighborhood.
8 I think the cap on the height of the roof would be about 40 feet
9 above grade, but that would disturb the streetscape. All the
10 houses, at least, to either side of us are rather modest in size
11 and we don't want to loom over them. So we're trying to keep
12 our main building in line with our neighbors' buildings and the
13 various sightlines. And so given the fact that we can't put on
14 an addition, and we don't want to go up and disturb the
15 streetscape, really, the only solution for us is an ADU.

16 A second sort of national force that is driving this
17 is the stormwater management. We have to put a bio catchment
18 area, I think we heard a little bit about that from the embassy
19 of the Netherlands earlier today, to capture the stormwater
20 before it runs onto our property. So that's going to be behind
21 the ADU. So we have to have enough of a buffer between the rear
22 property line and the ADU to accommodate both planting of trees
23 for screening and the bio catchment area. So to accommodate that
24 and to be outside the critical root zone we've got about two feet
25 of wiggle room one way or the other max. And so that's why this

1 site is where it's located.

2 As to the impact on neighbors, our architect, I'll
3 introduce Mr. Omar Hakeem in a moment, too, to kind of walk
4 through the design and how it affects the sightlines, but we --
5 the roof of our proposed ADU is approximately three feet below
6 the sill of the Marovic's window that they look through. So they
7 will never really be looking at the back of our building unless
8 they look straight down. And we met with the Marovics today or
9 Marija Marovic twice today after the hearing was rescheduled for
10 this afternoon to see what we can work out and as to the privacy
11 concern of them being able to look into our rear window versus
12 and vice versa, we have proposed a change to our window design.
13 So the windows, one of the windows, is slightly different. And
14 in addition, we've proposed a horizontal, I don't know, overhang
15 if you will, that will go over the windows, which means that
16 it'll be impossible for anyone to see into their respective
17 windows. We won't be able to see into theirs and they won't be
18 able to see into ours. So I think that will accommodate the
19 privacy concerns that the Marovics have expressed.

20 They have some other concerns about construction
21 management. It is our feeling that the D.C. code more than
22 adequately addresses the needs of neighbors with respect to
23 construction. D.C. has a very strict environmental controls for
24 a site of this nature. We're going to have to put in a mitigation
25 plan for you know, runoff and construction debris and all that.

1 It's going to be inspected and approved, and we see no reason
2 why we have to go above and beyond what's required by code. As
3 to, you know, the working day, so to speak, and the noise of
4 construction, I don't think there's a whole lot we can do about
5 that. Nobody wants to live near a construction site. I'm sorry
6 that it's disturbing and disruptive, but you know, if that if the
7 test were I'm annoyed by the construction next door, nothing
8 would ever be built. So D.C. code regulates, you know, the hours
9 of work. It's seven and seven p.m. during the week. So no work
10 on the weekends absent special permission. So I think there's
11 really no need to layer on any construction management agreements
12 into this because I think the D.C. code more than suffices.

13 I think with that, I'm going to hand it off to Mr.
14 Hakeem so he can walk you through the design and the lines of
15 sight and the like. And we would propose that he -- we would
16 submit our new design as part as a new exhibit, and we would ask
17 that the under Section 5201.4, the Board of Zoning adjustment may
18 require special treatment in the way of design, screening, et
19 cetera, and we would ask that the Board accept this proposed
20 design under that provision of the Code as a condition of granting
21 the exception, and that would give the Marovics comfort that this
22 is sort of locked in, written in stone, so to speak. And with
23 that, I will pass it on to our architect.

24 CHAIRMAN HILL: Mr. Porter, can you submit that to us?

25 MR. PORTER: Yes, Mr. Hakeem will do that.

1 CHAIRMAN HILL: Mr. Hakeem, can you drop that, I mean,
2 I don't know how fast, Mr. Moy, you guys can get that up to the
3 Board, but if you could, while this is going on, that would be
4 helpful.

5 MR. HAKEEM: Mr. Chairman, I submitted that about 45
6 minutes ago. I sent it to Mr. Robert Reed and a few others, as
7 well as emailed it to --

8 CHAIRMAN HILL: Okay. Great. Yeah. Mr. Moy, just let
9 us know if you can't find it.

10 MR. HAKEEM: I also have it up on my screen if it's
11 faster for you all.

12 CHAIRMAN HILL: Not able to share.

13 MR. HAKEEM: Okay.

14 CHAIRMAN HILL: Yeah.

15 MR. HAKEEM: No problem.

16 CHAIRMAN HILL: So go ahead, Mr. Hakeem.

17 MR. HAKEEM: Well, you know, while you guys are getting
18 up the presentation we met with Marija Marovic.

19 CHAIRMAN HILL: Which presentation did you want? Okay.
20 He's pulling it up. Okay. Great. Thanks.

21 MR. HAKEEM: Okay. Great. So I'll move through this
22 really quickly so we can preserve your time. Just really briefly.
23 Obviously, the view of --

24 CHAIRMAN HILL: Which exhibit is that Mr. Hakeem?

25 MR. HAKEEM: I, I just sent this a little while ago as

1 it's updated.

2 CHAIRMAN HILL: Mr. Young. Is that in there or you
3 don't know yet?

4 MR. HAKEEM: This updated PDF presentation. The
5 updated BZA presentation.

6 CHAIRMAN HILL: If staff could drop that into the record
7 so we can all look at it at the same time. That'll be helpful.
8 But go ahead, Mr. Hakeem.

9 MR. HAKEEM: Okay. Thank you, Mr. Chairman. This is
10 the front of the house. Next slide, please.

11 This is the backyard looking at the condo building.
12 Again, there are four stories, four occupied stories on the back,
13 as well as kind of a sub grade area that's, you know, somewhat
14 visible. You're seeing here the bamboo that's kind of slightly
15 folded over as well as some adjacent trees. Next slide, please.

16 This is the proposed site plan. This has been site
17 plan kind of basically since day one. It shows the location of
18 the ADU, which is ten feet from the rear property line. And I
19 have some additional dimensions on the section that I have
20 provided. Next slide, please.

21 Obviously, this shows our kind of lot setbacks and what
22 basically outside of building an ADU we are allowed to be building
23 and showing the rear yard setback, side yards, and front yard
24 setback, which is set by adjacent properties, adjacent buildings.
25 Next slide, please.

1 These are the, these two circles represent the area of
2 the critical root zone on of the two heritage trees. There's a
3 large maple and a large poplar that made DDOTs critical, I'm
4 sorry, heritage tree designation. So that shows the critical
5 root zone of the trees. Next slide, please.

6 In order to meet the test of impacting less than 25
7 percent of the critical root zone of the trees, namely the poplar
8 that's further back -- that's the one that is further back -- we
9 would need to be -- we would need to build somewhere in the purple
10 area of this range of this lot if we're building it an ADU.
11 Obviously, because we're not abutting an alley, we can build
12 further back. The 12-foot rule does not seem, does not apply to
13 my understanding. So this is the area that's kind of allowable
14 in our understanding and interpretation of the Code to build an
15 ADU. Next slide, please.

16 What we are doing to address the major stormwater
17 concerns that we have coming from the adjacent property is
18 building a retention area in that light blue zone and then
19 providing a drainage system to get the water kind of bypassed the
20 low point that is the back of the Porter's yard and out to the
21 street. So the blue, that basically represents an area that we
22 designated that we're going to need to be dealing with this
23 stormwater. Next slide, please.

24 We're also going to be planting a landscape buffer
25 that's been in the conversation from day one. The bamboo will

1 be very difficult to keep because we need to install a stormwater
2 system that means trench drains, that means excavation and the
3 bamboo being an invasive species and running into the Porter's
4 yard. That's causing a problem. The other neighbors have said,
5 Great, Greg, Holly, good. We hate the bamboo. So we're trying
6 to deal with that and respect their wishes as well. Next slide,
7 please.

8 Next slide, please.

9 Okay. Great. So this is a big, heavy rain at the
10 Porter's property. Looking at the back of the property, you can
11 see how deep water is 8, 10, 12 inches deep in some areas. And
12 when Greg was talking about the basement flooding, this is
13 obviously a lot of water right there. This is -- on the right
14 is an image of the back of the condo building. You can see pretty
15 clearly where the water's moving. There's a lot of runoff
16 erosion. Those stairs are about to fall off just given the amount
17 of undercut area underneath them. And obviously the five or six
18 sandbags that are back there, you know, are really just basically
19 holding the dirt against the building. And you can also see at
20 the top of this image the bottom of some of the windows of units
21 five and six and other basement units. Next slide, please.

22 I don't need to show this to you guys, light, air,
23 privacy. Next slide, please.

24 Okay. Here's a sectional view of the back of the ADU
25 showing the entire height of the building and our relationship

1 to it. This is obviously kind of small on the page. I just
2 wanted to show you the kind of height relationship the Porters
3 want to see, the back of a basically five story brick building
4 as much as the other residents want to see an ADU, probably less
5 so. The image on the left basically shows the windows and kind
6 of the height at the back plain of the ADU just to show you all
7 where that would be sitting in the backyard and show that it is
8 kind of sitting considerably below the rest of the building.
9 Next slide, please.

10 So this is an updated image. Everything in red is what
11 I've updated since this morning, Mr. Chairman. We basically are
12 proposing a horizontal kind of what is normally a shade screen,
13 but in this case, it'll act as a privacy element that's showing
14 a six-foot-tall person standing at the back wall of the building
15 inside looking out. And you can see the maximum view line sits
16 considerably below the potential, the height of a -- of a window.
17 So making a viewing out of that window and seeing anything besides
18 first the trees, then a fence, then the blank brick wall of the
19 condo building essentially impossible.

20 MR. PORTER: I would add, it's important to know that
21 --

22 MS. PORTER: There are no windows below that one window,
23 right. So that bottom floor has no windows in it?

24 MR. HAKEEM: Yeah, that's correct.

25 MR. PORTER: It's also important just to point out that

1 the height of the roof of the ADU is a little over three feet
2 below the bottom of the sill of the window at the Marovics so
3 there's no way that the ADU can be invasives -- invasive from a
4 light, air, or shading perspective, given the distance from this
5 structure and that it's below the window.

6 MR. HAKEEM: Thank you. And in the tone, in the blue
7 tone, you can see kind of the height of the structure we are
8 building. The lighter blue tone you're seeing what's buildable
9 by right. I really feel like we have in advance of this hearing,
10 worked with the neighbors to address their concerns, then got
11 back on the phone twice and I scrambled, scrambled, scrambled to
12 do updated drawings, send that back to you all. So I hope that
13 the Commission sees that we are trying to make the accommodations
14 and be neighborly and meet the requirements of D.C. Code. So
15 next slide, please.

16 Again, forgive the quality of this image. I'm a little
17 embarrassed to present it, but I was working very quickly to show
18 a three-dimensional view of the horizontal projecting planes with
19 a series of trees behind the -- behind the ADU, which we are
20 planning to install and act as a privacy screen and landscape
21 buffer going forward. Next slide, please.

22 Quick shading studies showing that back of the condo
23 building, in fact, is mostly shading. In most situations, the
24 Porter's property versus the other way around to bring up the
25 topic of light. Whether or not we will be affecting the light

1 of the condo building, it will be the opposite. Next slide,
2 please.

3 MR. PORTER: Just to -- and that's mainly because of
4 the two heritage trees that have both had quite massive canopies.

5 MR. HAKEEM: Right. So from the street, I've estimated
6 the location of the ADU, so you won't be able to see it from the
7 street at all. Next slide, please.

8 Just a quick comparison of kind of, you know, a
9 buildable by right scenario and then what we're proposing, not
10 that critical because we're not proposing to build a two-story
11 structure. Next slide, please.

12 So what we're able to build by, right, which is that
13 450 square foot on the ground plane. Next slide, please.

14 What we're asking for is 210 square feet. Since we're
15 not building up, we're asking to have a small accommodation to
16 build on the side of the 450. Next slide, please.

17 Mr. Young, you can probably skip to the last image in
18 this presentation. I just wanted to say that I quickly updated
19 the elevations, the rear windows. So on this rear window, rear
20 elevation on the right side of this image, the window on the left
21 side of the ADU has shrunk, lowered considerably. And we kind
22 of have them both at that height so that the horizontal plane
23 that we're proposing, those that privacy shade will be effective
24 at getting, you know, blocking the angle of the view from anyone
25 in or out into the Porter's structure. So thank you for having

1 me on this topic.

2 CHAIRMAN HILL: Thank you, Mr. Hakeem. I'm just trying
3 to see where that is. Okay. I got the update architectural
4 plans. Okay. I'm just looking for -- the update architectural
5 plans, that's where you have everything that I think you just
6 walked us through them.

7 MR. HAKEEM: That is correct.

8 CHAIRMAN HILL: And then I see. Okay. I see the
9 windows in a404 I think it is. That right?

10 MR. HAKEEM: Which -- I'm sorry that there's a point
11 --

12 CHAIRMAN HILL: It says BZA set. It says BZA set a404.
13 And I'm going to say it's at Exhibit 71, I think.

14 MR. HAKEEM: Yes, that's correct, sir. The -- you can
15 see the original condition and then the condition that we modified
16 it to.

17 CHAIRMAN HILL: Okay. And then also, what's reflective
18 of the discussion is in a403?

19 MR. HAKEEM: a403? 402? So the presentation that I
20 just uploaded has the PD, has the rear, has all of the elevations
21 of the building that are updated. So a403 is the correct
22 elevation of elevations of the front and the rear and a402 is
23 the correct elevations of the sides. I didn't changed anything
24 on the sides, but I just wanted you to have all of the elevations
25 in one place.

1 CHAIRMAN HILL: No, that's great. Okay. All right.
2 Okay. Does anybody have any questions of the Applicant meaning
3 my fellow Board members first? Go ahead, Dr. Imamura.

4 ZC COMMISSIONER IMAMURA: No questions. Just a comment
5 for Mr. Hakeem and the Applicant. So the updated plans, these
6 are -- a lot of the images that you included weren't part of the
7 original record, right? Some of these overlays that you provided,
8 Mr. Hakeem, in terms of like the critical root zone and all of
9 those were very effective illustrations. These are new drawings
10 that are in the record, right?

11 MR. HAKEEM: Those were updated --

12 ZC COMMISSIONER IMAMURA: Because I didn't see those
13 before.

14 MR. HAKEEM: Those were updated -- those have been up
15 in there up -- uploaded for a few weeks, for a couple of weeks
16 now. We did, through the process of meeting with the Office of
17 Zoning, the Office of Planning, and our Department of Building
18 Zoning Administrator to clarify the relief. And so I did provide
19 some additional pages on that presentation when we did that.

20 ZC COMMISSIONER IMAMURA: Okay. All that's to say that
21 I think a lot of this, about that you were able to practice the
22 good neighbor policy with Ms. Marovic and work out a solution.
23 I had a hunch that there would be some sort of horizontal louver
24 of some kind to help with that. I personally felt that the
25 privacy was the other way around. That somebody from a higher

1 elevation could look down into that room so. But it was very
2 nice of the Porters to work with Ms. Marovic on that.

3 And my comment, Mr. Hakeem, is I think what I didn't
4 find was a topography, like the grading plan in there or your
5 stormwater management plan originally and all that would have
6 been very helpful. And most importantly, a section, just because
7 that's, that's the issue here before us is the height of those
8 windows, the privacies, and views. And so I just would have
9 liked to have seen a fuller set and more information. So I'm
10 certain that you may come before the BZA or the Zoning Commission
11 in the future. And so I would just ask that, you know, be sure
12 to include a more complete and more fuller set of drawings that
13 we can analyze and evaluate. But otherwise, I think this is very
14 effective in illustrating what your resolution was. So with
15 that, Mr. Chairman, I yield back. Thank you for the airtime.

16 CHAIRMAN HILL: Thank you. Mr. Smith, do you have
17 anything at this point?

18 MR. SMITH: Not at this point.

19 CHAIRMAN HILL: Okay. Ms. Marovic, do you have any
20 questions at this point?

21 MS. MAROVIC: No, I did ask a couple of questions as
22 we were talking this morning, which I think are in line with Dr.
23 Imamura's questions about the actual height and the -- but I
24 don't even know how to figure that out. We had that conversation,
25 and I feel very much, much better after the conversation we had.

1 But at the moment, I don't even know what it would be the solution
2 to kind of understand the measurements properly, but I think
3 we'll come to that later.

4 CHAIRMAN HILL: Okay. So Ms. Marovic, do you have any
5 -- would you like to give us a presentation?

6 MS. MAROVIC: Oh, sure, why not? As I prepared and I
7 think because I listened to your deliberation today and I maybe
8 wanted to address a couple of questions that were raised during
9 that deliberation in terms of how we and why are we versus others
10 more uniquely affected by this.

11 CHAIRMAN HILL: I'm sorry. I mean, you're I mean, Ms.
12 Marovic --

13 MS. MAROVIC: I don't have to?

14 CHAIRMAN HILL: Yeah, we already gave you your party
15 status, so that's okay.

16 MS. MAROVIC: Okay. Okay. Okay. Well, maybe I can
17 just show the presentation that I prepared and so that you can
18 understand where we stand at the moment with regards to a proposed
19 solution. The Porters --

20 CHAIRMAN HILL: I mean did you already -- I don't mind
21 you going there but did you already -- are you -- I'm pulling
22 up. It's the presentation that you submitted before, correct?

23 MS. MAROVIC: Yes.

24 CHAIRMAN HILL: Okay. Let me just pull that up here.
25 I think, Mr. Young, it is 46.

1 MS. MAROVIC: Yeah, pretty much the same. We can go
2 to the next slide and see the back of our building. And this is
3 what you can see through our window. And why this is important
4 is because these windows are very large windowpanes, and we are
5 not really living very far from them because that is the access
6 of light. So we are actually living very close to these
7 windowpanes. So we actually see a lot more than would normally
8 be the case. We can move to the next.

9 So this is the relationship between our window and the
10 Porter's property. To the next please. Yeah.

11 And this is what it looks like. So you will see there
12 are only basically two units that are affected directly by this,
13 simply because the height, the difference of height between the
14 windowsills and what the Porters are planning to build is not so
15 large. As you go higher, you'll look at that much sharper angle
16 and you cannot actually see the side of the building, which is
17 not the case for the ground floor where we are. And this is unit
18 six and unit five. Next slide.

19 It's pretty much the same. But just to explain how we
20 can actually see something went wrong with this. Sorry about
21 that, but we can actually see the pool through during the original
22 window looking from top down from our windows. Next.

23 Oh. I don't know why this is upside down. This must
24 have been --

25 CHAIRMAN HILL: It's okay. We understand.

1 MS. MAROVIC: Yeah. Okay. I don't know to what extent
2 you can clearly see from here, but basically, when we are five
3 feet away from the windowsill, we can still pretty well see
4 directly into the pool window of the proposed structure. And
5 when we get closer, we can probably see under the same angle,
6 through the bottom of it. Next.

7 Okay. Yes. And this is just to point out that certain
8 measures were missing from the initial proposal, which is why we
9 couldn't fully understand what was going on and where the height
10 will be. And I think just to kind of revert to that, to our
11 conversation that we had previously with Porters is that there
12 is a slight difference in the measurement conducted by the condo
13 Board and the Porters. And I think that I didn't fully
14 understand, but I get a better understanding now where -- from
15 which point as it relates to our building, the Porters will start
16 building because I understand that the height of the of the
17 accessory unit is not going to be an issue. It will be lower,
18 but it going to be lower by three feet or one foot, is a little
19 bit different. And I think that actually doesn't make that much
20 difference because either way, we would be able to see directly
21 through their window simply because of the proximity of our condo.
22 Next.

23 Yeah, I think this was pdf and that is why it's kind
24 -- oh never mind. I think this is pretty much everything I had
25 to say just to explain, you know, from our vantage point what we

1 are able to see.

2 CHAIRMAN HILL: Okay.

3 MS. MAROVIC: I want to thank Porters and I absolutely
4 think the day they addressed; I hope that is because I just didn't
5 have enough time to analyze what they prepared today. But the
6 way they're addressing the issue, I think it's actually going to
7 help elevate our concerns that we will be able to see directly
8 into the pool window and with those extra, whatever you call
9 them, lids on the windows?

10 CHAIRMAN HILL: Yeah. You mean alleviate, alleviate?

11 MS. MAROVIC: Alleviate? Yes. Yes. So we are very
12 happy and very optimistic with that proposal. Yeah.

13 CHAIRMAN HILL: Okay. Okay.

14 MS. MAROVIC: Yeah. So there is only one issue that
15 it seems we will not be able to resolve, and that is the
16 construction management plan because we are so close to the
17 property, I think that we will be definitely affected by couple
18 of things there. And we wanted to include, to propose like a
19 standard construction management agreement between the parties
20 and the neighbors that would address some of the issues of noise.
21 And we completely understand that it is not possible to live next
22 to the construction site and hear no noise. It was just about
23 maybe limiting the hours from nine to five where the large
24 machinery can work, you know, understanding that from seven to
25 seven is allowed working time of the construction site. But at

1 least to kind of make that a little bit more precise, to
2 understand and to include some provisions on the damages of the
3 of the neighboring property. Again, because we are so close, and
4 a couple of other provisions and we understand. Yeah.

5 CHAIRMAN HILL: Okay. I don't know why I am having a
6 hard time -- Marovic?

7 MS. MAROVIC: Yes.

8 CHAIRMAN HILL: Marovic.

9 MS. MAROVIC: Marovic. It's fine. Don't worry. This
10 is not a first-time people are having a hard time.

11 CHAIRMAN HILL: That's okay , Ms. Marovic. Ms. Marovic,
12 what they said is accurate. That's all building code related.
13 And how, you know, construction, you know, their -- when times
14 go on. That's something that's handled by the Department of
15 Buildings. And you know, those are things that will be, that
16 are already been addressed in terms of what is the allowable
17 time. And so that's -- when the faster they get it done, also
18 by the way, the faster it's finished, you know, if they start to
19 move forward. So. Okay. Does anybody have any questions of
20 Ms. Marovic? Okay. I am going to turn to the Office of Planning.
21 Is the Office of Planning here?

22 MR. KIRSCHENBAUM: Good afternoon, Chair Hill and
23 members of the Board of Zoning Adjustment. I am Jonathan
24 Kirschenbaum with the Office of Planning. And we recommend
25 approval of the maximum building area special exception. And we

1 rest on our record. Please let me know if you have any questions.

2 CHAIRMAN HILL: Thank you. Thank you, Mr.
3 Kirschenbaum. Does anyone have any questions of the Office of
4 Planning? Okay. Is anybody here wishing to speak, Mr. Young?

5 MR. YOUNG: We do not.

6 CHAIRMAN HILL: Okay. Ms. Marovic -- Ms. Marovic,
7 just for the record, are you -- are you still technically opposed
8 to the project?

9 MS. MAROVIC: Not with the changes that were made,
10 though the changes were made in the past three hours. So I would
11 just need to review those changes and just check the uploaded
12 plans. And you know, Mr. Hakeem, I really do appreciate that
13 you worked so hard and so quickly to try to have something for
14 this. It's just technically, I didn't have a moment to go look
15 at the uploaded. But even with the -- with what they propose,
16 the changes, I'm not opposed. I just need to review them.

17 CHAIRMAN HILL: Okay. Well, I'll leave you the way you
18 are then and then, but take a look at the plans, as you said. I
19 mean, I think that everything that they said they're going to do,
20 they're doing, and they're putting in exhibit -- in exhibit 71
21 at a403 and a404 seems to be what will address your concerns.

22 MS. MAROVIC: Okay. Okay. I'll check them. I'll
23 check them. But yes, in principle, I am pretty satisfied with
24 them being open to address those issues. Yeah.

25 CHAIRMAN HILL: Mr. Hakeem, you're about to say

1 something.

2 MR. HAKEEM: I was just going to say to Ms. Marovic
3 that the images that I showed you before we jumped back in. Those
4 are the files that I uploaded just to be --

5 MS. MAROVIC: Okay.

6 MR. HAKEEM: You're trusting me. But like Mr. Hill
7 said, I'm -- those were uploaded, but what was on my screen. I
8 hit send and sent to these guys.

9 MS. MAROVIC: Yeah. Okay. Okay. No, I trust you.
10 It's just that it was all very tense. I just want to have a
11 moment. That is --

12 CHAIRMAN HILL: It's okay. No problem, Ms. Marovic.
13 All right. Give me one second, you guys. I'll be right back.

14 (Pause.)

15 CHAIRMAN HILL: Okay. I'm back here. Sorry if
16 everybody else has gone away. Okay. Ms. Marovic, Marovic,
17 Marovic -- So I'm trying to figure out Ms. Marovic, is again
18 the way this works is that if you are a party in opposition, it
19 will take -- there are different processes that the Board needs
20 to go through in order for it to move forward. It will take
21 longer. And I only say that because then that means that it will
22 take longer for you also to be resolved one way or the other. If
23 this is to work through. But I don't want you to feel as though
24 you're uncomfortable with what I'm about to say, which is that
25 you can remain a party in support, and you'll still get all of

1 the paperwork that everybody is giving. Or you can remain a
2 party in opposition, which means it's a whole another thing that
3 needs to happen with the Board in terms of processing. So the
4 reason why I'm asking this again, is if you want to take a little
5 bit of time to talk to -- I mean, from what I can see in what
6 they've submitted now with this, and I mean the horizontal thing,
7 right, that blocks that view, it would be impossible for you to
8 look in the window. Right? Or very difficult. Right? And so
9 that's what the plans we have now are. It's in com -- it's
10 Exhibit 71 at a403, an exhibit 71 a404. So. I'm asking you if
11 you want more time or are you now a party in support or are you
12 still a party in opposition or do you want more time?

13 MS. MAROVIC: I need maybe two days just to -- just or
14 a day, probably. I need to talk to the architect, just to have
15 a moment to look at the -- at the new proposal.

16 CHAIRMAN HILL: Okay. Let me see. I'll do this. All
17 right. Ms. Marovic, why don't we do this? Okay. I'm going to
18 leave the record open. Okay. But we only -- we only do this
19 once a week, and so we can have a decision next Wednesday. Okay.
20 Right. If you want to go ahead and talk with Mr. Hakeem or the
21 architect or whoever and understand what's going on and then let
22 us know whether you're a party in opposition or a party in
23 support. Okay?

24 MS. MAROVIC: Yeah. Yeah.

25 CHAIRMAN HILL: And that will change the dynamic. And

1 Mr. Porter and Mr. Hakeem, as you know, this will change the
2 timing for you. That's why I'm going through this extra hoop.

3

4 MS. PORTER: Question. Question. Is there any way you
5 can you --

6 CHAIRMAN HILL: One second, Ms. Porter. Give me one
7 second, Ms. Porter. Mr. Hakeem, you had your hand up.

8 MR. HAKEEM: Thank you. Ms. Marovic, I just emailed
9 you the drawings. And I'm wondering, Mr. Chairman, if it's
10 possible to allow Ms. Marovic and I to speak for a minute to run
11 through and then kind of -- I know you have another hearing after.

12 CHAIRMAN HILL: So Ms. Marovic, let me say this another
13 way. Right? I'll do this another way. I'm going to let -- we
14 still have three more cases. Okay.

15 MS. MAROVIC: Mm-hmm.

16 CHAIRMAN HILL: I'm going to let you go ahead and talk
17 to Mr. Hakeem and see if you feel comfortable with what your
18 position is, right?

19 MS. MAROVIC: Mm-hmm.

20 CHAIRMAN HILL: Either in support or in opposition.
21 Okay.

22 MS. MAROVIC: Mm-hmm.

23 CHAIRMAN HILL: I think it seems at this point that
24 given what I think I've seen, I don't -- can't speak for my other
25 Board members. This is -- this probably is going to move forward.

1 Right?

2 MS. MAROVIC: Mm-hmm.

3 CHAIRMAN HILL: And so I say that in that -- why am I
4 saying that. Yeah. Go ahead and talk to Mr. Hakeem. Okay.

5 MS. MAROVIC: Okay. I have a question.

6 CHAIRMAN HILL: Sure. Go ahead, Ms. Marovic.

7 MS. MAROVIC: Yeah. So what is -- so I need a moment
8 first, because, as I explained, it's been a lot of activity going
9 on for both of us. So I need a moment of a pause and just looking
10 at it, which I am happy to do right now. The second thing is
11 that what are the guarantees that the proposal is going to be
12 executed as proposed? And I would seek certain guarantees,
13 whether that daring to --

14 CHAIRMAN HILL: Okay. The plans that we approve are
15 the plans that must be built. Okay.

16 MS. MAROVIC: So in that sense, these are going to be
17 included in the record.

18 CHAIRMAN HILL: What's included in the record right
19 now, as I understand it, and Mr. Hakeem can show you this and
20 the way I will be making the motion, if this is to pass, is, I
21 will say, based on the plans in Exhibit 71. Based on the plans
22 Exhibit 71 and in specifically page a404 and page a403, which
23 address the horizontal blind and where the windows have now been
24 situated. Right? So those are the way that they will be built.
25 They have to be built that way because that's the way we're going

1 to approve them.

2 MS. MAROVIC: Okay. So that is what is important for
3 me. Again, I do understand, and I appreciate the need to get
4 this over with, but I also don't feel I need to be rushed that
5 much.

6 CHAIRMAN HILL: No, Ms. -- well, I mean, Ms. Marovic,
7 I'm just telling you right now, it could get approved right now.
8 I'm also trying to help you out. Okay? Like, we could -- we
9 could approve this right now. Right? And then you guys can go
10 figure out your own mess, and I can get back on with my day.
11 Okay. And so I'm trying to help. Okay? And so I'm going to
12 let you talk to Mr. Hakeem, okay? And I'm going to bring you
13 guys back at the end of the day again. Okay? And Mr. Hakeem,
14 if there's specific things that you think are specific to where
15 Ms. Marovic knows specifically where the plans are as to how
16 they're going to be built, that might be helpful to show Ms.
17 Marovic. Okay?

18 MR. HAKEEM: I will do so. And will I, just from a
19 process, will Mr. Reed be able to give me a call? Or how should
20 I know when to get back on?

21 CHAIRMAN HILL: Yeah, we can call you back and you can
22 just get on the phone, I guess. And I don't even know if I need
23 you necessarily, but yes, we can get you on the phone. That
24 would be helpful.

25 MR. HAKEEM: Yeah.

1 CHAIRMAN HILL: Do my fellow Board members have
2 anything to say about anything before we postpone this again at
3 the end of the day, because we're not closing it. Mr. Hakeem,
4 you had a question.

5 MR. HAKEEM: No. You'll be dealing with me and an 18-
6 month-old.

7 CHAIRMAN HILL: That's all right. Hey, this whole
8 Board is dealing with 18 year months olds a lot of the time, so.
9 Okay. And I mean, you people. I mean my people. All right. So
10 do my fellow Board members have anything to add?

11 ZC COMMISSIONER IMAMURA: Not right now, Mr. Chairman.

12 CHAIRMAN HILL: Okay. All right. Then we'll see you
13 guys again at the end of the day. Okay.

14 MR. MOY: Mr. Chairman?

15 CHAIRMAN HILL: Yeah. Go Ahead, Mr. Moy.

16 MR. MOY: Does Mr. Hakeem still have hard stop at 4:15.

17 MR. HAKEEM: He's good.

18 CHAIRMAN HILL: Sorry go ahead, Mr. Hakeem.

19 MR. HAKEEM: I'm going to go get my daughter, and then
20 I'm going to wait and make sure that I'm available to talk but
21 -- I am available until then.

22 MR. MOY: Okay. That's why I just want to be sure that
23 I didn't have a time restriction.

24 MR. HAKEEM: I appreciate it. Thank you everyone.

25 CHAIRMAN HILL: Okay. Okay. Great. And let me make

1 sure I'm clear. Yeah. Ms. Marovic, I guess again, go ahead.
2 And believe me, by the way, I went through a family issue
3 recently, and so it sucks that there's a lot of things going on
4 in your life. I'm sorry. And so you know, I'm just trying to
5 let you know that it seems as though everybody's trying to work
6 together. And so but if at the end of the day, you don't feel
7 comfortable, you know, don't feel pressured on my side. Okay.
8 Right? But it is going to make it all move smoother if everybody
9 agrees. Okay. But if everybody doesn't agree then everybody
10 doesn't agree so. Okay. But it has nothing to do with
11 construction management. I want that to be clear. I don't have
12 anything to do with construction management. Okay.

13 MS. MAROVIC: Okay.

14 CHAIRMAN HILL: Okay. Thank you all. We will see
15 you guys later. Bye-bye. Okay. All right. Okay. That's coming
16 back. All right. The next thing we got is whatever the next
17 thing we have, Mr. Moy.

18 You're on mute, Mr. Moy.

19 MR. MOY: I'm sorry.

20 CHAIRMAN HILL: That's better.

21 MR. MOY: Thank you, sir. The next case is Application
22 No. 20885 of Christian Creech. C-R-E-E-C-H. This is a self-
23 certified application for special exceptions pursuant to Subtitle
24 X, Section 901.2 for the following; Subtitle U, Section 320.2 to
25 convert an existing residential building into an apartment house,

1 Subtitle C, Section 711.11 from the access requirements of
2 Subtitle C, 711.7, Subtitle E, Section 205.5 to allow a rear wall
3 to extend farther than ten feet, and special exceptions pursuant
4 to Subtitle E, Section 5201 from court requirements of Subtitle
5 E, Section 203.1 lot occupancy requirement, Subtitle E, Section
6 304.1, and the rear yard requirements of Subtitle E, Section
7 306.1. Property located in the RF-1 zone at 1400 Montello Avenue,
8 N.E., Square 4059, Lot 29. The only preliminary matter here, Mr.
9 Chairman, is the Applicant waiving the filing deadline. That's
10 the 21 days for updated plans and their response to DDOT comments.
11 That's all I have for you.

12 CHAIRMAN HILL: Okay. If you could, please, Mr. Moy,
13 unless the Board has any issues drop into the record the items
14 that the Applicant is putting forward after the 24-hour deadline.
15 And I would like to look at those. Mr. Sullivan, if you could
16 hear me if you could introduce yourself for the record, please?

17 MR. SULLIVAN: Thank you, Mr. Chair and members of the
18 Board. Marty Sullivan with Sullivan & Barros on behalf of the
19 Applicant.

20 CHAIRMAN HILL: Who is here with you today, Mr.
21 Sullivan?

22 MR. SULLIVAN: The Applicant, Mr. Christian Creech, and
23 the architect Warren Wick, is here as well.

24 CHAIRMAN HILL: Your client looks a little bit like a
25 commissioner that I know. Let's see. Okay. Okay. Mr. Sullivan,

1 if you want to go ahead and walk us through your client's
2 application and why you believe they are meeting the criteria for
3 us to grant the relief requested, and among my fellow Board
4 members I've talked a lot today, so I'm not going to go first in
5 deliberations when we get to them. If we get to them. Mr.
6 Sullivan, please go ahead.

7 MR. SULLIVAN: Thank you, Mr. Chair. Mr. Young, if you
8 could load the PowerPoint, please. So the address is 1400
9 Montello Avenue. Next slide, please.

10 So here's a rendering -- see a rendering of the proposed
11 project. And this is in the RF-1 zone. It's currently a two
12 story plus the cellar single-family dwelling. Part of the plan
13 is to add a third story. Now, the third story is all a matter
14 of right. And the accessory building, the existing accessory
15 building, is going to be rebuilt. It'll be a little larger and
16 it'll be connected to the principal structure by way of a
17 connecting addition, and you'll see in a photo later on there's
18 not much room between the two buildings as it is. And this
19 requires one, two, three, four, five, six areas of relief. But
20 almost all of this relief is a function of just the cellar level
21 addition between the two buildings. Next slide, please.

22 We have the support of ANC 5D. They have not filed
23 their letter yet. I've been in communication with them today and
24 they're working on it. So they're going to get it in. I don't
25 know if they'll get it in time for the hearing. I just told them

1 in the email that I would suggest that the Board leave the record
2 open to receive that at some point. We have the support of the
3 Office of Planning except for the court relief. And on that
4 point, I think we have a change that we could propose. I don't
5 think the court relief issue that OP has raised relates exactly
6 to the light and air or privacy issues. It's more of a building
7 code or a maintenance issue, and the Applicant is willing to
8 agree to put in some sort of doorway from their unit out to that
9 so that can -- it can be maintained. And I've communicated with
10 Mr. Jesick from the Office of Planning, and I think that might
11 resolve their objection to the court relief. Again, DDOT had
12 several public space related comments, and we thought it'd be a
13 good idea to make some changes before the Board looked at this.
14 So that was the reason for the late filing. There were changes
15 made in response to that. Next slide, please.

16 Okay. So the relief, lot occupancy, we'll be asking
17 for 70 percent only on the cellar level. All other levels, the
18 three stories won't exceed 45 percent. Rear yard because we're
19 connecting the two buildings and it's a single building. Now our
20 rear yard is only a two-foot setback. Ten-foot rule. We will
21 be going 39, almost 40 feet past the furthest great wall of the
22 neighboring building. And again, that's only on the cellar level.
23 Not any of the first three stories. Court width, we're creating
24 a court as part of this addition that wasn't there before. And
25 it's a closed court. And we would need relief for that because

1 it's a three-unit building, if it was a two-unit building or a
2 single, there would be no minimum court width. It's a conversion.
3 So we're asking for U 320 conversion to three units per the 900
4 foot rule. And alley center line back, there is a 12 foot center
5 line setback for vehicular entrances to any building that has a
6 parking space. This is separate from the rear yard requirement
7 of a seven and a half foot setback.

8 There's also, and I must admit I don't understand the
9 purpose of this requirement, but it's a ten foot height
10 requirement for the proposed garage. And I don't think any
11 residential garage ever has that height. So we are asking for
12 that relief as well, and that falls under the same provision, the
13 center line set back. So we're asking for two feet of relief.
14 We are two feet inside the property line, and it's a 16 foot wide
15 alley. So there's a good bit of space there to get in there. We
16 have a turning diagram for that. Next slide, please.

17 Okay. So here's the photo. Looking down, you'll see
18 the opening between the existing accessory building and the
19 principal building right there. Next slide, please.

20 And there you get a better view of the space right
21 there. And I think I'll turn it over to the architect now to go
22 through his photos and his plans. Warren?

23 CHAIRMAN HILL: You maybe on mute.

24 MR. SULLIVAN: Warren are you there? I could probably
25 get through the plans if he's -- if he's having technical

1 difficulties.

2 CHAIRMAN HILL: Oh, I see. He seems like he's trying.

3 MR. SULLIVAN: And Christian is here as well. He can
4 talk about this, so why don't we start going through them? Next
5 slide, please.

6 This is the front of the property. This was, years ago
7 it was a commercial storefront, and Mr. Creech purchased it around
8 2013 and converted it into his house. Next slide, please.

9 Next slide, please.

10 Next slide, please.

11 Here's a plat, existing and proposed, to the change in
12 the footprint there. Next slide, please.

13 That is the site plan. That's the existing lot
14 coverage. Next slide, please.

15 Next slide, please.

16 Next slide.

17 This is a floor plan, existing floor plan, we don't
18 need to go through those. Next slide, please.

19 Next slide.

20 This is the proposed cellar floor plan. The 18 foot
21 wide opening for the garage and 18 feet, including 16 feet of
22 alley and 2 feet inside the property line. Next slide, please.

23 This is the first-floor plan. There is a deck, a roof
24 deck, proposed on the garage, and the Office of Planning has
25 asked for some screening to be placed on the north side here.

1 The Applicant -- we revised the plans to include that. Next
2 slide, please.

3 Next slide.

4 And you see the second. And next slide, please.

5 The first, second, and third floors are the smaller
6 floor plates, the 45 percent. It's just the lower level. Next
7 slide, please.

8 This is an existing side elevation. Next slide,
9 please.

10 Front. Next slide.

11 And there's the proposed side elevation. Next slide,
12 please.

13 Next slide.

14 And next slide, please.

15 So this application will be in harmony with the purpose
16 intent of the regs. The RF zones, residential zones, which
17 provide for areas developed primarily with row dwellings, but
18 within which there have been limited conversions of dwellings or
19 other buildings into more than two dwelling units and three-units
20 as permitted by special exceptions. Next slide, please.

21 So the specific requirements for the rear yard setback,
22 the lot occupancy, the ten foot rule, and the closed court
23 requirements for all of those, the test is light and air, privacy,
24 character scale and pattern, so the light and air available to
25 neighboring properties should not be unduly affected. All of the

1 relief requested results from just the connection of the existing
2 accessory building. It's not going to be any higher, so it's
3 just adding that space in between there and it's only on the
4 cellar level. So for that reason, it doesn't have an undue impact
5 on neighbors' light and air and privacy. Mr. Creech has had
6 communications with his long time neighbor next door. And they
7 don't have a concern about this. And if you have any questions
8 for him, he can talk about that. Privacy of use enjoyment, as
9 mentioned, we did put a shade up in response to Office of
10 Planning's concern about that. Next slide, please.

11 And the garage expansion is limited to just the one
12 level, so it won't substantially visually intrude upon character
13 scale and pattern of houses along the street or alley. Next
14 slide, please.

15 So the specific requirements for the conversion are the
16 building must be in existence now and at the time of the permit.
17 It is. The Applicant is only proposing three dwelling units. So
18 there is no inclusionary zoning requirement, and the subject
19 property exceeds 2700 square feet of land area. Next slide,
20 please.

21 The relief from the center alley line setback requires
22 we show a reasonable difficulty in providing the full-size
23 driveway width or alley centerline setback. The Applicant is
24 proposing an expansion of the garage on its existing footprint.
25 So the garage entrance will be no closer to the alley than it is

1 currently. We have provided, I don't know if it's in the
2 PowerPoint or it's in the plans that I can find and point out
3 the exhibit to you, the turning diagram demonstrating that the
4 relief would allow safe access for vehicles of average dimension
5 to and from the parking spaces. And again, there's a very wide
6 opening for the garage, even though it's just one car garage, 16
7 feet wide and it's a 16-foot alley and it is two feet off. So
8 it's just two feet of relief. Next slide, please.

9 So that's it for the presentation. I will point out I
10 didn't -- it didn't make it in the presentation, but there's some
11 photos in the file too and in the exhibits if you haven't seen
12 them. I'll find out what exhibit that is, that give you some
13 perspective on the relationship of this proposal from the back
14 alley in relation to the neighboring building to the north. Thank
15 you.

16 CHAIRMAN HILL: All right. Thanks, Mr. Sullivan. Okay.
17 Let's see. I'm going to turn to the Office of Planning first.
18 Oh, wait. Mr. Sullivan. So are you -- are you not then asking
19 for E 203?

20 MR. SULLIVAN: We are asking for E 203. Yes. What
21 I'm saying is Office of Planning's concern was that we nobody
22 would be able to get to it if the neighbor built a wall over what
23 we're proposing would be a closed court facing the north property
24 line. And so we're saying we can put a door in from our property
25 into that area so that it can be maintained.

1 CHAIRMAN HILL: Can you show me what you're talking
2 about and where?

3 MR. SULLIVAN: Are you with us yet Warren?

4 CHAIRMAN HILL: He's waving. You can call. Why don't
5 you call? You can call the 270-727-5471 number and they can just
6 dial you in. But Mr. Sullivan, do you know?

7 MR. SULLIVAN: Yeah. I'll look through the plan and
8 see.

9 MR. SMITH: Marty, if I can?

10 CHAIRMAN HILL: Go ahead, Mr. Smith.

11 MR. SMITH: On Mr. Sullivan's slide show. So maybe,
12 look, you'll find that the final exhibit in the report on page
13 12 is a court there. I believe that's where he's referencing.
14 You see the indentation?

15 CHAIRMAN HILL: Oh. You can of understand?

16 MR. CREECH: It's the dog league area that exists, that
17 exists today. Once you expand the garage to go up to the back
18 of the property, that area which used to be the dogleg, still
19 exists. And so what we proposed was a doorway from the inside
20 of that unit to gain access to that court, as you guys call it,
21 so that it can be maintained, cleaned of debris.

22 CHAIRMAN HILL: It's not in the plans.

23 MR. SULLIVAN: Yeah, it's on the plans and it is on
24 page 12. As Board member Smith stated, it's the notch out on
25 the north side.

1 CHAIRMAN HILL: I don't see the door.

2 MR. SULLIVAN: These are -- the PowerPoint comes
3 directly from the plans, but it can -- it would be exhibit --
4 I'll have that for you in a sec.

5 CHAIRMAN HILL: I don't see the door. I don't see the
6 door. And I don't know.

7 MR. SULLIVAN: There's no door yet. We just figured
8 this out today. I'm sorry.

9 CHAIRMAN HILL: That's all right.

10 MR. SULLIVAN: We haven't put the door on yet. We're
11 just -- we want to respond to the Office of Planning's comment
12 about that. So it's a late breaking development that --

13 CHAIRMAN HILL: Okay. So we'll see. I just need to
14 know where the door is going to go if we get to that point. All
15 right. Can I hear from the Office of Planning, please?

16 MR. JESICK: Thank you, Mr. Chairman and members of the
17 Board. My name is Matt Jesick presenting OP's testimony in this
18 case, and we support the project. We looked at all the areas of
19 relief, although there's quite a bit of relief, it's actually
20 mostly straight forward. The one area of relief that we did have
21 a concerned about was the court relief. But we would be satisfied
22 with the solution proposed by the Applicant to provide a door
23 into that area, and we would recommend approval with that change.
24 So I'm happy to take any questions. But overall, we recommend
25 approval.

1 CHAIRMAN HILL: Okay. Mr. Sullivan, if you're
2 architect can do something real quick to show us the door and
3 submit it into the record. As to how that's going to be built.
4 And then -- that's something we need to see before we approve
5 it.

6 MR. SULLIVAN: Okay. And could this be scheduled? I
7 assume that would be scheduled for a decision fairly soon.

8 CHAIRMAN HILL: I'm trying to do everything today. If
9 he can go, you know.

10 MR. SULLIVAN: Even better. Yeah, it's great.

11 CHAIRMAN HILL: If he can pull his pencil out and erase
12 the line and put a little ziggy thing in or whatever it's called.
13 Okay, you know, and submit it to the record. Okay.

14 MR. SULLIVAN: Great. Thank you. So what are you
15 waiting for Warren?

16 CHAIRMAN HILL: Go ahead. Exactly, since he can't
17 talk, you know.

18 CHAIRMAN HILL: Okay. So does the Board have any
19 questions of the Office of Planning or the Applicant? Okay. Mr.
20 Young, is there anyone here wishing to speak?

21 MR. YOUNG: We do not.

22 CHAIRMAN HILL: Okay. Mr. Smith, did I hear you start
23 to talk?

24 Mr. SMITH: So I was saying, no, I don't have any.

25 CHAIRMAN HILL: Okay. So I'm going to -- Mr. Sullivan,

1 are you around for a little bit?

2 MR. SULLIVAN: Sure.

3 CHAIRMAN HILL: Okay. All right. Go ahead and we'll
4 come back. We'll come back to this at the very end. Again. The
5 end of the end. Okay. There's if you've been following today's
6 diary, there's another thing that's coming on at the very end.
7 And so we'll put you back at the end of the end. Okay. And if
8 so you, if your architect can please submit that into the record
9 so we can see what we're talking about. That would be wonderful.
10 And we will see you at the very end. Okay.

11 MR. SULLIVAN: Thank you.

12 CHAIRMAN HILL: Thank you. I'm going to close this
13 portion of the hearing.

14 ZC COMMISSIONER IMAMURA: Mr. Chairman, you are making
15 the architects work today.

16 CHAIRMAN HILL: Actually, you know what I was thinking
17 to myself? I was -- I was thinking as I'm earning my stipend
18 today. That's what I was thinking.

19 ZC COMMISSIONER IMAMURA: You know, and I'll tell you
20 what they're earning their fee so. It's good that they're able
21 to do it on the fly. So hopefully others in the public take
22 note, other architects in the public take note.

23 CHAIRMAN HILL: Well, I know if Ms. John were here,
24 that would be, I mean, we need to see plans. Like that's --
25 there's no if, ands, or buts. So do we want to do one more? We

1 want to take a break. Do -- doesn't matter to me.

2 ZC COMMISSIONER IMAMURA: Let's keep going.

3 MR. SMITH: Go through it and get another one.

4 CHAIRMAN HILL: Next one 20785, I think, Mr. Moy.
5 You're on mute, Mr. Moy. If you trying -- oh there you are. Okay.

6 MR. MOY: Okay. You know, just checking my other sheets
7 of paper so that I cover everything. Okay. So here we go. Case
8 Application No. 20785 of Andy and Debbie Wilson, LLC. This
9 application is certified pursuant to Subtitle X, Section 901.2
10 for special exceptions under Subtitle D, Section 5206, which
11 would allow a voluntary IZ development on new lots, meeting
12 minimum lot width and lot area requirements, and in Subtitle D,
13 Section 302.5. Property is located in the R-3 zone at 1531 U
14 Street, S.E., Square 5776, Lot 812. Property located in the R-3
15 zone at 1531 U Street, S.E., Square 7 rather 5776, Lot 812. And
16 I believe that's all I have for now. Thank you.

17 CHAIRMAN HILL: Okay. If the Applicant is here, if
18 they can hear me and introduce themselves. You're on mute, Mr.
19 Dales, if that's you.

20 MR. DALES: I apologies Mr. Chairman. Phil Dales here
21 from Dales Associates on behalf of the Applicant. They also have
22 Mr. Garrett Adler who I'm not sure is brought forward as a
23 panelist from the Applicant, and then Ms. CIMA subpoena here from
24 the architect for the project by architects.

25 CHAIRMAN HILL: Okay. All right. Mr. Dales, if you

1 want to go ahead and walk us through your client's application,
2 why you believe they're meeting the criteria for us to grant the
3 relief requested. I'm going to put 15 minutes on the clock so I
4 know where you are, and you can begin whenever you like.

5 MR. DALES: Thanks, Mr. Chairman. I'll do that through
6 a brief summary proffer from me and then through testimony by my
7 clients. But there are a couple of preliminary matters here, and
8 I just I'll start with that context. The notice affidavit for
9 the posting of the property at this hearing was not submitted
10 because we cannot testify or provide an affidavit confirming that
11 that sign was posted with this date. Initially, the property was
12 posted for a hearing in November and mailing was sent and we
13 presented to the ANC Board twice and in the full ANC membership
14 as well as HPRB. But if we're going to proceed today, we'd have
15 to do so pursuant to your discretion under 402.11, to allow us
16 to proceed without having met all of the notice requirements,
17 including the posting of the property with the notice sign. So
18 I can stop there if you'd like to deliberate that matter, or I
19 would like to provide one additional piece of context for an
20 issue that's going to come up during our presentation. Should I
21 continue or should I --

22 CHAIRMAN HILL: Hold on let me think. Mr. Moy, I
23 remember talking about this in preliminary matters when we I
24 think this was the case. So it --

25 MR. MOY: It was. it was.

1 CHAIRMAN HILL: So it hasn't been posted properly.

2 MR. MOY: Naturally because there's no affidavits of
3 posting nor maintenance and that's the reason why.

4 CHAIRMAN HILL: Okay. And I'm sorry, Mr. Dales, and
5 I'm sorry you had to wait this long to get to this point, I guess.
6 Like, I don't -- unless this has been posted properly, I don't
7 think we can have the hearing. And so you were going to say
8 something else, Mr. Dales.

9 MR. DALES: Mr. Chairman, only that the zoning liaison
10 had let us know that there was a rule. And we found the rule
11 providing for your authority to hear it if you felt that actual
12 notice had been met through other means of notice. And so if
13 you're not inclined to use that discretion, then yeah, I will
14 stop there. The other context I would provide after we're
15 starting to hear the substance of the case.

16 CHAIRMAN HILL: No, I appreciate it. I mean, I don't
17 know what you guys think. I mean, that's the one where, like.
18 So you're saying that the placard didn't have the correct date.

19 MR. DALES: Right, Mr. Chair. The original to this
20 case was going to come before the Board in November, and there
21 the sign was posted. We didn't get to the affidavits because
22 the need for postponement came up late with regard to the ANC
23 not hearing us on the day we were supposed to be heard, and then
24 there was a lot coverage issue we needed to address. So we've
25 addressed those. But as we come into this new hearing, the staff

1 people at both the architect and attorney office have changed
2 since this was initially posted in November, and we can't confirm
3 that the sign was actually posted. However, the Office of Zoning
4 had said they thought the new sign had been picked up, but we
5 don't have access to the staff people who would have posted it
6 to provide the affidavits. So I can't confirm it, although we
7 have presented to the full ANC membership, as well as Board twice
8 and HPRB.

9 CHAIRMAN HILL: Yeah, I know that, you guys. I mean,
10 Mr. Dales, I'm sorry. For me, I mean, that's kind of the only
11 way that I feel -- people are often times concerned about whether
12 or not they've been notified. And they give us testimony about
13 whether they got something in the mail or they didn't get
14 something in the mail. And for me, it's always been we'll have
15 the placards there and you walk by, and you see a date, then you
16 should know that that's going on. And so I feel a little bit
17 hesitant to be able to have the hearing knowing that the placard
18 wasn't posted correctly with the correct date. But I don't know
19 what my fellow Board members think. Mr. Smith?

20 MR. SMITH: I agree with your assessment, Chairman
21 Hill. As you say, we hear a number of times that residents
22 haven't been notified. I think we've heard twice today that they
23 felt in previous cases that they felt they weren't notified. But
24 if a placard is there, that is the fallback. That is the
25 failsafe. And if we can't confirm that the placard was there, I

1 would rather postpone this and I recognize that you have probably
2 gone to the ANC. We don't even have a letter from the ANC at
3 this point either. So I would rather, out of an abundance of
4 caution, postpone this until after that placard is posted and we
5 can confirm.

6 MR. DALES: I understand that. And I appreciate the
7 concern and would accept your decision on that. I just, I would
8 mention the ANC has offered, they have indicated to us that they
9 voted to recommend approval and they were providing a letter
10 support, but they have not submitted it yet. So if we are to be
11 postponed, I understand that there is a full docket at the next
12 May meeting and for June and July. Should there be an opening
13 at the June 7th meeting or a July meeting? We would very much
14 appreciate being placed on one of those meetings and not all the
15 way till October, but that's all I can ask. Thank you.

16 CHAIRMAN HILL: Okay. Mr. Dales, what was it that you
17 were going to bring up during the hearing?

18 MR. DALES: So there was a code interpretation issue
19 that came out of -- the planner also has changed since we
20 initially submitted this application. It was Eliza Batali
21 (phonetically) and she's now not in the Office of Planning. So
22 we don't have a new planner assigned. But Eliza had pointed out
23 to us that the lot that we are creating on which the existing
24 structure sets, will after our approval, exceed the lot coverage
25 requirement of 40 percent and Eliza had indicated, we should ask

1 for special exception relief to that requirement. And in looking
2 at the table for that special exception relief, there is some
3 uncertainty about the -- which zones could apply for that relief
4 up to what limit. And we believe and I think what Eliza had
5 suggested was that limit was 70 percent for the R-3 zone on a
6 semidetached dwelling. And so we today were going to be asking
7 for relief in the alternative, either a special exception relief
8 should that be available to us or a variance if necessary. And
9 so if the Board has any guidance on that matter, it would simplify
10 our hearing when we come back.

11 CHAIRMAN HILL: Okay. I would, Mr. Dales, refer back
12 to the Office of Planning and find out what exactly and I'm going
13 to ask the Office of Planning, since they're here, what exactly
14 they think. I mean, definitely a variance is a much higher bar
15 to achieve. So you want to avoid that at all cost. Is the Office
16 of Planning here?

17 MR. DALES: Mr. Chair, I have been speaking with the
18 Office of Planning throughout the day today, and Eliza said that
19 this has not been assigned to a new planner for this today's
20 hearing. But I'm assuming if we're postponed, I'll be able to
21 find someone at Office of Planning who's going to be assigned the
22 case so that I can get some guidance.

23 CHAIRMAN HILL: Mr. Young, is someone from OP here?

24 MR. YOUNG: We do have people from OP. I'm just not
25 sure who.

1 CHAIRMAN HILL: Okay. Okay. Okay. All right. Mr.
2 Dales, I'm going to refer you back to the Office of Planning.
3 And as I said, you know, I would avoid a variance and figure out
4 whatever you need. Mr. Moy, when will you be able to -- when
5 will they be able to meet the posting requirements and get them
6 back here before us? And Mr. Dales, I would definitely reach
7 out to the ANC because we have nothing of the ANC right now. So
8 you know, make sure if you're already gone through there, get
9 something from the ANC that states that.

10 MR. DALES: We will. They asked us to provide a draft
11 for their review that they would submit, and we've given the
12 draft. So I'll follow up and ask if there are any questions or
13 if they have gotten to submitting it yet.

14 CHAIRMAN HILL: Okay.

15 MR. MOY: All right. Mr. Chairman?

16 CHAIRMAN HILL: Yeah.

17 MR. MOY: Given what I'm hearing since this application
18 still has some moving parts to it. The earliest, I think, to
19 safely reschedule this would be June the -- June the 28th. And
20 I'm trying to allow for that at a time if we have to re notice
21 if there's going to be a variance, hopefully why shouldn't say.
22 But certainly the special exception relief as it's a lower bar.
23 So I would shoot for June 28th, and I suppose that if the
24 Applicant needs more time, he can ask for a continuance because
25 after that date, you know, we have two hearings after that, Mr.

1 Chairman, where we have --

2 CHAIRMAN HILL: No, no, no, no, no. Yeah, Mr. Dales,
3 okay?

4 MR. DALES: Yeah. We'll take that to heart on the
5 advice on the variance and come back with a it being a special
6 exception on June 28.

7 CHAIRMAN HILL: Okay. And Mr. Dales, it's Alissa
8 Vitali(phonetically).

9 MR. DALES: Oh.

10 CHAIRMAN HILL: That's all right.

11 MR. DALES: Oh. Appreciate you. You've been very
12 helpful today. So thanks to her as well.

13 CHAIRMAN HILL: Okay. All right. Anybody got anything
14 before I let them go? All right. So Mr. Moy, we're back here
15 at 6/28.

16 MR. DALES: Thank you, Mr. Chairman.

17 MR. MOY: Yes, sir.

18 CHAIRMAN HILL: All right. We'll see you back here,
19 Mr. Dales. Thank you.

20 MR. DALES: Thank you.

21 CHAIRMAN HILL: All right. Let's do our next case,
22 then we'll take a break before we try to finish up with whatever's
23 left. Okay. Mr. Moy, you can call our next case.

24 MR. MOY: Okay. This will be -- should be Case
25 Application No. 20884 of Euclid 1722, LLC. This is a self-

1 certified application pursuant to Subtitle X, Section 901.2 for
2 special exception under Subtitle C, Section 703 from minimum
3 vehicle parking requirement, Subtitle C, Section 701.5. Property
4 is located in the RA-2 zone at 1722 through 1724 Euclid Street,
5 N.W., Square 2566, Lots 47 and 71. And let me check something.
6 And there are letters in opposition from one, two, three, four
7 individuals that are not in the record because of the 24-hour
8 block. And finally, I should add, as a reminder, we do have two
9 individuals who have signed up to testify in opposition, Mr.
10 Chairman.

11 CHAIRMAN HILL: Okay. Great. Thanks, Mr. Moy. Why
12 don't you go ahead, Mr. Moy, and allow everything into the record
13 unless my Board has any issues so that we can have a full record
14 and see what there is to take a look at. And let's see, could
15 the Applicant please introduce themselves for the record?

16 MS. ROGERS: Yes. Good afternoon, Chairman Hill, and
17 members of the Board. For the record, my name is Elizabeth Rogers
18 with the law firm of Lerch, Early and Brewer. Pleasure to be
19 here representing the Applicant today. With me today, just so
20 you know who is on is my colleague, Sharon Craig, also of Lerch
21 Early, C.J. LaMora with Circle Square Cross, the project
22 architect, and Chi Perrus on behalf of the Applicant.

23 CHAIRMAN HILL: Okay. Great. Thank you. All right.
24 Ms. Rogers, if you want to go ahead and walk us through your
25 client's application and why you believe they're meeting the

1 criteria for us to grant the relief requested. And I will put
2 15 minutes on the clock just so I know where we are, and you can
3 begin whenever you like.

4 MS. ROGERS: Great. Thank you. Mr. Young, if you can
5 bring up exhibit 37, we have a PowerPoint to walk through.
6 Perfect. Next slide, please.

7 We are requesting special exception relief from the
8 minimum vehicular parking requirements to facilitate the
9 construction of an up to 20-unit residential apartment building.
10 I would just note at the outset for the record, our application
11 was initially submitted for an up to 22-unit apartment building,
12 but the Applicant has made some additional interior modifications
13 to respond to requests that we receive from the ANC for greater
14 IZ percentage and also larger family sized units. We've
15 accommodated that by providing 5 percent additional in the IZ
16 program and also two three-bedroom units. This resulted in a
17 slight reduction of the overall unit count to 20 units proposed,
18 but it does not impact the Applicants relief that they are
19 requesting today.

20 CHAIRMAN HILL: And where are those plans, Ms. Rogers?

21 MS. ROGERS: We have those to submit into the record.
22 This was a change that was just accommodated at the ANC meeting
23 for their request last week.

24 CHAIRMAN HILL: So do you have updated plans?

25 MS. ROGERS: Yes. An architect can submit those.

1 CHAIRMAN HILL: Okay. If you could submit those right
2 away so we can take a look at them. And let us know as well.

3 MS. ROGERS: He can submit those while I'm going through
4 the presentation.

5 CHAIRMAN HILL: Yeah. Okay. Please go ahead and
6 continue.

7 MS. ROGERS: The property is located along Euclid
8 Street, N.W., approximately 1.6 miles west of its intersection
9 with 16th Street. And it's located in the RA-2 residential
10 apartment zoning district. The property is well served by various
11 forms of public transportation. Next slide, please.

12 There are several bus stops located within a quarter
13 mile of the property, and notably the property is located within
14 a quarter mile of two priority corridor network metro bus lines.
15 The property is also located approximately equidistant between
16 two metro stations, the Woodley Park Zoo, Adams Morgan Metro
17 Station, and the Columbia Heights Metro station, both of which
18 are approximately .7 miles away. And the Columbia Heights metro
19 station is .5 miles away as the crow flies. There are also
20 several Capital bikeshare stations located within one quarter
21 mile of the property, one of which that the applicant has agreed
22 in working with the DDOT to make a capital contribution to expand
23 and various bike routes. Next slide, please.

24 Additionally, the property is within walking distance
25 of several numerous commercial services that are needed to

1 support one's kind of daily living. This includes grocery store,
2 the pharmacy, hardware store, and various other retail and
3 restaurant uses. For all these reasons, walk score rates the
4 property as a walkers and bikers paradise as daily errands do not
5 require the use of a car. And this is consistent with the
6 Applicant's expectation that a significant number of its
7 residents will utilize transit to access the site. Next slide,
8 please.

9 In support of the mayor's goal to deliver a significant
10 amount of additional housing units by 2025, the comprehensive
11 plan objectives and in conformance with the properties
12 residential apartments zoning, the Applicant is proposing to
13 replace the two dwellings, roe dwellings, that are located on the
14 property with an up to 20 unit apartment building. The proposed
15 development conforms with all development standards of the RA-2
16 zone. The only relief we need is relief from parking. I would
17 also just note, as you can see here, that the building has been
18 set back along Euclid Street to align with the established street
19 edge created by the surrounding properties, and we've also
20 constrained the development at the rear in order to preserve the
21 heritage tree that's located along the property boundary. Next
22 slide, please.

23 The zoning ordinance requires six vehicular parking
24 spaces to be provided on site. Because the property is located
25 within a quarter mile of the 16th Street priority corridor network

1 metrobus route, typically, we would have been entitled to a 50
2 percent reduction of the parking requirements, except for the
3 fact that we are located on a street that has a residential
4 parking permit program. So that 50 percent reduction was not
5 applied here. Given the configuration of the property, however,
6 there is not adequate vehicular access to provide any parking
7 onsite. The code requires a minimum width of 12 feet for one
8 way vehicular access and 18 feet for two way vehicular access.
9 As you can see from this diagram, the property has a very kind
10 of long, narrow, weird yard that's only about 16 feet eight inches
11 wide and only has 10 feet of alley access on the side of the
12 property. As a result of these existing conditions, the Applicant
13 is unable to provide parking on site that would conform with the
14 vehicular access requirements of the code. It would also require
15 obviously very -- because the where the access is provided off
16 to the side, you have to make an immediate turn as you're coming
17 into the property. There's just a lot of constraints and that's
18 why any redevelopment of this property would be required to seek
19 special exception relief from the parking requirements.

20 In accordance with Subtitle C, Section 703, the Board
21 may grant relief from the minimum parking requirements where at
22 least one of the enumerated criteria is met. This application
23 satisfies several of those criteria, including that providing
24 parking onsite would be impractical due to the physical
25 constraints of the property. Given that the property cannot

1 provide code required vehicular access to the site of the alley
2 and no access obviously would be provided off of Euclid Street.
3 It's also unnecessary due to the demand for parking, given the
4 site's proximity to various transit options, as well as a plethora
5 of neighborhood services. As mentioned, there are metro stations
6 within walking to the property as well as numerous bus lines and
7 biking facilities and obviously numerous commercial services.
8 Additionally, it would be contrary to the District of Columbia
9 regulations due to sufficient alley -- insufficient alley access,
10 which we cannot provide.

11 I would also just note, although it was not one of the
12 criteria under which the Applicant is seeking special exception
13 relief, the Applicant anticipates that the units will be made
14 affordable to 30 -- residents earning between 30 and 50 percent
15 of the area median income. The entire building will be
16 affordable. This is just an additional criteria on which the
17 Board is allowed to grant special exception relief from the
18 minimum parking requirements under 703.2F. The Applicant's
19 requested relief is from proportionate --

20 CHAIRMAN HILL: Ms. Rogers? I'm sorry. Can you clarify
21 that again? You're saying that you're going to offer 30 percent
22 AMI units.

23 MS. ROGERS: The whole building will -- it'll be 100
24 percent affordable. And the Applicant is looking to target
25 residents that are between 30 and 50 percent AMI. And there will

1 also be obviously, units that are within the formal IZ program.

2 CHAIRMAN HILL: Got it. Okay. Great. Thank you.

3 MS. ROGERS: So the Applicant's requested relief is
4 proportionate to the reduction in the parking demand, given the
5 property's location and proximity to multiple forms of transit
6 and neighborhood services and the land use characteristics of the
7 surrounding neighborhood. The Applicant anticipates that a
8 significant number of its residents are going to utilize transit
9 to access the site. As I mentioned, the relief is also limited
10 to the number of spaces that cannot be reasonably provided on
11 site. Here we're seeking a complete parking waiver, given that
12 no parking can be provided on site in accordance with the codes
13 vehicular access requirements. And we're not seeking any other
14 relief related to location, access, size, or layout which are one
15 of the other findings in the code. Because the applicant is
16 seeking a reduction of more than four parking spaces, we've
17 entered into a TDM plan with DDOT to further promote the use of
18 alternate modes of transportation. As noted in the letter of
19 approval, we have in collaboration with them agreed upon several
20 TDM measures that will be implemented by this project, and we
21 accept all of those that are put forth in their letter as
22 conditions of approval.

23 Lastly, I would just note that the special exception
24 is in harmony with the general purpose and intent of the zoning
25 regulations and zoning map, including the specific purposes of

1 the RA-2 Zone, as well as recommendations of the comprehensive
2 plan. The comprehensive plan recognizes that development creates
3 tensions and that there are many competing and conflicting goals.
4 However, the comprehensive plan notes that housing is one of the
5 most pressing and critical issues facing the district and the
6 region. Among the critical land use issues that are identified
7 in the plan are to provide adequate housing, particularly
8 affordable housing, which this project is achieving both
9 objectives of and also promoting transit accessible developments.
10 The comprehensive plan also includes numerous recommendations
11 aimed at reducing reliance on car trips. The district's
12 sustainable D.C. goals have set targets to reduce the share of
13 commuter trips made by cars to 25 percent by 2032. Towards its
14 goal, the comprehensive plan policy T-1.1.8 seeks to minimize off
15 street parking, expressly recognizing that an increase in parking
16 has been shown to add vehicular trips to the transportation
17 network.

18 CHAIRMAN HILL: Ms. Rogers?

19 MS. ROGERS: Yes.

20 CHAIRMAN HILL: Can I interrupt you real quick? I'm
21 sorry. In the plans, does it show the two short-term and 8 long-
22 term parking spaces?

23 MS. ROGERS: I would have to ask our architects, but I
24 believe those are found in the plans.

25 MR. LAMORA: What we showed in what we just sent in

1 email was what we presented to our ANC last week. On the lowest
2 level, on the bottom right corner would be a bunch of bike parking
3 in a building utility space, as well as an additional bike closet
4 outside of that. And then on the street, it does not show the
5 two short-term park -- parking spaces. Those would be on the
6 street. And we can provide a site plan to accommodate that as
7 well.

8 CHAIRMAN HILL: Okay. Who is speaking?

9 MR. LAMORA: My name is C.J. LaMora. I am the principal
10 architect at Circle Square Cross Architecture.

11 CHAIRMAN HILL: Okay. Who was speaking after that?

12 MR. SMITH: Chairman Hill, this is Mr. Smith speaking

13 CHAIRMAN HILL: Okay. Go ahead, Mr. Smith.

14 MR. SMITH: I'm agreeing -- I'm agreeing with you. I
15 don't see it on the plans. But in the bottom -- in the cellar,
16 you're saying?

17 MR. LAMORA: On the cellar level. Correct. At the
18 bottom right. Let me just pull up my own drawings here.

19 MR. SMITH: Okay.

20 MR. LAMORA: It's on sheet --

21 MR. SMITH: So before we go, before we go down this
22 road, what is the minimum number of bike parking spaces you need
23 to comply with the zoning regulations? And in your TDM, you say
24 that you are going in excess of that to meet the DDOT regulations
25 so. Are you showing that excess on the plan?

1 MR. LAMORA: Correct. So we need a minimum of seven
2 parking spaces.

3 MR. SMITH: Mm-hmm.

4 MR. LAMORA: The bike parking spaces are stacked one
5 on top of each other. So each bike parking space would -- that
6 is shown on sheet C2, cellar level, bottom right-hand side --
7 each bicycle parking space represents two bike parking units.
8 That gets us to eight. That's one more above the seven that are
9 required as well as we would then have two additional short-term
10 bike parking spaces on the curb in public space.

11 MR. SMITH: Okay. And I'm also seeing in the cellar
12 that you have one, one parking space, it looks like. Through
13 the threshold as if you're going to the common, in the common
14 corridor, are you counting that as well?

15 MR. LAMORA: There are actually four in that room.
16 There are four. There are four stacked spaces that are two bikes
17 each.

18 MR. SMITH: Okay.

19 MR. LAMORA: In that common corridor.

20 MS. ROGERS: If Mr. Young wants to pull it up, the
21 long-term spaces are shown on Exhibit 6 in the record on page
22 six. I guess just to clarify, our plans do show the extra long-
23 term spaces that we are proposing.

24 CHAIRMAN HILL: Page 6? I'm trying to get to page 6.
25 Where on page 6?

1 MS. ROGERS: If you look in the, on page 6, that should
2 be the sheet that has the different unit or floor plans.

3 CHAIRMAN HILL: Yeah.

4 MS. ROGERS: In the bottom right corner is the plan for
5 the cellar.

6 CHAIRMAN HILL: Okay. I see it.

7 MS. ROGERS: And in the bottom right corner of the
8 cellar plan are -- you can see the four. They're double stacked.
9 So it's eight long-term spaces within that bike room.

10 ZC COMMISSIONER IMAMURA: Page 9 is the detail dealing
11 with the (indiscernible.)

12 CHAIRMAN HILL: Okay. Got it. All right. Ms. Rogers
13 you can continue, please.

14 MS. ROGERS: Thank you. Additionally, kind of getting
15 back to the comprehensive plan, I would just note that the
16 comprehensive plan also recommends leaving and reducing parking
17 in vicinity of metro rail stations and major transportation
18 corridors. Recognizing that there are changes in market
19 preferences, technological innovations and provisions of
20 alternatives to car ownership that will continue to decrease
21 parking demand.

22 Furthermore, the project is in full conformance with
23 the purpose and standards of the RA-2 zone. Special exception
24 relief requested will allow the Applicant to achieve the intent
25 of the RA-2 zones, which are designed to be mapped in areas

1 identified as moderate density residential, which this project
2 is. To permit flexibility by adding all types of residential
3 development where such development conforms with the development
4 standards of the zone and to promote a walkable living
5 environment.

6 I just thought it was an interesting and timely quote
7 that I had heard this week from a book review of Paid Paradise,
8 which, according to that author by square footage, there is more
9 housing for each car in this country than there is for housing
10 for each person. I think that's just an interesting fact as
11 we're all grappling in this region with a housing crisis.

12 We are pleased that the ANC voted to support the
13 proposed application. We were told that they were submitting
14 their letter of support in the record, although I'm not sure if
15 that came in. I haven't seen it in the record. I don't know if
16 it's part of the -- anything that got caught up in the 24 hour
17 rule, but they voted to support the application in that we were
18 able to accommodate their requests for a larger unit and to
19 accommodate a higher percentage of IZ. It is our understanding
20 of that the ANC followed all notice requirements of procedures
21 as those notice the requirements are outlined in the D.C. code,
22 which I'd be happy to elaborate on. Additional letters of support
23 for nearby property owners have been submitted into the record.
24 We certainly recognize that some comments have been submitted on
25 the record by surrounding community members recently. Many of

1 these comments, with all due respect, are either inaccurate or
2 not particularly germane to the applications before the Board
3 today. But we certainly have heard the comments that have been
4 made with respect to architecture, and we'll continue to take
5 those into consideration as we finalize the final building
6 design.

7 For all these reasons, we believe the Board may make
8 the necessary findings to approve a special exception to grant
9 relief from the minimum parking requirements to facilitate as
10 much needed additional affordable housing at this transit-
11 oriented location. We support and agree with all the agency
12 reports and recommendations, and our team is here to answer any
13 questions the Board may have.

14 CHAIRMAN HILL: Mr. Rogers, how is trash getting picked
15 up?

16 MS. ROGERS: If you can go back a slide, I think, Mr.
17 Young?

18 CHAIRMAN HILL: I see the trash cans, I think.

19 MS. ROGERS: Yeah, I think that showed the trash cans
20 and I would defer to, I don't know, C.J., if you want to --

21 MR. LAMORA: Sure.

22 MS. ROGERS: -- explain that.

23 MR. LAMORA: So buildings as we know, larger than four
24 units are required to have a private trash collection. Currently
25 trash collection out of the address of 1724 Euclid Street is at

1 the front they -- we're combining the two lots together via the
2 subdivision process. So that would be a betterment for 1724 in
3 that their trash collection would come out the rear now. But
4 essentially, we would have, you know, the green canister sized
5 trash cans. We do have that ten-foot alley, stub, if you will.
6 So a trash collection company would be able to back their trucks
7 up into that ten-foot alley. We would provide a minimum man
8 gate, if not larger, and then trash would be individually taken
9 out can by can at least a few times a week.

10 CHAIRMAN HILL: Okay. All right. Okay. Does anybody
11 have any questions for Ms. Rogers? You can -- you can drop the
12 slide deck unless -- does anybody need the slide deck? Too late.
13 It's gone now. Dr. Imamura, you had your hand up?

14 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman. And
15 I appreciate the question about waste collection, which is very
16 important for a building like this. And it looks like, Mr.
17 LaMora, if I am living on the penthouse, that I would take my
18 trash all the way down outside. Is that right? There's no
19 central collections?

20 MR. LAMORA: Correct.

21 ZC COMMISSIONER IMAMURA: Okay. And I realize the size
22 of these studios aren't -- is not incredibly large, but we do
23 know that people generate a tremendous amount of waste, almost
24 four and a half pounds per day per person. So that's a lot of
25 trash for a unit of, you know, 20 plus units and something like

1 this so. Certainly something to consider for a building like
2 this, although, I mean, there's an honorable project, all
3 affordable, but that's something that I'm certainly mindful about
4 and a little concerned about in terms of how this has been laid
5 out, designed. But for now, Mr. Chairman, that concludes all my
6 questions.

7 CHAIRMAN HILL: Great. Thank you. Mr. Smith, anything
8 from you at this point?

9 MR. SMITH: No.

10 CHAIRMAN HILL: Okay. Now I'm going to turn to the
11 Office of Planning, please. Mr. Mordfin, I can't -- we can't
12 hear you. You're on mute, maybe?

13 MR. MORDFIN: Okay. That better?

14 CHAIRMAN HILL: Yes. Thank you.

15 MR. MORDFIN: Okay. Sorry. Okay. Good afternoon,
16 Chair, members of the Board. I'm Steven Mordfin with the Office
17 of Planning and the Office of Planning is in support of this
18 case, which is to reduce the number of off street parking spaces
19 required from six to 0. I can go through all the criteria if
20 you would like. In this case, of the specific criteria that are
21 applicable to this application, one is that it's particularly
22 well-served by mass transit, shared vehicle or bicycle parking.
23 It is within 0.7 miles from two metro rail stations. It's also
24 a quarter mile from two priority quarter network bus lines. So,
25 and also approximately a quarter mile from a Capital bikeshare

1 facility. So we find that this application is in conformance
2 with that.

3 The second is that the property does not have access
4 to an open public alley, resulting in the only means by which a
5 motor vehicle could access the lot is from an approved public
6 street and either a curb cut has been denied. There is no way
7 you could do a curb cut from the front. So although it is
8 accessible to a public alley in the rear, the problem with that
9 is that that public alley is only ten feet in width and pursuant
10 to Subtitle C 701.6a of the zoning regulations for two way traffic
11 so that you could get both in and out of this lot, if they were
12 to construct a parking lot, there would need 18 feet. One way
13 they would need 12. So they don't even meet that even if there
14 were another way to come out so. They do not have access to an
15 open public alley for vehicular purposes.

16 Any reduction in the number of parking spaces that are
17 granted shall be proportionate to the demand presented by the
18 Applicant. They're required six spaces. They cannot provide any
19 because they have no access to that rear alley. So the Applicant
20 is required the six but due to the configuration of the lot, they
21 cannot do it. So therefore the total number that they're
22 requesting, which is zero, is appropriate in this case.

23 Also, any reduction of more than four spaces requires
24 a TDM. The applicant has been working with the DDOT on a TDM
25 plan and that's in exhibit 26. The DDOT report references that.

1 So it's the special exceptions in the harmony of the general
2 purpose and intent of the zoning regulations, the request is to
3 reduce the number of parking spaces required that cannot be
4 provided so. Therefore, we do find that it is in conformance
5 with that because they are not asking for more than they can --
6 actually cannot provide, even though it is all of them in this
7 case. And it would not appear to adversely affect the use of
8 neighboring properties. And that is because of the location of
9 this property with all of the facilities that are nearby,
10 including the metro rail, the metro bus, the bicycle park
11 facilities, and the retail businesses that are within walking
12 distance. So therefore, the Office of Planning does find this
13 application to be in conformance with the requirements for
14 granting an application to reduce the number of parking spaces
15 and the Office of Planning supports the application. I'm
16 available for any questions. Thank you.

17 CHAIRMAN HILL: Okay. Thank you. Does the Board have
18 any questions for the Office of Planning? Does the Applicant
19 have any questions for the Office of Planning?

20 MS. ROGERS: No.

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

23 MR. YOUNG: Yes, we do.

24 CHAIRMAN HILL: Okay. Could you give me their names,
25 please as you admit them or how many -- how many do we have?

1 MR. YOUNG: We have six signed up.

2 CHAIRMAN HILL: Okay. Why don't we go with three and
3 three

4 MR. YOUNG: Okay. So first is Alan Gambrell. Then we
5 have Sanaz Kumar. And Shirley Van Milder.

6 CHAIRMAN HILL: Okay. Ms. Van Milder, can you hear me?
7 Ms. Van Milder?

8 MS. VAN MILDER: Hello?

9 CHAIRMAN HILL: Yes. Can you hear me?

10 MS. VAN MILDER: Hi. Yes. Sorry. Thank you.

11 CHAIRMAN HILL: All Right. That's all right. Could
12 you introduce yourself for the record, please?

13 MS. VAN MILDER: Yes. Hi. My name is Shirley Van
14 Milder. I live at 1716 Euclid Street. I have for the past 16
15 years. It's three houses down from the proposed -- from the
16 construction site for the proposed project.

17 CHAIRMAN HILL: Ms. Van Milder?

18 MS. VAN MILDER: Yes.

19 CHAIRMAN HILL: Just to let you know, you'll have three
20 minutes to give your testimony.

21 MS. VAN MILDER: Okay.

22 CHAIRMAN HILL: And you can begin whenever you like.

23 MS. VAN MILDER: Okay. Great.

24 CHAIRMAN HILL: Thank you.

25 MS. VAN MILDER: So I'm writing to or I'm sorry, I'm

1 -- I'm calling into to support the downsize of the project. One
2 of the main reasons is the parking. There's not enough parking
3 in this neighborhood to begin with, adding 22 units. And I
4 suppose now it's 20 units will seriously worsen the situation,
5 you know, instead decrease the units. You know, six per lot,
6 you know, 12 or so and provide more parking.

7 From what I'm hearing, if there's not enough room to
8 have access, proper access, to parking by code, the people are
9 going to be parking on the streets. You know, I understand the
10 metro, et cetera, but unless you're going to stipulate people
11 don't have cars and use mass transit to live there, which you
12 wouldn't, and you can't. People are going to have cars and it
13 will really limit the parking. And if people have visitors to
14 their homes, et cetera, the parking already is so bad in this
15 area.

16 Another reason, the noise factor, having 20 plus units
17 with their own heating electricity systems that produce a lot of
18 noise production in addition to general noise that comes from all
19 of these units. This is also a very -- these homes are historical
20 homes and putting up a large structure that doesn't match the
21 style of the block totally changes the look and feel of the
22 neighborhood.

23 And another big reason is that there are several single
24 families that live here. It's a real neighborhood feel to this
25 place and putting up 20 plus single and studio units change the

1 culture of this neighborhood. So adding two three-bedroom units
2 is great, but then the rest of them are still studio units or
3 one bedroom. Already there's an eight-unit condo being built in
4 this block. I have a small son and I want to raise him in this
5 neighborhood that I love. So make this a building, a place for
6 families. Keep this neighborhood a place where residents who
7 have lived here for years and really care about it want to stay.

8 Another reason, the amount of trash that'll be sitting
9 in the alleyway downstairs will only increase the terrible rat
10 problem in this neighborhood and the loud trash trucks making
11 early morning multiple trips multiple times a week won't be great
12 either.

13 Another reason the amount of traffic on the street will
14 increase exponentially due to residents coming and going,
15 deliveries, people moving in and out. Not only will this be a
16 huge annoyance, but it's also unsafe. Again, I have a small son
17 and the heavy traffic is a concern. It also makes it very
18 difficult leaving and returning home. I'm a physician and already
19 it's a challenge to get out of the alleyway and through our
20 neighborhood in a timely manner. When I'm called into the
21 hospital quickly, there's always construction vehicles, delivery
22 trucks, lots of traffic blocking the way. And those are the main
23 -- those are the main points that I have. Thank you.

24 CHAIRMAN HILL: Thank you, Ms. Van Milder. Mr. Kumar,
25 is that you? If you can hear me or Ms. Kumar?

1 Ms. KUMAR: Sanaz Kumar. I'm a woman. And dd

2 CHAIRMAN HILL: I'm sorry. I'm sorry, Ms. Kumar. Could
3 you just give me your address also as you introduce yourself?

4 MS. KUMAR: Yes. I'm at 1700 Euclid Street, N.W., and
5 I'm also here as a HOA Board member.

6 CHAIRMAN HILL: Okay. You can go ahead and give your
7 testimony.

8 MS. KUMAR: Great. Thank you. I am Sanaz Kumar. I
9 am an HOA Board member, as I said, for 1700 Euclid Street, N.W.
10 And I'm here on behalf of our residents to voice opposition
11 specifically to this parking exception. So our building is
12 located just a few doors down from where this proposed
13 construction would take place. And I will tell all of you, as
14 the previous speaker mentioned, we already have a parking crisis
15 on our block. We need parking relief. Our building has 19 condo
16 units and eight dedicated parking spaces. And I can tell you
17 that every single parking space is used and then some. Most of
18 our residents have at least one car, and five or six of them have
19 two cars. So you know, we can talk about Adams-Morgan being in
20 a walkable area and the public transportation and the
21 attractions, but the reality is that, you know, these residents
22 who move into these 22 units or 20 units will have cars and they
23 will not have a place to put them. And I would add, those of
24 you familiar with our neighborhood know that parking on our block
25 is already very tight. So just next door to our building, 1706,

1 which was a house, was converted to a six-unit condo building
2 with one parking spot. So this new construction, which again
3 we're at 1700, next door is the six-unit building, just a few
4 doors down would be this 22-unit apartment building. This block
5 itself, I'm not just talking about Adams-Morgan, I'm talking
6 about this block is very, very tight. And we have all kinds of
7 visitors coming in from D.C., Virginia, Maryland, the Ubers, the
8 rideshare vehicles, illegally blocking traffic all the time.
9 Like the last speaker, I have a young child and I'm, you know, I
10 really have to grip him and hold him tightly when we're walking
11 down our street because there's all kinds of hazards along the
12 road. And there are cars illegally parked all the time. I would
13 say that my concerns go beyond just those associated with traffic
14 and congestion, which is already a problem. And I too am a
15 physician, and sometimes it takes me an inordinate amount of time
16 just to travel those two blocks down Euclid.

17 But I also really worry about pedestrian safety because
18 our crosswalks are blocked. I worry about emergency vehicles,
19 fire trucks, you know, other EMS services. I've seen them once
20 when they were coming to our building they had to park a block
21 away, you know, and carry their hose because parking is just so
22 tight, and there have been times that I could not exit our parking
23 pad. And I do pay to rent a space because parking is so tight.
24 And I couldn't -- I couldn't because there have been abandoned
25 vehicles just parked there. So you know, I worry -- I'm not

1 against all kinds of, you know, we understand there's a housing
2 shortage. But I think the reality is that our street, that
3 particular block, just does not have the reserve to make further
4 parking accommodations. And there's no recourse if an exception
5 is granted in this place.

6 CHAIRMAN HILL: Thank you, Ms. Kumar. Mr. Gambrell,
7 can you hear me? And if so, could you introduce yourself for
8 the record? Mr. Gambrell, you might be on mute.

9 MR. GAMBRELL: Hi, this is Allen Gambrell.

10 CHAIRMAN HILL: Hi, Mr. Gambrell.

11 MR. GAMBRELL: Hello.

12 CHAIRMAN HILL: Could you -- could you give us your
13 address also? Can you hear me? Hello?

14 MR. GAMBRELL: Chairman Hill, can you hear me?

15 CHAIRMAN HILL: Yes. I can hear you, Mr. Gambrell.
16 Can you introduce yourself for the record?

17 MR. GAMBRELL: Okay. Yes, sir. My name is Alan
18 Gambrell, and I live in Adams-Morgan, probably three or four
19 blocks from this project. I have a simple, pretty clear and
20 obvious reason to oppose this request to provide zero parking
21 spaces for a 22 unit building that is replacing two single family
22 homes. The project is excessive. It's an overreach. The zoning
23 regulations allow flexibility, as you know, but there are limits.
24 There really have to be limits. The 13 letters in opposition
25 from the neighbors on this block spell it out really clearly

1 contrary to what the developer's attorney just said. I don't
2 need to go back through those. As for the Office of Planning's
3 endorsement, what they fail to do is read the regulations in
4 total with regard to determining what is reasonable. The Office
5 of Planning has simply cherry picked and cited the proximity of
6 public transportation as a reason for approval. If one only
7 needed to cite nearby public transportation as a reason to grant
8 a special exception, there would be no need for the other special
9 exception factors listed at C 703. The Office of Planning goes
10 on to say the public alley is insufficient to provide parking.
11 That, frankly, just makes zero sense. A parking space currently
12 operates from this location. My own block has what's essentially
13 a one way, and I know it's grandfathered in, but that's the
14 reality of the situation.

15 As for the Office of Planning's assertion that the
16 project, quote, should not tend to adversely affect the use of
17 neighboring property. Just look at the 13 letters in opposition
18 and just think about what you've just heard and what you're going
19 to hear. I know that these letters came in just a day or two
20 ago, but where did the Office of Planning come up with this
21 determination that there would be no adverse effect? The 13
22 letters explain in detail how the lives of people who live on
23 the street will be adversely affected.

24 And frankly, I've experienced this before with the
25 office of Planning and it's determinations that there is no

1 adverse effect. I don't think they ask anybody in the
2 neighborhood, and they really should be required to do that.

3 My final comment is as far as the endorsement by ANC
4 1C, and this really pains me to say this. They ought to -- the
5 Board should just simply ignore their recommendation because they
6 failed to publicly notice their discussion of this matter at
7 their meeting last week. It was not on the -- on the Adams-
8 Morgan listserv. There was some discussion that they even missed
9 whatever deadline they were looking for by two hours to get this
10 on. But they put it on at the last minute and they did not
11 publicly notice it. Also, ANC 1C really focused a lot of their
12 attention, not on parking, but the attractiveness of these
13 alleged affordable housing units, which are just, to my
14 estimation, notably are not inclusionary zoning units, by the
15 way. In that regard, I don't find that to be -- I find that to
16 be a promise. It's not really anchored in reality. Those are
17 my comments. Thanks.

18 CHAIRMAN HILL: Thanks, Mr. Gambrell. Mr. Gambrell,
19 is this in your ANC?

20 MR. GAMBRELL: I'm sorry. I couldn't hear that.

21 CHAIRMAN HILL: It's okay. Was -- is this project,
22 I'm just curious, is this project in your ANC? Mr. Gambrell?
23 Maybe you're on mute again. Mr. Gambrell?

24 MR. GAMBRELL: Yes, I'm having some problems with --
25 I'm doing this on a cell phone. Can you hear me now?

1 CHAIRMAN HILL: Yeah, I can hear you.

2 MR. GAMBRELL: Sorry about that. Yes, it is in my ANC.
3 I used to be on the ANC. So that's why in particular, it pains
4 me to say that they did not publicly notice it. I know the rules.
5 They didn't follow them.

6 CHAIRMAN HILL: Okay. I'm sorry. I don't know.
7 Frankly, that's not import -- it's not -- that part is not in my
8 area as you know.

9 MR. GAMBRELL: Yes.

10 CHAIRMAN HILL: It's nice to hear you, Mr. Gambrell.

11 MR. GAMBRELL: You, too.

12 CHAIRMAN HILL: Does anybody have any questions for the
13 witnesses? All right. Mr. Young, if you can please excuse this
14 batch of witnesses and bring in our next group. Ms. Rogers, I'm
15 going to have you again outline the whole IZ thing as to what
16 you guys are actually promising and what supposedly is -- which
17 are the IZ units also. I need to be curious of those. Okay.

18 MS. ROGERS: Yes, I do that after the next three people
19 speak, correct?

20 CHAIRMAN HILL: Yes, please. Yes, please. Mr. Young,
21 who did you let in?

22 MR. YOUNG: Raj Shah, Daniela Felcman, and Scott
23 Cartwright.

24 CHAIRMAN HILL: And Mr. Cartwright, can you hear me?

25 MR. CARTWRIGHT: Yes, sir, I can.

1 CHAIRMAN HILL: Great. Can you give me your address
2 and then introduce yourself for the record, please?

3 MR. CARTWRIGHT: Sure. I'm Scott Cartwright at 1718
4 Euclid. I live here with my wife and daughter for the last 25
5 years.

6 CHAIRMAN HILL: Okay. Great. Well, Mr. Cartwright,
7 that's a good click of time there.

8 MR. CARTWRIGHT: (Indiscernible) reflect it.

9 CHAIRMAN HILL: No, I'm -- well, I've been here for --
10 - well I've been here longer than 25 years, but it's still --
11 it's a long time.

12 MR. CARTWRIGHT: Yeah.

13 CHAIRMAN HILL: Go ahead, Mr. Cartwright. You'll have
14 three minutes to give us your testimony.

15 MR. CARTWRIGHT: Understood. Thank you. So I'll start
16 off and say that I, and I checked with my family, and I can speak
17 for them as well, are all for densification. We were here when
18 Ms. Kumar's building went up at 1700. And having these additional
19 neighbors is great. Some folks in 1700 took care of our dog when
20 she got away from us. The folks across the street went from one
21 family home to three families and they put on great Halloweens
22 for the neighborhood kids. We are all for densification, but the
23 previous gentleman used the phrase overreach. And I noted that
24 down. So I think that's a great way to say it. Reach is good.
25 These folks wanting to build more units is good, make some nice

1 money off it. Great. Our job as the community and as our
2 government is to make sure it doesn't go too far. And the too
3 far here is, I think a couple of people have mentioned, there's
4 a false assumption that not needing a car translates to not having
5 a car, and that's not realistic. It is not true.

6 Hoping that people will have fewer cars in the future
7 is a great hope. I share it. It's not a plan. These transit
8 resources that are nearby are not new. These -- the, excuse me,
9 mercantile offerings that are nearby are not new. There's a
10 reason we have this limit that correlates how many people are in
11 the neighborhood to how many people can the neighborhood support
12 in terms of resources like parking exists for a reason, and it's
13 not because, you know, the metro just showed up last year, so
14 people don't need cars anymore.

15 People have brought up the inability to get out. That's
16 not just because of rude drivers. It's just there are too many
17 cars. You might really need to get out. We just heard from two
18 doctors who need to get out. And we know for those reasons that
19 parking, which is the topic here, is a proxy for the things that
20 scale with people, not with just having cars. Brought up trash
21 pickup. Shirley brought up the rats that go after the trash,
22 the deliveries that will end up, these things scale with people.
23 So having a denser unit, great, having a 22 now 20 unit, 11 or
24 now ten X. The people who live here just like picture going to
25 your home and suddenly for every person that used to be there,

1 there are now ten people. That's overreach. And that's why we
2 ask that the number of units be reduced and if parking is the
3 way we get there, that's the way we'll do it.

4 CHAIRMAN HILL: Thank you, Mr. Cartwright. Let's see.
5 Ms. Felcman? Ms. Felcman, can you hear me?

6 MS. FELCMAN: Yes, I can hear. Can you hear me?

7 CHAIRMAN HILL: Yes. Could you go ahead and introduce
8 yourself for the record? And you have three minutes to give your
9 testimony.

10 MS. FELCMAN: Sure. My name is Daniela Felcman. I
11 live in the same block. I have two kids and I've been living
12 here for the past nine years in this block and in the area for
13 the past 15 years maybe. So I pretty much agree with the previous
14 testimonies in terms of the, you know, the challenge that it is
15 currently to park in this block and in the neighborhood. It's
16 very challenging to receive any visitors or constructive people,
17 you know, when they need to service the area. They complain --
18 they complain all the time. And actually we have two cars. So
19 the argument, you know, that argument about having multiple means
20 of transportation near the building I think will not cut it
21 because as many of us have already expressed this will not deter
22 people from getting cars, especially, you know, not everyone
23 works downtown or in a walkable area. So I wouldn't want -- I
24 don't I don't think that argument is sustained. Like I said,
25 it's challenging to park.

1 The other testimony mentioned the risks to, you know,
2 the people like me that have kids, traffic noise. So I really
3 don't support having a building this size, especially without
4 parking, because I already mentioned this is a challenge. Very
5 quickly, the argument about the affordable housing I did not
6 understand how this relates to the parking issue. Just let me
7 tell you that, you know, we have two of those apartments in our
8 building and they are not or they're very, very hard to enforce
9 so that they can aim to have something like that to be more
10 inclusive, but in our case, you know, residents eventually rent
11 them out. So they that defeats the whole purpose of that. So I
12 think those are my two arguments.

13 I think another testimony also mentioned the fact that
14 this street is growing very fast. There's a new building. 1706
15 I think it is, this new proposed building, and there is another
16 construction across the street from that one. So I think although
17 it's a right description to the situation. So that's I would
18 conclude with that. Thank you very much for your time.

19 CHAIRMAN HILL: Thank you, Ms. Felcman. Is it? Who's
20 the third? Ms. Chia or Mr. Chia?

21 MR. YOUNG: It's Raj Shah.

22 CHAIRMAN HILL: Oh, Shah. Okay. Mr. Shah, can you -
23 - Mr. Shah, could you hear me? And if so could you introduce
24 yourself for the record?

25 MR. SHAH: Hi. My name is Raj Shah. I live at 1700

1 Euclid Street in the 1700 building. I'm a neighbor of Ms.
2 Kumar's. I'll reiterate what a lot of other individuals have
3 stated already that the number one issue here is parking. There
4 is almost none of it on the streets on a daily basis. I am rarely
5 able to find a spot within two to three blocks, or I'd say on
6 average I'm usually parking more than three blocks away from my
7 condo building. You know, that's okay, but I think adding 20 to
8 22 units without parking would be disastrous. I think a lot of
9 other, I don't know the specifications of this building, but it
10 seems like a lot of other buildings are able to have parking
11 capacity. So I don't quite understand the issues concerning this
12 one. There are moving trucks, Ubers, the Harris Teeter, and the
13 trucks that are always routinely blocking traffic along with
14 Amazon trucks. So driving a car in the one way's here and finding
15 parking is somewhat miserable. I'll just be honest, it's
16 incredibly difficult as is. I appreciate the encouragement of
17 using public transport. I work in a place that currently like
18 does not and I have to travel to a lot of places that doesn't
19 have a lot of access to public transport. And so I have to use
20 a car and I use it nearly daily. And you know, I come back
21 usually when it's dark out and when I do, I have to park on the
22 street and I just know this is going to add a significant amount
23 of pain to my day-to-day living, and that's just me. I think a
24 lot of my neighbors would agree.

25 And then there's also sort of quality of life. This

1 adds a tremendous amount to the trash problem in the area, which
2 I think is somewhat secondary. There's just, I think, too many
3 people for the amount of trash pickup that we have. You see
4 trash all over the streets, all over the sidewalks. It
5 contributes to the significant rat problem that already exists.
6 You know, I don't think that sort of a public safety issue, but
7 it is a quality of life issue. And you know, we saw this notice
8 a few months ago. My wife and I, you know, I got married last
9 year. You know, she's been in D.C. for years. I've been in D.C.
10 for the last 15 years. I've been in this address for the past
11 four. But I mean, if this thing is built, we're probably going
12 to sell or rent out and move and move to a place with more parking
13 and more space, probably outside the district or maybe somewhere
14 else in the district with more space. I mean, I'll just be
15 candid. It's already feeling a little crowded as is. And some
16 of that is probably due to the pandemic. But you know, I think
17 this many residents with no parking would be -- it would be close
18 to catastrophic. I'll just I'll just be honest. You know, I
19 will add, I think the mission here is laudable. I think there's
20 a lot of good that people are trying to do here, and there's
21 nothing wrong with that. I just think for the people that already
22 live here; it will be a huge, huge, really difficult to swallow
23 negative pill. And I think I can't overstate and I'm just
24 reiterating what other people have said at a factual level, but
25 I have never been on one of these calls before. I rarely think,

1 I doubt if I'll ever be online again, but I feel passionately
2 that this will ruin our neighborhood. That clearly. Thanks for
3 your time.

4 CHAIRMAN HILL: Okay. Thank you, Mr. Shah. Does the
5 Board have any questions for any of the witnesses? Okay. All
6 right. You guys, thank you all very much for your testimony.
7 Mr. Young, if you please excuse all the witnesses. Did I lose
8 the Office of Planning? Mr. Young, is the Office of Planning
9 still around?

10 MR. YOUNG: There he is.

11 CHAIRMAN HILL: Mr. Mordfin, can you hear me?

12 MR. MORDFIN: Yes.

13 CHAIRMAN HILL: Mr. Mordfin, again, this is -- this
14 -- I always get a little confused. This massing is by right.
15 The number of units is by right. It's just the parking relief
16 that they're asking for. Is that correct?

17 MR. MORDFIN: That's correct.

18 CHAIRMAN HILL: So if they could provide the six spots,
19 then they wouldn't be here at all. Correct?

20 MR. MORDFIN: That is correct.

21 CHAIRMAN HILL: Okay. All right. Go ahead, Mr. -- Dr.
22 Imamura.

23 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman, for
24 the time. Mr. Mordfin, I have a question for you that occurred
25 to me. You know, there seems to be a lot of heartburn over these

1 six parking spaces. And the general theme that I'm gathering
2 from those that are in opposition, they are under the impression
3 or belief, perhaps, that it's a one for one ratio, for every unit
4 there will be a car. I'm not certain that that's entirely true
5 if we are talking about an all affordable building here. So do
6 we have some statistics? And especially we're talking about
7 studio, the majority of them being studio units. So we're talking
8 about either an individual or two in a studio. Does the Office
9 of Planning have some statistics here to support that this is not
10 a one for one. Statistically, not a one for one exchange for
11 every unit that there will be a car.

12 Especially when we're talking about an affordable,
13 affordable housing unit -- building.

14 MR. MORDFIN: I don't have any statistics right now.
15 I can also maybe work with the DDOT to get some statistics on
16 just how that works and what the demand is for these types of
17 units for parking.

18 ZC COMMISSIONER IMAMURA: Thank you, Mr. Mordfin. I
19 know that we may move forward with a decision after deliberation
20 here, but I think, so it may not -- it's something that we need
21 to add or include into the record, but a note to the Applicant
22 as well, knowing that the community has expressed their
23 reservation and the satisfaction for the relief requested
24 centered around parking here. I would imagine that the Applicant,
25 Ms. Roberts, has read some statistics on this. Would --

1 MS. ROGERS: Yes, Commissioner, I don't have a specific
2 statistic for you, and I can pause, see if the Applicant or C.J.
3 do. But I -- I do agree with your sentiments, which are, in my
4 experience and yours being a land use attorney and representing
5 many affordable housing developers, that those projects
6 traditionally provide less parking because their residents don't
7 always have access to a car, especially those that have the
8 smaller units. So I don't have a number to give you, but I think
9 that is kind of a well understood premise.

10 ZC COMMISSIONER IMAMURA: And we're targeting I think
11 you mentioned 30 percent AMI? Is that right? Or how many?

12 MS. ROGERS: So the, and C.J. can give specifics about
13 the IZ percentage to respond to Chairman Hill's question, but
14 those units outside of the IZ program will be between 30 and 50
15 percent of the area median income.

16 ZC COMMISSIONER IMAMURA: Okay. So --

17 MS. ROGERS: And that will be regulated by the
18 Applicant's fund grant funding for the project.

19 ZC COMMISSIONER IMAMURA: Okay. All right. Hopefully,
20 for those that are -- expressed their discontent and their
21 impression that there may be a one to one ratio here, hopefully
22 they'll walk away with a better understanding or at least a little
23 more comfort knowing that it may not be a one for one knowing
24 what these targetative rates are for these particular units.
25 Thank you, Mr. Chairman, for your indulgence.

1 CHAIRMAN HILL: Thank you. Thank you, Dr. Imamura.
2 Mr. Smith, anything else with the Office of Planning?

3 MR. SMITH: No.

4 CHAIRMAN HILL: All right. Thanks, Mr. Mordfin. All
5 right. So Ms. Rogers, again, you spoke about the IZ units. Can
6 you tell me which ones are the IZ units?

7 MS. ROGERS: I'll defer to C.J. to walk you through the
8 changes we made to accommodate the additional IZ.

9 CHAIRMAN HILL: And again, I'm sorry. The plans are
10 supposed to have been submitted, right? I can't seem to -- did
11 you guys put them in?

12 MR. LAMORA: I just sent plans at the early start of
13 our conversation to Sharon Schelling and Robert Reed.

14 CHAIRMAN HILL: Mr. Moy, do you know whether we got
15 them? The last thing I have is a letter in opposition in the
16 record. Unless you guys got plans that I don't know of.

17 MR. MOY: No. I would -- I would rely on the plans
18 that are officially in the case record, Mr. Chairman. I'll ask
19 the staff while you continue to talk.

20 CHAIRMAN HILL: Which ones are the -- so the
21 architecture plans that you have are in Exhibit 6, Mr. LaMora?
22 And then I guess I'll go ahead. I pulled up Exhibit 6, and maybe
23 you can tell me which ones are the IZ units.

24 MR. LAMORA: It's --

25 CHAIRMAN HILL: And what's the AMI that you're shooting

1 for in those IZ units? I know it's per the regulations.

2 MR. LAMORA: So we had some conversations with the ANC
3 over the last few weeks, and we consolidated two units at the
4 ground floor, which would have been the two rear units those
5 became a single three bedroom unit. That unit is an IZ unit. It
6 is 770 square feet and would be at 50 percent AMI.

7 CHAIRMAN HILL: Is that unit 101 and 102, 104 and 103?

8 MR. LAMORA: It would be the two rear ones in the back.
9 So it would have been 104 and 103.

10 CHAIRMAN HILL: So you combined that into a three
11 bedroom.

12 MR. LAMORA: Correct. Turn that into an IZ unit at 770
13 square feet.

14 CHAIRMAN HILL: Okay.

15 MR. LAMORA: And then the second IZ unit is on the
16 second floor, is unit 201. This is again, after kind of revising
17 all of the numbers for the accommodations to the ANC. That unit
18 is -- unit 201 is on the second floor is a studio unit. It is
19 354 square feet and would target the 50 percent AMI.

20 CHAIRMAN HILL: Okay. And Ms. Rogers, I mean, when you
21 say target, I mean, there is the regulations that tie into the
22 AMI in terms of what you're getting for the IZ units. I mean,
23 it's not -- there is -- you can target something but there's a
24 limit. Like you can only go so high. I can't remember what it
25 is. Do you not top your head?

1 MS. ROGERS: I don't know, off the top of my head. But
2 you're right. They'll be those ones will be formally regulated
3 through the IZ program.

4 CHAIRMAN HILL: Right. And so then the other, to speak
5 to some of the testimony, and it's okay, we're taking testimony
6 then I'm asking you questions about it is that your owner is
7 trying to target 30 to 50 percent AMI for the rest of the
8 building?

9 MS. ROGERS: That's correct. So he has grant funding
10 to make this an all affordable project. And he is an affordable
11 housing developer.

12 CHAIRMAN HILL: Great. So he has grant funding through
13 which again?

14 MS. ROGERS: I will let Chi Perrus confirm who that
15 what that's through.

16 M. PERRUS: Hi. Good afternoon. This is Chi Perrus.
17 I'm the applicant and I unfortunately I can't disclose at this
18 point as it relates to the grant funding. I'm not that I don't
19 want to. I'm just not allowed to do so.

20 CHAIRMAN HILL: I understand.

21 MR. PERRUS: But I will say that we are a workforce and
22 affordable housing developer. This project is intended to be one
23 100 percent affordable. In addition to the two IZ units, on the
24 remainder of the units we're targeting housing choice voucher
25 program tenants to make up the remaining tenants for the remaining

1 units.

2 CHAIRMAN HILL: Mr. Perrus, what's your company's name?

3 MR. PERRUS: Paragon Construction Group, Inc.

4 CHAIRMAN HILL: Paragon?

5 MR. PERRUS: Yes.

6 CHAIRMAN HILL: Okay. All right. Okay. Does anyone
7 have any questions? Dr. Imamura?

8 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
9 This is a question for Mr. Perrus. I'm curious. I'm not sure
10 that it's in the record, but in terms of the formula, the
11 mathematics, behind your project financing here. So what would
12 happen if, because again, this this goes back to the scale and
13 mass for the neighborhood in addition to the parking and their
14 concern about that. What would happen if we -- if it -- was
15 there any consideration for reducing the number of units or the
16 height?

17 MR. PERRUS: Right.

18 ZC COMMISSIONER IMAMURA: And what does that do to the
19 overall sort of formula for your project financing?

20 MR. PERRUS: Right. Very, very good question. So as
21 it relates to reducing, any sort of reduction in the height or
22 the unit yield to the project would significantly impact the
23 economics. As an affordable housing developer, we would get into
24 projects such as this using various affordable housing tools that
25 the city allows. There was one example is the, as it relates to

1 the IZ and Housing Production Trust Fund and lie tech equity,
2 this project is sort of a tweener. It's too small to really rely
3 on any sort of public funding or like equity, but if it's reduced,
4 then the economics would not work out as an affordable housing
5 project. It would work out as a market rate project very easily.
6 We can reduce the number of units, make bigger units, have a
7 smaller scale project, and have high end condos. That cancels
8 all day long. But what we're trying to do is more impactful to
9 the city, providing a need to the city and lessening the burden
10 of city funding into the project. And this is the way that that
11 we're able to do it.

12 ZC COMMISSIONER IMAMURA: And was any of this, Mr.
13 Perrus, explained at the ANC meeting or through your public
14 outreach?

15 MR. PERRUS: No, this was not specifically. There was
16 no specific discussion in the ANC meetings as it relates to a
17 reduction in the scope or scale of the project. It was more
18 surrounding the affordability component and of course, the
19 parking component.

20 ZC COMMISSIONER IMAMURA: Yes, sir. I understand.
21 Moving forward just as a best practice, perhaps at least from the
22 things that we see on the zoning commission, a lot of people,
23 when it comes to scale, mass, you know, height, there is some
24 consternation about that within a neighborhood, understandably
25 so. But I think if it is sort of the developers to explain sort

1 of what those mathematics are for project financing and what that
2 formula looks like and how that works to help sort of quell or
3 temper some of their anxiety. So and again, as the developer
4 to, sort of the you probably have some access to data about
5 parking, you know, those or the type of residents that you're
6 targeting. What are the statistics for vehicle ownership? So
7 again, something to think about in the future as you look at
8 other projects to develop around the city? Thank you, Mr.
9 Chairman.

10 CHAIRMAN HILL: Okay.

11 MR. MOY: Mr. Chairman?

12 CHAIRMAN HILL: Yeah.

13 MR. MOY: Sorry to interrupt. Just want to let you
14 know that Exhibit 45 we've just uploaded, which are the updated
15 architectural plans. So you may want to take a look at that.

16 CHAIRMAN HILL: Okay. Thanks. Mr. Perrus, can you
17 hear me?

18 MR. PERRUS: Yes, I can.

19 CHAIRMAN HILL: Yeah, but even if you did do the other
20 projects and you had a lower amount, you'd still be here with us
21 trying to get parking relief, probably, correct?

22 MR. PERRUS: That's correct.

23 CHAIRMAN HILL: Okay. Because you'd have the same
24 argument for the parking relief, correct?

25 MR. PERRUS: Yes, that's.

1 CHAIRMAN HILL: Correct. Meaning that would be your
2 plan. Okay. All right. Let's see. I'm looking at the plans
3 here now or trying to. Yes, it's in 45 now, I guess. Okay. And
4 Ms. Rogers, your client is amenable to all of the TDM thoughts
5 that the Department of Transportation had, correct?

6 MS. ROGERS: That's correct. They're very similar to
7 the ones we initially proposed. And we worked with DDOT to agree
8 to provide the Capital bikeshare contribution to expand that
9 station. So we accept all of those that are outlined in that
10 letter.

11 CHAIRMAN HILL: And that was the one in Exhibit 26.

12 MS. ROGERS: That's correct.

13 CHAIRMAN HILL: Okay. I don't -- I am actually more
14 comfortable with implementing the plans, I'm sorry, the TDM plan
15 and the conditions that DDOT put forward. However, I don't agree
16 with the language of for the life of the project. I am looking
17 at my Board members. I mean, I think that just the -- I do think
18 that referencing in the order, and I don't know, Mr. Smith or
19 Dr. Imamura, in terms of it being a condition of ours, those
20 conditions in the deed, I guess I do the recommendations. I
21 guess I agree with them and see that they would -- my tongue is
22 tied up -- reduce the need for the parking requirements. So I
23 guess I would be in favor of them being conditions, but just not
24 listed. I don't know -- I don't know why that --

25 MR. SMITH: I don't --

1 CHAIRMAN HILL: Go ahead, Mr. Smith.

2 MR. SMITH: Chairman Hill?

3 CHAIRMAN HILL: Yeah. Go on, please.

4 MR. SMITH: Oh, well, are we deliberating right now?

5 CHAIRMAN HILL: No, I just had a question about that.
6 I just want to make sure I was clear with the Applicant concerning
7 the conditions with the DDOT.

8 MR. SMITH: Well, it would be a special exception. It
9 would run with the land anyway without that terminology so. And
10 I believe, Ms. Rogers, you're aware of that. Okay. So we can
11 -- we can remove that terminology, but it will run with the land.
12 They have to maintain a TDM.

13 CHAIRMAN HILL: Okay. And I appreciate that help
14 because my day has been going long. All right. Let's see. So.
15 Okay. That being the case, does anybody have any final questions
16 or comments for anybody? Ms. Rogers, do you have anything you
17 would like to add to the end?

18 MS. ROGERS: No, I know you've had a long day and we
19 really appreciate your time. Thank you.

20 CHAIRMAN HILL: Okay. I'm going to go ahead and close
21 the hearing and the record. Mr. Moy, if you could please excuse
22 everyone or Mr. Young? Sorry. Oh, yes. Someone is getting
23 tired. Mr. Smith, would you care to start the deliberation?

24 MR. SMITH: Oh.

25 CHAIRMAN HILL: Somebody else? Whoever wants to go

1 first. I'm telling you, if someone wants come sit in this chair
2 and I'll go sit in your chair. Okay.

3 MR. SMITH: I'll start this off. So, given everything
4 that was presented within the record, everything that was
5 presented by the Applicant, by the Office of Planning, as well
6 as the multitude of speakers that we that we've heard, I do
7 believe that the Applicant has met the burden of proof for us to
8 grant the special exception. And I will reiterate it. This
9 project whether with, you know, the IZ, and you know, whether
10 it's IZ, whether it is, and you know, this came up with the
11 citizens, is kind of irrelevant to this conversation because the
12 special exceptions have -- what we're dealing with right now,
13 what's before us, is regarding the request for parking relief to
14 remove them from having to construct six parking space. And I
15 believe that the Applicant and OP has sufficiently demonstrated
16 that it would be -- because of the physical constraints of the
17 property, these are very narrow blocks, and we've seen this a
18 couple other times when we've seen redevelopments of these narrow
19 lots for multi-family development that is very impractical to put
20 in or to be or to construct parking on these very narrow lots.
21 That you wouldn't be able to meet minimum parking standards to
22 construct six parking spaces on these two very narrow lots. Also,
23 DDOT will not approve a curb cut off of Euclid, so they wouldn't
24 be able to access parking from Euclid. Of course this has an
25 alley or backs up to an alley, but the alley is only ten feet

1 wide. It is not a double loaded alley. It would be difficult
2 to access any potential parking whether it is one parking space.
3 It doesn't meet the minimum drive off standards for accessing
4 parking spaces. So it would be extremely difficult and
5 impractical to put in, to construct six parking spaces, even if
6 it was, you know, they contemplated doing some type of underground
7 parking. It's very difficult to access that via the alley.

8 I will also note that the property is located less than
9 a mile away from two metro stations, Columbia Heights and Adams-
10 Morgan. And is located near several bus lines that run in the
11 general vicinity of this facility. The Applicant again has
12 entered into a TDM plan with DDOT and DDOT supports the
13 application. These conditions include additional bike parking
14 spaces above and beyond the minimum required per the zone in
15 order to counter or alleviate some of the concerns that were
16 raised by the neighborhood citizenry regarding the reduction in
17 parking.

18 I am sympathetic to the concerns that are raised by the
19 community. But the zoning ordinance, this particular zone does
20 contemplate increased density. The RA-2 zone, does contemplate
21 additional density up to the 22 units. Matter of fact, it would
22 be by right other than needing this -- this parking relief. They
23 could construct up to 22. So I believe that the Applicant, based
24 on what was presented, the Applicant does meet the burden of
25 proof under Subtitle C 703 as well as the general special

1 exception standards where it would not have an undue adverse
2 impact. The question is undue. And given the additional multi-
3 modal options that the Applicant would pursue, as well as the
4 fact that this is located relatively close by transportation
5 standards to two metro stations and has access to bus lines, I
6 do believe that the Applicant has met the burden of proof as to
7 grant the special exceptions and will support the application.

8 CHAIRMAN HILL: Thank you. Dr. Imamura?

9 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
10 Thank you, Board member Smith. By and large, I agree with your
11 comments and emphasized that this development is near public
12 transportation, public transit and bus lines. We know that the
13 tenants for this particular building have a higher rate of use
14 of public transportation. I am certainly sympathetic with the
15 neighborhood and their concerns. Having lived in New York, I
16 certainly understand what it's like to park your car three or
17 four blocks away and walk back to your unit. That's urban living.
18 That's, you know, the urban environment. I think that this is a
19 great example. I do appreciate all of those who expressed their
20 opposition. Thank you all for participating in the public process
21 here. It's very important. These decisions are never easy.
22 Zoning is imperfect, but we try to make the best decisions we
23 can in the best interests of the city, and this is -- this project
24 has a laudable goal. I certainly have -- I share similar concerns
25 about scale and mass, but that's not part of what's before us

1 today. It's just the parking. So that's all we're really able
2 to evaluate and make a decision on. So with that, Mr. Chairman,
3 I'm prepared to vote in favor. I yield back.

4 CHAIRMAN HILL: Okay. Thank you. Yeah. My only
5 additional comments again is that, and we do see this on occasion,
6 considering parking, just parking is very difficult in the city.
7 And it's more and more difficult with added density. And the
8 more there are, you know, that condo building that was in the
9 end there on the corner, that adds the density, that adds to the
10 parking needs. And the way the regulations are written is they
11 only need to meet one of the criteria for us to grant the parking
12 relief. Right? The building itself is matter of right, meaning
13 the 22 units, the density that is proposed in this zone. So then
14 you get to these parking requirements and whether they can be
15 waived by special exemption. Not a variance by special exemption.
16 And A is due to the physical constraints of the property the
17 required parking spaces cannot be provided on the lot or within
18 600 feet of the lot, according to Subtitle C 701.8. So they
19 can't provide the parking. Like they can't provide the six, that
20 you're not going to get the curb cut by DDOT, you can't fit
21 through that alley to give the six slots. Then f -- all or a
22 significant portion of the building units are dedicated as
23 affordable housing units. Like I already think that it's due to
24 the regulations and the way that it all works with that, there
25 is you know, there's so much AMI that you have to go to achieve

1 in order to get those two IZ units. So they made one of them a
2 three-bedroom unit and one of them is a studio. They're going
3 to -- I forget what the actual, but anyway that's per regulation,
4 whatever the AMI is by that, then according if they get the grants
5 then they've somehow been able to make it that 30 to 50 percent
6 AMI, that's like, that's deep, you know, like that's not -- 30
7 percent is no joke. Like that's truly affordable housing. Right.
8 And so you know, I know that the people that are in opposition,
9 I completely understand. And whether it makes, first of all, in
10 the regulation it does say that, you know, we can take that into
11 consideration if they are. Not only can we, we're supposed to
12 take it into consideration if a significant portion of the
13 dwelling are affordable housing, and that again 30 percent AMI,
14 I don't hear that ever, and so that's where you know the grant
15 is somehow making it work that this does pencil out for the
16 developer in that area that is served by public transportation
17 and has had a history, if you will, I think of workforce housing
18 that has also kind of like access to public transportation.
19 Regardless, it's very disappointing that it's more units, it's
20 more people. There will be, you know, further strains on the
21 parking. However, I think the Board's hands are following the
22 regulation and the understanding of what we're supposed to do,
23 which is look into everything. And if they meet the criteria
24 for us to grant the relief requested, as I also believe they do,
25 grant the relief. I'm going to make a motion to approve

1 Application No. 20884 as captioned and read by the secretary and
2 ask for a second. Mr. Smith?

3 MR. SMITH: Second.

4 CHAIRMAN HILL: Motion made and seconded. Mr. Moy, if
5 you could take a roll call, please.

6 MR. MOY: Thank you, Mr. Chairman. When I call your
7 name, if you'll please respond to the motion made by Chairman
8 Hill to approve the application for the relief being requested.
9 The motion to approve was second by Mr. Smith.

10 Zoning commissioner Dr. Imamura?

11 ZC COMMISSIONER IMAMURA: Yes.

12 MR. MOY: Mr. Smith?

13 MR. SMITH: Yes.

14 MR. MOY: Chairman Hill?

15 CHAIRMAN HILL: Yes.

16 MR. MOY: Staff would record the vote as three to zero
17 to two. And this was on the motion made by Chairman Hill to
18 approve. The motion to approve was second by Mr. Smith, who is
19 also voting to approve as well as support of the motion from Dr.
20 -- Zoning Commissioner Dr. Imamura, Of course, again, Mr. Smith,
21 Chairman Hill. Staff records the vote, again, as three to zero
22 to two. No other participating. Motion carries.

23 CHAIRMAN HILL: Thank you. You guys, can we just take
24 five minutes and we'll come right back? Okay. Just take five.
25 Quick five. Thank you.

1 (Whereupon, there was a brief recess.)

2 CHAIRMAN HILL: Okay. What was the number, Mr. Moy,
3 of the case we just did?

4 MR. MOY: 20884.

5 CHAIRMAN HILL: Okay. I neglected to mention the TDM
6 plan when I made my motion. And so -- Dr. Imamura, are you there?
7 So I'm going to reopen the record on Case No. 20884 so I can
8 clarify and do -- so I can clarify my motion.

9 So I reopen the record on Case No. 20884 to clarify my
10 motion, which is to make a motion to approve Application No.
11 20884 as captioned and read by a secretary, including the
12 conditions listed in DDOT -- listed in the DDOT letter and asked
13 for a second. Mr. Smith?

14 MR. SMITH: Second.

15 CHAIRMAN HILL: The motion made and seconded. Mr. Moy,
16 if you could again take a roll call, please.

17 MR. MOY: Okay. When I call your name, if you will
18 respond to the motion made by Chairman Hill to approve the
19 application for the relief, including the TDM and conditions as
20 listed in the letter. The motion seconded by Mr. Smith.

21 CHAIRMAN HILL: And just to clarify, it's not to use
22 the language for the life of the project. I think it was just -
23 - that's the only strike. We're not -- we're not listing it in
24 the order as the life of the project. It's just it carries with
25 the land. But we agree with that condition. The Board does.

1 Thank you, Mr. Moy. And please take a roll call.

2 MR. MOY: All right. When I call your name, if you
3 please respond to the motion made by Chairman Hill to approve
4 with the TDM conditions. Second by -- motion second by Mr. Smith.

5 Zoning Commissioner Dr. Imamura?

6 ZC COMMISSIONER IMAMURA: Yes.

7 MR. MOY: Mr. Smith?

8 MR. SMITH: Yes.

9 MR. MOY: Chairman Hill?

10 CHAIRMAN HILL: Yes.

11 MR. MOY: Staff would record the vote as three to zero
12 to two. Motion carries, sir.

13 CHAIRMAN HILL: Thank you. You can call us back with
14 a -- let me see what's next -- I think it's 20882.

15 MR. MOY: All right. So before the Board now in the
16 final two cases, is a return to the cases. The first one is
17 Application No. 20882 of Holly and Gregory Porter.

18 CHAIRMAN HILL: Okay. Mr. Porter, are you there? Can
19 you hear me?

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

21 CHAIRMAN HILL: Okay. Ms. Marovic?

22 MS. MAROVIC: Yes.

23 CHAIRMAN HILL: Marovic, sorry. Were you able to speak
24 with Mr. Porter's architect?

25 MS. MAROVIC: Yes. And we did go over very many issues

1 that were clarified. There is still one issue remaining, and
2 that is that when we projected the view from our window, even
3 with this slate, which is currently horizontal, we will be able
4 to see waters in the swimming pool area, which is where people
5 are not fully dressed or can be undressed completely in their
6 private space. That still remains a concern. And I would like
7 to highlight something from the zoning regulation --

8 CHAIRMAN HILL: Ms. Marovic? That's all right. How
9 do you say your name again, please?

10 MS. MAROVIC: Marovic.

11 CHAIRMAN HILL: Marovic?

12 MS. MAROVIC: Yes.

13 CHAIRMAN HILL: I just had a question about whether or
14 not -- I am not taking further testimony. I just want to know
15 whether or not you had had an opportunity to speak to the
16 architect. Okay. So you did have a chance to speak to the
17 architect, but you're still remaining in opposition, is that
18 correct?

19 MS. MAROVIC: Yes.

20 CHAIRMAN HILL: Okay. So Mr. Porter, this is your --
21 this is up to you now, Mr. Porter. Okay. So I am -- we can
22 deliberate now and go ahead and close the hearing. Now, what
23 that will do is that you have someone then, this is where, you
24 know, you don't have a land use attorney. And I'm not trying to
25 get into land use law. So you now have somebody that is a party

1 in opposition. That would require us to write a full order. A
2 full order takes -- it can take time. And I can't promise, you
3 know, if it's a simple, if it seems to be something simple, which
4 I think this could be, it might. I just have no idea. Right?
5 You know, something when there's no opposition, it can get worked
6 out faster. However, you know, I don't know how long the full
7 order is going to take. Right? And in fact, I'm going to take
8 30 seconds here so I can make a quick phone call. And you guys
9 hang on one second. Okay.

10 (Pause.)

11 CHAIRMAN HILL: Okay. All right. Do I have my fellow
12 Board members back?

13 ZC COMMISSIONER IMAMURA: You do.

14 CHAIRMAN HILL: Okay. I am all ready. I know where I
15 am. And so I don't need any more information. I can go ahead,
16 and I think I have a full idea as to what we are deliberating
17 upon or talking about. And I think the record is very full, and
18 so I'm able to deliberate now. Does the Board members -- do my
19 Board members need any further information? I've seen Joe -- Mr.
20 -- Dr. Imamura say no. Mr. Smith says no. Okay. All right. So
21 normally that would have been rebuttal. And rebuttal would have
22 been, again, Mr. Porter, if you have any rebuttal. And then Ms.
23 Marovic would be able to rebut any rebuttal. And then, Mr.
24 Porter, you could have a conclusion. So my question to you, Mr.
25 Porter, is, do you have any rebuttal?

1 MR. PORTER: No.

2 CHAIRMAN HILL: Okay. All right. So then, Ms. Marovic,
3 I am not part of the regulations, but what I normally do is that
4 as a courtesy to people that are parties, I give them an
5 opportunity to give a small conclusion. And so would you like
6 to go ahead and give the Board a conclusion?

7 MS. MAROVIC: Yes, I would like to. So the issue is
8 of our ability to enjoy. I really apologize. I don't have to
9 shut it down. Okay. Sorry. So the issue here for us is the
10 privacy, which includes both how we will see activity and how
11 they will see activity in our place. The issue of privacy,
12 privacy is compounded together with our ability to have the
13 necessary and rightful comfort and enjoyment of our property. We
14 really appreciate everything that Porters did, and we are very
15 close to finding an appropriate solution that I would say would
16 certainly require a little bit of compromise. But it would not
17 be unfair to both of us because I would think that a situation
18 in which Porters within their rights can fully enjoy and make
19 everything that is very comfortable for their rights. These
20 rights are limited by our ability to also enjoy those rights.
21 And we are within the law by asking as per Section 223.4 that
22 the Board may require special treatment in the way of design,
23 screening, and exterior of interior lighting, building materials,
24 or other features for the protection of adjacent and nearby
25 properties. And why is this important? Because we ask Porters

1 and this is, I believe, the reason that we were on the fly today
2 to find a solution that would actually be --

3 CHAIRMAN HILL: Ms. Marovic? You're just supposed to
4 give me a conclusion. You're not supposed to reargue your case.

5 MS. MAROVIC: Okay.

6 CHAIRMAN HILL: So can you please conclude?

7 MS. MAROVIC: The conclusion is that putting any filter
8 on the windows so we don't see hot naked or possibly naked people
9 would completely satisfy our case. If that is a conclusion and
10 we are still willing to help Porters get this permit as soon as
11 possible. Well, as this is addressed.

12 CHAIRMAN HILL: Okay. Thank you. All right, Mr.
13 Porter. Do you have any conclusions you would like to add?

14 MR. PORTER: We won't be able to see through our windows
15 if we put film on them and block the light. And part of the --

16 CHAIRMAN HILL: Mr. Porter, again, I'm not reopening
17 this case for --

18 MR. PORTER: All right. So, No, No. Thank you for
19 your time.

20 CHAIRMAN HILL: I'm just asking for your conclusion.

21 MR. PORTER: Yes, please, please grant our request.

22 CHAIRMAN HILL: Okay. Great. All right. Does the
23 Board have any final questions of anybody? Okay. I'm going to
24 go ahead and close. Oh, one last thing, I guess. I think your
25 architect did put in Exhibit 49 the updated plans. And I see

1 them indicated as per the last time we spoke that had that little
2 whatever vertical blind was, and that the windows are the size
3 that seems to have been now discussed. So is that correct, Mr.
4 Porter?

5 MR. PORTER: That's correct.

6 CHAIRMAN HILL: Okay. And those are the plans that
7 your architect had submitted in 49, and those are the ones that
8 you understand are to be built. Correct, Mr. Porter?

9 MR. PORTER: Correct.

10 CHAIRMAN HILL: Okay. Okay. All right. Thank you all
11 very much for your time. I hope you guys have a nice evening.
12 I'm going to close the hearing and the record.

13 MS. MAROVIC: Thank you for your patience and
14 listening.

15 CHAIRMAN HILL: Oh no, it's all right. It's okay.
16 Okay. I appreciate the time that the Board has taken for this
17 application. And I do think that both parties have understood
18 that we as the Board are also just citizens. Well, at least I
19 am. Actually, we're all citizens of the district. I mean, you
20 guys got other functions, ancillary functions, but we're here to
21 uphold the regulations, as I think we've done a very good job
22 today of doing. And I believe that the Applicant is meeting the
23 criteria for us to grant this special exemption. Given that,
24 oddly enough, we had a very in-depth case with an ADU before this
25 one, which was a much larger ADU, and I thought really had more

1 discussions as to windows and privacy and views. I think this
2 is a much more modest project, and I do think that -- I don't
3 think anybody can see anything in terms of this particular
4 project. I mean, I don't think even without the -- even without
5 the added valance, whatever that thing's called, that gets stuck
6 over the window. I think there still is very, it's very difficult
7 for anyone to look into that home or ADU. I mean, you would
8 really have to try to look into those windows from with all of
9 the trees and foliage that will be there as well. And also, I
10 think it's a much lower ADU than other previous ADUs that we had
11 looked at today. I would give great weight to the analysis of
12 the Office of Planning has provided, as well as that of the ANC
13 and also, I think that I agree with the Applicant. And also, do
14 appreciate the time that the party status person has put forward.
15 And also, you know, they had their concerns and questions about
16 the project. And I think that it's very good that they had an
17 opportunity to voice their opinions and get some clarity provided
18 by the Applicant. So that being the case, I'm going to vote in
19 favor. Mr. Smith, do you have anything to add?

20 MR. SMITH: No. I by and large agree with your
21 assessment of this case, and I'm happy that they had the
22 opportunity to fully present their case. And there was a, you
23 know, a very lively dialog, it seems, between the Applicant and
24 the party in opposition. Well, it sounds like they didn't come
25 to a full agreement. I do agree with you on this case that I

1 believe based on the height of this, especially the accessory
2 building, it would have very little impact on the light and air
3 to the adjacent condo building. As a matter of fact, the condo
4 building probably is more so affecting the light of the Applicant
5 as brought up by the Applicant. And I do believe they've met
6 the burden of proof for us to grant the special exception. I
7 will support the application giving OP great weight.

8 CHAIRMAN HILL: Thank you. Dr. Imamura?

9 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I
10 agree with both your summary and Board member Smith. Also want
11 to pay compliments to you, Mr. Chairman, for the decision you
12 made today, because I think it underscores the good neighbor
13 policy. So glad to see that the Applicant and Ms. Marovic begin
14 to work things out. I think they'll continue to work things out.
15 I think the privacy issue really goes the other way with Ms.
16 Marovic and her family's windows much higher looking down into
17 the Porter's proposed accessory dwelling unit so. And the
18 horizontal fin. So Mr. Chairman, you were looking for the right
19 word. It's horizontal. And as the scientific term, if you will,
20 architectural term for that design element. But I'm confident
21 that, you know, satisfy Ms. Marovic with additional time to
22 reflect on it, as well as their stormwater management strategy
23 to collect stormwater at the back edge and plant a row of trees
24 back there or any type of vegetation. I think will also add some
25 additional screening back there. So really, I'm prepared to vote

1 in favor of this. This is really straightforward and the record's
2 full and complete.

3 CHAIRMAN HILL: Okay. Great. Thank you, Dr. Imamura.
4 I'm going to make a motion to approve Application No. 20882 as
5 captioned and read by the secretary and ask for a second. Mr.
6 Smith?

7 MR. SMITH: Second.

8 CHAIRMAN HILL: Motion made and seconded. Mr. Moy, if
9 you could take a roll call, please?

10 MR. MOY: Thank you, sir. When I call your name, if
11 you'll please respond to the motion made by Chairman Hill to
12 approve the application for the relief requested. The motion to
13 approve was second by Mr. Smith.

14 Zoning Commissioner Dr. Imamura?

15 ZC COMMISSIONER IMAMURA: Yes.

16 MR. MOY: Mr. Smith?

17 MR. SMITH: Yes.

18 MR. MOY: Chairman Hill?

19 CHAIRMAN HILL: Yes.

20 MR. MOY: We have two others not participating today.
21 Staff would record the vote at three to zero to two, and this
22 was on the motion made by Chairman Hill to approve. Motion to
23 approve was second by Mr. Smith, who is in support of the motion
24 to approve as well as support to approve by Zoning Commissioner
25 Dr. Imamura and of course, Chairman Hill. The motion carries,

1 sir.

2 CHAIRMAN HILL: Thank you, Mr. Moy. If you could please
3 call our last case back.

4 MR. MOY: The next case application, which was heard
5 earlier today, is Case Application No. 20885 of Christian Creech.

6 CHAIRMAN HILL: Mr. Sullivan, if you could hear me, if
7 you could introduce yourself for the record, please.

8 MR. SULLIVAN: Thank you, Mr. Chair. Marty Sullivan
9 with Sullivan and Barros.

10 CHAIRMAN HILL: Thank you, Mr. Sullivan. I see the
11 ANC, I guess, did submit their report. Have you seen that?

12 MR. SULLIVAN: Yes. The ANC submitted, and we've filed
13 a replacement page showing a doorway.

14 CHAIRMAN HILL: Yep. Got it. So then the plans are
15 there -- the revised page plan is in 30a for the door to the open
16 court. Correct?

17 MR. SULLIVAN: Yes.

18 CHAIRMAN HILL: And then, otherwise, the plans are in
19 24a?

20 MR. SULLIVAN: I have to open up the --

21 CHAIRMAN HILL: That's all right. Just want to make
22 sure I'm looking at the right plans.

23 MR. SULLIVAN: Yes.

24 CHAIRMAN HILL: Okay. Great. All right. Does the
25 Board have any questions for the Applicant? Mr. Sullivan, you

1 have anything you'd like to add at the end?

2 MR. SULLIVAN: No, thank you.

3 CHAIRMAN HILL: Okay. I hope you guys have a nice
4 evening. Goodbye.

5 MR. SULLIVAN: Thank you.

6 CHAIRMAN HILL: It sounded funnier than I meant it to
7 sound. All right, Mr. Smith, since you're all giggles why don't
8 you -- why don't you talk? Or Dr. Imamura, you can go next. You
9 know what, somebody else talk.

10 ZC COMMISSIONER IMAMURA: Board member Smith, go ahead,
11 sir.

12 CHAIRMAN HILL: All right, Mr. Smith.

13 MR. SULLIVAN: So. Sure. Given the -- everything that
14 we've seen in the record and what was presented by the Applicant
15 and the Office of Planning, and I will include the modified
16 record. I believe that the Applicant met the burden of proof
17 for us to grant the series of special exceptions requested by
18 them. Six special exceptions were requested by them. I would
19 note that in the vast majority of these on these special
20 exceptions are mostly as a result of geography here. The property
21 front is on two right of ways, an alley, and as a narrow lot and
22 most of the relief is being requested at the cellar level because
23 they're connecting those to existing buildings. So because of a
24 quirk of geography, this is triggering this level of special
25 exception for what I think is a relatively reasonable,

1 straightforward addition to this building.

2 I do believe the proposed additions will be in harmony
3 with the general purpose and intent of the zoning regulations and
4 zoning laws would not tend to expect adversely the use of
5 neighboring properties in accordance with zone regulations.
6 They're not proposing to create a substantial additional height
7 whereby it would create any major shattering effects or impact
8 the light and air of the adjacent property owners. And again as
9 a support of geography, they again front two primary streets and
10 an alley, so the effect that that would have would be fairly moot
11 in the first place. I note that the ANC is in support of this
12 application. We did just receive a letter from them in support.
13 DDOT has no objection to the request, the requested relief
14 measures. So with that, I will give Ops staff report great weight
15 and will support the application.

16 CHAIRMAN HILL: All right, Mr. Smith, thank you. Thank
17 you, Dr. Imamura?

18 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I
19 have nothing further to add. I agree with Board member Smith.
20 Thank you.

21 CHAIRMAN HILL: Okay. Thank you. Mr. Smith, it's
22 funny. I don't know if we'll see more of these like it is -- it
23 was a long list of relief. I agree. And I think they're meeting
24 it. It's an odd little like project before us, meaning the like,
25 you know -- and I say this because it works this time. I don't

1 know if it will work every time, right? I get so -- they're
2 filling the whole lot, right? Basically, they're filling the
3 whole lot. And even the Applicant will know that it's a little
4 peculiar. And even though it meets all the criteria, you know,
5 I mean, it's unique, right?

6 MR. SMITH: This is rare. I don't think we've ever -
7 - I don't know the last time we supported this level of special
8 exception request. But like you say, it works here this time.

9 CHAIRMAN HILL: Yeah, it works here this time. And
10 even then --

11 MR. SMITH: We will see.

12 CHAIRMAN HILL: Sorry. I'm going to go ahead and make
13 a motion to approve application NO. 20885 as captioned and read
14 by the secretary and ask for a second. Mr. Smith?

15 MR. SMITH: Second.

16 CHAIRMAN HILL: Motion made and seconded. Mr. Moy,
17 could you take a roll call?

18 MR. MOY: When I call your name if you will please
19 respond to the motion made by Chairman Hill to approve the
20 application for all the special exception relief. The motion was
21 -- the motion was second by Mr. Smith.

22 Zoning Commissioner Dr. Imamura?

23 ZC COMMISSIONER IMAMURA: Yes, Mr. Moy.

24 MR. MOY: Mr. Smith?

25 MR. SMITH: Yes, Mr. Moy.

1 MR. MOY: Chairman Hill?

2 CHAIRMAN HILL: Yes, Mr. Moy.

3 MR. MOY: You guys. Okay. We have two not
4 participating. Staff would record the vote as three to zero to
5 two. And this is on the motion made by Chairman Hill to approve.
6 The motion to approve was seconded by Mr. Smith, also to support
7 -- who is also in support of the motion to approve as well as
8 from Dr. -- Zoning Commissioner Dr. Imamura, Mr. Smith, Chairman
9 Hill. Motion carries, sir.

10 CHAIRMAN HILL: Thank you. Mr. Moy, do we have anything
11 else before the Board?

12 MR. MOY: Oh, definitely not, sir.

13 CHAIRMAN HILL: Okay. You guys, it's been a pleasure
14 today. Thank you all so much.

15 ZC COMMISSIONER IMAMURA: Thank you.

16 MR. SMITH: Thank you.

17 (Whereupon, the above-entitled matter adjourned.)
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C E R T I F I C A T I O N

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This is to certify that the foregoing transcript

In the matter of: Regular Meeting

Before: DCBZA

Date: 05-10-23

Place: Teleconference

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

Julie Souza