

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
NOVEMBER 1, 2023

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
LORNA L. JOHN, Vice-Chairperson
CHRISHAUN S. SMITH, NCPC Designee

ZONING COMMISSION MEMBER[S] PRESENT:

JOSEPH S. IMAMURA, PhD, AOC Designee

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, A/V Production Specialist

OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS
MATT JESICK
JONATHAN KIRSCHENBAUM
JOEL LAWSON
CRYSTAL MYERS

OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

SARAH BAJAJ, ESQ.
COMETRIA COOPER, ESQ.
CARISSA DeMARE, ESQ.
RYAN NICHOLAS, ESQ.

The transcript constitutes the minutes from the
Regular Public Hearing held on November 1, 2023.

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

10:17 a.m.

1
2
3 MR. MOY: So we're in the public hearing session,
4 and before the board is Case Application No. 20962 of
5 Personable.com, Inc. This is a self-certified application
6 pursuant to Subtitle X, Section 901.2, special exception
7 under Subtitle C, Section 305.1, which would allow three
8 detached principal dwellings on one record lot in a
9 theoretical subdivision.

10 Property located in the R-1A Zone at 1840 Primrose
11 Road -- Primrose Road, NW, Parcel 0078 and 0058.

12 And as I said earlier in my preliminary, Mr.
13 Chairman, there is a request from two individuals for party
14 status in opposition, and the Applicant has proffered expert
15 witness to a David Landsman for civil engineering, which I
16 believe is already in the witness book.

17 And that's all I have for the moment. Thank you,
18 sir.

19 CHAIRPERSON HILL: Okay, Mr. -- Okay, great. All
20 right, let me go through this here first and see what
21 happens. If the Applicant could introduce themselves for the
22 record if they can hear me.

23 MR. DeBEAR: Chair Hill, this is Eric DeBear, land
24 use counsel from Cozen O'Connor on behalf of the Applicant.

25 CHAIRPERSON HILL: Okay. And then is it -- give

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1 me a moment, please. I just saw Wagner a minute there, Mr.
2 Young and -- oh, Ms. Wagner, can you hear me?

3 MS. WAGNER: Yes, I can, can you hear me?

4 CHAIRPERSON HILL: Okay, great. Yeah, can you
5 introduce yourself for the record?

6 MS. WAGNER: Yeah, my name is Lara Wagner. Hang
7 on, let me get rid of the -- my name is Lara Wagner, I am a
8 resident at 2254 Sudbury Road, NW, which is directly adjacent
9 to 1840 Primrose Road, NW.

10 CHAIRPERSON HILL: Okay, and Ms. Wagner, are you
11 using your camera, or are you just choosing not to?

12 MS. WAGNER: Do you need additional information
13 from me?

14 CHAIRPERSON HILL: No, I'm just trying to get you
15 to turn your camera on.

16 MS. WAGNER: Can you hear me?

17 CHAIRPERSON HILL: I can hear you. But if you
18 can't make it work, you can't make it work. But if you can
19 make it work, it's helpful.

20 MS. WAGNER: Oh, the camera, I'm sorry.

21 CHAIRPERSON HILL: That's all right.

22 MS. WAGNER: Hang on, I don't know why it's not
23 working. We weren't able to try this out before, so.

24 CHAIRPERSON HILL: That's all right. It took me
25 20 minutes to get on today. There we go. Okay, yeah, I can

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1 see you.

2 MS. WAGNER: Hi.

3 CHAIRPERSON HILL: All right, you're 2254,
4 correct?

5 MS. WAGNER: That's correct.

6 CHAIRPERSON HILL: Okay, all right. And you're
7 adjacent. Is your -- I was a little bit confused. Is your
8 back yard up against 1840 Primrose?

9 MS. WAGNER: That's correct.

10 CHAIRPERSON HILL: Okay. And is it -- is it the
11 length of your backyard?

12 MS. WAGNER: That's correct.

13 CHAIRPERSON HILL: Okay, all right. Let's see
14 now. Okay, Ms. Igoe --

15 MS. IGOE: It's Igoe, yes.

16 CHAIRPERSON HILL: Igoe. Okay, Ms. Wagner, maybe
17 you want to hit mute now. I think you're providing feedback
18 perhaps. Okay, great.

19 Ms. Igoe, can you hear me? No, you can unmute
20 yourself, Ms. Igoe.

21 MS. IGOE: Yes, I can hear you.

22 CHAIRPERSON HILL: Okay, great. Could you
23 introduce yourself for the record?

24 MS. IGOE: Yes, I can hear you, thank you.

25 CHAIRPERSON HILL: Thank you. Could you introduce

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1 yourself for the record?

2 MS. IGOE: My name is Alison Igoe. My address is
3 2264 Sudbury Road, NW.

4 CHAIRPERSON HILL: Okay. And Ms. Igoe, your
5 property also the backyard is up against 1840, is that
6 correct?

7 MS. IGOE: That's correct. The entire back -- my
8 entire back fence is adjacent to 1840 Primrose.

9 CHAIRPERSON HILL: Okay. So Ms. Igoe, I guess the
10 only -- or not the only. One question about your request for
11 party status is that it's supposed to come in 14 days ahead
12 of time, and it came in six days ahead of time. Can you tell
13 me why that is the fact?

14 MS. IGOE: I just was confused about -- on I think
15 it was September 18, I did request a witness status, but I
16 thought that that was party status. I was confused about the
17 difference between -- you know, I went on the site and I
18 registered thinking that I had registered in a timely fashion
19 and that, you know, my address would give me party status.

20 And I didn't realize that there was a difference
21 between party status. I mean, it's my fault, you know, but
22 --

23 CHAIRPERSON HILL: It's okay, so you got --

24 MS. IGOE: I misread the notification that I got,
25 and I was not aware until, you know, the day that I filed it.

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1 And when I realized, I quickly filed the --

2 CHAIRPERSON HILL: When did you file something --
3 when did you file something in opposition, do you recall?

4 MS. IGOE: I filed it the same day.

5 CHAIRPERSON HILL: Oh, the six days prior. Okay.

6 MS. IGOE: But I'm actually -- but I am actually
7 relying on -- our issues are the same. And if I am granted
8 party status, I would request that you allow Ms. Wagner to
9 speak first. And I'd really only need perhaps ten minutes
10 to follow up on some issues that have not been addressed.
11 Because --

12 CHAIRPERSON HILL: Okay.

13 MS. IGOE: We all agree on -- we all have the same
14 issues. My issue perhaps is more directly related to a
15 concern over flooding more than the others because of, you
16 know, my elevation. You know --

17 CHAIRPERSON HILL: Okay, Ms. Igoe, that's okay,
18 that's okay. So your -- I think both of you meet the
19 criteria for us to grant the party status. However, I think
20 for what you just said, and in order to be more efficient and
21 that you are late in your filing, I'll go ahead -- what I'm
22 going to propose to the board. And maybe if you could also
23 mute yourself, Ms. Igoe.

24 MS. IGOE: Okay.

25 CHAIRPERSON HILL: Thanks, sorry. I was just

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1 getting feedback. That I would, if the board's amenable to
2 this, I would go ahead and grant party status to Ms. Wagner.
3 And as Ms. Igoe had just mentioned, allow Ms. Igoe to testify
4 as a witness for Ms. Wagner. And they can work together to
5 give their concerns about this project.

6 Does my board members have any issues with those?

7 MEMBER JOHN: Chairman, am I correct that there
8 is opposition filed to Ms. Igoe's request for party status
9 in the new filings? I looked at it briefly.

10 CHAIRPERSON HILL: Yeah. I was going to let Mr.
11 DeBear speak to that. But since I'm not granting Ms. Igoe
12 the party status, or at least I'm suggesting she doesn't get
13 it, are you, Ms. John, comfortable with what I'm proposing,
14 which was to give Ms. Wagner her party status and then allow
15 Ms. Igoe to testify with Ms. Wagner?

16 MEMBER JOHN: Well, I was just not sure if you
17 were going to hear from Mr. DeBear before the board decided.
18 But it appears that you are not.

19 CHAIRPERSON HILL: I can. I'll go ahead and hear
20 from Mr. DeBear.

21 MR. DeBEAR: I'm just patiently waiting to be
22 called on, but I appreciate that, Vice Chair John. We have
23 submitted an objection based on an untimely filing. I think
24 the board in the past has been fairly strict in application
25 of that rule. Ms. Igoe admitted that she knew about this

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1 case, what seven, eight weeks ago.

2 So you know, I don't think we can keep her from
3 testifying as a witness as part of Ms. Wagner's party status,
4 but I think the regulations are fairly clear that Ms. Igoe's
5 party status should be denied.

6 CHAIRPERSON HILL: Okay. So Mr. DeBear, what the
7 board has done in the past, and I know I'm just going to
8 point this out to you, is that with -- the board has an
9 opportunity to hear testimony from those wishing to receive
10 party status and then determine whether or not they should
11 get it. We also have the opportunity to waive the deadline
12 if we feel that it is applicable.

13 In the case of somebody like Ms. Igoe, they're
14 just a neighbor. Like, they don't necessarily know what's
15 going on or understand what's going on and the difference
16 between party status versus non-party status.

17 And so you know, if it were day, if it were two
18 days, and if you didn't have any other people requesting
19 party status, then I could see how possibly it could hinder
20 or harm the applicant. But in this case, you guys had a
21 party status person anyway, so you knew that you were going
22 to get it.

23 All I'm trying to say, Mr. DeBear, is I appreciate
24 you working for your client and pointing out the regulations
25 and what the board has the ability to do. And I'm kicking

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1 it right back at you that if it was a neighbor that doesn't
2 know anything about anything, and they're like a little bit
3 late on their party status, they might get the party status.

4 MR. DeBEAR: I understand.

5 CHAIRPERSON HILL: Okay. All right, do any of my
6 fellow board members have anything else they'd like to add?
7 Okay, then I'm going to make a motion to give party status
8 to Ms. Wagner and allow Ms. Igoe to participate as a witness,
9 and ask for a second, Ms. John.

10 MEMBER JOHN: Second.

11 CHAIRPERSON HILL: Thank you, Ms. John. Mr. Moy,
12 if you could do roll call.

13 MR. MOY: Mr. Chairman, I have a question on your
14 motion. When in your motion you said that you were -- in
15 your motion for Ms. Igoe to participate as a witness, does
16 that mean that she withdrew her request for party status?

17 CHAIRPERSON HILL: No. So I know now that, again,
18 I did go to law school, and so I would -- I would make a
19 motion to deny the party status for Ms. Igoe, okay. So I'm
20 going to do that first.

21 So I'm going to make a motion to deny the party
22 status for Ms. Igoe because, and this now for the record,
23 because she's going to be allowed to testify as a witness
24 with Ms. Wagner. And that's the reason why I'm denying the
25 party status.

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1 Also that it's untimely, so it might have been for
2 the untimely reason. But I think that Ms. Igoe and -- will
3 be, as she had stated on the record, plans on being best
4 served with the testimony with Ms. Wagner, and ask for a
5 second, Ms. John.

6 MEMBER JOHN: Can I just add to that? Another
7 reason would be that Ms. Igoe said her issues are mostly
8 environmental. And so I think it's not necessarily germane
9 to the zoning issues. So on that basis, I support your
10 motion. So I'm going to second that motion to deny party
11 status.

12 CHAIRPERSON HILL: Okay. Mr. Moy, so if you want
13 to, both the motions have been made and seconded, I don't
14 know if you want to vote individually or you want to vote
15 together.

16 MR. MOY: I see no reason to do it individually.

17 CHAIRPERSON HILL: Okay.

18 MR. MOY: It can be converted to one motion.

19 CHAIRPERSON HILL: So one motion was to approve
20 party status for Ms. Wagner, and one motion was to deny party
21 status for Ms. Igor -- Igoe. And they've been made and
22 seconded. And Mr. Moy, if you can take a roll call, please.

23 MR. MOY: Thank you, sir. So when I call your
24 name, if you'll please respond to the motion to grant motion
25 to deny, which was second by Vice Chair John.

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1 Zoning Commissioner Dr. Imamura?

2 Mr. Smith?

3 Vice-Chair John?

4 Chairman Hill?

5 CHAIRPERSON HILL: Yes.

6 MR. MOY: Staff would record -- and there's no
7 others participating, staff would record the vote as 4-0-1.
8 And this is on the motion to grant motion to deny made by
9 Chairman Hill, second by Vice Chair John. Also supporting
10 this motion is Zoning Commissioner Dr. Imamura, Mr. Smith,
11 Vice Chair John, Chairman Hill.

12 Motion carries, sir, on a vote of 4-0-1.

13 CHAIRPERSON HILL: Okay, great. So what I've done
14 in the past is what I'm going to do now again, and whether
15 Mr. DeBear knows this is about to happen or not, I don't
16 know, is that when we have granted party status in this
17 fashion, meaning it hasn't been advance party status, the
18 applicant is supposed to be -- the party in opposition is
19 supposed to be ready to make their argument as to why, per
20 the zoning regulations, they're not able to meet the criteria
21 for us to grant the relief requested.

22 So Ms. Wagner, what I'm going to do is I'm going
23 to kick you guys back to the end of the day so you can go
24 ahead and take a look at your -- the filings in the record,
25 unless that messes up your schedule in some capacity.

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1 Because Ms. Wagner, this is more of a benefit to
2 you and getting organized with Ms. Igoe. That if you go back
3 to the record and look at the Office of Planning's report,
4 I see the ANC's report, and then look at their -- I don't
5 know if the presentation's in there yet.

6 Mr. DeBear, you guys don't have a PowerPoint, do
7 you?

8 MR. DeBEAR: No, it's in the record at Exhibit 27.
9 Chair, I'm going to obviously be respectful to how you want
10 to conduct the agenda today. I don't want to speak for Ms.
11 Wagner, but I think that it's pretty clear that they are
12 well-versed in this record.

13 And you know, we'd be ready to present right now.
14 I again don't want to speak for her, but there's voluminous
15 filings that are detailed in the record, and so I would
16 prefer to go now. But again, I am respectful of the board's
17 agenda and how they want to conduct themselves, so.

18 CHAIRPERSON HILL: That's great. Thank you. Ms.
19 Wagner, you're also interested in going now, is that correct?

20 MS. WAGNER: Thank you.

21 CHAIRPERSON HILL: Okay. Then let me do this.
22 Okay, all right. All right, then before we do that, then,
23 I mean, I was not mentally prepared for this right now. So
24 let's take a five-minute break, okay, and then we'll come
25 back and have this hearing, okay?

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1 MR. DeBEAR: Thank you.

2 CHAIRPERSON HILL: All right. We'll be back in
3 five minutes -- 5-10 minutes, 5-10 minutes.

4 (Whereupon, the above-entitled matter went off the
5 record at 10:33 a.m. and resumed at 10:45 a.m.)

6 MR. MOY: The board has returned to its public
7 hearing session after a quick break. And the time is at or
8 about 10:45 a.m.

9 As the final -- final reminder, Mr. Chairman, when
10 you get back to your procedures, we have three public
11 witnesses who have signed up to testify as well. Thank you,
12 sir.

13 CHAIRPERSON HILL: Okay, thanks, Mr. Moy.

14 All right, and Mr. DeBear, there was some -- and
15 Ms. Wagner, I'll get to your question. Mr. DeBear, you had
16 some expert witnesses, is that correct?

17 MR. DeBEAR: Yeah, I was going to bring that up,
18 Chair, before we start our presentation. I believe Mr. Moy
19 mentioned a Mr. Landsman as proffered as an expert in civil
20 engineering. My understanding is Mr. Landsman is in the
21 board's book. But I did want to note that.

22 And then Mr. Teass of Teass \ Warren Architects
23 has been proffered as an expert in architecture, and I
24 believe he's also in the board's book.

25 CHAIRPERSON HILL: Yeah, Mr. Teass is in the book.

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1 And then Mr. Landsman, I'm trying to just see real quick
2 whether I see that. Mr. Landsman's been before us I guess.

3 Well, Mr. Landsman, have you been before the BZA?
4 Okay. All right, I don't have any issues with Mr. Landsman
5 being admitted as Mr. Teass as well. The rest of the board
6 has any issue, raise your hand.

7 Okay, Ms. Wagner, you had a question?

8 MS. WAGNER: Yeah, I just wanted to confirm that
9 you had my presentation.

10 CHAIRPERSON HILL: Yeah.

11 MS. WAGNER: But there's one that's entitled
12 Party.

13 CHAIRPERSON HILL: I got the one -- I got the one
14 in 31A that starts off with your -- it says prepared by you,
15 Wolak, Woolfork.

16 MS. WAGNER: Yes.

17 CHAIRPERSON HILL: Igoe, okay, that's the one,
18 right?

19 MS. WAGNER: Thank you.

20 CHAIRPERSON HILL: Yup, got it. Okay, so this
21 helps me just to let you know and all the parties know how
22 this process works. So the applicant will have an
23 opportunity now to give their presentation as to why they
24 believe they are meeting the criteria for us to grant the
25 relief that's being requested.

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1 The party status will then have an opportunity to
2 give their presentation. The Office of Planning will also
3 have an opportunity to give their report. And then we will
4 also take testimony from witnesses in the public. And the
5 party status as well as the Applicant will have questions --
6 or the opportunity, I should say, to ask questions of
7 everyone.

8 The Applicant will then be able to rebut at the
9 end whatever had been put forward. The party status will
10 then have an opportunity to rebut the rebuttal if there is
11 anything in that.

12 Again, what that is, Ms. Wagner, I've lost you
13 there on the camera, is it's just -- you're just basically
14 speaking about the rebuttal. And then the -- then we'll have
15 a conclusion. I usually do -- it's not in the regulations.
16 I usually do a conclusion from the party status people as
17 well as the applicant, and the applicant gets the last word
18 because it's their application.

19 That all being said, I will go ahead and put 15
20 minutes on the clock just so I know where we are, Mr. DeBear.
21 And you know, and Ms. Wagner, we generally try to keep the
22 amount of time that the party in opposition presents to the
23 same amount of time as the applicant.

24 However, you know, we're just trying to work
25 through this, so it's not a strict minute-for-minute

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1 situation. But just to give you the general idea as to how
2 we're going to run the hearing.

3 Do you, Ms. Wagner, have any questions, since
4 you're the one who's not usually here with us?

5 MS. WAGNER: No, not at this time, thank you.

6 CHAIRPERSON HILL: Okay. All right, Mr. DeBear,
7 then you may begin whenever you like.

8 MR. DeBEAR: Thank you, Chair Hill. Yeah, with
9 the board's indulgence, we just want to make sure we hit on
10 every issue, since again, there are obviously opposition
11 parties. So we do want to just go through efficiently but
12 through our entire presentation.

13 So if Mr. Young could bring up the Applicant's
14 PowerPoint on -- in Exhibit 27. Thank you.

15 So as the board is aware, this is BZA Case No.
16 20962 for the property at 1840 Primrose Road. Next slide,
17 please. The property is located in the R-1A zone. Next
18 slide, please.

19 Just to give the board a little bit of context,
20 this project is located in the upper Northwest neighborhood
21 of Colonial Village, very close, actually right next to the
22 DC-Maryland border. This is a neighborhood that is primarily
23 single-family detached homes, as is what's being proposed in
24 this project. And Rock Creek Park shares a border with this
25 property along its western lot line. Next slide, please.

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1 I do want to just turn it over to the Applicant,
2 Mr. Chou, just to introduce himself to the board.

3 Benjamin?

4 CHAIRPERSON HILL: Mr. Chou, can you hear me? I
5 don't see a Mr. Chou.

6 MR. DeBEAR: He was here a minute ago --

7 CHAIRPERSON HILL: Yeah, that's him. Mr. Chou,
8 I believe you're on unmute.

9 MR. CHOU: Oh, right, okay, thank you.

10 Yeah, good morning, Chairman Hill and the members
11 of the Zoning Committee. Thank you for the opportunity to
12 talk about the property at 1840 Primrose Road.

13 I am Benjamin Chou. I had the privilege of
14 studying at the MIT Sloan School and am now a proud member
15 of the Personable management team.

16 And at the heart of our work is a deep and a
17 sincere partnership with law enforcement agencies across all
18 levels. We come together to address significant challenges,
19 such as human trafficking, drug smuggling, money laundering,
20 and even threats that challenge our national security. And
21 yet, yes, yeah, we often find ourselves diving deep in grand
22 jury trafficking cases.

23 With this in mind, we recently decided to acquire
24 the property right here in Washington, DC. This isn't just
25 a business decision, it's a commitment. A commitment to be

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1 closer to serve better, to stand side by side with those who
2 work tirelessly for our safety.

3 I would like to also take this opportunity to
4 thank Officer Zamora and Officer Cannover (phonetic), head
5 of Washington, DC, Metropolitan Police Department District
6 4D, and Officer Depalmer (phonetic) at the National Park
7 Service for their out-of-ordinary consideration and
8 exceptional assistance and help in the recent tragic accident
9 happened to the property from a fallen tree.

10 Today, I come to you with a humble proposal for
11 the property. Our vision is to maintain its existing charm
12 and while introducing the possibility of adding two
13 additional houses. This isn't just about our growth, this
14 is also about breathing more life and value into the
15 community instead of empty plot.

16 I genuinely hope you will see the commitment and
17 the sincerity behind our plans. And I thank you for your
18 understanding and support. Thank you.

19 MR. DeBEAR: Thank you, Mr. Chou. If you could
20 go to the next slide, Mr. Young.

21 So as Mr. Chou mentioned --

22 CHAIRPERSON HILL: Mr. DeBear, Mr. DeBear?

23 MR. DeBEAR: Yes.

24 CHAIRPERSON HILL: You guys are just doing two
25 houses, right?

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1 MR. DeBEAR: Correct.

2 CHAIRPERSON HILL: Two single-family homes.

3 MR. DeBEAR: Correct.

4 CHAIRPERSON HILL: Okay, all right, go ahead.

5 MR. DeBEAR: We'll get to that. So what's being
6 proposed is a theoretical subdivision to create three
7 theoretical lots and construct two new single-family homes
8 on two of those lots and keep Mr. Chou's existing home on the
9 third lot.

10 Each lot complies with the development standards
11 in the R-1A zone, as is required for a theoretical lot. That
12 means we are complying with lot size, yards, lot occupancy,
13 height, etc.

14 We are providing a 12-foot-wide drive aisle that
15 allows for access to two parking spaces on each lot. And
16 we've proposed a new landscaping buffer along the eastern lot
17 line that will buffer the project from those existing homes
18 on Sudbury. Next slide, please.

19 I did want to provide the board with a summary of
20 community-agency outreach. As the board likely knows, ANC
21 4A is unfortunately in opposition. However, the Office of
22 Planning has submitted a detailed report in support of this
23 application that includes a Department of Transportation
24 review that states no objection.

25 We have also met, and I know this is an issue that

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1 is raised by the ANC and the opposition party, we have met
2 with Commission of Fine Arts staff on October 13, which was
3 after our 21-day prehearing statement deadline. And while
4 we have more work to do with CFA, including a formal
5 application for concept design review, CFA staff stated
6 general support for the two new proposed homes and the
7 subdivision.

8 And finally, Mr. Landsman will testify more to
9 DOEE issues including stormwater, but we did have a
10 preliminary PDRM with DOEE on October 24. And DOEE conducted
11 a site visit on October 27. And as you'll hear from Mr.
12 Landsman, they found our proposed stormwater management plan
13 to be consistent with their regulations. Next slide, please.

14 And now I'll turn it over to Mr. Teass to walk
15 through the proposal for this application.

16 MR. TEASS: Good morning. My name is Will Teass,
17 I'm a principal at Teass/Warren Architects, and I appreciate
18 the opportunity to present this project to the Board.

19 The image I wanted to start with this morning is
20 our existing site plan. And what we've done is overlay the
21 aerial, because part of the discussion this morning is about
22 trees.

23 And what we've done here is showcase the amount
24 of site that actually no longer has tree covers. Some of
25 those trees were removed under previous DDOT applications.

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1 Rock Creek Park, as was discussed, is to the west.
2 Because we're adjacent to Rock Creek Park, we have an
3 additional level of oversight with the Commission of Fine
4 Arts Shipstead-Luce Act.

5 We have single-family homes to the south of the
6 property, the single-family homes to the east of the
7 property, and for the Board's benefit, we've highlighted the
8 two neighbors who have concerns about the project in blue.
9 So, keynote number four is the Igoe residence and keynote
10 number five is the Wagner residence. We also have across the
11 street from Primrose, we have additional single-family homes.

12 As I stated, we are an RA-1 zone, which the
13 minimum lot size is only 750 square feet, or 7,500 square
14 feet. This lot is almost 28,000 square feet. And so, we're
15 over three-and-a-half times the minimum lot size.

16 One thing that you'll hear again this morning is
17 the slope of the site and the concerns that that creates.

18 The high point here is that Rock Creek Park and
19 the ground slopes downhill across our property, portioned
20 down to Primrose, and then it continues sloping down to
21 Sudbury.

22 That slope amplifies the need for careful
23 stormwater management plan, and so there's an additional
24 level of oversight with regard to DOEE's stormwater
25 management approval.

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1 We do have heritage trees. There are two heritage
2 trees that are immediately adjacent to the property. The
3 north one is closer to Primrose and we've highlighted that.

4 Here, I will talk about that again. We have a
5 second one that's closer to the Igoe residents, and so
6 working within and around those trees adds an additional
7 level of regulatory oversight with DDOT's Urban Forestry
8 Group.

9 We intend to maintain the existing trees. They
10 benefit not only the subject property, but quite frankly, the
11 neighborhood. We will have to work in conjunction with the
12 National Park Service and their arborists to make sure that
13 the park trees are preserved, and then finally we will have
14 to go and visit with DDOT's Public Space Committee to reuse
15 the existing curb cut.

16 We have an existing driveway that serves the main
17 house and we want to reuse that curb cut. And in order to
18 provide the zoning-required drive, we have a design
19 consideration that we'll get to shortly.

20 I think one thing that I do before moving off this
21 slide, just want to reinforce, is that we're keeping the
22 existing house as-is, the existing rear yard as-is, and so
23 almost half the site is actually not being touched as a part
24 of this proposal. Next slide, please.

25 These are images of the site as it exists today.

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1 Starting from the upper left, this is tanning at the bottom
2 of the driveway looking up towards the house, and you can get
3 a real sense of the wooded condition of the adjacent park to
4 the left, to the right, and we have the northernmost heritage
5 tree here on the left.

6 Image two is standing at the top of that driveway
7 and looking down, and again it gives you a sense of the
8 slope. And we're almost a story above the street at this
9 location, maybe a little bit more. The house that you see
10 is not the Igoe residents. There's one more house that's
11 closer to Sudbury.

12 Image three is a corner of the house. And this
13 is actually where we have an issue where we had a tree from
14 the park fall into the house and crush it. And that damage
15 is still ongoing and we're working to make the necessary
16 repairs. But it speaks to some of the considerations that
17 we have with trees.

18 But it is a two-story house. It's set into grade
19 and it really speaks to the grading issues that are a
20 challenge here.

21 And then finally, image four is the existing rear
22 yard. And I just want to reiterate that the condition of the
23 house and the rear yard due to the reconstruction due to tree
24 damage, will not change. Next slide.

25 I want to share a couple of diagrams that

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1 illustrate some of the constraints that we have with this
2 particular property.

3 So, in addition to the property lines and the
4 proposed lots that we call Lot A, the northernmost lot
5 closest to Primrose, Lot B, the middle lot, and Lot C, the
6 lot that contains the existing house, we have critical root
7 zones and structural root zones around the two heritage
8 trees.

9 We acknowledge that they are there. We are not
10 forbidden from developing the area, but it does require some
11 close consideration with the Urban Forestry Group when we do
12 that.

13 Again, the two parties, or the two folks who are
14 concerned about the project, are highlighted in blue.

15 But we also have the tree line of the existing
16 park. And really, what we've identified in green is the
17 buildable area. So, as Eric mentioned, we are proposing to
18 conform with all of the other zoning regulations with regard
19 to setbacks and height, etc. Next slide, please.

20 I also want to touch a little bit on the
21 circulation. I think this is a point of concern for
22 neighbors.

23 Our vision is to reuse the existing driveway curb
24 cut at Primrose. And while the zoning requirements call for
25 24-foot drive aisle and we intend to meet those requirements,

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1 visually what we want this to look like is a driveway,
2 because this is a driveway to three homes. That it's not a
3 cul-de-sac, that it's not an alley, that it's a driveway.
4 And as such, we're proposing a combination of permeable
5 paving that will help address the stormwater, as well as
6 green paving strips on either side of that so we can provide
7 the necessary access for emergency vehicles and occasional
8 overlap of two-way traffic.

9 Lot A, here, I think one of the other
10 characteristics of the site is that we have these really
11 incredibly precious views from the Sites A and B, and quite
12 frankly, C, into the park, and that's a highlight of the
13 property.

14 I also just want to share that there are views,
15 particularly of the Igoe and the Wagner residents, that are,
16 for the most part, unchanged. We'll still be looking at the
17 existing house. We'll still be looking at the existing
18 backyard. Next slide, please.

19 So, this speaks a little bit to diagramming out.
20 One shift that we'll need to make is the driveway that serves
21 Lot C. That's the one area where we're changing the driveway
22 configuration.

23 The intent with Lot C is that we're keeping that
24 parking where it is. There's an existing retaining wall, and
25 then we're shifting the driveway slightly. That shift will

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1 put a portion of that new drive within the critical root zone
2 of the southernmost heritage trees.

3 Again, we'll be working with Urban Forestry and
4 their review process to make sure that we're doing what we
5 can, including hiring arborists to make sure that the
6 heritage trees are protected. Next slide.

7 So, I think this really speaks to the issue of
8 topography. And then we've characterized this into minimal
9 slopes. So, the existing slope on Lot A is fairly flat. The
10 bluish areas are what we call moderate slopes to the front
11 yard, to the rear yard of Lot C, and the lot for Gie-R and
12 that kind of moderate slope category.

13 And then we do have an area of substantial slope.
14 There's a red line that highlights the existing retaining
15 wall that will stay. We're not proposing to disturb the
16 ground. And that also, of course, falls into where we have
17 that heritage tree.

18 One of the things I want to speak about too is
19 that the critical root zone and structural root zone, DDOT's
20 Urban Forester Group has provided design guidelines. And
21 there's a 25 percent threshold.

22 Twenty-five percent of disturbing the area of the
23 critical root zone, or the structural root zone of a tree,
24 there's a standard, or basic tree preservation plan required.

25 But when you exceed 25 percent, it's not that

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1 you're precluded from doing that, but you have to take into
2 account all the considerations, and prepare an advanced tree
3 preservation plan that includes consulting with an arborist,
4 and really developing a much more stringent set of guidelines
5 for a general contractor to build from.

6 So, we understand that, we acknowledge that. It's
7 certainly part of our development plan moving forward.

8 As it stands, in terms of the north tree, only
9 about fourteen percent of the house is within that critical
10 root zone. About thirteen percent of the driveway would be.
11 The south tree, about three percent of the house and about
12 seven percent of the driveway would be in the critical root
13 zone. Next slide.

14 So, here's our proposed site plan and it
15 illustrates the house shapes that we've proposed. And we
16 really wanted to create homes that are comparable in scale
17 to the homes in the rest of the community.

18 The homes are actually smaller than the existing
19 home that exists there today. Again, those new homes would
20 conform to the size and rear yard setbacks, pervious surface,
21 etc.

22 In addition, we're choosing to build two sort
23 homes. We could build up to three, but I think we'd want to
24 maintain the scale with what's there in the neighborhood.

25 The existing retaining wall, the existing home,

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1 those will all stay. The existing rear yard will stay, and
2 we are proposing to provide a landscape buffer on the east
3 side, to minimize impact to adjacent neighbors, and then on
4 the west side creating a clear delineation between private
5 property and public property, so that not only will folks in
6 the park not be inclined to trespass, but also people that
7 live in those houses won't be inclined to think that the park
8 is theirs. Next slide.

9 In terms of our landscaping plan, I think there
10 was some concern about the ability to include all of the
11 elements with regard to the 24-foot drive. And you'll hear
12 a little bit more of that I think from some of the folks in
13 opposition.

14 I think right now we're probably taking more of
15 an aggressive approach to providing more landscape, and I
16 think there's some refinement that's going to be required.

17 But again, the intent is to provide an evergreen
18 buffer against the east property line to minimize the impact
19 of these new homes. We want to keep the existing heritage
20 trees, we want to keep the existing rear yard as it stands,
21 and keep the existing fence around that rear yard of Lot C,
22 and then we talked about the fence along the park. Next
23 slide, please.

24 So, we've prepared some illustrations that are
25 intended to convey the sense of the homes that we're trying

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1 to create here.

2 So, this is standing across the street looking
3 south from across Primrose, to house A on the right-hand
4 side, house B on the left-hand side, and then in the
5 background you can see the existing house. That existing
6 house is set very far back from the road now. And so, again,
7 we'd like to use that existing curb cut.

8 You can see the heritage tree here in the
9 foreground. Technically, that heritage tree is actually part
10 of -- it's a very atypical configuration. There's a triangle
11 of public space there.

12 But we'll have to work with DDOT Public Space
13 Group in terms of coming up with a design that meets their
14 criteria, in addition to getting the curb cut reapproved.
15 But you can get a sense of the start of the evergreen tree
16 barrier.

17 Again, going back to this vision of the driveway,
18 that it looks like a driveway, but that it has the capacity
19 and the full 24 width to a grass paver system, to accommodate
20 emergency vehicular loads, but generally doesn't encourage
21 people to park along it, doesn't encourage people to pull in
22 there accidentally. But we really want to maintain it as it
23 looks as a driveway, not as an alley or a street. Next
24 slide, please.

25 I think it's also important to illustrate the

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1 condition from Sudbury. So, the key plan in the lower right-
2 hand shows where this image is taken from. So, I believe it
3 is the Wagner residence here that's on the left-hand side,
4 keynote four.

5 And so, you're looking at the gap between the
6 Wagner residents and the next neighbor to the north. What
7 you would see after this project is done is, number six would
8 be some element of evergreen screening, and then there would
9 be house B, beyond keynote two. Next slide, please.

10 And moving down Sudbury, this is the view in
11 between the Wagner and the Igoe residences. And so, keynote
12 three is the existing home. You can see, obviously, the very
13 dense tree canopy beyond the park. You can see the fences.
14 So, this view will be unchanged. Again, we're not proposing
15 to change the existing house, we're not proposing to improve
16 the rear yard or construct anything in the rear yard.

17 So, this view from the neighbor in between 2254
18 and 2264 really remains unchanged. Next slide.

19 This is certainly not a very dramatic view, but
20 I think it's intended to not be dramatic, because I think it
21 gives you a sense when you're standing at the front door of
22 house B -- the house on Lot B, rather -- looking to the
23 southeast, and gives you a sense -- so, through the trees you
24 can get a -- so, some sense of the outline of those
25 structures on the adjacent property.

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1 But really, what your attention is drawn to is the
2 dense evergreen buffer condition. This is also the existing
3 heritage trees to the left here, and this is an area where
4 we have a very steep slope.

5 And so, I think that we may want to think about
6 augmenting our landscaping here, to make sure that we're
7 putting in plantings that would inhibit any kind of erosion.
8 But certainly, the stormwater management is a key issue for
9 us. And we understand it not just for the southern property,
10 but also for the neighbors. Next slide, please.

11 I also thought it would be helpful to share some
12 site sections through. So, this is a section looking north.
13 On the right-hand side is Sudbury. Number two is the Wagner
14 residence, which is approximately 27-and-a-half, 28 feet from
15 their rear property line, which is the property line that
16 they share.

17 What you're seeing in keynote one is the proposed
18 house on Lot B, and we're holding that house back about
19 36 feet from the property line. And then to the left of that
20 you can see where Rock Creek Park starts.

21 This house, in particular, is more embedded into
22 the gray than the one at house A. And we've done that
23 purposely to minimize its bulk and height. Next slide,
24 please.

25 So, this is standing in front of house B looking

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1 south. And so, you can see here keynote two is the existing
2 home, again showing that about 36-foot separation between the
3 property line and the face of building on Lot B.

4 And then you can get a sense of the neighbors who
5 are -- number three I think is the first house along Sudbury,
6 number four is the Wagner residence, and I believe number
7 five is the Igoe residence, again taking advantage of the
8 opening in the tree canopy to insert these homes. Next
9 slide, please.

10 And so, just to conclude my portion of the
11 testimony, I wanted to just reiterate a couple of the key
12 points.

13 We are only adding two homes. We're not proposing
14 a massive subdivision, we're not proposing a new street,
15 we're not proposing a massive redevelopment. It's two new
16 homes and a very large lot in the R-1A District.

17 We would like to reuse the existing curb cut and
18 maintain the visual appearance of the driveway, while still
19 meeting the zoning requirements of the 24-foot drive.

20 We've taken great pains to design the site to try
21 to minimize impacts on neighbors. We've reviewed this with
22 CFA, and again the general comment was that they could
23 approve two homes here.

24 They could have some questions about the design
25 elements, but those are something we would work down as one

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1 application.

2 We are not proposing substantial grading. We
3 would minimize the regrading of the site. Obviously, there'd
4 be some portion of excavation of homes, but the rest of the
5 site would be minimally regraded.

6 We are, and we will, and we'll have to design
7 around the existing trees. Not just the heritage trees, but
8 also the special trees and other trees in the park and along
9 the property line.

10 We will also have to provide a stormwater
11 management plan. We understand that there are stormwater
12 issues, because of the slope, that affect the neighbors. And
13 that's something that currently there's no real stormwater
14 management plan, or any kind of strategy there now. And so,
15 that is going to be a big part of the proposed redevelopment.

16 We are providing that landscape buffer at the east
17 property line, and then I just want to reiterate that the
18 house will remain, the existing rear yard. And so, the work
19 that we're proposing is really relegated to the northern half
20 of the property.

21 And I think with that, I'd turn it over to our
22 civil engineer, Mr. Landsman.

23 MR. DeBEAR: Next slide please, Mr. Young.

24 MR. LANDSMAN: Thanks, Will, and good morning,
25 Board. I'm David Landsman with CAS Engineering. The site

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1 is described by Will as currently in disrepair. The tree
2 falling on the home and poor grading sort of overall, notably
3 a bold condition in the front west corner at a low spot that
4 appears to be created when they fill it in for Primrose Road
5 when it was constructed.

6 Site has no stormwater management currently, and
7 needs to have some, basically.

8 So, with the construction of the two new homes,
9 we'll provide stormwater management that exceeds DOEE's
10 minimum requirements.

11 We'll be doing that through green roods on both
12 of the new homes, pervious pavement for the driveway that's
13 being replaced, and a rain garden, or bioretention facility,
14 between the two new homes.

15 For the entire site we'll be collecting runoff,
16 including the existing home and the area behind it, piping
17 it and conveying it to these facilities, so it is treated and
18 detained onsite before taking any overflows or water that's
19 passed through the facilities, to a storm sewer connection
20 in Primrose Road.

21 This will work to prevent any runoff from entering
22 adjacent properties, or from pooling on the site. Complete
23 containment.

24 So, as part of our analysis and study for the
25 project, as Eric mentioned, we met with DOEE to review our

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1 stormwater management approach and regulatory compliance
2 pieces with them on the 24th.

3 We went through a detail. The stormwater strategy
4 we're taking with features just described -- the green rood,
5 the pervious pavement, and the rain garden -- and they
6 indicated that we are in conformance with the regulations,
7 subject to detailed design calculations, but that the design
8 is what they would expect and it was a good approach.

9 Following that meeting, we discussed a depression
10 in the front of the property, with DOEE's stream and wetland
11 group. There are no hydraulic features there, standing water
12 or flowing water or vegetation, suggesting that there's a
13 wetland or a stream. But it is a depression sort of created
14 by the topography, that I believe was created when they built
15 Primrose Road and filled in for it.

16 DOEE went to the site on October 27th, confirmed
17 our findings that there were no streams or wetlands present,
18 and that there are no permitting considerations that we
19 needed to take in that regard.

20 In conclusion, our concept for stormwater
21 management represents an improvement for the property, a
22 property that currently doesn't have any stormwater
23 management, by providing stormwater management and providing
24 containment and control of the runoff on the property and
25 from the property, in a manner that doesn't impact adjacent

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1 properties.

2 We'll continue to develop our design during final
3 engineering with DOEE, and ensure that all regulations are
4 complied with. With that, I'll pass it back to you, Eric.

5 MR. DeBEAR: Thank you, David. Next slide,
6 please. And I appreciate the Board's patience. I'm going
7 to try to move through the legal standard with relative
8 speed.

9 So, as the Board understands, we are seeking
10 special exception relief for a theoretical subdivision. This
11 type of application is used to allow multiple buildings on
12 a single record lot in the R-1A zone.

13 This relief is needed, not because we aren't
14 meeting any development standards, but rather, only that
15 northernmost lot would have street frontage.

16 So, the Board might have seen this type of
17 application previously. It is generally not common in the
18 District of Columbia, because there are not usually large
19 enough plots to allow for a subdivision.

20 But here, it is applicable, and we believe we've
21 met the requirements. Next slide, please.

22 We believe this special exception application is
23 harmonious with the purpose and intent of the regulations,
24 in accordance with the general special exception standard.
25 The R zones are intended for stable low-to-moderate density

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1 residential areas. They're suitable for family life.

2 That's exactly what is being proposed here, two
3 new single-family homes that are consistent with the existing
4 single-family home and other single-family homes in this
5 residential area.

6 The detached homes that are being proposed are
7 consistent with the pattern development in the area, almost
8 all of which are detached homes. And as I've mentioned
9 previously, each lot that is being proposed will meet the
10 development standards of the R-1A zone. Next slide, please.

11 In terms of the adverse impacts to neighboring
12 property, as Will so adequately reviewed, there's minimal
13 adjacency with the existing homes on Sudbury, and we have no
14 direct private neighbors along our western, northern, or
15 southern lot line.

16 I know that one of the individuals who submitted
17 opposition in the record is to the south of this property.
18 However, it is actually an unimproved lot that's directly to
19 the south.

20 And even so, as Will testified repeatedly, the
21 southern half with the existing home is not being altered as
22 part of this proposal.

23 We have very large setbacks along the eastern lot
24 line. Those were designed specifically to avoid any impact
25 to the only neighboring private property along Sudbury,

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1 limited privacy impact, as you saw from the images, that will
2 include a landscape buffer along the eastern lot line,
3 limited noise impacts due to the addition of only two new
4 single-family homes.

5 We believe there's limited impact to traffic with
6 the addition of, again, a modest increase of two single-
7 family homes. And then Mr. Landsman just testified to any
8 alleged impacts that the opposition parties have raised
9 regarding stormwater management. Next slide, please.

10 The standards for a theoretical lot are set forth
11 in Subtitle C, 305.3. They are fairly straightforward, that
12 we must provide sign rear yards for each theoretical lot that
13 are consistent with requirements of the zone, and we have
14 done that.

15 In the R-1A the requirement is eight feet. We
16 exceed that on the eastern sides of both new lots, as well
17 as on the western side.

18 The rear yard, we have provided a 25-foot rear
19 yard for both lots. B requires a means of vehicular ingress
20 and egress to each building that is at least 24 feet in
21 width. As Mr. Teass testified, we are providing a 24-foot
22 wide drivable aisle that is both permeable pavers, as well
23 as grass pavers, and then the height of each building is
24 calculated in accordance with the specific requirements for
25 a theoretical lot and we are actually well below the maximum

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1 40 feet for both the new homes on Lot A and Lot B. Next
2 slide, please.

3 There are extensive architectural plan
4 requirements for a theoretical subdivision, and I believe the
5 plans speak for themselves that those have been met. The OP
6 report agrees with that conclusion. Next slide, please.

7 Under 305.5 the Board is required to refer this
8 application to OP for review and comment, including to gather
9 the review of other agencies. I did want to just touch on
10 a few in particular.

11 Public safety. FEMS actually, since our rehearing
12 statement, submitted an email to counsel stating no
13 objections to this application. We did obviously have
14 Mr. Landsman testify in his expert capacity on any
15 environmental issues. In particular, stormwater issues that
16 have been raised by the opposition party.

17 In terms of parking, loading, and traffic, I did
18 want to reiterate that DDOT has reviewed this application and
19 stated no objection, as referenced in the OP report. The OP
20 report also agrees that the addition of two single-family
21 homes would not adversely affect traffic in the surrounding
22 area, and we are providing adequate ingress and egress to
23 each new home and the existing home.

24 And then finally, I did want to reiterate that we
25 have met with CFA on October 13th, and formal application

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1 will be forthcoming. Next slide, please.

2 Under 305.6, for many of the reasons I've already
3 mentioned, we believe this proposal is consistent with the
4 present character and future development of the neighborhood.
5 This is an exceedingly large lot and each theoretical lot
6 will exceed the minimum lot area requirements of 7500 square
7 feet.

8 We are proposing detached single-family residences
9 that are very much in keeping with the pattern of development
10 in the area.

11 These homes are substantially set back from
12 Sudbury Road, we are providing the landscape buffer, and
13 again there's no change to the existing home. Next slide,
14 please.

15 We did want to address, or believe we have
16 addressed, the ANC's issues and concerns. I spoke about the
17 impacts or alleged impacts to traffic.

18 I did want to note that the opposition and the ANC
19 have classified Primrose as a highly trafficked area.
20 However, DDOT's design and engineering manual does not
21 classify it as such. It is a collector street. It is not
22 a primary street that is used to commute into the District
23 for employment. And again, OP and DDOT found no impacts to
24 traffic.

25 The ANC repeatedly raised our lack of CFA review.

1 As the Board is well aware, the applicant is entitled to go
2 to CFA at any point.

3 We know that a CFA review due to the adjacency of
4 Rock Creek Park is needed. We have met with staff and we
5 will be filing formal application. I think the Board has
6 seen many cases where zoning and historic or CFA review
7 occurs in either order, and that is perfectly permitted.

8 Stormwater management, I don't want to belabor
9 that. Mr. Landsman has testified to that effect.

10 The opposition party and the ANC have raised
11 concerns over past tree removal. As Mr. Teass testified, we
12 will not be removing any heritage trees from the site and we
13 are aware that we will have to work with DDOT Urban Forestry
14 and an arborist to ensure that those trees are preserved and
15 a tree preservation plan is agreed to.

16 Any past removal of trees was done with permits
17 issued by DDOT that Mr. Chou obtained. And I would pause it
18 and make a motion that the Board restrict any testimony about
19 past tree removal as not relevant to this application. The
20 applicant is permitted with permits to remove trees that are
21 authorized to be removed by DDOT.

22 And finally, there are allegations over the
23 accuracy of plans. And Mr. Teass and Mr. Landsman can
24 testify to any alleged inaccuracies. We are certainly
25 positing that the plans are consistent with all existing

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1 conditions and what's being proposed on the site. Next
2 slide, please.

3 And finally, we did want to propose a condition
4 should the Board approve this application, to provide certain
5 flexibility to simply vary the exterior design and siting of
6 the new homes, in case the U.S. Commission of Fine Art
7 requires certain changes design-wise, provided that the plans
8 continue to meet the development standards for theoretical
9 lots in the R-1A zone.

10 And with that, we'll conclude our presentation.
11 Again, I appreciate the Board's patience, and we are open to
12 questions.

13 CHAIRPERSON HILL: Yeah, give me a second,
14 Ms. Wagner.

15 Okay, so what I going to plan on doing real quick,
16 unless the Board has issues, I was going to let the
17 opposition party go ahead and give their presentation. And
18 then I was going to hear from the Office of Planning, and
19 then I was going to take questions from the Board, and then
20 the party-in-opposition, in that order.

21 So, Ms. Wagner, if you want to go ahead and give
22 us your presentation.

23 MS. WAGNER: Okay. I submitted a PDF presentation
24 that has both my written testimony and slides. So, if it
25 would be possible to please bring up the slides, that would

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1 be great.

2 CHAIRPERSON HILL: Yep. And Ms. Wagner, you'll
3 have about 25 minutes. Okay?

4 MS. WAGNER: Great, thank you. Okay, thank you.
5 So, my name is Lara Wagner. I'm at 2254 Sudbury Road, NW.
6 That is the house actually that the applicants have been
7 presenting as Ms. Igoe's house and my house is the house they
8 said was Ms. Igoe's house. So, they switched those two, just
9 so you know. But my property is directly adjacent to the
10 backyard of 1840 Primrose Road. I have a number of concerns
11 for this property.

12 CHAIRPERSON HILL: Ms. Wagner, just real quick.
13 I just want to make sure I'm right. You're at 2254, correct?

14 MS. WAGNER: And Ms. Igoe is at 2264.

15 CHAIRPERSON HILL: Yep. Got it. Okay, thank you.

16 MS. WAGNER: Celeste Woolfork is on the other side
17 of me, and then Jenny Mittleman and David Rodler are at the
18 very top of the hill at the southern end of the property, so
19 that they sort of look down over the entire property. Just
20 so you know.

21 CHAIRPERSON HILL: That's fine. Thank you.
22 You're 2254.

23 MS. WAGNER: That's correct.

24 CHAIRPERSON HILL: Okay, thank you.

25 MS. WAGNER: Yes. So, if we could go ahead and

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1 please go to the next slide? Thanks.

2 So, this is just the cover sheet from their
3 original application. As indicated, I've been working and
4 discussed these presentations with my husband, Devin Wolak,
5 and with my neighbors, Celeste Woolfork, Alison Igoe, Jenny
6 Mittleman, and David Rodler. All of us live adjacent to this
7 property and we're all very concerned.

8 This slide here -- oh, sorry. Yeah, can we go
9 back? Thank you.

10 So, this is the artist's rendering of the
11 applicant's vision for the project. It includes -- you can
12 see the proposed driveway here, the garage, access driveways
13 that show these rational cars, and then the properties.
14 Please just keep in mind how big those little access
15 driveways look here, versus how they actually look on the
16 plat. So, if we could go to the next slide, please.

17 Okay, so here is the plat taken from the
18 application. Next slide.

19 And so, here what I've done is I'm going to show
20 highlighting items that are on the plat. So, this is the
21 driveway as shown on the plat for the new development. Next
22 slide.

23 And here, I'm showing those driveway access drives
24 in purple. You can see that they are actually narrower than
25 the driveway that they are proposing. They're not these

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1 large things you can park cars into. Next slide.

2 And here, I'm highlighting what they consider to
3 be side yards in yellow, to show sort of the green spaces
4 they're proposing for the size of the properties. Next
5 slide.

6 Okay, here I'm highlighting what they highlight
7 on their plat as the, quote unquote, drive aisle. This is
8 the much-repeated 24-foot-wide means of ingress and egress
9 that is required under Subtitle C, Subsection 305.3(b).

10 I've highlighted this because it's otherwise kind
11 of hard to see on the plat and you can see that it completely
12 overlays everything, from the easternmost boundary of the
13 property, across the driveway, across the side yards, and
14 right up to the corner of the building proposed for Lot A,
15 and within spitting distance of the steps located at the
16 front of the building on Lot B.

17 And we'll note that in their presentation they
18 mention that there are 36 feet between the building on Lot B
19 and the property line, but that is not included, that set of
20 steps there that leads up to it. At least not according to
21 the plat that we received.

22 To the left here is just from their prehearing
23 statement, again emphasizing what they've just told you,
24 which is that they require this 24-foot lot aisle for
25 immediate emergency vehicle ingress and egress. Okay, next

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1 slide.

2 So, we're not experts in all of this, but we have
3 tried to do our best to do our homework to figure out how
4 this is possible to have emergency vehicle access across an
5 area that is dominantly not covered by the driveway.

6 So, I found this here, DC Fire Code from 2017.
7 That means that these approved fire apparatus access roads
8 must have an asphalt, concrete, or other approved driving
9 surface, capable of supporting 75,000 pounds.

10 And I think what that means is that the entire 24-
11 foot drive aisle, all the way up to the eastern boundary of
12 the property, needs to be paved. Next slide, please.

13 But here, you can see, and as I repeatedly
14 reiterated again in their more recent documents, the green
15 buffer zone that is meant to isolate their new developments
16 from our homes on Sudbury, and as you can see, at least
17 according to this figure, it certainly looks like a good
18 third to a half of the proposed drive aisle is also proposed
19 to be covered by this green space buffer, which I just don't
20 understand how that is possible.

21 And you can even see here, they delineate what 24-
22 foot is. You probably can't see my mouse, but you can kind
23 of see in a couple of spots they put their little 24-foot
24 tick marks in it. And you can see how wide that green space
25 buffer is leading into that 24-foot drive aisle space. Next

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1 slide, please.

2 So, from the best of our ability, what we can see
3 is that this required 24-foot paved drive aisle, you can have
4 that, or you can have any of the other. You can have the
5 promised side yards, which are 25 feet, and there's at least
6 an eight-foot requirement for a side yard under Subtitle D,
7 Subsection 206.2 and 306.1. That would all be paved over.

8 The promised driveways leading to the garages,
9 which would also be entirely encapsulated, or at least mostly
10 encapsulated, by the drive aisle, which means nobody would
11 be able to park a car in front of their own garage, without
12 having it right in the middle of the drive aisle that's
13 required for emergency vehicle access.

14 Nor would they be able to have green space, unless
15 I don't understand how they would have green space on top of
16 a paved surface.

17 So, in other words, as far as we can tell, they
18 can either have A, or they can have any of the items in B,
19 but they cannot have both. Okay, next slide, please.

20 Okay, so the next concerns we have are about the
21 mature trees. And as they identified, there are two heritage
22 trees that are adjacent to the eastern boundary of this
23 property.

24 They do not, however, identify any of the trees
25 in Rock Creek Park that are adjacent to that. The one thing

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1 that I'd like to point out is we are in that park regularly.
2 There is an access trail into Rock Creek Park there that is
3 heavily used and is one of the few access points into Rock
4 Creek Park from the eastern side of the park boundary.

5 And we have measured trees in the park that are
6 very close to their park boundary, that have circumferences
7 of up to 170 inches, which is almost double the 100-inch
8 characterization for heritage trees.

9 So, I don't know why these were not considered in
10 the initial application, or subsequently. Okay, so moving
11 on to the next slide, please?

12 Okay, so we were educating ourselves about what
13 the structural root zone and the critical root zone. And I'd
14 like to point out those are two different things.

15 The structural root zone is defined as a half-a-
16 foot-per-inch of diameter at chest height, which is four-and-
17 a-half feet above ground level.

18 The critical root zone is actually one-and-a-half
19 feet-per-inch of diameter at breast height. So, it's the
20 larger of the circles. Next slide, please.

21 So, here is a figure from their plans that shows -
22 - sorry, I'm a little bit nervous here.

23 CHAIRPERSON HILL: Take your time. You're all
24 right.

25 MS. WAGNER: Right, that shows the structural and

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1 the critical root zones. I've highlighted in solid green the
2 critical root zone, to show you that larger circle.

3 I know that the applicant mentioned that for the
4 northern heritage tree, that only fourteen percent of the
5 critical root zone would be affected by the proposed
6 construction. And I'd like to point out that, at least to
7 my eye, if you include the drive aisle and the basement for
8 this house, to my eye it looks like a good 50 percent of that
9 critical root zone is going to be either paved over, or cut,
10 if this motion is approved. And for the southern tree to the
11 right, it's still a fairly substantial amount. Okay, next
12 slide, please.

13 Okay, here they are showing the areas of grade
14 change. And I'm pointing out here the southern heritage
15 tree, which is located in the area of substantial grade
16 change.

17 I would like to point out to the Board that this
18 circle size is at best the structural root zone, not the
19 critical root zone. And notice that the structural root zone
20 itself, not just the critical root zone, is within this area
21 of substantial grade change. Thank you. Next slide.

22 So, there's a presentation online that we use to
23 try and understand the importance of critical root zone, and
24 that's the one I've used previously also.

25 The DC Government notes here that compaction of

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1 soil in critical root zones is the leading cause of tree
2 death on construction sites. Next slide.

3 And that trees store their energy in their
4 branches and trunks, which helps them to survive after roots
5 have been damaged. Next slide.

6 And then they include this slide, which I have not
7 modified, just in case you're curious. It says, however,
8 construction damage to tree zones is not always obvious and
9 can take years to be seen in the tree canopy, two or three
10 years for trees to show signs of decline, and up to five to
11 ten years to result in tree death, which means that by the
12 time the building contractors are gone, the city's left
13 responsible when these trees are dead. So, yeah, just keep
14 that in mind. Next slide.

15 So, this presentation also includes
16 recommendations as to what you have to worry about with the
17 critical root zone. Those include things like no alteration
18 or disturbance to the existing grades.

19 So, if you will recall that the structural root
20 zone and the critical root zone lie within that area of
21 significant grade change for the southern heritage tree, and
22 that there should be no trenching with the critical root
23 zone.

24 I have to imagine that putting a basement in, or
25 building a drive aisle capable of supporting 75,000 pounds,

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1 will involve some kind of digging. Okay, next slide, please.

2 And then again, I just wanted to remind all of you
3 once more that they discuss none of the trees in Rock Creek
4 Park. And the burden of proof is on them. They don't
5 present any evidence as to how they're going to handle this.
6 And I am in no position to be able to assess this fully
7 myself. But I will note to this Board is that they are
8 planning on, while they give these eight-foot side yards
9 between the western walls of the property -- shown sort of
10 at the bottom of your screen -- and the western property
11 line, there are eight feet there, but they are planning on
12 fully filling those eight feet with a patio for Lot A and a
13 deck for Lot B.

14 And they do not tell us how they plan on managing
15 all of that construction, adjacent to some very majestic and
16 decidedly heritage trees, that are in Rock Creek Park close
17 to their property boundary.

18 And so, I can't tell you how close. I'm not the
19 person to do that. But that should have been included in
20 this application and it was not.

21 Okay, so let's see. Yeah, so moving on, next
22 slide, please.

23 MR. DeBEAR: I want to object to this slide,
24 Chair. I apologize for butting in here. The removal of old
25 trees is just simply not relevant and we have permits for it.

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1 MS. WAGNER: I would like to say that the reason
2 that I think that this is relevant is, first and foremost,
3 while they claim that they had a permit to do this cutting,
4 we have not seen that permit. It was not included as part
5 of the evidence. And while I understand that they say that
6 they had one --

7 CHAIRPERSON HILL: Let me interrupt you. It's
8 okay. Mr. DeBear has made his point. And Ms. Wagner, just
9 go ahead with your presentation.

10 MS. WAGNER: Okay. Well, if nothing else, what
11 I would like to say is that it used to be that the forest
12 reached all the way up to the backs of our properties through
13 this property. It was fully forested. And it is not
14 anymore.

15 I'm pointing out here that the southern heritage
16 tree that you can see in the picture to the right from their
17 application materials, was fairly visible behind the wall of
18 large majestic trees that used to be there.

19 And so, we are all very interested in making sure
20 that whatever existing trees, both along the property lines
21 with the Sudbury neighbors, and within Rock Creek Park, that
22 those are not damaged or killed, as we suspect they will be,
23 by the proposed construction. Next slide.

24 Okay, the last concern that I wanted to talk to
25 you about now is flooding concerns. I understand that they

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1 have spoken with --

2 CHAIRPERSON HILL: Ms. Wagner?

3 MS. WAGNER: Yes?

4 CHAIRPERSON HILL: Just to let you know, you're
5 at seventeen minutes, okay?

6 MS. WAGNER: Okay, so that's seven minutes left?

7 CHAIRPERSON HILL: Yeah.

8 MS. WAGNER: Okay, that should be fine. Thank
9 you. Okay, so my --

10 CHAIRPERSON HILL: And don't forget you have
11 Ms. Igoe.

12 MS. WAGNER: Right. Yes, thank you.

13 CHAIRPERSON HILL: Yep.

14 MS. WAGNER: So, this is the National Hydrography
15 Dataset plus high resolution map that was created by the
16 United States Geological Survey. It was updated within the
17 last decade, because previously it had only acknowledged,
18 frankly, Rock Creek Park and a few other large rivers within
19 the District, as ways that water floods out of the District.

20 And DC recognized that it needed to acknowledge
21 smaller tributary streams, and also underground water travel,
22 in order to fully understand how water is and is not draining
23 out of the District.

24 I'm sure all of you recently read that very sad
25 story about the dogs drowning in a doggy daycare. Flooding

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1 is a problem in the District. And so, this map was created
2 to try and ensure that existing streams and permeable
3 surfaces are maintained.

4 So, here we show this map from the USGS map. That
5 blue there is a hyperlink, so if you want to go there
6 yourself, you can do so. That blue line to the left, on the
7 left half of the map, is identified, as you can see in the
8 legend, is a perennial stream.

9 It then connects to that brown line, which is a
10 pipeline that identifies for the city. That pipeline then
11 crosses underneath West Beach Drive, and empties into the
12 Fenwick branch of Rock Creek. Next slide, please.

13 Okay, here's the plat again, just for reference.
14 Next slide.

15 And then here I have underlaid the USGS map
16 underneath their plat, to show you where that creek that I
17 mentioned is, in reference to the proposed new homes and
18 zoning.

19 Of particular note again, is that this creek
20 crosses right through the Lot A home. Next slide, please.

21 Here's a zooming of that exact same figure. So,
22 again, you can see that creek cutting right through there.
23 I wanted to point out here again that this creek as shown is
24 hooking up with that underground pipeline.

25 MR. DeBEAR: I just want to object to this image

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1 as well, Chair. We don't know the accuracy of this image.
2 I mean, this is an image or overlay of the site, but I just
3 wanted to log that objection. Thank you.

4 CHAIRPERSON HILL: Thank you, Mr. DeBear.

5 MS. WAGNER: I wish that they had included their
6 version of an overlay in their application materials. That
7 would have made my life a lot easier too. So, I've done the
8 best that I can.

9 The curb cut here, you can see that the creek goes
10 right north of the curb cut. That's consistent with the fact
11 if you go out and look yourself on Primrose, there is an
12 entrance into that stormwater pipeline just north of their
13 driveway. You can see that for yourself. And so, that is
14 where that creek is said to enter that drainage system. Next
15 slide, please.

16 This is a USGS slope map. And so, basically, here
17 in brief darker colors, the reddish and orange colors,
18 indicate areas that have steeper slopes, and the lighter and
19 white -- so light yellow and white are much flatter surfaces.
20 You can see Primrose Road sort of cutting diagonally across
21 the top of the figure, and Sudbury Road kind of a more
22 vertical line on the right half of the image.

23 You can then also see the steep slopes between my
24 home, for example, and the Primrose property. And then to
25 the left of the Primrose property you can see this steep

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1 creek coming in towards the Primrose property.

2 And you can also see that the northernmost extent
3 of the Primrose property is actually quite flat. And if you
4 go to the next slide, please.

5 Here again, I've done my very best to overlay
6 their plat on --

7 CHAIRPERSON HILL: Ms. Wagner, you're at
8 20 minutes. Just to let you know.

9 MS. WAGNER: I'm almost done. Onto the property,
10 and you can see that that creek basically empties into a
11 large, relatively plainer area with that house, and then
12 drains to the southeast, into our neighborhood. Next slide.

13 Here, I'm just showing some flooding that we see.
14 You can also go to Google Earth Pro to see historic images
15 of the water. I would like to, in particular, point out the
16 image at the top-right that shows water coming out of the
17 property at the driveway at 1840 Primrose, running all along
18 Primrose Road, and ending up in the inner section at Primrose
19 and Sudbury.

20 That lake that forms there forms over and over
21 again. And when it freezes in the winter, it poses a
22 substantial hazard to pedestrians, of which there are many,
23 and cars and cyclists. Next slide, please.

24 There are regulations about perennial streams in
25 the District that prevent critical areas that are streams or

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1 wetlands, from any of the following activities, all of
2 which -- the highlighted ones, all of which I'm assuming will
3 happen as part of this construction. Next slide, please.

4 And I wanted to point out that what the DOEE
5 recommends --

6 CHAIRPERSON HILL: Ms. Wagner?

7 MS. WAGNER: -- is that you avoid doing anything.
8 And the opportunity to avoid --

9 CHAIRPERSON HILL: Ms. Wagner?

10 MS. WAGNER: Yes.

11 CHAIRPERSON HILL: Is Ms. Igoe going to talk?

12 MS. WAGNER: Yes.

13 CHAIRPERSON HILL: Okay. Because you're at
14 23 minutes.

15 MS. WAGNER: Yes. This is my last slide.

16 CHAIRPERSON HILL: Okay, I'm just saying.

17 (Off-mic comments.)

18 CHAIRPERSON HILL: So, just so you guys know --
19 I don't know who else is in the room -- you, Ms. Wagner, are
20 the party-in-opposition. You have been given an opportunity
21 to give your presentation.

22 We had denied the party status of Ms. Igoe for a
23 variety of reasons. There's other reasons that my fellow
24 Board members had that were pointed out. And I'm just
25 pausing here your time.

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1 And so, Ms. Igoe was going to give some testimony.
2 Now, after this is over, I guess there are people that are
3 signed up as witnesses. And those people will be called
4 individually during the portion as the public.

5 Public witnesses will get three minutes each to
6 give their testimony. They're encouraged not to repeat
7 testimony that's been given, but it's three minutes. And so,
8 they give their testimony.

9 So, you, however, have the need to manage your
10 time. And you're currently at 23 minutes.

11 MS. WAGNER: So, may I ask a question?

12 CHAIRPERSON HILL: Sure.

13 MS. WAGNER: So, in terms of calling witnesses,
14 is that part of my 25 minutes?

15 CHAIRPERSON HILL: Yes.

16 MS. WAGNER: Okay. And then if I may also, I
17 believe Ms. Igoe, in addition, has put in to be a witness on
18 her own time. But with witness, can she do that separately
19 from that?

20 CHAIRPERSON HILL: She can do it separately if she
21 wants. She can't do both.

22 MS. WAGNER: Okay, then we would like to have her
23 do that separately from mine. And if we can just go back to
24 my last slide, then I'd like to take my last two minutes.

25 CHAIRPERSON HILL: Okay, no problem. And

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1 actually, as I clarified for the record, I have to think.
2 I guess if you would like to include Ms. Igoe as part of your
3 testimony, you may.

4 However, if you think, or if she thinks it would
5 be best for her to act as a public witness and get her three
6 minutes, she can determine what she wants to do.

7 MS. WAGNER: Okay, she will take her three minutes
8 as a public witness.

9 CHAIRPERSON HILL: Okay, that's what she's saying.
10 Okay. All right. Or at least that's what you're telling me
11 she's saying. Okay, so you're going to conclude. Do you
12 need your slide deck back up there?

13 MS. WAGNER: Please?

14 CHAIRPERSON HILL: Okay. Mr. Young, if you could
15 please drop that back up. Okay, go ahead, Ms. Wagner.

16 MS. WAGNER: Thank you so much for helping with
17 all this. I appreciate it.

18 So, again, I wanted to point out that the DOEE
19 wetland and stream regulation and presentation number 16 pdf,
20 they make it very clear that in general, if you have the
21 option to avoid disrupting existing streams or wetland, that
22 is what you must do.

23 If you can't, then there are options for
24 minimization and mitigation, which I believe the applicants
25 were trying to address, though I note that the documents

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1 where they do address that just appeared yesterday.

2 They were not part of the original application,
3 and so I haven't had time to really look them over. But this
4 is -- if you have a stream, you have to avoid disrupting it.

5 And I would propose that our opportunity to do
6 that avoiding is before the Board today. You have the
7 opportunity to avoid an action that would result necessarily
8 in the disruption of this watershed. That's all I have. So,
9 thank you.

10 CHAIRPERSON HILL: All right, Ms. Wagner. And I
11 just want to point out that at the beginning of all this I
12 was going to let you guys go at the very end. So, if you
13 needed any time to review anything, if you just mentioned
14 that it was in the record, you would have had that
15 opportunity to do so.

16 So, I just want to let you know that I've given,
17 the best I can, everyone a chance to review everything. So,
18 you've had an opportunity to review what's in the record.

19 All right, where, Mr. Young, is that presentation?
20 Ms. Wagner's presentation in the record?

21 MR. YOUNG: This one's in the record. I had this
22 emailed to me from them.

23 CHAIRPERSON HILL: Okay. Mr. Young, unless the
24 Board has any issues, if you could put that into the record.

25 MR. DeBEAR: It's in the record, Chair. It's

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1 Exhibit 32, I believe. After her testimony.

2 CHAIRPERSON HILL: Oh, okay, I'm sorry. Thank
3 you. Thank you. Okay, great. Never mind, Mr. Young. It's
4 there. Give me a second. I didn't see it after the
5 testimony. Okay, I see it. Okay, got you. All right.

6 Okay, so again, my plan is to hear from everyone,
7 and then allow the Board questions, and everyone can have
8 questions. I understand that the ANC Commissioner has joined
9 us. Is that correct, Mr. Young?

10 MR. YOUNG: That's correct.

11 CHAIRPERSON HILL: Could you please introduce --

12 MR. YOUNG: She's on now, Ms. Edwards.

13 CHAIRPERSON HILL: Ms. Edwards, can you hear me?

14 MS. EDWARDS: Yes, I can.

15 CHAIRPERSON HILL: Great. Could you introduce
16 yourself for the record, please?

17 MS. EDWARDS: My name is Paula Edwards. I'm ANC
18 Commissioner for ANC 4A-01. And 1840 Primrose is located in
19 my SMD.

20 CHAIRPERSON HILL: Okay, great. Ms. Edwards, are
21 you choosing not to use your camera? I'm just trying to
22 understand.

23 MS. EDWARDS: There's difficulty with the
24 transmission here. So, usually I can either have audio or
25 video.

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1 CHAIRPERSON HILL: Okay, we'll take the audio
2 then. We'll take the audio.

3 MS. EDWARDS: All right.

4 CHAIRPERSON HILL: All right, Ms. Edwards, you
5 are, again, representing your ANC. Correct?

6 MS. EDWARDS: Yes, I am.

7 CHAIRPERSON HILL: Okay. Is there something in
8 the record there, Commissioner, that has you as a
9 representative? Do you know? If not, it can get
10 supplemented. I just want to know.

11 MS. EDWARDS: There should be in the letter, that
12 I'm the representative for it.

13 MR. MOY: On the ANC report, Mr. Chairman.

14 CHAIRPERSON HILL: Yep, got it. Okay, thanks,
15 Commissioner. Okay, Commissioner, if you want to go ahead
16 and give us your testimony?

17 MS. EDWARDS: Yes. I can read the letter. You
18 already have it. Would that be instructive? Or should I
19 just --

20 CHAIRPERSON HILL: No, just go ahead -- I mean,
21 we have the letter.

22 MS. EDWARDS: All right.

23 CHAIRPERSON HILL: So, you can tell us about kind
24 of like how the ANC meeting went, what seems to be the
25 concerns of you and your ANC.

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1 MS. EDWARDS: Okay. The way we came into this was
2 that we received the notice for the theoretical subdivision
3 and it was a novel concept. So, I had to do some research
4 on it. I had to go to the Office of the Attorney General of
5 the District of Columbia.

6 And I also noticed that there was a Shipstead-Luce
7 jurisdiction there. So, I contacted the applicant to see if
8 the applicant knew about that. And I also contacted the
9 assistant secretary at Shipstead-Luce and she said she'd
10 never heard of the project.

11 I solicited comments from the neighbors and I went
12 so far as to pass out 60 flyers to the immediate adjacent
13 neighbors about this. I advertised it on the listservs so
14 people would know about it, and I invited comments, both pro
15 and con.

16 I received no emails with comments supporting the
17 applicant and I received a lot of emails -- I don't know how
18 many different individuals they represented -- but I received
19 a great many emails in opposition.

20 Since the ANC meeting, we've received three
21 comments -- not emails, but just verbal comments -- in
22 support. And I believe you received one letter in support
23 from Ms. Micah Salb.

24 The difficulty I have when I did the research --
25 because I went back and looked at the history of the site,

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1 I contacted architects and showed them the renderings, I
2 contacted the Historic Preservation Board to make sure that
3 wasn't part of their jurisdiction, and I went through a lot
4 of documentation on it -- I visited the site to see if the
5 neighbors' concerns about traffic and flooding were valid.

6 I did see the flooding water runoff they spoke
7 about. And I also saw difficulty that could be problematic
8 in accessing Primrose where Grubb turns into Primrose during
9 rush hours, because there's a lot of traffic that goes up and
10 down there.

11 The general thing that bothered me was the CFA
12 inclusion. I understand why the applicant did not go to CFA
13 in advance, because it wasn't necessary. But that would have
14 helped us to make a decision -- perhaps a better decision --
15 to support or oppose.

16 And at the point with the information we had going
17 into the meeting, I did not have enough information to
18 support this proposal. And I did, based on the neighbors'
19 comments and observations, vote to oppose it.

20 CHAIRPERSON HILL: Okay. Okay, thanks,
21 Commissioner. Commissioner, have you been a commissioner for
22 a little while?

23 MS. EDWARDS: I've been Commissioner for ten
24 months, twenty hours, and -- no, now it's 21 hours, and
25 45 minutes.

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1 CHAIRPERSON HILL: Got it. Not that long,
2 Commissioner. You've done a lot of work for this one. I
3 appreciate it.

4 All right, let's see. Okay, I'm going to turn to
5 the Office of Planning, and then we're going to do questions.
6 Can I please hear from the Office of Planning?

7 MR. KIRSCHENBAUM: Good morning, Chair Hill and
8 members of the Board of Zoning Adjustment. I am Jonathan
9 Kirschenbaum with the Office of Planning.

10 We recommend approval of the Special Exception for
11 theoretical subdivision which is to allow a total of three
12 lots or three buildings to be provided on one record lot, as
13 the Applicant stated.

14 One -- the existing house that is there will be
15 retained and there'll be two new houses being created.

16 There are no new streets being created.

17 The R-A1 zone is a detached single-family house
18 zone.

19 The proposal will provide two detached single-
20 family homes. They will comply with all of the zoning
21 requirements for the zone.

22 And we, therefore, found that the proposal be in
23 harmony with the general purpose and intent of the zoning
24 regulations and we rest on our staff report.

25 Please let me know if you have any questions.

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1 Thank you.

2 CHAIRPERSON HILL: Okay.

3 I've read your report. I think it's pretty
4 extensive and clear.

5 DDOT did get to you, correct, Mr. Kirschenbaum?

6 MR. KIRSCHENBAUM: They provided us -- there's a
7 comment that they do note, that's the application. But that
8 they would need to work with the Applicant during permitting
9 should this be approved by the Board to, I believe, to put
10 in place what they call an unrestricted easement because
11 there is already, I believe, a portion of sidewalk that goes
12 over this property.

13 So, there's basically sort of a public sidewalk
14 that goes along the private property. And so, they would
15 like to have an easement to continue that, as far as I
16 understand.

17 CHAIRPERSON HILL: Okay.

18 All right, let me see, actually, let's go ahead
19 and take -- I'll take testimony from everybody.

20 So, let me go ahead and hear from the witnesses.

21 Mr. Young, can you hear me?

22 MR. YOUNG: Yes, I can.

23 MR. KIRSCHENBAUM: Can you tell me who is joining
24 us?

25 MR. YOUNG: Yes, so you have Ms. Igoe, you have

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1 Jenny Mittleman, Celeste Woolfork, and Devin Wolak.

2 CHAIRPERSON HILL: Okay, great.

3 All right, Ms. Igoe, can you hear me?

4 MS. IGOE: Yes.

5 CHAIRPERSON HILL: Okay, great.

6 There's a little bit of a delay, but I guess we'll
7 go ahead and work through it. I don't know.

8 If you want to go ahead and introduce yourself for
9 the record and then, give your three minutes of testimony.

10 And you can begin whenever you like.

11 MS. IGOE: Wait --

12 CHAIRPERSON HILL: I'm sorry.

13 MS. IGOE: Okay.

14 Can you hear me?

15 CHAIRPERSON HILL: Yes.

16 MS. IGOE: Okay.

17 I don't have much to add to Ms. Wagner's remarks.
18 I'd like to associate myself --

19 CHAIRPERSON HILL: Ms. Igoe, could you just
20 introduce yourself?

21 MS. IGOE: -- with those remarks and the --

22 CHAIRPERSON HILL: Ms. Igoe?

23 MS. IGOE: -- remarks of the other witnesses --

24 CHAIRPERSON HILL: Ms. Igoe?

25 MS. IGOE: -- who oppose.

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1 I just want --

2 CHAIRPERSON HILL: Can y'all hear me?

3 I'm sorry.

4 MS. IGOE: I'm sorry, my name is Alison Igoe and
5 I live at 2264 Sudbury Road, Northwest.

6 My property is directly east of the proposed
7 project.

8 I just want to address the traffic issue.

9 The Applicant suggested that this is a minimal
10 traffic roadway.

11 The property exits onto a very narrow traffic two-
12 way road that has a pedestrian median in its middle.

13 It's a commuter access directly into D.C., has a
14 middle school with a parent drop off and pick up yards away.
15 And much of Colonial Village has no sidewalks.

16 The narrow size of the plot and the planned
17 project means that the vehicles -- the construction vehicles
18 will necessarily be parked on the neighborhood streets
19 further obstructing traffic, and will place several of the
20 homes within the construction zone for several years.

21 My neighbor directly to my north houses disabled
22 men, as does the home directly across Primrose.

23 These caretakers walk the men through the
24 neighborhood. On occasion, they require emergency medical
25 care which brings fire trucks into the street.

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1 The house directly next to -- directly across from
2 them is occupied by a family with four small children.

3 There is a tremendous amount of pedestrian
4 traffic.

5 The Applicant has not discussed at all how the
6 traffic safety issue with the inclusion of all of these, what
7 are going to be heavy construction vehicles, possibly for
8 years, on the traffic safety issues that it's going to
9 introduce into the neighborhood.

10 You know, the Applicant has also, you know, talked
11 about the issue of the tree falling on the house.

12 Ms. Wagner discussed the problem with the critical
13 root zone about heritage tree to the south.

14 If that tree is damaged, and it's possible that
15 it may take five to ten years for that tree, you know, to
16 die, that tree is directly behind my house.

17 And if that tree falls, it will fall on my home.
18 And that will be a problem that, after the construction crew
19 is gone, you know, I am concerned, not only about the
20 flooding, but the damage to that tree.

21 Because if that tree falls, and it is a heritage
22 tree, meaning that it is at least a 100 centimeters inches
23 in circumference, if that tree falls and falls on my home,
24 who is going to be responsible for that damage?

25 And I'm very concerned about that.

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1 The Applicant has said that they had permits for
2 the tree removal.

3 We were witnesses to the tree removal of the trees
4 on the property. And I would like to see the permits because
5 I'm -- it is our observation that there were no permits,
6 which suggests to me that the Applicant has already, you
7 know, indicated their willingness to avoid regulations that
8 D.C. has in place.

9 And also, the Applicant has stated -- or the
10 Applicant's attorney has stated that this is their residence.

11 I've lived in this home for -- since 2016. This
12 home has been vacant the entire time that I have lived in
13 this home. No one has lived there.

14 And I just suggest that the Applicant is willing
15 to make misrepresentations to this Board to get this zoning
16 approved.

17 They've also stated that they've gone to CFA.

18 You know, they opposed my request for an untimely
19 application for a party status because I was, you know, a few
20 days late when I have a huge interest, you know, in this
21 zoning exemption.

22 And yet, they were unable -- they've owned this
23 property for several years. They knew -- they hired
24 architects and they hired an attorney who, it's their
25 business to know about Shipstead-Luce.

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1 And yet, they're coming for this Board without
2 having gone to the CFA prior.

3 And they were also warned by ANC about the issue
4 of Shipstead-Luce and the approval of the CFA.

5 And yet, they have come before this Board without
6 having gone and done that in a timely fashion.

7 And yet, they opposed my request for party status
8 when I have such an interest in this zoning exemption, you
9 know, on what basically was a mistake on my part.

10 That's all I have to say. But I sincerely request
11 that this Board really consider my interest in this because
12 if this project -- flooding and the tree issue, negatively
13 affects my property.

14 This is my property. It's my home. And it's my
15 children's home. There will be huge costs to me.

16 You know, it'll make home unlivable and it will
17 give me costs that I may not be able to bear.

18 And I would sincerely ask that the Board take
19 those issues into consideration.

20 Thank you.

21 CHAIRPERSON HILL: Thanks, Ms. Igoe.

22 Okay, is it Mittleman? Mittleman? Mittleman?

23 MS. MITTLEMAN: Yes, it is Jenny Mittleman.

24 CHAIRPERSON HILL: Oh, great.

25 Ms. Mittleman, can you introduce yourself for the

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1 record and then, you also have three minutes to give your
2 testimony.

3 And you can begin whenever you like.

4 MS. MITTLEMAN: Thank you.

5 Yes, my name is Jenny Mittleman. My husband, Dave
6 Rodler and I own and reside at 2141 Sudbury Place, Northwest.

7 And we also own the additional property that
8 borders the 77-foot stretch at the south end of 1840
9 Primrose.

10 I just want to say, I've been distraught to
11 witness the decimation of the trees. I know we're all
12 talking about the trees, but it's just a -- it's a big part
13 of our concern.

14 Been very distraught to see the general neglect
15 also of the unique property since it was purchased in 2019
16 by the current owners.

17 It's an historic mid-century homestead that had
18 been lovingly restored in 2017. And the entire property was
19 shaded with native trees, several of which were heritage
20 trees.

21 It's the first home across the D.C./Maryland
22 border, and is right at the entrance to Rock Creek Park,
23 which is a national park.

24 Now, the property appears abandoned. The majestic
25 trees that lived there for over a century have been stripped

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1 away. And now, it's just been replaced with a no trespassing
2 sign.

3 Along with our neighbors, Laura, Devin, Alison,
4 and Celeste, we are protecting -- we are protesting the
5 rezoning application for the creation of a new subdivision
6 with two additional homes.

7 You'll hear from the group, and you have heard
8 from the group, the many reasons why the rezoning should be
9 denied.

10 But in short, I'd like to ask how we're even at
11 this point when it seems like the plans, the maps, and the
12 drawings that have been submitted didn't really provide
13 thorough and accurate information?

14 I mean, they looked very fancy and everything, but
15 they just did not -- nothing adds up.

16 The measurements don't seem to add up.

17 And for example, there was no creek shown.

18 You know, that was the U.S. Geological Survey Map,
19 but it wasn't addressed by the Applicant.

20 So, it just -- I feel like we're all here, the --
21 all the people that work for the Zoning Board and all of the
22 neighbors, we're all here. It just seems almost
23 disrespectful that we have to be sitting here at this meeting
24 when all -- we don't know -- we haven't seen the permits that
25 you're talking about that you've already had.

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1 And it just feels -- it just feels like we're at
2 a strange place that we're dealing with this at this point.

3 But I just would like to say that I know that
4 they're going to say -- the Applicants will make necessary
5 adjustments to the plans once they're granted approval.

6 But I just would like to say that I hope that
7 they're not going to be granted approval because it just
8 feels that should not be done after the fact.

9 They should have brought it -- in order to receive
10 approval, they should have brought everything like really
11 buttoned up.

12 We should not have had to learn about tree --
13 critical root zones and U.S. Geological Survey Maps.

14 Why are we doing that? The neighbors? Why didn't
15 that -- why wasn't that presented to us as this is all good
16 and this is why you should welcome us to your neighborhood?

17 So, I guess that's all I have to say. I
18 appreciate your time and consideration.

19 CHAIRPERSON HILL: Okay, thanks, Ms. Mittleman.

20 Yes, Ms. Mittleman, they've completed all the
21 necessary paperwork for their application. Like they've put
22 everything forward to the Board that is needed in terms of
23 the plans, in terms of their requirements.

24 And so, they are here and have complied with
25 everything.

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1 And you know, from someone who's a layperson --

2 MS. MITTLEMAN: Right.

3 CHAIRPERSON HILL: -- you know, you might be like,
4 well, they don't have this or they don't have that.

5 But they've done everything they are supposed to
6 do --

7 MS. MITTLEMAN: Okay.

8 CHAIRPERSON HILL: -- in order to be here for this
9 particular phase.

10 The next person I have is Woolfork.

11 MS. WOOLFORK: Yes.

12 CHAIRPERSON HILL: Okay, no problem.

13 Can you go ahead and introduce yourself for the
14 record, please? And you'll have three minutes to give your
15 testimony.

16 And you can begin whenever you're ready.

17 MS. WOOLFORK: So, my name is Celeste Woolfork,
18 and I live at 2250 Sudbury Road.

19 We've owned our home for over 52 years and I've
20 watched the neighborhood grow and develop for decades.

21 My property is adjacent to 1840 at the farthest
22 (audio interference) as a kid --

23 CHAIRPERSON HILL: Ms. Woolfork? Ms. Woolfork?
24 Ms. Woolfork? I can't hear you. You're kind of breaking up.

25 MS. WOOLFORK: I'm breaking up?

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1 CHAIRPERSON HILL: Yes, I can hear you now, but
2 I think, I don't know, you were kind of -- just start again,
3 but speak slower.

4 MS. WOOLFORK: Okay.

5 Can you hear me now?

6 CHAIRPERSON HILL: Yes.

7 MS. WOOLFORK: Okay.

8 So, do I need to repeat my name and all of that
9 or you heard that for the record?

10 CHAIRPERSON HILL: Got the record, got your name
11 part.

12 MS. WOOLFORK: Okay.

13 And you know that I live adjacent to -- my
14 property is adjacent to 1840 at the farther point.

15 And I have the steepest grade slope in my yard.
16 And that's why I'm here.

17 CHAIRPERSON HILL: Got it, okay.

18 MS. WOOLFORK: And then, I was describing that
19 I've lived here my whole life. We've lived in the house for
20 52 years.

21 And as a kid, I played in the woods when it was
22 just a forest.

23 I've watched the neighborhood grow. And I'm not
24 against development, but I can say for certain that I've
25 witnessed substantial changes to the landscape and the

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1 environment over the years.

2 From my vantage point, changes in the topography
3 over time have led to erosion and water damage. And it's
4 cost me thousands and thousands of dollars.

5 Back then, I don't remember being engaged in the
6 process and our home was impacted. So, this time, as a long-
7 time resident, I want to make sure that the proposed rezoning
8 and development will not negatively impact my home.

9 About the impact, I can't prove the cause, but I
10 know that my retaining wall collapsed twice over 20 years
11 ago.

12 The repair company said that our home is in the
13 Rock Creek Water Shed and the damage had something to do with
14 the rising water table and the lack of trees to absorb the
15 water.

16 Insurance didn't cover it, so we paid for the
17 repairs ourselves.

18 Then, again, in 2016, the retaining wall collapsed
19 again, costing nearly \$19,000 to repair.

20 Also, large tree limbs at the top of the hill
21 started falling in my yard. So, in 2017, I contacted the
22 D.C. Department of Transportation for an inspection to assess
23 the health of the trees.

24 In 2018, I contacted Urban Forestry and DCRA,
25 concerned about the exposed tree roots and erosion.

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1 Told it wasn't a city issue, I hired an arborist
2 and a landscaper and spent nearly \$15,000 filling my hill
3 with trees and plants to slow erosion and help with the
4 water.

5 Most recently, the rising water table caused my
6 basement to flood during heavy rains. So, I had to have a
7 sump pump installed with permits, of course. And I spent
8 another \$8,000.

9 So, you can understand my concern as I spoke to
10 my neighbors and learned about the perennial stream that runs
11 through the lot as identified in the U.S. Geological Survey,
12 not to mention the current storm drain and the slope on the
13 hill where it's located.

14 Flooding is already an issue in our neighborhood.
15 And until today, we hadn't seen any plans to adequately
16 address the concerns and, actually, we still haven't seen any
17 plans. We've just heard that they are going to address them.

18 I'm also concerned about the integrity of the
19 remaining trees, especially the heritage trees.

20 I'm no expert, but I do know that the root systems
21 are intertwined. I believe that the dozens of trees the
22 owner of 1840 already removed and the need to cut down more
23 will impact the health of other trees, even if it takes years
24 before we see it.

25 I've been here 52 years. I've seen it before.

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1 Impact on traffic and the drive aisles are another
2 story all together.

3 But long story short, the property owner at 1840
4 Primrose has not adequately addressed the concerns of the
5 regulatory or environmental issues that we've outlined.

6 So, I strongly oppose the rezoning.

7 And lastly, I'm very happy to hear that Mr. DeBear
8 was stating the importance of regulations. And I sincerely
9 hope that they will be forced to comply with all of them.

10 For those reasons, I strongly oppose this
11 rezoning.

12 Thank you.

13 CHAIRPERSON HILL: Okay, thanks, Ms. Woolfork.

14 And just so you know, for your enrichment, they're
15 not here for any kind of rezoning. They're here for a
16 special exception for theoretical lot subdivisions.

17 Just kind of mentioning that for the record.

18 MS. WOOLFORK: Thank you, sorry, I'm a layperson,
19 I don't know.

20 CHAIRPERSON HILL: That's all right.

21 No, I know, but rezoning's like a huge thing. And
22 so, like, you know, like we're just a little group of people.
23 You know, rezoning's a whole other thing.

24 Wolak, Wolak, oh, Wolak, Wolak.

25 Is it Mr. Wolak? Can you hear me?

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1 MR. WOLAK: It is Mr. Wolak.

2 CHAIRPERSON HILL: I can hear you. Can you
3 introduce yourself for the record, please, sir?

4 MR. WOLAK: Certainly can.

5 My name is Devin Wolak. I live at 2254 Sudbury
6 Road, Northwest, 20012. I'm Ms. Wagner's husband.

7 CHAIRPERSON HILL: Oh, okay. Okay, great.

8 Mr. Wolak, you can go ahead and give your
9 testimony. You can begin whenever you like.

10 MR. WOLAK: Yes, I want to be mindful of the
11 Board's instruction not to be duplicative.

12 And now, having said that, let me give you the
13 exception.

14 I want to echo Ms. Igoe's comments that the house
15 at 1840 Primrose has been vacant.

16 I've interacted with Mr. Chou three or four times.
17 I've never observed anybody stay there overnight.

18 And one thing that I can say is that property was
19 designated as vacant for a little over a year.

20 One of my interactions with Mr. Chou was to call
21 him and tell him that there had been a notice posted that
22 they were going to change that status.

23 The records of this, you can look it up at the
24 Department of Buildings, Department of Licensing, and
25 Consumer Protection. It's scott.dkra.dc.gov.

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1 And by my calculations, I think it just switched
2 to occupied on October 16th. I don't know why. It might
3 have something to do with the crushed house that they have
4 to fix.

5 For a more accurate photograph of what the house
6 looks like right now, which is not presented in the
7 Applicant's presentation today, I would suggest, please take
8 a look at page 14 of the adjacent neighbor's brief, which is
9 Exhibit 30 in your record.

10 And I -- the last thing I want to talk about is
11 yard coverage within eight-foot yards that they have adjacent
12 to the park.

13 I've looked through the definitions and the zoning
14 regulations. And I point the Committee to the definition of
15 yard and the definition of structure.

16 When it says yard, it basically says, no building
17 or structure shall occupy in excess of 50 percent of the yard
18 required by this title.

19 Now, I'm not an expert, I don't know how you
20 measure that yard. But if you're looking at just the side
21 of the buildings, the entire side of the -- each building
22 proposed for Lots A and Lots B are covered by -- for Lot A
23 a patio, Lot B a deck. Both of those, I submit, would
24 qualify as structures under the definition in the regs.

25 If you're measuring the lot depth, on Lot A, that

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1 depth is 120.9 feet. The patio depth is 65 feet, making the
2 lot coverage 53 percent.

3 On Lot B, the lot depth is 98.2 feet. The deck
4 depth is 65 feet, making the coverage 66 percent.

5 So, I'm not entirely sure that they've actually
6 met the zoning regulations for a side yard for either of the
7 proposed structures.

8 And that is all I have to say.

9 And aside from I'm opposed.

10 CHAIRPERSON HILL: Thanks, Mr. Wolak.

11 Okay, and whether or not house is occupied or not,
12 that's not really anything we look at, just so you guys know.

13 And so, all right, let me do this, I'm going to
14 take -- we're -- if we could, all just take another five
15 minutes before we get to questions.

16 But before we get to questions, I just wanted to
17 make sure that no one had any questions of the witnesses.

18 MR. DEBEAR: I mean, I'd like -- I have one
19 question for Ms. Igoe, Chair.

20 CHAIRPERSON HILL: Okay.

21 MR. DEBEAR: Just because of her --

22 CHAIRPERSON HILL: Is --

23 MR. DEBEAR: -- allegations about party status.

24 CHAIRPERSON HILL: Okay.

25 I mean, Mr. DeBear, I don't mind you asking her

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1 a question, but like, we deny party status for a variety of
2 reasons. And the reason why we denied party status was,
3 again, what we, the Board, go through in order to determine
4 what party status is.

5 And it's not necessarily the timing or anything.
6 I think, you know, Vice Chair John even mentioned that some
7 of the issues were not germane to -- and I let her use the
8 word, to what -- now, I've even spoken for Vice Chair John.

9 MR. DEBEAR: Yes, sir, I just want to be clear for
10 the record based on a statement she made that she was given
11 the opportunity to participate with Ms. Wagner and chose not
12 to.

13 That's the only thing I want to clarify.

14 CHAIRPERSON HILL: That's okay.

15 So, Mr. DeBear, you'll be able to rebut anything.
16 But now, I don't -- now that I've opened my mouth, I'm going
17 to make sure I clear up all this part.

18 What was your question to Ms. Igoe?

19 Ms. Igoe, can you hear me?

20 MS. IGOE: I can hear you, yes.

21 MR. DEBEAR: Ms. Igoe, were you given the
22 opportunity to participate with Ms. Wagner during her
23 presentation today?

24 MS. IGOE: I was given the opportunity to
25 participate only as a witness. I was denied party status.

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1 MR. DEBEAR: Okay, thank you.

2 CHAIRPERSON HILL: I also just want to be clear,
3 Ms. Igoe.

4 You were given the opportunity to participate with
5 Ms. Wagner's testimony. You chose to give your testimony
6 during the public hearing portion.

7 MS. IGOE: Yes, that's correct.

8 But my issues were the same.

9 The reason that I defer to Ms. Wagner was because
10 you, at the beginning of the hearing, you asked us not to be
11 duplicative.

12 My concerns are specifically about the water and
13 their failure to comply with the intermittent, or rather the
14 perennial stream issue because I am very concerned about that
15 affecting my property. I consider that a regulation issue.

16 And I also am concerned about the heritage tree
17 that is behind my property --

18 CHAIRPERSON HILL: I understand.

19 MS. IGOE: -- and their failure to comply with the
20 regulations concerning heritage trees which --

21 CHAIRPERSON HILL: Ms. Igoe?

22 MS. IGOE: -- I'm very concerned about --

23 CHAIRPERSON HILL: I understand.

24 I was just trying to --

25 MS. IGOE: -- the effect on that tree.

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1 And it eventually killing the tree and come -- and
2 that's --

3 CHAIRPERSON HILL: Ms. Igoe? Ms. Igoe? Ms. Igoe?

4 MS. IGOE: The reason --

5 CHAIRPERSON HILL: Ms. Igoe, can you hear me?

6 (Simultaneous speaking.)

7 MS. IGOE: -- on those issues is because --

8 CHAIRPERSON HILL: Ms. Igoe, can you hear me?

9 MS. IGOE: -- if had been given --

10 CHAIRPERSON HILL: Can you guys hear me?

11 MS. IGOE: -- party status --

12 CHAIRPERSON HILL: Can you all not?

13 Ms. Igoe, can you hear me?

14 MS. IGOE: Oh --

15 PARTICIPANT: She can now.

16 MS. IGOE: -- I'm sorry, thought you could hear
17 me.

18 CHAIRPERSON HILL: Oh, that's all right.

19 MS. IGOE: I am not --

20 CHAIRPERSON HILL: Thank God, I just thought you
21 were just ignoring me.

22 MS. IGOE: Oh no, I'm sorry.

23 CHAIRPERSON HILL: That's all right.

24 MS. IGOE: I had unmuted myself.

25 CHAIRPERSON HILL: Okay, okay.

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1 MS. IGOE: I'm sorry, I will --

2 CHAIRPERSON HILL: It's okay, Ms. Igoe.

3 MS. IGOE: -- over --

4 CHAIRPERSON HILL: Can you put on your camera for
5 a second, Ms. Igoe?

6 MS. IGOE: Okay.

7 CHAIRPERSON HILL: Okay, great, no problem.

8 MS. IGOE: Apologies, I had unmuted myself and
9 thought that you could hear me.

10 CHAIRPERSON HILL: I got you, thanks so much, I
11 appreciate it.

12 MS. IGOE: Let me --

13 CHAIRPERSON HILL: Wait, wait, wait, wait, wait.

14 So, this was my question, the question that I was
15 asked that Mr. -- that I was trying to provide clarification
16 on that Mr. DeBear asked was that you were denied party
17 status, that much I know.

18 You were given an opportunity to be part of Ms.
19 Wagner's presentation and you chose to give your testimony
20 during the public meeting portion of the hearing. Is that
21 correct?

22 MS. IGOE: That is correct, but I would like to
23 explain.

24 CHAIRPERSON HILL: You'd like to explain what?

25 MS. IGOE: Yes, you denied my party status on the

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1 basis that you said my testimony would not -- was not
2 relevant to the regulations but --

3 CHAIRPERSON HILL: No, no, no, no, no.

4 MS. IGOE: -- my testimony was that --

5 CHAIRPERSON HILL: No, no, we've denied your party

6 --

7 MS. IGOE: -- I did not want to duplicative --

8 CHAIRPERSON HILL: -- status --

9 Am I on mute again?

10 We denied your party status for a variety of
11 reasons.

12 MS. IGOE: Yes.

13 CHAIRPERSON HILL: And we can go back and look
14 over that, but it wasn't just for one reason.

15 One of them is that you were untimely. And so --

16 MS. IGOE: Yes, and I'm not --

17 CHAIRPERSON HILL: -- now --

18 MS. IGOE: -- arguing that.

19 CHAIRPERSON HILL: So, why don't we just -- I was
20 just trying to --

21 MS. IGOE: I will accept that.

22 CHAIRPERSON HILL: Okay.

23 MS. IGOE: I do accept that.

24 CHAIRPERSON HILL: Okay, thank you.

25 So, I was just trying to clarify --

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1 MS. IGOE: But I wanted to --

2 CHAIRPERSON HILL: I was just trying to clarify
3 Mr. DeBear's question.

4 So, that -- I've gotten -- I've received
5 clarification on that.

6 Ms. John, I'm sorry, I brought up your name and
7 I just wanted to make sure that you didn't have anything to
8 add in terms of whether or not I misquoted you or anything
9 like that?

10 MEMBER JOHN: No, I don't have anything to add.

11 CHAIRPERSON HILL: Okay, all right, okay.

12 So, everybody, I'm going to go ahead and take --
13 so, we're going to excuse the witnesses now. There's nobody
14 that has any more questions of the witnesses, correct?

15 MR. DEBEAR: Just to be clear, I can still ask
16 questions of party status? I just want to clarify that it's
17 not a witness, I do have a couple questions for Ms. Wagner
18 as well.

19 CHAIRPERSON HILL: Yes, party status is not going
20 anywhere.

21 MR. DEBEAR: Okay, thank you.

22 CHAIRPERSON HILL: You're welcome.

23 Okay, all right, all right, I'm going to excuse
24 the witnesses. I'm going to take five minutes or however
25 long everybody wants to take for a little break. And then

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1 we're going to come back and do questions.

2 (Whereupon, the above-entitled matter went off the
3 record at 12:23 p.m. and resumed at 12:31 p.m.)

4 CHAIRPERSON HILL: Okay, all right, I'm going to
5 start with my Board Members, then, turn to party status, and
6 then, turn to the Applicant for any questions they may have.

7 Do my fellow Board Members have any questions for
8 anybody?

9 MEMBER JOHN: So, this one's for Ms. Teass.

10 And there's been a lot of discussion about the
11 patio and the deck taking up the side yard.

12 And so, I don't know if you would be interested
13 in addressing that now or if that would be part of your
14 rebuttal, Mr. DeBear?

15 MR. DEBEAR: I can actually address that. I think
16 that's a legal question.

17 And Vice Chair John, any structure under four feet
18 is allowed -- is permitted within a yard.

19 Certainly, we can address that if the Board feels
20 as though it's above four feet.

21 But how it's been designed is below four feet and
22 the regulations clearly state that you're allowed to have
23 that in a required yard.

24 MEMBER JOHN: Okay.

25 And the front yard would be -- can you explain

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1 where's the front yard and where's the side yard just for --

2 MR. DEBEAR: Yes, the two side yards are on the
3 eastern and western sides.

4 So, there's an eight foot side yard --

5 CHAIRPERSON HILL: Hey, Mr. DeBear? Give me a
6 second, because even I'm kind of curious.

7 Which one do you want to pull up, Mr. Teass, to
8 show like where the -- because the side yards and the back
9 yard, the front yard, and the deck, all that stuff?

10 MR. TEASS: I can pull up the proposed site plan
11 in our PowerPoint presentation. What number was that?

12 MEMBER SMITH: 102 probably.

13 MR. TEASS: Keep going back a few more.

14 MR. DEBEAR: Thirteen.

15 MR. TEASS: So, in this case, Lot A, the lot
16 closest to the street, the front yard is the portion of the
17 yard that's facing the street.

18 There's a side yard, the 24-foot -- or the 6 --
19 a little bit more than that, but 24 feet on the east side and
20 then 8 feet on the west side. And then, there's a 25-foot
21 rear yard setback as well.

22 And so, the design intent is to provide a patio
23 since that, if you'll recall, that building is on the
24 flattest part of the site. And so, the idea is you would --
25 somebody would have a walkout patio at grade.

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1 We're not -- the goal is not to regrade or
2 minimize or regrade.

3 Lot B has a front yard, again, facing the street.
4 That lot, I don't know that there's a minimum there. There
5 is a side yard to the west which is the 8-foot dimension.
6 A portion of that would be patio and a portion of that would
7 be deck. And the idea there is that the grade steps down.

8 And so, we want to minimize how much we're
9 regarding or also disturbing the potential root systems
10 there.

11 But a portion of that would be at grade and a
12 portion of that would be a deck. And that deck would be less
13 than four feet.

14 Does that help?

15 MEMBER JOHN: Yes, yes, thank you.

16 MR. DEBEAR: Yes, and just to clarify, Vice Chair
17 John, as you can see, the two side yards are on the eastern
18 and western side.

19 The front yard, which, I think, I believe, the
20 front setback requirement is not part of the theoretic lot
21 consideration.

22 But even so, I believe it's block face here, so
23 that wouldn't apply.

24 And then, the 24 -- 25-foot rear yards are, you
25 know, between the Lot A and Lot B and then, between Lot B and

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1 Lot C there.

2 And I did just want to quickly address one other
3 item that I believe that Ms. Wagner insinuated on the drive
4 aisle.

5 The drive aisle can be located in a required side
6 yard. So, you know, it just simply has to be open to the
7 air. And so, we've provided those side yards along the
8 eastern side of each building and the driveway is in that
9 side yard. But that is permitted by the zoning regulations.

10 MEMBER JOHN: Thank you.

11 And one more question, Mr. DeBear.

12 So, at the ANC meeting, did the Applicant discuss
13 all of the grading issues and the stormwater management
14 issues in detail with the residents?

15 MR. DEBEAR: We answered questions.

16 I think one thing about the stormwater issue, and
17 we've wanted to make sure this record is full for the Board
18 to make a decision, in terms of stormwater, a lot of
19 stormwater issues are dealt with at the time of permitting.

20 Now, we understand the neighbors have raised that
21 issue and we've tried to address it as part of this hearing,
22 including with expert testimony.

23 But you know, we basically told them, as we
24 believe to be the case that, we will be doing a stormwater
25 management plan at the permitting stage.

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1 And we have gone above and beyond since then to
2 provide more information about how stormwater will be dealt
3 with.

4 And I think it's also self-evidence, as Mr.
5 Landsman testified, that there's not stormwater management
6 on the site currently. And we will be providing a stormwater
7 management plan that goes above and beyond what DOEE will
8 require.

9 And we've gone and met with them since that time.

10 So, that would be my answer to that.

11 MEMBER JOHN: So, the answer is no? What the
12 residents received is not as detailed as what the Board is
13 receiving today? Irrespective of whether or not this is part
14 of the Board's jurisdiction, the answer to that is no?

15 MR. DEBEAR: Correct, it's --

16 MEMBER JOHN: Okay, all right.

17 That's the only questions I had, Mr. Chairman.

18 CHAIRPERSON HILL: Any of my other --

19 Yes, go ahead, Dr. Imamura.

20 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

21 There's been a lot of discussion about the drive
22 aisle.

23 And I'd just like to seek some clarification from
24 the Applicant, perhaps Mr. Teass can speak to this, about the
25 24-foot wide drive aisle.

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1 I do recall that you all had mentioned the use of
2 grass pavers. And if you could speak to the existing
3 driveway now. It appears that that might be about a little
4 more than 12 feet wide, and a sort of, you know, single car.

5 And I've got a couple other follow up questions
6 from that.

7 But how you envisioned it? I see in some of the
8 plans that you've provided that it's been like a light blue
9 dashed line with the dimensions for the 24-foot wide drive
10 aisle.

11 Just how do you envision that? Does that need to
12 be fully paved?

13 MR. TEASS: You meant slide eight that has the
14 pictures of the existing site, I think it might be helpful.

15 So, this -- yes, if we could pause here for a
16 second -- so, at the left hand corner is the condition of the
17 driveway today which is, you know, plus or minus 11, 12 feet
18 wide that's classically paved asphalt that's seriously
19 deteriorated.

20 The intent is to replace that with a permeable
21 paving surface, whether it's porous concrete or permeable
22 pavers.

23 And then, the section on either side of that would
24 be a grass paver system which is a, you know, a structured
25 paving system that could accommodate the emergency loads,

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1 that it could accommodate the occasional use.

2 But the idea is we didn't want to present this
3 huge 24-foot wide street akin to the width of Sudbury.
4 Right?

5 So, I think we wanted to maintain the look of a
6 residential driveway, but still comply with the code.

7 And so, I think, from our perspective, that
8 strategy would comply.

9 I do think that we, you know, as a -- we would
10 certainly offer up a supplemental exhibit that would get it.
11 There's a lot of details that we're talking about in a very
12 small area that are not necessarily relevant on the enlarged
13 plans that we provided.

14 And so, I think we would certainly be willing to
15 submit that more detailed plan. Because I do think that
16 would answer a lot of some of the questions that have been
17 raised by both Board Members as well as neighbors.

18 COMMISSIONER IMAMURA: Thank you, Mr. Teass.

19 I wanted that on the record and for clarification
20 there because of the illustrations that have been shown by
21 the opposition -- party in opposition.

22 If you could also speak to, is that 24-foot drive
23 aisle, I guess, that's clear, is that right, 24-foot clear?

24 Okay. Lot B shows in the driveway two retaining
25 walls in one of the perspectives that's within the 24-foot

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1 aisle.

2 And then, in addition to that, while conceptual,
3 and I appreciate the attempt to provide landscape buffers
4 between the two homes and along the property line, it also
5 shows trees, what I presume to be trees within the drive
6 aisle as well on some of the plans.

7 MR. TEASS: Yes, if we go -- let's go -- advance
8 a few slide forward to the rendering that Dr. Imamura's
9 referencing.

10 Go on, keep going one or two more. One more, one
11 more, one more.

12 Can you go back? I believe we may have gone by
13 it. It may not be in here.

14 But the idea is that that 24 width drive aisle
15 only needs to extend to the driveway of House B. It doesn't
16 need to continue all the way back to House C.

17 The code speaks to exclusive of driveways. And
18 so, I mean, by nature of this project, there's going to be
19 a number of cross easements. But the idea is that drive
20 aisle extends to that retaining wall.

21 And then, the portion that -- then it resumes just
22 residential driveway as you go up to the house on Lot C.

23 Does that make sense?

24 COMMISSIONER IMAMURA: It does make sense, I
25 guess.

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1 So, it would be the last -- because there appears
2 to be two retaining walls, right? So, it would just be --

3 MR. TEASS: There's an existing --

4 COMMISSIONER IMAMURA: Not the existing retaining
5 wall to Lot C or the existing building, but there seems to
6 be at the driveway of Lot B two retaining walls within the
7 24-foot aisle.

8 So, I fully understand and get that. It's just
9 24 feet to the end of Lot B there. And then a smaller
10 driveway up to Lot C.

11 So, it just appears to be that at least, in plan
12 view, I guess, it'd be the north retaining to Lot B on the
13 driveway there is within the aisle -- 24-foot aisle.

14 That, in addition to the set of trees -- proposed
15 trees, also appear to be within the 24-foot aisle.

16 MR. TEASS: There is. That we're picking up where
17 the grade is at that north corner really sets the grade for
18 the driveway.

19 So, there's only a retaining wall on the south
20 side of that House B.

21 COMMISSIONER IMAMURA: Okay.

22 MR. TEASS: And I think, again, providing some
23 more clarity because I think there's a lot of details that
24 are -- go to this particular issue.

25 COMMISSIONER IMAMURA: Sure.

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1 And I know that you all are kind of, let me see,
2 yes, it's actually in your perspective there of Lot B in the
3 record, it does show two small retaining walls.

4 MR. TEASS: Yes, I think that is in the record.
5 It's not in the presentation. I think we had --

6 COMMISSIONER IMAMURA: Right.

7 MR. TEASS: -- tried to keep the number down. But
8 I think we may need to revise the rendering in that
9 condition.

10 So, again, that driveway, the detail there where
11 the driveway in B, the grade is set to the grade of the house
12 or of the garage.

13 COMMISSIONER IMAMURA: Okay, all right, that makes
14 sense. I just want to bring that to your attention so that
15 way, it's accurate and that any plans to, you know, plant
16 trees or what have you, it's in the drive aisle, which is
17 sort of wide.

18 And then, additionally, what is the distance, I
19 guess, between the property line, because I didn't see that
20 delineated with any dimensions between the property line on
21 the edge of the existing driveway now?

22 So, what I'm getting at is, you know, what is sort
23 of that planting look like where you have your proposed
24 evergreen tree buffer, which I totally support, however, I
25 guess, if there is enough width there, I would also just

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1 encourage the Applicant to consider a variety of species
2 there such that they're not prone to disease and then,
3 they're all wiped out.

4 So, I note, again, this is just conceptual here,
5 but as those drawings are refined, if we move forward or if
6 this proposal moves forward, just to rethink the planting
7 strategy there in terms of density and --

8 But what -- is there a dimension there that I
9 might have missed from the edge of the property line?

10 MR. TEASS: Yes, so, there's the property line to
11 House B is 28.8 feet.

12 And then, we have a dimension of 26 feet on House
13 A.

14 So, you have about --

15 COMMISSIONER IMAMURA: But what about to the
16 driveway, Mr. Teass?

17 MR. TEASS: The existing driveway, I don't have
18 the dimensions. Probably eight feet.

19 COMMISSIONER IMAMURA: Okay.

20 So, there's ample -- and you plan to use that?
21 I think you did say the existing curb cut and I imagine the
22 edge of that driveway is probably where the proposed driveway
23 goes out.

24 So, the six to eight there, that seems to be
25 perhaps empty space to provide that buffer.

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1 And I guess, the other question that I have,
2 again, one of the other renderings, which I was rather
3 impressed with of Rock Creek Park property behind there, I
4 was curious where you grabbed that image of trees behind
5 that?

6 My point is, that it doesn't appear in the rear
7 yard that there are trees from Rock Creek immediately at the
8 property line as it might show or indicate on some of the
9 plans, at least from Google Street View, at least from one
10 of the renderings you provided.

11 So my point is, I think to Ms. Wagner's comment
12 about critical root zones, and I'm very sensitive to that,
13 especially as a landscape architect, I certainly appreciated
14 your walk through for the Board, Ms. Wagner, about critical
15 root zones and the definition of that.

16 So, some of the plans, at least in the elevations
17 and such that's in the record, it just shows a bunch of trees
18 that are drawn there.

19 I don't know whether that's fully accurate. So,
20 that may be a misrepresentation to suggest that the trees are
21 right at property line.

22 So, my question to Mr. Teass or the Applicant is,
23 I guess, to the extent they know, where those trees are?

24 Because, again, I've seen a few images there that
25 doesn't appear that the trees or the trips lines are right

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1 at edge. Is that true?

2 MR. TEASS: The survey work that was commissioned
3 has about a five-foot strip. And we have a couple of trees
4 on the Rock Creek Park side of the fence.

5 I think one thing that would help, and I think it
6 would be a requirement, you know, when we work with USA and
7 arborist, but we probably need to go further into the park,
8 which is not normally what we would do.

9 But I think in this case, it would certainly be
10 something we'd be willing to include.

11 But I think surveying those trees, you know, 20
12 or 30 feet in board of the property line.

13 COMMISSIONER IMAMURA: Yes, thank you, that's
14 exactly what I was getting at there.

15 So, that way, I think we might have a higher level
16 of accuracy on where those CRZs are.

17 And if, in fact, there's any impact at all. So,
18 I think that would be important.

19 And I understand probably why, I would surmise
20 that you probably haven't done that yet, A, because it's
21 early in the process; B, that it's not really on your
22 property.

23 But due diligence would probably, you know, I
24 would encourage you to do that.

25 All right, yes, I think that, for now, Mr.

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1 Chairman, I think just summarizes my comments in terms of
2 just, you know, taking a closer look at the landscape buffers
3 between the homes and within the drive aisle, articulating
4 those dimensions a bit more, and probably in the landscape
5 buffer from the driveway to the east property line, if I got
6 that right, might be helpful.

7 Ensuring some variation in species such that we
8 avoid sort of any issues with potential disease spreading
9 throughout the plantings.

10 And then, going in board, as Mr. Teass had
11 described, into Rock Creek to survey some of those trees.

12 I do think it's important to note, also, that
13 right now, perhaps, you know, maybe regrettable that some
14 trees were already removed, but that does impact the existing
15 water shed there or stormwater management.

16 Sometimes, human intervention here can improve
17 stormwater management. And so, it sounds as if the Applicant
18 has been working with DOEE on that a bit.

19 So, I think, for now, Mr. Chairman, that concludes
20 my questions and comments. But reserve any time later, if
21 I may.

22 CHAIRPERSON HILL: Okay. Dr. Imamura, I was
23 taking notes on some of the things you talked about. So, if
24 at the end of this, you need something, let me know, okay?
25 Because I doubt -- we're probably going to -- we're probably

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1 not going to make a bench decision today anyway. So, if you
2 need anything, let me know.

3 Mr. Smith, did you have any questions?

4 Okay, all right. Ms. Wagner, I'm going to turn
5 to you. And so, just to let you know, so, and for Mr. DeBear
6 also, like I'm just trying to get questions answered, Ms.
7 Wagner, that you have.

8 It's not to reargue your case, it's just to ask
9 clarifying questions, if you have any.

10 And Mr. DeBear, I'm going try to keep us all kind
11 of on track as well.

12 And so, Ms. Wagner, you can go ahead let me know
13 if you have any questions.

14 MS. WAGNER: Okay, great. Yes, I have a few
15 questions.

16 CHAIRPERSON HILL: Okay.

17 MS. WAGNER: The first one, if I may, just I
18 didn't quite understand Mr. Teass's answer to Dr. Imamura's
19 question about whether the green space barrier would be
20 located inside the drive aisle.

21 Could you just tell me yes or no if it would?

22 MR. TEASS: No, it would not be located in the
23 drive aisle. That would -- that space needs to be preserved
24 the passage of vehicles.

25 MS. WAGNER: Okay.

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1 So, okay, thank you.

2 So, I guess I'm just curious because, at least
3 past the house on Lot A, you had designed 25.8 feet on the
4 plat between there and the eastern property boundary.

5 And so, I was wondering whether the 1.8 feet is
6 enough to plant trees that are large enough to provide visual
7 barrier to the neighbors?

8 MR. TEASS: And I have to defer that question to
9 speak with landscape architect on exactly how much planting.

10 The intent, I think, would be to increase that to
11 some about which would require some revision of the plan to
12 accommodate a greater buffer. But this something that we
13 need to work with the landscape architect.

14 MS. WAGNER: Thank you, thank you for clarifying.

15 I wanted to just ask a couple of questions about
16 your presentation, if I might.

17 I had a couple of slides that I was hoping we
18 could go back to just to ask some clarifying questions.

19 So, if we could go back to your presentation slide
20 17, please?

21 There.

22 Do you know when this photo was taken?

23 MR. TEASS: I do not have a specific date, but I
24 presume within the last 12 months.

25 MS. WAGNER: The reason that I'm asking is that

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1 it shows trees that were cut in 2021 in the back. And so,
2 it's not, to my eye, a recent photo.

3 (Off microphone comments.)

4 MS. WAGNER: I know that because my house is that
5 white house on the left there. And so, I look at this every
6 day.

7 Also, those bags that you have that are shown in
8 my driveway, we know when those are there. Actually, I can
9 exactly when that was -- that picture was taken, because they
10 were there in 2019.

11 CHAIRPERSON HILL: Ms. Wagner, I got you.

12 Like I said, just ask your question, let him
13 answer the question. And then, we're not taking any more
14 testimony.

15 MS. WAGNER: Okay, thank you.

16 CHAIRPERSON HILL: So, the answer to the question
17 was, he didn't know. Okay?

18 MS. WAGNER: Okay.

19 CHAIRPERSON HILL: Go ahead and what's your next
20 question?

21 And Ms. Wagner, just so you know, the Board looks
22 at all this stuff. We're going through the regulation like,
23 you know, anyway, never mind. Go ahead.

24 MS. WAGNER: I understand, I understand.

25 So, I'm not sure that I have any more questions

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1 for you at this time. Is there an option to come back and
2 ask additional questions later or no?

3 CHAIRPERSON HILL: This is it.

4 MS. WAGNER: Okay.

5 CHAIRPERSON HILL: The reason why I say that is
6 like we're not taking any more testimony from anybody.

7 MS. WAGNER: Okay.

8 (Off microphone comments.)

9 MS. WAGNER: Oh, right, I did have one more
10 question.

11 Regarding Ms. Igoe's testimony, there was some
12 discussion about making a difference between -- testifying
13 as part of a party status versus testifying as public
14 witness.

15 Could you explain to me what the difference is for
16 this Board?

17 CHAIRPERSON HILL: I was just clarifying, there
18 seemed to have been a question as to if Ms. Igoe had an
19 opportunity to be part of your presentation.

20 And so, I wanted to make sure that it was clear
21 that she could have either been part of your presentation or
22 given her public testimony, but that it was not necessary to
23 be duplicative of what her testimony was.

24 MS. WAGNER: Okay.

25 But regardless, her testimony is part of the

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1 public -- is part of the record for this?

2 CHAIRPERSON HILL: Yes.

3 MS. WAGNER: Okay, thank you, that's what I needed
4 to know.

5 I have no further questions, thanks.

6 CHAIRPERSON HILL: All right.

7 Do you have any questions for the Office of
8 Planning?

9 MS. WAGNER: Yes, I do, but, I mean, to a certain
10 extent, that is included in my presentation and the materials
11 that I've submitted to you.

12 So, I don't want to take up too much of the
13 Board's time and be duplicative.

14 But I was surprised to see that the Office of
15 Planning didn't make a note of the overlap between the drive
16 aisle and the green space.

17 The drive aisle as shown on the plans, well, and
18 I don't want to testify.

19 So, I'm curious what their thought of that would
20 be? Whether or not they're okay with the retaining walls
21 that are right now shown in the materials as necessary for
22 the sub-grade driveway for the House on Lot B?

23 And also, the green space, whether or not the
24 Office of Planning has some comment on how those would be
25 possible?

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1 CHAIRPERSON HILL: Mr. Kirschenbaum, can you hear
2 me?

3 I guess, even -- if I understand the question, and
4 I'm -- just to be clear, about the green space in the drive
5 aisle and if that is the case or not the case?

6 And then, there was some question about whether
7 the Office of Planning had looking into retaining walls?

8 Can you answer those questions?

9 MS. WAGNER: And the lot above that?

10 MR. KIRSCHENBAUM: I mean, we based our review
11 based on the measurements that was provided which was 24
12 feet.

13 There are different varying interpretations from
14 the Zoning Administrator's office on what the actual paved
15 width has to be, so just because you didn't see 24 feet of
16 on the plans, paved, does it necessary mean that's what --
17 that doesn't necessarily mean that would not be approved by
18 the Zoning Commissioner's office when this goes for
19 permitting.

20 Other cases have had driveway widths that have
21 been narrower than that.

22 CHAIRPERSON HILL: Do they make that -- so the
23 Zoning Administrator takes in different considerations for
24 FEMS and things or how does that work?

25 MR. KIRSCHENBAUM: Well, FEMS provided comments

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1 and they have no objection to this application.

2 And this is not -- I don't if this would be
3 considered shared or not by the Zoning Administrator's
4 office.

5 And so, there are sort of -- they apply a
6 different interpretation of rules for driveways.

7 CHAIRPERSON HILL: Okay.

8 MR. KIRSCHENBAUM: Yes, ultimately, you know, this
9 is also a certified application and it's going to be reviewed
10 by the Zoning Administrator's office.

11 CHAIRPERSON HILL: Okay, all right.

12 Okay, all right, Mr. DeBear, do you have any
13 rebuttal?

14 MR. DEBEAR: Can I ask two quick questions to the
15 opposition party?

16 CHAIRPERSON HILL: Sure.

17 MR. DEBEAR: Ms. Wagner are you or have you
18 proffered a certified arborist as part of your testimony or
19 in the record?

20 MS. WAGNER: No.

21 MR. DEBEAR: Okay.

22 And are you or have you proffered as an expert a
23 civil engineer to speak to stormwater management in the
24 record?

25 MS. WAGNER: As my understanding is, it's not my

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1 burden of proof, so, no.

2 MR. DEBEAR: So, have you offered anyone to --
3 anyone that's an expert to support what you have stated?

4 MS. WAGNER: No.

5 MR. DEBEAR: Okay, thank you.

6 That's it, Chair.

7 CHAIRPERSON HILL: Okay.

8 MR. DEBEAR: And I do have a couple quick points
9 of rebuttal, but I just wanted to get those questions in.

10 CHAIRPERSON HILL: Okay, no, thank you.

11 All right, let me see, go ahead, Dr. Imamura.

12 COMMISSIONER IMAMURA: Mr. Chairman, this is a
13 comment for Mr. Teass.

14 I think it's Exhibit 12A-4, sheet number 22, it's
15 a section -- rather an -- for an elevation, rather, Lot B.

16 And I would say, I guess, I misspoke, it's really
17 not a retaining wall that shows on the driveway, probably
18 more like a knee-high wall.

19 So, and it just may need regrading there at that
20 corner. It looks like it's just maybe under a foot.

21 So, and then, in the aerial views or the
22 perspectives, just modify that such that, that way, it's a
23 clear 24-foot drive aisle.

24 MR. TEASS: We understand, thank you.

25 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

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1 CHAIRPERSON HILL: Okay.

2 Go ahead, Mr. DeBear, with your rebuttal.

3 MR. DEBEAR: Thank you, Chair.

4 I just wanted to direct some testimony from both
5 Mr. Landsman and Mr. Teass on the issue of tree preservation,
6 which I would argue is not relevant to the Board's standard.

7 But we do, again, want to ensure a full record.

8 Mr. Landman is a certified arborist and Mr. Teass
9 is, obviously, an expert in architecture.

10 Can you just talk a little about tree preservation
11 and what will go into tree preservation plans following or
12 I should say during the permitting stage?

13 MR. LANDSMAN: Again, Dave Landsman, CAS
14 Engineering.

15 So, as part of doing final detailed design and
16 engineering plans will develop a detailed grading plan for
17 the subject property which will help us identify where
18 grading is going to occur, how much grading is going to
19 occur, et cetera, as well as utilities.

20 Once we have an idea of where work needs to occur,
21 we'll work with a consulting arborist and Urban Forestry
22 Division to come up with an advanced tree preservation plan
23 that ensures enough tree root zone is protected, that they're
24 comfortable with it, and we're comfortable with it on the
25 professional design team side.

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1 And the measures and treatments will be, you know,
2 detailed during that time. You know, they may include root
3 pruning, aeration matting, you know, and other measures to
4 make sure that the roots are preserved.

5 So, we do that kind of work regularly and it's
6 going to occur as part of the final design and permit
7 submittals.

8 I believe that's what you were getting at.

9 MR. DEBEAR: It is.

10 And then, I'd also like to understand, based on
11 your experience as an engineer, have you seen situations
12 where existing, you know, critical or structural root zones
13 are located under a paved driveway surface and how has that
14 impacted or affected the trees?

15 MR. LANDSMAN: Yes, we see this work relatively
16 frequently.

17 It's a portion that needs to be covered under a
18 tree preservation plan with some of the measures I just
19 described.

20 Careful oversight during construction and making
21 sure that Urban Forestry is comfortable with the amount of
22 coverage that we're doing, but coverage of those areas
23 certainly happens and is permitted by Urban Forestry provided
24 that measures are taken to protect the roots.

25 MR. DEBEAR: Thank you.

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1 And then, finally, Mr. Landsman, are you able to
2 address the allegations about the perennial stream? And can
3 you just explain that issue a little bit more for the Board
4 and that's something you look at in developing your
5 stormwater management plan for the site?

6 MR. LANDSMAN: Sure.

7 So, there is a depression, as I mentioned, in the
8 northwest corner of the site, sort of a bowling that, like
9 I said, was I think was created when they filled in Primrose
10 or built Primrose.

11 You know, so it shows up on aerial topography as
12 a depression in the soil or the earth or the, you know, so,
13 USGS bases their maps off of aerial topography and it does
14 not do detailed site visits, to my knowledge, of each of
15 these individual areas.

16 You know, perennial stream is a stream that has
17 constant water flow or regular water flow.

18 I've not observed water flow in the area during
19 my site visits, not to say it's never there, but it's
20 certainly not always there, which would not meet the
21 definition of a perennial stream which is the reason why you
22 do individual site visits and analyze specific sites, which
23 is what we've done on this site and had DOEE confirm our
24 findings at a more macro level.

25 MR. DEBEAR: Thank you.

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1 That's all, Chair, thank you.

2 CHAIRPERSON HILL: Thank you.

3 Ms. Wagner, do you have any questions of the
4 questions for rebuttal?

5 MS. WAGNER: I do.

6 Mr. Landsman, do you know whether or not a stream
7 needs to be perennial to be a critical area for D.C.?

8 MR. LANDSMAN: I would defer that question to
9 DOEE. They confirmed there were no stream impacts to the
10 property.

11 More of commenting on the USGS graphic and the
12 level of accuracy they go to and defining a perennial stream
13 for the record.

14 MS. WAGNER: Okay, thank you.

15 CHAIRPERSON HILL: Okay, great.

16 All right, okay, so, let's see, we've had a very
17 full hearing today. It's gone on for about two and a half
18 hours.

19 And I do not know if Dr. Imamura, you need
20 anything or if any of my fellow Board Members need anything
21 in order to make a decision.

22 I would go ahead and say that, you know, this is
23 something that I want to take a look at because of all the
24 testimony that we've heard and put this on for decision next
25 week.

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1 However, if there's anything that -- and, you
2 know, I think that anything clarifying, Dr. Imamura, you
3 might think that what she just mentioned, that is easy enough
4 for Mr. Teass, which I believe, to put together.

5 It might even help the community.

6 So, I turn to you.

7 COMMISSIONER IMAMURA: Mr. Chairman, I think Mr.
8 Teass understands what I'm looking for, at least on property
9 in board with, you know, taking a look and surveying trees
10 inside Rock Creek Park might take a little while longer that
11 I would suggest be part of their good neighbor plan or good
12 neighbor policy, as Chairman Hood always mentions it.

13 But I think just some of those refined dimensions
14 and delineations I think should be pretty easy enough for Mr.
15 Teass.

16 He already probably has that information, just
17 it's more granular than what's already in the record
18 basically.

19 I don't know, I would defer to Mr. DeBear and Mr.
20 Teass on what they can at least provide that information.

21 MR. DEBEAR: We're happy to provide that, Dr.
22 Imamura.

23 Mr. Teass, how long do you think you would need
24 to put together an accurate drawing?

25 MR. TEASS: I think that it would be helpful to

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1 have -- some of those trees were surveyed in the park and I
2 think Mr. Landsman and his team might be able to get to it
3 in the next week or two.

4 But I do think it would be helpful to have a
5 comprehensive plan that addresses and clarifies some of these
6 concerns.

7 So, you know, let, I mean, perhaps, two weeks to
8 get that information and synthesize it update the necessary
9 exhibits.

10 COMMISSIONER IMAMURA: I think that would be
11 great. Thank you, Mr. Teass.

12 And I would agree, I think that a more
13 comprehensive plan actually may ease some of the concerns by
14 the neighbors.

15 So, a more full and complete record would be
16 helpful.

17 And then, I think just, Mr. Teass, if you could
18 provide an updated plan about that drive aisle? Perhaps that
19 might be helpful, too. It wasn't very clear right there that
20 ends at Lot B, but your explanation made sense. It just
21 needs to be articulated in the drawing.

22 And then, also, the dimensions from the east
23 property line to the driveway. I think you could probably
24 do a section of it or a plan, either way.

25 It's just to demonstrate that there's enough width

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1 there for a planting bed, if you will, or a landscape buffer.

2 So, I think Ms. Wagner had described it as maybe
3 a foot and a half or 18 inches. You know, right now, it's
4 all conjecture because we don't know.

5 MR. TEASS: Yes, I agree, we can provide that
6 information in a timely fashion.

7 COMMISSIONER IMAMURA: Great.

8 Thank you, Mr. Chairman.

9 CHAIRPERSON HILL: Thanks.

10 And then, it's something I didn't ask this
11 question.

12 Mr. DeBear, who's at 2268?

13 MR. DEBEAR: 2268?

14 CHAIRPERSON HILL: Isn't the house right there as
15 you enter?

16 MR. DEBEAR: If that is, then that's a home for
17 disabled men, I believe. They had not participated.

18 CHAIRPERSON HILL: Did you guys reach out to them?

19 MR. DEBEAR: I believe Mr. Chou has spoken with
20 them, is that correct, Mr. Chou?

21 MR. CHOU: -- informed for this hearing and there
22 was, yes.

23 MR. DEBEAR: We haven't received any indication
24 about support or opposition from them. I think they just
25 prefer to sit this out.

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1 MR. CHOU: That's right, they didn't say anything
2 either way. That's a corporation.

3 CHAIRPERSON HILL: It's a corporation?

4 MR. CHOU: Yes.

5 CHAIRPERSON HILL: Okay.

6 So, Mr. DeBear, if you could do me a favor,
7 provide me some kind of information that that home
8 corporation has been reached out to, something into the
9 record that they at least know about the project. Okay?

10 MR. DEBEAR: Okay.

11 CHAIRPERSON HILL: I mean, just that know in terms
12 of just the way that the city does things.

13 And then, the other thing is, if you could speak
14 with your client and then, offer up some kind of a way that
15 they are going to keep the community informed as to the
16 process if this goes forward.

17 Meaning like, you know, when the construction's
18 going to take place, a phone number that someone might be
19 able to call.

20 And that might be something that, you know, or,
21 you know, working with -- I think we probably lost the
22 Commissioner, but, you know, speaking at the ANC meeting, or
23 something.

24 Just do something to let the Board know how, if
25 this were to move forward, the neighbors would know about the

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1 construction and when things are happening, and such. Okay?

2 MR. DEBEAR: We can do that.

3 MS. EDWARDS: The Commissioner's still here and,
4 yes, we will be looking to see that there is adequate
5 outreach to the community.

6 CHAIRPERSON HILL: Okay.

7 Commissioner Edwards, I didn't know you were still
8 there.

9 MS. EDWARDS: Yes.

10 CHAIRPERSON HILL: So, Mr. DeBear, if you could
11 reach out to the Commissioner and just speak with the
12 Commissioner about, you know, Commissioner Edwards, like, you
13 know, we don't have -- there's nothing, so far, that the
14 Board is requesting any kind of construction management plan
15 or anything like that.

16 And it's not necessarily things that within the
17 Board's purview.

18 However, the Board does request that the
19 Applicant, at times, indicate how they plan on staying with
20 the community if this were to move forward in terms of during
21 the construction phase.

22 And so, I would ask Mr. DeBear to reach out to
23 you.

24 And then, Mr. DeBear, you'll provide something
25 into the record that assures the Board that the client is

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1 going to do their best to work with the community during the
2 construction phase.

3 MR. DEBEAR: Great.

4 CHAIRPERSON HILL: Okay?

5 MS. EDWARDS: I have one question.

6 Is there an ability to ask questions as the result
7 of this hearing? Because I've heard several things that have
8 caused me a little concern. I just wanted to --

9 CHAIRPERSON HILL: Commissioner Edwards, I
10 completely forgot you were there because the screen wasn't
11 on.

12 And so, you are a participant in this hearing.
13 You can ask any question you like. And now is the time to
14 ask those questions.

15 MS. EDWARDS: Okay, great.

16 The only -- the thing that's come out most to me
17 here is that, based on the trisection of this lot, there
18 seems to be a -- there's not a lot of room for error.

19 So, I just wanted to know how that is factored in
20 to this plan? Because depending upon what CFA says and what
21 other, you know, constraints there are, how -- what's Plan
22 B on this?

23 If this -- if these precise plans are not
24 followed, how is this going to be reassessed?

25 Because there's not a lot -- as I think Ms. Wagner

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1 pointed out, there's not a lot of room for error in the
2 planning of the driveway, in the way the trees are protected.

3 How, you know, what's the -- you know, again, that
4 may not be within the Board's purview, but is there a
5 consideration in allowing the trisection of this type that
6 one has to work within the constraints of the site?

7 CHAIRPERSON HILL: Right.

8 And Mr. DeBear might be able to answer those
9 questions a little bit better for you when you talk.

10 But basically, they go through permitting and
11 whatever they put down is whatever gets built.

12 So, it can be as exact, I mean, it is exact to the
13 inch. I mean, it is what it is. Right?

14 And they don't -- they are not allowed to build
15 anything that they haven't been permitted for. And they are
16 going to go through all of the various permitting divisions
17 within the Department of Buildings, you know, Water, Storm
18 Management, everything such as that, so that it is going to
19 be built per code and per the permits.

20 And then, if they're not, then they're in
21 violation for that and then, that's something that is, again,
22 within the Department of Buildings, people would go ahead and
23 submit something to the Department of Buildings saying it
24 wasn't built the way it was supposed to be built.

25 Department of Buildings will go out there and

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1 then, make them change it.

2 MS. EDWARDS: Thank you. In my experience, that's
3 more -- that applies more to theory than substance. But
4 we'll stay on it. Thank you.

5 CHAIRPERSON HILL: It's a bit of a mix,
6 Commissioner Edwards. It's all theory and substance, as you
7 as an AZ and Commissioner know.

8 But anyway, Commissioner, you got any more
9 questions?

10 Commissioner Edwards? Commissioner Edwards?

11 Did I lose Commissioner Edwards?

12 MS. EDWARDS: No, I'm sorry, yes, that was my main
13 concern at this time.

14 CHAIRPERSON HILL: Okay.

15 MS. EDWARDS: Thank you very much.

16 CHAIRPERSON HILL: Okay, great.

17 And then, Mr. DeBear, if you want to write a
18 comment about, you know, just get with Commissioner Edwards
19 because I'm sure you're going to have to work their agency
20 again at some point in time, and explain the question. Okay?

21 Does anybody have anything else before I adjourn
22 this portion of the hearing?

23 MEMBER JOHN: So, I think I want to get on my
24 soapbox and, you know, for the last hour or so, I've been
25 thinking of the movie, Cool Hand Luke, where one of the

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1 characters says, what we have here is a failure to
2 communicate.

3 And I think that's what happened today.

4 And here at the Board, we usually strongly
5 recommend more community engagement.

6 Because most of this hearing was devoted to issues
7 that the community needed to hear, but they're not really
8 within the purview of the Board.

9 Because we focus mostly on the zoning issues and
10 you can review those in the Office of Planning's report.

11 But I guess the Chairman felt that there was so
12 much opposition that it was important for the community to
13 have a voice.

14 But really, most of this hearing was not within
15 the BZA's purview.

16 I think that the neighbors did need answers to
17 some of these questions, but perhaps in another venue or
18 another way.

19 So, Mr. DeBear, to the extent that the community
20 still has questions, it might be helpful to meet with the ANC
21 and see what questions you can answer on some of these issues
22 related to DOEE and FEMS, whether or not, you know, fire
23 trucks could traverse the driveway and whether or not it
24 would be strong enough to accommodate those trucks.

25 So, that's just my public service announcement for

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1 today.

2 But I don't have any questions, and I don't need
3 any submissions from anyone.

4 CHAIRPERSON HILL: Thank you, Vice Chair John.

5 All right, then, when, Mr. Moy, can we get all
6 this and when can we have a decision?

7 MR. MOY: Thank you, Mr. Chairman.

8 Based on what I'm hearing and the Board's
9 discussions with the Applicant the party status individual,
10 it seems to me, starting at the beginning, it -- from what
11 I heard from the Applicant that they could file their initial
12 answers by, I believe, Mr. Teass said two weeks.

13 So, that would take the Board out to November the
14 15th. That's exactly two weeks from today.

15 If that holds true, then -- and you're going to
16 make an adjust here, but I'm -- I'm going to say, perhaps two
17 weeks for the party to respond, which would take us to
18 November 29th.

19 And then, have a decision meeting on this
20 application on December the 6th.

21 Of course, you can alter these time lines
22 whichever way you feel, Mr. Chairman.

23 CHAIRPERSON HILL: Yes, Dr. Imamura made a face
24 like he's not there on the 5th or the 6th?

25 COMMISSIONER IMAMURA: If we can do it in the

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1 morning. I'm on ACHP, that's the thing with the Advisory
2 Council that day.

3 CHAIRPERSON HILL: Okay.

4 I didn't even know what acronym was.

5 COMMISSIONER IMAMURA: Advisory Council on
6 Historic Preservation.

7 CHAIRPERSON HILL: ACHP, Advisory Council on
8 Historic Preservation with Marnique Heath, our good friend.

9 Okay, Marnique was the chair of this Board at one
10 point.

11 COMMISSIONER IMAMURA: Well, this would be the
12 U.S. Advisory Council on Historic Preservation.

13 CHAIRPERSON HILL: Oh, excuse me, the U.S.
14 Advisory -- oh, pardon me.

15 All right, so, if we do it first thing in the
16 morning then on the 6th, you can join us, Dr. Imamura?

17 COMMISSIONER IMAMURA: Yes, I can.

18 CHAIRPERSON HILL: Okay. So, let's come back for
19 -- so then, what's happening then, Mr. DeBear and Ms. Wagner,
20 they're going to give us their filings on the 15th.

21 You, Ms. Wagner, will have an opportunity to file
22 anything in response to those filings by the 29th, including,
23 you, Commissioner Edwards, can you hear me?

24 I think Commissioner Edwards heard me.

25 So, anyway, staff will let the ANC know, by the

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1 29th. And the ANC can give us anything they want whenever
2 they want to, to be quite honest.

3 But the 29th. But again, Ms. Wagner, those are
4 only comments to the supplemental filings, right, it's not
5 new information.

6 And hopefully, it makes you feel better, to be
7 quite honest.

8 But the 29th.

9 And then, we'll come back here for a decision on
10 the 6th. Okay?

11 Does anybody have anything before I adjourn?

12 MR. DEBEAR: Thank you, Board Members.

13 CHAIRPERSON HILL: Thank you.

14 MS. WAGNER: Thank you.

15 CHAIRPERSON HILL: Okay, y'all have a good day.

16 I'm going to dismiss this hearing, thank you.

17 MR. CHOU: Thank you.

18 MS. EDWARDS: Thank you.

19 CHAIRPERSON HILL: Okay, I say we take lunch.

20 It is 1:21, I guess, let's come back at 2:00.

21 Okay?

22 All right, thank you all. See you back here at
23 2:00.

24 (Whereupon, the above-entitled matter went off the
25 record at 1:21 p.m. and resumed at 2:08 p.m.)

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1 MR. MOY: The Board has returned from its lunch
2 recess and the time is now at or about 2:09 p.m., and the
3 next case before the Board, I believe, is application number
4 20969 of Daniel Blaise, B-L-A-I-S-E. This is a self-
5 certified application pursuant to Subtitle X, Section 901.2
6 for a special exception under Subtitle U, Section 421, which
7 would allow a new residential development property located
8 in the RA-1 zone at 357 Parkland Place, SE, Square 5988, Lot
9 79.

10 And the preliminary matter here, Mr. Chairman, is
11 that the applicant filed and served a motion for a
12 continuance on October 30, and as you're well aware, the
13 seven-day response period would be November 6, so that's
14 where we are at the moment. Thank you, sir.

15 CHAIRPERSON HILL: Great, thank you. If the
16 applicant can hear me, if they can please introduce
17 themselves for the record?

18 MR. SULLIVAN: Yes, thank you, Mr. Chairman, Marty
19 Sullivan on behalf of the applicant.

20 CHAIRPERSON HILL: Okay, Mr. Sullivan, your client
21 needs a postponement?

22 MR. SULLIVAN: Yes. So, we had some confusion in
23 the Form 135 with the FAR number, and we decided to revise
24 the plans to make it a little easier. We removed the only
25 small little addition that was happening to the building.

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1 And I didn't discover the error until I was preparing for the
2 hearing, and so, and the Office of Planning didn't write a
3 report because of this outstanding item.

4 I think we're ready now, but the Office of
5 Planning needs time. It's just we're adding two units to an
6 existing two-unit building in the RA-1 and there's no work
7 being done to the building, so it's a really simple case, but
8 -- so it would be great to not get postponed for too long,
9 but I think the Office of Planning has asked us -- they need
10 the additional time to write the complete report.

11 CHAIRPERSON HILL: Okay, is the Office of Planning
12 here?

13 MS. BROWN-ROBERTS: This is Maxine Brown-Roberts
14 for the record.

15 CHAIRPERSON HILL: Hi, Ms. Roberts. When do you
16 think we might be able to get something from the Office of
17 Planning?

18 MS. BROWN-ROBERTS: I'm just waiting to get some
19 additional information to the applicant. We should be done
20 by the end of this week. If I get it, I can file it by --
21 today's Wednesday. By Friday, I can file the OP report by
22 Friday, so I think we're good to go.

23 CHAIRPERSON HILL: Okay, Mr. Sullivan, did you get
24 something from the ANC?

25 MR. SULLIVAN: So, we did. The applicant went to

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1 the ANC and got a vote. I'm just checking to see if it --
2 I'm sorry. Yeah, we think -- it should be in there. Let me
3 check the case file here. It would have come in just this
4 week. They -- let me see here.

5 CHAIRPERSON HILL: Yeah, I don't see it yet. Oh,
6 no, wait.

7 MR. SULLIVAN: Yeah, the ANC report was filed on
8 10/30.

9 CHAIRPERSON HILL: Exhibit 22?

10 MR. SULLIVAN: Yeah, we had a unanimous vote in
11 support.

12 CHAIRPERSON HILL: Okay, Mr. Moy, what's next week
13 looking like for us?

14 MR. MOY: I think the best of possibilities, if
15 it's doable, we schedule this to next week on November 8
16 would accommodate the Board. The following week would place
17 you at November 15 where you're having the continued hearing
18 and the brand-new would be, or rather a continued appeal and
19 a brand-new appeal, so I believe November 15 would be out,
20 and then we're looking at November 29, which we've just added
21 another case, so.

22 CHAIRPERSON HILL: Okay.

23 MR. MOY: We could always add more, but, you know.

24 CHAIRPERSON HILL: That's okay. How many have you
25 got on November 8?

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1 MR. MOY: Eight cases for the moment.

2 CHAIRPERSON HILL: Okay, let's move it to November
3 8.

4 MR. SULLIVAN: Thank you, Mr. Chairman.

5 CHAIRPERSON HILL: Thank you. Thanks, Ms. Brown-
6 Roberts.

7 MS. BROWN-ROBERTS: Okay, great.

8 CHAIRPERSON HILL: All right, we're going to close
9 this portion of the hearing. We'll have it next week on
10 11/8. And just for my fellow Board members, we're going to
11 lose Mr. Smith at 3:30, so I'm going to do my best to do
12 everything we can, but we're probably going to lose him. So,
13 Mr. Moy, you can call our next one.

14 MR. MOY: Okay, we've moved around a bit. My list
15 shows the next case application would be 20967 of Salvation
16 Arts. Is that --

17 CHAIRPERSON HILL: Okay.

18 MR. MOY: -- yours as well?

19 CHAIRPERSON HILL: That's what I got too. That's
20 what I have too.

21 MR. MOY: Okay, all right, we're in sync. Okay,
22 so we have parties to the table to case application number
23 20967 of Salvation Arts, LLC, as amended and self-certified
24 pursuant to Subtitle X, Section 901.2 for the following
25 special exception, Subtitle C, Section 703.2 from minimum

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1 vehicle parking requirements of Subtitle C, Section 701,
2 Subtitle H, Section 6005.1 and 6009.1. Properties in the
3 NMU-7B/H-A Zone at 1371 through 1375 H Street, NE, Square
4 1027, Lot 166.

5 There is -- the applicant's offering expert
6 witnesses. One is in the book, which is Jami Milanovich for
7 Transportation and the other is not, which is John Linam, L-
8 I-N-A-M, Junior, expert in architecture, and I want to -- I'd
9 like to check one other thing, Mr. Chairman.

10 All right, I think that's it. We do have an ANC
11 4D, Paula Edwards, who has signed up to testify, and the
12 other witnesses belong to the applicant's team, so that's all
13 I have, Mr. Chairman.

14 CHAIRPERSON HILL: Okay, thank you. If the
15 applicant can hear me, if they could introduce themselves for
16 the record?

17 MR. UTZ: Sure, this is Jeff Utz with Goulston &
18 Storrs, land use counsel for the applicant.

19 CHAIRPERSON HILL: Mr. Utz, do you know where Mr.
20 Linam's resume is in the record?

21 MR. UTZ: Yes, it is slid into Exhibit 23B, and
22 he was certified as an expert in a prior case, at least one
23 case. If it's helpful, it is, it was case 20061, and so it
24 is the same resume as Exhibit 12 in that case.

25 CHAIRPERSON HILL: Great, thank you.

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1 MR. UTZ: Sure.

2 CHAIRPERSON HILL: Ms. Milanovich has been with
3 us a lot, so I don't have any issues with that, and I don't
4 recall Mr. Linam off the top of my head, but I don't have an
5 issue with him being introduced as an expert in architecture,
6 and if the Board has any issues with that, please speak up.
7 Oh, Dr. Imamura?

8 COMMISSIONER IMAMURA: Just for the record, Mr.
9 Utz, I do see that he's licensed, NCARB-certified too. This
10 goes back to the, Commissioner May, about 20 years of
11 experience, is that right? Okay, so over the tended? All
12 right, I'm good with that.

13 CHAIRPERSON HILL: Okay, thank you. All right,
14 is the commissioner with us, and if so, can you hear me?

15 MR. YOUNG: Sorry, no, I think that was a typo on
16 our part. That was for the last case.

17 CHAIRPERSON HILL: Okay, that's what I thought
18 too, Edwards. Okay, all right, Mr. Utz, if you want to walk
19 us through your client's application and why you believe
20 they're meeting the criteria for us to grant the relief
21 requested? I'm going to put 15 minutes on the clock so I
22 know where we are, and you can begin whenever you like.

23 MR. UTZ: Great, thank you so much. Mr. Young,
24 could you please pull up our presentation? And I can just
25 go ahead and start. We will try to keep this brief, although

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1 I will say the standards related to the relief requested are
2 many, so we're happy to dive as deeply into them as the Board
3 would like, but, as this goes on, but first of all, I just
4 wanted to say thank you for giving us the opportunity to
5 present today.

6 As I mentioned, I'm Jeff Utz with the law firm of
7 Goulston & Storrs. I'm here with my colleague, Lee Templin,
8 as land use counsel on behalf of the applicant. With us
9 today are Chris Martin from the applicant, John Linam, the
10 project architect, and Jami Milanovich, the project traffic
11 engineer. Next slide, please?

12 We are here today for the property located at
13 1371-75 H Street on the south side of the H Street Corridor.
14 The site is zoned NMU-7B/H-A, and has about 5,040 square
15 feet. The property's only public access is along H Street
16 since the alley does not reach it. It dead ends about 50
17 feet west. So, the property is currently approved with two
18 single-story commercial structures that contain a dog care
19 and boarding use, which is Atlas Doghouse, and a retail
20 establishment.

21 The application is in a unique position,
22 requesting two variants of relief that were both previously
23 approved at this location by two separate BZA orders.
24 Specifically, the application requests special exception
25 relief for the parking requirements similar to case number

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1 18940, and then also special exception relief for the animal
2 care boarding use, which was approved by order number 19746.

3 The application requests special exception relief
4 pursuant to Subtitle C 703.2 for relief from the parking
5 requirements for four spaces, and under Subtitle H, Section
6 6009.1(a) for special exception relief to allow for animal
7 care and boarding use on the first floor. This relief will
8 facilitate the redevelopment of the property with a six-story
9 mixed-use building, providing approximately 30 new apartments
10 and 3,200 of ground floor commercial use.

11 The applicant intends to continue Atlas Doghouse's
12 operation on the ground floor in this commercial space. The
13 applicant's team has been in consistent communication with
14 the community and District agencies. The team presented the
15 project to ANC 6A, ultimately receiving their support, which
16 is Exhibit 22 in the record.

17 There is an Office of Planning report that
18 recommends approval also in the record at Exhibit 29. DDOT
19 reported no objection and is Exhibit 30, and no outstanding
20 conditions or issues evidenced in the record. With that,
21 I'll hand it over to Chris to give a little more information
22 on the applicant and the community dialogue.

23 MR. MARTIN: Thank you, Board, for your time. I
24 will try to truncate my remarks and just focus on Atlas, as
25 a business, has been a wonderful addition to this

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1 neighborhood. The owner of Atlas is a resident of the
2 neighborhood and many of his employees are as well, as they
3 value this transit-rich location.

4 One of the multifaceted benefits of being able to
5 improve this parcel is that as a result of the pandemic,
6 demand for their services has been extraordinary with the
7 number of pets that have been brought into families over that
8 period of time, and so this provides a wonderful opportunity
9 to be able to modernize their facilities and meet that
10 demand. There have been no complaints against Atlas, and
11 they're a terrific community partner.

12 I also wanted to speak briefly about the public
13 outreach. We actually started the public outreach about 18
14 months ago through various iterations of this project.
15 There's only one residential building immediately proximate
16 to the property and that's to our rear, the Maryland Ave.
17 Condominium.

18 We've had numerous discussions with them and heard
19 their feedback about light, air, and shadows. We have
20 addressed those concerns, and notably there are no shadow
21 impacts at all to our site because it's north of their site.

22 Finally, as it relates to the ANC, they have been
23 terrific partners and collaborated on positive feedback to
24 us. Notably, they had four major points that they wanted us
25 to focus on. We were able to address all four.

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1 That includes more bike storage, including cargo
2 storage and e-charging. That includes focusing on a design
3 that is electric-only with no gas to the building. It
4 includes modifying one of the residential stacks to include
5 more living space by the addition of a den, and it also
6 includes a thorough discussion about the affordability
7 aspects of the project.

8 So, I think this project has greatly improved and
9 enhanced over what was approved over the old regs seven years
10 ago, and I'm hopeful that the Board is pleased with the
11 progress of our engagement. Thank you very much.

12 MR. UTZ: John, do you want to take over from
13 here?

14 MR. LINAM: Yes, I will, and I have to apologize,
15 everyone. My camera is not working. It was working before
16 lunch. I do not know why it's not connecting now. I'm sorry
17 about that, but --

18 CHAIRPERSON HILL: No problem.

19 MR. LINAM: -- if audio is acceptable, I'll
20 continue.

21 CHAIRPERSON HILL: Yes, please continue.

22 MR. LINAM: As you can see, the site is located
23 to the south of H Street and to the west of 14th. If we
24 could go to the next slide, please? This is showing the
25 existing facade of the two buildings.

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1 We are proposing to preserve the 1371 facade, the
2 white building to the right, with the likelihood of updating
3 the storefront, but the masonry and masonry underpinnings
4 would be preserved, and the red brick structure to the left
5 would be demolished. Go to the next slide, please?

6 These images are at the alley, and I'm sorry if
7 they're not abundantly clear, but what they're basically
8 illustrating is that the alley does not access the rear of
9 the subject property. The property to the west and the
10 property to the north effectively cut it off from access to
11 the alley, which eliminates access for parking. Next slide,
12 please?

13 This is showing a diagram of the existing site lot
14 occupancy, the two buildings that are nearly 100 percent
15 occupying the site. The next slide, please, shows the
16 proposed site plan that would pull the rear of the building
17 back from the rear property line to create a court for light
18 and air to the rear of the residential units. This yard
19 would not be accessed for the dog or the dog daycare use.

20 The dashed line at the rear of the yellow
21 highlight of the commercial footprint that is 7.7 feet from
22 the rear wall at the ground floor, that is the wall of the
23 residential floors two through six, so it steps back an
24 additional seven feet from the rear property line and the
25 face of the Maryland Condo building to the south. Next

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1 slide, please?

2 This is our proposed cellar level showing the bike
3 storage that Chris referred to earlier, as well as some
4 utilities. We are pulling, as you can see, the building at
5 this level away from the property lines as much as possible
6 to avoid underpinning for the landmark building to the west
7 or disturbance to the sidewalk. We are only extending the
8 elevator and stair to this level for access at the property
9 line. Next slide, please?

10 This is the ground floor layout showing that it's
11 predominantly for the use of Atlas Dog Daycare and a small
12 residential lobby for access to the elevator and stair up to
13 the residential floors. That is located on the northeast
14 corner. Next slide, please?

15 This is our typical residential floor plan. The
16 front or facing H Street would be the one-bedroom and one-
17 bedroom with den units, one of each, and on the rear, there
18 would be four junior one-bedroom units facing the rear
19 courtyard. Next slide, please?

20 These are some renderings of the proposed front
21 facade at the top showing the preserved facade of 1371 H
22 Street on the right side of the ground floor. The image
23 below is showing a view from the west coming along H Street.
24 You'll see that we're proposing windows that we realize are
25 at risk.

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1 They are not located as primary windows in any
2 bedroom, so we would not be losing a bedroom if these windows
3 were covered by future development to the west, but we do
4 feel that these windows simply help to break down the massing
5 of the structures as seen from coming along H Street with the
6 lower buildings to the west. Next slide, please? I think
7 this is where I can turn it back over to you, Jeff.

8 MR. UTZ: Sure, thank you, John, and I think Jami,
9 you might have gotten kicked off. Jami, if you can hear me,
10 just please respond.

11 MS. MILANOVICH: Can you hear me?

12 MR. UTZ: Yes, we can hear you.

13 MS. MILANOVICH: Okay, great. Sorry about that.
14 Just for the record, my name is Jami Milanovich with Wells
15 and Associates. We are the transportation consultant for the
16 project. I'll be very brief.

17 The parking requested, we are requesting relief
18 from the four required spaces per the zoning regulations.
19 We are not able to provide parking because the property does
20 not have alley access, and H Street is a designated street
21 per the zoning regulations and not permitted to have a new
22 curb cut, so we wouldn't be able to provide access to the
23 parking.

24 The site, however, is very well-situated from a
25 transportation perspective. There are several mitigating

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1 factors that would offset the impact of not having parking.
2 First, we are within a quarter mile of the H Street Streetcar
3 line. There are stops for the streetcar one block to the
4 east of us and one block to the west of us.

5 We are also within a quarter mile of bus stops for
6 three priority Metro bus routes and four other Metro bus
7 routes. The site is within walking distance of a number of
8 services and amenities, including restaurants, gyms, hair
9 salons, barbershops, food markets, pharmacies, and
10 entertainment uses, which means that residents of the
11 building would be able to do daily errands without the need
12 of a car.

13 The applicant is proposing a no parking zone on
14 H Street adjacent to the site to accommodate pick-up/drop-off
15 traffic, as well as quick parcel deliveries. We have
16 discussed that with DDOT.

17 They're amenable to that and we'll be working with
18 DDOT through the public space process to establish that zone,
19 and the idea being we know those trips are going to happen,
20 and so what we want to do is provide a space for them to be
21 able to do their quick stops to drop off passengers or
22 parcels without interfering with H Street traffic.

23 The applicant also has committed to a
24 transportation demand management plan. The strategies that
25 DDOT has outlined as DDOT's proposed conditions in their

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1 report, the applicant has agreed to all of those. Next
2 slide, please?

3 And I'll just quickly hit a couple of the
4 highlights from that plan. There will be a transportation
5 coordinator for the building. That person will be
6 responsible for providing information to new residents about
7 their transportation options.

8 They will be providing a Smart Trip card and a
9 Capital Bikeshare coupon for every new resident, and we are
10 providing the required bike parking. I did want to point out
11 that the long-term bike parking in the cellar will include
12 spaces large enough for cargo or tandem bikes, and also will
13 provide electrical outlets to charge electric bikes and e-
14 scooters.

15 That's obviously important to DDOT. It was also
16 something raised by the ANC, and so I just wanted to
17 highlight that we would be providing those features, as well
18 as a bike repair station in the bicycle room. So, with that,
19 I'll go ahead and turn it back over to Jeff to wrap things
20 up.

21 MR. UTZ: Great, thank you, Jami. Could we please
22 progress to the next slide? So, we do have several slides
23 that walk through the standards of relief for the two special
24 exceptions that we're requesting. I'm happy to detail these.
25 These are all sketched out in the record to a high level of

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1 detail already, and I know you all are on a tight time frame.
2 Would you want me to kind of walk through each one of these?
3 I'm more than happy to do so.

4 CHAIRPERSON HILL: That's okay, Mr. Utz. I see
5 them in your slide deck and I know that we, the Board, have
6 had an opportunity to review them, so let me just see if the
7 Board has any questions of you before I turn to the Office
8 of Planning. Does the Board have any questions? Okay, my
9 dog doesn't have any questions.

10 (Laughter.)

11 CHAIRPERSON HILL: Okay, can I turn to the Office
12 of Planning?

13 MS. MYERS: Good afternoon, Crystal Myers with the
14 Office of Planning. The Office of Planning is recommending
15 approval of this case and I can stand on the record staff
16 report. Thank you.

17 CHAIRPERSON HILL: Okay, thank you. Does the
18 Board have any questions of the Office of Planning? Mr.
19 Young, is there anyone here wishing to speak?

20 MR. YOUNG: We do not.

21 CHAIRPERSON HILL: Mr. Utz, is there anything
22 you'd like to add at the end?

23 MR. UTZ: We have nothing further. Thank you so
24 much for the opportunity to present and walk through the
25 case, and we would really appreciate an approval. Thank you.

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1 CHAIRPERSON HILL: Thank you. Thank you, Mr. Utz.
2 All right, I'm going to close the hearing and the record.
3 Mr. Young, if you'll please excuse everyone?

4 This has kind of been before the Board before, and
5 I don't think that I -- I know I don't have any issues with
6 it. I would agree that they're meeting the standards of
7 relief for the parking and the animal boarding use. I think
8 they've gone into great detail in their presentation as to
9 why they're meeting those standards, and also the Office of
10 Planning has gone into detail in their report as to how
11 they're meeting the standards and I would agree with the
12 report that has been put forward by the Office of Planning.

13 I will also note that the ANC 6A has submitted a
14 report in support and highlighting again their look at the
15 regulations, and that it's not going to -- that it's meeting
16 those regulations, and so I will be voting in favor of this
17 application. Mr. Smith, do you have anything you'd like to
18 add?

19 MEMBER SMITH: Nothing to add, Chairman Hill. I
20 agree with your assessment of the case and the Office of
21 Planning's assessment on why they state to grant special
22 exceptions for both of the requested reliefs, and I'll
23 support the special exceptions.

24 CHAIRPERSON HILL: Thank you. Dr. Imamura?

25 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

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1 No further comments. I think the applicant meets all of the
2 standards. This is pretty straightforward.

3 CHAIRPERSON HILL: Vice Chair John?

4 MEMBER JOHN: Mr. Chairman, I agree with all of
5 the analysis so far.

6 CHAIRPERSON HILL: Okay, then I'll go ahead and
7 make a motion to approve application number 20967 as
8 captioned and read by the Secretary and ask for a second, Ms.
9 John?

10 MEMBER JOHN: Second.

11 CHAIRPERSON HILL: A motion has been made and
12 seconded, Mr. Moy, if you'll take a roll call, please?

13 MR. MOY: Thank you, Mr. Chairman. When I call
14 your name, if you'll please respond to the motion made by
15 Chairman Hill to approve the application for the relief
16 requested? The motion to approve was seconded by Vice Chair
17 John. Zoning Commissioner Dr. Imamura?

18 COMMISSIONER IMAMURA: Yes.

19 MR. MOY: Mr. Smith?

20 MEMBER SMITH: Yes.

21 MR. MOY: Vice Chair John?

22 MEMBER JOHN: Yes.

23 MR. MOY: Chairman Hill?

24 CHAIRPERSON HILL: Yes.

25 MR. MOY: We have no others participating. Staff

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1 would record the vote as four to zero to one, and this is on
2 the motion to approve by Chairman Hill, the motion to approve
3 seconded by Vice Chair John. Members voting to approve the
4 application, Zoning Commissioner Dr. Imamura, Mr. Smith, Vice
5 Chair John, and Chairman Hill. The motion carries, sir, four
6 to zero to one.

7 CHAIRPERSON HILL: Thank you, Mr. Moy. You may
8 call our next when you get a chance.

9 MR. MOY: The next case before the Board is
10 application number 20968 of National Geographic Society, a
11 self-certified application pursuant to Subtitle X, Section
12 901.2, for a special exception under Subtitle C, Section
13 1501.1(d), which would allow an eating or drinking
14 establishment for a property located in the D-6 zone at 1147
15 17th Street, NW, Square 183, Lot 885.

16 We have a preliminary matter in that the
17 applicant's proffering an expert witness in architecture, a
18 Jeffrey Lockwood, and I'd like to check one other thing, sir.
19 All right, that's all I have, sir.

20 CHAIRPERSON HILL: Thank you, Mr. Moy. If the
21 applicant can hear me, if they could please introduce
22 themselves for the record?

23 MR. WALLACE: This is Derick Wallace from Goulston
24 & Storrs for the record.

25 CHAIRPERSON HILL: All right, Mr. Wallace. Mr.

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1 Lockwood, I think you've been with us before, haven't you?

2 MR. LOCKWOOD: Yes, I have, maybe six months ago

3 --

4 CHAIRPERSON HILL: Okay.

5 MR. LOCKWOOD: -- for another residential project,
6 so, yes.

7 CHAIRPERSON HILL: Okay, I don't have any issues
8 hearing from Mr. Lockwood as an expert in architecture unless
9 the Board has any issues with it? Okay, Mr. Wallace, if you
10 want to go ahead and walk us through your client's
11 presentation and why you believe they're meeting the criteria
12 for us to grant the relief requested? I'm going to put 15
13 minutes on the clock so I know where we are, and you can
14 begin whenever you like.

15 MR. WALLACE: Okay, great. Good afternoon again
16 to the members of the Board. For the record, my name is
17 Derick Wallace with Goulston & Storrs, and I am here on
18 behalf of the applicant, National Geographic Society. I'm
19 also joined by my colleague, Cary Kadlacek.

20 Today, we are here to request exception relief for
21 the use of an eating and drinking establishment and a
22 penthouse habitable space. This request will facilitate the
23 conversion of the rooftop into a bar and restaurant.

24 Before going into how the application satisfies
25 the standards of relief, I would like to introduce Jeffrey

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1 Lockwood with Hickok Cole Architects who will describe the
2 design of the rooftop bar and restaurant. Thank you.

3 MR. LOCKWOOD: Hi, everyone. Mr. Young, if you
4 could advance a slide, please? So, just real quickly, the
5 National Geographic campus sits between 16th and 17th Street
6 and M Street in Northwest, and we are specifically looking
7 at the 17th Street building that will now be on floors four
8 through ten and the penthouse be reprogrammed from office
9 building to a hotel use by National Geographic, and then the
10 lower floors are part of the museum immersive program that
11 we're doing as part of the whole campus renovation of that
12 program as a separate project. Next slide, please?

13 So, just real quickly, this is the historic
14 Durrell Stone building on 17th Street, a couple of views.
15 There's an existing penthouse that sits on top of the main
16 block of building. It's approximately 17'5" above the roof
17 deck. It's a precast stone, precast concrete penthouse.
18 Next slide, please?

19 And just a few shots of what's up there now.
20 Basically, there's some existing equipment on that north end
21 that we are removing and being relocated within the penthouse
22 or in the other rooftop enclosure area. Next slide, please?

23 This is a plan of the, the rooftop plan of the
24 penthouse. So, again, the gray area to the left is the
25 existing penthouse structure, and we're basically adding this

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1 rectangular piece on that will enclose a bar area.

2 The bar has a stair and lift that connects down
3 to the 10th floor below. The 10th floor in this area is the
4 restaurant of the hotel, so this bar is sort of an extension
5 of that hotel restaurant space. There will also be a
6 terrace, exterior terrace area that will be used for outdoor
7 seating, you know, when the weather is nice for that. Next
8 slide, please?

9 This is an elevation, a west elevation. Again,
10 the roof enclosure itself is a very simple box. We envision
11 it with metal panel and operable glass partitions. The whole
12 thing is set up on a -- basically, the terrace is set up on
13 dunnage because of our need to reinforce the existing
14 penthouse structure to support the new use up there.
15 Everything is set back one to one from the applicable roof
16 edge. If you could advance another slide?

17 This is sort of the head on view from the north.
18 Again, a very simple box. Another -- if you could advance
19 one more time?

20 Then this is a simple isometric drawing kind of
21 showing how it all comes together. Again, the three sides
22 would be mainly glass in order to take in all of the
23 wonderful views that are available up there.

24 The structure roof will have a series of
25 skylights, again to let in natural light into the space, and

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1 then there is sort of the whole thing is wrapped by an
2 exterior seating area, which is then also wrapped with a
3 green roof planted area to kind of soften the edges of the
4 structure. So, that's sort of a quick summary of what we're
5 proposing for this north enclosure on top of the 17th Street
6 building.

7 MR. WALLACE: Thanks, Jeff. So, we are prepared
8 to go over the standards in this case, but if the Board would
9 prefer that we rest on what's in the record, we are okay with
10 that as well.

11 CHAIRPERSON HILL: Give me one moment, Mr.
12 Wallace.

13 MR. WALLACE: Yes.

14 CHAIRPERSON HILL: Okay, does the Board have any
15 questions of the applicant? All right, I'm going to turn to
16 the Office of Planning.

17 MR. LAWSON: Good afternoon, Mr. Chair, Joel
18 Lawson for the D.C. Office of Planning. I'm also happy to
19 stand on the record based on the OP report recommending
20 approval of this application, and I'm available for
21 questions. Thank you.

22 CHAIRPERSON HILL: Thank you, Mr. Lawson. Does
23 the Board have any questions of the Office of Planning? Mr.
24 Young, is there anyone wishing to speak?

25 MR. YOUNG: No, we do not.

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1 CHAIRPERSON HILL: Mr. Wallace, can you hear me?
2 Is it a hotel now? Is it going to be a hotel? What part of
3 it's a hotel? It is a hotel to the public?

4 MR. WALLACE: I'll defer to Emily to answer that
5 question.

6 MS. DUNHAM: Hi, there. I'm Emily Dunham, head
7 of campus and public programming for the National Geographic
8 Society. This building has been office space historically,
9 and our tenant has recently moved out. Office space is
10 obviously not in high demand.

11 So, in reviewing the potential highest and best
12 use of the property, we identified that a National
13 Geographic-branded hotel would be a good potential use of
14 that. So, we are in the process of planning that hotel. It
15 has not opened. It is scheduled to open, we hope, in 2026.

16 CHAIRPERSON HILL: Do you know what the room
17 capacity is going to be?

18 MS. DUNHAM: 150 rooms, approximately.

19 CHAIRPERSON HILL: Wow. Are you going to have
20 meeting space?

21 MS. DUNHAM: Yeah, we'll have a small ballroom,
22 and then we are also in the process of building a public
23 attraction museum on our campus. We already had a small
24 public space, but we're expanding that, so it would be done
25 in conjunction.

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1 CHAIRPERSON HILL: Okay, years ago, you guys used
2 to have a great cafeteria, but that's --

3 MS. DUNHAM: It is currently under renovation.
4 It will reopen with the museum space in the same location.

5 CHAIRPERSON HILL: Okay, all right. Okay, well,
6 I was just having fun. Does anybody have any questions?
7 Okay, all right, Mr. Wallace, do you have anything you'd like
8 to add at the end?

9 MR. WALLACE: Nothing to add. We just want to
10 thank the Board for their time today.

11 CHAIRPERSON HILL: Okay, thank you. All right,
12 I'm going to close the hearing and the record. Would anyone
13 else like to speak?

14 MEMBER JOHN: I can start the discussion. So,
15 this is a very straightforward application, and I thought the
16 Office of Planning did a fairly good job in showing why the
17 application meets the criteria for relief for a rooftop
18 eating and drinking establishment within the penthouse, and
19 this would be an extension of an existing restaurant which
20 is located on the 10th floor.

21 In terms of the criteria, because it's a special
22 exception, the burden of proof is fairly straightforward, and
23 I believe it's consistent with the general purpose and intent
24 of the zoning regulations.

25 And as described in the Office of Planning's

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1 report, there does not appear to be any adverse impact on the
2 use of neighboring property. I believe the testimony was
3 that there was just the one residential property to the
4 south, I believe.

5 So, based on the record and the testimony of the
6 Office of Planning, which I'll give great weight to, I'm in
7 support of the application. I don't -- oh, the Office of
8 Planning -- I'm sorry, the ANC is also in support with no
9 issues or concerns, so I would, as I said, be in support of
10 the application.

11 CHAIRPERSON HILL: Thank you, Vice Chair John.
12 Mr. Smith?

13 MEMBER SMITH: I agree with Ms. John and her
14 assessment of this case. It's a fairly straightforward
15 application, and I agree with the assessment of the criteria
16 that the Office of Planning has laid out for the reason why
17 we should support this application, and I will support it as
18 well.

19 CHAIRPERSON HILL: Thank you. Dr. Imamura?

20 COMMISSIONER IMAMURA: I agree with Vice Chair
21 John's summary assessment as well as Board Member Smith, and
22 I'm prepared to vote in support.

23 CHAIRPERSON HILL: Thank you. Thank you, all, for
24 your help with your analysis. I will agree with everything
25 that has been said. I am going to make a motion to approve

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1 application number 20968 as captioned and read by the
2 Secretary, and ask for a second, Ms. John?

3 MEMBER JOHN: Second.

4 CHAIRPERSON HILL: A motion has been made and
5 seconded, Mr. Moy, if you would take a roll call, please?

6 MR. MOY: Thank you, sir. When I call your name,
7 if you will please respond to the motion made by Chairman
8 Hill to approve the application for the relief requested.
9 The motion to approve was seconded by Vice Chair John.
10 Zoning Commissioner Dr. Imamura?

11 COMMISSIONER IMAMURA: Yes.

12 MR. MOY: Mr. Smith?

13 MEMBER SMITH: Yes.

14 MR. MOY: Vice Chair John?

15 MEMBER JOHN: Yes.

16 MR. MOY: Chairman Hill?

17 CHAIRPERSON HILL: Yes.

18 MR. MOY: We have no others participating. Staff
19 would record the vote as four to zero to one, and this is on
20 the motion made by the Chairman to approve the application.
21 The motion to approve the application was seconded by Vice
22 Chair John. Members voting to approve are Zoning Commission
23 Joe Imamura, Mr. Smith, Vice Chair John, and Chairman Hill.
24 The motion carries, sir, four to zero to one.

25 CHAIRPERSON HILL: Thank you, Mr. Moy. You may

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1 call our next case when you have an opportunity.

2 MR. MOY: The next case is application number
3 20971. This is of 745 Kenyon Condos, LLC, a self-certified
4 application as amended, pursuant to Subtitle X, Section 901.2
5 for the following special exceptions, Subtitle E, Section
6 207.5 to allow a rear wall of a row building to extend
7 further than ten feet, Subtitle U, Section 320.2 to allow the
8 conversion of an existing residential building to an
9 apartment house use, Subtitle E, Section 204.4 from the
10 rooftop architectural element requirements, Subtitle E,
11 Section 204.1. The property is in the RF-1 zone at 745
12 Kenyon Street, NW, Square 2892, Lot 38, and that's all I have
13 for you, Mr. Chairman. Thank you.

14 CHAIRPERSON HILL: Thank you. If the applicant
15 can hear me, if they could introduce themselves for the
16 record?

17 MR. CRAIN: Sure, my name is Adam Crain, architect
18 with 2Plys. I'm joined today by Jide Alade, the owner's
19 representative.

20 CHAIRPERSON HILL: All right, Mr. Crain. If you
21 want to go ahead, Mr. Crain, and walk us through your
22 client's application and why you believe they are meeting the
23 criteria for us to grant the relief requested? I'm going to
24 put 15 minutes on the clock so I know where we are, and you
25 can begin whenever you like.

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1 MR. CRAIN: Sure, today we're here for 745 Kenyon
2 Street, NW. My name is Adam Crain, architect with 2Plys.
3 Today we're talking about three-unit special exceptions that,
4 along with it, we're asking for two additional exceptions for
5 exceeding the ten-foot rule with the rear addition, and then
6 architectural rooftop element removal with a partial front
7 addition that we're doing.

8 If we can pull up Exhibit 26? That would be the
9 latest architectural plans. That's what I'll be referencing.
10 If we can go to page five, that's where I'll start. Yes,
11 this is showing the existing siteplan, existing conditions.
12 You can see the little shed at the rear on the right-hand
13 side. That will be removed.

14 We have a public alley on the right-hand side for
15 parking access. And you'll see we've kind of got an existing
16 jog front facade, which we'll be filling in and straightening
17 up in our proposed additions. If we could move forward one
18 slide?

19 The front addition, as I mentioned, we're doing
20 a courtyard scheme similar to a project that we had before
21 the Board a couple weeks ago, and a third unit that's being
22 set back into the rear of the lot. This lot is much larger
23 than we typically see in the RF-1 zone. I think it's 3,600
24 square feet or so, 3,563 exactly, so it's wider and deeper.

25 So, there's a significant amount of space in the

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1 rear yard that goes unused in lots of this size, so we feel
2 that this proposes a good use of this space for more living,
3 and while creating a kind of nice private and safe courtyard
4 in the center of the project.

5 We've got two parking spaces at the rear, full
6 size, accessed from the alley, along with an allocated trash
7 area back there adjacent and access way.

8 I think we wanted to go to PDF, page two. That
9 will give us a 3D view of the front. In meeting, presenting,
10 and working with the ANC, we had a few iterations of this,
11 and this is the result, you know, with the existing two-level
12 building going to a three-level at the front.

13 We continued or introduced a new, kind of a new
14 architectural rooftop element, I guess, to replace the one
15 that we're having relief to be removed, to kind of continue
16 the aesthetic of the two-level streetscape across there and
17 differentiate the two levels from the third level above with
18 a different material up there.

19 We also did, at the ANC's request, push back the
20 parapet railing for that roof deck to create this three-and-
21 a-half foot shorter facade at the streetscape so it's less
22 imposing. Go forward one slide, please? And 3D views just
23 kind of showing our courtyard scheme where you can see we do
24 have that third unit, that third mass past the meaningful
25 connection, which is an enclosed breezeway accessing the

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1 courtyard.

2 The front two will have roof decks. The rear unit
3 in the back will not at OP's request. We've come to
4 understand that's not something they're looking at favorably,
5 so we've removed that at their request. I think we could go
6 to PDF page eight next.

7 This is color-coded kind of showing how the units
8 are set up. Very simply, they're kind of like three vertical
9 stacks, two grouped at the front and one on its own at the
10 rear. All of these have four-plus bedrooms.

11 And you'll see at that first floor, this is having
12 a breezeway that continues all the way through to the rear.
13 So, it's very simply one straight corridor, a straight shot
14 front to back which provides egress, parking access, and all
15 of the units can then access the courtyard through that.

16 We did provide shadow studies. I'm not sure if
17 you're interested in going through those, but if we wanted
18 to go to the second to last, PDF page 15, I could just show
19 a color-coded section. Again, very simply, we have a front
20 unit, a middle unit, a courtyard, then the rear third unit
21 there.

22 I'm happy to answer any question, but I do want
23 to point out I think we've had both the ANC -- ANC has
24 approved this and OP is proposing this to be approved in
25 their report as well. Thank you.

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1 CHAIRPERSON HILL: Thank you. Let me go to the
2 Office of Planning and then I'll ask my Board if they have
3 any questions.

4 MR. JESICK: Members of the Board, my name is Matt
5 Jesick, and we can mostly rest on the record in this
6 application. We appreciate the applicant responding to some
7 of our feedback. In our written report, we had suggested
8 that they needed rooftop architectural elements relief, and
9 they've added that relief in their updated written statement
10 and self-certification, so we appreciate that and we
11 recommend approval of that area of relief.

12 Our recommendation is based on a condition that
13 there would be no decks on the roof of the rear portion of
14 the building. I noted in the latest plans that the one
15 sheet, sheet 15, still showed access to that rooftop. So,
16 just to be absolutely certain, we do still recommend that
17 condition. That concludes my testimony, but I'd be happy to
18 take any questions. Thank you.

19 CHAIRPERSON HILL: Thank you, Mr. Jesick. Mr.
20 Crain, I saw you nodding your head. Is that taken off of the
21 plans?

22 MR. CRAIN: No, it's on there. I think that was
23 a straggler, but our intent is to take that off. We're
24 definitely not trying to sneak anything in. So, our updated
25 rendered 3D model going into the permit set will absolutely

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1 have that removed.

2 CHAIRPERSON HILL: Okay, could you submit that to
3 the record for us?

4 MR. CRAIN: Yeah, I can get that later on today.

5 CHAIRPERSON HILL: Okay, all right, not Mr.
6 Jesick, Mr. Crain. I had a question for Mr. Jesick. Mr.
7 Jesick, this is similar to the one that they were with us on
8 a couple weeks ago. Is the Office of Planning now, like how
9 are you guys doing the, or determining not to put a roof deck
10 on those particular rear units? What was it about these
11 particular two projects that the Office of Planning didn't
12 think that they were going to be, there was going to be an
13 impact?

14 MR. JESICK: Well, when we looked at these types
15 of developments, obviously there's a deep rear extension, you
16 know, not technically an accessory building, but almost an
17 accessory building, and a rooftop deck could provide a lot
18 of new views onto adjacent properties that aren't there
19 today. And when looking at the review criteria for the
20 special exception, one of them is, you know, protecting the
21 privacy of adjacent homes, so we were just looking to that
22 and felt that there might be an undue impact to privacy if
23 those rooftop decks were present.

24 CHAIRPERSON HILL: Okay, thank you. Right, I
25 didn't think about it, about things that aren't there yet

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1 also. Okay, does the Board have any questions of the
2 applicant or the Office of Planning? Ms. John?

3 MEMBER JOHN: Thank you. I'm going to ask Mr.
4 Crain to go over the shadow studies and explain what any
5 potential adverse impact would be from the new structure in
6 the rear?

7 MR. CRAIN: Of course. If we could go to PDF page
8 nine? Yeah, and so you see on the right-hand side is kind
9 of the existing shadow study. North is kind of to the right.
10 So, more or less, the southern noon, midday noon is going to
11 be coming in from the left to the right at the front facade,
12 which you can see right in the middle.

13 So, at noon, all of the shade is going to be cast
14 from that mass in the rear towards the alley. I guess in the
15 morning, the sun is going to be kind of coming in from the
16 bottom left kind of like this, and you see that shadow is
17 mostly going to be cast into a portion of the rear yard on
18 the lot to the plane north.

19 Late in the day, 3:00 p.m., sunset, it's the
20 reverse of that, becoming from the upper left down casting
21 a shadow of that mass into a portion of the rear yard on the
22 plan's south property. So, the rear doesn't get any direct
23 sunshine.

24 It's always -- the building in the front will be
25 having some kind of shadow. The whole street will be casting

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1 a shadow into the portion of the rear yard, so it's --
2 neither property would be getting shade all day, but each one
3 will take a turn getting partial shade from this structure.

4 MEMBER JOHN: Thank you.

5 CHAIRPERSON HILL: Dr. Imamura?

6 COMMISSIONER IMAMURA: Mr. Crain, you may want to
7 correct that slide there. It says 12:00 a.m. I think you
8 probably meant 12:00 p.m. on the shadow studies there.

9 MR. CRAIN: Yes, that's correct.

10 COMMISSIONER IMAMURA: That's what I thought. And
11 Vice Chair John made some really great comments last week
12 about shadow studies, and I appreciated her soapbox for that.
13 I encourage you to go back and take a look at the record, but
14 suffice to say, I do appreciate that you put all of the
15 shadow studies on one sheet.

16 You may want in the future to reorient that to
17 morning, noon, and night, just because, for ease of read, and
18 also delineate even on existing probably outline, like where
19 the existing shadows are outlined or delineate where the
20 future studies, or future shadows may be as well, so, if that
21 makes sense, but otherwise, that's all I wanted to make a
22 comment about. Thank you, Mr. Chairman. Thank you, Mr.
23 Crain.

24 MR. CRAIN: Sure.

25 CHAIRPERSON HILL: Mr. Crain, I was just reminded

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1 of something, like how long would it take you to remove the
2 item that the Office of Planning is talking about?

3 MR. CRAIN: We'll probably have it before close
4 of business today. It's pretty minor.

5 CHAIRPERSON HILL: Okay.

6 MR. CRAIN: But it will be up there. It will be
7 uploaded this evening.

8 CHAIRPERSON HILL: That's all right. They won't
9 let me -- they don't want me to vote unless we have the
10 updated plans.

11 MR. CRAIN: The plans themselves, I guess, all of
12 the floor plans and the 3D renderings are updated --

13 (Simultaneous speaking.)

14 MR. CRAIN: -- section.

15 CHAIRPERSON HILL: Where is it that -- got it.
16 Where is it that the Office of Planning is referring to? Can
17 you point it out to me on an exhibit?

18 MR. CRAIN: Yes, sure. Again, pull up the
19 architectural plans, the second to last page. This would be
20 the sections, number three. No, the previous page. Yeah,
21 just that green one in the top right where it shows that
22 stair access, I guess this page didn't update when we made
23 it, so it would just have that roof deck removed. I believe
24 all of the other pages are updated with plans, and sections,
25 and -- there's plans and 3D views.

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1 CHAIRPERSON HILL: Is it number eight?

2 MR. CRAIN: It is number three on this page, so
3 the green box in the top right. You'll see there's that
4 stair from the third story. Sorry, that's the top left. The
5 top right, yeah, that stair, the uppermost stair going to the
6 roof deck, yeah, we just have to update that condition on
7 this page.

8 CHAIRPERSON HILL: Okay, all right, Mr. Crain,
9 we're going to end up waiting for that.

10 MR. CRAIN: Yes.

11 CHAIRPERSON HILL: And so, we're going to hold
12 this over for a vote until next week.

13 MR. CRAIN: That's fine.

14 CHAIRPERSON HILL: Did -- Mr. Young, is there
15 anyone here wishing to speak?

16 Okay, all right, Mr. Crain, let me think. There
17 was that. You guys did write -- you already talked about how
18 you had worked with the ANC about the facade, I think, and
19 the pushback of the, the setback, I think.

20 MR. CRAIN: Yes.

21 CHAIRPERSON HILL: And okay, I mean, I guess we
22 can even still do a condition that there shall be no deck,
23 terrace, or recreational space on the third unit, and your
24 client is comfortable with that condition, correct?

25 MR. CRAIN: I'm sorry, yes, yes.

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1 CHAIRPERSON HILL: Okay, all right, then unless
2 the Board has anything else -- does the Board have anything
3 else? All right, Mr. Crain, we'll wait for that one filing
4 and we'll leave the record open for that, and we'll come back
5 for a decision next week.

6 MR. CRAIN: Okay, I'm going to be traveling on a
7 plane next week, but I believe my client might be able to
8 make it.

9 CHAIRPERSON HILL: It's a decision. Nobody needs
10 to be here.

11 (Simultaneous speaking.)

12 MR. CRAIN: Not a problem.

13 CHAIRPERSON HILL: Okay, it's 11, let's check the
14 calendar there, 11/8. Mr. Moy, do you need anything from me
15 now?

16 MR. MOY: No, sir. We're good.

17 CHAIRPERSON HILL: Okay, I am closing the hearing
18 and the record. Thank you and goodbye.

19 MEMBER JOHN: Mr. Chairman?

20 CHAIRPERSON HILL: Oh, I'm sorry, sorry, sorry,
21 wait.

22 MEMBER JOHN: It's closing the record except for
23 the submission.

24 CHAIRPERSON HILL: Thank you so much, Vice Chair
25 John. Thank you. Closing the record except for the

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1 submission that we requested, eliminating the staircase and
2 the appearance of a third, of a deck on the third unit, and
3 we're waiting for that. Mr. Moy, you can call our last case.

4 MR. MOY: All right, so this would be case
5 application number 20972 of Eva, E-V-A, Davis, a self-
6 certified application as amended, pursuant to Subtitle X,
7 Section 901.2 for the following special exceptions, Subtitle
8 U, Section 320.2 further requirements of Subtitle U, Section
9 301.4, Subtitle E, Section 5201 from the lot occupancy
10 requirements, Subtitle E, Section 210.1, and the accessory
11 building rear yard requirements of Subtitle E, Section
12 5004.1, a property located in the RF-1 zone at 1748 Lamont
13 Street, NW, Square 2602, Lot 117. Thank you, sir.

14 CHAIRPERSON HILL: Thank you. If the applicant
15 can hear me, if they can introduce themselves for the record,
16 please?

17 MR. SULLIVAN: Thank you, Mr. Chairman. It's
18 Marty --

19 CHAIRPERSON HILL: I lost you, Mr. Sullivan.

20 MR. SULLIVAN: I'm sorry, yeah, I had a phone call
21 when that happened, sorry. Marty Sullivan on behalf of the
22 applicant.

23 CHAIRPERSON HILL: Okay, Mr. Sullivan, if you want
24 to, okay, if you want to go ahead and walk us through your
25 client's application and why you believe they're meeting the

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1 criteria for us to grant the relief requested? I'm going to
2 put 15 minutes on the clock so I know where we are, and you
3 can begin whenever you like.

4 MR. SULLIVAN: Thanks, Mr. Chair. If Mr. Young
5 could please load the PowerPoint presentation? This is for
6 1748 Lamont Street. Basically, the request is to rebuild an
7 existing set of decks and stairs to those decks. We were not
8 able to get confirmation from DOB that there was a permit
9 behind the stairs, although they've been there a really long
10 time, so we needed to ask for relief for lot occupancy.

11 So, we're not changing anything. It's just
12 replacing it. That requires relief from lot occupancy. It
13 requires relief from the restriction against having an
14 accessory building in a required rear yard, and rebuilding
15 these stairs puts that building in the required rear yard
16 even though we're not doing anything to the accessory
17 building.

18 And then any kind of an expansion of an existing
19 apartment house that was previously converted, which it
20 appears this one was, also requires special exception relief.
21 Next slide, please?

22 This is in the RF-1 zone. It's a three-story row
23 building. It's a four-unit apartment house. The building
24 has an existing rear stair leading to second and third-story
25 decks. I'll go to the next bullet. Relief is required from

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1 lot occupancy. I already talked about that too. I'm sorry.
2 You can go to the next slide. Thanks, Mr. Young.

3 We have the support of 1D, the support of the
4 Office of Planning, and a letter of support from the adjacent
5 neighbors at 1750. Next slide, please? That's an overhead
6 view of the property and a view of the front of the property.
7 Next slide, please?

8 So, there you see the existing deck that's being
9 replaced that is the trigger for this relief requirement.
10 Next slide, please? I'm sorry, if you could go back to that
11 slide, Mr. Young? In the background here on the photo on the
12 right, you see the neighboring building behind the proposed
13 deck. Next slide, please?

14 This is just a view of the rear of the property.
15 That's the accessory building. Next slide, please? And some
16 photos of the rear alley. Next slide, please? Just the plat
17 showing the area of the decks. Next slide, please? And
18 there's the rear elevation and side elevation. Next slide,
19 please?

20 So, the proposal's in harmony with the general
21 purpose and intent of the zoning regulations and zoning maps.
22 It's located in the RF-1 zone. There's no changes to the
23 building itself, just replacing the stairs in kind. Next
24 slide, please?

25 The decks are being replaced in kind. The stair

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1 is decreasing slightly, therefore the proposed deck and stair
2 replacement will not unduly affect the light and air
3 available to neighboring properties, and we saw from the one
4 photo the relative distance or the relative length of the
5 building behind or to the left of the decks.

6 The decks are being replaced in kind, so the stair
7 is decreasing slightly, and it doesn't affect the privacy,
8 use, and enjoyment of neighboring properties, and it will not
9 be visible from Lamont Street, and not change the existing
10 view from the alley. That may be it. Next slide, please?
11 That's it.

12 CHAIRPERSON HILL: Thank you, Mr. Sullivan. Mr.
13 Sullivan, do you have any comment on that letter in the
14 record about the decks? Did you see that?

15 MR. SULLIVAN: Yeah, so that's -- in the letter
16 from Fay Armstrong?

17 CHAIRPERSON HILL: Yeah.

18 MR. SULLIVAN: Yeah, well, actually what she's
19 saying is that we don't, we shouldn't need relief, and I was
20 appreciative of the information in there. That's where I
21 have some of my -- that was one of the things that reminded
22 me that we needed U-320 relief because she has historical
23 information in there about the original construction of the
24 building since it was originally constructed as a single
25 family. We do know that.

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1 We don't know when it was converted. If a
2 building is ever converted in the RF zone, it cannot be
3 expanded without BZA approval. So, yeah, Ms. Armstrong is
4 very involved in historic preservation issues in that
5 neighborhood, so, but, yeah, that was the gist of the letter,
6 that we shouldn't have needed the relief.

7 CHAIRPERSON HILL: Okay, okay, I'm going to turn
8 to the Office of Planning, please.

9 MS. MYERS: Hello, again, Crystal Myers with the
10 Office of Planning. The Office of Planning is in approval
11 of this case and can stand on the record of the staff report.
12 Thanks.

13 CHAIRPERSON HILL: Thank you. Does the Board have
14 any questions of the applicant or the Office of Planning?
15 Mr. Young, is there anyone here wishing to speak?

16 MR. YOUNG: We do not.

17 CHAIRPERSON HILL: Okay, Mr. Sullivan, would you
18 like to add anything at the end?

19 Okay, thank you. All right, I'm going to close
20 the hearing and the record. I don't have any issues with the
21 application. I think more or less, they're replacing the
22 decks that are there. I believe they meet the criteria for
23 us to grant the relief requested. I would also agree with
24 the analysis the Office of Planning has provided, as well as
25 the support of the ANC.

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1 I appreciate the letter from Ms. Armstrong and her
2 involvement in the community, and, but I do think that they
3 are here with the correct relief and it is a self-certified
4 application, so that they have what they need, hopefully, to
5 move forward. I will be voting in favor. Mr. Smith, is
6 there anything you'd like to add?

7 Ms. John? I'm sorry, Dr. Imamura?

8 COMMISSIONER IMAMURA: Nothing more to add. I'm
9 a little tight on since we have about 16 minutes for the hard
10 stuff.

11 CHAIRPERSON HILL: Okay, great. Vice Chair John,
12 do you have anything you'd like to add?

13 MEMBER JOHN: No, Mr. Chairman. I have nothing
14 to add.

15 CHAIRPERSON HILL: Okay, thank you. All right,
16 I'm going to go ahead and make a motion to approve
17 application number 20972 as captioned and read by the
18 Secretary and ask for a second, Ms. John?

19 MEMBER JOHN: Second.

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

22 MR. MOY: Thank you. When I call your name, if
23 you'll please respond to the motion made by Chairman Hill to
24 approve application number 20972 for the relief requested.
25 The motion to approve was seconded by Vice Chair John.

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1 Zoning Commissioner Dr. Imamura?

2 COMMISSIONER IMAMURA: Yes, and I applaud Chairman
3 Hill's leadership in getting us done by 3:30. I didn't think
4 it was going to happen.

5 MR. MOY: Mr. Smith?

6 MEMBER SMITH: Yes.

7 MR. MOY: Vice Chair John?

8 MEMBER JOHN: Yes.

9 MR. MOY: Chairman Hill?

10 MEMBER JOHN: Yes.

11 MR. MOY: We have no others participating. Staff
12 would record the vote as four to zero to one, and this is on
13 the motion made by Chairman Hill to approve. The motion to
14 approve was seconded by Vice Chair John. Members voting to
15 approve the application is Zoning Commissioner Dr. Imamura,
16 Mr. Smith, Vice Chair John, Chairman Hill, no others. The
17 motion carries four to zero to one.

18 CHAIRPERSON HILL: Okay, thank you, Mr. Moy. Mr.
19 Moy, is there anything else before the Board?

20 MR. MOY: Nothing from the staff, sir.

21 CHAIRPERSON HILL: Okay, I hope you all have a
22 lovely day and we'll see you next time.

23 (Whereupon, the above-entitled matter went off the
24 record at 3:16 p.m.)

25

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Before: DC BZA

Date: 11-01-23

Place: videoconference

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