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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning
Board of Zoning Adjustment

PUBLIC MEETING OF THE BOARD OF ZONING ADJUSTMENT

9:40 a.m. to 2:12 p.m.
Tuesday, February 2, 2016

441 4th Street, N.W.
Jerrily R. Kress Memorial Room
Second Floor Hearing Room, Suite 220-South
Washington, D.C. 20001

1 Board Members:

2 FREDERICK L. HILL, Vice Chair

3 JEFFREY HINKLE, Board Member

4 ANTHONY HOOD, Zoning Commission

5 CLIFFORD MOY, BZA Secretary

6

7 Office of Attorney General:

8 SHERRY GLAZER, Esq.

9

10 Office of Planning:

11 STEVE COCHRAN

12 STEPHEN MORDFIN

13 ANNE FOTHERGILL

14 MATT JESSICK

15 STEPHEN GYOR

16 ELISE VITALE

17

18 Other:

19 CHRISTY SHIKER, ESQ.

20 PATRICK BROWN

21 PAT SCHAUB

22 ANDREW DALY

23 PATRICIA JORDAN

24 HAYES EDWARDS

25 DEISY BRANGMAN

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4 MICHAEL GREIGG

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6 ALEX PITT

7 ALAN AUSTIN

8 RACHEL CHUNG

9 CHRISTINE RODDY

10 MICHAEL BEIDLER

11 MAT SCORE

12 JESSICA BLOOMFIELD, ESQ.

13 CHRISTOPHER COLLINS, ESQ.

14 JERRY ZARETS

15 DAVID BAGNOLI

16 WILLIE JACKSON

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

2 VICE CHAIRPERSON HILL: Good morning. I'm going to
3 call this hearing to order. This hearing will please come to
4 order.

5 Good morning, ladies and gentlemen, we are located in
6 the Jerrily R. Kress Memorial Hearing Room at 441 4th Street
7 Northwest. Today's date is February 2nd, 2016, and we are here
8 for the public meeting and hearing of the Board of Zoning
9 Adjustments of the District of Columbia.

10 My name is Fred Hill, Vice Chairman. Joining me
11 today is Jeffrey Hinkle, board member, and Anthony Hood, Member
12 of the Zoning Commission, sitting in as a member of the Board
13 today.

14 Please be advised that this proceeding is being
15 recorded by a court reporter and is also webcast live.
16 Accordingly, we must ask you to refrain from any disruptive
17 noises or actions in the hearing room. The Board's hearing
18 procedures and how we will process applications can be found at
19 the table by the back door.

20 All individuals wishing to testify today, we'll need
21 you to do two things. One, prior to testifying each person who
22 wants to address the Board must complete two witness cards per
23 person and give those cards, prior to testifying, to the court
24 reporter who is seated to my right.

25 I'll need you now to stand and take the oath, which

1 will be administered by Mr. Moy, Secretary of the Board.

2 MR. MOY: If you're planning on testifying you should
3 stand to -- so I can administer the oath.

4 [Oath administered to the participants.]

5 MR. MOY: Ladies and gentlemen, you may consider
6 yourselves under oath.

7 VICE CHAIRPERSON HILL: Okay, Mr. Moy, do we have any
8 preliminary matters today?

9 MR. MOY: Yes. Good morning, Mr. Chairman and
10 Members of the Board. Very little today. For the transcript
11 in the record to cases that were originally for today's docket,
12 19120 of David Kang and Mary Calomiris has been withdrawn by
13 the applicant. 19168 of Getachew Afework, if I pronounced that
14 correctly, has been postponed and rescheduled to March 1st,
15 2016. And finally, Mr. Chairman, I guess the Board can either
16 entertain this now or later when we move into the meeting
17 session, but the application of the Kyrgyz Republic, 19091.

18 As you know, I have three absentee ballots from three
19 participating members. You're the fourth member on this case
20 and my understanding is that I don't think we're going to have
21 a quorum to address this case, and the staff would suggest
22 moving this to next Tuesday. If counsel wants to add to that.

23 MS. GLAZER: I have nothing to add. I think it would
24 be wise to postpone it to have a quorum.

25 VICE CHAIRPERSON HILL: Okay. Then let's go ahead

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1 and do that. We don't have to call that today and we'll just
2 go ahead and move that to next week.

3 All right, then, do we call the first meeting for
4 today?

5 MR. MOY: Yes, sir. That would be the first
6 application for decision making is -- we have one application
7 that's on the expedited review calendar, and that is
8 Application No. 19190, Patricia Harris and Sandor Slager, and
9 of course this is a request for a special exception under 223,
10 not meeting the rear yard requirements under 404.1 to construct
11 a second story addition to an existing one-family dwelling in
12 an R-2 district, 3621 Jocelyn Street Northwest, Square 1990,
13 Lot 115.

14 VICE CHAIRPERSON HILL: Okay. So I've looked through
15 this with the special exception and expedited review. I guess
16 is the Board ready to deliberate on this?

17 The only thing that I saw, I guess, was that there
18 was no ANC letter on file. However, I was going to ask, I
19 think OP says that they had heard from the ANC and that there
20 was approval from them. I don't know if OP is here or -- okay.

21 So I was satisfied with approving this with the
22 expedited review. Does anyone else have any thoughts?

23 MR. HOOD: I would agree. I would agree, Mr.
24 Chairman. I think that with all the support and with Office of
25 Planning going on the record indicating in their report that

1 the ANC voted in support of this on December the 14th, and by
2 this merely being on an expedited review and no one coming
3 forward, I think this is ready to vote and I would just move,
4 pursuant to 11 DCMR 3104.1 for a special exception under 223,
5 not meeting the year yard requirement, under 404.1 to construct
6 the second story addition to an existing one-family dwelling in
7 an R-2 district at premises 3621 Jocelyn Street Northwest, at
8 Square 1990 and Lot 115. Also noted with the support of the
9 Office of Planning and noted in Office of Planning's report,
10 the support as well as no objections from the District
11 Department of Transportation, I would move that we move in
12 favor of this application.

13 MR. HINKLE: I'll second.

14 VICE CHAIRPERSON HILL: Okay, great. The motion has
15 been made and seconded.

16 [Vote taken.]

17 MR. MOY: Staff would record the vote as three to
18 zero to two, this is on the motion of Mr. Anthony Hood,
19 Chairman of the Zoning Commission. Seconding the motion, Mr.
20 Hinkle. Also in support, Mr. Chair Hill. We have a board
21 member not present with us today and a board seat vacant.
22 Motion carries three to zero, Mr. Chairman.

23 VICE CHAIRPERSON HILL: Okay. I need a summary.

24 MR. MOY: Yes, sir. Thank you. Okay. I believe the
25 next case in line is, unless you tell me otherwise, it's

1 Application No. 19124, of Eye Street, E-Y-E, Street, JV LLC.
2 Let's see, this has been advertised for variance relief on the
3 closed court width and area requirements under 776, special
4 exception from the roof structure setbacks under 411, and 770.6
5 to allow construction of a new mixed use residential building
6 in the DD/C-3-C district. Premises located on Square 453, in
7 lots 40, 50, 815 through 819, 821, 835, and a portion of a
8 public alley to be closed. The hearing was last heard on
9 December 8th, 2015, scheduled for today's decision, Mr. Chair.

10 VICE CHAIRPERSON HILL: Okay. Great. Thank you, Mr.
11 Moy. All right. Well, Board, I guess we were going to
12 deliberate on this and then first what happened, we need to
13 talk about first is a letter came in last night from NCPC and
14 they had some concerns, I guess, in terms of the interpretation
15 between what the Zoning Administrator and they have, concerning
16 the new regulations with the penthouse. And in particular the
17 setbacks. And so I guess the first thing that we have to
18 decide on is whether or not to reopen the record to allow this
19 letter to be entered into the record.

20 My thoughts, I guess are, just to start the
21 discussion is that, you know, I think that NCPC obviously is
22 someone who has great weight in terms of their discussions with
23 the Board. And, you know, I would think that considering that
24 this is something that is now going to set precedent for the
25 penthouses moving forward, it's something that maybe we should

1 allow into the record to then talk about. Any thoughts?

2 MR. HINKLE: Well, certainly it's a letter from an
3 agency and it's an issue that we have worked together with the
4 District on for quite a while. And it's an important issue for
5 us. And I think the letter that NCPC provided is in response
6 to a submission that was made the day of the hearing. So it
7 would have been difficult for the agency to react at that time.

8 And certainly I didn't have time to read it and I took it
9 back. The Zoning Administrator's determination. I took it
10 back to the office and we had a thorough discussion in terms of
11 the issue and how this project could set a precedent in terms
12 of setback requirements that we disagreed with.

13 So I'm certainly, of course, supportive of allowing
14 this letter into the record.

15 VICE CHAIRPERSON HILL: Chairman Hood?

16 MR. HOOD: I would agree with Board Member Hinkle,
17 Mr. Chairman, that I think that we need to allow this because I
18 think as stated, this is going to set precedent. And also, we
19 want to make sure that we get it right. I know that the new
20 penthouse rules are new and a lot of times when there are new
21 promulgated regulations that come out it takes a while for
22 everybody to adapt and understand. And what the intent going
23 forward was for the Zoning Commission, I think from what I read
24 of the letter NCPC is right on target. I'm not sure what the
25 next move is, but I would suggest that maybe we get briefings

1 if we go that far. But I think we really need to get this
2 letter into the record and for our consideration.

3 VICE CHAIRPERSON HILL: So then, Mr. Moy, what
4 happens now in terms of getting it into the record? Well, we
5 just accept it into the record.

6 MR. MOY: Yes.

7 VICE CHAIRPERSON HILL: Okay. All right. So we've
8 accepted --

9 MR. MOY: You accept --

10 VICE CHAIRPERSON HILL: -- it into the record. And
11 so now in terms of how the applicant would have the opportunity
12 to respond?

13 MR. MOY: I think typically to allow -- and I see
14 that the representative, the property owner is here, but
15 typically to allow reasonable time for responses, and maybe a
16 response from the Office of Planning as well. So at least a
17 week or two, but that's up to the Board for responses.

18 MS. GLAZER: Mr. Chair, can I make a suggestion
19 that --

20 VICE CHAIRPERSON HILL: Sure.

21 MS. GLAZER: -- you call anybody who is here. It is
22 a meeting.

23 VICE CHAIRPERSON HILL: Yeah, I was going to ask, is
24 anybody here from --

25 MS. GLAZER: If anybody is here maybe they should

1 come up to the table.

2 VICE CHAIRPERSON HILL: -- the applicant. Could the
3 applicant please come forward?

4 MS. GLAZER: And I don't know who the OP
5 representative on this case -- Mr. Cochran I see waving his
6 hand.

7 VICE CHAIRPERSON HILL: Okay. Do we have any parties
8 in this case as well? It's just the applicant? Okay. Could
9 you please introduce yourself?

10 MS. SHIKER: Good morning, Chairman and Members of
11 the Board. My name is Christy Shiker from the law firm of
12 Holland and Knight, representing the applicant in this matter.

13 VICE CHAIRPERSON HILL: Okay, so Ms. Striker --

14 MS. SHIKER: Shiker.

15 VICE CHAIRPERSON HILL: Shiker. Sorry. Shiker.
16 You're aware of the letter that came in?

17 MS. SHIKER: We learned about it this morning. I
18 guess it was filed late yesterday, and we are prepared to
19 respond at least initially right now. I believe to go to
20 Chairman Hood's point of view, this letter is addressing the
21 1910 Height Act. It is not addressing specifically the new
22 regulations. The 1910 Height Act, while it does allow
23 habitable space, has not changed in the terms of the language
24 of an exterior wall. An exterior wall is the big issue here,
25 and we did meet with the Zoning Administrator to confirm a long

1 standing interpretation of what an exterior wall is.

2 An exterior wall is a wall that abuts or adjoins a
3 street. And historically an open court fronting on a street
4 but is setback from the exterior wall, has been permitted to
5 receive relief from the Board of Zoning Adjustment. We do not
6 disagree that we needed to come to the Board to get relief for
7 these setbacks.

8 I will tell you that this Board has considered and
9 approved past cases with similar situations. For example, at
10 33 New York Avenue there was a two-story podium, a 40-foot
11 setback going up to 130 feet. This Board with Commissioner May
12 sitting as the Zoning Commission representative, voted
13 unanimously to support setback relief and that building is now
14 constructed, with setback relief from the open court fronting
15 on N Street.

16 With respect to the alley, just recently this board
17 approved a case at 5th and I Street in which the building rose
18 to the 1910 Height Act and it was not set back one to one from
19 the alley, and this board approved that just a couple of weeks
20 ago.

21 I could go on with examples. Those are just two
22 recent ones. That's kind of the first thing. This isn't a new
23 case. This is a long-standing interpretation by the Zoning
24 Administrator. I would also point out that there is clear
25 authority that the 1910 Height Act is to be interpreted by the

1 mayor, and that authority has been delegated through certain
2 executive orders and reorganization documents from the time we
3 had the Commissioners of the District of Columbia. That has
4 been delegated down through the Office of Attorney General to
5 the Zoning Administrator, and the Zoning Administrator has
6 consistently interpreted the 1910 Height Act this way. I do
7 not believe that there is a 1910 Height Act violation here. I
8 believe that the hearing, the detail, the testimony that we
9 had, established the special exception standard that is set
10 forth in the new penthouse regulations, and why the applicant
11 needs relief. And therefore I would ask that the Board not
12 delay this, if at all, or too long, to have a decision on this
13 case as we've already waited about almost two months now,
14 pending the publication of the new regulations on January 8th.

15 I'm happy to answer any questions.

16 VICE CHAIRPERSON HILL: Sure. Well, I'd like to hear
17 about, you know, what my colleagues have to say. But Ms.
18 Shiker's -- Shiker? Shiker. You know, for me I'm just a
19 little bit uncomfortable or hesitant about being able to
20 deliberate this right now considering I got the letter last
21 night. And although I was ready to deliberate. And I don't
22 know what, you know, my colleagues think. And I can see OP
23 sitting over there. I don't know if we go hear from OP next or
24 whether, you know, we reschedule this for another time or
25 either the briefing or limited hearing.

1 MR. HOOD: Mr. Chairman, I would just think -- I
2 think that again, the letter came in last night. I want to
3 make sure some of that which you just mentioned, Ms. Shiker,
4 not trying to give you any additional work, especially the case
5 with my colleague who was very instrumental in helping the
6 Zoning Commission move forward penthouse regulations. I would
7 like you to cite that case. I want to make sure we get it
8 right. We have disagreed with the Zoning Administrator a few
9 times. Matt's a great guy but you know, we want to make sure
10 we get it right. Especially since NCPC raises this concern. I
11 want to make sure that we move forward and going right as the
12 Chairman has already mentioned. We want to make sure it's
13 precedent setting. I appreciate what you just provided to us,
14 but for me, I like to take a pause and move forward cautiously,
15 and proceed with caution and make sure we do this right because
16 this is going to be precedent setting with this discussion from
17 NCPC.

18 So Mr. Chairman, also, we do have a party. We have a
19 party, the ANC. ANC is automatic party. So we want to make
20 sure that they are notified of what we are doing. If they want
21 to comment, they can. We need to afford them that opportunity.

22 So I just think that we need to get -- I would
23 suggest that we get briefed. So we don't need a book, I just
24 would suggest that we get briefed. S at least that's the way I
25 would like to move, Mr. Chairman, so I would have a comfort

1 level moving forward. I'm not sure how my colleagues feel on
2 that.

3 MR. HINKLE: Yeah. Thank you. I tend to agree. I
4 think, you know, there was a lot of discussion when those
5 penthouse regulations were developed and approved. And I'm
6 convinced through this application that perhaps there needs to
7 be some additional discussion. I think some briefs on this,
8 specifically, would be helpful. I would not require, but maybe
9 request from the Zoning Administrator, a brief as well.

10 VICE CHAIRPERSON HILL: Okay. So then we'll get
11 briefs from the applicant as well as the Zoning Administrator,
12 in response to the letter from NCPC, I guess. Is that correct?

13 And then so we won't have a limited hearing on this.

14 MR. HOOD: I think briefs will suffice.

15 VICE CHAIRPERSON HILL: Okay.

16 MR. HOOD: And if we need to we can -- you know, at
17 that time when we -- if that doesn't satisfy us then we can
18 maybe move into a limited discussion.

19 VICE CHAIRPERSON HILL: Okay. So when --

20 MS. GLAZER: Mr. Hill.

21 VICE CHAIRPERSON HILL: Yes.

22 MS. GLAZER: My suggestion would just be, the record
23 was open for the NCPC letters, so just keep it open for a
24 limited purpose to receive the filings you've discussed. And
25 in the event the Board has questions from any of the parties at

1 that point, you may want to be able to ask some questions.

2 VICE CHAIRPERSON HILL: Okay. So then when do we
3 want the --

4 MS. GLAZER: But it would be in your discretion.

5 VICE CHAIRPERSON HILL: When would we like the brief?

6 MS. GLAZER: That's entirely up to you.

7 VICE CHAIRPERSON HILL: When would you like to give
8 the brief?

9 MS. SHIKER: We can provide it within a week.

10 VICE CHAIRPERSON HILL: Okay.

11 MR. HOOD: But is that enough time for everybody,
12 Office of Planning, ANC?

13 VICE CHAIRPERSON HILL: Office of Planning is over
14 there.

15 MR. COCHRAN: That's what I wanted to clarify.

16 VICE CHAIRPERSON HILL: Sorry.

17 MR. COCHRAN: Is the record open for the District
18 Government or just for the Zoning Administrator?

19 VICE CHAIRPERSON HILL: I would say the District
20 Government as well.

21 MR. COCHRAN: Thank you.

22 VICE CHAIRPERSON HILL: Just the District Government.

23 MR. HINKLE: Right. My suggestion would be the
24 parties to the case as well as if the Zoning Administrator
25 would like to provide a comment.

1 VICE CHAIRPERSON HILL: Okay.

2 MR. HOOD: In some kind of way we need to notify the
3 ANC, Mr. Chairman. You know, just --

4 VICE CHAIRPERSON HILL: Mr. Moy, can you --

5 MR. HOOD: They may weigh in, they may not. But we
6 still would make sure we have that open for them. And could
7 you cite those case, those one or two -- one or two cases. We
8 don't need all of them.

9 MS. SHIKER: Yes, sir. I will make sure that there
10 are cases on each of the points that NCPC raised.

11 VICE CHAIRPERSON HILL: Okay. So just so I'm clear,
12 this is open for the applicant, the District Government, and
13 the ANC?

14 MS. GLAZER: When you say the District Government, do
15 you mean OP?

16 VICE CHAIRPERSON HILL: Yes.

17 MS. GLAZER: I would be a little more specific --

18 VICE CHAIRPERSON HILL: Sorry.

19 MS. GLAZER: -- and just get a supplemental report
20 from OP. You don't want --

21 VICE CHAIRPERSON HILL: Supplemental report from OP.

22 MS. GLAZER: -- other agencies weighing in too.

23 VICE CHAIRPERSON HILL: Okay. Is that good?

24 MR. COCHRAN: Thank you.

25 MS. SHIKER: Thank you.

1 MR. MOY: So, Mr. Chairman, in terms of the
2 deadlines, if we go on one-week filing deadlines, that takes us
3 up to February the 9th and we could come back, revisit this on
4 a limited scope hearing with the opportunity to ask questions
5 on -- at the earliest would be February the -- is it the 16th?

6 Let me check. All right. There's no --

7 VICE CHAIRPERSON HILL: Mr. Moy, is that enough time
8 for everyone?

9 MR. MOY: Well, there's no hearing on the 16th, so it
10 would be February the 23rd.

11 VICE CHAIRPERSON HILL: Okay. All right. That
12 sounds good.

13 MR. MOY: February the 23rd?

14 VICE CHAIRPERSON HILL: February the 23rd. OP?

15 MR. COCHRAN: If the hearing isn't until the 23rd
16 would it be possible to give the parties until the 16th?

17 MR. MOY: I'll leave that to the Board.

18 VICE CHAIRPERSON HILL: It would be fine with me. Is
19 it fine with you, the applicant?

20 MS. SHIKER: We can certainly meet that deadline.

21 VICE CHAIRPERSON HILL: Okay.

22 MS. SHIKER: Yes.

23 VICE CHAIRPERSON HILL: Okay.

24 MS. GLAZER: And staff will notify the ANC, I assume?

25 MR. MOY: Yes. Yes. As always.

1 VICE CHAIRPERSON HILL: Mr. Moy, I'm not terribly
2 sure Board Member Hinkle is going to be here on the 23rd.

3 MR. MOY: Okay. So we're into March then, right?
4 So --

5 MR. HOOD: That's fine. We want to make sure we get
6 it right.

7 MR. MOY: Oh, I understand. So then --

8 MR. HOOD: I think, Mr. Chairman. Excuse me, did I
9 overstep?

10 VICE CHAIRPERSON HILL: That's quite all right.

11 MR. HOOD: I got out of my Chairman --

12 VICE CHAIRPERSON HILL: That's quite all right,
13 Chairman. I know that -- I mean, Chairman Hood, I know last
14 night was long for you. You could just move right over here if
15 you'd like and --

16 MR. MOY: Would March 1st accommodate Mr. Hinkle?

17 MR. HINKLE: No, I apologize. I'll be out those two
18 weeks.

19 MR. MOY: Okay. So the 15th, then, right?

20 MR. HINKLE: I might suggest, perhaps, depending on
21 how it goes that I could submit an absentee ballot with
22 comments.

23 MR. MOY: March 15th.

24 MR. HINKLE: I mean, that's a possibility as well. I
25 don't want to hold the case up.

1 MR. MOY: I'll leave that to the Chairman.

2 MR. HINKLE: Right.

3 VICE CHAIRPERSON HILL: So when are you back?

4 MR. HINKLE: I'll be back on the 8th or March.

5 VICE CHAIRPERSON HILL: You'll be back on the 8th of
6 March.

7 MR. HINKLE: Right.

8 VICE CHAIRPERSON HILL: Okay. So you're back in here
9 on the 8th of March. Okay. And I'm sorry about the applicant.
10 We're going to push it to the 8th of March then because again,
11 it is an important precedent that I'd like to be able to
12 discuss with my colleagues, so we're going to push it to that
13 date. And so as far as like when they need the reports back,
14 or the briefings back that is.

15 MR. MOY: We can still keep the deadline for filings
16 on February the 16th, or you want more time, Mr. Chairman, than
17 the 23rd?

18 VICE CHAIRPERSON HILL: Would you like more time or
19 less?

20 MS. SHIKER: We could have met the deadline in a
21 week, so whatever is -- if it makes Office of Planning's life
22 easier, we're happy to make the deadline that -- the 23rd,
23 where we'll have ours in by whatever date you say.

24 VICE CHAIRPERSON HILL: All right. We're going to
25 stick with the 16th, then. We'll stick with the 16th. We'll

1 stick with the 16th. Okay?

2 MR. MOY: And for Mr. Hood, the Board will deal with
3 this case first of the day. Okay?

4 MR. HOOD: Is somebody else already sitting for that
5 day? That's all right. We don't need to get into all that.

6 MR. MOY: We can deal with that later.

7 VICE CHAIRPERSON HILL: Thank you so much.

8 MS. SHIKER: Thank you. You can take over any time
9 you --

10 MR. HOOD: Force of habit.

11 [Pause.]

12 MR. MOY: The next case for a decision before the
13 Board today is Appeal No. 19067. This is the appeal of ANC 4C.
14 For the record, this appeal appeals the -- is appealing the
15 decision of the Zoning Administrator to issue Building Permit
16 No. B1505734. This is what was originally captioned to allow
17 the construction of a rare two-story addition and conversion of
18 a one-family dwelling into a three-unit apartment house in the
19 R-4 District, 1117 Allison Street Northwest, Square 2918, Lot
20 59. Mr. Chairman.

21 VICE CHAIRPERSON HILL: Okay. Thank you, Mr. Moy.
22 Well, after looking at this and discussing the fact that it is
23 very contentious and had a lot of interest from the opposition
24 as well as obviously the applicant, unfortunately the
25 chairperson, Chairperson Heath is not here today, and so it

1 would just -- there would be one less person here to be able to
2 deliberate. And so, Mr. Moy, what I would suggest doing is
3 pushing this over to the meeting for next week.

4 MR. MOY: Yes, sir. So that would be February the
5 9th. Yes. February the 9th.

6 VICE CHAIRPERSON HILL: And I thought that we did try
7 to contact all the parties that were involved in this, but I
8 can see some of them are still here. And I do apologize that
9 this is going to get pushed to the next week so that we have an
10 opportunity for, you know, a full discussion with everyone who
11 had been participating on it previously as opposed to just
12 something, you know, quick. So that's why we're pushing it on
13 to the next week. So, but I'm sorry that you had to come down
14 today.

15 MR. MOY: Okay, next and last for the meeting
16 session, Mr. Chairman, is Application No. 18514A, A as in
17 Alpha. This is of Andrew Daly and Patty Jordan, as advertised
18 seeking relief for special exception under 223, not meeting the
19 lot occupancy requirements, Section 403, variance from the
20 parking space dimensions requirement under 2115.1, and the
21 variance from the garage setback requirement under Section
22 2300.2, sub B, to allow a detached garage addition severing a
23 one-family dwelling in the R-4 district, 1120 Park Street
24 Northeast, Square 987, Lot 8.

25 This is a request for a minor modification, Mr.

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1 Chairman. And I believe in your case folders that there is a
2 filing for party status in opposition.

3 VICE CHAIRPERSON HILL: Yeah. Thank you, Mr. Moy.
4 We're just here for a meeting today.

5 [Participant speaking off the microphone.]

6 VICE CHAIRPERSON HILL: Excuse me. I'm sorry. Could
7 you introduce yourself?

8 [Participant speaking off the microphone.]

9 VICE CHAIRPERSON HILL: Actually, if you could turn
10 your mic on, sir, please, and introduce yourself?

11 MR. BROWN: I'm Patrick Brown from Greenstein,
12 DeLorme and Luchs. I represent Pat Schaub in the underlying
13 BZA appeal, which is scheduled for today, 19092. Also I filed
14 an opposition to the minor modification.

15 VICE CHAIRPERSON HILL: The party status?

16 MR. BROWN: Yes, in opposition. Counsel for the
17 Daly-Jordans are here, as well as DCRA. And the suggestion
18 that I would proffer, and they can join me, is that we pass
19 this case on the agenda for the time being. We're in active
20 discussions to resolve the matter, both the modification and
21 the appeal, and I think it would be time well spent to pass the
22 matter and allow us to conclude that process.

23 VICE CHAIRPERSON HILL: Okay. Would everyone like to
24 come up, who is here for this? If you could just please turn
25 on the glowing green light and introduce yourself from this way

1 over to that way, please?

2 MR. PETERSEN: Yes. My name is Eric Petersen, the
3 architect for the client.

4 MR. EDWARDS: Hayes Edwards, Attorney for Andrew Daly
5 and Patricia Jordan, the movant for the motion for modification
6 and the appellee in 19092.

7 MR. DALY: Andrew Daly, owner 1120 Park Street.

8 MR. BROWN: Patrick Brown from Greenstein, DeLorme
9 and Luchs on behalf of Ms. Schaub in the modification and the
10 appeal.

11 MS. SCHAUB: And Pat Schaub, I'm the neighbor, 1118
12 Park Street Northeast.

13 VICE CHAIRPERSON HILL: Okay. So the suggestion is,
14 Mr. Brown, could you tell me again?

15 MR. BROWN: That the Board for the time being pass
16 this case on the agenda and allow the parties to resume our
17 discussions. We've been talking about a global settlement
18 which would resolve not only the opposition to the modification
19 but also the appeal as well as other matters that are beyond
20 the jurisdiction of this Board. And I think we can do so this
21 morning and avoid an adversarial proceeding, potentially on the
22 modification as well as on the appeal.

23 VICE CHAIRPERSON HILL: Okay. So and then come back
24 to this today?

25 MR. BROWN: Yes.

1 MS. GLAZER: Mr. Chair, can I suggest you hear from
2 the owner/applicant, since it is their motion at this point?

3 VICE CHAIRPERSON HILL: Okay.

4 MR. EDWARDS: Yeah, we agree with Pat's request to
5 defer this so we can have some more time to discuss a potential
6 settlement.

7 VICE CHAIRPERSON HILL: Okay. And then we'll bring
8 you back later today?

9 MR. EDWARDS: That would be greatly appreciated.

10 VICE CHAIRPERSON HILL: Okay. All right. Let's do
11 that, then.

12 MR. HOOD: Can I ask a question?

13 VICE CHAIRPERSON HILL: I'm sorry. Go on. Please
14 do.

15 MR. HOOD: Mr. Brown, do you think that will be
16 advantageous for you all to come back today, or do you need
17 more time than today. I mean --

18 MR. BROWN: Mr. Hood, and I understand your question.
19 I think we have the ability to do this today and I think for
20 everybody's peace of mind we should do it today. So deadlines
21 are helpful, and I think today is a good deadline.

22 MR. HOOD: Okay. Well, you all know it better than
23 we do. So, good.

24 MR. BROWN: Thank you. Thank you for giving us the
25 opportunity.

1 VICE CHAIRPERSON HILL: Sure. We'll call you back.

2 MR. BROWN: Okay.

3 MR. EDWARDS: Thank you.

4 VICE CHAIRPERSON HILL: So, Mr. Moy, just so I'm
5 clear, so that was a meeting case and so --

6 MR. MOY: That's correct, sir.

7 VICE CHAIRPERSON HILL: -- we're going to bring that
8 back later?

9 MR. MOY: Yes. We can do that.

10 VICE CHAIRPERSON HILL: Okay. Okay. We can bring it
11 back maybe at the same time that we're talking about the
12 appeal.

13 MR. MOY: That would be a start. That sounds like a
14 plan.

15 VICE CHAIRPERSON HILL: Okay. All right. So we're
16 good. We're done with all our meeting cases?

17 MR. MOY: Yes, sir.

18 VICE CHAIRPERSON HILL: Okay. You know, I just want
19 to take a three-minute break, if we could. And then so we'll
20 be back in -- well, let's do five minutes. We'll be back in
21 five minutes and then we'll start our hearing cases.

22 [Off the record from 10:10 a.m. until 10:15 a.m.]

23 VICE CHAIRPERSON HILL: Okay, ladies and gentlemen,
24 we're going to start again. So, Mr. Moy, we're going to start
25 our hearing cases. Is that correct?

1 MR. MOY: Yes, sir. If I could have two minutes of
2 the Board's time? I was just informed by staff, three letters
3 requesting postponement of cases that are on the docket today,
4 which arrived late last night, and I'd like to cite for the
5 record the rescheduled dates of those three cases if I may?

6 VICE CHAIRPERSON HILL: Sure, please.

7 MR. MOY: The first is Application No. 19172 of DGS,
8 asking for a postponement for good cause, and on your
9 scheduling docket, Mr. Chairman, I think staff would recommend
10 rescheduling to March the 8th, 2016.

11 The second case is Application No. 18895A, A as in
12 Alpha. Also for good cause, and allow them time to work with
13 the ANC 5D. So similarly I think we should allow time for them
14 to do that so that would put this date out to March the 15th,
15 2016.

16 And last is Application No. 19140 of Southwest Social
17 Scene, a request for -- to allow additional documentation to be
18 submitted by the applicant. And staff would suggest
19 rescheduling this application to -- I'd like to put this on the
20 end of February. That's the -- yeah, it's difficult because a
21 lot of the Board's dockets are very full already. But I think
22 for them let's -- for February 23rd, if I may, Mr. Chairman.

23 VICE CHAIRPERSON HILL: Okay. Thank you.

24 MR. MOY: Thank you.

25 VICE CHAIRPERSON HILL: All right. Well, what I

1 wanted to do was kind of go through the order in which we're
2 going to hear the cases, just for everyone's benefit here in
3 the audience. What I was going to do first was hear the appeal
4 of 19092, which was Patricia Schaub. But what you guys are now
5 discussing things so I'm going to push you to the end of the
6 day. And so also then that will let everyone else know that
7 it's going to be here. It's going to be the last case that's
8 heard.

9 The next one that -- and, Mr. Moy, please let me know
10 if this is kind of outside of the schedule that you also have
11 there. The next one was 19181, D.C. DGS. The next one would
12 be 18844A of Alexander Pitt. Next one would be 19162 of
13 William McGovern, followed by 19166 D.C. of DGS. 19171 of
14 Matcap, LLC. And then that one was postponed. Then we're
15 going to hear 19127 of 2088 Sherman, LLC. And that actually
16 would ring us back to the appeal, then.

17 MR. MOY: All right. Very good. So then next
18 parties to the table, to Application No. 19181, of D.C.
19 Department of General Services as captioned and advertised for
20 variance relief from the screening requirements under Section
21 2117.12, and special exceptions from the rooftop, structure
22 requirements under Section 411, and the retaining wall
23 requirements under Section 413, to renovate an existing public
24 elementary school in the R-1-B district at 5701 Broad Branch
25 Road Northwest, Square 2012, Lot 809.

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1 VICE CHAIRPERSON HILL: Okay. If you could just
2 please introduce yourself?

3 MS. BRANGMAN: Good morning. My name is Deisy
4 Brangman. I represent DGS, DC/PEP.

5 MR. DAVIDSON: Good morning, Graham Davidson with
6 Hartman Cox Architects.

7 MS. CHOI: Good morning, Eleanor Choi with Hartman
8 Cox Architects.

9 VICE CHAIRPERSON HILL: Okay. Good morning.

10 MS. CHOI: Good morning.

11 VICE CHAIRPERSON HILL: Yeah, after the first hearing
12 I guess there was an issue about the affidavit of posting, and
13 then now that is taken care of and is on the record. And I've
14 kind of gone through, you know, the case obviously with the
15 special exception to allow for the roof structures and the
16 enclosing walls of varying heights. Let's see, there was I see
17 that you know, OP has recommended approval. DDOT also has no
18 objection and the ANC has approval.

19 I, upon looking at this and reviewing it, even
20 before, but also even now after the affidavit of posting is now
21 on the record I feel as though this applicant is complete. I'd
22 like to hear, I guess, if my colleagues have any questions.
23 Then if it's okay that means that I think you've pretty much
24 met the standard and though I'd like to hear from OP if that's
25 okay with you guys. Otherwise, you know, you do have the right

1 to a full hearing.

2 MS. BRANGMAN: That's fine with us.

3 VICE CHAIRPERSON HILL: Okay. OP?

4 MS. FOTHERGILL: Good morning. For the record, I'm
5 Anne Fothergill with the Office of Planning and we rest on the
6 record in support of the application.

7 VICE CHAIRPERSON HILL: Okay. So do you have any
8 questions for OP? Anything to add?

9 MS. BRANGMAN: No, we don't.

10 VICE CHAIRPERSON HILL: Okay. Is there anyone here
11 in support of the application? Anyone here in support of the
12 application?

13 [No audible response.]

14 VICE CHAIRPERSON HILL: Is there anyone here in
15 opposition of the application? Anyone here in opposition?

16 [No audible response.]

17 VICE CHAIRPERSON HILL: Okay. Well, that being the
18 case then, I don't see anyone here in opposition or support. I
19 would move to grant the -- pursuant to 11 DCMR 3103.2 and
20 3104.4 for a variance from the screening requirements under
21 2117.12 and special exception from the rooftop structure
22 elements under 411, and the retaining wall requirements under
23 413 to renovate an existing public library school in the R-1-B
24 district at premises 5701 Broad Branch Road Northwest, Square
25 2012, Lot 809.

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1 MR. HINKLE: I'll second.

2 VICE CHAIRPERSON HILL: Motion has been made and
3 seconded.

4 [Vote taken.]

5 VICE CHAIRPERSON HILL: Motion passes. Mr. Moy.

6 MR. MOY: Staff would record the vote as three to
7 zero. Three to zero to two. This is on the motion of Chair
8 Hill to approve the application for the relief requested and I
9 believe the plans are shown on Exhibit 6. Seconding the motion
10 is Mr. Hinkle. Also in support, Mr. Hood, a member not present
11 today, board seat vacant. Motion carries, sir.

12 VICE CHAIRPERSON HILL: Okay. Great. Thank you.

13 MS. BRANGMAN: Great. Thank you very much.

14 VICE CHAIRPERSON HILL: Thank you.

15 MR. MOY: Do you wish to waive the requirements for a
16 summary order or not?

17 VICE CHAIRPERSON HILL: Yes. Yes, I would like to,
18 thank you.

19 MR. MOY: The next case parties to the table to
20 Applicant No. 18844A of Alexander Pitt. And as advertised and
21 captioned for special exception relief under Section 223, not
22 meeting the lot occupancy requirements under Section 403, open
23 court requirements under Section 406, this is for a third floor
24 addition to an existing one-family dwelling in a DC/R-5-B
25 district at 2131 N Street Northwest, Square 69, Lot 181.

1 VICE CHAIRPERSON HILL: Good morning.

2 MR. GREIGG: Good morning.

3 VICE CHAIRPERSON HILL: Could you please introduce
4 yourself?

5 MS. QIANG: Good morning. My name is Christine Qiang
6 and I'm one of the owners of the house.

7 MR. GREIGG: Michael Greigg, Soe Lin and Associates
8 Architects.

9 MR. PITT: Alex Pitt, the other owner of the house.

10 VICE CHAIRPERSON HILL: Okay. So let's see. This is
11 again for special exception relief to allow a roof deck of the
12 existing second floor and extension of the third floor. I do
13 have a letter and this is Case -- yeah. I do have a letter in
14 opposition from a Gregg Ross. Is Greg Ross here? No? Okay.

15 OP suggested including relief under 2001.3. Are you
16 aware of that?

17 MR. GREIGG: Yes. I'm sorry, yes, and we've already
18 filed paperwork for that.

19 VICE CHAIRPERSON HILL: Okay. All right. I again
20 would like to hear from my colleagues, but do you have any
21 questions for the applicant?

22 MR. HINKLE: No.

23 VICE CHAIRPERSON HILL: So again I view this
24 application to be complete and I see as though you've been able
25 to meet the special exception standard, and so I'd kind of like

1 to hear from OP at this time if that's okay with you? Okay.
2 Office of Planning.

3 MR. MORDFIN: Good morning, Chair and Members of the
4 Board. I'm Stephen Mordfin, and the Office of Planning
5 continues to recommend approval of this application and stands
6 on the record. Thank you.

7 VICE CHAIRPERSON HILL: Okay. Thank you. Do you
8 have any questions for Office of Planning?

9 MR. GREIGG: No.

10 VICE CHAIRPERSON HILL: No? Okay. Do you have
11 anything else to add?

12 MR. GREIGG: No.

13 VICE CHAIRPERSON HILL: All right. So I'd just like
14 to ask, is there anyone here in support of the application?
15 Anyone here in support of the application?

16 [No audible response.]

17 VICE CHAIRPERSON HILL: Anyone here in opposition of
18 the application?

19 [No audible response.]

20 VICE CHAIRPERSON HILL: Is there anyone here from the
21 ANC? Okay. I see that the ANC did support the application
22 with a vote of seven to zero. So again, after reviewing the
23 record I'm comfortable with making a motion to approve the
24 application.

25 MR. HOOD: Before you do it can I ask a question of

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1 the applicant right quick?

2 VICE CHAIRPERSON HILL: Of course.

3 MR. HOOD: This letter, as the chairman mentioned, of
4 Mr. Gregg Ross, did you all speak with Mr. Ross who lives to
5 your west? Have you had conversations with him?

6 MR. PITT: We had conversations on an earlier
7 application, which we withdrew then. But on this one, not,
8 because on the application he was very uncooperative and he was
9 not -- he didn't show any appreciation of the situation in
10 which we had.

11 MR. HOOD: Okay.

12 MR. PITT: And he was adamant against anything --

13 MR. HOOD: Anything. Okay. All right.

14 MR. PITT: -- for us to do.

15 MR. HOOD: Thank you. Thank you, Mr. Chair.

16 VICE CHAIRPERSON HILL: Mr. Hinkle, any questions?
17 Okay.

18 So that being said, then, I again will make a motion
19 to approve the applicant of 18844A, pursuant to 11 DCMR 3104.1
20 for a special exception under 223, not meeting the lot
21 occupancy requirements under 403, and the open court
22 requirements under 406 to construct a third floor addition to
23 an existing one-family dwelling in the DCR 5-8 district at
24 premises 2131 North N Street Northwest, Square 69, Lot 181.

25 MR. HOOD: Second.

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1 VICE CHAIRPERSON HILL: The motion has been made and
2 seconded.

3 [Vote taken.]

4 MR. HINKLE: Did that include the additional relief?
5 I'm sorry. I just had it in front of me. 2001.3?

6 VICE CHAIRPERSON HILL: I'm sorry, I didn't read
7 that. Yes, it would apply to also 2001.3.

8 MR. HINKLE: Okay. Thank you.

9 VICE CHAIRPERSON HILL: Thank you.

10 [Vote taken.]

11 VICE CHAIRPERSON HILL: Motion has been made and
12 seconded -- I'm sorry, motion is passed. Mr. Moy.

13 MR. MOY: Staff would record the vote as three to
14 zero to two. This is on the motion of Chair Hill to approve
15 the application for the relief requested, including the
16 amendment for the 2001.3 nonconforming structure provisions.
17 And I note in the record that it's a revised self-certification
18 to that effect under Exhibit 26. Seconded the motion, Mr.
19 Hood. Also in support, Mr. Hinkle. Board member not present
20 today and a board seat vacant. Motion carries, sir.

21 VICE CHAIRPERSON HILL: Thank you. Thank you.

22 MR. GREIGG: Thank you.

23 MR. PITT: Thank you.

24 MS. QIANG: Thank you.

25 MR. MOY: Is there a wish to waive the requirements

1 for a summary order?

2 VICE CHAIRPERSON HILL: Yes, please.

3 MR. MOY: Thank you. Parties to the table to
4 Application No. 19162 of William McGovern as captioned and
5 advertised for special exception relief under Section --
6 special exception 223, not meeting the nonconforming structure
7 requirements under 2001.3. This is to construct an additional
8 floor with roof deck to an existing one-family dwelling in an
9 R-4 district. 3901 Illinois Avenue Northwest, Square 3314, Lot
10 26. And let's see. Just note for the record, Mr. Chairman,
11 there were filings submitted this past Friday, which included
12 revised self-certification form, as well as a letter of
13 authorization. I believe an affidavit of posting under Exhibit
14 27.

15 VICE CHAIRPERSON HILL: Okay. Thank you, Mr. Moy.
16 So the applicant is not here today? Okay.

17 MR. MOY: Okay. Well, I guess we could put them to
18 the back of the docket in case they're late.

19 VICE CHAIRPERSON HILL: Yeah, let's go ahead and push
20 that. We'll see that -- we'll do that after the -- maybe we'll
21 try that just before the appeal again and see.

22 MR. MOY: Okay. In that case, Mr. Chairman, parties
23 to Application 19166 of D.C. Department of General Services.
24 Captioned and advertised for a special exception relief from
25 the new rooftop mechanical equipment requirements under Section

1 411.11, as per 411.6 to allow the installation of a new rooftop
2 mechanical equipment to an existing school building R-1-B
3 district, 4601 Texas Avenue Southeast, Square 5351, Lot 878.

4 VICE CHAIRPERSON HILL: Thank you, Mr. Moy. Good
5 morning.

6 MR. AUSTIN: Good morning.

7 VICE CHAIRPERSON HILL: Could you please introduce
8 yourself?

9 MR. AUSTIN: Good morning. I am Alan Austin
10 representing DGS.

11 MS. CHUNG: Rachael Chung representing DLR Group Sorg
12 Architects.

13 VICE CHAIRPERSON HILL: Okay, great. So again, this
14 is special exception to allow installation of a new rooftop
15 mechanical equipment to an existing school building in the R-2
16 zone.

17 Looking over the record I didn't see anything of a
18 report from the ANC. Can you tell me a little bit more about
19 that or do you have -- have you spoken to the ANC?

20 MR. AUSTIN: No, we haven't spoken with the ANC.

21 VICE CHAIRPERSON HILL: Is there a reason why you
22 haven't spoken with the ANC?

23 MR. AUSTIN: The --

24 [Pause.]

25 MR. AUSTIN: It was an oversight.

1 VICE CHAIRPERSON HILL: Okay. Because I don't have a
2 report on file with the ANC. I don't know if the ANC has been
3 notified, I don't know what their position is. So you
4 clarified the self-certification in terms of 411.11? Like,
5 that has been clarified, I believe.

6 MR. HOOD: Mr. Chairman, I'm concerned when he said
7 that that's an oversight. But I know that Mr. -- if I could
8 ask Mr. Moy?

9 VICE CHAIRPERSON HILL: Please. Please do.

10 MR. HOOD: Mr. Moy, this office does send something
11 to the ANC, correct?

12 MR. MOY: Yes, sir. We send referral letters to all
13 the ANCs. And --

14 MR. HOOD: And that's in our file that we sent it to
15 them?

16 MR. MOY: It's in our -- we sent it to them as well
17 as a copy of that letter and the record file as well. I'll
18 double-check now, just to be sure.

19 MR. HOOD: Yeah. The good neighbor policy is always
20 to go meet with the ANC, and to say it's an oversight gives me
21 a lot of pause. I really think it's straightforward. It could
22 be a case -- well, since we notified them, Mr. Chairman, that
23 they just didn't see a need to respond. But I think typically
24 applicants go out and meet with the grass root elected
25 officials. Is it that you didn't know or it's just an

1 oversight. You said it was an oversight. I don't understand
2 what an oversight. Is it just, you didn't know the process or
3 you just forgot? Or, what does that mean?

4 MR. AUSTIN: No, I was not aware that the project
5 manager was to speak to the ANC because the letter said that
6 BZA sent them information.

7 MR. HOOD: But even though this is a -- dealing with
8 the rooftop structures, I think you still go out and because
9 they're who it impacts. They're going to be the ones looking
10 at it, and explain to the grass root elected official who
11 represents their community. And I think that's important for
12 me, Mr. Chairman. I'm not sure how to -- I would suggest we
13 move forward, but I think that that need to be done. And I
14 hate to do this on a case that I think is pretty
15 straightforward. But there should be some type of presentation
16 to that ANC.

17 Now I don't -- I'm not familiar with this ANC, and we
18 do have some ANCs that don't operate well. So, you know, I'm
19 not going to cast stone on this one because I don't know
20 anything about this ANC. But I just think that they are due
21 that due courtesy. And by law I think that should be -- that's
22 part of the requirement.

23 MR. AUSTIN: Right. DGS commits -- or conducts the
24 SITCA meeting, the School Improvement Team, in which the ANC is
25 a part of, but it was before this previous administration so

1 I'm not sure if the current members are aware.

2 VICE CHAIRPERSON HILL: Okay. Is there anyone from
3 the ANC here?

4 [No audible response.]

5 VICE CHAIRPERSON HILL: Okay. If this got pushed
6 back would it interrupt the process in which you are right now
7 in terms of construction or -- where are you with that?

8 MR. AUSTIN: We are trying to get the building permit
9 but the construction process is complete.

10 [Discussion off the record.]

11 VICE CHAIRPERSON HILL: Okay. Does OP know anything
12 about the ANC, or OP, do you have anything to say to this,
13 please?

14 MS. VITALE: As indicated there was not an ANC report
15 in the record. I do know they were notified by the Office of
16 Zoning. The Office of Planning recommends approval of the
17 requested relief and rests on the record. Thank you.

18 VICE CHAIRPERSON HILL: Okay. Okay. All right.
19 Well, I did review the record and was -- other than that
20 question that I had, thought that it was complete. After
21 hearing that OP is continuing to be in support and asking if
22 anyone from ANC was actually -- from the ANC was actually here
23 today and they are not, I would go ahead and feel comfortable
24 that the standard has been met and to move forward and make a
25 motion pursuant to 11 DCMR 3104.1 for a special exception.

1 MS. GLAZER: Mr. Chair.

2 VICE CHAIRPERSON HILL: Yes.

3 MS. GLAZER: I'm so sorry to interrupt.

4 VICE CHAIRPERSON HILL: Sure.

5 MS. GLAZER: I just wanted to make sure that the -- a
6 couple of additional subsections were included in the motion.
7 There was a discrepancy between the applicant's citation to
8 sections, and OP's. And OP mentioned 411.6 and 411.18. So the
9 Board, I think, needs to clarify exactly what relief is being
10 sought.

11 VICE CHAIRPERSON HILL: Does the applicant know which
12 one of those they are seeking relief from?

13 MS. CHUNG: It's 411.11 and 411.6.

14 VICE CHAIRPERSON HILL: Okay. Then I make a motion
15 again for as I was beginning to, pursuant to 11 DCMR 3104.1 for
16 a special exception from the new rooftop mechanical equipment
17 requirements under 411.11, as per 411.6, to allow the
18 installation of new rooftop mechanical equipment to an existing
19 school building in the R-1-B district at premises 4601 Texas
20 Avenue Southeast, Square 5351, Lot 878. And I'm going to
21 include 411.18 to the order.

22 The motion has been made.

23 MR. HOOD: I'll second it.

24 VICE CHAIRPERSON HILL: Motion has been made and
25 seconded.

1 [Vote taken.]

2 VICE CHAIRPERSON HILL: Mr. Moy, the motion passes.

3 MR. MOY: Yes, sir. Staff would record the vote as
4 three to zero to two. This is on the motion of Chair Hill to
5 approve the amended relief as he has cited, 411.11, 411.6,
6 411.18. Seconded the motion, Mr. Hood. Also in support, Mr.
7 Hinkle. Board member not present. Board seat vacant. Motion
8 carries, sir.

9 VICE CHAIRPERSON HILL: Thank you. Summary.

10 MR. MOY: Thank you.

11 MR. HOOD: Chairman.

12 MR. MOY: Please?

13 MR. HOOD: Next time for this applicant, or whoever,
14 if you can make sure you reach out to the ANC because I'm sure
15 you're going to be doing other work in other parts of this
16 city. So that's important. Okay. Thank you.

17 VICE CHAIRPERSON HILL: Thank you.

18 MR. MOY: The next application before the Board,
19 parties to the table to Application No. 19171 of Matcap, LLC.
20 And I believe the current revised relief as requested is --
21 unless I'm told otherwise, is a request for variances from the
22 lot occupancy requirements under 403.2, rear yard under 404.1,
23 court width requirements under Section 406.1, alley lot garage
24 setback requirements under Section 2300.4, and the record lot
25 requirements under Section 3202.3. This is for a two-story

1 garage house with ground floor private garage -- with ground
2 floor private garage and upper floor accessory storage in the
3 R-5-B district. This is at the rear of 12 Logan Circle
4 Northwest, Square 241, Lot 837.

5 VICE CHAIRPERSON HILL: Thank you, Mr. Moy. Good
6 morning. Would you please introduce yourself?

7 MS. RODDY: Good morning. My name is Christine Roddy
8 and I'm the attorney with Goulston and Storrs representing the
9 property owner.

10 MR. BEIDLER: I'm Michael Beidler. We're the
11 architects for the project with Trout Design Studio.

12 MR. SCORE: Mat Score, the owner.

13 VICE CHAIRPERSON HILL: Okay. I again, upon
14 reviewing the application, I felt as though it was complete and
15 met the standards. I mean, it would be -- if my colleagues
16 have any questions to this. I thought that the lot was a very
17 small lot. It's really, you know, quite amazing what you guys
18 are able to do with it. I thought that, you know, it did meet
19 the, as I said, the standards for relief and that OP has
20 approved, as has DDOT and the ANC was in support of it seven to
21 zero.

22 However, do my colleagues have any questions?

23 [No audible response.]

24 VICE CHAIRPERSON HILL: So we seem to think that the
25 application is complete at this point. I would go ahead and

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1 turn to OP unless you have anything you'd like to present upon.

2 MS. RODDY: No, we're happy to rest on the record.

3 Thank you.

4 VICE CHAIRPERSON HILL: Okay. May I turn to OP?

5 MR. JESICK: Thank you, Mr. Chairman and Members of
6 the Board. My name is Matt Jesick. The Office of Planning
7 rests on the record in support of the application. I'd be
8 happy to take any questions. Thank you.

9 VICE CHAIRPERSON HILL: Okay. Thank you, sir. It
10 looks as though there's an expert witness indicated by the
11 applicant, Michael Lee -- oh, Michael Lee Bender. And so, he's
12 not in the expert book. Mr. Moy, do I need to do anything
13 about that or do we need to do anything about that?

14 MR. MOY: Typically, Mr. Chairman, if the applicant
15 requests expert status, the Board should address that either by
16 vote or by consensus. I believe his resume is in the record
17 for review.

18 VICE CHAIRPERSON HILL: It's at which Exhibit, do you
19 know, off the top of your head? Or can the applicant withdraw
20 that request?

21 MR. MOY: It's under Exhibit 25C.

22 VICE CHAIRPERSON HILL: Is the applicant still
23 proffering that?

24 MS. RODDY: We would still proffer him as an expert
25 since he prepared the plans that were submitted into the

1 record.

2 VICE CHAIRPERSON HILL: Okay.

3 MR. MOY: It's in your case folders, Mr. Chairman,
4 Mr. Hood, under Exhibit 25C, Tab C. Yeah. Yeah, it's there.

5 VICE CHAIRPERSON HILL: Mr. Beidler. Beidler, is
6 that how you pronounce it?

7 MR. BEIDLER: Beidler.

8 VICE CHAIRPERSON HILL: Beidler. Mr. Beidler, would
9 you like to tell us about yourself?

10 MR. BEIDLER: Sure. I, let's see, I've been an
11 architect here in D.C. for the last working with various firms
12 for the last 35 years. Graduated from Virginia Polytech
13 Institute VPI back in 1982. I worked in the Historic
14 Preservation Office for several years. I've done a lot of --

15 VICE CHAIRPERSON HILL: How long were you at HPRP?

16 MR. BEIDLER: I was HPO for -- that's all right.

17 VICE CHAIRPERSON HILL: Sorry, HPO.

18 MR. BEIDLER: For about two and a half years. Yeah,
19 and I've been accepted here and given testimony before this
20 Board several times in the past, as well as HPRB, and --

21 MR. HOOD: So you've already been proffered --
22 accepted by this Board as an expert?

23 MR. BEIDLER: Yes, I believe so.

24 MR. HOOD: Okay. So we don't, typically, Mr.

25 Chairman, I don't think we revisit that so we just need to make

1 sure his name gets in the book, his testimony, because he's
2 already been proffered previously. They have a book they --

3 VICE CHAIRPERSON HILL: Well, now Mr. Moy is going to
4 look in the book.

5 MR. BEIDLER: Should I continue or do you want me to
6 wait?

7 VICE CHAIRPERSON HILL: No, please, go ahead and
8 continue because he's going to look in the book.

9 MR. BEIDLER: I've presented for this Board, not you
10 members necessarily, but certainly Mr. Hood, when you were
11 Chair before the HPRB, many, many, many times --

12 MR. HOOD: I'm not Chair of this Board.

13 MR. BEIDLER: -- OGB.

14 MR. HOOD: I've never been Chair of this Board. You
15 mean the Zoning Commission.

16 MR. BEIDLER: Zoning Commission, sorry.

17 MR. HOOD: Oh, well, that's all that matters. So
18 we'll give him --

19 MR. MOY: Mr. Chairman, I --

20 VICE CHAIRPERSON HILL: Go ahead, Mr. Moy. Thank
21 you, sir.

22 MR. MOY: I don't see it offhand, but there's no harm
23 reaffirming his expert status.

24 VICE CHAIRPERSON HILL: Okay. I will submit that
25 you're an expert in the field. Is that something that one --

1 MR. HOOD: No objection, yeah.

2 VICE CHAIRPERSON HILL: No objection.

3 MR. HOOD: You can do it.

4 VICE CHAIRPERSON HILL: No objections. All right.
5 Congratulations, you're an expert in your field.

6 MR. BEIDLER: Thank you very much.

7 VICE CHAIRPERSON HILL: You can take that home
8 tonight and share that with your family.

9 MR. HOOD: And sorry I didn't remember. My memory is
10 getting bad. I had a rough night.

11 VICE CHAIRPERSON HILL: All right. So that being the
12 case again, is there anyone here from the ANC? Anyone here
13 from the ANC? No. All right.

14 So then as I stated, OP is in approval, DDOT has no
15 objection and the ANC actually voted seven zero in support of
16 the application. And again, I forgot to tell you, it's the
17 small little -- it's a really small lot. You know, but I like
18 the design. It's nice for what you were able to do with the
19 area there.

20 So I would go ahead and make a motion for Application
21 No. 19171 of Matcap, LLC., pursuant to 11 DCMR -- DCMR 3103.2
22 for variances from the lot occupancy required under 403.2, the
23 rear yard requirements under 404.1, the court width
24 requirements under 406.1, the alley lot garage setback
25 requirements under 2300.4, and the record lot requirements

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1 under 3202.3 to construct a two-story carriage house with
2 ground floor private garage and upper floor accessory storage
3 in the R-5-B district at premises rear of 12 Logan Circle
4 Northwest, Square 241, Lot 837.

5 MR. HINKLE: I'll second.

6 VICE CHAIRPERSON HILL: Motion has been made and
7 seconded.

8 [Vote taken.]

9 VICE CHAIRPERSON HILL: Mr. Moy, the motion passes.

10 MR. MOY: Yes, thank you, sir. The staff would
11 record the vote as three to zero to two. This is on the motion
12 of Chairman Hood to approve the amended relief, which included
13 the open court relief, and this is as shown on plans under
14 Exhibit 25A. Second the motion, Mr. Hinkle, also support Mr.
15 Hood. Board member not present, board seat vacant. Motion
16 carries, sir.

17 VICE CHAIRPERSON HILL: And Mr. Moy, you mentioned
18 that I made -- I made the motion. You said Mr. Hood, so.

19 MR. MOY: Oh, I did?

20 VICE CHAIRPERSON HILL: Yeah.

21 MR. MOY: I was thinking you, sir.

22 VICE CHAIRPERSON HILL: Sure.

23 MR. MOY: Thank you for the correction.

24 VICE CHAIRPERSON HILL: We look alike, I know.

25 MR. HOOD: The motion sounded so good I was just

1 going to take credit for it.

2 VICE CHAIRPERSON HILL: Right. Right. Summary
3 order.

4 MR. MOY: Thank you.

5 VICE CHAIRPERSON HILL: Thank you. Thank you all
6 very much.

7 [Discussion off the record.]

8 MR. MOY: The next case before the Board is
9 Application No. 19127 of 2800 Sherman, LLC. If the parties can
10 come to the table? As advertised and captioned, seeking relief
11 for variances from the lot area requirements under 401.3, lot
12 occupancy requirements under 403.2, rear yard under 404.1,
13 limitation on compact parking space requirements under 2115.2,
14 and special exception from the lot width requirements under
15 Section 2604.3, and accessory parking space location
16 requirements under Section 2116.5 to construct 10 flats in the
17 R-4 district at 2800 Sherman Avenue Northwest, Square 2857, Lot
18 818. I believe the applicant did remove special exception
19 relief from 400.23 as to height. But I'll stand corrected by
20 the applicant on that. And revised plans are shown on Exhibit
21 39A.

22 VICE CHAIRPERSON HILL: Good morning. Could you
23 please introduce yourselves?

24 MS. BLOOMFIELD: Good morning. My name is Jessica
25 Bloomfield from Holland and Knight.

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1 MR. COLLINS: Christopher Collins from Holland and
2 Knight.

3 MR. ZARETS: Good morning, Jerry Zarets, Capital City
4 Real Estate.

5 MR. BAGNOLI: And I'm David Bagnoli with McGraw
6 Bagnoli Architects.

7 VICE CHAIRPERSON HILL: Okay. All right. This is a
8 continuation from December 8th. And the issues that we asked
9 about -- wait, wait. Do I have the right one here? Yeah,
10 this --

11 [Pause.]

12 VICE CHAIRPERSON HILL: Oh, yeah. There we go.
13 Okay. Okay. There was a few things to this application in
14 terms of, you know, that OP is still not in support. And then
15 also there was some opposition from the neighbors. I guess if
16 you could address some of those things, and then I guess you
17 changed the plans it looks like, in terms of like lowering --
18 well, first just real quick. Are you no longer looking for
19 height relief from 400.23?

20 MR. COLLINS: Mr. Chair, that was withdrawn last
21 time. What happened there was that when the Zoning Commission
22 adopted the new R-4 regulations there was a discrepancy in the
23 language about the permitted height of continuous set of row
24 dwellings. Row dwelling is defined as a single-family
25 dwelling, and these are flats, continuous row of flats.

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1 That language was corrected by the Zoning Commission
2 at the request of Office of Planning, a technical correction,
3 after we filed the application. So that has been off the table
4 since the last hearing.

5 VICE CHAIRPERSON HILL: Okay. And were you able to
6 speak to the neighbors that were in opposition?

7 MR. COLLINS: Yes, we have. If I can just go through
8 the presentation I think that we did submit, on the 26th of
9 January, a very comprehensive response to the issues raised at
10 the last hearing. Several of the board members used the
11 phrase, you're not quite there yet, on our proposal.
12 Specifically, the two issues, density of development and the
13 alley access, and the easement issues that were raised by our
14 neighbors. And we have responses today for both and we'd like
15 to go through them in order.

16 But also, as a housekeeping measure, I'd like to
17 request that the record be reopened to allow us to file some
18 plans that are a response to OP's supplemental report. And I
19 think that you'll find that they're very illustrative and it
20 will help you to understand our position as to where we are.

21 And then secondly we reference in our January 26th
22 submission that we would be getting a report from the title
23 company. With the snow day we were not able to get it in time
24 for the Tuesday filing, and so we've gotten that response now.

25 It just bolsters what our conclusions are in that January

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1 26th --

2 MR. HOOD: Mr. Chairman, if I can interrupt?

3 VICE CHAIRPERSON HILL: Sure.

4 MR. HOOD: We just had a request to accept these new
5 plans into the record. Is that what you did?

6 MR. COLLINS: Yes, these are illustrative plans --

7 MR. HOOD: You just -- okay.

8 MR. COLLINS: -- to reduce --

9 MR. HOOD: These are new plans. Has the Office of
10 Planning seen these already?

11 MR. GYOR: Good morning, Mr. Chairman. I have not
12 seen those yet. They were just submitted today or --

13 MR. COLLINS: These, we've reduced in the January
14 26th, we've reduced it to 10 units. This shows the methodology
15 of how we got there. That's all. They're not new plans for
16 development. They're just illustrative plans that help us and
17 you to understand -- help you and understand our explanation.

18 MR. HOOD: There's no change in the application.

19 MR. COLLINS: No.

20 MR. HOOD: These -- okay.

21 MR. COLLINS: No. No change from our January 26th
22 submission.

23 VICE CHAIRPERSON HILL: Okay.

24 MR. COLLINS: Is my point. These are just
25 illustrative drawings to show how we got there.

1 VICE CHAIRPERSON HILL: You said 10? You said 10? I
2 thought it was at 11 that you came --

3 MR. COLLINS: It was originally 11.

4 VICE CHAIRPERSON HILL: Okay.

5 MR. COLLINS: We revised it in our January 26th
6 submission down to 10.

7 So thank you. On the density we did study and study
8 and have come up with the revised plan, as we've shown in our
9 submission, for 10 lots, which is 20 units, instead of 11 lots
10 which is 22 units. The density of the project has been
11 reduced. This is at the request of the Board that we relook at
12 this, especially the Chair's request that we relook at this and
13 look at possibility of eliminating one lot.

14 We've done that. The density is down. The degree of
15 relief is down. One variance has been eliminated. That's the
16 variance of lot width. But cause of the unusual shape and
17 dimensions of the site, we still need zoning relief from this
18 board.

19 We did review the OP supplemental report and we think
20 that that's a -- it's a good analysis and it's a good jumping
21 off point from which we can start our discussion today. OP did
22 say in their report, they cannot support the lot area variance.

23 But if the Board accepts the lot area then OP does not oppose
24 the remaining areas of relief.

25 So we looked at a plan that does not need lot area

1 relief. And Mr. Bagnoli will discuss the architectural aspects
2 of that plan, which is shown in the drawings that we showed you
3 -- sent you today. And then Mr. Zarets will discuss, from the
4 owner's perspective, those.

5 And then after we finish that we will then discuss
6 the alley access and the easement issues raised by our
7 neighbors, and we do have what we believe is a good response to
8 that as well. So I'd like to take those in order.

9 So first, if we can just discuss, Mr. Bagnoli, what
10 the 10 lot plan?

11 MR. BAGNOLI: Sure. Good morning. It's a pleasure
12 to be back here this after -- or this morning. I'm going to
13 just quickly go through where we were and some of the
14 adjustments that we made. I'm showing here a survey of the lot
15 and just for orientation, I think, some of the numbers. I
16 don't want to burden you with too much math. But the lowest
17 level line, property line, is 155 feet. The kind of tail
18 that's the flag lot there is 35 feet, leaving a differential of
19 about 120 feet on the top part of the L. And then we have a
20 75-foot frontage along Sherman Avenue, which is important.

21 As we go to the previous plan, this is what we had
22 shown you back in December. We had five units facing Sherman
23 Avenue, and we had six facing south toward Gerrard Avenue. We
24 led you through a series of contextual diagrams and studies
25 that we had done about the context and character of the

1 neighborhood, and I think per your all's recommendation and
2 OP's insights we have come back and revised our scheme. And
3 I'll get to that in a moment but I want to just highlight some
4 of the things that were cited as important to the design and
5 things that I think you all and OP had seen favorably. One of
6 which is the gap, which you can see here between Unit F and
7 Unit G, which was about 16 feet when we submitted last
8 December. And I think that was cited as a nice contextual
9 response to what's happening across the street to the south of
10 Gerrard, and to the broader context of Gerrard Street, both
11 east and west.

12 The continuity of the facades along the south face of
13 the lot there, that 155-foot length, has six units of 16 feet
14 wide, along Gerrard. And we had five units of 15 -- 16 -- I'm
15 sorry, 15 feet along Sherman Avenue.

16 Our recent plan, which you have in front of you, we
17 have revised that to four units along Sherman. But in response
18 to some of the considerations that OP had asked us to take, we
19 thought it would be important to take a look at what compliance
20 with the lot area might look like on the site. And so this
21 illustrative diagram, which we've just submitted, is showing in
22 fact, 1,500 square foot lots as would be allowed by zoning.

23 So here what you see are four units along the 75-foot
24 frontage on Sherman Avenue. And those have a fairly deep depth
25 to the lot. It's approximately 80 feet deep. We have a gap

1 now along Gerrard Avenue of almost 46 feet. Now we haven't
2 maxed out our lot occupancy on those and the reason for that is
3 that the economics don't support units of that size. So we've
4 held the unit size consistent to where we were before, which
5 gives us a 46-foot gap along Gerrard Avenue.

6 As you move west from the rear of those four lots,
7 you see we're only allowed -- or we're only able to fit four
8 additional lots at the 1,500 square foot lot area. And so
9 units A and B are 16 feet wide, and then Units C and D are 20
10 feet wide. We think this is not in keeping with the
11 recommendation -- or the recognition that received back in
12 December about what was nice about the previous design, which
13 the ANC had also weighed in.

14 And so you start to ask, well, how could you make
15 this more palatable for the recognition that we received in
16 terms of how those units had been laid out. And so here we've
17 shown an additional two units along the south. These are four
18 20 foot units, which of course cuts the gap on the Sherman lots
19 to six feet, which we don't think is acceptable and really
20 isn't in character with the neighborhood.

21 So the next thing that we looked at is the plan that
22 you have in front of you, which is to get a consistent width
23 and the right sized units along both Sherman and Gerrard, so we
24 went back to a gap of 16 feet here, and we have units of
25 approximately 40 feet deep. The reason we like that 40-foot

1 depth, unlike the 20 foot units that you saw on the previous
2 slide here, is that those units become very difficult from an
3 interior layout to do a two over two type of unit. We've done
4 a lot of these around town, and we'd like to do those in about
5 a 40-foot depth, which you see the two 16 footers on the far
6 left of the slide allow for. But when you start to take almost
7 10 feet out of that it gets very complex to try to lay out a
8 marketable unit within those shallower lots.

9 And so based on the economics of the development, as
10 well as the context of Gerrard Avenue -- or Gerrard Street, I'm
11 sorry, and Sherman Avenue, we feel like the plan that we've
12 submitted here, which is in fact what you had from our
13 submission on Tuesday, last Tuesday, is 10 units, 10 lots, 22
14 units, and all the variances and relief that we had asked for
15 previously.

16 I think that's it. Yeah. You want me to go forward,
17 Mr. Zarets.

18 MR. ZARETS: Thank you. David, if you can go back to
19 the layout, please?

20 Ladies and gentlemen, so if you recall last time when
21 we were here I spoke extensively during the last hearing on
22 architectural context and how we came about to the original
23 design when we walked the project, walked the neighborhood, and
24 how we created this ultimate concept.

25 David, if you can, can you go to the 3D rendering

1 that is showing on Gerrard Street? It's page -- slide 16, also
2 demarked page number 9 at the bottom of the submission set.
3 It's in red, if we can reference that? There you go.

4 So we talked about the buildings, the building's
5 articulation. And by that what we were referring to was the
6 building frontage design elements. These elements help create
7 streetscape of interest. And the appropriate scale of the
8 building and its articulation is a function of the building
9 size, as well as the adjacent public space. So by that we're
10 talking about the sidewalk along Gerrard Street.

11 So if you look at the gap or the rear yard between
12 the red building, if you could identify that with the mouse,
13 that's what we were referring to is that appropriate
14 architectural context. It's that articulation. It's in
15 essence when you're walking down the street and you're looking
16 at the buildings, it's how they speak to you. They form a
17 sense of place. It just fits in architecturally.

18 So when you do buildings, when you design buildings
19 and you construct buildings in these small neighborhoods, they
20 must have a sense of purpose. They must fit in. So with that
21 what we're attempting to do is, you can see that tan colored
22 unit. That's that last end unit and that rear yard that we've
23 added to create that consistency. It's architecturally fits
24 with the community. And when urban planning is done well, it
25 just makes sense and people want to live in those

1 neighborhoods.

2 From the last meeting OP actually went on the record
3 and Mr. Gyor, if I may quote, said, I think from an urban
4 design perspective, I think the applicant is right. You do
5 want to maintain that sense of wall if possible. And we have
6 done that. That's what we have maintained.

7 The second thing is, I'd like to talk about is the
8 square footages of the units. And, David, if you can go to
9 slide 14 also demarked in red, page 10? Sorry. It's the
10 previous one with the square footages. There you go. If you
11 can zoom in on that, that would be great. If we can just zoom
12 in on one of the row houses.

13 VICE CHAIRPERSON HILL: Is all this in the record
14 somewhere?

15 MR. BAGNOLI: Yes, this is what was submitted.

16 VICE CHAIRPERSON HILL: Okay.

17 MR. ZARETS: Any one of the row houses will do. I
18 just wanted to touch base on what Mr. Bagnoli mentioned in
19 terms of square footages.

20 So when we did the initial market study we looked at
21 what is viable, what is logical in these -- in this
22 neighborhood. And we've come to the conclusion that row houses
23 in the 2,600 to 3,000 square foot is what's contextually
24 appropriate. And that's what we've done is we've created
25 something that is both marketable and lays out well. So we

1 feel what was designed here is architecturally and market
2 appropriate.

3 So, in the end there are two things that are
4 essentially of the most paramount, is the consistency in the
5 neighborhood look and feel. And two, is to produce a unit that
6 is both favorable from a layout perspective and is accepted
7 with the neighborhood.

8 I'd like to now turn to Chris Collins to address the
9 other items that were brought up during the last hearing.
10 Thank you.

11 MR. COLLINS: Thank you. With regard to the easement
12 and the access, at the last hearing there were statements made
13 about those issues and access to the public alley and an
14 easement across, excuse me, the applicant's property. We took
15 those statements seriously. We thought that we had gotten all
16 the information previously, so we relooked at everything. We
17 investigated the files in the D.C. surveyor's office. We
18 investigated the files at the Office of Tax and Revenue. We
19 also, after receiving the neighbor's filing last week, we also
20 requested that our own title company take another look at this.

21 And so, and that neighbor's filing is specifically
22 Exhibit 40A-1, and they've also filed 40A-2. But I want to
23 address 40A-1.

24 Our January 26th, submission is Exhibit 39. And
25 Exhibit 39A is the plans, and sheet 3 of those plans shows the

1 existing garage, which precludes access to -- from the
2 properties along Sherman Avenue to the alley. It just, there's
3 the garage spans the entire length of that north/south portion
4 of the property and precludes access to the alley. It's been
5 there quite some time. It physically blocks -- it's a physical
6 blockade on lot 818, between the Jackson and Donaldson
7 properties on the one side in the alley and on the other side.

8 39C shows the public alley behind the Donaldson
9 property, when that lot was created in 1915. There are
10 three -- again, I'm referring to our Exhibit 39C. And then 39D
11 shows the Jackson property, which is Lot 45, which was created
12 in 1902.

13 39E, which is up on the screen now, is the alley
14 closing plat. And that shows the land-locked alley that was
15 closed in 2003 with the assistance of Council Member Graham.
16 You recall that Mr. Graham -- Mr. Jackson and Mr. Donaldson
17 talked about discussing with Council Member Graham, and he was
18 instrumental in getting the alley closed. And when the alley
19 was closed the land from that former land-locked small public
20 alley reverted to the abutting owners, including Mr. Donaldson.

21 And that's why Mr. Donaldson gets two tax bills. He talked
22 about getting two tax bills. That's why he gets those two tax
23 bills.

24 An interesting little piece of that, why that land-
25 locked alley is there, there was at one point in the early

1 1900s, a plan to create a parallel north/south alley east of
2 the existing north/south alley. And every owner was supposed
3 to put in their piece of land to create that alley. These were
4 the only three lots that did that. And so that land-locked
5 public alley sat there for 100 years until it was closed in
6 2003.

7 And so the Exhibit 39G shows the new additional tax
8 lot that each of those three owners received. But closing that
9 alley, the land reverting back to the owners abutting along
10 Sherman Avenue, including Mr. Donaldson, did not give any alley
11 access across Lot 818. It didn't affect that at all.

12 So we looked at, well, is there an easement created
13 otherwise? Where else would an easement be created? We looked
14 at the Office of Tax and Revenue records in our lot -- our
15 Exhibit 39J in the record, lists all of the documents of record
16 at the Office of Tax and Revenue, as further explained on pages
17 4 through 6 of our submission, our January 26th submission,
18 Exhibit 39. No easements of record are included in those
19 lists.

20 Then we reviewed Exhibit 40A-1 and 40A-2 that were
21 submitted by the neighbors. And we found the following of
22 interest, and I would like to explain those to you. There is a
23 -- and there are no page numbers on 40A-1, but I will tell you
24 and maybe you can flip down on your electronic to scroll down
25 to the pages.

1 Pages 8 and 9 of Exhibit 40A-1 refer to a Superior
2 Court case number 2015-CA-3299. That was a claim for adverse
3 possession by Mr. Jackson along the north part of lot 818 that
4 abuts his Lot 45. The Superior Court records show that that
5 case was dismissed.

6 There are several deeds. Some of those deeds are
7 included several times, specifically pages 33, 42, and 43.
8 Those are three different deeds. Some of them appear more than
9 once in this Exhibit 40A-1. But of importance, when they
10 describe the property, they're all deeds that transfer Lot 818,
11 which is the lot of the applicant in this case. They transfer
12 that lot to the prior owners, and they all describe the same
13 thing. They use the same language. There's a conveyance of
14 Lot 818, and then using that standard language together with
15 any easements, rights, privileges and pertinences. That's
16 standard legalese that you'll find in any deed anywhere
17 throughout the country.

18 This standard language means that if the land has any
19 of those things they would transfer too. It doesn't create an
20 easement or a right or a pertinence. It just says, if you have
21 Lot 818, together with anything else you've got with Lot 818,
22 any easements, any rights, any pertinences, that all transfers.
23 That doesn't create an easement.

24 So do easements exist across Lot 818? In addition to
25 our research at the Office of Tax and Revenue, Exhibit 39J, Mr.

1 Zarets received a report from his title company, which we
2 submitted this morning. And that report from the title company
3 is a letter dated February 1 from Counselor's Title, to whom it
4 may concern, addressed to the Board of Zoning Adjustment. And
5 it says that they found no covenants, rights of way, or
6 easements affecting this title.

7 And on the second page of that letter is their
8 worksheet, and I've circled, two-thirds of the way down the
9 bottom they talk about covenants, rights of way, easements. It
10 says, "None per record."

11 If you look at Exhibit 40A-1, which is the neighbor's
12 submission, at page 29, that's their worksheet from their title
13 called Document Masters and Title Company. And three quarters
14 of the way down the page on that worksheet that the neighbors
15 submitted, that worksheet shows a line for filling out whether
16 there are any covenants, rights of way, or easements. There's
17 a notation from the title company that says, "NOR." NOR means,
18 none on record. There are no easements. Their own documents
19 show that there are no easements across the property.

20 There are several other documents worth noting in
21 this Exhibit 40A-1. On page 35 there is a Superior Court
22 motion in case number 4388-07. That was a motion of Mr.
23 Jackson to stop the sale of Lot 815. Lot 815 is not part of
24 this case. So that's in there but that's not part of this
25 case. We're lot 818.

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1 Page 37 is the same Superior Court case. It's the
2 Court's order of publication regarding Lot 813. Lot 813 is not
3 part of this case.

4 So there are no -- we were unable to find any
5 easements of record. The neighbor's title company was unable
6 to find any easements of record. So with this as background,
7 important background, I'd like to turn to Mr. Zarets to discuss
8 his interactions with the neighbors and the next steps.

9 MR. ZARETS: Thank you, Chris. So prior to even the
10 initial design we did a community outreach where we flyer'd the
11 entire neighborhood, including Sherman, Gerrard, and the
12 abutting owners. I personally delivered the packet it had, the
13 architectural layouts, the proposed structures and so on. That
14 was prior to our first BZA hearing.

15 After our second hearing and these items were brought
16 to light, the neighbors had some concerns. What we did was we
17 did our own research with the surveyor's office. We hired also
18 our private surveyor to document all these findings that we
19 found. So what I did was I put a letter together saying, these
20 are the items we found. I put it in a yellow folder and I
21 actually hand-delivered them to Mr. Donaldson and Mr. Jackson.

22 I then followed up a few days later to ask if there
23 was any questions, if there was anything else that we can do to
24 address it. And basically they disagreed with the information
25 that was provided. But I mean, we went out extensively. I

1 notified them, went out if they had any questions, and you
2 know, that's where we are today.

3 So as part of being a good neighbor we can't fix the
4 confusion and the alleys that were closed and everything else.

5 What I mentioned on the record last time I was here was to do
6 some sort of a give or in a way that we can contribute to the
7 current owners to providing them access. One of the things
8 that we wanted to do was talk about Lot 813. So we purchased
9 the tax lien on Lot 813. The ANC advised us that this was
10 actually on a tax sale. Mr. Turner of the ANC, reached out to
11 me and said, you guys should acquire this and incorporate it,
12 clean it up because right now it's a dumping ground. No one --
13 we don't know who the owners are. There's two vehicles that
14 are constantly dumping trash, and it's just a nuisance to the
15 neighborhood. So we --

16 VICE CHAIRPERSON HILL: Just to interrupt, I'm sorry.
17 Who owns Lot 815?

18 MR. ZARETS: We don't know yet.

19 VICE CHAIRPERSON HILL: Okay.

20 MR. ZARETS: We are in touch with someone that bought
21 the tax lien, but he doesn't hold title. So he can't convey to
22 us either. It's a gentleman by the name of Mr. Robinson. I
23 reached out to him through just various research and he
24 basically came to us and said he'd be willing to convey 815 to
25 us if he obtains title. But he's also bought it as part of a

1 foreclosure. So he bought the tax lien as well. So 815 is our
2 immediate neighbor at the moment. So it's a bit of a mess.

3 So what we're trying to do as part of the purchase of
4 Lot 813 is to do several things. 815 is approximately 55 feet
5 of frontage along the alley. Our sole purpose of that lot
6 would be to do two things. One is to clean up the community
7 because we certainly don't want an eyesore from a sales and
8 marketing perspective. And then the other thing, we only need
9 three more, four more additional parking spaces. This lot
10 could yield up to five, so one of the things we are willing to
11 give is to create an easement or make some sort of a passage at
12 the bottom of 813 that would cross towards 806. In other
13 words, if the neighbors of 138, 45, 136 came together and
14 created some sort of a bypass with one another, they would be
15 able to cut through our property on 813 to get access.

16 So when we were looking at it from an architectural
17 perspective, six feet would be enough to create a pedestrian
18 passage, and to line up quite a few of those bins, because
19 that's 35 feet across. So more or less everyone would be able
20 to line up their bins along 813 and then have the public trash
21 company pick up the trash via alley access.

22 So this is one of the things that we would love to
23 engage with the neighborhood, and we have. I brought this
24 information to the neighbors when I delivered the packet. So I
25 live in Mount Pleasant, we're a D.C. based company, we're

1 willing to discuss some sort of a work through because again,
2 from a marketing perspective we don't want to see bins on
3 Sherman Avenue. We want to be able to have rear loading trash
4 access. And we think that's one way we could accomplish it.

5 The problem with this is because it's a foreclosure
6 we can't obtain title immediately. We started the process but
7 I was told it could take six to eight months.

8 One other thing to add to the note is Lot 813 has a
9 \$90,000 tax bill. We're willing to pay for that and take care
10 of it. We've hired counsel, special counsel that deals with
11 foreclosures and we're actively pursuing that. So we'd like to
12 offer that to our neighbors as well. A lot of information.

13 Be happy to answer any questions you have.

14 VICE CHAIRPERSON HILL: Okay. I had a question.
15 Back on the drawing that I think it was in 39A, where -- I'm
16 just trying to understand again, the easement issue a little
17 bit. And Lot 813 -- I'm sorry, your lot, you know how it goes
18 up to basically bordering Lot -- it goes up to 815. Is that
19 right? Can you blow that up? Yeah, was it 815? So what's
20 there now? Are people able to go through your lot? Is that
21 what -- is there a fence. Is there a -- it looks like there's
22 a --

23 MR. ZARETS: We'll actually pull up something that
24 you'll be able to illustrate it a little bit better. It's from
25 the D.C. --

1 VICE CHAIRPERSON HILL: There's a garage now?

2 MR. ZARETS: It's from the D.C. Atlas. Keep going.
3 Keep going. Right there. Perfect. If you can zoom on the L a
4 little bit? So this is -- David, what year is this image from?

5 MR. BAGNOLI: It would be 1960s.

6 MR. ZARETS: Can you zoom in on that a little bit?
7 On our -- on the red portion. This will help illustrate what's
8 currently there. Just a little bit more. Yeah. A little bit
9 more, please.

10 It's a very unusual case, which I've personally never
11 run into. So you can see the 35-foot width on the bottom on
12 Gerrard, which is what it currently is and always was. So for
13 whatever reason one of the members of the ANC says when he was
14 researching that these were actually carriage houses and
15 supposedly there was loading behind the actual structures,
16 which explains why there's rear access. I don't know if that's
17 true or not. All we know is that right now there is a wall of
18 garages along the alley.

19 And behind the alley there is roughly the delta
20 between the width of the garage and the 35 feet. I don't know
21 the exact math. So really, there is no way for lots 136, 137,
22 138, 145 to cross, because there's physical barriers. There's
23 masonry structures that are clearly from at least 1920s, 1930s.
24 They're very old.

25 What we're going to do as part of our application is

1 raze those structures and obviously create parking for our
2 site. If you could pull up a little bit, David? So the last
3 thing on 815 is another garage. You can actually see it. And
4 then 813 were also a series of garages, but they were also
5 razed. So at this point 813 is just a trash site. Literally.
6 It's a public dump site. We do at least a full F450 cleanout
7 every three or four weeks of mattresses and just various things
8 because no one holds -- no one knows who owns it. There's
9 Virginia plates on there. There's Maryland plates, and it's a
10 total nuisance. And we'd like to rectify that.

11 VICE CHAIRPERSON HILL: And you're going to put
12 parking there as well as the easement and the -- at least so
13 far what you've proposed.

14 MR. ZARETS: Because residential development is, for
15 various reasons as you guys know from a zoning perspective and
16 from a marketing perspective, it's not viable. The only viable
17 option is parking and access.

18 VICE CHAIRPERSON HILL: Okay. And then you moved the
19 two IZ units. Where did you move them to?

20 MR. ZARETS: Sure. We'll explain why that was done.

21 VICE CHAIRPERSON HILL: And that's still at 50
22 percent AMI?

23 MR. ZARETS: So one of the things that we wanted to
24 be consistent is, number one, is our commitment to the fact
25 that we're making them both at 50 percent AMI, two units.

1 VICE CHAIRPERSON HILL: Uh-huh.

2 MR. ZARETS: And the fact that we're going to make
3 them three-bedrooms. So if you can look at the bottom left
4 corner, Unit B. So because the units have three bedrooms, they
5 need to be a little bit deeper to accommodate that main bedroom
6 on that main floor, and that's where Unit B is, and that's the
7 IZ unit. So it's going to be one three-bedroom in the lower
8 half of the townhouse, and one three-bedroom unit in the upper
9 level of the townhouse. So it's not quite the end unit, but
10 it's the second in.

11 From an architectural layout perspective, it's
12 absolutely 100 percent consistent on the front, the bay's
13 articulations, it's full continuity, full identical than the
14 rest of the development.

15 VICE CHAIRPERSON HILL: Which are the -- the lot
16 areas, I mean, it looks like they range from 994 to 2,568
17 square feet. Which ones are the 994?

18 MR. ZARETS: It would be easier to illustrate on the
19 plan right there. So again, the main concern, this context
20 that I keep speaking about is, this is the gap between Unit F
21 and the units on H and G. If in a typical setting, if let's
22 say you were to look at Lot K and J and you were to -- if we
23 were to have a little bit more room along Sherman, that 75-foot
24 width, those rear yards would naturally be deeper because you
25 can see that there's no structures behind J and K. What

1 becomes narrow is the fact that we're keeping that 16-foot
2 context. That gap between the buildings. And as a result of
3 that those lots become narrower. That lot area becomes
4 reduced. And those are the small ones. It's K, J, H, and G.

5 VICE CHAIRPERSON HILL: I see. So if you were to
6 comply you'd make them bigger?

7 MR. ZARETS: Well, so this is what we would get --

8 VICE CHAIRPERSON HILL: Right. That just --

9 MR. ZARETS: -- is we would get that 46-foot gap.

10 VICE CHAIRPERSON HILL: Oh, I see. You take out two
11 of the --

12 MR. ZARETS: So in essence what I illustrated, when I
13 said when we were walking on Gerrard Street is you'd be walking
14 down the street, you would have these 15, 17 foot, you know, 18
15 foot units in a consistent rhythm and pattern, and then boom,
16 the moment you get close to the corner of the intersection,
17 which is the most critical part in an urban environment, you
18 have this 46-foot gap, which is just the fence. I mean, that
19 would be completely out of context. And from an urban fabric
20 perspective it just, it wouldn't fit.

21 And there is no other way to obtain compliance with
22 the lot area because the most you would do is four units along
23 Sherman Avenue. So you're limited to that depth. You have to
24 be that deep. Hence the need for relief.

25 VICE CHAIRPERSON HILL: And so, right, I'm sorry. So

1 you did try to get -- you said you were trying to get Lot 815
2 but you're not -- where are you again with that?

3 MR. ZARETS: So 815 is the lot that's directly
4 immediately next to us. We've reached out to the individual
5 who basically represented himself as an individual that is
6 buying the tax lien. We're in communication. But he basically
7 said to me, explicitly, he cannot convey because he doesn't
8 hold title.

9 VICE CHAIRPERSON HILL: Uh-huh.

10 MR. ZARETS: So it would be great once he did, but
11 that's six, eight months down the road. This is a very long
12 process foreclosure because of the public notices and they have
13 to notify any relatives.

14 VICE CHAIRPERSON HILL: And you think he would sell
15 that to you?

16 MR. ZARETS: He expressed interest that he would
17 provided he can collect title.

18 VICE CHAIRPERSON HILL: Okay. And then you'd have
19 815 and 813?

20 MR. ZARETS: Correct.

21 VICE CHAIRPERSON HILL: How would that change what
22 you're planning on doing?

23 MR. ZARETS: It wouldn't change the development at
24 all. What it would so is it would bring us in compliance with
25 lot area because of the blended square footages. Because

1 again, that square footage is just math at this point. We
2 wouldn't put more units on this site because you can't. You
3 can't put units along the alley. It's just, doesn't make
4 sense.

5 VICE CHAIRPERSON HILL: No, I understand. So what
6 would you do? Would you put a -- I mean, what would you do
7 with it?

8 MR. ZARETS: It would be parking and access as
9 illustrated right here.

10 VICE CHAIRPERSON HILL: Right. You'd combine it with
11 813.

12 MR. ZARETS: Correct. I mean, alleys are meant for
13 service. I mean, that's what they were designed for. I mean,
14 there's exceptions in this city where you can put dwellings,
15 but this is certainly not one of them. This is a 15-foot
16 alley. I mean, it's illogical to put housing anywhere along
17 that alley.

18 VICE CHAIRPERSON HILL: Okay. So I'm going to be
19 interested in hearing from OP and then from the opposition, but
20 what do you guys -- do my colleagues have any questions?

21 MR. HOOD: Yeah, I do want to -- Mr. Collins, you
22 took us down a very detailed scope about the easement and I'm
23 very concerned about that and I always like to be a realist and
24 I always like for people to think about being landlocked at
25 your own house. You know, I always bring it back to reality.

1 You know, I know what it all says, and I know we can go through
2 all the legal jargon and everything else that goes down the
3 pipe. But end of the day I want to look at some of the
4 neighbors who are here present, and I think about their access.
5 Also think about their safety.

6 And I know that may -- it may exist now, but anything
7 can be corrected, or should be corrected. And I know what the
8 law says. The law says a lot of things. But they always can
9 be tweaked, and or we can manage or be the good neighbor
10 policy. So I'm still concerned about that, all of that.

11 And let me ask, did you explain all that, because me
12 -- and I do this a little more often probably than neighbors,
13 but that was a whole lot of going back and forth, give and
14 take, this is what happened back then. That was a lot. Has
15 that already been explained to the neighbors, and maybe in a
16 package? Did somebody, not just send them something in
17 writing, but did somebody explain it to them?

18 MR. ZARETS: So, I actually went in person to go over
19 this, and I had a more of an in depth discussion with Mr.
20 Jackson about it. He was of the conclusion that there is a
21 discrepancy and we basically couldn't meet eye to eye. Mr.
22 Donaldson, we talked briefly, but again it was the same
23 position where they felt -- the way I interpreted it is they
24 felt that I was misleading them, if I may say so.

25 MR. HOOD: And when you and I get older we may feel

1 that a young person may mislead us.

2 MR. ZARETS: Fair enough.

3 MR. HOOD: So I understand that.

4 MR. ZARETS: Fair enough.

5 MR. HOOD: I mean, let's understand. You know, I
6 deal with a lot of seniors and a lot of times they feel like
7 that somebody is trying to get over. And all the time that may
8 not be the case. But I also understand, if I live long enough
9 I'll get there too.

10 But let me ask, what happens if you're not able to
11 obtain 813 and 815? Then what is the backup plan? My biggest
12 thing is, and I think that's a great idea, but it's too
13 uncertain. My biggest thing is to make sure that we don't lock
14 anybody in the way they can't get out the back of their home.
15 That's my biggest concern.

16 Now, Mr. Collins may say, well, the law says this.
17 Well, I understand. But also the law for the Zoning Commission
18 says to protect the safety and health of the residents of the
19 District of Columbia, and businesses as well. And that's kind
20 of where I am.

21 MR. ZARETS: That's, I mean, that's a fair statement.

22 So I'd like to talk about our site plan and we've actually
23 studied it.

24 So number one, we front, in essence, only three lots
25 on Sherman. You can see, it's Lot 45, right? Forty-five. And

1 then two additional ones. So if we're talking egress, we can
2 talk about several things. One is trash being one. Second is
3 emergency access, EMS. Two, is parking.

4 Based on the current layout and the zoning
5 requirements for us to provide parking, it would be impossible
6 for us to give them access in any way for logically for vehicle
7 movement. If it's a matter of pedestrian movement, you know,
8 we can talk about doing that.

9 My concern with trash is, our trash facility is going
10 to be removed by a private contractor that's going to be
11 inside. And that was at the request of the ANC. City, the
12 city will not be able to get into our facility with key fobs
13 and remove trash from our neighbors. So aside from putting a
14 gate and having access for someone to move it in case of an
15 emergency, I mean, I don't know what else we can do with the
16 hardships that we have already with our site.

17 MR. HOOD: Well, how are the -- Mr. Jackson, how is
18 the trash being removed now?

19 MR. ZARETS: I believe it's on Sherman Avenue.
20 That's what we've seen.

21 MR. HOOD: So they take it out the front?

22 MR. ZARETS: That's right.

23 MR. HOOD: Front.

24 MR. ZARETS: That's right.

25 MR. HOOD: Okay. For me, though, my biggest concern

1 is making sure they have some access to be able to -- be able
2 to exit out the back.

3 MR. ZARETS: Sure.

4 MR. HOOD: Whether you obtain 815 and 813, I think
5 that's -- once they understand, I think that's at least finding
6 some middle ground. But what happens if that doesn't happen?
7 And I think that's the kind of plan. And maybe you can explain
8 that to them. And I also, too, with the chairman, will hear
9 from --

10 MR. ZARETS: Sure.

11 MR. HOOD: -- and my other colleague will hear from
12 them as they come up. But for me that's the big hesitation
13 that I have. Even if you can't obtain that is there a plan to
14 still make sure that if something goes on at their home that
15 they're able to get out the back?

16 MR. ZARETS: Sure. We've actually studied it and one
17 of these submission sets there's actually a little sketch that
18 actually shows a gate. I believe the set you have in front of
19 you guys shows a gate. It's in there. There's a midway where
20 the big tree is.

21 MR. BAGNOLI: It wouldn't have been from today's
22 submission. It would have been from the 26th submission.

23 MR. ZARETS: Now, that gate is shown off Lot 45. We
24 could potentially put another one where the drive aisle is,
25 north across, provided that the topography will match. I can't

1 say for certain because we are going to alter the terrain. I
2 mean, steps may be required, things of that nature. But that's
3 something that we could definitely accommodate in terms of a
4 gate.

5 As far as egress out, I'm just thinking out loud.
6 Everything on our site will be key fob controlled, but I
7 believe there's going to be emergency exits where you can just
8 push and egress out of the alley. So you would only -- they
9 wouldn't be able to get back in because it's key fob
10 controlled, but they would be able to get out if that's
11 something that we could do for the record. We'd be able to
12 look at that.

13 MR. HOOD: Yeah, let's look at some of those other
14 options. At least I would be in favor of doing that,
15 especially making sure that emergency happens they have another
16 way to exit the home.

17 MR. ZARETS: Fair enough.

18 MR. HOOD: Okay.

19 MR. ZARETS: But in terms of compliance with like,
20 you know, an ambulance or something, I mean, it's very hard for
21 us to say that the condominium association down the road is
22 going to make sure that they're able to do that, you know, down
23 the alley. But certainly a means out, we can definitely put a
24 gate in. We have no issues with that whatsoever.

25 MR. HOOD: But going into it, if they come into a

1 situation that already exists, then that shouldn't be an
2 option. I mean, that shouldn't be a concern to overdo it
3 because you've already put that in place.

4 MR. ZARETS: Fair enough.

5 MR. HOOD: Okay. All right. Thank you, Mr.
6 Chairman.

7 MR. ZARETS: I'm sorry, just for clarification. Were
8 you able to locate the gate that we drew on one of the studies?

9 MR. HOOD: I took your word for it.

10 MR. ZARETS: It's on there.

11 MR. COLLINS: And just to clarify the -- it is in
12 39A.

13 MR. HOOD: 39A.

14 MR. COLLINS: Sheet 5.

15 MR. HOOD: Okay.

16 MR. COLLINS: Shows a gate.

17 MR. HOOD: While we're doing something else I will
18 review it. 39A, Sheet 5.

19 MR. COLLINS: Shows a gate right kind of like the
20 elbow of the L on Lot 45.

21 VICE CHAIRPERSON HILL: All right. I'm going to let
22 Mr. -- I mean, Chairman Hood take a look at that and I'm also -
23 - I am also interested. I mean, we haven't gotten to OP yet,
24 and again we haven't gotten to the opposition yet. But for me
25 as well it was how the easement issue, whether again by title,

1 right, what have you, you know, they're able to do that, you
2 know, by right I supposed, right? But that how is it being
3 worked out now and what solutions do you have moving forward?

4 I think that the two lots that you're talking about
5 trying to acquire, that would be great. And, you know and
6 again, but now six months from now you're saying and as
7 Chairman Hood was just mentioning, if that doesn't happen what
8 is the alternative that we can, you know, provide to the
9 opposition in terms of a discussion, because you are asking for
10 a lot of relief. You know, it's not like it's just a small
11 amount. And OP is still in objection. So with that does any -
12 - Mr. Hood, do you have anything? I'm going to turn it over to
13 OP? Okay.

14 MR. HOOD: Mr. Chairman.

15 VICE CHAIRPERSON HILL: Sure.

16 MR. HOOD: Let's go back to the elbow issue. I now
17 have the sheet up. Can we go through that right quick?

18 MR. ZARETS: Absolutely.

19 VICE CHAIRPERSON HILL: Yeah, that would be great.
20 I'd love to hear it too.

21 MR. ZARETS: So it actually, we identified, it's a
22 three-foot fence for neighbor alley access. It's basically
23 right next to parking spot number 15.

24 MR. COLLINS: Oh, this drawing doesn't --

25 MR. ZARETS: It's Sheet 5.

1 MR. COLLINS: It's not on here. It's on --

2 MR. HOOD: I don't see it on my --

3 VICE CHAIRPERSON HILL: Yeah, which one are you
4 speaking about?

5 MR. ZARETS: It's the original submission set.

6 MR. HOOD: Yeah, 39A, Sheet 5. That's where I am. I
7 don't see it. I don't see it. You see it? You see it?

8 VICE CHAIRPERSON HILL: Yeah.

9 MR. HOOD: Okay. Maybe I need some glasses.

10 MR. COLLINS: I'll identify where it is. So --

11 MR. HOOD: My glasses must not be working. Okay.

12 VICE CHAIRPERSON HILL: Okay.

13 MR. BAGNOLI: I apologize. This site plan had it on
14 there and we -- last night as we were pulling this stuff
15 together for today's submission it got inserted. It's a --

16 VICE CHAIRPERSON HILL: I see the gate. So then how
17 do you leave?

18 MR. BAGNOLI: It's on your printed version.

19 VICE CHAIRPERSON HILL: How do you get out? You go
20 in through that gate?

21 MR. ZARETS: Correct. So then you --

22 VICE CHAIRPERSON HILL: And then you'd walk where?

23 MR. ZARETS: You'd walk out of the alley up here. So
24 any -- that's right. So there's a pedestrian gate and then
25 there's a vehicle gate. So any type of egress building code

1 requirement is, you should be able to get out from the outside
2 without having a key fob control. So most of our communities,
3 you need a key fob to get in, which you will, but in terms of
4 egress, there's always going to be an emergency panic. Just
5 like in a swimming pool and anything else. So you'd be able to
6 push and electronically this gate will demagnetize. We usually
7 use Mag Locks or anything else.

8 So let's suppose in the event of a fire or some sort
9 of an evacuation, you'd be able to come out this gate.
10 Obviously you don't want to put the gate anywhere where the
11 cars are because that wouldn't work, and we've identified here,
12 as a clear location for lot 45 and we could potentially put
13 another one up here because it's clearly out.

14 We probably need to talk about the swing of the gate.
15 We'd probably want to swing it into the property so it doesn't
16 hit anything out if there is an emergency. But that's
17 something that's very easy and we'd be able to accommodate.
18 And then again, they'd be able to walk down this pedestrian
19 gate and get out in the event of a fire or some sort of an
20 emergency.

21 VICE CHAIRPERSON HILL: So that takes care of Lot 138
22 and 137? Or that's -- 138 is where that gate is going to,
23 correct?

24 MR. ZARETS: This is lot 45. I can't recall off the
25 top of my head.

1 VICE CHAIRPERSON HILL: No, I'm sorry. You're right.

2 MR. ZARETS: Let's look at this plan better. So we'd
3 be able to accommodate Lot 45, 38, and 37. I think 36 -- so 36
4 is actually, as I understand, part of 815, and that's part of
5 the tax sale that we're trying to reach the owner and trying to
6 find out exactly how we can obtain access through 815.

7 So we'd be able to put a gate through 137, 138, and
8 140 -- and 45. Except 45 would face south.

9 MR. COLLINS: It also may require that the neighbors
10 cooperate among themselves in case those gates don't exactly
11 line up. To --

12 MR. HOOD: I didn't get the last part, Mr. Collins.

13 MR. COLLINS: It may require some cooperation among
14 the neighbors themselves to -- in case those gates don't
15 exactly line up with the property lines of the neighbor
16 properties.

17 MR. HOOD: Okay. I got you. I got you. I think the
18 biggest thing I would hope, and I would hear from them is to
19 have that access to be able to egress, to get out.

20 MR. ZARETS: Sure. The most important thing is here,
21 we're going to be in construction for nine months. We're going
22 to be in design for six months. I'm always available. I gave
23 my cell phone number and my e-mail address and you know, I'm
24 open to having any discussions. I've even asked Mr. Turner to
25 host an ANC meeting with these immediate neighbors and you

1 know, he said he'd be more than willing to do that as well. So
2 we can address this matter in a public forum.

3 MR. HOOD: Okay. I'm familiar with Chairman Turner
4 so I'm sure that that will get done.

5 MR. ZARETS: He's a good person to work with.

6 VICE CHAIRPERSON HILL: Yeah. No, and I guess my
7 problem is again, once you've left here then it's pretty much
8 over. You know, I mean, you can say whatever you want to say
9 and I appreciate that, but unless it's written into the order,
10 unless it's something to tie you to, then -- yeah, I can see
11 you trying to do whatever you can do to get through this, so,
12 and I appreciate that. But I haven't, again, gotten to the
13 opposition yet to see how they feel about your efforts. But
14 anyways, for sure --

15 MR. ZARETS: One thing I will note, that I'm going to
16 be back here next week and I'm going to be before the Zoning
17 Commission at least three times this year. This isn't the
18 place where you want to make promises and not fulfill them. I
19 don't want to be that guy.

20 MR. HOOD: You're a good student.

21 MR. ZARETS: No, I'm serious. We have three -- next
22 week we're going to be before the BZA and I have three -- I can
23 think of at least three more where I'll be in front of Mr.
24 Hood, so --

25 VICE CHAIRPERSON HILL: No, that's true. My

1 colleagues have long memories. You know, one is apparently
2 getting to be a senior citizen pretty soon. You know? All
3 right. So, okay. Office of Planning, you're up.

4 MR. GYOR: Good morning, Mr. Chairman and Members of
5 the Board. Stephen Gyor with the Office of Planning.

6 I think that in some ways the project would be a
7 positive project. The degree of relief has been reduced. The
8 project would be largely contextual, increases the District's
9 housing supply, includes some large -- two large IZ units at 50
10 percent AMI.

11 I think that our concerns remain regarding the nexus
12 between the subject property's exceptional situation and the
13 practical difficulty of developing the site. There doesn't
14 appear to be a practical difficulty related to the shape of the
15 lot that as a new subdivision would prevent it from being
16 developed in accordance with the zoning regulations.

17 And you know, we're supportive of the revised
18 architecture. It's generally consistent and compatible with
19 the surrounding community. But as we stated in our report, we
20 can't support the variance relief specifically for lot area.

21 I think that, you know, as we stated if we -- if the
22 Board found that there is a -- would support the lot size, then
23 we wouldn't oppose the other areas of relief. In regard to the
24 gap, the potential gap, I think you know, as I stated last
25 time, you do see other areas of the city in speaking with Steve

1 Callcott of the Historic Preservation Office. You do see other
2 older areas of the city with that gap and I don't think it's
3 necessarily a bad outcome. But from an urban design
4 perspective as I stated last time, I think maintaining the
5 street wall is preferred. And I'll be open for questions.
6 Thanks.

7 MR. HINKLE: Yeah, thank you, Mr. Gyor. Just a quick
8 question. But first you weren't convinced through the
9 presentation of the applicant today in terms of how difficult
10 it is in terms of meeting the requirements of the regulations
11 in terms of lot area?

12 MR. GYOR: Correct. I think, you know, if you look
13 at some of the lots on Sherman they're 900 or so square feet.
14 The minimum requirement for the R-4 zone is 1,800. With the IZ
15 density bonus it's 1,500. So there's still quite a bit off. I
16 think that there is still potential, even with the gap, to
17 reduce that lot size in our view.

18 MR. HINKLE: Apart from what's required under the
19 regulations, how does what they propose fit in with the context
20 of the neighborhood? Are there smaller lots, larger lots? How
21 does that work?

22 MR. GYOR: I think contextually I think the applicant
23 is correct. I think it does largely fit into the context of
24 the neighborhood. I think there are some other lots in the
25 area. You don't -- you know, I did do a quick survey of you

1 know, whether or not there's areas in the immediate context
2 with the gap. There are a few areas that do have that gap, but
3 more often than not there is a consistent street wall there in
4 that area. You look at the architecture, the rhythm, the
5 scale, it seems to be consistent. Especially as viewed from
6 Sherman and Gerrard. It seems to be something that would fit
7 in to the context of the neighbor.

8 So I think from an outcome perspective it would, you
9 know, it's not necessarily a negative outcome. I think just
10 looking at the variance test and the standard of the variance
11 test that we're having an issue with.

12 MR. HINKLE: Okay. Thank you.

13 VICE CHAIRPERSON HILL: Chairman Hood, do you have
14 any questions?

15 MR. HOOD: I'm trying to --

16 VICE CHAIRPERSON HILL: Well, I've got a quick one
17 then if you want to --

18 MR. HOOD: Yeah, yeah, go ahead, go ahead.

19 VICE CHAIRPERSON HILL: Mr. Gyor, the discrepancy now
20 looks like it's, if you take on average, which obviously
21 they're trying to do, or the applicant would like us to look at
22 more, is that it's 110 feet, the square footage in terms of you
23 know, the required 1,500 and what they're proposing on average.
24 Do you think that's kind of de minimis or I mean, that doesn't
25 sway your opinion?

1 MR. GYOR: It doesn't sway. Honestly I think, you
2 know, it's a step in the right direction in the sense that the
3 average is closer to that 1,500 square foot minimum. I think
4 the Board in the past has considered the degree of relief, and
5 you know, the degree of relief is certainly smaller with the
6 number of lots having been reduced. So -- but it doesn't
7 necessarily sway us. I think that there are, you know, we
8 talked about last time that there are those -- the sort of the
9 -- there's a flag shape here and then you have those parking
10 spots that could, in essence, be applied to those lots
11 individually, which gets you closer to the minimum requirement.
12 But that's sort of a conceptual idea and not necessarily based
13 on the zoning regulations.

14 MR. BAGNOLI: I might just add that the difference
15 between the average, 1,390 and the 1,500 is less than a size of
16 a compact space, for each lot.

17 VICE CHAIRPERSON HILL: Chairman Hood?

18 MR. HOOD: I'm still trying --

19 VICE CHAIRPERSON HILL: Take your time.

20 MR. HOOD: I'm still trying to get where we are and
21 understand what the Office of Planning, with the variance
22 relief. I'm still trying to get there, Mr. Gyor.

23 So can you just explain it to me again, what the
24 issue is for the Office of Planning. And I'm looking at your
25 report but I'm just, I'm trying to grasp it.

1 MR. GYOR: Sure. I think that for us that it boils
2 down to when you are considering a new subdivision, especially
3 in the R-4, the expectation that we have and the expectation
4 that our regulations have is that you'll meet that lot area
5 minimum. Certainly there's, you know, the applicant is -- I
6 think we support the general concept of the design. I think
7 that there's -- you know, if we brought up the issue of the gap
8 and if you had -- you know, if you adhere to that 1,500 square
9 foot minimum, you would have a 46-foot gap or whether or not
10 that would be ideal or not is a question the Board could
11 consider.

12 But I think for us, you know, the bottom -- it boils
13 down to when you're considering a new subdivision the
14 expectation is to conform.

15 MR. HOOD: So, you know, that gap, does that gap
16 speak volumes? Would you say the gap, wherever that little
17 opening is, does that speak volumes of why maybe this should be
18 approved? I'm just trying to --

19 MR. GYOR: Well, as I stated, there's other areas in
20 the city, older areas in the city where you do see that gap. I
21 don't necessarily think it's a -- it would be, you know, be a
22 negative project or would ruin the project necessarily. It's
23 not, perhaps not ideal from an urban design perspective to not
24 have that consistent rhythm and scale of the street wall, but
25 it's not necessarily something that we haven't seen in other

1 places, in other neighborhood, older areas of the city.

2 MR. HOOD: But I think from an architectural
3 standpoint, I think it fits with the context of the area.
4 Isn't that what the Office of Planning testified to?

5 MR. GYOR: I think it largely does, yes.

6 MR. HOOD: Okay. All right. Thank you.

7 VICE CHAIRPERSON HILL: All right. Does the
8 applicant have any questions of OP?

9 MR. COLLINS: No, sir.

10 VICE CHAIRPERSON HILL: Board have any more questions
11 of OP? No?

12 All right. So with that I'm going to ask, is there
13 anyone here from the ANC? Anyone here from the ANC?

14 Is there anyone here in support of the application?
15 Anyone here in support?

16 Anyone here in opposition of the application? Would
17 you please step forward? Yes, you could just scoot down one.

18 MR. MOY: Mr. Chairman, are you going to be assigning
19 any time to this?

20 VICE CHAIRPERSON HILL: Let me ask the --

21 MR. MOY: Okay.

22 VICE CHAIRPERSON HILL: -- members of opposition.

23 MR. JACKSON: My name is Willie Jackson. I live at
24 2018 Sherman Avenue in Lot 45. Been living there for 30 years,
25 grew up there, '73. My aunt owned that house since 1937. I

1 know Yellow Cab used to own that lot. I've seen that lot go
2 from over, over, and over, and I've know there been an easement
3 because cars went through there. That's why I went down to the
4 title company in 2004 when Footes purchased the lot, because I
5 informed him.

6 VICE CHAIRPERSON HILL: Mr. Jackson, can I just go
7 through and introduce everybody and then --

8 MR. JACKSON: Yes. Yes. Yes.

9 VICE CHAIRPERSON HILL: -- we'll come back around.

10 MR. JACKSON: Okay.

11 VICE CHAIRPERSON HILL: Thank you so much.

12 MR. MARBURY: I'm Robert O. Marbury. I'm the owner
13 at 2805 Sherman Avenue Northwest.

14 MR. DONALDSON: I'm Levon Donaldson, 2014 Sherman
15 Avenue Northwest. Been there about 46 years.

16 VICE CHAIRPERSON HILL: All right. May I ask you all
17 how much time you guys think you might need each just to speak
18 in opposition?

19 MR. JACKSON: Well, with all the things they said I
20 would like to ask some questions. I don't know how long it
21 will take because he talked about the easement. He talked
22 about adverse possession. And he talked about the alley.

23 VICE CHAIRPERSON HILL: Okay. Okay.

24 MR. JACKSON: Then I want to ask that question about
25 Jim Graham's office where they said my property went back to,

1 and now I see a stake that was giving it to them. So I want --

2 VICE CHAIRPERSON HILL: All right, sir. Why don't we
3 start out with -- can we just do five minutes each just to get
4 through that and then we'll come back to questions. Just from
5 each one of you, I'm just saying. Just to hear what you have
6 to say.

7 MR. JACKSON: Okay. Well, briefly I was talking
8 about the easement and when Mr. Ernest Smith sold that lot to
9 Lester Footes, at that time it was 2800 Sherman Avenue. First
10 I'll go back and make it very brief.

11 The garages. I asked the question when I moved in
12 that house, 1982, who owned those garages. We went downtown,
13 tax -- nobody knows nothing. It's just -- and now everybody
14 knows everything. And we've been putting off with these
15 garages, garages. Then I know when Ernest sold the property to
16 28 Sherman Avenue, the garages was not in the sale. The
17 garages were not in the sale. So how -- he said, I pay taxes
18 on them.

19 So that gave me an idea. I'm going to go up
20 Northwest and buy me a house, pay taxes on it, I'll own it. I
21 mean, I don't have to go through nothing. I mean, this is just
22 so much cover up.

23 Then when I got to the easement, I remember my aunt
24 used to bring her truck -- I mean, her car, my brother lived
25 there before I did, he brought his truck through that lot, come

1 into the lot and --

2 VICE CHAIRPERSON HILL: Mr. Jackson, which lot are
3 you speaking of?

4 MR. JACKSON: I'm talking to the lot, 818.

5 VICE CHAIRPERSON HILL: Okay.

6 MR. JACKSON: And I remember, if we go back to 818
7 and show you how I ended up with the lot.

8 VICE CHAIRPERSON HILL: I see.

9 MR. JACKSON: I was there when they widened Sherman
10 Avenue and had trees go up and down Sherman Avenue. I was
11 there then. So all this is just new stuff that just seem like
12 you come in and I do what I want to do. Nobody respect what
13 nobody else said about the easements. Nobody respect what they
14 said about anything. I make mine very brief. All I ask for
15 was a lot when I went for, he said adverse possession. The
16 judge would not hear that case because I put Lester Footes's
17 name on there. That's the only way he could hear the case. I
18 was going back but at that time the councilman intercepted in
19 Ward 1, and said, Mr. Jackson, let me handle it. I was going
20 back and file against 28 Sherman Avenue, LLC.

21 So therefore, that's where we fell with the adverse
22 possession. Then when I went from there to these garages, as I
23 stated, and coming behind them now, I can see how things going
24 to go. But all I will say, I'm going to end mine like this and
25 I'd like to come back and say some other things. I'm going to

1 be North Korea and they going to be South Korea. Anything that
2 they do, they must do it from that property line. Not to come
3 over mine. Don't step over mine. If you go to drill a hole
4 that way, you stay on your side. I can live that way. And I
5 will stay on my side. If it don't, there's going to be
6 conflict. I'll end mine like that. Okay. I'll give him a
7 chance to say about it.

8 VICE CHAIRPERSON HILL: Thank you.

9 MR. MARBURY: I'm Robert O. Marbury and owner at
10 2805, which is directly across the street from this property.
11 I received a letter, that's why I'm here. I was unable to
12 attend the original hearing because of illness and my daughter
13 had -- she had surgery. But we submitted notarized letters, my
14 wife and I. We're co-owners to this property.

15 And I'm a 51-year resident at that property. First
16 as a renter and then as owner. And I'm also a 20-year military
17 retiree. I worked after I retired, I worked in the community
18 in the year -- I mean, in the area in private industry for
19 about 23 years.

20 My opposition to this is the congestion, parking,
21 inconvenience. My property is not involved with the 2800
22 because I'm across the street. But I would like to relate to
23 you the difficulties that we've had in that area.

24 On my side of the street there's six houses. Four of
25 those six houses have been going or undergoing reconstruction,

1 worked to build this community, paid taxes in the community,
2 and we have invested interest in the community. I have been --
3 I've instructed my children not to sell the property. We are
4 there for the long haul. We're going to be there. I may be
5 gone and in my grave, but my children will be there.

6 VICE CHAIRPERSON HILL: Thank you. Oh, sorry.

7 MR. DONALDSON: I'm Levon Donaldson. I've been --

8 VICE CHAIRPERSON HILL: Are you finished? Are you
9 finished, sir?

10 MR. DONALDSON: I'm Levon Donaldson. I've been in 24
11 -- about 45, six years. But I moved there and when I moved
12 there. And when I moved there, in our back it was a fence down
13 through the back of our property, all property. And therefore
14 our line went to that fence. There was a airway between the
15 garages and my property, our property.

16 We go out the back on the end of the -- up on the
17 north side it was a gate there. We brought the trash out and
18 carried it to the public alley, what the homeowner did back
19 then in this 71. And eventually it grewed up and got junky
20 back there, people throwing trash, they're dumping back in
21 there. So I got the council, Ward 1 Council Smith. I kept
22 helping him to try to clean it up. He never would. He
23 promised me and never would. He promised me.

24 So I was working down in Virginia, my boss would let
25 me have his Bobcat and a dump truck. I went from the lot of

1 2800, it wasn't no fence around 2800 at all, anything could in
2 the main alley, coming into the lot. One garage went with that
3 lot, with 2800. One garage.

4 And I went up in there with my Bobcat and hauled
5 three loads of that trash out to Lodden (phonetic) and
6 dumpster. And I told him I was, I said, was a homeowner.
7 We'll keep maintaining it if you keep it cleaned up for us, you
8 know. Won't be grow up no more. Then people started throwing
9 more trash in there so Council Graham came in.

10 It grew up again. He came in, he got -- finally
11 got people to clean it, cut the scrubs down, so we cleaned it
12 up again. And we went for a hearing down here and he says to
13 us in the hearing, I got up, I said well, why don't you clean
14 that alleyway or the alley out, and we would keep it clean.
15 You won't have to worry about it.

16 He said, I gave you all that property. He didn't ask
17 did we want it. Nobody come asked us, say, you want this
18 property. We didn't agree with it. He said, I'll give you
19 this property. And we didn't say yes or no. And the next
20 month, or next year, we got a separate tax bill on that
21 property between the garage and our property.

22 And we had paid property -- we had paid tax on our
23 property for the last 30 some years. It come on extra tax.
24 This is between that garage and my fence. Mrs. Tomhill
25 (phonetic) next door to me, he didn't mention her name, but she

1 passed away so her daughter got it now, Ira. And so Mr.
2 Jackson, he told Mr. Jackson his property was already to the
3 garages. He didn't have to give him. It was already go to his
4 garages, his property.

5 And so we still been paying separate taxes for the
6 last, what, nine years. All of a sudden this lot was sold, so
7 a lot where he said you own garages, but I didn't worry about
8 that. But he sold his -- his wife sold the property and they
9 come in to the van and they put the stakes down. I said, well,
10 I know mine go to the fence. You know, I already know where my
11 property go. I got the drawings of the whole block and the
12 site plans, and so -- and they came over and put the peg down.

13 And then they come -- and ANC man come by telling me that we
14 didn't own this alleyway. People from the alley own it, the
15 garages was 35 feet coming back. And this is going to come
16 into my yard 15 feet. And that's where I kind of got upset,
17 and I'm still upset about it because every time he comes down
18 with a plan, he came down there before the snow with the plan
19 and told me, said, I found this, someway, this, and I'll bring
20 it by you all, let you look over it and I'll come back and
21 discuss it with you.

22 I looked at it. I said, look, this is the same thing
23 that's been -- I been looking at for four months. I mean, he
24 might have re-Xeroxed it some more, but it's the same reading
25 that I had for the last four months. And so nothing changed.

1 So he came back the other day, we said we want to
2 talk about it. I said, I got nothing to talk about because my
3 mind have not changed since with the meeting down here before,
4 and it's not changed yet because we found out how they going to
5 have all this property come in, how my enter my yard, you know.
6 They're going to take some of my yard. As you recall they
7 going to have -- need parking space, you know, from the
8 garages.

9 So I'm still was just, was not pleased at it. And
10 when we want to know the truth about it, and all this printing
11 up papers and bringing them by, and different reads on them,
12 showing different plans, it's just not showing me anything. So
13 I'm not pleased with it.

14 VICE CHAIRPERSON HILL: I understand.

15 MR. JACKSON: May I say one other thing? The
16 property that they were talking about buying, I went down, Mr.
17 Harry Baker -- our ANC is pro-developer. He's not for the
18 constituents of that ward. He will sell his dog house if he
19 can get a dollar. That's the way our ANC. And I sat in front
20 of him, and if I live next year I'll make sure he won't --
21 whenever he go up again, he will not the be the ANC. Not for
22 Ward 1.

23 He came down and I told him, I said, oh, this
24 property, they're talking about Harry Baker's property back
25 there. I had pictures. Mr. Donaldson know, I was the one that

1 had the green truck. I cleaned all that stuff, took it to the
2 dump over there by Catholic University. Cleaned it, cleaned
3 it, first called downtown, people been dumping on it. Had
4 construction workers come through that night, dump the stuff
5 quick and run out. I stood at the alley and wrote down some
6 tags and gave them to the police. This has been going on for
7 some time.

8 Mr. Donaldson is not sitting back there because there
9 was some old buildings there and we had the city to tear them
10 down, becoming nothing but drugs and everything going on back
11 there.

12 Then up there when I said the other day, the
13 Coalition of the Homeless, I haven't heard about it now yet,
14 they have steps where they bought Dr. Burrell's place, they
15 have steps that come up that go up into that plot, lot, where
16 he talking about buying for to put cars and things there. And
17 I asked them, those steps right there. So then when I find out
18 from the Coalition of Homeless, they said, Mr. Jackson, they
19 only own, if they buy this place or whoever, because the guy
20 that got the place on Harvard Street, he wants it too. He only
21 has that little piece right there. Our lot, our steps come up
22 here and this piece belong to us.

23 So in other words, he has one car length that he
24 could use from the main alley. And see those garages are not
25 that large. And my thing is back again, about those garages, I

1 never understood. I asked Lester Footes when he bought that
2 property. He came up that day and asked the man, read that,
3 told if a dog walk up behind his house can he go shoot him.
4 That's Mr. Donaldson. He just turned the dogs loose and that
5 same area, that fence that's now -- that was the easement that
6 used to come into my yard. He just said -- I said, why aren't
7 you going to close this off? I'm not going to close that off.

8 I got a purpose for that.

9 And he just did what he wishes to do. So therefore
10 here we are, he's gone. But I mean, here we are. Now they're
11 coming in and they're doing what they want to do. So we as
12 homeowners, we have no say as what happened in the community.
13 We don't talk to Mr. Turner because all Mr. Turner is for when
14 he walked in that day he said, you know what, I been up there
15 to Mr. Baker's house. I been to the apartment up there on
16 Holmead Place. I said, you went up there for who? For us?
17 No, I went up there for the developer. I said, so you for the
18 developer. You would sell everything in this block if you
19 could. And that's why I lost all confidence.

20 And I said in front of his face, and I said that in
21 the in the pleasant playing meeting, I had no confidence in Mr.
22 Turner as representing us homeowners. He is pro-developer.

23 VICE CHAIRPERSON HILL: Okay. Mr. Omar, (sic).

24 MR. MARBURY: May I ask a question?

25 VICE CHAIRPERSON HILL: Go ahead.

1 MR. MARBURY: Is this property -- how is it zoned?
2 Is it zoned commercial or residential?

3 VICE CHAIRPERSON HILL: It's a residential zone.
4 Now, just before we move on I just want to say a couple things.
5 I'm sorry about, you know, the experience you had with Mr.
6 Omar, like the developer, and the development that you've had
7 next door to you. You know, I've been, I mean, I've been in
8 this area since I was in the third grade and so I know that
9 like, you know, the city has changed a lot and people that have
10 been there for as long as you guys have, and like you know,
11 upkeep or different lots and everything, I appreciate. And so,
12 you know, I just wanted to start by saying that.

13 The 118, the lot 118 -- I mean, I'm sorry, 818, you
14 know, that is their lot. And so I know that we're going to
15 have to kind of get some questions here. I know that probably
16 my colleagues also have some questions as to some of the issues
17 that they discussed earlier in terms of possibly working out
18 some arrangement in terms of easement or access to the alley.
19 Have you all had any discussions about those?

20 MR. JACKSON: No, I haven't. I talked to Mr.
21 Donaldson but -- and I also talked to the council member about
22 the easement. And she said, well, Mr. Jackson, how do you
23 feel? I said, listen, I am so fed up until I'm ready to go up
24 on the hill and find out who has in charge of D.C. Committee or
25 whatever that we do here in this city. I said, because I'm

1 just fed up because this has changed like many other things are
2 changing. And nobody have no really sound concrete evidence.
3 They just do what they want. I ask them and they bought those
4 garages. I said, show me the transparency where Lester Footes
5 sent a letter out for each one of those garages that he claim.

6 Did he send a letter out? Is it transparency about anything?

7 When they put that building up there, that extension
8 the young man was talking about, I called down to the permit
9 place and I ask him, who gave him the permit to put that
10 building up? Ms. Donaldson, we sat there that one Sunday
11 evening on the phone. That building went up bump, bump, bump.

12 Up. And nobody today, the permit department, said we don't go
13 back that far. We can't give you who authorized a permit for
14 this or that.

15 So I'm just saying, you know, it just, it just
16 bothers me because like I say, I am a school teacher. When it
17 comes to records I have to produce records. If I gave a child
18 a grade, I got to let that child -- and it doesn't just go
19 here, and then 20 years ago. Those records has to be kept.
20 And that's what bothers me with this. Everybody, and the
21 council member, she knows as well, I said, nobody has records
22 on anything. You call downtown, just like I said the other
23 day, we went across there, 2825. Somebody building something
24 over on his side of the street again. I went through there and
25 looked. Not a permit nowhere, house almost complete on top,

1 ground down, they got all these three bedroom, three bathroom.

2 No see nothing. We just do as we wish to do.

3 But if I went out, I already put that little deck
4 back there, I had to get a permit. The man told me that night,
5 5:00 the next morning I'd be here, Mr. Jackson, if you don't
6 have this dirt moved and that, I will give you a \$500 ticket.
7 That's the little have-nots. But those who have, build on the
8 White House lawn if you want to.

9 VICE CHAIRPERSON HILL: Well, Mr. Jackson, we're
10 trying to do here so that you guys get something from this if
11 this were to actually -- I don't know where this is going to
12 go. I don't know whether this is going to get passed or not.
13 You know, we haven't deliberated amongst ourselves. But as of
14 now what this is going to do for you is what the developer
15 might be willing to do in terms of like easement, in terms of
16 like getting out to that alley. And that is what I'm kind of
17 going to ask more questions about because as I've mentioned,
18 that is their lot. You know, and they are going to develop
19 that lot.

20 MR. JACKSON: Uh-huh.

21 VICE CHAIRPERSON HILL: And so, you know, this is a
22 time to kind of work with the people who are developing it so
23 you can get something. And so --

24 MR. JACKSON: But not the easement.

25 VICE CHAIRPERSON HILL: And so may I just finish?

1 I'm sorry. And just, if you want to ask a couple of questions
2 now, you had started earlier saying that you had some questions
3 that you wanted to ask.

4 MR. JACKSON: No, I was asking questions about the --
5 and I'm still going to ask those questions of all of what the
6 zoning does. I'm going to find out how were those garages
7 awarded to Mr. Footes. If I got to search, go up on the hill,
8 get a congressman or somebody. I'm going to find out how those
9 garages were awarded to him.

10 And secondly, as I said before, I remember the guy
11 came there. He wanted to buy my home, I told him no. And he
12 said, Mr. Jackson, we'll be a lot of knocking. Well, I am
13 going to be one like -- I'm not going to be like him. If they
14 knock something down, they will put it back. And I am truly
15 firm, going to put the sign up like Ms. Sonis (phonetic) did on
16 Shepherd Street. No trespassing on my property. Whatever you
17 can build that right there on your side, fine. Don't step over
18 to my side. Don't step on my side. That's the kind of
19 neighbor I am going to be.

20 Now you can ask your question.

21 VICE CHAIRPERSON HILL: All right, Mr. Jackson. No,
22 actually I wanted to know if you had any questions of the
23 applicant. But I don't think you have any questions of him.
24 As far as the garages go, that's not within our purview right
25 now. I mean, you know, that's something I can't speak to. So

1 let's see. So again, you haven't talked to the developer about
2 any of the suggestions that they had concerning a gate or
3 something going through --

4 MR. JACKSON: We walked through enough of those when
5 I was in the country. Go down a path and come back up.

6 VICE CHAIRPERSON HILL: Okay.

7 MR. JACKSON: No, doesn't interest me.

8 VICE CHAIRPERSON HILL: Okay. And, Mr. Thompson
9 (sic), have you talked to the developer at all about access
10 and --

11 MR. DONALDSON: No, I haven't.

12 VICE CHAIRPERSON HILL: Okay.

13 MR. DONALDSON: They haven't talked to me and I
14 haven't talked to them about it actually. Well, number one,
15 you know, all of my concern is, is when he's showing me --
16 trying to show me where he's going to bring those garages back
17 in my yard, you know, I mean, let's open something about this
18 15 feet coming in to my yard when I been paying taxes on it 35
19 years, on my property.

20 And this piece where I been paying taxes on it
21 separate, separate piece, where they said they gave us and we
22 didn't ask for it, but we paying taxes. Separate taxes.

23 But I want to know how they're going to get from back
24 of that garage 30 feet in my yard. You know what I'm saying?
25 What I'm talking about, I don't need their room, you know what

1 I'm saying. I mean, I want to keep them out of my yard.

2 VICE CHAIRPERSON HILL: Okay.

3 MR. JACKSON: The same with me because my land went
4 all the way back to the garages.

5 MR. DONALDSON: Over to the garages.

6 MR. JACKSON: So I don't want them come on the other
7 side of the garages toward my house.

8 VICE CHAIRPERSON HILL: Okay. Do the Board members
9 have any questions?

10 MR. HOOD: Yeah. Yes, Mr. Chairman. Mr. Jackson,
11 Mr. Oglebury (sic)? Well, namely Mr. Jackson and Mr.
12 Donaldson. And Mr. Omar. I'm going to make a suggestion.
13 There was some information that was provided today. and first
14 let me back up. I think Mr. Donaldson, you mentioned about Mr.
15 Graham gave you all some property. And I know Jim Graham very
16 well. He can't give you no property. So I don't know what
17 that -- and it seems like -- and I'm not discounting what you
18 all are saying, Mr. Jackson and others, because you all have
19 been there. I know about the neighborhood. My church is on
20 Fairmont Street. Used to be on Sherman Avenue years ago, in
21 the '50s before I was born. So I know about the neighborhood.
22 I know about it when people wouldn't even come to the
23 neighborhood, so I'm aware of it.

24 But what I'm saying is there are certain laws down
25 with the Office of Tax and Revenue, boundaries, what property

1 somebody owes, what they don't owe. But I hear this developer
2 -- and I understand the plight and the concern, because from
3 what I've heard you all been through a whole lot and I'm sure
4 you all are not unique in this factor when it comes to this in
5 the District of Columbia. When you look for records you can't
6 find them. I understand about all that.

7 But I think that there's a young lady in Council
8 Member Nadeau's office who is chief of staff, Ms. Jackson,
9 Tanya Jackson. And I would suggest that you have a
10 conversation with the applicant. I'm just throwing this out
11 there, Mr. Chairman, because my concern was the easement. I
12 heard that loud and clear when you all came down the first
13 time. I would suggest that, you know, you have somebody when
14 you meet with the applicant, like Ms. Tanya Jackson, I'm sure
15 she would be willing to do that. And she also can help convey
16 to you exactly what's being proposed here and what some of the
17 things we've discussed, because at the end of the day -- and,
18 Mr. Jackson, I know you're saying, I understand the neighbor
19 issue. But I think you can come around to being a good
20 neighbor policy. Just like they are. They're going to be one
21 and you going to be one, and you all, all will probably be
22 happy. But we'll see. We're going to work at it and we're
23 going to get Ms. Jackson to help you all, to help you
24 understand so you can have somebody who I believe that you
25 trust and not take anything away from you, but somebody in the

1 room that you trust. That's going to be my recommendation.

2 And I'm going to ask the office. And if I have to do
3 it personally to ask the Chief of Staff or Council Member
4 Nadeau to do that, I will ask her. But I think that you all
5 can have somebody in the room who you have more confidence in.

6 I may be wrong, but I think from what I see and I think you
7 have confidence in here. She's born and raised in Ward 1. And
8 she's been there through the thick of times for as long as
9 she's been living. So I think when you have those
10 conversations she may be a good person to go, so if anything
11 needs to be relayed or transferred, or converted, or
12 transferred, to make sure we understand --

13 VICE CHAIRPERSON HILL: Absolutely.

14 MR. HOOD: -- then maybe that may help out. And I
15 understand. Just give it a try because for me, what I heard
16 from you guys the last time was access out the back. Okay?

17 MR. JACKSON: So therefore that map that I sent you
18 with 2857, that he was talking about his property, and my
19 property going back to those garages, does that stand or do I
20 have to go other avenues to get it to stand? I mean, the map
21 that I sent down here that goes back to the garages. Well,
22 when they, like Mr. Donaldson say, when they came up, the
23 conveyer, a surveyor, because I was teaching, Ms. Donaldson
24 called me. And I said -- she said, they said they're doing the
25 job.

1 So in other words, where Mr. Donaldson said, our
2 lines stop, my lines stop right with theirs. Mine did not go
3 back to the garage. So where them dogs and things, like I
4 said, that eight feet and some inches from that garage, they
5 claimed that because they wanted to use that parking. And so
6 they came, put my property back this way. But the map that I
7 asked the surveyor, and I got his card at home, at the meeting
8 at Jim Graham's office, he said, "Mr. Jackson, your property
9 goes back to the garage."

10 I got his card and I got his name. And I said to him
11 then, Jim Graham said, "Jackson, you a music teacher and he is
12 a surveyor. So he has given you the answer that you want to
13 hear."

14 Now today I come and see, I see some little sticks in
15 the ground with a little orange flag on it. The garage over
16 there and the sticks back here. So I mean, you know --

17 MR. HOOD: But those kind of issues, when you all
18 meet hopefully with Chief of Staff of Council Member Nadeau's
19 office and others, those are the kind of issues you all can
20 talk through. If further discovery needs to be done, it can
21 be done at that time. And that way everybody, I think, will
22 have more of a comfort level because we can go -- we can say
23 that Council Member Graham gave us -- I can tell you the honest
24 truth. I've never heard a council member giving anybody any
25 land. I know things are done certain ways. But from a legal

1 perspective he cannot give you any land.

2 And if Council Member Graham is watching, fine. I
3 have nothing to hide. He can't give you no land. So, but we
4 need to be -- we need to make sure you all are comfortable when
5 you're having a conversation with the applicant.

6 MR. DONALDSON: Let me ask you one question. All
7 right. I know he can't give no land. I know but how, I want
8 to ask how did our, me and my wife's name get on a separate tax
9 from a tax place without us -- without our permission? I mean,
10 a separate tax on that piece of property.

11 MR. JACKSON: The same just --

12 MR. DONALDSON: We didn't go down with nobody to get
13 it on there. But they send us two taxes. One we were already
14 getting on our property, and that separate on that little spot.
15 How did we get the name down there on that little spot if
16 nobody had something to do with it and we didn't have -- and we
17 paid taxes on it about nine or 10 years now, when we got no
18 deed to it, we're paying taxes.

19 MR. HOOD: Well, maybe, Mr. Donaldson, at that
20 meeting you all can get that clarified. I will tell you what
21 you're saying is not necessarily unique. I've heard of other
22 instances. I've experienced some myself. My name ended up
23 somewhere. And others, there are churches in this city who
24 ended up owning property that they don't own, and they're
25 paying taxes on it. So I understand that. That's not unique.

1 I do know mistakes do happen. Again, it goes back to what Mr.
2 Jackson said about keeping good records. You know, remember
3 now, home rule in this city is still was new in the 70s. So we
4 had a lot of learning curve to go through, and it's gotten
5 better because everybody now wants to come in and develop and
6 this city is flourishing. Which is great. But some of those
7 records that we had in the 70s, as you all know, you all know
8 the history better than I do. I just have experienced some of
9 it.

10 So what I'm saying is I think that's the best way for
11 us to come together, let's have that meeting, let's have
12 somebody that you trust. Not that you don't trust the
13 applicant, but somebody that can trust. And whatever time
14 needs to be taken, I hope that Ms. Jackson will do that. And I
15 would ask the staff to reach out to her and you can say per the
16 chairman --

17 VICE CHAIRPERSON HILL: Yes.

18 MR. HOOD: -- you want to use your name and my name?

19 VICE CHAIRPERSON HILL: Yes, please.

20 MR. HOOD: And that the Board has asked her to
21 intercede and sit down and work it and maybe you all can work
22 something out.

23 So, Mr. Jackson, all I'm going to ask you -- now, I'm
24 going to ask you this personally, give it a shot.

25 MR. JACKSON: I been shooting a long time. About

1 time to kill me now.

2 MR. HOOD: I don't mean that kind of shot, but you
3 can --

4 MR. ZARETS: Mr. Hood, if I may? I actually reached
5 out to Ms. Nadeau. She's actually my ward member as well. I
6 live in Mount Pleasant. We met with Ms. Jackson at least 90
7 day ago. We shared the plans. I sent her an e-mail relating
8 to all this, to Ms. Nadeau, explaining that we wanted to meet
9 and talk with her.

10 She hasn't responded to me yet, but we're more than
11 willing to sit down. I've already taken that measure.

12 MR. HOOD: Reach out to, not necessarily the council
13 member, but to her Chief of Staff, Tanya Jackson.

14 MR. ZARETS: I have her information.

15 MR. HOOD: You have it. Okay.

16 MR. ZARETS: I have it. We can ask.

17 MR. HOOD: Have you reached out to her?

18 MR. ZARETS: Absolutely. When we met 90 days ago, we
19 talked about this.

20 MR. HOOD: Reach out to her, let her know what it's
21 concerning --

22 MR. ZARETS: Absolutely.

23 MR. HOOD: -- and I'm sure you'll get a response. If
24 not, let the office know and then we'll figure it out.

25 MR. ZARETS: Reaching them is not an issue. They're

1 generally fairly responsive.

2 VICE CHAIRPERSON HILL: Now, Mr. Chairman -- Mr.
3 Chairman? Are you Mr. Chairman? Chairman Hood, I'm just
4 trying to see what we're proposing here. Like so, I know
5 whether we were going to go down and talk about whether
6 everyone was ready to deliberate. I'm now thinking I'm not
7 ready to deliberate in that I definitely want to see whatever
8 the alternative is to you not getting those lots; in terms of
9 access. You know, the gates, the other -- there is now -- Mr.
10 Jackson. Oh, not Mr. Jackson. Mr. Thompson, which lot are you
11 again? I forgot which?

12 MR. ZARETS: It's Mr. Donaldson.

13 MR. DONALDSON: Donaldson.

14 VICE CHAIRPERSON HILL: Oh, Donaldson. It's Mr.
15 Donaldson. I'm sorry. Which lot are you again?

16 MR. DONALDSON: 137.

17 VICE CHAIRPERSON HILL: 137.

18 MR. ZARETS: Can you pull up the site plan, David,
19 please? So that's the second one, or third one in.

20 VICE CHAIRPERSON HILL: Right. I see. So that's the
21 one where you'd have to go through the garage? Or that's the
22 one where there wasn't going to be access.

23 MR. ZARETS: No. Right there where David is
24 pointing.

25 VICE CHAIRPERSON HILL: And there might be steps, you

1 were saying.

2 MR. ZARETS: The topography, I can't --

3 VICE CHAIRPERSON HILL: You don't know yet.

4 MR. ZARETS: It's kind of hard to tell, but if steps
5 are needed we could build steps.

6 VICE CHAIRPERSON HILL: Okay. Then the other corner
7 there was going to be a gate, and that was going to be 45; Lot
8 45.

9 MR. ZARETS: Correct.

10 VICE CHAIRPERSON HILL: Right? And Lot 45 is Mr.
11 Jackson.

12 MR. JACKSON: Yes, it is.

13 VICE CHAIRPERSON HILL: Okay.

14 MR. JACKSON: Yes, I don't know, they might take that
15 too.

16 VICE CHAIRPERSON HILL: They might take that too.
17 And then Lot 138 is whom? Is that person here?

18 MR. ZARETS: They're not here today.

19 VICE CHAIRPERSON HILL: Okay. All right. But you
20 had a suggestion for lot 138?

21 MR. ZARETS: Absolutely.

22 VICE CHAIRPERSON HILL: Okay. So I'd like to see
23 what your suggestions are if you don't get what you're trying
24 to buy.

25 MR. ZARETS: We'd be more than happy to go on the

1 record, put up a gate, whatever is needed. But in terms of the
2 form for it and how do we document this? I mean, how do we get
3 this on the record? I mean, I understand I'm under oath and --

4 VICE CHAIRPERSON HILL: That's okay. Just give me
5 one second.

6 MR. DONALDSON: May I ask the question, Lot 38,
7 that's the one with Mrs. Robinson? Next to me, right?

8 VICE CHAIRPERSON HILL: Okay. May I make a
9 suggestion then?

10 MR. ZARETS: Yes.

11 VICE CHAIRPERSON HILL: If you would go ahead and
12 work again with the opposition, meet with Ms. Jackson over in
13 Ms. Nadeau's office, Council Member Nadeau, and then come back
14 with the drawings, and then we can deliberate?

15 MR. ZARETS: We're basically coming under the gun
16 where we've submitted our sheathing and shoring permit and DDOE
17 Is ready to issue us our comprehensive site assessment clean-up
18 plan.

19 VICE CHAIRPERSON HILL: Okay.

20 MR. ZARETS: And we are planning to start excavating
21 within the next 45 days and the idea with the BZA is we would
22 have conclusion by some point so we could submit our building
23 application. So the idea is that the excavation would be
24 complete. We wouldn't have an open pit for another 50, 60, 90
25 days.

1 VICE CHAIRPERSON HILL: Got it. Work with me here.
2 How much time do you need or -- because I mean, if you get no
3 right now then you're back to wherever you were, right?

4 MR. ZARETS: Correct.

5 VICE CHAIRPERSON HILL: So, you know, what is it --
6 how much time? When can I get you back here?

7 MR. ZARETS: Architecturally we don't need much time.
8 I mean, it's just a matter of gates and meeting with the
9 members up here. So we're willing to do it tomorrow.

10 VICE CHAIRPERSON HILL: And getting a meeting with
11 Ms. Jackson.

12 MR. ZARETS: Correct.

13 MR. HOOD: Who should be included in that meeting.

14 MR. ZARETS: Okay.

15 MR. HOOD: Because remember now, you still have a
16 threshold that Office of Planning is not supportive of.

17 MR. ZARETS: Right.

18 VICE CHAIRPERSON HILL: Yeah, we're not there yet
19 either. We're going to have to still deliberate once we get
20 back. Once you get back.

21 MR. HOOD: So I don't want Mr. Collins to think I'm
22 just premising this on you all having discussions about the
23 egress. That helps too it, but you still have -- we still have
24 a threshold that we have to obtain and that's from the Office
25 of Planning. So --

1 MR. ZARETS: Okay.

2 MR. HOOD: And a couple of more days, you said DDOE
3 or somebody, what 45 days for the --

4 MR. ZARETS: We would like to commence excavation
5 within the next 35 to 45 days.

6 MR. HOOD: Okay. Two more weeks.

7 VICE CHAIRPERSON HILL: Mr. Jackson, would you be
8 willing to meet with Ms. Jackson?

9 MR. JACKSON: I'd be willing to meet with Ms.
10 Jackson. I would be willing to, like I said, to Ms. Fred --
11 well the little lady that was at this last time, I'd be willing
12 to go to court. I am not going to give up that property.

13 VICE CHAIRPERSON HILL: Okay.

14 MR. JACKSON: From my line --

15 VICE CHAIRPERSON HILL: Okay.

16 MR. JACKSON: -- to what they gave me. So we can
17 settle it --

18 VICE CHAIRPERSON HILL: Okay.

19 MR. JACKSON: -- one way or the other.

20 VICE CHAIRPERSON HILL: Okay. So can I turn it to
21 you to set that up?

22 MR. ZARETS: I will take care of that.

23 VICE CHAIRPERSON HILL: Okay.

24 MR. ZARETS: This afternoon.

25 VICE CHAIRPERSON HILL: Mr. Moy, I'm looking to you

1 when to come back.

2 MR. MOY: Well, I think it sounds like speed is the
3 order of the day, so I -- and the Board desires depending on
4 how quickly the applicant can move, I would say probably within
5 a week, two weeks. How much do you need? A week? Two weeks?

6 MR. ZARETS: We're willing to sit down immediately,
7 so --

8 VICE CHAIRPERSON HILL: Yeah, it's just a matter of
9 the schedule that Ms. Jackson --

10 MR. ZARETS: Right.

11 VICE CHAIRPERSON HILL: -- and Mr. Jackson and his
12 neighbors are willing to come in. If they can set up a meeting
13 in the next week is that all right with the opposition?

14 MR. JACKSON: Yes, I will --

15 VICE CHAIRPERSON HILL: We just have to find the
16 time.

17 MR. JACKSON: Yes, I do have that [speaking off the
18 microphone] twiddling my fingers. So whenever Ms. Jackson --
19 Ms. Jackson call me, I will try to get to the meeting because
20 she know I just have things in the afternoon when I can get
21 down there.

22 VICE CHAIRPERSON HILL: Okay. Okay.

23 MR. ZARETS: Would two weeks be --

24 VICE CHAIRPERSON HILL: Yeah, would two weeks be
25 good? Is that all right? They should be able to do it in two

1 weeks. Okay. Can we come back in two weeks, Mr. Moy?

2 MR. MOY: Okay. Well, as I said before, Mr.
3 Chairman, there's no hearing on the 16th, so the earliest would
4 be the 23rd, unless you want to come back on the 9th.

5 VICE CHAIRPERSON HILL: If we come back -- we have to
6 come back next week because Mr. Hinkle is out, right? So we've
7 got to do this next week.

8 MR. ZARETS: Okay.

9 VICE CHAIRPERSON HILL: Okay? So get on the phone.

10 MR. ZARETS: Make it happen.

11 VICE CHAIRPERSON HILL: Make it happen, okay?

12 MR. ZARETS: Okay.

13 VICE CHAIRPERSON HILL: And just please clearly show
14 me how you're going to take care of the gate issues, et cetera.

15 And again, we're not saying this is going to pass, right. We
16 still have to deliberate. OP is not in support, and so I don't
17 know how it's going to go, but that's at least something that I
18 need to have to get farther in the deliberation.

19 Anyone else have any comments?

20 [No audible response.]

21 VICE CHAIRPERSON HILL: Okay. All right. Well,
22 thank you all very much. And, Mr. Moy, can we take a --

23 MR. ZARETS: Thank you all.

24 VICE CHAIRPERSON HILL: Thank you. All right. We're
25 going to take a five-minute break and then come back with the

1 appeal case.

2 MR. MOY: It would be the modification and then the
3 appeal.

4 VICE CHAIRPERSON HILL: Okay. The modification. So
5 we're going to come back with Sherman, LLC. Sorry, not
6 Sherman, LLC. We're going to come back with the appeal case.

7 [Off the record from 12:30 p.m. until 12:57 p.m.]

8 VICE CHAIRPERSON HILL: Good morning. I think we're
9 going to take another 10 minutes. So like we'll come back at
10 like 1:05, 1:10.

11 MR. MOY: All right. That's fine. Can I make an
12 administrative announcement on one of the cases on the docket?

13 VICE CHAIRPERSON HILL: Yes, please do.

14 MR. MOY: It might be a good time since I have some
15 air time here.

16 Application No. 19162 of William McGovern, as the
17 Board will recall, they applicant was a no-show earlier this
18 morning. Staff has contacted the applicant and learned the
19 applicant misread his -- well, he didn't misread his hearing
20 date. He felt that he was on the expedite review calendar. So
21 in reviewing the docket I think staff would suggest
22 rescheduling this application to February the 23rd. So that's
23 for the record.

24 VICE CHAIRPERSON HILL: Okay. Thank you, sir. Thank
25 you. And then now we're going to just take a break here for

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1 another 10 minutes. Thank you.

2 MR. MOY: Thank you, sir.

3 [Off the record from 12:58 p.m. until 2:06 p.m.]

4 VICE CHAIRPERSON HILL: Try to start this again. And
5 but that -- now, I don't know. Hold on one second.

6 [Pause.]

7 VICE CHAIRPERSON HILL: All right. Do we need to
8 call this first, Mr. Moy, or --

9 MR. MOY: I've already called it.

10 VICE CHAIRPERSON HILL: Okay. All right. So you've
11 had an abundance of time.

12 MR. EDWARDS: Right. Thank you.

13 VICE CHAIRPERSON HILL: To get to something that I
14 hope is beneficial to both parties. Can you tell us, the
15 Board, where you are?

16 MR. EDWARDS: We have entered into an agreement
17 whereby the motion for modification is going to be deferred or
18 we ask that it be deferred until we can get HPRB approval for
19 plans. At that time we would amend the application. Ms.
20 Schaub has agreed not to oppose the application, and she's also
21 going to drop her appeal upon my client's surrender of their
22 building permit. Which will then --

23 VICE CHAIRPERSON HILL: Okay. Can you do me a favor
24 again? Can you just reintroduce yourselves again?

25 MR. EDWARDS: Sure.

1 VICE CHAIRPERSON HILL: Thanks.

2 MR. EDWARDS: I'm Hayes Edwards, attorney for Andrew
3 Daly and Patricia Jordan.

4 VICE CHAIRPERSON HILL: Okay.

5 MR. BROWN: And I'm Patrick Brown from Greenstein,
6 DeLorme and Luchs on behalf of Patricia Schaub.

7 VICE CHAIRPERSON HILL: Okay. Thanks. Just wasn't
8 sure. Okay. All right, so there you go. Please continue.
9 I'm sorry.

10 MR. BROWN: Well, Mr. Chair, we'll put off the
11 modification until the HPRB process can take its course.

12 VICE CHAIRPERSON HILL: Okay.

13 MR. BROWN: And then once the permit, garage permit,
14 which is the subject of the appeal as surrendered to DCRA,
15 which will occur under the agreement, you know, immediately or
16 sooner, then we will dismiss the appeal, 19092, with prejudice
17 so that that matter will --

18 VICE CHAIRPERSON HILL: Okay.

19 MR. BROWN: -- fall by the wayside.

20 VICE CHAIRPERSON HILL: And, Mr. Moy, that would
21 happen afterwards. They do that.

22 MR. MOY: Do you want to take that? Want to take
23 that?

24 MS. GLAZER: I'm not -- could you repeat the
25 question?

1 VICE CHAIRPERSON HILL: Sure. Sorry. So the request
2 first is to push the minor modification to another day,
3 correct?

4 MR. EDWARDS: Correct.

5 VICE CHAIRPERSON HILL: And --

6 MS. GLAZER: And essentially I --

7 VICE CHAIRPERSON HILL: I don't think your mic is on,
8 Sherry.

9 MS. GLAZER: As I understand it, they're asking that
10 the Board defer both proceedings at this point, and the part --
11 that's all the Board has to do.

12 VICE CHAIRPERSON HILL: Okay. All right.

13 MS. GLAZER: And they're going to take certain steps.
14 If it doesn't work out they will be back here another day and
15 we will have two proceedings before us --

16 VICE CHAIRPERSON HILL: Okay.

17 MS. GLAZER: -- to consider again. If it does work
18 out --

19 MR. EDWARDS: Well, just one point of clarification.
20 Under our plan, the appeal being dismissed is a matter of
21 course. We will be back for the motion for modification once
22 we've had plans, once we've got plans that are approved by
23 HPRB.

24 VICE CHAIRPERSON HILL: Okay.

25 MR. EDWARDS: So we do plan to go forward with that.

1 However, the appeal, I don't think -- well, under the
2 agreement we've struck Ms. Schaub does not plan to go forward
3 with her appeal.

4 VICE CHAIRPERSON HILL: Okay. But as Sherry -- I'm
5 sorry.

6 MR. EDWARDS: But for now I think she's right, that
7 both can be deferred.

8 VICE CHAIRPERSON HILL: Sorry, Ms. Glazer. We just
9 have to defer this, correct, both of these?

10 MS. GLAZER: As I understand it the parties agreed to
11 request a postponement for both matters.

12 VICE CHAIRPERSON HILL: Okay.

13 MS. GLAZER: And put them on the calendar on the same
14 date.

15 VICE CHAIRPERSON HILL: Okay.

16 MS. GLAZER: And we'll see where they're at.

17 MR. BROWN: And I think the anticipation is, at least
18 as to the appeal if the events occur as they should, that the
19 appeal will be -- I'll submit a letter of dismissal with
20 prejudice and that matter can be --

21 VICE CHAIRPERSON HILL: Okay.

22 MR. BROWN: -- dismissed administratively.

23 VICE CHAIRPERSON HILL: Mr. Moy, what day would be
24 good?

25 MR. MOY: Can I learn some idea of the time frame

1 with the HPRB?

2 VICE CHAIRPERSON HILL: For the minor modification in
3 HPRB?

4 MR. MOY: Yeah. When that would be, what's the word,
5 on the agenda of the HPRB? So give me some idea how long this
6 is going to take.

7 MR. BROWN: Yeah. So based on HPRB's scheduling they
8 meet the later part --

9 MR. MOY: Yes.

10 MR. BROWN: -- of each month.

11 MR. MOY: That's correct.

12 MR. BROWN: So that I think probably putting off the
13 modification to early April.

14 VICE CHAIRPERSON HILL: Right.

15 MR. BROWN: An early April date.

16 VICE CHAIRPERSON HILL: Yeah, no sooner than early
17 April.

18 MR. MOY: Mr. Chair, then in that event then, staff
19 would suggest rescheduling the modification and the appeal to
20 April. Let's go April the 12th. Is that doable with the
21 parties?

22 VICE CHAIRPERSON HILL: April 12th?

23 MR. MOY: Yes, sir.

24 VICE CHAIRPERSON HILL: Okay. All right. That
25 sounds good. And then, so yeah, we've been here for a while

1 and we'll remember you. So if you come back with an appeal,
2 good luck. Is there anything else?

3 MR. MOY: Not from the staff, sir.

4 VICE CHAIRPERSON HILL: Thank you.

5 MR. BROWN: Thank you.

6 MR. EDWARDS: Thank you. Thank you very much for
7 your time.

8 VICE CHAIRPERSON HILL: Do we have anything else?

9 MR. HOOD: Yeah, Mr. Chairman.

10 VICE CHAIRPERSON HILL: I'm sorry. Sorry.

11 MR. HOOD: I will say that that it's unprecedented
12 for the Board to sit around for an hour. So I mean, I won't be
13 here on the 12th, but I want to make sure that everybody takes
14 note of that.

15 VICE CHAIRPERSON HILL: Thank you, Chairman Hood.
16 But we do appreciate you guys getting together, really. That
17 is also the main goal and so I'm making a little light of it
18 but also please, everybody get together. Thank you. Thank
19 you. Thank you.

20 Mr. Moy, is that it? Anything else?

21 MR. MOY: Not from the staff, sir.

22 VICE CHAIRPERSON HILL: Okay. Then we're adjourned.

23 [Whereupon, at 2:12 p.m., the Regular Board Meeting
24 was Adjourned.]

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